

***Regular Meeting
of the
Building Inspection Commission***

June 18, 2025

Agenda Item 9



June 12, 2025

Building Inspection Commission
49 South Van Ness Avenue
San Francisco, CA 94103

Re: Various Codes – Streamlining Reporting Requirements and Other Code Cleanup

Honorable Members of the Commission:

On June 11, 2025 the full Code Advisory Committee (CAC) met to consider adoption of the File No. 250630 Streamlining Reporting Requirements and Other Code Cleanup. The CAC voted unanimously to recommend the Building Inspection Commission (BIC) approve the proposed ordinance effecting the building code as written.

Respectfully submitted,

Thomas Fessler
DBI Technical Services
Secretary to the Code Advisory Committee

cc. Patrick O'Riordan, C.B.O. Director
Mary Wilkinson-Church, Acting Deputy Director
Christine Gasparac, Assistant Director
Tate Hanna, Legislative Affairs Manager
J. Edgar Fennie, Chair, Code Advisory Committee

File No. 250630 – Reporting Requirements

Department of Building Inspection
June 18, 2025

Background on Reporting Requirements

Local ordinances often contain requirements for detailed reports to be submitted to the Board of Supervisors or other oversight bodies in the months and years after enactment.

These reports are typically intended to provide a status update, delineating any progress made or information gathered on the subject at hand in the ordinance.

Background on Reporting Requirements

These reports can offer crucial oversight into department actions in the wake of new laws being passed, and ensure the public is aware of any progress after the legislative process.

However, the reports are often one-time submittals or time-limited, but the language requiring the report remains in the code. Additionally, some reporting requirements have become outdated and are an inefficient use of staff time relative to the benefit for the Board of Supervisors and public at large.

File No. 250630

File No. 250630 seeks to remove outdated and unnecessary reporting requirements present in various San Francisco code sections.

Specific to DBI, File No. 250630 seeks to remove seven provisions requiring reports from the department. Of these seven requirements, four are outdated and three are no longer relevant.

Reporting Requirement #1 & #2

The following requirements are time-consuming and aren't used by any policy body.

Code Enforcement Activities (pages 11-12)

Requires DBI, along with other departments, to submit a quarterly report to the Mayor and Board regarding code enforcement activities.

Residential Hotels (page 259)

Requires DBI to annually submit to the Board current data on residential hotels including total quantity of hotels and units, hotel conversions, enforcement actions, and other information.

Reporting Requirement #3 & #4

The following requirements are outdated:

Technology Projects

(page 263)

Required DBI and the Department of Technology and Information Services to provide updates to the Board on ongoing projects and improvements to public access to the Permit Tracking System.

Reports were to be submitted every four months from 2004 to 2006.

Drink Tap Stations

(page 293)

Required DBI to maintain a log of all Drink Tap Stations installed from 2013 to 2016, as well as provide the Board an annual report on the total quantity of stations installed during those three years.

Reporting Requirement #5 & #6

The following requirements are outdated:

ADU Authorization (page 316)

Required DBI & Planning to issue a joint report on the effectiveness of the ADU authorization program to the Mayor, the Board, and the Controller.

Reports were required every six months from 2014 to 2017.

ADU Fee Waiver (pages 349-350)

Required DBI to submit a report to the Board and BIC on the operation of the ADU fee waiver program, including data regarding quantity and location of applications, total fees waived, and more.

Reports were required on March 1, 2022 and March 1, 2023.

Reporting Requirement #7

The following requirement is too time-consuming and isn't used by any policy body.

Water Conservation Measures

(page 350)

Specific to the water conservation requirements established in Chapter 13A of the SFBC, DBI is required to provide an annual report of fees to the Controller, who provides the report and any recommended changes to the fee schedule to the Board.

Code Advisory Committee

On June 11, 2025, the Administrative and General Design and Disability Access Subcommittee, as well as the full Code Advisory Committee, reviewed the ordinance and **recommended approval unanimously.**

Department Recommendation

The Department's ongoing efforts to streamline and clean up outdated or unnecessary code works in tandem with **File No. 250630.**

The Department recommends support for the ordinance.



THANK YOU

1 [Various Codes - Streamlining Reporting Requirements and Other Code Cleanup]

2
3 **Ordinance amending the Administrative, Environment, Health, Labor and Employment,**
4 **Park, Planning, Police, Public Works, Subdivision, Transportation, and Building**
5 **Inspection Commission Codes to modify the reporting requirements related to 1) value**
6 **of City-owned parcels, 2) code enforcement violations, 3) updates to nutrition**
7 **standards and guidelines, 4) rental of City vehicles, 5) revenue recovery for damage to**
8 **City property, 6) representations of women on City property, 7) the Commission on**
9 **Disability and Aging, 8) meetings of the State Legislation Committee, 9) the City**
10 **records center, 10) claims to the Bureau of Delinquent Revenue Collection, 11) the**
11 **District Attorney State Forfeiture Fund, 12) the Food Empowerment Market Fund, 13)**
12 **the Infant and Toddler Early Learning Scholarship Fund, 14) the Low Carbon Fuel**
13 **Standard Credit Sales Fund, 15) the Mayor's Home Ownership Assistance Loan Fund,**
14 **16) the Mayor's Housing Programs Fees Fund, 17) the Public Health Environment**
15 **Enforcement Fund, 18) Proposition 1B Local Street and Road Improvement Funds, 19)**
16 **the Community Mental Health Service, 20) studies and plans to develop the Moscone**
17 **Center Garage and the Performing Arts Garage, 21) managed care contracts, 22) Good**
18 **Food Purchasing Standards, 23) the City's telecommunications program, 24) City**
19 **property leased for fossil fuel extraction, 25) the Redevelopment Agency, 26) the**
20 **Healthy Nail Salon Recognition Program, 27) loans related to the designation of**
21 **residential rehabilitation areas, 28) the Housing Code Enforcement Loan Program, 29)**
22 **residential hotels, 30) the Short-Term Residential Rental Program, 31) the Affordable**
23 **Housing and Home Ownership Bond Program, 32) nonprofit arts organizations, 33) the**
24 **Healthy Food Retailer Ordinance, 34) the In-Home Supportive Services Public**
25

1 Authority, 35) the historical property contract (Mills Act) program, 36) the Housing
2 Innovation Program, 37) Healthcare Impact Reports, 38) the Better Streets Policy, 39)
3 Navigation Centers, 40) the Cooperative Living Opportunities for Mental Health
4 Program, 41) the Safe Oversight Parking Pilot Program, 42) surveillance technology
5 audits, 43) the Neighborhood Anchor Business Registry, 44) the Citywide Project Labor
6 Agreement Ordinance, 45) work performed under Chapter 6 public works contracts, 46)
7 the 706 Mission Fund, 47) the Animal Shelter Fund, 48) the County Surveyor's Survey
8 Monument Preservation Fund, 49) the Cultural District Fund, 50) the Disability and
9 Aging Services Community Living Fund, 51) the Jackson Playground Park Fund, 52)
10 the Public Works Adopt-a-Tree Fund, 53) the San Francisco Film Production Fund, 54)
11 San Francisco Gift Funds, 55) Housing Element Production, 56) the Office of
12 Environmental Review, 57) sexual harassment complaints, 58) City employee overtime,
13 59) the Early Care and Education for All Initiative, 60) the Homeward Bound Program,
14 61) the Shelter Monitoring Committee, 62) the Open Data Policy, 63) the Office of
15 Emerging Technology, 64) the Commission on the Status of Women, 65) management
16 information services, 66) the Entertainment Commission, 67) fees associated with
17 water conservation certification, 68) notices and orders issued to Large Refuse
18 Generators, 69) compliance with the Environmentally Preferable Purchasing Ordinance,
19 70) restrictions on City purchases of bottled water, 71) the lead poisoning prevention
20 program, 72) the Hunters Point Shipyard health and safety ordinance, 73) the Assisted
21 Outpatient Treatment Program, 74) Equal Pay Reports, 75) noise assessment and
22 prevention in land use planning and environmental review, 76) amplified sound from
23 unenclosed tour buses, 77) adjustments to the street damage restoration fee, 78) fixed
24 pedestal zones, 79) cost of parking places, 80) use of a Public Works revolving fund,
25 81) offset of use of fresh water due to the Nonpotable and Reclaimed Water Use Master

1 Plan, 82) surface-mounted facility site permits, 83) Tier 3 Love Our Neighborhood
2 Project Applications, 84) limited equity housing cooperative conversions and related
3 fees, 85) Police Department and Municipal Transportation Agency costs associated
4 with street fairs, 86) the Housing Production Summary Attachment, 87) housing
5 production, 88) jobs-housing fit, 89) Administrative Code Chapter 31 appeals pursuant
6 to the California Environmental Quality Act, 90) progress of the Transit Center District,
7 Market/Octavia, East SOMA, West SOMA, Inner Mission, Lower Potrero/Showplace
8 Square, and Central Waterfront Area Plans, 91) the Short Term Rental program, 92) the
9 Housing Inventory, 93) impact fees for Area Plans, 94) Housing Balance, 95) bicycle
10 parking requirements for City properties, 96) the Transportation Demand Management
11 Implementation, 97) the Affordable Housing Bonus Program, 98) the Van Ness Special
12 Use District, 99) office development limits, 100) the Market Octavia Plan Area, 101)
13 economic feasibility of the Transportation Sustainability Fee, 102) the Rincon Hill
14 Community Improvements Fund, 103) the SOMA Community Stabilization Fund,
15 104) General Advertising Sign Inventory, 105) Neighborhood Commercial District
16 Zoning Controls, 106) residential density exceptions in RH (Residential, House)
17 Districts, 107) replacing auto-oriented uses with housing, 108) the Local Accessory
18 Dwelling Unit Program, 109) the State-mandated Accessory Dwelling Unit Program,
19 110) the legalization of Unauthorized Dwelling Units, and 111) the Van Ness & Market
20 Community Facilities Fee; remove various obsolete reporting requirements; eliminate
21 defunct funds, agencies, plans, and programs; make other miscellaneous updates to 1)
22 remove reference to library fines, 2) modify the library fee amnesty program, 3) modify
23 the permissible uses of the Administrative Services Vehicle Leasing Program Fund, 4)
24 approval of certain expenditures from the Library Special Collections and Services
25 Fund, 5) the process for preparing departmental equal employment opportunity plans,

6) reduce the scope of report regarding compliance with the Environmentally Preferable Purchasing Ordinance, 7) reduce the scope of reporting required for Tier 3 Love Our Neighborhood Project Applications, 8) eliminate the Parking Authority as a responsible party to report costs to maintenance districts of maintaining public improvements and facilities, 9) eliminate the Human Rights Commission as a body that verifies the absence of evictions for parcels whose owners apply for conversion of the form of ownership and for the purpose of the residential condominium conversion lottery, 10) update requirements for the Health Care Service Master Plan, and 11) change the department responsible for submitting annual reports for the Van Ness & Market Community Facilities Fee; other related amendments; affirming the Planning Department's determination under the California Environmental Quality Act; making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1; and making findings of necessity, convenience, and welfare under Planning Code, Section 302.

NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
Additions to Codes are in single-underline italics Times New Roman font.
Deletions to Codes are in ~~strikethrough italics Times New Roman font~~.
Board amendment additions are in double-underlined Arial font.
Board amendment deletions are in ~~strikethrough Arial font~~.
Asterisks (* * * *) indicate the omission of unchanged Code subsections or parts of tables.

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

Section 1. Environmental and Land Use Findings.

(a) The Planning Department has determined that the actions contemplated in this ordinance comply with the California Environmental Quality Act (California Public Resources

Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of Supervisors in File No. _____ and is incorporated herein by reference. The Board affirms this determination.

(b) On _____, the Planning Commission, in Resolution No. _____, adopted findings that the actions contemplated in this ordinance are consistent, on balance, with the City's General Plan and eight priority policies of Planning Code Section 101.1. The Board adopts these findings as its own. A copy of said Resolution is on file with the Clerk of the Board of Supervisors in File No. _____, and is incorporated herein by reference.

(c) Pursuant to Planning Code Section 302, this Board finds that these Planning Code amendments will serve the public necessity, convenience, and welfare for the reasons set forth in Planning Commission Resolution No. _____ and the Board incorporates such reasons herein by reference. A copy of Planning Commission Resolution No. _____ is on file with the Clerk of the Board of Supervisors in File No. _____.

Section 2. Chapters 2A, 4, 5, 6, 8, 10, 10E, 12F, 15, 16, 17, 18, 20, 21A, 22D, 22G, 23, 27, 31, 32, 33, 36, 37, 40, 41, 41A, 51, 83, 85, 90, 98, 106, 107, 117, and 119 of the Administrative Code are hereby amended by revising Sections 2A.20, 2A.110, 2A.174, 2A.241, 2A.244, 2A.420, 4.9-1, 4.10-1, 4.27, 5.6-3, 5.25-4, 6.26, 6.27, 6.66, 8.5, 8.21-2, 8.21-3, 10.6-1, 10.25, 10.25-12, 10.100-7, 10.100-9, 10.100-24, 10.100-50, 10.100-52, 10.100-53, 10.100-60, 10.100-73, 10.100-81, 10.100-82, 10.100-88, 10.100-92, 10.100-108, 10.100-117, 10.100-198, 10.100-217, 10.100-227, 10.100-297, 10.100-305, 10.170-1, 10E.4, 12F.6, 15.11, 16.9-24, 16.9-25, 16.9-27, 17.4, 18.13-1, 20.17-3, 20.19-4, 20.304, 21A.3, 22D.2, 22G.4, 23.42, 27.3, 31.05, 32.54, 33.6, 33.7, 36.1, 36.3, 36.4, 37.7, 40.19, 41.21, 41A.7, 51.03, 83.6, 85.4, 90.8, 98.1, 106.5, 107.6, 117.1, 117.2, 117.4, and 119.5, and deleting in their entirety Sections 2.92, 2A.320, 4.26, 5.9, 8.21-1, 10.42, 10.100-11, 10.100-18, 10.100-

49.5, 10.100-118, 10.100-131, 10.100-136, 10.100-160, 10.100-162, 10.100-247, 10.100-375, 10C.1 through 10C.12, 10E.1 through 10E.3, 12D.1, 12D.2, 12D.2-1 through 12D.2-6, 12D.3 through 12D.19, 12D.A.1 through 12D.A.22, 12J.8, 14A.01 through 14A.04, 14A.1 through 14A.17, 21D.3, 21D.4, 21D.5, 22B.3, 24.3, 41C.6, 43.3.7, 59.7, 70.5, 71.7, 78.3, 83.8, 84.1 through 84.5, 90A.5, 92.1 through 92.4, 97.1 through 97.4, 98.2, and 107.5, to read as follows:

~~ARTICLE X:~~

~~PERFORMANCE AND EFFICIENCY AUDIT OFFICE~~

~~SEC. 2.92. EFFICIENCY EVALUATION PLAN.~~

~~(a) The Controller shall establish a Performance and Efficiency Audit Office in the Controller's Office to improve the overall efficiency of City government by identifying inefficient operations and functions of departments, agencies, boards, and commissions of the City and County of San Francisco that should be eliminated. The Controller's Office shall prepare a plan that shall include, but not be limited to, an evaluation of expenditures in terms of the effectiveness of the service or product delivered by City departments and utilization of employees and contractual services, and shall include a review of the following:~~

- ~~— (1) Elimination of inefficient operations and functions;~~
- ~~— (2) Consolidation of duplicative and overlapping activities and functions;~~
- ~~— (3) Integration and standardization of information maintenance systems that promote interdepartmental sharing of information and resources;~~
- ~~— (4) Departmental accounting for expenditure of resources in terms of effectiveness of the service or product delivered;~~
- ~~— (5) Departmental deployment and utilization of personnel, the City's personnel procurement system, and reforms to enhance the quality of work performance of public employees;~~

1 —(6) ~~Methods of operation to reduce consumption and waste of resources;~~
2 —(7) ~~Departmental compliance with judicial, legislative and administrative mandates;~~
3 —(8) ~~Records available, such as, Grand Jury reports, Budget Analyst audits, previous~~
4 ~~budgets and appropriations and justifications, and Controller internal audits;~~
5 —(9) ~~An analysis of cost cutting recommendations from employees and suggestions from~~
6 ~~users of governmental services.~~

7 (b) ~~The Controller shall report the execution of the plan described herein and the~~
8 ~~implementation of recommendations resulting from evaluations of City operations by December 31,~~
9 ~~1991. The Controller shall establish a schedule for City departments to report annually departmental~~
10 ~~administrative and operational changes undertaken to implement recommendations to the Board of~~
11 ~~Supervisors.~~

13 **SEC. 2A.20. CONTROLLER'S AUDITS.**

14 * * * *

15 (b) **Surveillance Technology Audit.**

16 (1) For purposes of this subsection (d), "Department," "Surveillance Technology,"
17 "Surveillance Technology Policy," and "Annual Surveillance Report" have the meanings set
18 forth in Section 19B.1 of the Administrative Code.

19 (2) Acting as City Services Auditor, and beginning in fiscal year 2019-2020,
20 the Controller shall audit ~~annually~~ at least once every five years the use of Surveillance
21 Technology by Departments. Such an audit shall include a review of whether a Department
22 has operated and is operating in compliance with an approved Surveillance Technology Policy
23 ordinance, and has completed an Annual Surveillance Report, and such other information as
24 the Controller determines helpful to assess the Surveillance Technology Policy. At the
25 completion of the audit and in consultation with the City Attorney, the Controller may

1 recommend any changes to any Surveillance Technology Policy ordinance and its
2 implementation to the Board of Supervisors.

3
4 **SEC. 2A.110. DIRECTOR OF PROPERTY.**

5 The Director of Property shall have the charge of the purchase of real property and
6 improvements required for all City and County purposes, and the sale and lease of real
7 property and improvements thereon owned by the City and County, except as otherwise
8 provided by the Charter. In the acquisition of property required for street opening, widening or
9 other public improvements, the Director shall make preliminary appraisals of the value of the
10 property sought to be condemned or otherwise acquired, and report thereon to the
11 responsible officer. It shall be the Director's ~~his or~~ duty, in addition, to assist in such
12 proceedings on the request of the responsible officer.

13 Except for the Convention Facilities Management Department, each department
14 authorized by the approval of bond issues or by annual or supplemental appropriation
15 ordinances to purchase or lease property or improvements needed for the purposes of such
16 department shall make such purchases or leases through the Director of Property. The
17 Director of Property shall make a preliminary valuation of the property to be acquired or
18 leased and report the same to the department requiring such property. For such purposes the
19 Director of Property may employ independent appraisers. The Director of Property shall
20 conduct negotiations with the owner or owners thereof, at the conclusion of which the Director
21 shall report the terms on which such sale or lease may be concluded, together with the
22 Director's ~~his or her~~ recommendations thereon. The head of the department concerned may
23 report to the Board of Supervisors and recommend acceptance or that proceedings in eminent
24 domain be instituted for the acquisition of such property.

1 The Director of Property shall maintain complete records and maps of all real property
2 owned by the City, which shall show the purchase price, if known, and the department in
3 charge of each parcel, with reference to deeds or grants establishing the City's title.

4 ~~The Director of Property shall annually report to the Mayor, the Controller, the Director of~~
5 ~~Administrative Services, and the Supervisors, the estimated value of each parcel and improvement.~~ The
6 Director of Property shall make recommendations to the Mayor and Director of Administrative
7 Services relative to the advantageous use, disposition, or sale of real property not in use.

8
9 **SEC. 2A.174. NAMING TERMINAL 1 OF THE SAN FRANCISCO INTERNATIONAL**
10 **AIRPORT FOR HARVEY MILK.**

11 (a) Terminal 1 of the San Francisco International Airport shall be named for Harvey
12 Milk.

13 (b) By no later than September 1, 2018, the Director of the Airport shall submit to the
14 Arts Commission for the Commission's approval a plan for design and placement of artwork in
15 the terminal memorializing the life and legacy of Harvey Milk. If the Arts Commission makes a
16 decision to not approve the plan for design or placement of the artwork, the Director shall
17 submit an alternative plan for design or placement of the artwork to the Arts Commission
18 within 30 days.

19 (c) ~~By no later than December 1, 2018, the Director of the Airport shall submit a report to the~~
20 ~~Board of Supervisors and the Mayor describing the steps the Airport has taken and plans to take to~~
21 ~~implement this Section 2A.174 and publicize the name of the terminal, including plans for signage in~~
22 ~~the Airport and plans to place artwork in the terminal.~~

23 (d) The signage identifying the terminal for drivers, on the exterior of the terminal
24 generally facing the roadway and the domestic parking garage, shall state "Harvey Milk
25 Terminal" in a sign with lettering in which capital letters are at least four feet high, and, below

1 “Harvey Milk Terminal,” shall state “Terminal 1” in a sign with lettering that is approximately
2 seventy-five percent of the height of the lettering of the “Harvey Milk Terminal” sign.

3 (ed) Additionally, wherever signage identifying “Terminal 1” appears on the interior or
4 exterior of the terminal or Airport, the words “Harvey Milk” shall appear in equal or greater
5 height.

6
7 **SEC. 2A.241. OFFICE OF SMALL BUSINESS.**

8 (a) **Duties and Functions.** The Office of Small Business, which shall be a City
9 department under the direction of the Small Business Commission, shall perform the following
10 functions to assist small businesses located in San Francisco with a total workforce of 100 or
11 fewer fulltime employees:

12 * * * *

13 4. ~~Report by March 1 and September 1 of each year~~ Prepare an annual report to the
14 Mayor and Board of Supervisors on the numbers of small businesses served by case
15 managers and the Office of Small Business, types of services provided, ~~numbers of small~~
16 ~~businesses obtaining City contracts and their dollar amount and on other performance measures as~~
17 ~~determined by the Small Business Commission and implementation of the Neighborhood Anchor~~
18 Business Registry in San Francisco established under Section 2A.244.

19 * * * *

20 ~~(c) Annual Survey. The Office of Small Business, in coordination with the Controller's Office,~~
21 ~~shall create and administer an annual survey of small businesses that use the Small Business Assistance~~
22 ~~Center to evaluate the Center's performance in serving small businesses.~~

23 //

24 //

25 //

1 **SEC. 2A.244. NEIGHBORHOOD ANCHOR BUSINESS REGISTRY.**

2 * * * *

3 ~~(g) To ensure that the implementation of the Neighborhood Anchor Business Registry~~
4 ~~program comports with the City's racial equity and language access goals and that the Registry~~
5 ~~includes an equitable balance of industries and types of businesses, the Office of Small Business shall,~~
6 ~~by October 1 of each year, prepare and submit to the Mayor and the Board of Supervisors a report on~~
7 ~~the characteristics and demographics of the businesses included in the Registry. The report shall~~
8 ~~include a breakdown of the businesses by industry type, the method of nomination to the Registry, the~~
9 ~~geographic distribution of the businesses, and the number of any requests for financial assistance or~~
10 ~~lease assistance made by the businesses through the Office of Small Business. The report shall also~~
11 ~~include summaries of how many people are employed by the businesses in the Registry, the race or~~
12 ~~ethnicity of those employees, their gender identity, and the languages spoken by those employees, and~~
13 ~~summaries of the race or ethnicity of the owners or operators of the businesses, their gender identity,~~
14 ~~and the languages spoken by the owners or operators.~~

15 * * * *

16
17 **~~SEC. 2A.320. REPORTING OF CODE ENFORCEMENT ACTIVITIES.~~**

18 ~~(a) This Section 2A.320 shall apply to the Department of Building Inspection, the Health~~
19 ~~Department, the Fire Department, and the Planning Department.~~

20 ~~(b) All departments made subject to this Section by subsection (a) shall submit a quarterly~~
21 ~~report to the Mayor and the Board of Supervisors regarding the department's code enforcement~~
22 ~~activities, in a format to be developed by City Administrator, in consultation with the Director of the~~
23 ~~Department of Building Inspection, the Health Director, the Planning Director, and the Fire Chief.~~
24 ~~Nothing in this Section 2A.320 shall be construed to require the City or any department to waive any~~
25 ~~applicable attorney-client communication or attorney work product privilege.~~

1 ~~(c) For every case referred to a hearing by the department pursuant to the procedures set forth~~
2 ~~in Building Code Section 102A, or similar hearing under the Health, Fire, or Planning Codes, the~~
3 ~~report shall disclose:~~

4 ~~— (1) Whether the matter has been resolved, the violations abated, and the penalties, along~~
5 ~~with any fees and costs, paid;~~

6 ~~— (2) Whether the matter has been or will be referred to the City Attorney for review and~~
7 ~~possible litigation; and, if appropriate,~~

8 ~~— (3) Other detailed explanation of how the matter is being handled.~~

9
10 **SEC. 2A.420. OFFICE OF CANNABIS.**

11 * * * *

12 **(b) Duties and functions.**

13 * * * *

14 ~~(6) By no later than November 1, 2017, the Director, in consultation with the~~
15 ~~Department of Public Health and the Controller, shall prepare and submit to the Board of Supervisors~~
16 ~~and the Mayor a report analyzing the unique needs of individuals who use cannabis for medicinal~~
17 ~~purposes. The report shall make recommendations on (A) preserving affordable and/or free access to~~
18 ~~medical cannabis patients, (B) ensuring medical cannabis patients continue to receive high quality,~~
19 ~~appropriate care and (C) providing uninterrupted access to medical cannabis patients.~~

20 ~~(7)~~ By no later than January 1, 2020, and annually thereafter, the Director shall
21 produce and submit to the Cannabis Oversight Committee a report evaluating the growth of
22 the City's cannabis industry. This report shall include, but need not be limited to, the following
23 information, provided that the gathering or the disclosure of such information is not required
24 //
25

1 where it would violate Federal or State law, and further provided that any reports derived from
2 the data do not identify specific individuals:

3 * * * *

4
5 **SEC. 4.9-1. NUTRITIONAL STANDARDS FOR VENDING MACHINES;**
6 **NUTRITIONAL GUIDELINES FOR FOOD SERVED AT CITY MEETINGS AND EVENTS;**
7 **RECOMMENDED NUTRITIONAL GUIDELINES FOR RESTAURANTS ON CITY**
8 **PROPERTY.**

9 * * * *

10 ~~(g) Recommended Updates to Nutrition Standards and Guidelines. The Board of Supervisors~~
11 ~~recognizes that dietary guidelines evolve over time to address pressing public health concerns and~~
12 ~~the nutrition needs of specific populations and to conform to advances in scientific and medical~~
13 ~~knowledge. Where the Department of Public Health, in consultation with the Health Service System,~~
14 ~~concludes that the nutrition standards and guidelines set forth in this Section 4.9-1 should be updated~~
15 ~~to reflect new research in the field of nutrition and health, it shall submit to the Board of Supervisors a~~
16 ~~report that describes the recommended changes and sets forth the evidence in support of those~~
17 ~~recommendations.~~

18
19 **SEC. 4.10-1. CITY-OWNED AND LEASED VEHICLES; FLEET MANAGEMENT**
20 **PROGRAM.**

21 * * * *

22 (f) ~~Each department that has rented one or more vehicles for a period of more than 30 days~~
23 ~~during the preceding year (measured from April 1 through March 31) shall submit an annual report to~~
24 ~~the City Administrator and the Board of Supervisors by May 1 including (1) for the 12 months ending~~
25 ~~March 31: the number of vehicles the department rented or leased for a period of more than 30 days~~

1 ~~during the reporting period, the length of each such rental or lease, the make, model, and year of each~~
2 ~~vehicle, the use of the vehicle, and the cost of each rental or lease, including both the rate calculated on~~
3 ~~a daily basis and the overall cost for the entire rental or lease period; and (2) the amount of the~~
4 ~~department's anticipated spending to rent or lease vehicles in the next fiscal year.~~

5 (g) The City Administrator may request, based on information provided under Section
6 4.10-2 or for any other reason, that a department using any vehicle owned, leased, or rented
7 by the City return the vehicle to the City Administrator to inspect or provide maintenance on
8 the vehicle to the extent authorized by the City's contract for rented or leased vehicles.
9 Departments shall provide vehicles to the City Administrator for inspection or maintenance
10 within five business days of receiving a written request.
11

12 **~~SEC. 4.26. ANNUAL REPORT OF REVENUE RECOVERY FOR DAMAGE TO CITY~~**
13 **~~PROPERTY.~~**

14 ~~Each department shall prepare and submit by April 15th of each year a report to the Board of~~
15 ~~Supervisors and the Controller that identifies for the previous three fiscal years: 1) the value of any~~
16 ~~damage sustained to City real and personal property under the control of the department; 2) the~~
17 ~~amount billed or requested; 3) the amount of revenue recovered by the department, or other City~~
18 ~~department or agency on behalf of that department, from those responsible for the damage to City~~
19 ~~property; (4) amount outstanding and 5) number of claims sent to the City Attorney's Office.~~
20

21 **SEC. 4.27. POLICY OF PROMOTING REPRESENTATIONS OF WOMEN ON CITY**
22 **PROPERTY.**

23 * * * *

24 (b) **Department Reports.** —(1) By no later than October 1, 2019, the Arts
25 Commission shall post on its website a list of all statues, monuments, memorials, plaques,

1 similar objects, and other works of art described in subsection (a) that depict publicly
2 recognizing historical figures; the Department of Public Works shall post on its website a list of
3 all City streets named for historical figures; the City Administrator's Office shall post on its
4 website a list of all City-owned buildings or designated rooms or spaces in those buildings
5 named for historical figures; and the Recreation and Park Department shall post on its website
6 a list of all parks named for historical figures. After October 1, 2019, each of these
7 departments shall update these lists on a quarterly basis.

8 ~~—(2) By no later than December 31, 2019, the Department on the Status of Women shall~~
9 ~~submit a written report to the Board of Supervisors and the Mayor regarding the proportion of women~~
10 ~~in each of the categories described in subsection (a). The Department on the Status of Women shall~~
11 ~~submit subsequent written reports by no later than December 31, 2020, and by December 31 every two~~
12 ~~years thereafter.~~

14 **SEC. 5.6-3. POWERS AND DUTIES OF THE COMMISSION.**

15 In addition to powers under the Charter, the Commission shall have the following
16 powers and duties:

17 (a) To develop, as the Area Agency on Aging, policy goals for the City and
18 County of San Francisco in the form of an Area Plan as specified by federal regulations. Such
19 plan is to be submitted to ~~subject to the review and approval of~~ the Mayor and the Board of
20 Supervisors;

21 * * * *

22 (c) To establish an Advisory Council to advise the Commission in accordance with
23 federal law and regulations; and

24 (d) To serve as advocate and focal point for Senior Citizens' Programs; ~~and~~

1 ~~(e) To make an annual report to the Board of Supervisors~~
2 ~~regarding the accomplishments of the Commission and the Council in terms of service, delivery and~~
3 ~~coordination and development of senior resources in the City and County of San Francisco.~~

4
5 **~~SEC. 5.9. REPORT OF PROCEEDINGS.~~**

6 ~~A report of the proceedings of each regular or special meeting of the State Legislation~~
7 ~~Committee and the recommendations made thereat shall be submitted to the Board of Supervisors not~~
8 ~~later than the next regular business day following such meeting.~~

9
10 **SEC. 5.25-4. SAFETY AND JUSTICE CHALLENGE SUBCOMMITTEE.**

11 * * * *

12 ~~(i) The Subcommittee shall prepare and submit to the Board of Supervisors two reports that~~
13 ~~describe the Subcommittee's progress in fulfilling the duties set forth in this Section 5.25-4: a~~
14 ~~preliminary progress report due August 1, 2020, and a final progress report due October 1, 2020. Both~~
15 ~~reports shall include an assessment of progress made in reducing the daily total jail population to no~~
16 ~~more than 1,044 in County Jails 2 and 5 combined and sustaining the reduction, data on the average~~
17 ~~daily total jail population, the measures and strategies that have been implemented across all justice~~
18 ~~agencies to accomplish the goal of reducing the total jail population to no more than 1,044, and any~~
19 ~~outstanding tasks, challenges, or needs. Both reports also shall include an assessment of the impact of~~
20 ~~COVID-19 on the jail population, the ability to achieve social distancing to prevent spread of the virus~~
21 ~~within the jails, temporary facilities to house individuals to maintain social distancing recommended by~~
22 ~~the Health Officer, and policy recommendations to the Board of Supervisors and the Mayor to protect~~
23 ~~public health and prevent the spread of COVID-19. Both reports shall be accompanied by a proposed~~
24 ~~Board of Supervisors resolution accepting the report, and the Board may act by resolution to accept,~~
25 ~~reject, or modify the report. The Subcommittee also shall submit both reports to the Mayor, any City~~

~~department or office responsible for a program identified in the report, and the City Administrator. The reports shall be available to the public, and the City Administrator shall post the reports on the City Administrator's website.~~

(j) In carrying out its duties, the Subcommittee shall receive prompt and full cooperation and assistance from all City departments, offices, officers, and employees. All components of City government shall promptly produce all records and information requested by the Subcommittee, unless prohibited from doing so by state or federal law.

(k) This Section 5.25-4 shall expire by operation of law, and the Subcommittee shall terminate, when the Sheriff certifies in writing that County Jail 4 is closed. After said certification, the City Attorney shall cause this Section 5.25-4 to be removed from the Administrative Code.

(l) Nothing in this Section 5.25-4 shall be interpreted to interfere with the duties of the District Attorney, Sheriff, or Adult Probation Chief, under State law.

SEC. 6.26. CONTRACTOR PERFORMANCE EVALUATION AND DATABASE.

(a) Each Department Head or Director authorized to enter into Contracts for Public Works or Improvements under Article IV of this Chapter 6 shall document, and evaluate, ~~and report~~ the performance of all Contractors awarded construction Contracts under this Chapter 6.

* * * *

~~(d) Within one year of the effective date of this Section 6.26, the Department Heads referenced in subsection (a) shall submit to the Board of Supervisors a report that describes the departments' implementation of this contractor performance evaluation program and database. The report shall include each department's outreach with different stakeholders including the Contract Monitoring~~

1 ~~Division. Concurrent with the report, the Department Heads shall submit to the Board of Supervisors a~~
2 ~~proposed resolution to accept the report.~~

3
4 **SEC. 6.27. CITYWIDE PROJECT LABOR AGREEMENT ORDINANCE.**

5 * * * *

6 (f) **Annual Reporting.** Beginning on the effective date of the ordinance in Board File
7 No. 181043 enacting this Section 6.27, the Office of the Controller shall, in collaboration with
8 the Contract Monitoring Division, collect utilization rates for LBEs on current Contracts
9 covered by this Section 6.27. Within one year after the City Administrator executes the PLA
10 on behalf of the City, and ~~annually~~at least once every five years thereafter, the Controller shall
11 conduct ~~annual~~ reviews of the PLA to evaluate whether the PLA has promoted the efficient,
12 economical, and timely completion of Covered Projects, the costs of Covered Projects, and
13 the PLA's impact on LBEs and the local workforce.

14 * * * *

15
16 **SEC. 6.66. CONVENTION FACILITY PUBLIC WORKS.**

17 * * * *

18 (c) In no event shall the Award of Contracts by the procedures set forth in this
19 Section 6.66 exceed the cumulative sum of \$3,000,000 in any fiscal year.

20 Except as provided herein, any Contract awarded under this Section must comply with
21 this Chapter 6 and with Administrative Code Chapter 14B and Labor and Employment Code
22 Articles 131 and 132.

23 All of the Contracts awarded and work performed under this Section 6.66 shall be
24 reported to the Board of Supervisors on ~~a quarterly~~an annual basis.

1 **SEC. 8.5. ESTABLISHMENT, USE, ETC., OF RECORDS CENTER.**

2 The Director of Administrative Services shall provide for
3 the establishment, maintenance and operation of a records center for the orderly storage,
4 care, management and safeguarding of storage records of the departments and offices of the
5 City and County and of the San Francisco Unified School District and for the
6 destruction of storage records pursuant to retention and destruction schedules prepared and
7 approved as provided in Section 8.3 of this Code. The Director of Administrative Services
8 may establish, maintain and operate such a records center as a function of one of the
9 departments under the Director of Administrative Services' jurisdiction or, in lieu thereof may
10 contract with a reputable and experienced archival firm to establish, maintain and operate
11 such a records center and to provide retrieval and accession services.

12 A representative of the Director of Administrative Services may also be available as a
13 consultant to departments in the formulation of paper records storage alternatives such as
14 microfilming and optical imaging records storage systems.

15 ~~Within two years from the effective date of such contract, and at three year intervals thereafter,~~
16 ~~the Director of Administrative Services shall have prepared for public hearing at the~~
17 ~~Board of Supervisors a report on the merits and demerits of the contract as compared with a~~
18 ~~municipal records center. Any of the departments or offices of the City and County and the San~~
19 ~~Francisco Unified School District may elect to use the facilities of the records center for its~~
20 ~~storage records provided that: (a) copies of an approved schedule for systematic retention and~~
21 ~~destruction of records shall first be delivered to the Director of Administrative Services and to~~
22 ~~the records center; and (b) the cost for the use of the records center facilities shall be the obligation of,~~
23 ~~and be paid by, the department or office using the facilities or by the San Francisco Unified School~~
24 ~~District if it shall use the facilities.~~

1 **~~SEC. 8.21-1. ESTABLISHMENT OF A LIBRARY PUBLICATION FUND.~~**

2 ~~(a) Authority. The Library Commission is hereby authorized to publish and sell, at no cost to~~
3 ~~the City and County, periodicals, monographs, pamphlets and books so published relating only to~~
4 ~~library subjects, San Francisco area subjects and San Francisco Library authorship as approved by the~~
5 ~~Library Commission.~~

6 ~~(b) Establish Fund. There shall be established in the treasury of the City and County of San~~
7 ~~Francisco a special fund to be known and designated as the Library Publication Fund into which shall~~
8 ~~be deposited all monies received from the sale of any and all periodicals, monographs, pamphlets and~~
9 ~~books published pursuant to the authority herein contained.~~

10 ~~The Library Commission is hereby authorized to accept any gift, devise or bequest for this~~
11 ~~purpose.~~

12 ~~(c) Use of Money in Publication Fund. The monies received into the publication fund are~~
13 ~~hereby appropriated exclusively for the purpose of publishing and selling the items authorized and~~
14 ~~approved by the Library Commission.~~

15 ~~(d) Administration of an Expenditure from Publication Fund. The sales price for said items~~
16 ~~shall be fixed by the Library Commission. Balances not in excess of \$10,000 remaining in the fund at~~
17 ~~the close of any fiscal year shall have been deemed to have been provided for a specific purpose within~~
18 ~~the meaning of Section 6.306 of the Charter, and shall be carried forward and accumulated in said~~
19 ~~fund for the purposes recited herein. Monies in excess of \$10,000 shall be transferred to the General~~
20 ~~Fund.~~

21 ~~The Library Commission shall annually submit in writing to the Mayor, to the controller and to~~
22 ~~the Board of Supervisors a report showing the total receipts and disbursements of the preceding year~~
23 ~~together with a description of the items published.~~

1 **SEC. 8.21-2. LIBRARY ~~FINES AND FEES.~~**

2 * * * *

3 ~~(d) Ratification of Prior Fines and Fees. All fines and fees charged for the use of library~~
4 ~~materials and services before the effective date of the ordinance in Board File No. 161108 are hereby~~
5 ~~ratified.~~

6
7 **SEC. 8.21-3. LIBRARY FEE AMNESTY PROGRAM.**

8 The San Francisco Public Library ("Library") Commission shall be authorized to
9 establish a library fee amnesty ~~program to take place during a two week period prior to July 1,~~
10 ~~2001.~~ The Library Commission, after notice and public hearing, is authorized to waive
11 all fees charged for overdue San Francisco Public Library materials ("late fees") based on a
12 finding that this amnesty program is likely to promote the return of needed Library materials or
13 promote the increased use of the Library. Such amnesty program shall allow persons to return
14 overdue Library materials without having to pay any late fees. However, in order for a person
15 to obtain a waiver of their late fees, such person must return all overdue materials on
16 their Library account during the two-week amnesty period designated by the Library
17 Commission. The Board of Supervisors, by resolution, may authorize the Library Commission
18 to establish subsequent Library fee amnesty programs under the standards set forth in this
19 section.

20
21 **SEC. 10.6-1. MONITORING OF NONPROFITS CONTRACTING WITH THE CITY.**

22 * * * *

23 ~~(c) By November 1, 2024, the Controller shall complete a review of the publicly available~~
24 ~~information the City has about its nonprofit contracted services, including spending, performance, and~~
25 ~~types of services provided. At the conclusion of the review, the Controller shall issue a report~~

1 ~~to the Mayor and the Board of Supervisors recommending any policy changes that the Controller~~
2 ~~concludes would improve public access to this information in the future. Concurrent with the November~~
3 ~~1, 2024 report, the Controller shall publish a directory webpage documenting where and how to access~~
4 ~~existing public information about nonprofit contracted services. The Controller shall maintain and~~
5 ~~update this directory webpage as additional public information is made transparent through the~~
6 ~~recommendations in the report, including information gathered by the Controller through the annual~~
7 ~~review required in subsection (d) below.~~

8 (d) Each fiscal year, beginning with Fiscal Year 2025-2026, the Controller shall
9 conduct a review of department compliance with the Controller's established contract
10 monitoring standards and shall submit a report summarizing the review to the Mayor and the
11 Board of Supervisors. The Controller may limit the annual review to specific departments,
12 service areas, or contracts as the Controller deems appropriate to achieve the goal of
13 ensuring adequate Citywide programmatic and performance monitoring of nonprofit
14 organizations.

15 (de) Starting with Fiscal Year 2024-2025, nonprofit organizations that received a total
16 of at least \$750,000 in funding from the City in a fiscal year must submit to the City an audited
17 balance sheet and the related statement of income and cash flows for that fiscal year within
18 six months after the end of the fiscal year, certified by an independent accounting firm as
19 accurately presenting the financial position of the organization. The Controller shall establish
20 procedures and deadlines for submission of such audit materials to the City and distribution of
21 such audit materials to City departments, provided that March 31, 2026 shall be the deadline
22 for the submission of the audit materials for Fiscal Year 2024-2025. This subsection (de) does
23 not limit the authority of the City, through the Controller or any other part of City government,
24 as otherwise authorized by law, to conduct a fiscal review or require alternate documents
25

1 demonstrating sound financial controls in the absence of an audit, including for nonprofit
2 organizations receiving less than a total of \$750,000 from the City within a fiscal year.

3 (ef) The Controller shall publicly issue on its website a draft version of any proposed
4 policy, standard, or guidance required in subsections (a), (b), and (de) of this Section 10.6-1,
5 and shall provide an opportunity for members of the public to review and provide written
6 comments about the draft for at least 15 days prior to final adoption. In the public review
7 process, the Controller shall make good-faith efforts to ensure community involvement and
8 racial equity in its outreach efforts. Outreach and engagement for public review shall include
9 engaging organizations, regardless of size, with a focus on fostering the growth of new,
10 smaller institutions reflecting the experiences of historically underserved communities,
11 including but not limited to African American communities, Asian American communities,
12 disabled communities, Latinx communities, LGBTQIA+ communities, Native American
13 communities, Pacific Islander communities, and women.

14
15 **SEC. 10.25. EXCEPTIONS TO FOUR PRECEDING SECTIONS.**

16 The provisions of Sections 10.21 to 10.24 of this Code shall not apply to claims
17 referred to the Bureau of Delinquent Revenue Collection, pursuant to the provisions of
18 Sections 10.37 to 10.4142 of this Code.

19
20 **SEC. 10.25-12. SETTLEMENT OF GRIEVANCE FILED PURSUANT TO VALID**
21 **MEMORANDA OF UNDERSTANDING.**

22 * * * *

23 ~~(c) The Human Resources Director shall file with the Board of Supervisors on a quarterly~~
24 ~~basis, beginning July 15, 1997, for the period of April 1, 1997 through June 30, 1997, a written report~~
25 ~~identifying and summarizing all settlements approved under the provisions of this Section.~~

1
2 **~~SEC. 10.42. QUARTERLY REPORTS.~~**

3 ~~The Bureau of Delinquent Revenue Collection shall make quarterly reports to the Board of~~
4 ~~Supervisors showing the total number of claims submitted to the Bureau during the preceding quarter,~~
5 ~~as well as the amount collected on such claims.~~
6

7 **SEC. 10.100-7. 706 MISSION FUND.**

8 * * * *

9 **(e) Conditions on Uses of the Fund.**

10 **(1) 706 Mission Open Space Fund.** The Department may expend monies in the
11 706 Mission Open Space Fund only after the SOMA Community Stabilization Fund
12 Community Advisory Committee has held at least one hearing to make recommendations as
13 provided in Section 5.27-1(d) of this Code. The Department shall expend a portion of the
14 monies in the 706 Mission Open Space Fund by entering into one or more grant agreements
15 following the process set forth in Chapter 21G of this Code. ~~By September 30 of each year~~If the
16 Department expends any monies in the 706 Mission Open Space Fund, the Department shall
17 annually thereafter submit a report to the Recreation and Park Commission and the Board of
18 Supervisors summarizing the past and anticipated future expenditures from this Fund.

19 **(2) 706 Mission Community Development Fund.** MOHCD may expend monies
20 in the 706 Mission Community Development Fund only after the SOMA Community
21 Stabilization Fund Community Advisory Committee has held at least one hearing to advise on
22 expenditure of said monies as provided in Section 5.27-1(a)(5) of this Code. MOHCD shall
23 expend a portion of the monies in the Fund by entering into one or more grant agreements
24 following the process set forth in Chapter 21G of this Code. ~~By September 30 of each year~~If
25 MOHCD expends any monies in the 706 Mission Open Space Fund, it shall include in an annual

1 ~~report to the~~ *submit a report to the* Board of Supervisors ~~summarizing a summary of the past and~~
2 ~~anticipated~~ expenditures under the Fund.

3
4 **SEC. 10.100-9. ADMINISTRATIVE SERVICES VEHICLE LEASING PROGRAM**
5 **FUND.**

6 * * * *

7 (b) **Use of the Fund.** Money or property received into the fund shall be used
8 exclusively for maintaining and replacing general purpose vehicles ~~and for administering the~~
9 ~~vehicle leasing program.~~

10 (c) **Administration of Fund.** The Director of Administrative Services shall, with its
11 annual budget submission ~~submit semi-annual reports~~ to the Mayor and the Board of Supervisors,
12 ~~report regarding~~ expenditures from the fund, ~~including the number, type, and cost of vehicles~~
13 ~~purchased, the capacity of the fund to replace the City's fleet, and the rates charged to leasing~~
14 ~~departments.~~

15
16 **~~SEC. 10.100-11. AFFORDABLE HOUSING PRODUCTION AND PRESERVATION~~**
17 **~~FUND.~~**

18 ~~(a) Establishment of Fund. The Affordable Housing Production and Preservation Fund ("the~~
19 ~~Fund") is hereby established as a category four fund to receive monies appropriated from excess~~
20 ~~Education Revenue Augmentation Fund ("Excess ERAF") revenues received by the City.~~

21 ~~(b) Intent to Appropriate Excess ERAF Funds. It is the intent of the Board of Supervisors to~~
22 ~~appropriate 50% of all projected Excess ERAF revenue to the Fund in each fiscal year beginning in~~
23 ~~FY2019-2020, and to appropriate the remaining 50% of such revenue for general one-time or ongoing~~
24 ~~uses, subject to the fiscal and budgetary provisions of the Charter. Further, it is the intent of the Board~~
25 ~~of Supervisors to appropriate at least 50% of all projected Excess ERAF revenues in each fiscal year to~~

1 ~~one-time uses and up to 50% for ongoing uses. The Board intends to make such appropriations on an~~
2 ~~annual basis, appropriating in each year's Annual Appropriations Ordinance the projected Excess~~
3 ~~ERAF revenues that the City receives in that fiscal year.~~

4 ~~(c) Administration and Use of Funds. The Mayor's Office of Housing and Community~~
5 ~~Development ("MOHCD") shall administer the Fund, and may consult with the City Administrator, the~~
6 ~~Board of Supervisors, and other City bodies and departments on potential uses of monies in the Fund to~~
7 ~~strive for a geographic balance of investments. Monies in the Fund shall only be used for the purposes~~
8 ~~of (1) funding land acquisition and production of new 100% affordable housing projects, and (2)~~
9 ~~acquisition and preservation of existing housing with the goal of making~~
10 ~~such housing permanently affordable, including but not limited to acquisition of housing through the~~
11 ~~City's Small Sites Program. In each fiscal year, up to 60% of the monies appropriated to the Fund in~~
12 ~~the fiscal year shall be used for purpose (1), and at least 40% of the monies appropriated to~~
13 ~~the Fund in the fiscal year shall be used for purpose (2).~~

14 ~~(d) By no later than May 1, 2021 and every two years thereafter, MOHCD shall submit to the~~
15 ~~Board of Supervisors and the Mayor a report evaluating the uses of monies in the Fund. In preparing~~
16 ~~the report, MOHCD shall rely on data from the Housing Balance Report required under Planning~~
17 ~~Code Section 103, as well as any other information MOHCD determines are relevant. MOHCD's~~
18 ~~report shall include, at a minimum, information regarding the number of new affordable units built~~
19 ~~using monies from the Fund, the number of units preserved as permanently affordable using monies~~
20 ~~from the Fund, the geographic balance of investments from the Fund, any unspent monies in the Fund,~~
21 ~~an analysis of funding gaps and ongoing needs for affordable housing, and potential recommendations~~
22 ~~to alter the target funding allocations in order to meet these needs.~~

1 **~~SEC. 10.100-18. AIRPORT CAPITAL IMPROVEMENT PROMOTION AND EVENT~~**

2 **~~FUND.~~**

3 ~~(a) Establishment of the Airport Capital Improvement Promotion and Event Fund. The Airport~~
4 ~~Capital Improvement Promotion and Event Fund is hereby established as a category six fund for the~~
5 ~~purpose of receiving all donations of money, property and personal services which may be offered to~~
6 ~~the City and County of San Francisco through the Airport for the uses described in subsection (b).~~

7 ~~(b) Use of the Airport Capital Improvement Promotion and Event Fund. Money, property and~~
8 ~~personal services comprising the Fund shall be used and expended for such purposes as will be~~
9 ~~determined in the sole discretion of the Airport Commission to assist in promotional events and~~
10 ~~community outreach activities associated with the opening of capital improvements of the San~~
11 ~~Francisco International Airport. The Fund shall have a separate accounting for each capital~~
12 ~~improvement project as determined by the Airport Commission.~~

13 ~~(c) Exceptions to Fund Category. Money, property and personal services comprising the~~
14 ~~Airport Capital Improvement Promotion and Event Fund shall be expended to promote the capital~~
15 ~~improvement project for which the donation is made, at the sole discretion of the Airport Commission.~~
16 ~~Any unexpended balances remaining in the Fund when it expires on December 31, 2023 shall be~~
17 ~~deposited in the City's General Fund.~~

18 ~~(d) Administration of Fund. The Airport Director shall submit to the Board of Supervisors and~~
19 ~~the Budget Analyst on an annual basis written reports of revenues to and expenditures from the Airport~~
20 ~~Capital Improvement Promotion and Event Fund during the annual period covered by the report. This~~
21 ~~fund shall expire on December 31, 2023. Acceptance of donations of \$100,000 or greater shall require~~
22 ~~Board of Supervisors approval by resolution.~~

23
24 **SEC. 10.100-24. ANIMAL SHELTER FUND.**

25 * * * *

1 (e) **Reporting Requirement.** The Animal Care and Control Department shall, with its
2 annual budget submission, submit an annual written report to the Board of Supervisors and the
3 Controller ~~showing~~ all donations received, the nature and amount of such donations, and a
4 description of the individual expenditures from the Fund. ~~The report shall be submitted within the~~
5 ~~first two weeks of July and shall cover the prior fiscal year.~~

7 **~~SEC. 10.100-49.5. COOPERATIVE LIVING OPPORTUNITIES FOR MENTAL HEALTH~~**
8 **~~LOAN FUND.~~**

9 ~~(a) Establishment~~
10 ~~of Fund. The Cooperative Living Opportunities for Mental Health Loan Fund (the "Fund") is~~
11 ~~established as a category eight fund to receive any monies appropriated or donated for the purpose of~~
12 ~~expanding opportunities for people with chronic mental illness and/or substance use disorders to live in~~
13 ~~communal, non-institutional, neighborhood-based, household settings with 24-7 on call individual and~~
14 ~~household case management services ("Cooperative Living").~~

15 ~~(b) Use of Fund. The Fund shall be used exclusively for the purpose of providing long-~~
16 ~~term loans to nonprofit organizations to acquire, rehabilitate, and maintain residential housing under~~
17 ~~the Cooperative Living Opportunities for Mental Health Program ("Program"), as set forth in Chapter~~
18 ~~117 of the Administrative Code.~~

19 ~~(c) Exceptions to Fund Category. The Director of the Mayor's Office on Housing and~~
20 ~~Community Development ("MOHCD") shall approve all expenditures from the Fund.~~

21 ~~(d) Administration of Fund. MOHCD shall administer a loan program under the Fund, and in~~
22 ~~such capacity shall: (1) service loan agreements; (2) receive payments for, and maintain current~~
23 ~~accounts of, principal, interest, and fees relating to the loan agreements, and redeposit them into~~
24 ~~the Fund; and, (3) allocate funds for administration associated with the operation of~~
25 ~~the Fund. MOHCD shall report annually to the Board of Supervisors on the current status of the Fund,~~

1 ~~the amounts approved for disbursement, and the number and types of new Cooperative Living units~~
2 ~~established during the preceding fiscal year.~~

3
4 **SEC. 10.100-50. COUNTY SURVEYOR'S SURVEY MONUMENT PRESERVATION**
5 **FUND.**

6 * * * *

7 (c) **Administration of Fund.** The Director of the Department of Public Works shall,
8 ~~with its annual budget submission~~ submit an annual written report to the Mayor, ~~to the Controller,~~
9 and ~~to the Board of Supervisors,~~ that addresses include the total receipts and use of proceeds
10 of the preceding year together with a description of the surveys prepared.

11
12
13 **SEC. 10.100-52. CULTURAL DISTRICT FUND.**

14 * * * *

15 (c) **Administration of Fund.** The Director shall submit an annual written report to the
16 ~~Board of Supervisors and the~~ Controller describing expenditures made from the Fund during the
17 previous fiscal year.

18
19 **SEC. 10.100-53. DISABILITY AND AGING SERVICES COMMUNITY LIVING FUND.**

20 * * * *

21 (c) **Administration of the Fund.** The Executive Director of Disability and Aging
22 Services, or the Executive Director's designee, shall administer the fund. An annual plan shall
23 be prepared by DAS and submitted to the Disability and Aging Services Commission for
24 approval after a public hearing process that includes input from the Health Department and
25 the Long Term Care Coordinating Council. Wherever possible, the annual plan will prioritize

1 projects where providing funding is likely to result in additional State, federal, or charitable
2 dollars. The annual plan shall include a report on the level of service provided and costs incurred in
3 connection with the duties and services associated with this fund. A copy of the annual plan shall be
4 submitted to the Board of Supervisors.

5 (d) ~~Reporting Requirement. Six months from the adoption of this ordinance, and every six~~
6 ~~months thereafter, DAS shall report to the Board of Supervisors the level of service provided and costs~~
7 ~~incurred in connection with the duties and services associated with this fund.~~

8 (e) **Economic Security Index Pilot Program.**

9 * * * *

10
11 **SEC. 10.100-60. DISTRICT ATTORNEY STATE FORFEITURE FUND.**

12 * * * *

13 (d) ~~Administration of Fund. The District Attorney shall provide a quarterly report to the~~
14 ~~Controller, Budget Analyst of the Board of Supervisors of all expenditures made from said Fund during~~
15 ~~the immediately preceding three months. All deposits and expenditures from the fund shall be~~
16 ~~accounted for in a manner consistent with limitations imposed by State law and regulations.~~

17
18 **SEC. 10.100-73. FOOD EMPOWERMENT MARKET FUND.**

19 * * * *

20 (e) ~~Reporting. HSA shall, within the first two weeks of July, submit an annual report to the~~
21 ~~Board of Supervisors and the Mayor describing the implementation of the grant program.~~

22
23 **SEC. 10.100-81. INFANT AND TODDLER EARLY LEARNING SCHOLARSHIP**
24 **FUND.**

25 * * * *

1 (d) **Administration and Oversight of Fund.** The Department shall administer the
2 Fund.

3 * * * *

4 ~~—(3) The Department shall submit an annual report to the Board of Supervisors and the~~
5 ~~Mayor describing the implementation of the program.~~

6
7 **SEC. 10.100-82. JACKSON PLAYGROUND PARK FUND.**

8 * * * *

9 (c) **Administration of Fund.** The Recreation and Park Department shall administer
10 the fund and shall report ~~annually to the Board of Supervisors on the current status of the fund, the~~
11 ~~any~~ amounts approved for disbursement, and the improvements and activities funded to the
12 applicable Interagency Planning and Implementation Committee authorized by Administrative Code
13 Section 36.3 for inclusion in the Annual Progress Report specified in Administrative Code Section 36.4.
14 The Recreation and Park Department shall have the authority to prescribe rules and
15 regulations governing the fund.

16
17 **SEC. 10.100-88. LIBRARY SPECIAL COLLECTIONS AND SERVICES FUND.**

18 * * * *

19 ~~(e) Exceptions to Fund Category. All expenditures from the fund are subject to approval of the~~
20 ~~Library Commission, and the Board of Supervisors must approve any expenditure in excess of \$5,000.~~

21
22 **SEC. 10.100-92. LOW CARBON FUEL STANDARD CREDITS SALES FUND.**

23 * * * *

24 ~~(d) Administration of Fund. The SFPUC will administer the Low Carbon Fuel Standard~~
25 ~~Credits Sales Fund. The General Manager of the SFPUC shall submit an annual written report to the~~

1 ~~Board of Supervisors and the Controller: (1) specifying the number of Low Carbon Fuel Standard~~
2 ~~Credits sold during the previous fiscal year, the price received for each credit, and the total amount of~~
3 ~~the sales; and (2) describing the expenditures made from the Low Carbon Fuel Standard Credits Sales~~
4 ~~Fund during the previous fiscal year.~~

5
6 **SEC. 10.100-108. MAYOR'S HOME OWNERSHIP ASSISTANCE LOAN FUND.**

7 * * * *

8 (d) **Administration of Fund.** The Mayor's Office of Housing, or its successor, shall
9 administer a loan program under the Home Ownership Assistance Loan Fund, and in such
10 capacity shall (1) prepare and service loan agreements; (2) receive payments from loans,
11 maintain current accounts showing principal, interest, shared appreciation and fees relating to
12 the loans made from the Home Ownership Assistance Loan Fund; and (3) allocate funds for
13 administration associated with the operation of the Home Ownership Assistance Loan Fund,
14 such administrative funds being limited to interest earnings generated by loans, the share of
15 appreciation accruing to City as outlined in the loan agreements, collection of fees and
16 proceeds of investments of unexpended cash balances from the Home Ownership Assistance
17 Loan Fund. ~~The Mayor's Office of Housing, or its successor, shall report annually to the Board of~~
18 ~~Supervisors on the current status of the Home Ownership Assistance Loan Fund, the amounts approved~~
19 ~~for disbursement, the number and types of units assisted, and shall make recommendations for any~~
20 ~~changes deemed necessary to improve the effectiveness of the Home Ownership Assistance Loan Fund~~
21 ~~in achieving its purpose.~~

22
23 **SEC. 10.100-117. MAYOR'S HOUSING PROGRAMS FEES FUND.**

24 * * * *

1 (d) **Administration of Fund.** The Mayor's Office of Housing and Community
2 Development shall administer the Fund, and in such capacity shall review the needs of the
3 administration of affordable housing programs and the availability of monies from the fund for
4 other eligible purposes. ~~The Mayor's Office of Housing and Community Development shall report~~
5 ~~annually to the Board of Supervisors on the current status of the Mayor's Housing Program Fees Fund~~
6 ~~as a part of its Annual Report, including the amounts of fees received and to be budgeted for~~
7 ~~administrative funding, and any recommendations deemed necessary to improve effectiveness of~~
8 ~~the Mayor's Housing Program Fees Fund in achieving its purpose.~~

9
10 **~~SEC. 10.100-118. MAYOR'S NUISANCE ABATEMENT REVOLVING LOAN FUND.~~**

11 ~~(a) Establishment of Fund. The Mayor's Nuisance Abatement Revolving Loan Fund is~~
12 ~~established as a category four fund to receive any legally available monies appropriated for this~~
13 ~~purpose. The monies to be deposited in the fund shall include, subject to any prior legally-binding~~
14 ~~obligations, principal repayments of loans made from the fund and fees and interest earnings generated~~
15 ~~by loans made from the Fund.~~

16 ~~(b) Use of Fund. Expenditures from the fund shall be for the following purposes: (1) to~~
17 ~~provide loans to building owners to make repairs and improvements needed to abate violations of the~~
18 ~~Building, Electrical, Green Building, Housing, Mechanical, and Plumbing Codes; and (2) to pay for~~
19 ~~expenses incurred in the administration of such loans. Administrative expenses shall be appropriated~~
20 ~~through the annual budget process or supplemental appropriation for the Mayor's Office of Housing~~
21 ~~and Community Development ("MOHCD"), or its successor.~~

22 ~~(c) Administration of Fund. MOHCD shall administer loan programs under the fund, and in~~
23 ~~such capacity shall: (1) service loan agreements; (2) receive payments for, and maintain current~~
24 ~~accounts of principal, interest, and fees relating to the loan agreements, and redeposit them into~~
25 ~~the fund; and, (3) allocate funds for administration associated with the operation of the fund, such~~

1 ~~fund being limited to interest earnings generated by loans, collection of fees and the proceeds of~~
2 ~~investments of unexpended cash balances from the fund.~~

3 ~~MOHCD shall report annually to the Board of Supervisors on the current status of the fund, the~~
4 ~~amounts approved for disbursement, and the number and types of projects assisted.~~

5 ~~The Director of MOHCD may, after a noticed public hearing, adopt rules and regulations for~~
6 ~~the loan program or programs and for the administration of the fund.~~

7
8 **~~SEC. 10.100-131. MAYOR'S SUPPORTIVE HOUSING SERVICE FUND.~~**

9 ~~(a) Findings. Housing linked with services, "supportive" or "service-enriched" housing, has~~
10 ~~become widely recognized as an ideal model for addressing the problem of homelessness. This model~~
11 ~~recognizes that low-income people often have multiple unmet needs, including a need for both safe~~
12 ~~affordable housing and readily available support services to effectively stabilize their lives. There are~~
13 ~~opportunities to leverage federal, state and other funds to expand and improve our supportive housing~~
14 ~~stock. However, the requirements for integrated service programs and local matching funds demand~~
15 ~~timely access and coordinated support from a single City source, which has heretofore been~~
16 ~~unavailable.~~

17 ~~(b) Statement of Intent. The Board of Supervisors wishes to address the above concerns by~~
18 ~~establishing a supportive services fund which will both facilitate the development of newly constructed~~
19 ~~or rehabilitated affordable supportive housing and ensure that a portion of the existing affordable~~
20 ~~housing in San Francisco is accessible and appropriate to those with service needs which put them at~~
21 ~~risk of repeated homelessness and hinder them from participating fully in the community. For purposes~~
22 ~~of this ordinance "affordable housing" shall mean housing affordable to low and moderate income~~
23 ~~households as defined by California Health and Safety Code Sections 50052.5, et seq. Such~~
24 ~~affordability shall be maintained for a period of not less than the greater of fifty years or the life of the~~
25 ~~project.~~

1 ~~(c) Establishment of Fund. The Mayor's Supportive Housing Service Fund is established as a~~
2 ~~category eight fund for the purpose of providing financial assistance to the owners of for-profit and~~
3 ~~nonprofit affordable housing developments, where the contribution of monies from the fund will~~
4 ~~provide necessary supportive services to the residents of these affordable housing developments. Said~~
5 ~~fund shall be known as the Supportive Housing Service Fund. Subject to any prior legally binding~~
6 ~~obligations, any grants, gifts or bequests from private or public sources for this purpose and any~~
7 ~~monies appropriated to the fund shall be deposited into said special fund.~~

8 ~~(d) Use of Fund. Monies deposited in the fund shall be expended exclusively in accordance~~
9 ~~with the rules and regulations promulgated pursuant to Subsection (c), below. The supportive housing~~
10 ~~services for which expenditures may be made by this fund are mental health services, services for~~
11 ~~people with HIV/AIDS, services for seniors, social work/case management services, substance abuse~~
12 ~~services, vocational services, child care, and community development services (such as establishing~~
13 ~~tenant councils or facilitating peer support groups). The services must be for the direct benefit of and~~
14 ~~easily accessible to the residents of low and moderate income housing developments.~~

15 ~~(e) Exceptions to Fund Category. The Executive Director of the Mayor's Office of Housing, or~~
16 ~~his or her designee, shall administer expenditures from the fund, subject to the rules and regulations~~
17 ~~established through the process described in (f). Interest shall accrue to the fund if the balance in the~~
18 ~~fund exceeds \$10,000.~~

19 ~~(f) Administration of Fund. The Executive Director of the Mayor's Office of Housing shall~~
20 ~~promulgate such rules and regulations as he or she may deem appropriate to carry out the provisions~~
21 ~~of the fund. Such rules and regulations shall be developed in consultation with the organizations that~~
22 ~~participate in the Council of Community Housing, or successor or similar organization, and any other~~
23 ~~appropriate agencies or organizations with which the Executive Director, or his or her designee, may~~
24 ~~choose to consult. Such rules and regulations shall include, but not be limited to the qualifications of~~
25 ~~applicants and factors to be considered in the award of grants to fund supportive housing services.~~

1 ~~Such rules and regulations shall be designed to ensure that although the highest priority use is~~
2 ~~established for supportive services at proposed new affordable housing developments, that monies from~~
3 ~~this fund may also be expended for supportive services at existing affordable housing developments.~~
4 ~~The rules and regulations shall be subject to a public hearing and approved by resolution of the Board~~
5 ~~of Supervisors.~~

6 ~~The Supportive Housing Services Fund Committee shall consist of those officials currently~~
7 ~~serving as members of the Affordable Housing Loan Committee (the Executive Director of the~~
8 ~~Redevelopment Agency, the Director of the Mayor's Office of Housing and the Mayor's Homeless~~
9 ~~Coordinator, or any respective successors responsible for housing and homeless services as designated~~
10 ~~by the Mayor), a representative from the Department of Social Services and a representative from the~~
11 ~~Department of Public Health who shall be appointed by the respective department head in consultation~~
12 ~~with the Mayor. Vacancies shall be filled by the Mayor as they may occur.~~

13 ~~The Supportive Housing Services Fund Committee shall be delegated the following~~
14 ~~responsibilities:~~

15 ~~— (1) To prepare and distribute announcements and requests for grant proposals to existing~~
16 ~~providers of affordable housing and supportive services, and others who may be interested;~~

17 ~~— (2) To review and evaluate all proposals and requests of housing providers eligible to~~
18 ~~receive funding under this program. The Supportive Housing Services Fund Committee shall consult~~
19 ~~with individuals or groups who have expertise in the particular supportive services or target~~
20 ~~populations under consideration, in making their evaluations;~~

21 ~~— (3) To recommend appropriate action to the Mayor on all proposals and requests~~
22 ~~for funding;~~

23 ~~— (4) To monitor the implementation of the proposals approved for funding under this~~
24 ~~program in compliance with the provisions herein;~~

1 ~~— (5) To submit a semi-annual report to the Budget Committee of the Board of Supervisors~~
2 ~~setting forth an accounting of the amounts disbursed and the uses for which said funds were made.~~

3
4 **~~SEC. 10.100-136. MAYOR'S URBAN DEVELOPMENT ACTION GRANT REVOLVING~~**
5 **~~FUND.~~**

6 ~~(a) Establishment of Fund. The Mayor's Urban Development Action Grant Revolving Fund is~~
7 ~~established as a category four fund to receive proceeds related to the Urban Development Action Grant~~
8 ~~Program. The monies to be deposited in the fund include, subject to any prior legally binding~~
9 ~~obligations:~~

10 ~~— (1) Repayments of Urban Development Action Grants awarded to the City and County of~~
11 ~~San Francisco;~~

12 ~~— (2) Principal repayments of loans made from the Fund;~~

13 ~~— (3) Application and/or loan fees and interest earnings generated by loans made from the~~
14 ~~Fund and the proceeds of investments of unexpended cash balances of Fund; and~~

15 ~~— (4) Revenue received from City participation as defined by specific Urban Development~~
16 ~~Action Grant agreements.~~

17 ~~(b) Use of Fund. Expenditures from the Fund shall be for the following purposes:~~

18 ~~— (1) To provide for economic development loans and/or grants for activities eligible under~~
19 ~~Title I of the Housing and Community Development Act of 1974, as amended; and~~

20 ~~— (2) To acquire real or personal property for use in connection with activities eligible under~~
21 ~~Title I of the Housing and Community Development Act of 1974 and to maintain such property; and~~

22 ~~— (3) To provide for expenses incurred in the administration of the Fund.~~

23 ~~(c) Exceptions to Fund Category. Expenditures for loans, grants and property acquisitions and~~
24 ~~maintenance shall be approved by resolution of the Board of Supervisors. Administrative and property~~
25

1 ~~maintenance expenses are appropriated through the annual budget process or supplemental~~
2 ~~appropriation for the Mayor's Office of Housing and Economic Development.~~

3 ~~(d) Administration of Fund. The Mayor's Office of Housing and Economic Development shall~~
4 ~~administer loan and grant programs under the Fund, and in such capacity shall (1) service loan and~~
5 ~~grant agreements; (2) receive payments for, and maintain current accounts of, principal, interest, and~~
6 ~~fees relating to the loan and grant agreements, and redeposit them into the Fund; (3) allocate funds for~~
7 ~~administration associated with the operation of the Fund, such funds being limited to interest earnings~~
8 ~~generated by loans, collection of fees and the proceeds of investments of unexpended cash balances~~
9 ~~from the fund.~~

10 ~~The Mayor's Office of Housing and Economic Development shall report annually to the Board~~
11 ~~of Supervisors on the current status of the Fund, the amounts approved for disbursement, the number~~
12 ~~and types of projects assisted, and shall make recommendations for any changes deemed necessary to~~
13 ~~improve the effectiveness of the fund in achieving its purpose.~~

14 **~~SEC. 10.100-160. THE NAVIGATION PARTNERSHIPS FUND.~~**

15 ~~(a) Establishment of Fund. The Navigation Partnerships Fund (the "Fund") is established to~~
16 ~~pay for navigation services provided by the City or contracted community-based organizations.~~
17 ~~"Navigation services" provide low barrier-to-entry alternatives to shelter with the goal of moving~~
18 ~~homeless individuals off of the streets, providing case management and connection to social service~~
19 ~~benefits, with an ultimate goal of stabilizing these individuals in housing placements in San Francisco~~
20 ~~or otherwise resolving their homelessness. The Fund is a category eight fund, authorized to receive~~
21 ~~private donations, grants, gifts, and bequests of money which may be offered to the City to assist~~
22 ~~in the provision of navigation services.~~

23 ~~(b) Use of Fund. Money received into the Fund shall be used exclusively for the provision~~
24 ~~of navigation services. No costs which may be incurred by any City department in~~
25 ~~administering the Fund shall be recovered therefrom. Monies in the Fund may only be drawn and~~

1 ~~expended when the City has appropriated an equal amount of funds for navigation services.~~

2 ~~Appropriations include, but are not limited to, the budget process set forth in Article IX of the Charter,~~
3 ~~supplemental appropriations, receipt of state or federal grants mid-year, and re-allocation of~~
4 ~~departmental budgets mid-year.~~

5 ~~(c) Administration of Fund. The Department of Homelessness and Supportive Housing shall~~
6 ~~administer the Fund.~~

7 ~~(d) Reporting Requirement. The Department of Homelessness and Supportive Housing shall~~
8 ~~report at least annually to the Board of Supervisors and the Homelessness Oversight Commission on~~
9 ~~private donations, grants, gifts, and bequests of money to and expenditures from the Fund.~~

10
11 **~~SEC. 10.100-162. OFFICE OF CANNABIS COMMUNITY REINVESTMENT FUND.~~**

12 ~~(a) Establishment of Fund. The Community Reinvestment Fund ("the Fund") is established as~~
13 ~~a category six fund to receive any monies appropriated or donated for the purpose of providing~~
14 ~~assistance to entities and organizations working to address the impact of: racially disproportionate~~
15 ~~arrests and incarceration, generational poverty, community degradation, housing insecurity, loss of~~
16 ~~educational and employment opportunities, disruption of family structures, and other burdens of the~~
17 ~~failed War on Drugs.~~

18 ~~(b) Use of Fund. The Fund shall be used by the Director of the Office of Cannabis or his or her~~
19 ~~designee ("Director") to provide the following types of assistance:~~

20 ~~— (1) Workforce development;~~

21 ~~— (2) Access to affordable commercial real estate;~~

22 ~~— (3) Access to investment financing;~~

23 ~~— (4) Access to legal services and business administration.~~

1 ~~(c) Disbursement. The Director shall authorize disbursements to eligible Equity Applicants~~
2 ~~and Equity Operators on a case-by-case basis in accordance with the policy adopted pursuant to~~
3 ~~subsection (d).~~

4 ~~(d) Administration of Fund. By no later than April 1, 2018, the Director shall adopt a policy~~
5 ~~for implementation of this Section 10.100-162, which the Director may modify from time to time as the~~
6 ~~Director deems necessary or appropriate.~~

7 ~~(e) Annual Report. The Director shall submit an annual written report to the Mayor, the Board~~
8 ~~of Supervisors, and the Controller within the first two weeks of July, showing for the prior fiscal year~~
9 ~~donations or appropriations received, the nature and amount of such donations or appropriations, and~~
10 ~~the disposition thereof, together with a description of the individual payments made from the Fund.~~

11
12 **SEC. 10.100-198. PUBLIC HEALTH ENVIRONMENTAL ENFORCEMENT FUND.**

13 * * * *

14 ~~(c) Administration of Fund. Pursuant to the provisions of the MOU the Director of the~~
15 ~~Department of Public Health or his designee shall maintain for five years books, and records,~~
16 ~~documenting use of the funds, and shall report quarterly to the California Department of Health~~
17 ~~Services on the amount of funds received. Such quarterly reports shall contain the information and be~~
18 ~~filed on the dates specified in the MOU. The Director of Health shall forward copies of the reports~~
19 ~~submitted to the California Department of Health Services to the Clerk of the Board of Supervisors and~~
20 ~~the Mayor.~~

21
22 **SEC. 10.100-217. PUBLIC HEALTH SOLID WASTE PENALTIES FUND.**

23 * * * *

24 ~~(d) In 2013 and 2014, before the Board of Supervisors considers the proposed budget for the~~
25 ~~Department of Public Health for Fiscal Year 2013-14 and Fiscal Year 2014-15, the Department shall~~

1 ~~submit to the Board of Supervisors a report stating the Public Health Solid Waste Penalties Fund~~
2 ~~balance, accrued interest, and amounts and description of all deposits to and expenditures from~~
3 ~~the Fund in the previous year.~~

4
5 **SEC. 10.100-227. PUBLIC WORKS ADOPT-A-TREE FUND.**

6 * * * *

7 (c) **Administration of Fund.** Included in the Annual Report required by Charter Section
8 16.129(i), ~~The Department of Public Works shall~~ report~~submit~~ to the Board of Supervisors ~~on a~~
9 ~~quarterly basis a written report of~~ revenues to and expenditures from the fund.

10
11 ~~**SEC. 10.100-247. RECREATION AND PARKS ANIMAL PURCHASE AND EXCHANGE**~~
12 ~~**FUND.**~~

13 ~~(a) Establishment of Fund. The Recreation and Parks Animal Purchase and Exchange Fund is~~
14 ~~established as a category six fund to receive funds derived from the sale or exchange of animals at the~~
15 ~~San Francisco Zoological Gardens, said special fund to be known as the Animal Purchase and~~
16 ~~Exchange Fund.~~

17 ~~(b) Use of Fund. Said special fund shall be used solely for expenses necessary for, and~~
18 ~~incidental to the purchase, sale or exchange of animals for the San Francisco Zoological Gardens,~~
19 ~~including, but not limited to, the following:~~

20 ~~—(1) Administrative expenses other than the payment of salaries to City and County~~
21 ~~employees and officials;~~

22 ~~—(2) Freight or shipping charges;~~

23 ~~—(3) Insurance requirements;~~

24 ~~—(4) The purchase or construction of crates for transportation;~~

1 —(5) ~~Expenses incurred in obtaining any permits, including federal or state permits, or~~
2 ~~permits from foreign entities;~~

3 —(6) ~~Expenses arising when a quarantine of an animal is necessary; and~~

4 —(7) ~~The purchase price of animals.~~

5 (c) ~~Exceptions to Fund Category. All expenditures in excess of \$10,000 shall require approval~~
6 ~~of the Board of Supervisors.~~

7 (d) ~~Administration of Fund. All expenditures and any remaining balances in the fund shall be~~
8 ~~reported to the Board of Supervisors each year concurrent with the submission of the budget.~~

9
10 **SEC. 10.100-297. SAN FRANCISCO FILM PRODUCTION FUND.**

11 * * * *

12 (c) **Administration of Fund.** ~~By March 1st of each year, the Commission shall prepare and~~
13 ~~file with the Board of Supervisors an annual report detailing~~ The Executive Director of the Film
14 Commission shall include in the Annual Report to the Board of Supervisors required by Administrative
15 Code Section 57.8 the revenues and expenditures from the Fund for the previous fiscal year.

16 **SEC. 10.100-305. SAN FRANCISCO GIFT FUNDS.**

17 * * * *

18 (c) **Administrative Provisions.** Each department, board, and commission
19 accepting gifts authorized hereunder shall furnish to the Board of Supervisors annually ~~within~~
20 ~~the first two weeks of July~~ a report showing such gifts received, the nature or amount of
21 said gifts, and the disposition thereof. This report may be made as part of the annual budget
22 submission from the department, board, or commission to the Mayor and Board of Supervisors.

23 * * * *

24
25 **~~SEC. 10.100-375. 180 JONES STREET AFFORDABLE HOUSING FUND.~~**

1 ~~(a) Establishment of Fund. The 180 Jones Street Affordable Housing Fund is established as a~~
2 ~~category four fund to receive fee revenue dedicated to affordable housing and other contributions to~~
3 ~~the fund. Monies in the fund shall include:~~

4 ~~— (1) A payment of \$0.4 million in lieu of the Jobs-Housing Linkage Fee otherwise required~~
5 ~~under Planning Code Sections 413 et seq. but waived by Board of Supervisors for the 950-974~~
6 ~~Market Street project. This payment is addressed in an ordinance concerning the waiver of the Jobs-~~
7 ~~Housing Linkage Fee and Inclusionary Housing Requirements, and authorizing other exemptions as~~
8 ~~well as a land dedication (the “950-974 Market Street Ordinance”), which is on file with the Clerk of~~
9 ~~the Board of Supervisors in File No. 161066.~~

10 ~~— (2) A payment of \$10.85 million in lieu of affordable housing fees otherwise required under~~
11 ~~Planning Code Sections 415 et seq. (Inclusionary Housing Program) but waived by Board of~~
12 ~~Supervisors for the 950-974 Market Street project in the 950-974 Market Street Ordinance, on file with~~
13 ~~the Clerk of the Board of Supervisors in File No. 161066.~~

14 ~~— (3) A gift of \$2.7 million from the Project Sponsor of the 950-974 Market Street Project, as~~
15 ~~authorized in the 950-974 Market Street Ordinance, on file with the Clerk of the Board of Supervisors~~
16 ~~in File No. 161066.~~

17 ~~— (4) Any other monies donated or appropriated to the fund.~~

18 ~~(b) Use of Fund. The fund is to be used exclusively by the Mayor’s Office of Housing and~~
19 ~~Community Development (MOHCD), or its successor, for the purpose of supporting development and~~
20 ~~construction of affordable housing units at 180 Jones Street (Assessor’s Block 0343, Lot 14), and~~
21 ~~supportive services, operating subsidies, and/or rental assistance for tenants at said affordable housing~~
22 ~~units. If, however, the City fails to approve a revised project at 180 Jones Street within five years of~~
23 ~~the last payment to the Fund authorized by the 950-974 Market Street Ordinance, as amended by the~~
24 ~~ordinance in Board File No. 210534, the money in the Fund shall be deposited into the Citywide~~
25

~~Affordable Housing Fund as established in Administrative Code Section 10.100-49, or its successor fund.~~

~~(c) Exceptions to Fund Category. The Director of MOHCD shall approve all expenditures from the fund.~~

~~(d) Administration of Fund. The MOHCD shall administer the fund and shall report annually to the Board of Supervisors on the current status of the fund, the amounts approved for disbursement, and the number and types of housing units assisted. The MOHCD shall have the authority to prescribe rules and regulations governing the fund. Except as provided in subsection (b), any unexpended funds remaining after 10 years from the effective date of the ordinance identified in subsections (a)(1) and (a)(2) shall be deposited into the Citywide Affordable Housing Fund as established in Administrative Code Section 10.100-49 or its successor fund.~~

SEC. 10.170-1. GRANT FUNDS – ACCEPTANCE AND EXPENDITURE.

* * * *

(k) Certain Transportation Funds (Proposition 1B Funds). The voters of California adopted Proposition 1B, the Highway Safety, Traffic Reduction, Air Quality, and Port Security Bond Act of 2006, at the November 7, 2006 California General Election. Under the Proposition, the State will appropriate two billion dollars (\$2,000,000,000) into the Local Streets and Road Improvement, Congestion Relief, and Traffic Safety Account of 2006 ("Proposition 1B Local Street and Road Improvement Funds"). These funds will be distributed to cities and counties for improvements to transportation facilities that will assist in reducing local traffic congestion and further deterioration, improving traffic flows, or increasing traffic safety that may include, but not be limited to, street and highway pavement, maintenance, rehabilitation, installation, construction and reconstruction of necessary associated facilities such as drainage and traffic control devices, or the maintenance, rehabilitation, installation,

1 construction and reconstruction of facilities that expand ridership on transit systems, safety
2 projects to reduce fatalities, or as a local match to obtain state or federal transportation funds
3 for similar purposes. The Proposition requires that the funds distributed to the City be
4 deposited in a local account that is designated for the receipt of state funds allocated for local
5 streets and roads.

6 (1) The Board of Supervisors finds that while there are a range of projects
7 involving various City departments that could benefit from the Proposition 1B Local Street and
8 Road Improvement Funds, implementing a coordinated planning process for use of those
9 funds will help ensure the effective and efficient expenditure of funds in a manner that will
10 maximize the benefit to the City and its residents.

11 * * * *

12 ~~(4) Any department that receives an appropriation of Proposition 1B Local Street and~~
13 ~~Road Improvement Funds shall report back to the Board of Supervisors beginning six months from the~~
14 ~~date of the appropriation, and at six month intervals thereafter until the appropriation has been spent.~~
15 ~~The report required by this Section shall state the amount of Proposition 1B Local Street and Road~~
16 ~~Improvement Funds expended as of the reporting date and shall describe the progress on the project,~~
17 ~~the projected date of completion, and such additional information as the Board may require as a~~
18 ~~condition of the appropriation.~~

19 * * * *

20
21 **~~CHAPTER 10C:~~**

22 **~~REIMBURSEMENT FOR TOWING AND STORAGE OF VEHICLES~~**

23 **~~SEC. 10C.1. REIMBURSEMENT OR WAIVER OF PAYMENT FOR TOW ON~~**
24 **~~VEHICLES; CONDITIONS THEREFOR.~~**
25

1 ~~(1) Except as provided in Section 10C.8, fees, charges or costs imposed for the towing or~~
2 ~~storage of vehicles or the amount charged for removal of components of a vehicle may be waived or~~
3 ~~reimbursed to the owner or person in lawful possession of the vehicle if the fees, charges or costs were~~
4 ~~incurred;~~

5 ~~(a) Because the subject vehicle was towed and stored at the order of the San Francisco Police~~
6 ~~Department to examine the vehicle for evidence of a crime;~~

7 ~~(b) Because the subject vehicle was towed and stored by the order of the San Francisco Police~~
8 ~~Department or the Department of Parking and Traffic and said towing or storage was not authorized~~
9 ~~by any of the several provisions of the Vehicle Code of the State of California;~~

10 ~~(c) Because officers, agents or employees of the San Francisco Police Department or the~~
11 ~~Department of Parking and Traffic were negligent in reporting, filing, or recording the circumstances~~
12 ~~of the towing and storage of the vehicle;~~

13 ~~(d) Because officers, agents or employees of the San Francisco Police Department or the~~
14 ~~Department of Parking and Traffic were negligent in reporting a vehicle as subject to towing or~~
15 ~~storage or ordering a vehicle towed and stored when, in fact, such vehicle was not subject to towing~~
16 ~~and storage; or~~

17 ~~(e) Because a vehicle was towed or stored by order of the San Francisco Police Department or~~
18 ~~the Department of Parking and Traffic for removal of components of the vehicle, which components~~
19 ~~were placed on the vehicle in violation of Section 10751 of the Vehicle Code.~~

20 ~~—(2) Residents of the City and County of San Francisco who own or are in lawful possession~~
21 ~~of a vehicle that has been stolen and recovered within the City and County of San Francisco shall be~~
22 ~~exempt from payment of the administrative fee imposed by Section 170.1 of the Traffic Code.~~

23 ~~—(3) No person shall be exempt from or reimbursed for tow and storage charges collected~~
24 ~~pursuant to Section 170.2-A of the Traffic Code.~~

1 ~~—(4) Pursuant to the provisions of Section 10C.8, indigent owners of vehicles and victims of~~
2 ~~auto theft shall be exempt from paying fees, charges, or costs imposed for the towing and storage of the~~
3 ~~vehicle and shall be entitled to reimbursement for the same if collected.~~

4
5 ***SEC. 10C.2. PROHIBITION ON REIMBURSEMENT.***

6 ~~No reimbursement or voucher shall be made to the owner of a vehicle or the person in lawful~~
7 ~~possession of said vehicle pursuant to the provisions of this chapter, if:~~

8 ~~(a) The owner or person in lawful possession of the vehicle is chargeable with violation of any~~
9 ~~law of the City and County of San Francisco, the State of California or the United States, and said~~
10 ~~charge relates to the towing and storage of the vehicle or the removal of component parts thereof; or~~

11 ~~(b) Reimbursement is requested pursuant to Subsections (c) or (d) of Section 10C.1 of this~~
12 ~~Chapter and the owner or one in lawful possession of the vehicle was contributorially negligent; or~~

13 ~~(c) The owner or other person in lawful possession of a motor vehicle, including a firm or~~
14 ~~corporation which owns vehicles used for commercial purposes, cannot show evidence of financial~~
15 ~~responsibility for said vehicle as required by Section 16020 of the California Vehicle Code.~~

16
17 ***SEC. 10C.3. COMPUTING AMOUNT OF REIMBURSEMENT.***

18 ~~The amount of the requested reimbursement or voucher shall not exceed the actual fee, charges~~
19 ~~or cost to the person requesting reimbursement or voucher nor shall such request exceed the amount of~~
20 ~~the usual towing and storage fees as stated in the most recent contract between the Purchaser of~~
21 ~~Supplies of the City and County of San Francisco and such companies, corporations or individuals for~~
22 ~~the towing and storage of vehicles made pursuant to Section 163 of Part II, Chapter XI, of the San~~
23 ~~Francisco Municipal Code (Traffic Code).~~

1 **~~SEC. 10C.4. PAYMENT OF REIMBURSEMENTS.~~**

2 ~~The Chief of Police and the Director of the Department of Parking and Traffic shall designate a~~
3 ~~staff member of their departments to pay reimbursements not to exceed the amount authorized for~~
4 ~~payment of unlitigated claims under Section 10.21. Payments in excess of that amount shall be subject~~
5 ~~to approval of the Police Commission or the Parking and Traffic Commission and submitted to the~~
6 ~~Board of Supervisors for approval. Such payments shall be made from the Cash Revolving Fund as set~~
7 ~~forth in Sections 10.151-1 and 10.169-2.~~

8
9 **~~SEC. 10C.5. TIME LIMIT TO REQUEST REIMBURSEMENT.~~**

10 ~~Requests for reimbursement or exemption from payment of fees, charges or costs incurred must~~
11 ~~be presented to the Director of Parking and Traffic or his or her designee, on a form provided therefor,~~
12 ~~within 30 calendar days of the date of the tow of the vehicle. The Director, or his or her designee, may,~~
13 ~~in his or her sole discretion, extend this deadline for good cause shown.~~

14
15
16
17 **~~SEC. 10C.6. INFORMATION REQUIRED.~~**

18 ~~Requests for reimbursement or a voucher shall be itemized, giving full particulars of all the~~
19 ~~circumstances known to the complainant. The Chief of Police or Director of the Department of Parking~~
20 ~~and Traffic may request such additional information as necessary to determine the legitimacy of the~~
21 ~~request or exemption.~~

22
23 **~~SEC. 10C.7. EFFECT OF POLICY OF INSURANCE.~~**

24 ~~No request for reimbursement or for a voucher, made pursuant to the provisions of this~~
25 ~~Chapter, shall be considered by the Chief of Police or Director of the Department of Parking and~~

1 ~~Traffic if the person requesting reimbursement or exemption has a policy of insurance that provides for~~
2 ~~reimbursement to the owner or one in lawful possession of the vehicle for towing and storage of~~
3 ~~vehicles or removal of component parts thereof under the same circumstances as the provisions of this~~
4 ~~Chapter.~~

5
6 **~~SEC. 10C.8. INVESTIGATION BY CHIEF OF POLICE OR DIRECTOR OF THE~~**
7 **~~DEPARTMENT OF PARKING AND TRAFFIC; INDIGENT OWNER.~~**

8 ~~Should the owner of the vehicle or one in lawful possession sign an affidavit, under penalty of~~
9 ~~perjury, that said person is indigent and does not immediately have the funds to pay the accrued~~
10 ~~towing, storage or removal of component fee, the Chief of Police or the Director of the Department of~~
11 ~~Parking and Traffic or his or her designee shall immediately make such investigation as necessary to~~
12 ~~ascertain if said indigent person is entitled to immediate possession of his or her auto without the~~
13 ~~payment of the fees incurred for towing, storage or removal of component parts of said auto.~~

14 ~~(a) Should the Chief of Police, the Director of Parking and Traffic or his or her designee, after~~
15 ~~an investigation, decide that the towing, storage or removal of the component parts of an auto comes~~
16 ~~within the provisions of Section 10C.1(a), (b), (c), (d) or (e) of this Chapter and the owner of the~~
17 ~~vehicle or one in lawful possession signs an affidavit of indigency, the Chief of Police, the Director of~~
18 ~~Parking and Traffic or his or her designee shall issue a voucher directed to the person, firm or~~
19 ~~corporation having custody of the auto. Said voucher shall be on a form jointly approved by the~~
20 ~~Controller, the Chief of Police and the Director of the Department of Parking and Traffic.~~

21 ~~(b) Upon presentation of this voucher to the person, firm or corporation having custody of the~~
22 ~~vehicle, the vehicle shall be repossessed by the person presenting the voucher, without further payment.~~

23 ~~(c) The person, firm or corporation receiving the voucher may present the voucher to the office~~
24 ~~of the Police Department designated by the Chief of Police, or the office of the Department of Parking~~
25

1 ~~and Traffic designated by the Director of that Department, for payment of the fees stated on the~~
2 ~~voucher.~~

3
4 **~~SEC. 10C.9. REQUESTS TO BE UNDER PENALTY OF PERJURY.~~**

5 ~~All requests for reimbursement or exemption, presented pursuant to the provisions of this~~
6 ~~Chapter shall be under penalty of perjury.~~

7
8 **~~SEC. 10C.10. PROSECUTION OF PERSON RESPONSIBLE.~~**

9 ~~No request for reimbursement or a voucher shall be considered by the Chief of Police unless~~
10 ~~and until the person requesting reimbursement agrees in writing that said person will, without~~
11 ~~reservation, cooperate in prosecuting any persons responsible for any violation of law giving rise to the~~
12 ~~request for reimbursement or exemption.~~

13
14 **~~SEC. 10C.11. SUBROGATION.~~**

15 ~~Whenever reimbursement or a voucher is given or made, pursuant to the provisions of this~~
16 ~~Chapter, the City and County of San Francisco is subrogated to all rights and privileges, at law or~~
17 ~~equity, of the person, his or her heirs or assigns, to whom payment was made to recover any monies,~~
18 ~~from any source whatsoever, due to the person requesting reimbursement or exemption arising from the~~
19 ~~activity that caused the fees, charges or costs to be incurred.~~

20
21 **~~SEC. 10C.12. REPORTS BY THE CHIEF OF POLICE AND DIRECTOR OF THE~~**
22 **~~DEPARTMENT OF PARKING AND TRAFFIC.~~**

23 ~~Each three months, the Chief of Police and the Director of Parking and Traffic shall forward to~~
24 ~~the Board of Supervisors a report containing the amount paid pursuant to the provisions of this~~
25 ~~Chapter, to whom paid and the justification therefor.~~

1
2 **~~SEC. 10E.1. DOWNTOWN PLAN.~~**

3 ~~(a) Findings. The Board of Supervisors makes the following findings in support of this~~
4 ~~ordinance.~~

5 ~~—(1) The Planning Commission has adopted the Downtown Plan as part of the General Plan~~
6 ~~of the City and County of San Francisco, and the Board of Supervisors, acting upon the~~
7 ~~recommendation of the Planning Commission, has adopted amendments to the Planning Code called~~
8 ~~for in the Downtown Plan. The Planning Commission and Board of Supervisors have adopted the~~
9 ~~Transit Center District Plan as a sub-area of the Downtown Plan, as well as implementing Planning~~
10 ~~Code provisions.~~

11 ~~—(2) The focus of the Downtown Plan is to prevent development where change would~~
12 ~~diminish the city's character or livability but to allow appropriately scaled development that would~~
13 ~~further the City's economic, fiscal and social objectives.~~

14 ~~—(3) The Downtown Plan is based on certain assessments about the ability of the City to~~
15 ~~absorb the impacts of growth in downtown San Francisco and the desirability of increasing housing,~~
16 ~~ridesharing and transit use in light of the anticipated downtown growth. The Downtown Plan proposes~~
17 ~~various actions which should be taken to achieve the following goals: An increase in the City's housing~~
18 ~~supply by an average of 1,000 to 1,500 new housing units per year; and increase in ridesharing to a~~
19 ~~point where the number of persons commuting by auto or van rises from 1.48 to 1.66 persons per~~
20 ~~vehicle; and an increase in the use of transit by downtown workers from 64 percent to 70 percent of all~~
21 ~~work trips.~~

22 ~~—(4) The Downtown Plan recommends the adoption of a formal process for monitoring~~
23 ~~progress toward Plan goals. This monitoring process is necessary to evaluate the effectiveness of the~~
24 ~~Plan and the impacts of downtown growth, and to make any adjustments deemed appropriate to the~~
25 ~~controls described in the Downtown Plan or to additions to the City's infrastructure and services.~~

1 ~~—(5) The purpose of this monitoring system shall be to determine whether the infrastructure~~
2 ~~and support systems necessary to accommodate the growth of downtown, particularly housing supply~~
3 ~~and transit capacity, have kept pace with development in the C-3 Districts. If downtown is growing at a~~
4 ~~faster pace than the necessary infrastructure and support systems, it may become necessary to make~~
5 ~~further efforts to slow down the pace of development, or devise additional mechanisms for providing~~
6 ~~required infrastructure and support systems.~~

7 ~~—(6) The Planning Department shall undertake a two-tiered monitoring program. The two~~
8 ~~tiers are: A) An annual collection and reporting of data from selected sources that are gathered on a~~
9 ~~regular basis, and B) every five years, a more extensive data collection effort that includes an analysis~~
10 ~~of long-term policy indicators such as the TDR program, urban form goals, any impact fee funds, and~~
11 ~~provides analysis of the Downtown Plan's policy objectives. The annual monitoring should provide an~~
12 ~~early warning system for trends that may develop, indicating a shortfall in the long-range goals.~~

13 ~~(b) Annual Report. The Planning Department shall prepare an annual report detailing the~~
14 ~~effects of downtown growth. The report shall be presented to the Board of Supervisors, Planning~~
15 ~~Commission, Historic Preservation Commission, and Mayor, and shall address: (1) the extent of~~
16 ~~development in the C-3 Districts; (2) the consequences of that development; (3) the effectiveness of the~~
17 ~~policies set forth in the Downtown Plan in maintaining San Francisco's environment and character;~~
18 ~~and (4) recommendations for measures deemed appropriate to deal with the impacts of downtown~~
19 ~~growth.~~

20 ~~—(1) Time Period and Due Date. Reports shall be due by July 1st of each year, and shall~~
21 ~~address the immediately preceding calendar year, except for the five year report, which shall address~~
22 ~~the preceding five calendar years.~~

23 ~~—(2) Data Source. The Planning Department shall assemble a data base for 1984 and~~
24 ~~subsequent years for the purpose of providing the reports. City records shall be used wherever~~
25

1 ~~possible. Outside sources shall be used when data from such sources are reliable, readily available and~~
2 ~~necessary in order to supplement City records.~~

3 ~~——(3) Categories of Information. The following categories of information shall be included:~~

4 ~~——Commercial Space and Employment.~~

5 ~~——(A) The amount of office space "Completed," "Approved," and "Under Construction"~~
6 ~~during the preceding year, both within the C-3 Districts and elsewhere in the City. This inventory shall~~
7 ~~include the location and square footage (gross and net) of those projects, as well as an estimate of the~~
8 ~~dates when the space "Approved" and "Under Construction" will become available for occupancy.~~

9 ~~——(B) Office Vacancy Ratio. An estimate of the current office vacancy rate in the C-3~~
10 ~~Districts and citywide.~~

11 ~~——(C) Citywide and C-3 District Office Employment. An estimate of additional office~~
12 ~~employment, by occupation type, in the C-3 Districts and citywide.~~

13 ~~——(D) Tourist Hotel Rooms and Employment. An estimate of the net increment or tourist~~
14 ~~hotel rooms and additional hotel employment in the C-3 Districts.~~

15 ~~——(E) Retail Space and Employment. An estimate of the net increment of retail space and of~~
16 ~~the additional retail employment relocation trends and patterns within the City and the Bay Area.~~

17 ~~——(F) Business Formation and Relocation. An estimate of the rate of the establishment of~~
18 ~~new businesses and business and employment relocation trends and patterns within the City and the~~
19 ~~Bay Area.~~

20 ~~——Housing.~~

21 ~~——(G) Housing Units Certified for Occupancy. An estimate of the number of housing units~~
22 ~~throughout the City newly constructed, demolished, or converted to other uses.~~

23 ~~——(H) Jobs/Housing Linkage Program. A summary of the operation of the Jobs/Housing~~
24 ~~Linkage Program (formerly the Office Affordable Housing Production Program) and the Housing~~
25

1 ~~Affordability Fund, identifying the number and income mix of units constructed or assisted with these~~
2 ~~monies.~~

3 ~~——Transportation.~~

4 ~~——(I) Parking Inventory. An estimate of the net increment of off-street parking spaces~~
5 ~~approved in C-3 Districts.~~

6 ~~——(J) Vehicle Occupancy Rates. An estimate of vehicle occupancy rates for vehicles in or~~
7 ~~entering the City.~~

8 ~~——(K) Transit Service. An estimate of transit ridership for peak periods.~~

9 ~~——(L) Transit Impact Fee. A summary of the use of the transit impact development fee~~
10 ~~funds, collected from development.~~

11 ~~——Fiscal.~~

12 ~~——(M) Revenues. An estimate of the net increment of revenues by type (property tax,~~
13 ~~business taxes, hotel and sales taxes) from office, retail and hotel space.~~

14 ~~——(N) Transit Center District Revenues and Implementation of Improvements. A summary~~
15 ~~of the total revenues from Transit Center District Plan fees, including the Open Space Impact Fee and~~
16 ~~Transportation and Street Improvement Impact Fee, as well as from any Community Facilities District~~
17 ~~within the Transit Center District Plan area boundaries, and a summary of expenditures on public~~
18 ~~improvements as described in the Transit Center District Plan Program Implementation Document.~~

19 ~~——Preservation.~~

20 ~~——(O) Significant or Contributory Buildings. Buildings designated as significant or~~
21 ~~contributory buildings, or changes of designation, under Article 11 of the Planning Code.~~

22 ~~——(P) Transferred Development Rights. An inventory of buildings eligible for the Transfer~~
23 ~~of Development Rights, of buildings where Transfer of Development rights have been completed, and of~~
24 ~~Transfers of Development Rights completed within the year.~~

1 ~~—(4) Report. The analysis of the factors under Commercial Space and Employment will~~
2 ~~provide an estimate of the increase in housing and transit demand. The comparison of increased~~
3 ~~demand with the increase in the supply of housing and in transit ridership will indicate the degree that~~
4 ~~the City is able to accommodate new development. Based on this data, the Department shall analyze~~
5 ~~the effectiveness of City policies governing downtown growth and shall recommend any additional~~
6 ~~measures deemed appropriate.~~

7 ~~(c) Five Year Report. On March 15, 1990, and every fifth year thereafter by July 1st, the report~~
8 ~~submitted shall address the preceding five calendar years and, in addition to the data described above,~~
9 ~~shall include, as deemed appropriate, a cordon count of downtown oriented travel and an~~
10 ~~employer/employee survey and any other information necessary for the purpose of monitoring the~~
11 ~~impact of downtown development. The five year report shall monitor long term policy indicators such~~
12 ~~as the TDR program, urban form goals, progress on the Downtown Streetscape Plan, any impact fee~~
13 ~~funds, and provide analysis of the Downtown Plan's policy objectives. If the Planning Department~~
14 ~~determines that early warnings from the annual reports indicate the need for collection of a cordon~~
15 ~~count and employer/employee survey, it may include such data in any annual report, and may include~~
16 ~~an analysis of data for a period of time earlier than the preceding calendar year.~~

17 ~~(d) Information to be Furnished. It shall be the duty of the heads of all departments, offices,~~
18 ~~commissions, bureaus and divisions of the City and County of San Francisco, upon request by the~~
19 ~~Planning Department, to furnish such information as they may have or be able to obtain relating to the~~
20 ~~matters to be included in the reports required herein.~~

21
22 ~~**SEC. 10E.2. EASTERN NEIGHBORHOODS AREA PLANS MONITORING PROGRAM.**~~

23 ~~(a) FINDINGS:~~

24 ~~—(1) The Board of Supervisors and the Planning Commission have adopted the Eastern~~
25 ~~Neighborhoods Area Plans as part of the General Plan of the City and County of San Francisco as~~

1 further described in Ordinance Nos. 297-08, 298-08, 299-08, and _____, 1 copies of which are on file
2 with the Clerk of the Board of Supervisors in File Nos. 081152, 081153, 081154, and 130001, and are
3 incorporated herein by reference. The Area Plans outline specific goals that cumulatively frame the
4 community's vision for the management of growth and development in the Eastern Neighborhoods
5 (East SoMa, Western SoMa, Mission, Showplace Square/Potrero Hill, and Central Waterfront).

6 —(2)— The Eastern Neighborhoods Area Plans introduce innovative policies and land use
7 controls to achieve the Plan goals. Successful realization of the Plan's goals requires a coordinated
8 implementation of land use controls, community and public service delivery, key policies, and
9 community infrastructure improvements.

10 —(3)— The Eastern Neighborhoods Area Plans also establish general public improvements
11 and amenities needed to meet the needs of both existing residents, as well as those needs generated by
12 new development, and identified these in the Eastern Neighborhoods Needs Assessment. A copy of this
13 document is on file with the Clerk of the Board of Supervisors in File No. 081155 and is incorporated
14 herein by reference.

15 —(4)— In order to ensure a Citywide commitment to implementation of the Eastern
16 Neighborhoods Area Plans, the implementing agencies identified in each Plan's Implementation
17 Matrix, including the Arts Commission, Department of Building Inspection (DBI), Department of
18 Public Health (DPH), Division of Emergency Services (DEM), Capital Planning Committee, City
19 Administrator's Office, Controller's Office, Department of Public Works (DPW), Human Services
20 Agency (HSA), Mayor's Office on Community Investment (MOCI), Mayor's Office of Education,
21 Mayor's Office of Housing (MOH), Office of Economic and Workforce Development (OEWD), or
22 successor offices, Planning Department, Port of San Francisco, Public Utilities Commission (PUC),
23 Recreation and Park Department (RPD), San Francisco County Transportation Authority (SFCTA),
24 San Francisco Unified School District (SFUSD), San Francisco Municipal Transportation Agency
25 (SFMTA), and other necessary agencies, shall be responsible for making progress towards the Plan's

~~policies and implementation measures; for budgeting revenue towards such implementation where possible; and for cooperating with the Planning Department to report on such progress.~~

~~—(5) In order to ensure a balanced implementation of the Eastern Neighborhoods Area Plans, the Planning Department shall institute a formal monitoring program for the Area Plan policies and implementation measures. This monitoring program shall provide basic statistics on development activity, housing construction, and infrastructure improvements in the Eastern Neighborhoods Plan Areas, and shall evaluate the effectiveness of the Plans' implementation according to growth in the Plan Areas.~~

~~—(6) The purpose of this Monitoring Program shall be to provide rigorous monitoring and review of the effectiveness of the Eastern Neighborhoods Area Plans, to ensure rational growth in these neighborhoods, and to ensure implementation of improvements to accompany this growth. The program shall monitor progress towards the Eastern Neighborhoods Area Plans' objectives and policies, by evaluating advancement according to each Plan's matrix of implementation actions; and measure the balance of growth against needed improvements, according to standards established in the Eastern Neighborhoods Needs Assessment.~~

~~(b) REPORTING REQUIREMENTS.~~

~~—(1) Report. By July 1 two years after Plan adoption, and on July 1 every five years thereafter, the Planning Department shall prepare a report detailing development activity, housing construction, and infrastructure improvements in the Eastern Neighborhoods Plan Area. The information shall be presented to the Board of Supervisors, Planning Commission, the South of Market Community Planning Advisory Committee, the Eastern Neighborhoods Community Advisory Committee, and the Mayor, and shall also include recommendations for measures deemed appropriate to deal with the impacts of neighborhood growth.~~

1 ~~—(2) Time Period and Due Date. Reporting shall be presented by July 1st two years after~~
2 ~~Plan adoption to address the time period since Plan adoption; and by July 1st during each required~~
3 ~~year thereafter to address the five calendar years immediately preceding.~~

4 ~~—(3) Data Source. The Planning Department shall assemble data for the purpose of~~
5 ~~providing the reports. City records shall be used wherever possible. Outside sources shall be used~~
6 ~~when data from such sources are reliable, readily available and necessary in order to supplement City~~
7 ~~records. When data is not available for the exact boundaries of the Plan Area, a similar geography will~~
8 ~~be used and noted.~~

9 ~~—(4) Eastern Neighborhoods Implementation Matrix. The report shall review progress~~
10 ~~toward each implementation measure specified in each Plan's Implementation Matrix. Copies of these~~
11 ~~matrices are on file with the Clerk of the Board of Supervisors in File No. 081155 and are incorporated~~
12 ~~herein by reference. It shall evaluate the actions of each responsible agency/ies according to the~~
13 ~~timeline specified in the Implementation Matrix, and recommend amendments to implementation~~
14 ~~measures where relevant. All departments responsible for implementation measures shall cooperate~~
15 ~~and furnish information relating to their responsibilities as stated in the matrices.~~

16 ~~—(5) Development Activity. The report shall detail all development activity in the Plan Area~~
17 ~~over the Monitoring Period, including additions and deletions of residential and commercial space,~~
18 ~~and shall include unit size and bedroom count of units constructed, retail space and employment~~
19 ~~generated, conversions and other development statistics. The monitoring program shall include the~~
20 ~~following categories of information:~~

21 ~~——(A) Office Space. Amount of office space constructed in preceding years and related~~
22 ~~employment.~~

23 ~~——(B) Visitor and Hotel Space. Amount of hotel rooms constructed in preceding years and~~
24 ~~related employment.~~

1 ~~——(C) Retail Space. Amount of retail space constructed in preceding years and related~~
2 ~~employment.~~

3 ~~——(D) Business Formation and Relocation. An estimate of the rate of the establishment of~~
4 ~~new businesses and business and employment relocation trends and patterns within the City and the~~
5 ~~Bay Area.~~

6 ~~——(E) Housing. An estimate of the number of housing units newly constructed, demolished,~~
7 ~~or converted to other uses.~~

8 ~~——(6) Public Benefit. The report shall detail the construction of any improvements or~~
9 ~~infrastructure as described in the Eastern Neighborhoods Public Benefits Program, a copy of which is~~
10 ~~on file with the Clerk of the Board of Supervisors in File No. 081155 and is incorporated herein by~~
11 ~~reference. The report shall include the following categories of information:~~

12 ~~——(A) Inclusionary Housing Program. A summary of the number and income mix of units~~
13 ~~constructed or assisted through this program, an analysis of units constructed within each alternative,~~
14 ~~including new alternatives established for the Eastern Neighborhoods UMU districts.~~

15 ~~——(B) Jobs/Housing Linkage Program. A summary of the operation of the Jobs/Housing~~
16 ~~Linkage Program (formerly the Office Affordable Housing Production Program) and the Housing~~
17 ~~Affordability Fund, identifying the number and income mix of units constructed or assisted with these~~
18 ~~monies.~~

19 ~~——(C) Streetscape, Transportation, and Public Realm. A detailed description of any~~
20 ~~transportation serving infrastructure completed in the preceding five years, including transit,~~
21 ~~pedestrian, bike, traffic and other modes of transportation.~~

22 ~~——(D) Open Space and Recreational Facilities. A summary of new parks, trails, public~~
23 ~~rights-of-way, recreational facilities or activity space completed to serve the purposes of recreation in~~
24 ~~the preceding five years, as well as any improvements to parks or recreational facilities.~~

1 ~~——(E) Community Facilities. An assessment of the existing service capacity of community~~
2 ~~services and facilities, and of any new services or facilities joining the neighborhood in the past five~~
3 ~~years. This shall include a review of child care, library services and any other categories deemed~~
4 ~~relevant, such as health care centers, human services, and cultural centers.~~

5 ~~——(F) Neighborhood Serving Businesses. An assessment of neighborhood serving~~
6 ~~businesses in the area, including their establishment, displacement, and economic health.~~

7 ~~——(7) Fees and Revenues. The report shall monitor expenditure of all implemented fees,~~
8 ~~including the Eastern Neighborhoods Impact Fee and all Citywide fees, and tax revenue, as listed~~
9 ~~below. It shall report on studies and implementation strategies for additional fees and programming.~~

10 ~~——(A) Impact Fee. A summary of the collected funds from the Eastern Neighborhoods~~
11 ~~Impact Fee collected from development, and a detailed accounting of its expenditure over that same~~
12 ~~period.~~

13 ~~——(B) Fiscal Revenues. An estimate of the net increment of revenues by type (property tax,~~
14 ~~business taxes, hotel and sales taxes) from all uses.~~

15 ~~——(C) Fee Adjustments.~~

16 ~~——(i) The Planning Department shall review the amount of the Eastern Neighborhoods~~
17 ~~fee against any increases in construction costs, according to changes published in the Construction~~
18 ~~Cost Index published by Engineering News Record, or according to another similar cost index should~~
19 ~~there be improvements to be funded through the Eastern Neighborhoods Impact Fee as listed in the~~
20 ~~Eastern Neighborhoods Program.~~

21 ~~——(ii) The Planning Department shall review the level of the Eastern Neighborhoods~~
22 ~~housing requirements and fees to ensure they are not so high as to prevent needed housing or~~
23 ~~commercial development.~~

24 ~~——(8) Agency Responsibilities. All implementing agencies identified in the Eastern~~
25 ~~Neighborhoods Implementation Matrix shall be responsible for:~~

1 ~~——(A) Reporting to the Planning Department, for incorporation into the Monitoring report,~~
2 ~~on action undertaken in the previous reporting period to complete the implementation actions under~~
3 ~~their jurisdiction, as referenced in the Eastern Neighborhoods Implementation Matrix.~~

4 ~~——(B) Providing an analysis of the actions to be completed in the next reporting period, for~~
5 ~~incorporation into the Monitoring report, including a description of the integrated approach that will~~
6 ~~be used to complete those tasks.~~

7 ~~——(i) To the extent the Agencies identified in the Implementation Matrix are outside the~~
8 ~~jurisdiction of this Board, this Board hereby urges such Agencies to participate in this process.~~

9 ~~——(9) Budget Implications. In cooperation with the Annual Progress reports required by~~
10 ~~Administrative Code Chapter 36.4, and prior to the annual budget process, the Board shall receive a~~
11 ~~presentation by the Interagency Planning and Implementation Committee and its member agencies to~~
12 ~~describe how each agency's proposed annual budget advances the Plans' objectives, including specific~~
13 ~~projects called for by this section. The Board of Supervisors shall give particular consideration to~~
14 ~~proposed agency budgets that meet the implementation responsibilities as assigned by the City's~~
15 ~~General Plan, including the Eastern Neighborhoods Implementation Matrix. Budget proposals that do~~
16 ~~not include items to meet these implementation responsibilities shall respond to Board inquiries as to~~
17 ~~why inclusion was not possible.~~

18 ~~(c) EASTERN NEIGHBORHOODS CAPITAL EXPENDITURE EVALUATION.~~

19 ~~——(1) Purpose. The Board of Supervisors and the Planning Commission have adopted the~~
20 ~~Eastern Neighborhoods Area Plans in part to further the implementation of capital improvements~~
21 ~~within the neighborhoods affected by new development, as described in the Eastern Neighborhoods~~
22 ~~Public Benefits Program and incorporated herein by reference. A Capital Expenditure Evaluation, in~~
23 ~~conjunction with the Plan's Monitoring Programs, will provide a means to measure the balance of~~
24 ~~growth against these needed improvements, and to evaluate the effectiveness of the Plans'~~
25 ~~implementation as growth occurs.~~

1 ~~—(2) Controls.~~

2 ~~—(A) Reporting Requirements. By July 1 five years after Plan adoption, and every five~~
3 ~~years thereafter, the Planning Department shall submit to the Board of Supervisors and the Office of~~
4 ~~the Controller an Eastern Neighborhoods Capital Expenditure Evaluation Report. The Eastern~~
5 ~~Neighborhoods Capital Expenditure Evaluation Report shall specifically report the amount of funds~~
6 ~~collected to date from the Eastern Neighborhoods Impact Fee, Central SoMa Infrastructure Impact~~
7 ~~Fee, Central SoMa Community Services Facilities Fee, and Central SoMa Community Facilities~~
8 ~~District special tax. The Capital Expenditure Evaluation Report shall also describe how these funds~~
9 ~~have been allocated or spent for the purpose of developing capital projects as identified in the Eastern~~
10 ~~Neighborhoods Priority Capital Project list. The Capital Expenditure Evaluation shall specifically~~
11 ~~report on allocations of funds or expenditures, based on their percentages share of the total fees~~
12 ~~collected to date, toward the following Eastern Neighborhoods Priority Capital Project development~~
13 ~~activities: planning, design, environmental review, approval, and implementation. For the purposes of~~
14 ~~this Section 10E.2, the “Eastern Neighborhoods Priority Capital Project List” shall mean a list of~~
15 ~~capital projects which are a priority subset of the full Eastern Neighborhoods Public Benefits Program~~
16 ~~as set forth in the Eastern Neighborhoods Interdepartmental Memorandum of Understanding and the~~
17 ~~Central SoMa Implementation Program and amended from time to time by the Planning Commission~~
18 ~~with advice from the Eastern Neighborhoods Community Advisory Committee and the South of Market~~
19 ~~Community Planning Advisory Committee. A draft copy of said memorandum is on file with the Clerk~~
20 ~~of the Board of Supervisors in File No. 081446 and is incorporated herein by reference.~~

21 ~~—(B) Office of Controller Assessment. Within 60 days of receiving the Eastern~~
22 ~~Neighborhoods Capital Expenditure Evaluation Report, the Controller shall assess whether funds~~
23 ~~collected from the Eastern Neighborhoods Impact Fee are being effectively utilized for capital projects~~
24 ~~included on the Eastern Neighborhoods Priority Capital Project List, and whether such projects are~~
25 ~~successfully advancing towards implementation. For the purposes of this section, “effectively utilized”~~

1 ~~shall mean approximately eighty percent of total Eastern Neighborhoods impact fees collected in each~~
2 ~~Improvement Type category (as identified in Tables 423.5 and 423.5A) upon issuance of the Eastern~~
3 ~~Neighborhoods Capital Expenditure Evaluation Report have been allocated to one or more of the~~
4 ~~projects identified in the Eastern Neighborhoods Priority Capital Projects list, whether or not such~~
5 ~~projects have been approved or completed, or that all projects in that Improvement Type category have~~
6 ~~been funded. On or after the ten-year anniversary of Plan Adoption the Controller shall also consider~~
7 ~~whether projects that were initially funded by the issuance of the five year report, or any subsequent~~
8 ~~updated or revised report, have been fully funded and/or completed, assuming sufficient funds are~~
9 ~~available from the Eastern Neighborhoods impact fees collected to date.~~

10 ~~——(C) Inclusion in Annual Capital Plan. Each year the Planning Department shall submit~~
11 ~~for inclusion into the City and County of San Francisco Proposed Capital Plan for the current fiscal~~
12 ~~year, in accordance with Sections 3.20 et seq., a schedule of capital improvements to be funded,~~
13 ~~developed and implemented within the Eastern Neighborhoods, by neighborhood. That schedule shall~~
14 ~~illustrate costs and revenue streams, total projects costs and the proposed timeline for implementation.~~

15 ~~——(d) EASTERN NEIGHBORHOODS COMMUNITY ADVISORY COMMITTEE. The Eastern~~
16 ~~Neighborhoods Community Advisory Committee, in Article XXXII of Chapter 5 of the Administrative~~
17 ~~Code, shall serve the purposes and functions stated in that Article XXXII, in the manner described~~
18 ~~therein.~~

19 **~~SEC. 10E.3. BALBOA PARK STATION AREA PLAN MONITORING.~~**

20 ~~(a) Findings.~~

21 ~~——(1) The Planning Commission has adopted the Balboa Park Station Area Plan as part of~~
22 ~~the General Plan of the City and County of San Francisco. The Area Plan outlines specific goals that~~
23 ~~cumulatively frame the community's vision for the management of growth and development in the Plan~~
24 ~~Area. The Balboa Park Station Area Plan introduces innovative policies and land use controls to~~
25 ~~achieve the Plan goals. Successful realization of the Plan's goals requires a coordinated~~

1 ~~implementation of land use controls, community and public service delivery, key policies, and~~
2 ~~community infrastructure improvements. The Balboa Park Station Area Plan also establishes general~~
3 ~~public improvements and amenities needed to meet the needs of both existing residents, as well as those~~
4 ~~needs generated by new development.~~

5 ~~—(2)—In order to ensure a balanced implementation of the Balboa Park Station Area Plan,~~
6 ~~the Planning Department shall institute a formal monitoring program for the Plan's implementation~~
7 ~~measures and policies. This monitoring program shall provide basic statistics on development activity,~~
8 ~~housing construction, and infrastructure improvements in the Balboa Park Plan Area, and shall~~
9 ~~evaluate the effectiveness of the Plans' implementation according to growth in the Plan Area.~~

10 ~~—(3)—The purpose of this Monitoring Program shall be to provide monitoring and review of~~
11 ~~the effectiveness of the Balboa Park Area Plan, to ensure implementation of improvements to~~
12 ~~accompany this growth. The program shall monitor progress towards the Plans' objectives and~~
13 ~~policies, by evaluating advancement according to the Plan's matrix of implementation actions and~~
14 ~~measure the balance of growth against needed improvements.~~

15 ~~(b)—Reporting Requirements.~~

16 ~~—(1)—By July 1st two years after Plan adoption, and on July 1st every five years thereafter,~~
17 ~~the Planning Department shall prepare a report detailing development activity, housing construction,~~
18 ~~and infrastructure improvements in the Plan Area. The information shall be presented to the Board of~~
19 ~~Supervisors, Planning Commission and shall also include recommendations for measures deemed~~
20 ~~appropriate to deal with the impacts of neighborhood growth.~~

21 ~~—(2)—Time Period and Due Date. Reporting shall be presented by July 1st two years after~~
22 ~~Plan adoption to address the time period since plan adoption; and by July 1st during each required~~
23 ~~year thereafter to address the five calendar years immediately preceding.~~

24 ~~—(3)—Data Source. The Planning Department shall assemble data for the purpose of~~
25 ~~providing the reports. City records shall be used wherever possible, Outside sources shall be used~~

1 ~~when data from such sources are reliable, readily available, and necessary in order to supplement City~~
2 ~~records. When data is not available for the exact boundaries of the Plan Area, a similar geography will~~
3 ~~be used and noted.~~

4 ~~—(4) Balboa Park Implementation Matrix. The report shall review progress towards each~~
5 ~~implementation measure specified in the Plan's Implementation Matrix, adopted by reference with the~~
6 ~~Area Plan. It shall evaluate the actions of each responsible agency/ies according to the timeline~~
7 ~~specified in the Implementation Matrix, and recommend amendments to implementation measures~~
8 ~~where relevant. All departments responsible for implementation measures shall cooperate and furnish~~
9 ~~information relating to their responsibilities as stated in the matrices.~~

10 ~~—(5) Development Activity. The report shall detail all development activity in the Plan Area~~
11 ~~over the Monitoring Period, including additions and deletions of residential and non-residential space,~~
12 ~~and shall include unit size, retail space and employment generated, conversions, and other~~
13 ~~development statistics. The monitoring program shall include the following categories of information:~~

14 ~~——(A) Retail Space. Amount of retail space constructed in preceding years and related~~
15 ~~employment.~~

16 ~~——(B) Business Formation and Relocation. An estimate of the rate of the establishment of~~
17 ~~new businesses and business and employment relocation trends and patterns within the City and the~~
18 ~~Bay Area. An assessment of neighborhood serving businesses in the Plan Area, including their~~
19 ~~establishment, displacement, and economic health.~~

20 ~~——(C) Housing. An estimate of the number of housing units newly constructed, demolished,~~
21 ~~or converted to other uses.~~

22 ~~—(6) Public Benefits. The report shall detail the construction of any improvements or~~
23 ~~infrastructure as described in the Balboa Park Community Improvements Program, including the~~
24 ~~following categories of information:~~

1 ~~——(A) Streetscape, Transportation, and Public Realm. A detailed description of any~~
2 ~~transportation-serving infrastructure completed in the preceding five years, including pedestrian, bike,~~
3 ~~traffic and other modes of transportation.~~

4 ~~——(B) Open Space and Recreational Facilities. A summary of new parks, trails, public~~
5 ~~rights-of-way, recreational facilities or activity space completed to serve the purposes of recreation in~~
6 ~~the preceding five years, as well as any improvements to parks or recreational facilities.~~

7 ~~——(C) Community Facilities. An assessment of the existing service capacity of community~~
8 ~~services and facilities, and of any new services or facilities joining the neighborhood in the past five~~
9 ~~years. This shall include a review of child care, library services, and any other categories deemed~~
10 ~~relevant, such as health care centers, human services, and cultural centers.~~

11 ~~——(D) Neighborhood Serving Businesses. An assessment of neighborhood serving~~
12 ~~businesses in the area, including their establishment, displacement, and economic health.~~

13 ~~——(7) Fees and Revenues. The report shall monitor expenditure of all implemented fees,~~
14 ~~including the Balboa Park Impact Fee and all Citywide fees, and tax revenue, as listed below. It shall~~
15 ~~report on studies and implementation strategies for additional fees and programming.~~

16 ~~——(A) Impact Fee. A summary of the collected funds from the Balboa Park Impact Fee~~
17 ~~collected from development and a detailed accounting of its expenditure over that same period.~~

18 ~~——(B) Fiscal Revenues. An estimate of the net increment of revenues by type (property tax,~~
19 ~~business taxes, hotel and sales taxes) from all uses.~~

20 ~~——(C) Fee Adjustments.~~

21 ~~——(i) The Planning Department shall review the amount of the Balboa Park impact fee~~
22 ~~against any increases in construction costs, according to changes published in the Construction Cost~~
23 ~~Index published by Engineering News Record, or according to another similar cost index should there~~
24 ~~be improvements to be funded through the Balboa Park Impact Fee as listed in the Balboa Park~~
25 ~~Community Improvements Program.~~

1 ~~—— (ii) The Planning Department shall review the level of the Balboa Park Impact Fee to~~
2 ~~ensure that it is not so high as to prevent needed housing or commercial development.~~

3 ~~—— (8) Agency Responsibilities. All implementing agencies identified in the Balboa Park~~
4 ~~Implementation Matrix shall be responsible for:~~

5 ~~—— (A) Reporting to the Planning Department, for incorporation into the Monitoring report,~~
6 ~~on action undertaken in the previous reporting period to complete the implementation actions under~~
7 ~~their jurisdiction, as referenced in the Balboa Park Implementation Matrix.~~

8 ~~—— (B) Providing an analysis of the actions to be completed in the next reporting period, for~~
9 ~~incorporation into the Monitoring report, including a description of the integrated approach that will~~
10 ~~be used to complete those tasks.~~

11 ~~—— (i) To the extent the Agencies identified in the Implementation Matrix are outside the~~
12 ~~jurisdiction of this Board, this Board hereby urges such Agencies to participate in this process.~~

13 ~~—— (9) Budget Implications. In cooperation with the Annual Progress reports required by~~
14 ~~Administrative Code Chapter 36.4, and prior to the annual budget process, the Board shall receive a~~
15 ~~presentation by the Interagency Planning and Implementation Committee and its member agencies to~~
16 ~~describe how each agency's proposed annual budget advances the Plans' objectives, including specific~~
17 ~~projects called for by this section. The Board of Supervisors shall give particular consideration to~~
18 ~~proposed agency budgets that meet the implementation responsibilities as assigned by the City's~~
19 ~~General Plan, including the Balboa Park Implementation Matrix. Budget proposals that do not include~~
20 ~~items to meet these implementation responsibilities shall respond to Board inquiries as to why inclusion~~
21 ~~was not possible.~~

22 **SEC. 10E.4. HOUSING ELEMENT PRODUCTION REPORTS AND HEARINGS.**

23 **(a) Findings.**

24 * * * *

1 (3) Pursuant to Government Code Section 65584, the Association of Bay Area
2 Governments (ABAG), in coordination with the California State Department of Housing and
3 Community Development (HCD), determines the Bay Area's regional housing need based on
4 regional trends, projected job growth, and existing needs. ~~ABAG has calculated San Francisco's~~
5 ~~fair share of the regional housing need for January 2007 through—the implementation period for the~~
6 ~~current Housing Element—as 31,390 units, or about 4,160 units per year.~~

7 (4) The regional housing needs assessment (RHNA) determination includes
8 production targets addressing housing needs of a range of household income categories.
9 ABAG has projected that at least ~~39~~40% of new housing demands will be from low and very
10 low income households (households earning under 80% of area median income), and another
11 ~~22~~17% should be affordable to households of moderate means (earning between 80% and
12 120% of area median income). Market-rate housing is considered housing that is generally
13 available to households making at or above 120% of median income. Because the median
14 income in San Francisco is lower than the regional median income, the Mayor's Office of
15 Housing publishes a local AMI standard.

16 * * * *

17 (6) Housing affordability continues to be a major concern as San Francisco has
18 one of the least affordable housing markets in the nation. ~~Under the heading "Why is Housing an~~
19 ~~Issue," Part II: Objectives & Policies of the Housing Element's introduction says:~~

20 ~~—"Based on the growing population, and smart growth goals of providing housing in~~
21 ~~central areas like San Francisco, near jobs and transit, the State Department of Housing and~~
22 ~~Community Development (HCD), with the Association of Bay Area Governments (ABAG), estimates~~
23 ~~that San Francisco must plan for the capacity for roughly 31,000 new units, 60% of which should be~~
24 ~~suitable for housing for the extremely low, very low, low and moderate income households, in the 2007-~~
25 ~~2014 Housing Element period to meet its share of the region's projected housing demand."~~

1 ~~Objective 1 of the San Francisco Housing Element states that the City should "identify and~~
2 ~~make available for development adequate sites to meet the City's housing needs, especially permanently~~
3 ~~affordable housing." Objective 7 states that San Francisco's projected affordable housing needs~~
4 ~~far outpace the capacity for the City to secure subsidies for new affordable units. Therefore,~~
5 ~~the City needs to look for creative ways to facilitate affordable housing development.~~

6 ~~(7) In January 2012, the San Francisco Budget and Legislative Analyst published a~~
7 ~~Performance Audit of San Francisco's Affordable Housing Policies and Programs, which was prepared~~
8 ~~at the request of the Board of Supervisors. Table 1 of the Performance Audit shows that between 1999~~
9 ~~and 2006, San Francisco met 153.4% of its production goal for market rate housing, 82.8% of its goal~~
10 ~~for very low income housing, 52.4% of its goal for low income housing, and 12.9% of its goal for~~
11 ~~moderate income housing. In Table 2 of the Performance Audit, San Francisco's housing production~~
12 ~~goals for 2007-2014 are: 10.6% of all new housing for extremely low income households, 10.6% for~~
13 ~~very low income households, 17.7% for low income households, 21.7% for moderate income~~
14 ~~households, and 39.5% for market rate housing.~~

15 ~~(8) Among other things, the Performance Audit concluded that the Planning~~
16 ~~Commission does not receive a sufficiently comprehensive evaluation of the City's achievement of its~~
17 ~~housing goals and that the Board of Supervisors does not receive consistent information on the overall~~
18 ~~impact of the City's housing policies on the development of affordable housing in San Francisco.~~
19 ~~Among other things, the Budget and Legislative Analyst recommended that:~~

20 ~~(A) Planning Department staff reports to the Planning Commission include~~
21 ~~data on the expected unit type and income level of any proposed projects or area plans under review,~~
22 ~~including how such units would address the City's fair share of the regional housing need;~~

23 ~~(B) the Planning Department resume providing the Commission with a~~
24 ~~Quarterly Housing Production Report, and~~

1 ~~_____ (C) the Planning Department include in the annual Housing Inventory an~~
2 ~~evaluation of~~
3 ~~_____ (i) how residential projects entitled in the preceding calendar year~~
4 ~~contributed to the City's housing goals for each income level and to the Housing Element's policies and~~
5 ~~objectives,~~
6 ~~_____ (ii) how entitled housing projects met inclusionary housing or~~
7 ~~affordable housing fee requirements, and their expected impact on achieving the City's housing goals~~
8 ~~for each income level,~~
9 ~~_____ (iii) whether entitled housing projects advanced various Area Plan~~
10 ~~goals and objectives, and~~
11 ~~_____ (iv) the current and projected status of housing development in the City~~
12 ~~compared to the City's housing goals.~~

13 ~~_____ (7) The reporting obligations in this Section 10E.4 aim to provide a comprehensive,~~
14 ~~centralized evaluation of the City's achievement of its housing goals and progress toward meeting its~~
15 ~~RHNA obligations. The reporting requirements of this Section 10E.4 do not limit or supersede annual~~
16 ~~reporting obligations under the California Government Code, including but not limited to Housing~~
17 ~~Element Annual Progress Reports pursuant to Government Code Section 65400, but instead provide~~
18 ~~additional information to the public and policymakers on housing development in San Francisco and~~
19 ~~the overall impact of the City's housing policies on that development.~~

20
21 **(b) Planning Department Reports.**

22 ~~_____ (1) **Housing Production Summary Attachment.** Beginning within 30 days after the~~
23 ~~effective date of this Section, Planning Department staff reports to the Planning Commission, Historic~~
24 ~~Preservation Commission or the Board of Supervisors on all proposed projects of five residential units~~
25 ~~or more shall include data on the total number of units at all stages of the housing production process,~~

1 ~~within the current Housing Element statutory period, as it contributes towards meeting San Francisco's~~
2 ~~quantified production goals for different household income levels as determined in the General Plan's~~
3 ~~Housing Element, and including data on households earning approximately 120% to 150% of area~~
4 ~~median income based on sponsors' disclosure of unit pricing for market rate housing proposals and~~
5 ~~other available data; senior housing units; the number of efficiency, studio, one bedroom, two bedroom~~
6 ~~and three bedroom and above units (when the ability to collect this data exists); and data tracking~~
7 ~~revenue generated from the Affordable Housing Fee under Planning Code Section 415 et seq. Baseline~~
8 ~~data on housing production for this reporting shall be updated quarterly.~~

9 ~~———(2) **Quarterly Housing Production Reports.** Planning Department staff shall provide~~
10 ~~the Planning Commission with a quarterly Housing Production Report every three months that~~
11 ~~contains, at a minimum, a comparative analysis of current housing production and regional housing~~
12 ~~needs allocation for San Francisco for different household incomes as determined in the General~~
13 ~~Plan's Housing Element, and including data on households earning approximately 120% to 150% of~~
14 ~~area median income based on sponsors' disclosure of unit pricing for market rate housing proposals~~
15 ~~and other available data; senior housing units; the number of efficiency, studio, one bedroom, two~~
16 ~~bedroom and three bedroom and above units (when the ability to collect this data exists); and data~~
17 ~~tracking revenue generated from the Affordable Housing Fee under Planning Code Section 415 et seq.~~
18 ~~This report should also include information regarding the approval process for newly entitled housing.~~
19 ~~Specifically, the report should show which projects were considered at a public hearing before the~~
20 ~~Planning Commission, including Conditional Use or Mandatory Discretionary Review.~~

21 ~~———(3) **Annual Housing Inventory Reports.** The Planning Department shall publish an~~
22 ~~annual Housing Inventory on April 1st of each year that contains at a minimum:~~

23 ~~(1)(A) an evaluation of how residential projects entitled or at any other stage of~~
24 ~~the housing production process during the preceding calendar year contribute to the City's~~
25 ~~quantified regional housing needs allocation for different household income levels as~~

determined in the General Plan's Housing Element, and, to the extent available, (i) affordability levels for all units, including those designated as below-market-rate (BMR) units, along with (ii) data regarding unit type and building size; including data on households earning approximately 120% to 150% of area median income based on sponsors' disclosure of unit pricing for market rate housing proposals and other available data; senior housing units; and the number of efficiency, studio, one bedroom, two bedroom and three bedroom and above units (when the ability to collect this data exists).

~~(2)(B)~~ how residential projects in the housing production process met inclusionary housing requirements as on-site below-market-rate (BMR) units, off-site BMR units, or payment of an in-lieu fee, including data tracking revenue generated from the Affordable Housing Fee under Planning Code Section 415 et seq.; ~~and~~

~~(3)(C)~~ the number of residential projects at any stage of the housing production process during the preceding calendar year within the City's neighborhoods ~~Planning Districts~~ and Plan Areas ~~for different housing income levels as determined in the General Plan's Housing Element~~, and, to the extent available (i) affordability levels for all units, including those designated as below-market-rate (BMR) units, along with (ii) data regarding unit type and building size; including data on households earning approximately 120% to 150% of area median income based on sponsors' disclosure of unit pricing for market rate housing proposals and other available data; senior housing units; and the number of efficiency, studio, one bedroom, two bedroom and three bedroom and above units (when the ability to collect this data exists).

(4) the number of Accessory Dwelling Units constructed, type of permit or other approval(s), and to the extent available, their unit types and affordability levels;

(5) the number of dwellings legalized under Section 207.3 of this Code, and to the extent available, their unit types and affordability levels; and

1 (6) the number of dwelling units at any stage of the housing production process using a
2 state or local density bonus program, which specific density bonus program is being used, and to the
3 extent available, their unit types and affordability levels.

4 ~~(4) **Annual Jobs-Housing Fit Report.** The Planning Department shall publish a Jobs-~~
5 ~~Housing Fit Report (“Report”) on April 1 of each year, as a companion report to the annual Housing~~
6 ~~Inventory. The Report shall analyze the number, types, and wage distribution by quartile of jobs~~
7 ~~created or lost in the City, and provide an estimate of the housing needs associated with those jobs. The~~
8 ~~Report shall compare those housing needs by wages to actual housing production in San Francisco by~~
9 ~~affordability levels (“Jobs Housing Fit”). The Report shall use available and relevant data from~~
10 ~~regularly published sources on jobs, wages, commercial and housing production, project approvals,~~
11 ~~standard assumptions for jobs per square foot by industry type, occupations and wage distribution by~~
12 ~~quartile associated with those industry types, workers per household and household size, and shall use~~
13 ~~the household income classifications expressed in the Housing Element of the General Plan. The~~
14 ~~Report shall include the following components:~~

15 ~~————— (A) **Ten-year Retrospective Assessment.** The Report shall provide an~~
16 ~~assessment of the Jobs Housing Fit in the City for the preceding ten years through the end of the~~
17 ~~preceding calendar year.~~

18 ~~————— (B) **Pipeline Projection.** The Report shall project the expected Jobs Housing Fit~~
19 ~~for the current pipeline of entitled projects. The projection shall include: commercial and housing~~
20 ~~development projects that have received their first building or site permit; entitled commercial and~~
21 ~~housing developments that have been approved but have not yet received their first building or site~~
22 ~~permit; and projects subject to development agreements, but shall not include the portions of multi-~~
23 ~~phase projects with phases expected to continue beyond ten years. The projection shall use the~~
24 ~~affordability levels associated with entitled housing developments including on-site inclusionary units.~~
25 ~~The Report shall compare projected housing needs by wages directly associated, and indirectly~~

1 ~~associated, to the extent feasible, with the entitled commercial pipeline to the affordability levels of the~~
2 ~~entitled housing pipeline. The Report shall separately evaluate the Jobs-Housing Fit for the extended~~
3 ~~development pipeline including those portions of multi-phase projects extending beyond ten years.~~

4 ~~————— (C) **Area Plan and Major Projects.** For each draft Area Plan and major~~
5 ~~commercial or mixed-use development project larger than two acres subject to a development~~
6 ~~agreement under consideration or approved in the previous two years, the Report shall identify the~~
7 ~~Jobs-Housing Fit for each such project. To the extent Planning Department staff reports already have~~
8 ~~evaluated the Jobs-Housing Fit for these projects, the Report may reference those staff reports.~~

9 ~~(e) **Annual Planning Commission Housing Hearing; Report to the Board of Supervisors.**~~

10 ~~————— (1) **Commission Hearing.** The Planning Commission shall hold an annual public~~
11 ~~hearing subsequent to publishing the Housing Inventory. This hearing shall provide, at a minimum,~~
12 ~~information on:~~

13 ~~————— (A) **Findings of the annual Housing Inventory** regarding how housing~~
14 ~~production trends match with San Francisco's quantified regional housing needs allocation for~~
15 ~~different income levels as determined in the General Plan's Housing Element, and including data on~~
16 ~~households earning approximately 120% to 150% of area median income based on sponsors'~~
17 ~~disclosure of unit pricing for market rate housing proposals and other available data; senior housing~~
18 ~~units; and the number of efficiency, studio, one-bedroom, two-bedroom and three-bedroom and above~~
19 ~~units (when the ability to collect this data exists); and~~

20 ~~————— (B) **Findings of the state-mandated annual Housing Element Progress Report**~~
21 ~~regarding how housing production trends advance the Housing Element's policies and goals.~~

22 ~~————— (C) **Findings of the Annual Jobs-Housing Fit Report** regarding how the housing~~
23 ~~needs associated with job growth compare to actual housing production by income levels. The~~
24 ~~Planning Department, in consultation with the Mayor's Office of Housing and Community~~
25 ~~Development, shall report in writing on the allocated funding, sites, and timing necessary to meet the~~

1 ~~affordable housing needs identified in the Report, and, insofar as the Report identifies unmet past and~~
2 ~~projected needs, the amount of additional funding, and sites for affordable housing, that would need to~~
3 ~~be allocated in order to meet the projected housing needs associated with job growth.~~

4 ~~———(2) **Annual Report to the Board.** The Planning Department shall provide an annual~~
5 ~~report to the Board of Supervisors concerning the results of the Commission's hearing and any~~
6 ~~recommendations for legislation.~~

7
8 **~~CHAPTER 12D:~~**

9 **~~MINORITY/WOMEN/LOCAL BUSINESS UTILIZATION~~**

10 **~~PROVISIONS EFFECTIVE FOR CONTRACTS SOLICITED PRIOR TO NOVEMBER 1,~~**
11 **~~1998~~**

12 **~~SEC. 12D.1. SHORT TITLE.~~**

13 ~~This ordinance shall be entitled the "Minority/Women/Local Business Utilization Ordinance"~~
14 ~~and may be cited as the "MBE/WBE/LBE Ordinance—III."~~

15
16 **~~SEC. 12D.2. GENERAL FINDINGS.~~**

17 ~~—The Board of Supervisors having adopted Ordinance No. 139-84 on April 2, 1984 to address~~
18 ~~identified discriminatory practices inherent in the City's procurement process which resulted in the~~
19 ~~virtual exclusion of minority and woman owned businesses as contractors on City prime contracts and~~
20 ~~to offset economic disadvantages faced by local businesses that are not shared by nonlocal businesses;~~

21 ~~—And Ordinance No. 139-84 being remedial in nature will expire June 30, 1989 and thus~~
22 ~~required the Human Rights Commission to study minority and woman owned business participation in~~
23 ~~City contracting prior to the expiration of that Ordinance;~~

24 ~~—And the Human Rights Commission, pursuant to Section 12D.15 of Ordinance No. 139-84~~
25 ~~having in June and July of 1988 heard the testimony of 42 witnesses, reviewed the transcript and~~

1 ~~written submittals of 127 minority, women, local and other business representatives, studied the~~
2 ~~testimonial and statistical evidence presented by the public, City departments, and the Commission's~~
3 ~~staff to ascertain whether the objectives of Ordinance No. 139-84 had been met and having submitted~~
4 ~~its October 23, 1988 report to this Board entitled "Investigation into Minority and Women Business~~
5 ~~Participation in City Contracting, Comprehensive Edition: Findings, Recommendations and Support~~
6 ~~Documentation";~~

7 ~~—And the United States Supreme Court on January 23, 1989 having decided City of Richmond~~
8 ~~v. Croson which addresses the constitutionally acceptable quantum of evidence that enables a~~
9 ~~municipality to adopt a race-conscious remedial ordinance in public contracting;~~

10 ~~—And the Budget Analyst at the request of this Board having studied the participation of~~
11 ~~minority and woman owned businesses in City contracts at the prime contractor level during fiscal year~~
12 ~~1987-1988 and compared this business participation to minority and women businesses' share of their~~
13 ~~relevant respective industries or professions and having submitted his report dated March 8, 1989 and~~
14 ~~his revised report dated March 17, 1989 to this Board;~~

15 ~~—And BPA Economics, Inc. at the request of the City Attorney and the Director of the Human~~
16 ~~Rights Commission having evaluated statistical evidence provided by City departments and the Budget~~
17 ~~Analyst, conducted a statistical analysis of these data and having submitted its report entitled~~
18 ~~"Statistical Support for San Francisco's MBE/WBE/LBE Ordinance," dated May 1, 1989 and his~~
19 ~~revised report dated May 15, 1989, to this Board;~~

20 ~~—And this Board, having conducted 10 additional public hearings, taken additional testimony~~
21 ~~and written submittals, and reviewed the 1983 and 1988 reports of the Human Rights Commission, the~~
22 ~~1989 reports of the Budget Analyst, and the 1989 report of BPA Economics, Inc. (all of which shall be~~
23 ~~incorporated herein by reference) and relying upon this Board's knowledge about the City's compliance~~
24 ~~with Ordinance No. 139-84, such knowledge having been acquired during the past five years,~~

25 ~~—This Board hereby makes the following findings:~~

1 —1.— ~~Local businesses that seek to enter into contracts with the City and County of San~~
2 ~~Francisco continue to labor under a competitive disadvantage with businesses from other areas~~
3 ~~because of the higher administrative costs of doing business in the City (e.g., higher taxes, higher rents,~~
4 ~~higher wages and benefits for labor, higher insurance rates, etc.). In 1991, this Board concluded that~~
5 ~~MBEs and WBEs are currently receiving a very small share of City contracts through joint ventures~~
6 ~~with majority-owned firms, while a number of well-established LBEs have taken advantage of the five-~~
7 ~~percent LBE bid preference by joint venturing with each other. The Board concludes that the five-~~
8 ~~percent MBE/WBE bid preference has not proved sufficiently effective in remedying the exclusion of~~
9 ~~MBEs and WBEs from City contracts through the vehicle of joint ventures. Accordingly, the Board is~~
10 ~~granting a seven and one-half percent bid preference to joint ventures with MBE or WBE participation~~
11 ~~between 40 percent and 50.9 percent to provide more incentives for majority firms to joint venture with~~
12 ~~MBEs and WBEs to provide services to the City.~~

13 —2.— ~~The public interest is served by continuing to encourage business to locate and remain~~
14 ~~in San Francisco through the provision of a minimal "good-faith" preference to local businesses in the~~
15 ~~award of City contracts.~~

16 —3.— ~~Policies and programs that enhance the opportunities and entrepreneurial skills of~~
17 ~~minority owned, woman owned, and local businesses will best serve the public interest because the~~
18 ~~growth and development of such businesses will have a significant positive impact on the economic~~
19 ~~health of the City and will serve to reduce racial tension in our community.~~

20 —4.— ~~The testimony of businesses that seek to enter into contracts with the City or are doing~~
21 ~~business with the City, as presented to this Board and as detailed in the Human Rights Commission's~~
22 ~~1988 report, offer clear and persuasive reasons for the Board of Supervisors to take the actions~~
23 ~~proposed by this Ordinance to remedy: (1) City contracting practices and community conditions that~~
24 ~~cause the exclusion or reduce the opportunities of minority and woman owned businesses to be~~
25 ~~awarded City contracts to such an extent that the amount of City contract dollars awarded to them can~~

1 ~~only be explained by discrimination; and (2) competitive disadvantages local business continue to face~~
2 ~~in providing goods and services to the City.~~

3 ~~—5. Outreach and advertising efforts by City departments have served to draw more~~
4 ~~minority and woman business enterprises into the City's procurement process. The City needs to~~
5 ~~intensify its outreach and advertising efforts as well as its education/training programs to reach a~~
6 ~~broadier segment of the MBE/WBE community. However, past experience has taught that outreach and~~
7 ~~advertising efforts alone are not enough to remedy the exclusion of minority and women owned~~
8 ~~businesses as prime contractors with the City.~~

9 ~~—6. Ordinance No. 139-84 has provided City departments with uniform standards and~~
10 ~~criteria in the award of contracts. However, these standards have not been applied consistently City-~~
11 ~~wide. This inconsistent application of the Ordinance continues to give preference to majority~~
12 ~~businesses in the prime award process to the detriment of minority and woman business enterprises.~~

13 ~~—7. The bid preference mechanism has the advantage of affording minority, woman and~~
14 ~~local business enterprises a competitive "plus" when bidding or proposing on City contracts. The bid~~
15 ~~preference mechanism does not exclude any potential contractor. It encourages competition and~~
16 ~~thereby ensures that the City is contracting with responsible, efficient contractors. Consequently, the~~
17 ~~bid preference mechanism has assisted minority, woman and local business enterprises to obtain City~~
18 ~~contracts. The bid preference is allowed to joint ventures where MBEs and WBEs participate at a~~
19 ~~managerial and entrepreneurial level with nonminority and nonwoman entrepreneurs. Affording the~~
20 ~~bid preference to joint ventures has encouraged nonMBE/WBEs to enter into joint venture agreements~~
21 ~~with MBE/WBEs and compete for City contracts. Several joint ventures of minority/woman and~~
22 ~~majority/male owned firms have won large construction and professional services contracts with the~~
23 ~~assistance of the bid preference. The evidence in the record before this Board supports the conclusion~~
24 ~~that the bid preference invites participation by formerly excluded businesses and hence promotes more~~
25 ~~competition, resulting in more competitive bids submitted to the City.~~

1 —8.— ~~In Ordinance No. 175-89 this Board concluded that set-asides of contracts, where~~
2 ~~competition for selected contracts is limited to MBE/WBEs or joint ventures with MBE/WBEs, had been~~
3 ~~authorized by the Director of the Human Rights Commission only on rare occasions over the past five~~
4 ~~years (1984-1985). Before the adoption of Ordinance No. 175-89, the Director had regarded the~~
5 ~~contract set-aside mechanism as a measure to be used in last resort type cases where a department~~
6 ~~could demonstrate, despite its good faith efforts and the application of the bid preference, that it had~~
7 ~~failed substantially to eliminate the exclusion of MBEs and WBEs from City contracting. In 1989, at the~~
8 ~~time Ordinance No. 175-89 was adopted, this Board concluded that despite the claim by several~~
9 ~~departments that the contract set-aside mechanism was essential to ensure participation by~~
10 ~~MBE/WBEs, the City had made steady progress City wide toward the MBE/WBE goals while only~~
11 ~~making sparing use of the contract set-aside mechanism. However, in 1991, this Board found that the~~
12 ~~use of good faith efforts and the application of the bid preference did not appear in all cases to be a~~
13 ~~sufficient remedy for opening the closed environment in which City departments operate or correcting~~
14 ~~the identified discriminatory practices of the City against MBEs and WBEs. The Board reaffirms its~~
15 ~~1991 finding that setting aside contracts limited to competition among MBE/WBEs or joint ventures~~
16 ~~with MBE/WBEs is a necessary remedy in those limited cases where a department can demonstrate,~~
17 ~~despite its good faith efforts and the application of the bid preference, that it has failed substantially to~~
18 ~~eliminate the exclusion of MBEs and WBEs from City contracting.~~

19 —9.— ~~Without the Ordinance, many small MBE /WBEs would be unable to compete for and~~
20 ~~win awards of prime City contracts.~~

21 —10.— ~~Some City departments continue to operate under the "old boy network" when~~
22 ~~awarding contracts. The City's "old boy network" constitutes a closed business system created and~~
23 ~~implemented by the City for all contracts, including those subject to the competitive bid process.~~
24 ~~Discrimination against and insensitivity to MBEs and WBEs continue to persist in the City's~~
25 ~~procurement process. The closed environment in which City businesses operate has excluded MBEs~~

1 and WBEs and has placed them under a competitive disadvantage when competing for City prime
2 contracts.

3 —11.— ~~The statistical evidence before this Board relating to the award of contracts subject to~~
4 ~~this Ordinance for fiscal year 1987-1988 reflects that in almost all areas of contracting MBEs (each~~
5 ~~ethnic group identified as a minority) and WBEs continue to be awarded contract dollars that are~~
6 ~~disproportionately lower than the available numbers of MBEs and WBEs in San Francisco. These data~~
7 ~~are gathered and summarized in Appendix X, which contains utilization indices described as Tables 1~~
8 ~~through 7, and 10 through 11, and is attached to this Ordinance and incorporated herein by reference~~
9 ~~as though fully set forth. These utilization indices measure the disparity between MBEs (as a group and~~
10 ~~each ethnic group identified as a minority) or WBE participation in City prime contracts and their~~
11 ~~share of their relevant industry or profession. That disparity is measured in terms of a statistical~~
12 ~~significance. When measure of the statistical significance is minus two (-2) or less, the Board concludes~~
13 ~~that the disparity cannot be attributed to chance. Based upon the weight of the testimony and other~~
14 ~~evidence before this Board and the Commission in 1983, 1984, 1988 and 1989, the Board finds that the~~
15 ~~statistical disparities can only be attributed to discriminatory procurement practices of the City against~~
16 ~~MBEs and WBEs.~~

17 —Based on the testimony and other evidence before this Board and the Commission in 1983,
18 1984, 1988 and 1989, the Board finds that the aforementioned statistical disparities are also attributed
19 to discrimination in the private sector against MBEs and WBEs that is manifested in and perpetuated
20 and exacerbated by the City's procurement practices.

21 —12.— ~~Consistent with Ordinance No. 139-84, on December 19, 1988 the Board of~~
22 ~~Supervisors adopted legislation which requires the City's Risk Manager to develop uniform insurance~~
23 ~~requirements for City contracts. On May 2, 1989 the Risk Manager established these uniform standards~~
24 ~~which are set forth in a document entitled "Contract Insurance Manual." This manual is intended to be~~
25 ~~a guide for contract administrators to standardize bond and insurance requirements in City contracts.~~

1 —13.— ~~Consistent with Ordinance No. 139-84, the Board of Supervisors has also considered~~
2 ~~whether to: (1) create a special revolving fund to assist newly established MBEs and WBEs to meet~~
3 ~~bonding and other fee-related requirements; and (2) relax or waive bonding requirements on certain~~
4 ~~contracts to facilitate MBE/WBE participation. In view of the City's budgetary constraints and the~~
5 ~~opposition voiced by segments of the local business community, this Board finds that creation of a~~
6 ~~special revolving fund, or relaxation or waiver of bonding requirements is not feasible at this time.~~

7
8 ***SEC. 12D.2-1. ADDITIONAL FINDINGS.***

9 —~~Upon the expiration of Ordinance No. 139-84 this Board having adopted Ordinance No. 175-~~
10 ~~89 on May 30, 1989 to address the same types of practices and to offset the same types of economic~~
11 ~~disadvantages identified in Section 12D.2;~~

12 —~~And Ordinance No. 175-89 as amended being remedial in nature will expire June 30, 1992~~
13 ~~and thus required the Human Rights Commission to study minority and woman-owned business~~
14 ~~participation in City contracting prior to the expiration of Ordinance 175-89;~~

15 —~~And the Human Rights Commission, pursuant to Section 12D.15 of Ordinance No. 175-89~~
16 ~~having in January and February of 1992 heard the testimony of 68 witnesses, reviewed the transcripts~~
17 ~~and written submittals of 54 minority, women, local and other business representatives, studied the~~
18 ~~testimonial and statistical evidence presented by the public, City departments, and the Commission's~~
19 ~~staff to ascertain whether the objectives of Ordinance No. 175-89 as amended had been met and having~~
20 ~~submitted to this Board its February 28, 1992, "Sunset Report" and its March 2, 1992 "Progress Report~~
21 ~~FY 1990-91";~~

22 —~~And this Board, having conducted additional public hearings, taken additional testimony and~~
23 ~~written submittals, and reviewed the Human Rights Commission's February 28, 1992 "Sunset Report"~~
24 ~~and its March 2, 1992 "Progress Report FY 1990-91" (all of which shall be incorporated by reference);~~

25 —~~And this Board incorporating by reference the findings set forth in Section 12D.2 above;~~

1 ~~—And relying upon this Board's knowledge acquired during the past eight years about the City's~~
2 ~~compliance with the MBE/WBE/LBE Ordinances and all amendments thereto. This Board hereby finds~~
3 ~~that the purposes of the MBE/WBE/LBE Ordinances and the amendments thereto have not been~~
4 ~~fulfilled and that it is necessary to extend Ordinance No. 175-89 as amended for an additional five year~~
5 ~~period.~~

6
7 **~~SEC. 12D.2-2. FURTHER ADDITIONAL FINDINGS SUPPORTING SIX MONTH~~**
8 **~~EXTENSION OF MBE/WBE/LBE ORDINANCE~~**

9 ~~—Upon the expiration of Ordinance No. 175-89 this Board having adopted Ordinance No. 155-~~
10 ~~92 to address the practices and to offset the economic disadvantages identified in Sections 12D.2,~~
11 ~~12D.9(A), 12D.10(A), 12D.11(A) and 12D.11(A);~~

12 ~~—And Ordinance No. 155-92 being remedial in nature will expire June 30, 1997 and thus~~
13 ~~required the Human Rights Commission to study minority and woman owned business participation in~~
14 ~~City contracting prior to the expiration of Ordinance No. 155-92;~~

15 ~~—And the Human Rights Commission pursuant to Section 12D.15(E) of Ordinance No. 155-92,~~
16 ~~through its MBE/WBE/LBE Community Advisory Committee and at its regular and special meetings,~~
17 ~~having received public testimony concerning the City's compliance with Ordinance No. 155-92;~~

18 ~~—And the Human Rights Commission on January 13, 1997 having hired Mason Tillman~~
19 ~~Associates to conduct a disparity study which will be concluded on or before August 31, 1997;~~

20 ~~—And the Human Rights Commission, pursuant to Section 12D.15(E) of Ordinance No. 155-92~~
21 ~~having conducted public hearings on January 29, 1997, February 19, 1997 and February 27, 1997;~~

22 ~~—And the Human Rights Commission having received from Mason Tillman Associates a~~
23 ~~statistical analysis of the MBE/WBE/LBE Progress Reports for fiscal years 1992-93, 1993-94 and~~
24 ~~1994-95 suggesting continuing patterns of underutilization of certified MBE and WBE contractors;~~

1 ~~—And the Human Rights Commission having submitted to this Board its March 3, 1997~~

2 ~~"Resolution Certifying HRC Findings to the Board of Supervisors Supporting the Extension of the~~
3 ~~MBE/WBE/LBE Ordinance" as well as supporting data and analyses;~~

4 ~~—And the Human Rights Commission having resolved to transmit to this Board by August 31,~~
5 ~~1997, the completed disparity study which will assist this board in determining whether the purposes~~
6 ~~identified in Section 12D.3 have been achieved;~~

7 ~~—And this board incorporating by reference the findings set forth in Sections 12D.2 and 12D.2-~~
8 ~~1 above;~~

9 ~~—And this Board, having reviewed the MBE/WBE/LBE Progress Reports for fiscal years 1992-~~
10 ~~93, 1993-94, and 1994-95 and other supporting data (all of which shall be incorporated by reference)~~
11 ~~and having conducted public hearings on April 24, 1997 on the MBE/WBE program and policies and~~
12 ~~on May 8, 1997 at which the Board received additional testimony and written submittals from the~~
13 ~~public (which shall be incorporated by reference), finds that there is a good faith basis for concluding~~
14 ~~that the purposes identified in Section 12D.3 have not yet been achieved;~~

15 ~~—This Board hereby finds that there is a good faith basis to extend Ordinance 155-92, as~~
16 ~~amended, for a six-month period during which time this Board, with the assistance of the Human Rights~~
17 ~~Commission and the City Attorney, will continue with the process of fact finding to ascertain whether a~~
18 ~~strong basis in evidence exists for concluding that the purposes identified in Section 12D.3 have not~~
19 ~~been achieved.~~

20
21 **~~SEC. 12D.2-3. FURTHER ADDITIONAL FINDINGS SUPPORTING THREE-MONTH~~**
22 **~~EXTENSION OF MBE/WBE/LBE ORDINANCE~~**

23 ~~—On November 5, 1996, Californians voted to adopt the California Civil Rights Initiative~~
24 ~~(Proposition 209) as an amendment to their Constitution. Proposition 209 provides that the State and~~
25 ~~its subdivisions shall not discriminate against, or grant preferential treatment to, any individual or~~

1 ~~group on the basis of race, sex, color, ethnicity or national origin in the operation of public~~
2 ~~employment, education or contracting.~~

3 ~~—On December 23, 1996, the United States District Court for the Northern District of~~
4 ~~California, granted a preliminary injunction to prevent the implementation of Proposition 209.~~
5 ~~However, on April 8, 1997, the Ninth Circuit in Coalition v. Wilson reversed the district court's ruling~~
6 ~~and upheld as constitutional Proposition 209. Then on August 21, 1997, the Ninth Circuit denied the~~
7 ~~petition for rehearing the decision in Coalition v. Wilson. Finally, on November 3, 1997, the United~~
8 ~~States Supreme Court denied the petition for certiorari and let stand the Ninth Circuit's decision to~~
9 ~~uphold Proposition 209 as constitutional.~~

10 ~~—As a result of the Ninth Circuit's ruling, Mason Tillman Associates will have to consider the~~
11 ~~impact, if any, of Proposition 209 on its disparity study commissioned by the Human Rights~~
12 ~~Commission on January 13, 1997.~~

13 ~~—And although this Board expected to receive the disparity study on or before August 31, 1997,~~
14 ~~which was on an expedited schedule, the San Francisco International Airport's data requires additional~~
15 ~~verification in order to complete the disparity study. This circumstance has caused the compilation of~~
16 ~~the study's date to take longer than originally anticipated;~~

17 ~~—And where the Mayor's Office and other City departments should have an opportunity to~~
18 ~~provide comment as to any proposed legislative changes to the ordinance before the legislation is~~
19 ~~introduced at the Board;~~

20 ~~—And this Board incorporating by reference the findings set forth in Sections 12D.2, 12D.2-1~~
21 ~~and 12D.2-2 above;~~

22 ~~—This Board hereby finds that there is a good faith basis to extend Ordinance 155-92, as~~
23 ~~amended by Ordinance 210-97, for a three-month period during which time this Board, with the~~
24 ~~assistance of the Human Rights Commission and the City Attorney, will (1) complete the compilation of~~
25 ~~the data sufficient to ascertain whether a strong basis in evidence exists for concluding that the~~

1 ~~purposes identified in Section 12D.3 have not been achieved and (2) receive comment on proposed~~
2 ~~legislative changes, if any, to the ordinance in light of the findings and recommendations set forth in~~
3 ~~the disparity study.~~

4
5 **~~SEC. 12D.2-4. ADDITIONAL FINDINGS SUPPORTING A THREE-MONTH~~**
6 **~~EXTENSION OF MBE/WBE/LBE ORDINANCE.~~**

7 ~~—On November 3, 1997, the United States Supreme Court denied the petition for writ of~~
8 ~~certiorari in Coalition for Economic Equity et al. v. Pete Wilson et al. As a result of the Supreme~~
9 ~~Court's decision not to grant review, Mason Tillman Associates and the City continue to consider the~~
10 ~~impact, if any, of Proposition 209 on the Disparity Study commissioned by the Human Rights~~
11 ~~Commission on January 13, 1997;~~

12 ~~—And although a draft disparity study has been presented to the Human Rights Commission,~~
13 ~~several new questions regarding the data and how it should be analyzed have been raised by the~~
14 ~~Human Rights Commission and members of the public. In light of the concerns raised, Mason Tillman~~
15 ~~Associates and the Human Rights Commission have determined that additional data gathering and~~
16 ~~analysis is necessary in order to accurately determine whether a strong basis in evidence exists for~~
17 ~~concluding that the purposes identified in Section 12D.3 have not been achieved and what remedy, if~~
18 ~~any, is necessary to ensure that there is no discrimination in public contracting in the City and County~~
19 ~~of San Francisco.~~

20 ~~—And this Board incorporating by reference the findings set forth in Section 12D.2, 12D.2-1,~~
21 ~~12D.2-2 and 12D.2-3 above;~~

22 ~~—This Board hereby finds that there is a good faith basis to extend Ordinance 155-92, as~~
23 ~~amended by Ordinance 210-97 and 457-97, for a three-month period during which time this Board,~~
24 ~~with the assistance of the Human Rights Commission and the City Attorney, will (1) complete the~~
25 ~~compilation of the data sufficient to ascertain whether a strong basis in evidence exists for concluding~~

1 ~~that the purposes identified in Section 12D.3 have not been achieved and (2) receive comment on~~
2 ~~proposed legislative changes, if any, to the ordinance in light of the findings set forth in the final~~
3 ~~disparity study.~~

4
5 ***SEC. 12D.2-5. ADDITIONAL FINDINGS SUPPORTING A TWO-MONTH EXTENSION***
6 ***OF MBE/WBE/LBE ORDINANCE***

7 ~~—On November 3, 1997, the United States Supreme Court denied the petition for writ of~~
8 ~~certiorari in Coalition for Economic Equity et al. v. Pete Wilson et al. As a result of the Supreme~~
9 ~~Court's decision not to grant review, Mason Tillman Associates and the City considered the impact, if~~
10 ~~any, of Proposition 209 on the Disparity Study commissioned by the Human Rights Commission on~~
11 ~~January 13, 1997;~~

12 ~~—And although a draft disparity study was presented to the Human Rights Commission, several~~
13 ~~new questions regarding the data and how it should be analyzed were raised by the Human Rights~~
14 ~~Commission and members of the public. In light of the concerns raised, additional necessary data~~
15 ~~gathering and analysis were conducted. Additional time is needed in order to accurately determine~~
16 ~~whether a strong basis in evidence exists for concluding that the purposes identified in Section 12D.3~~
17 ~~have not been achieved and what remedy, if any, is necessary to ensure that there is no discrimination~~
18 ~~in public contracting in the City and County of San Francisco.~~

19 ~~—And this Board incorporation by reference the findings set forth in Section 12D.2, 12D.2-1,~~
20 ~~12D.2-2, 12D.2-3 and 12D.2-4 above;~~

21 ~~—This Board hereby finds that there is a good faith basis to extend Ordinance 155-92, as~~
22 ~~amended by Ordinance 210-97, 457-97, 82-98, for a two-month period during which time this Board,~~
23 ~~with the assistance of the Human Rights Commission and the City Attorney, will (1) complete the~~
24 ~~compilation and analysis of the data sufficient to ascertain whether a strong basis in evidence exists for~~
25 ~~concluding that the purposes identified in Section 12D.3 have not been achieved and (2) receive~~

comment on proposed legislative changes, if any, to the Ordinance in light of the findings set forth in the final Disparity Study.

SEC. 12D.2-6. ADDITIONAL FINDINGS SUPPORTING A TWO-MONTH EXTENSION OF MBE/WBE/LBE ORDINANCE.

~~In light of the United States Supreme Court's denial of the petition for writ of certiorari in Coalition for Economic Equity et al. v. Pete Wilson et al. several new questions with respect to the data collected for the City's disparity study and how it should be analyzed were raised. Because of those concerns, the Human Rights Commission in March of this year embarked upon additional data gathering and analysis in order to accurately determine whether a strong basis in evidence exists for concluding that the purposes identified in Section 12D.3 have not been achieved and what remedy, if any, is necessary to ensure that there is no discrimination in public contracting in the City and County of San Francisco.~~

~~Although the Human Rights Commission has succeeded in gathering such additional data, the data gathering process is not yet complete. Consequently, the analysis of the data is not complete. Additional time is needed in order to accurately determine whether a strong basis in evidence exists for concluding that the purposes identified in Section 12D.3 have not been achieved and what remedy, if any, is necessary to ensure that there is no discrimination in the procurement process of the City and County of San Francisco.~~

~~This Board incorporates by reference findings set forth in Sections 12D.2, 12D.2-2, 12D.2-3, 12D.2-4 and 12D.2-5 above;~~

~~This Board hereby finds that there is a good faith basis to extend Ordinance 155-92, as amended by Ordinances 210-97, 457-97, 82-98 and 186-98 for a two-month period during which time this Board, with the assistance of the Human Rights Commission and the City Attorney, will (1) complete the compilation and analysis of the data to ascertain whether a strong basis in evidence exists~~

1 ~~for concluding that the purposes identified in Section 12D.3 have not been achieved and (2) receive~~
2 ~~comment on proposed legislative changes, if any, to the ordinance in light of the findings set forth in~~
3 ~~the final disparity study.~~

4
5 ***SEC. 12D.3. DECLARATION OF POLICY.***

6 ~~—It is the policy of the City and County of San Francisco to ensure full and equitable~~
7 ~~opportunities for Minority Business Enterprises, Woman Business Enterprises, and local businesses to~~
8 ~~participate as prime contractors in the provision of goods and services to the City. This program is~~
9 ~~intended to correct identified discriminatory practices inherent in the City's procurement process and~~
10 ~~in the award of prime contracts to MBE/WBEs and to develop their status and capability as prime~~
11 ~~contractors of the City. Another goal of this Ordinance is to offset some of the economic disadvantages~~
12 ~~local businesses continue to face that are not shared by nonlocal businesses.~~

13 ~~—The City will continue to rely on the relationship between the percentages of minority (each~~
14 ~~ethnic group identified as a minority) and woman-owned businesses in the relevant sector of the San~~
15 ~~Francisco business community and their respective shares of City contract dollars as a measure of the~~
16 ~~effectiveness of this Ordinance in remedying the effects of the aforementioned discrimination.~~

17 ~~—The City is continuing to use a preference for local business in the award of City contracts in~~
18 ~~order to encourage business to locate and remain in San Francisco and thereby enhance employment~~
19 ~~opportunities for persons living in San Francisco. The cost of locating and doing business in San~~
20 ~~Francisco continues to be as much as 15 percent and greater than the cost of doing business in the~~
21 ~~surrounding communities; affording a five percent bid preference for local businesses bidding on City~~
22 ~~contracts reduces the disadvantages under which City-located businesses labor when competing for~~
23 ~~City contracts, affording them a five percent bid preference makes good sense. In effect the bid~~
24 ~~preference assists these businesses in contributing to the economic health of the City. The five percent~~
25

1 ~~bid preference does not unduly hamper non-local businesses in the contracting process, and parallels~~
2 ~~the preferences awarded in many other local jurisdictions.~~

3
4 ***SEC. 12D.4. SCOPE.***

5 ~~—The race and gender-conscious bid preferences of this Ordinance shall be afforded only to~~
6 ~~economically disadvantaged minority and woman-owned businesses in all specifically enumerated~~
7 ~~categories of City contracts for the procurement of goods and services subject to exemptions~~
8 ~~hereinafter specifically enumerated. The local business bid preference shall be afforded to all local~~
9 ~~businesses in the award of all City contracts for the procurement of goods and services subject to~~
10 ~~exceptions hereinafter specifically enumerated in Section 12D.13.~~

11
12
13
14 ***SEC. 12D.5. DEFINITIONS.***

15 ~~—"Annual participation goals" shall mean the targeted levels of City-wide MBE/WBE~~
16 ~~participation in City prime contracts that reflect the relevant share of MBEs or WBEs in a given~~
17 ~~industry or profession referred to as "percent availability" in the utilization indices contained in~~
18 ~~Appendix X to this Ordinance.~~

19 ~~—"Award of a contract" occurs when a contract is certified by the Controller of the City and~~
20 ~~County of San Francisco.~~

21 ~~—"Back contracting" shall mean any agreement or other arrangement between a prime~~
22 ~~contractor and its subcontractor where the prime contractor performs or secures the performance of~~
23 ~~the subcontract in such a fashion and/or under such terms and conditions that the prime contractor~~
24 ~~enjoys the financial benefits of the subcontract. Said agreement or other arrangement includes, but is~~
25 ~~not limited to, situations where either a contractor or subcontractor agrees that any term, condition or~~

1 ~~obligation imposed upon the subcontractor by the subcontract shall be performed by or be the~~
2 ~~responsibility of the prime contractor.~~

3 ~~—"Bid" shall mean and include a quotation, proposal, solicitation or offer by a bidder or~~
4 ~~contractor to perform or provide labor, materials, equipment, supplies or services to the City and~~
5 ~~County of San Francisco for a price.~~

6 ~~—"Bidder" shall mean any business that submits a quotation, bid or proposal to provide labor,~~
7 ~~materials, equipment, supplies or services to the City and County of San Francisco.~~

8 ~~—"City" shall mean the City and County of San Francisco.~~

9 ~~—"Commercially useful function" for purposes of determining whether a business is a Minority~~
10 ~~Business Enterprise, Woman Business Enterprise or Local Business Enterprise shall mean that the~~
11 ~~business is directly responsible for providing the materials, equipment, supplies or services to the City~~
12 ~~as required by the solicitation or request for quotes, bids or proposals. MBEs, WBEs or LBEs who~~
13 ~~engage in the business of providing brokerage, referral or temporary employment services shall not be~~
14 ~~deemed to perform a "commercially useful function" unless the brokerage, referral or temporary~~
15 ~~employment services are those required and sought by the department.~~

16 ~~—"Commission" shall mean the Human Rights Commission of the City and County of San~~
17 ~~Francisco.~~

18 ~~—"Concession" shall include any grant of land or other property by or on behalf of the City and~~
19 ~~County of San Francisco to a person for the purpose or use specified in said grant. A "concession"~~
20 ~~shall not include an agreement to perform construction-related services.~~

21 ~~—"Contract" shall mean and include any agreement between the City and a person to provide~~
22 ~~or procure labor, materials, equipment, supplies or services to, for or on behalf of the City and County~~
23 ~~of San Francisco. A "contract" shall include an agreement between the City and a person or nonprofit~~
24 ~~entity to perform construction-related services or fund the performance of such services. Except as~~
25 ~~otherwise specifically defined in this section, a "contract" does not include: (1) awards made by the~~

1 ~~City with Federal/State grant or City general fund monies to a nonprofit entity where the City offers~~
2 ~~assistance, guidance, or supervision on a project or program and the recipient of the grant award uses~~
3 ~~the grant monies to provide services to the community; (2) sales transactions where the City sells its~~
4 ~~personal or real property; (3) a loan transaction where the City is acting as a debtor or a creditor; (4)~~
5 ~~lease, franchise, or concession agreements; (5) agreements to use City real property; or (6) gifts of~~
6 ~~materials, equipment, supplies or services to the City.~~

7 ~~—"Contract awarding authority" shall mean the City officer, department, commission, employee~~
8 ~~or board authorized to enter into contracts on behalf of the City. In the case of an agreement with a~~
9 ~~person or nonprofit entity to perform or fund the performance of construction-related services, the term~~
10 ~~"contract awarding authority" shall mean the person or nonprofit entity receiving funds from the City~~
11 ~~to perform or fund the performance of such services.~~

12 ~~—"Contractor" shall mean any person(s), firm, partnership, corporation, or combination~~
13 ~~thereof, who submits a bid to perform, performs any part of, agrees with a person to provide services~~
14 ~~relating to and/or enters into a contract with department heads and officers or contract awarding~~
15 ~~authorities empowered by law to enter into contracts on the part of the City for public works or~~
16 ~~improvements to be performed, or for goods or services or supplies to be purchased at the expense of~~
17 ~~the City or to be paid out of monies deposited in the treasury or out of trust monies under the control of~~
18 ~~or collected by the City.~~

19 ~~—"Controlled" for the purposes of determining whether a business is a Minority Business~~
20 ~~Enterprise, or Woman Business Enterprise, shall mean the minority(ies), the woman or combination of~~
21 ~~minorities and women, as the context requires, shall (1) possess legal authority and power to manage~~
22 ~~business assets, good will and daily operations of the business; and (2) actively and continuously~~
23 ~~exercise such authority and power in determining the policies and directing the operations of the~~
24 ~~business.~~

25 ~~—"Director" shall mean the Director of the Human Rights Commission of San Francisco.~~

1 ~~—"Economically disadvantaged business" shall mean a business whose average gross annual~~
2 ~~receipts in the three fiscal years immediately preceding its application for certification as a MBE, WBE~~
3 ~~or LBE do not exceed the following limits: (1) Public works/construction; (2)~~
4 ~~Goods/materials/equipment and general services suppliers; (3) Professional services~~

5 ~~"Equipment and supplies contract" shall mean term purchase agreements, contract orders,~~
6 ~~purchase orders and any other agreement for the purchase of transportation equipment, office supplies,~~
7 ~~data processing and office equipment, hospital and medical equipment and supplies, food, building~~
8 ~~supplies, fire/safety equipment and supplies, clothing, miscellaneous and electrical equipment and~~
9 ~~supplies. The term "equipment and supplies contract" shall not include contracts for fuels, lubricants~~
10 ~~and illuminants.~~

11 ~~"Franchise" shall mean and include the right or privilege conferred by grant from the City~~
12 ~~and County of San Francisco, or any contracting agency thereof, and vested in and authorizing a~~
13 ~~person to conduct such business or engage in such activity as is specified in the grant. A "franchise"~~
14 ~~shall not include an agreement to perform construction-related services.~~

15 ~~"General services contract" shall mean term purchase agreements, contract orders, purchase~~
16 ~~orders and any other agreement for the procurement of janitorial, security, equipment and computer~~
17 ~~maintenance, miscellaneous, printing and graphics services.~~

18 ~~"Good faith efforts" when required of a contract awarding authority or department shall~~
19 ~~mean the actions undertaken by a department to obtain MBE or WBE participation in a contract as~~
20 ~~prime contractors, and shall include the following efforts: (1) encouraging MBE/WBEs to attend pre-~~
21 ~~bid meetings, scheduled by a department or the Commission, to inform potential contractors of~~
22 ~~contracting opportunities; (2) advertising in general circulation media, trade association publications~~
23 ~~and minority/woman business focus media; (3) notifying MBE/WBEs who are available to perform the~~
24 ~~work contemplated in a contract, soliciting their interest in the contract; (4) dividing the contract work~~
25 ~~into economically feasible units to facilitate MBE/WBE participation in the contract; (5) pursuing~~

1 ~~solicitations of interest by contacting MBE/WBEs to determine whether these businesses are interested~~
2 ~~in participating on the contract; (6) providing MBE/WBEs with adequate information about the plan,~~
3 ~~specifications and requirements of the contract; (7) where applicable, negotiating with MBE/WBEs in~~
4 ~~good faith and demonstrating that MBE/WBEs were not rejected as unqualified without sound reasons~~
5 ~~based on a thorough investigation of their capabilities; and (8) using the services of available~~
6 ~~community and contractors' groups, local, State or Federal minority and woman business assistance~~
7 ~~offices that provide assistance in the recruitment of MBE/WBEs for public sector contracts.~~

8 ~~—"Good faith efforts" when required of a prime public works/construction contractor or~~
9 ~~professional services provider shall mean the steps undertaken to comply with the goals and~~
10 ~~requirements imposed by the City for participation by minority and women business enterprises as~~
11 ~~subcontractors, and shall include the following:~~

12 ~~—(1) Attending any presolicitation or prebid meetings scheduled by the City to inform all~~
13 ~~bidders of the minority and women business enterprise program requirements for the project for which~~
14 ~~the contract will be awarded;~~

15 ~~—(2) Identifying and selecting specific items of the project for which the contract will be~~
16 ~~awarded to be performed by minority or women business enterprises to provide an opportunity for~~
17 ~~participation by those enterprises;~~

18 ~~—(3) Advertising, not less than 10 calendar days before the date the bids are opened, in one~~
19 ~~or more daily or weekly newspapers, trade association publications, minority or trade-oriented~~
20 ~~publications, trade journals, or other media, specified by the City for minority or women business~~
21 ~~enterprises that are interested in participating in the project. This paragraph applies only if the City~~
22 ~~gave public notice of the project not less than 15 calendar days prior to the date the bids are opened;~~

23 ~~—(4) Providing written notice of his or her interest in bidding on the contract to the number~~
24 ~~of minority or women business enterprises required to be notified by the project specifications not less~~
25 ~~than 10 calendar days prior to the opening of bids. The City shall make available to the bidder not less~~

1 ~~than 15 calendar days prior to the date the bids are opened a list or a source of lists of enterprises~~
2 ~~which are certified by the Director as minority or women business enterprises;~~

3 ~~—(5) Following up initial solicitations of interest by contacting the enterprises to determine~~
4 ~~with certainty whether the enterprises were interested in performing specific items of the project;~~

5 ~~—(6) Providing interested minority and women business enterprises with information about~~
6 ~~the plans, specifications, and requirements for the selected subcontracting or material supply work;~~

7 ~~—(7) Requesting assistance from minority and women community organizations; minority~~
8 ~~and women contractor or professional groups; local, State or Federal minority and women business~~
9 ~~assistance offices; or other organizations that provide assistance in the recruitment and placement of~~
10 ~~minority or women business enterprises, if any are available;~~

11 ~~—(8) Negotiating in good faith with the minority or women business enterprises, and not~~
12 ~~unjustifiably rejecting as unsatisfactory bids or proposals prepared by any minority or women business~~
13 ~~enterprises, as determined by the City;~~

14 ~~—(9) Where applicable, advising and making efforts to assist interested minority and women~~
15 ~~business enterprises in obtaining bonds, lines of credit, or insurance required by the City or contractor;~~

16 ~~—(10) Making efforts to obtain minority and women business enterprise participation that~~
17 ~~the City could reasonably expect would produce a level of participation sufficient to meet the City's~~
18 ~~goals and requirements.~~

19 ~~—"Human Rights Commission (HRC)" shall mean the Human Rights Commission of San~~
20 ~~Francisco, consisting of Commissioners appointed by the Mayor; hereinafter, it shall be referred to as~~
21 ~~the "Commission."~~

22 ~~—"Joint venture" shall mean and may be referred to as an "Association" of two or more~~
23 ~~businesses acting as a contractor and performing or providing services on a contract, in which each~~
24 ~~joint venture or association partner combines property, capital, efforts, skill, and/or knowledge.~~

1 ~~—"Lease" shall mean and include an agreement by which the City and County of San Francisco~~
2 ~~or any contracting agency thereof, grants to a person the temporary possession and use of property for~~
3 ~~reward, and the latter agrees to return the same to the former at a future time. A "lease" shall not~~
4 ~~include an agreement to perform construction-related services.~~

5 ~~"Local business" or "Local business enterprise (LBE)" shall mean an economically~~
6 ~~disadvantaged business which is an independent and continuing business for profit, performs a~~
7 ~~commercially useful function and is a firm:~~

8 ~~—(1) With fixed offices or distribution points located within the geographical boundaries of~~
9 ~~the City and County of San Francisco;~~

10 ~~—(2) Listed in the Permits and License Tax Paid File with a San Francisco business street~~
11 ~~address; and~~

12 ~~—(3) Which possesses a current Business Tax Registration Certificate at the time of the~~
13 ~~application for certification as a local business. Post Office box numbers or residential addresses shall~~
14 ~~not suffice to establish status as a "local business." To qualify as a "local business" or "LBE" a~~
15 ~~business must establish that it has been located and doing business in San Francisco for at least six~~
16 ~~months preceding its application for certification as a local business.~~

17 ~~"Lower-tier subcontracting" shall mean any agreement or other arrangement between a~~
18 ~~subcontractor and a person as defined herein where it is agreed that said person shall perform any~~
19 ~~term, condition or obligation imposed by the subcontract upon the subcontractor.~~

20 ~~"Minority," "minorities," or "minority person" shall mean members of one of the following~~
21 ~~ethnic groups: Asians (defined as Chinese, Japanese, Koreans, Pacific Islanders, Samoans, Filipinos,~~
22 ~~Asian Indians, and Southeast Asians), Blacks, and Latinos (defined as Mexicans, Puerto Ricans,~~
23 ~~Cubans, Central or South Americans).~~

24 ~~"Minority Business Enterprise (MBE)" shall mean an economically disadvantaged local~~
25 ~~business which is an independent and continuing business for profit, performs a commercially useful~~

1 ~~function, and is owned and controlled by one or more minority persons residing in the United States or~~
2 ~~its territories.~~

3 ~~—"Miscellaneous professional services" shall mean all professional services except legal,~~
4 ~~architect/engineer, computer systems, management consulting and medical services.~~

5 ~~—"Office" or "offices" shall mean a fixed and established place where work is carried on of a~~
6 ~~clerical, administrative, professional or production nature directly pertinent to the business being~~
7 ~~certified. A temporary location or movable property or one that was established to oversee a project~~
8 ~~such as a construction project office does not qualify as an "office" under the Ordinance.~~

9 ~~—"Owned," for purposes of determining whether a business is a minority business enterprise or~~
10 ~~woman business enterprise, shall mean that the minorities or women as the context requires, shall~~
11 ~~possess an ownership interest of at least 51 percent of the business, and shall:~~

12 ~~—(1) Possess incidents of ownership, such as an interest in profit and loss, equal to at least~~
13 ~~the required ownership interest percentage; and~~

14 ~~—(2) Contribute capital, equipment and expertise to the business equal to at least the~~
15 ~~required ownership percentage.~~

16 ~~—Ownership of an individual seeking MBE or WBE certification shall be measured as though~~
17 ~~the applicant's ownership is not subject to the community property interest of a spouse, if both spouses~~
18 ~~certify that (a) only the woman or minority spouse participates in the management of the business and~~
19 ~~(b) the nonparticipating spouse relinquishes control over his/her community property interest in the~~
20 ~~subject business; or both spouses have bona fide management and control of the business.~~

21 ~~—"Participation commitment" shall mean the targeted level of MBE/WBE subcontractor~~
22 ~~participation that each prime public works/construction contractor or professional service provider has~~
23 ~~designated in its bid.~~

24 ~~—"Participation goals" shall mean the targeted levels of City-wide MBE/WBE participation in~~
25 ~~City prime contracts that reflect the relevant share of MBEs or WBEs in a given industry or profession~~

1 ~~referred to as "percent availability" in the utilization indices contained in Appendix X to this~~
2 ~~Ordinance.~~

3 ~~—"Percent availability": see "Participation goals."~~

4 ~~—"Person" includes one or more individuals, partnerships, associations, organizations, trade or~~
5 ~~professional associations, corporations, cooperatives, legal representatives, trustees, trustees in~~
6 ~~bankruptcy, receivers, or any group of persons, including any official, agent or employee of the City~~
7 ~~and County of San Francisco.~~

8 ~~—"Professional services contract" shall mean agreements for the procurement of legal,~~
9 ~~architect/engineer, computer systems, management consulting, medical services and miscellaneous~~
10 ~~professional services.~~

11 ~~—"Public works/construction contract" shall mean agreements for the construction,~~
12 ~~reconstruction or repair of public buildings, streets, utilities or other public works or improvements.~~

13 ~~—"Set aside" when referring to a contract or project shall mean a procurement or contract~~
14 ~~award process where competition for a contract or project is limited to MBEs, WBEs and/or joint~~
15 ~~ventures with MBE/WBEs.~~

16 ~~—"Subcontractor" shall mean any business providing goods or services to a contractor for~~
17 ~~profit, if such goods or services are procured or used in fulfillment of the contractor's obligations~~
18 ~~arising from a contract with the City and County of San Francisco.~~

19 ~~—"Subcontractor participation goals" shall mean the targeted level of MBE/WBE subcontractor~~
20 ~~participation designated by the Director for prime public works/construction and professional services~~
21 ~~contracts.~~

22 ~~—"Woman Business Enterprise (WBE)" shall mean an economically disadvantaged local~~
23 ~~business which is an independent and continuing business for profit, performs a commercially useful~~
24 ~~function and is owned and controlled by one or more women residing in the United States or its~~
25 ~~territories.~~

1 ~~—"Woman/Minority Man Business Enterprise (W/MBE)" shall mean an economically~~
2 ~~disadvantaged local business which meets the definition of an MBE or WBE, except that the aggregate~~
3 ~~ownership interest of the woman and the minority man equals or exceeds 51 percent of the business. An~~
4 ~~W/MBE shall qualify and be deemed by a department an MBE or WBE, but not both, for purposes of~~
5 ~~this Ordinance. Any reference in this Ordinance to MBE or WBE includes a W/MBE.~~

6
7 **~~SEC. 12D.6. POWERS AND DUTIES OF THE COMMISSION AND THE DIRECTOR.~~**

8 ~~—(A) In addition to the duties and powers given to the Human Rights Commission elsewhere,~~
9 ~~the Commission shall:~~

10 ~~—1. Collect and analyze relevant data which will assist the Board of Supervisors in~~
11 ~~determining whether race or gender conscious remedies are appropriate and necessary for contracts~~
12 ~~not subject to or ethnic groups not afforded the race and gender conscious bid preferences of this~~
13 ~~ordinance. The Commission shall periodically report the results of this study to this Board;~~

14 ~~—2. Levy sanctions as specified in Section 12D.8(B)(7);~~

15 ~~—3. When necessary, subpoena persons and records, books and documents for a proceeding~~
16 ~~of the Commission or an investigation by the Director conducted to further the purposes of this~~
17 ~~ordinance;~~

18 ~~—4. Amend existing rules and regulations establishing standards and procedures for~~
19 ~~effectively carrying out this ordinance. The rules and regulations shall provide for administrative~~
20 ~~procedures which will allow a business to prove and the Commission to recommend to this Board that~~
21 ~~the ordinance's remedial measures should not be applied to an industry or profession because~~
22 ~~MBE/WBE participation in City prime contracts has reached parity with their numbers in the relevant~~
23 ~~business community and MBE/WBEs no longer suffer from a discrimination-induced competitive~~
24 ~~disadvantage in the applicable industry or profession. The regulations shall also provide a mechanism~~
25 ~~for contractors to seek a determination by the Director that a MBE or WBE may not be granted a race-~~

1 ~~or gender-conscious bid preference where it is demonstrated that the MBE or WBE's bid price is not~~
2 ~~attributable to the effects of past discrimination.~~

3 ~~—(B) In addition to the duties and powers given to the Director elsewhere, the Director shall~~
4 ~~have the following duties and powers:~~

5 ~~—1. Through appropriately promulgated procedures, certify businesses as bona fide~~
6 ~~MBEs/WBEs/LBEs. These procedures shall provide that any business seeking certification as a local~~
7 ~~business shall meet the definition of a LBE and possess or establish all of the following: (1) business~~
8 ~~cards for the San Francisco office; (2) business stationery for the San Francisco office; (3) written~~
9 ~~agreement for occupancy of the San Francisco office; (4) that the business is listed in an appropriate~~
10 ~~business buyers guide such as a telephone yellow pages listing San Francisco based businesses; (5)~~
11 ~~that business is transacted in the San Francisco office; (6) a conspicuously displayed business sign at~~
12 ~~the San Francisco business premises except where the business operates out of a residence; and (7) the~~
13 ~~office is appropriately equipped for the type of business for which certification as a LBE is sought.~~

14 ~~—Except where the Director cannot certify a business because the business has not been~~
15 ~~established in San Francisco for the requisite six months, whenever the Director denies an application~~
16 ~~for or revokes the certification of a business as a MBE, WBE, LBE because the business is not a bona~~
17 ~~fide MBE, WBE, LBE, the Director shall inform the aggrieved business in writing when the business~~
18 ~~will be eligible to reapply for certification. The Director shall require a business to wait at least six~~
19 ~~months but not more than two years after the denial or revocation before reapplying to the Director for~~
20 ~~certification as a MBE, WBE or LBE. Except as provided in Section 12D.14(C), the Director's denial~~
21 ~~or revocation of certification of a business as a MBE, WBE, LBE shall not be appealable to the~~
22 ~~Commission;~~

23 ~~—2. Annually, and more often if he deems necessary, analyze the most recently available~~
24 ~~data on "percent availability" of MBEs and WBEs in the various industries and professions identified in~~
25 ~~the utilization indices set forth in Appendix X to this ordinance and the Human Relations Commission's~~

1 ~~1992 Sunset Report. Applying statistically sound methods of analysis, the Director shall identify areas~~
2 ~~of contracting where the City or its departments are failing to meet the participation goals to such an~~
3 ~~extent that an inference of discrimination can be made. In addition, the Director shall identify areas of~~
4 ~~contracting where the City is meeting and/or exceeding participation goals to such an extent that the~~
5 ~~MBE or WBE bid preferences can no longer be justified. The results of this study shall be included in~~
6 ~~the Commission's annual report required by Section 12D.15(C).~~

7 ~~—— Not later than March 1st of each fiscal year, the Director shall transmit to the Board of~~
8 ~~Supervisors proposed amendments to this ordinance and the utilization indices necessitated by the data~~
9 ~~he has collected and analyzed;~~

10 ~~—— 3. By July 1st of each fiscal year subject to this ordinance, inform the Controller of the~~
11 ~~data each department is required to provide the Controller on each contract award. This data shall~~
12 ~~form the basis of the Commission's report to the Mayor and the Board of Supervisors and the public on~~
13 ~~the participation of MBEs and WBEs on City prime contracts subject to the ordinance;~~

14 ~~—— 4. Provide information and other assistance to MBEs and WBEs to increase their ability to~~
15 ~~compete effectively for the award of City contracts;~~

16 ~~—— 5. Assist the City to increase participation by MBEs and WBEs in City contracts;~~

17 ~~—— 6. Continue to develop and strengthen education and training programs for MBEs and~~
18 ~~WBEs and City contract awarding personnel;~~

19 ~~—— 7. Where after determining that a department, despite its good faith efforts and application~~
20 ~~of the bid preference(s), has failed substantially to eliminate the exclusion of MBEs and/or WBEs from~~
21 ~~City contracting, the Director, after consulting with the department responsible for the project(s), may~~
22 ~~request the Contract Review Committee established in Section 12D.8.(A)(3) to review and approve the~~
23 ~~proposed project(s) for a set aside;~~

24 ~~—— 8. Work with the Controller and representatives of City departments to implement a City-~~
25 ~~wide prompt payment policy requiring that MBEs, WBEs and LBEs be paid by the City within 60 days~~

1 ~~of the date on which the City receives an invoice from an MBE, WBE or LBE for work performed for~~
2 ~~the City.~~

3 ~~—(C) The requirements of this ordinance are separate from those imposed by the United States~~
4 ~~or the State of California as a condition of financial assistance or otherwise; however, the Director~~
5 ~~may authorize the substitution of such State or federal Minority Business Enterprise and Women~~
6 ~~Business Enterprise requirements for the requirements of this ordinance whenever such State or federal~~
7 ~~requirements are substantially the same as those of this ordinance.~~

8 ~~—(D) The Director, with the approval of the Commission, may enter into cooperative~~
9 ~~agreements with agencies, public and private, concerned with increasing the utilization of MBEs and~~
10 ~~WBEs in government contracting, subject to the approval of the Board of Supervisors of the City and~~
11 ~~County of San Francisco.~~

12
13 **~~SEC. 12D.7. POWERS AND DUTIES OF THE CONTROLLER.~~**

14 ~~—(A) In addition to the duties given to the Controller elsewhere, the Controller shall work~~
15 ~~cooperatively with the Director to assemble and maintain the data the Director advises are necessary~~
16 ~~to form the basis of the Commission's report to the Mayor, Board of Supervisors and the public on the~~
17 ~~participation of MBEs and WBEs in City prime contracts.~~

18 ~~—(B) The Controller shall not certify the award of any contract subject to this ordinance until~~
19 ~~the department requesting certification of the award of the contract has provided the Controller with~~
20 ~~the information the Director advises is necessary under this ordinance.~~

21 ~~—(C) It is the City's policy that MBEs, WBEs and LBEs should be paid by the City within 30~~
22 ~~days of the date on which the City receives an invoice from an MBE, WBE or LBE for work performed~~
23 ~~for the City. The Controller shall work with the Director and representatives of City departments to~~
24 ~~implement this City-wide prompt-payment policy.~~

1 **~~SEC. 12D.8. POWERS AND DUTIES OF THE MAYOR, DEPARTMENTS OR CONTRACT~~**
2 **~~AWARDING AUTHORITIES.~~**

3 ~~—(A) In addition to the duties given to the Mayor elsewhere, the Mayor shall:~~

4 ~~—1. By July 1st of each fiscal year subject to this ordinance, issue notices to all City~~
5 ~~departments informing them of their duties under this ordinance. The notice shall contain the following~~
6 ~~information: (1) the City-wide MBE/WBE participation goals that departments are expected to use~~
7 ~~good faith efforts to attain during the fiscal year and that a department's failure to use good faith~~
8 ~~efforts to attain the MBE/WBE participation goals shall be reported to the Board of Supervisors in the~~
9 ~~Commission's annual report; and (2) the data each department is required to provide the Controller on~~
10 ~~each contract award;~~

11 ~~—2. Coordinate and enforce cooperation and compliance by all departments with this~~
12 ~~ordinance;~~

13 ~~—3. Establish a three-member Contract Review Committee who shall have the authority to~~
14 ~~review contracts proposed by the Director or a department to be set aside, where competition for these~~
15 ~~contracts is limited to MBEs, WBEs and/or joint ventures with MBE/WBEs. The three-member Contract~~
16 ~~Review Committee shall be composed of the HRC Director, an individual appointed by the Board of~~
17 ~~Supervisors and an individual appointed by the Mayor. The Board and the Mayor shall appoint~~
18 ~~individuals who are knowledgeable about contracting practices of the City and of the industry or~~
19 ~~profession affected by the set aside of the contract;~~

20 ~~—4. Establish a three-member Subcontracting Goals Committee which shall have the~~
21 ~~authority to review decisions by the Director denying a contractor's request, pursuant to Section~~
22 ~~12D.9(D) (4) or 12D.11(A) (6), to waive or reduce subcontractor participation goals. The three-~~
23 ~~member Subcontracting Goals Committee shall be composed of an individual appointed by the~~
24 ~~Commission, an individual appointed by the Board of Supervisors and an individual appointed by the~~
25 ~~Mayor. The Commission, the Board of Supervisors and the Mayor shall appoint individuals who are~~

1 ~~knowledgeable about the City's contracting and subcontracting practices and the relevant construction~~
2 ~~or professional service industry. The Commission, the Board of Supervisors, or the Mayor may not~~
3 ~~appoint to the Subcontracting Goals Committee the Director or any employee of the Human Rights~~
4 ~~Commission.~~

5 ~~—(B) Contract awarding authorities or in the case of a professional services contract, the~~
6 ~~department making the contract award recommendation, shall:~~

7 ~~—1. Use good faith efforts to solicit and obtain quotes, bids or proposals from MBEs and~~
8 ~~WBEs on all solicitations, or document their unavailability;~~

9 ~~—2. Unless otherwise indicated in this ordinance and except where prohibited by State or~~
10 ~~Federal law or regulation, extend a preference in all bids and contracts and in the composition of~~
11 ~~rating scales as follows: (1) a five percent preference to (i) a local business or (ii) a joint venture with~~
12 ~~local MBE or local WBE participation which equals or exceeds 35 percent but is under 40 percent; or~~
13 ~~(iii) where a joint venture is composed of only local businesses with no local MBE or WBE~~
14 ~~participation or where the local MBE or local WBE participation is less than 35 percent; (2) a seven~~
15 ~~and one-half percent (7.5%) preference to (i) a joint venture with local MBE or WBE participation~~
16 ~~which equals or exceeds 40 percent but is less than 51 percent; (3) a 10 percent preference to (i) a~~
17 ~~local MBE or local WBE or (ii) a joint venture with local MBE or local WBE participation which~~
18 ~~equals or exceeds 51 percent.~~

19 ~~—A joint venture shall receive the aforementioned appropriate bid preference when the~~
20 ~~MBE or WBE is an active partner in the joint venture and performs work, manages the job and takes~~
21 ~~financial risks in proportion to the required level of participation stated in the bid documents and is~~
22 ~~responsible for a clearly defined portion of the work to be performed, and shares in the ownership,~~
23 ~~control, management responsibilities, risks, and profits of the joint venture. The portion of the MBE or~~
24 ~~WBE joint venturer's work shall be set forth in detail separately from the work to be performed by the~~

1 ~~nonMBE or nonWBE joint venture partner. The MBE or WBE joint venturer's portion of the contract~~
2 ~~must be assigned a commercially reasonable dollar value;~~

3 ~~—3. Arrange contracting by size and type of work to be performed so as most effectively to~~
4 ~~enhance the opportunity for participation by MBEs and WBEs to the maximum extent feasible. As soon~~
5 ~~as practical before soliciting quotes, bids or proposals, all contract awarding authorities or in the case~~
6 ~~of a professional services contract, the department making the contract award recommendation, shall~~
7 ~~submit all large proposals to the Director for review. The purpose of the Director's review is to~~
8 ~~determine whether the proposed project can be divided into smaller projects so as to enhance the~~
9 ~~opportunity for participation by MBEs and WBEs in the project. For purposes of this subsection, the~~
10 ~~term "large project" shall mean the following: (1) any public works/construction project estimated to~~
11 ~~cost more than \$5,000,000; (2) any professional services contract estimated to cost more than \$50,000.~~
12 ~~If the Director determines, after consulting with the contract awarding authority or department~~
13 ~~responsible for the project, that the project can be divided into smaller projects, the contract awarding~~
14 ~~authority or department shall comply with the Director's determination and issue the solicitation for~~
15 ~~quotes, bids or proposals in accordance with the Director's determination;~~

16 ~~—4. Adjust bid bonding and insurance requirements as recommended by the City Risk~~
17 ~~Manager in his May 2, 1989 "Contract Insurance Manual";~~

18 ~~—5. Utilize a revolving fund as may be established by the City to assist MBEs and WBEs to~~
19 ~~meet bonding, insurance and other fee-related requirements;~~

20 ~~—6. Submit to a central office all current bids, requests for proposals, and solicitations with~~
21 ~~sufficient lead time to provide adequate notice and opportunity to MBEs and WBEs to participate;~~

22 ~~—7. Impose such sanctions or take such other actions as are designed to ensure compliance~~
23 ~~with the provisions of this ordinance, which shall include, but are not limited to:~~

24 ~~——(a) Refusal to grant the award of a contract;~~

25 ~~——(b) Order the suspension of a contract;~~

1 ~~——(c) Order the withholding of funds;~~

2 ~~——(d) Order the revision of a contract based upon a material breach of contract provisions~~
3 ~~pertaining to MBE or WBE participation;~~

4 ~~——(e) Disqualification of a bidder, contractor, subcontractor, or other business from~~
5 ~~eligibility for providing goods or services to the City for a period not to exceed five years, with a right~~
6 ~~to review and reconsideration by the Commission after two years upon a showing of corrective action~~
7 ~~indicating violations are not likely to recur;~~

8 ~~——8. Not award any contract to a person or business which is disqualified from doing~~
9 ~~business with the City under the provisions of this ordinance, nor shall any contract be awarded to any~~
10 ~~person or business which is disqualified from doing business with any governmental agency based on~~
11 ~~failure to comply with Minority or Women Business Enterprise or contract compliance requirements~~
12 ~~which are substantially the same as those of this ordinance;~~

13 ~~——9. Designate a staff person to be responsible for responding to the Director and~~
14 ~~Commission and to the requirements of this ordinance;~~

15 ~~——10. Maintain accurate records for each contract awarded, its dollar value, the nature of~~
16 ~~the goods or services to be provided, the name of the contractor awarded the contract, the efforts made~~
17 ~~by a construction, architect/engineer contractor to solicit bids from and award subcontracts to MBEs~~
18 ~~and WBEs;~~

19 ~~——11. Where feasible, provide technical assistance to MBEs and WBEs to increase their~~
20 ~~ability to compete effectively for the award of City contracts;~~

21 ~~——12. Work with the Director and the Controller to implement a City-wide prompt payment~~
22 ~~policy requiring that MBEs, WBEs and LBEs be paid by the City within 30 days of the date on which~~
23 ~~the City receives an invoice from an MBE, WBE or LBE for work performed for the City;~~

1 ~~—13.— Provide the Director with written notice of all contract modifications which result in an~~
2 ~~increase or decrease of the contract's dollar amount of more than 10 percent. Such notice shall be~~
3 ~~provided within 30 days of each such contract modification.~~

4 ~~—(C)— Subject to the prior approval of the Director, contract awarding authorities or~~
5 ~~departments may invite, encourage or request businesses to joint venture on any contract to promote~~
6 ~~MBE or WBE participation.~~

7 ~~—(D)— For the purpose of determining Minority and Women Business Enterprise participation:~~
8 ~~— Contracts awarded to joint ventures in which one or more MBEs or WBEs are combined~~
9 ~~with one or more businesses which are not Minority or Women Business Enterprises shall be deemed to~~
10 ~~be awarded to Minority or Women Business Enterprises only to the extent of the Minority or Women~~
11 ~~Business Enterprises' participation in the joint venture.~~

12 ~~—(E)— All contracts subject to this ordinance shall include the following requirements, in~~
13 ~~addition to such other requirements as may be set forth elsewhere:~~

14 ~~—1.— Bidders and contractors on all contracts shall be required to sign before a notary an~~
15 ~~affidavit prepared by the City Attorney, declaring under penalty of perjury their intention fully to~~
16 ~~comply with the provisions of the ordinance;~~

17 ~~—2.— Contracts shall incorporate this ordinance by reference and shall provide that the wilful~~
18 ~~failure of any bidder or contractor to comply with any of its requirements shall be deemed a material~~
19 ~~breach of contract;~~

20 ~~—3.— Contracts shall provide that in the event that the Director finds that any bidder,~~
21 ~~subcontractor or contractor wilfully fails to comply with any of the provisions of this ordinance, rules~~
22 ~~and regulations implementing the ordinance or contract provisions pertaining to MBE or WBE~~
23 ~~participation the bidder, subcontractor or contractor shall be liable for liquidated damages for each~~
24 ~~contract in an amount equal to the bidder's or contractor's net profit on the contract, or 10 percent of~~
25 ~~the total amount of the contract or \$1,000, whichever is greatest, said amount to be determined by the~~

1 ~~Director pursuant to Section 12D.14(C). All contracts shall also contain a provision in which the~~
2 ~~bidder, subcontractor or contractor acknowledges and agrees that the liquidated damages assessed~~
3 ~~shall be payable to the City upon demand and may be set off against any monies due to the bidder,~~
4 ~~subcontractor or contractor from any contract with the City;~~

5 ~~—4.— Contracts shall require bidders, contractors and subcontractors to maintain records~~
6 ~~necessary for monitoring their compliance with this ordinance;~~

7 ~~—5.— Contracts shall require that during the term of the contract, the prime contractor shall~~
8 ~~fulfill the MBE and WBE participation commitments submitted with their bid;~~

9 ~~—6.— Contracts shall require prime contractors to include a contract provision in any~~
10 ~~subcontract with an MBE or WBE which provides MBE and WBE subcontractors with a remedy for a~~
11 ~~prime contractor's noncompliance with his or her commitment to utilize MBE and WBE subcontractors.~~
12 ~~This contractual provision shall include an agreement by the prime contractor to compensate any MBE~~
13 ~~or WBE subcontractor if the prime contractor does not fulfill its commitment to utilize the MBE or~~
14 ~~WBE subcontractor. This contractual provision shall also state that it is enforceable in a court of~~
15 ~~competent jurisdiction;~~

16 ~~—7.— Whenever contract supplements, amendments or change orders are made which~~
17 ~~cumulatively increase the total dollar value of a construction contract by more than 10 percent, the~~
18 ~~contractor shall comply with those MBE and WBE provisions of this ordinance which applied to the~~
19 ~~original contract with respect to the supplement, amendment, or change order;~~

20 ~~—8.— Contracts in which subcontracting is utilized shall prohibit back contracting to the~~
21 ~~prime contractor or lower tier subcontracting for any purpose inconsistent with the provisions of this~~
22 ~~ordinance, rules and regulations adopted pursuant to this ordinance, or contract provisions pertaining~~
23 ~~to MBE and WBE utilization.~~

24 ~~—9.— Contracts in which subcontracting is utilized shall require the prime~~
25 ~~contractor/consultant to pay its MBE or WBE subcontractor/subconsultants within three working days~~

1 ~~after receiving payment from the City unless the prime contractor/consultant notifies the Director in~~
2 ~~writing within 10 working days prior to payment that there is a bona fide dispute between the prime~~
3 ~~contractor/consultant and the MBE or WBE subcontractor/subconsultant. The Director may, upon~~
4 ~~making a determination that a bona fide dispute exists between the prime contractor/consultant and~~
5 ~~subcontractor, waive this contract requirement. In making the determination as to whether or not a~~
6 ~~bona fide dispute exists, the Director will not consider the merits of the dispute.~~

7 ~~—(F)—All contracts or other agreements between the City and County of San Francisco and~~
8 ~~persons or entities, public or private, where such persons or entities receive money from or through the~~
9 ~~City for the purpose of contracting with businesses to perform public improvements, shall require such~~
10 ~~persons or entities to comply with the provisions of this ordinance in awarding and administering such~~
11 ~~contracts, except where prohibited by State or Federal law or regulation.~~

12 ~~—(G)—Where a department can demonstrate, despite its good faith efforts and application of~~
13 ~~the bid preference(s), that it has failed substantially to eliminate the exclusion of MBEs or WBEs from~~
14 ~~City contracting, the department, after consulting with the Director, may request the Contract Review~~
15 ~~Committee established in Section 12D.8(A)(3) to review and approve the proposed project(s) selected~~
16 ~~by the department for a set aside.~~

17 ~~—(H)—City department heads and commissioners shall attend a one-hour mandatory training~~
18 ~~session on an annual basis. The training session shall be organized and conducted by the Director and~~
19 ~~shall inform City department heads and commissioners of the requirements of this ordinance.~~

20
21 **~~SEC. 12D.9. ADDITIONAL FINDINGS SUPPORTING RACE- AND GENDER-~~**
22 **~~CONSCIOUS BID PREFERENCES AND SUBCONTRACTOR PARTICIPATION~~**
23 **~~GOALSWORKS/CONSTRUCTION; SUBCONTRACTING PROGRAM.~~**

24 ~~—(A)—In addition to the general findings set forth in Sections 12D.2, 12D.2-1, 12D.2-2, 12D.2-~~
25 ~~3, 12D.2-4, 12D.2-5 and 12D.2-6 and based upon the record before this Board, the Board hereby~~

1 ~~makes these additional findings in support of the race and gender conscious bid preference provisions~~
2 ~~and subcontractor participation goals for public works/construction contracts:~~

3 ~~—1. In Ordinance No. 139-84 this Board identified discriminatory procurement practices~~
4 ~~against MBEs and WBEs in the award of prime public works/construction contracts.~~

5 ~~—2. The evidence before this Board relating to the award of prime public works/construction~~
6 ~~contracts for fiscal year 1987-1988 reflects that MBEs (each ethnic group identified as a minority) and~~
7 ~~WBEs continue to be awarded contract dollars in amounts that are disproportionately lower than the~~
8 ~~available number of MBE and WBE prime public works/construction contractors willing and able to~~
9 ~~perform City construction work. The evidence before this Board relating to the participation of~~
10 ~~MBE/WBE prime and subcontractors on City construction contracts for fiscal year 1989-1990 reflects~~
11 ~~that MBEs (each ethnic group identified as a minority) and WBEs continue to be awarded contract~~
12 ~~dollars in amounts that are disproportionately lower than the available number of MBE and WBE~~
13 ~~prime and subcontractors willing and able to perform construction work. The statistical results are the~~
14 ~~same for MBEs for fiscal year 1990-91. These results cannot be attributed to chance. In light of the~~
15 ~~testimony before this Board and the Commission in 1983, 1984, 1988, 1989 and 1992, and the~~
16 ~~Redevelopment Agency in 1991, this Board finds that these results can be attributed in part to~~
17 ~~discriminatory procurement practices and in part to discrimination in the local construction industry~~
18 ~~against MBEs and WBEs that is manifested in and perpetuated and exacerbated by the City's~~
19 ~~procurement practices.~~

20 ~~—3. The evidence before this Board supports the conclusion that MBEs and WBEs continue~~
21 ~~to be disadvantaged by discriminatory practices when competing for City prime construction contracts.~~
22 ~~The weight of the testimony and other evidence before this Board supports the conclusion that~~
23 ~~nonminority construction contractors competing for or doing business with the City and/or in the~~
24 ~~public sector limit the participation of MBE and WBE subcontractors on construction contracts by~~
25 ~~engaging in discriminatory business practices.~~

1 ~~—4. Race neutral measures employed by the City in the past for those construction contracts~~
2 ~~subject to the "lowest, reliable, responsible bidder" standard did not prevent the discriminatory~~
3 ~~practices from occurring. Since February 1989 the City has pursued race neutral measures to facilitate~~
4 ~~MBE/WBE subcontractor participation in construction contracts. From about February 1st to June 30,~~
5 ~~1989 the City adopted a race neutral disadvantaged business program for its construction contracts.~~
6 ~~Since July 1, 1989 the City has urged prime construction contractors to voluntarily extend~~
7 ~~subcontracting opportunities to MBE/WBE subcontractors on City construction contracts. These race-~~
8 ~~and gender neutral measures employed by the City have not been successful in increasing MBE/WBE~~
9 ~~subcontractor participation in City construction contracts.~~

10 ~~—5. The Board is granting a competitive advantage, the bid preference, to prime MBEs and~~
11 ~~WBEs to offset the identified competitive disadvantage caused by the City's discriminatory procurement~~
12 ~~practices.~~

13 ~~—6. The evidence before this Board relating to the award of prime public works/construction~~
14 ~~contracts for fiscal year 1990-1991 reflects that WBEs have improved their participation in City~~
15 ~~construction contracts. However, based on the testimony and other evidence before this Board, the~~
16 ~~Board concludes that remedial action continues to be necessary for WBEs competing for construction~~
17 ~~contracts to overcome past discrimination in the award of construction prime and sub-contracts. The~~
18 ~~Director shall closely monitor the participation of WBEs in construction contracts and report the~~
19 ~~results of such monitoring to the Board pursuant to Section 12D.6(B)2.~~

20 ~~—(B) For all public works/construction contracts, the contract awarding authority shall~~
21 ~~furnish the Director with an informational copy of all bid conditions and requests for proposals, along~~
22 ~~with a statement identifying all funds provided by any other governmental agency which will be used in~~
23 ~~payment of the contract.~~

24 ~~—(C) Architect and engineer services provided to the City in connection with a public~~
25 ~~works/construction contract are governed by Section 12D.11.~~

1 ~~—(D) MBE/WBE Subcontracting Program. For all public works/construction contracts in~~
2 ~~which the contract awarding authority reasonably anticipates will include subcontractor participation,~~
3 ~~the contract awarding authority, prior to the solicitation of bids, shall provide the Director with a~~
4 ~~proposed job scope, and may submit written recommendations to the Director regarding MBE and~~
5 ~~WBE subcontractor participation goals to be set for the contract. The Director shall set the~~
6 ~~participation goals pursuant to Section 12D.9.(D)-(1).~~

7 ~~—(D)-(1) Upon receipt of a proposed job scope and/or a written recommendation from a~~
8 ~~contracting awarding authority pursuant to Section 12D.9.(D), the Director shall set the MBE and~~
9 ~~WBE participation goals for each construction contract based upon the following factors:~~

10 ~~—1. The extent of subcontracting opportunities presented by the contract;~~
11 ~~—2. The availability of MBE/WBE subcontractors capable of providing goods and services~~
12 ~~on the construction contract.~~

13 ~~—The Director shall set the MBE and WBE participation goals within 10 working days of the~~
14 ~~date the Director receives from a contract awarding authority a proposed job scope and/or written~~
15 ~~recommendation. If the Director fails to act within 10 days, and if the contract awarding authority~~
16 ~~submitted to the Director recommended goals pursuant to Section 12D.9.(D), the recommended goals~~
17 ~~shall be deemed approved by the Director, provided that the recommended goals are based upon the~~
18 ~~factors identified in Subsections (D)-(1) 1 and 2 above.~~

19 ~~—(D)-(2) Bid conditions shall require bidders on prime construction contracts to do the~~
20 ~~following:~~

21 ~~—1. Demonstrate in their bid that they have used good faith efforts to utilize MBE and WBE~~
22 ~~subcontractors;~~

23 ~~—2. Identify the particular MBEs and WBEs subcontractors to be utilized in performing the~~
24 ~~contract, specifying for each the dollar value of the participation, the type of work to be performed and~~
25 ~~such information as may reasonably be required to determine the responsiveness of the bid.~~

1 ~~—Except as provided in Section 12D.9.(D) (5), bids not meeting the requirements of Section~~
2 ~~12D.9.(D) (2) shall be declared non-responsive.~~

3 ~~—(D) (3) A contract awarding authority may request that the Director waive or reduce the~~
4 ~~MBE and WBE subcontractor participation goals on construction contracts by submitting the reasons~~
5 ~~therefor in writing to the Director prior to the solicitation of bids.~~

6 ~~—(D) (4) A bidder or contractor may request that the Director waive or reduce the amount of~~
7 ~~MBE or WBE subcontractor participation goals on a construction contract by submitting the reasons~~
8 ~~therefor in writing to the contract awarding authority with its bid.~~

9 ~~—(D) (5) The Director may grant the request for waiver or reduction made pursuant to~~
10 ~~Sections 12D.9(D) (3) and (D) (4) upon a determination that:~~

11 ~~—1. The reasonable and necessary requirements of the construction contract render~~
12 ~~subcontracting or the participation of businesses other than bidder unfeasible;~~

13 ~~—2. Qualified MBEs and/or WBEs capable of providing the goods or services required by~~
14 ~~the contract are unavailable, despite the prime contractor's or the department's good faith efforts to~~
15 ~~locate MBEs and WBEs to meet the participation goals; or~~

16 ~~—3. The available MBEs and WBEs have given price quotes which are unreasonably high in~~
17 ~~that they exceed competitive levels beyond amounts which can be attributed to cover costs inflated by~~
18 ~~the present effects of discrimination.~~

19 ~~—(D) (6) Whenever the Director denies a contractor's request to waive or reduce the~~
20 ~~participation goals, the contractor may appeal that denial to the Subcontracting Goals Committee~~
21 ~~established pursuant to Section 12D.8(A)4. The Subcontracting Goals Committee's decision on the~~
22 ~~request shall be final. In reviewing the Director's denial of a contractor's request to waive or reduce~~
23 ~~participation goals, the Subcontracting Goals Committee shall consider the extent of subcontracting~~
24 ~~opportunities presented by the contract and the availability of MBE/WBE subcontractors capable of~~
25 ~~providing goods and services on the construction contract.~~

1 ~~—The Subcontracting Goals Committee may overrule the Director and grant the request for~~
2 ~~waiver or reduction only upon finding that:~~

3 ~~—1. The reasonable and necessary requirements of the construction contract render~~
4 ~~subcontracting or the participation of businesses other than bidder unfeasible;~~

5 ~~—2. Qualified MBEs and/or WBEs capable of providing the goods or services required by~~
6 ~~the contract are unavailable, despite the prime contractor's or the department's good faith efforts to~~
7 ~~locate MBEs and WBEs to meet the participation goals; or~~

8 ~~—3. The available MBEs and WBEs have given price quotes which are unreasonably high in~~
9 ~~that they exceed competitive levels beyond amounts which can be attributed to cover costs inflated by~~
10 ~~the present effects of discrimination.~~

11 ~~—(D)-(7) Prior to entering into any prime construction contract, the contract awarding~~
12 ~~authority shall require bidders on the contracts to contact all MBEs and WBEs before the MBE/WBEs~~
13 ~~are listed as subcontractors in the bid.~~

14 ~~—(D)-(8) During the term of the contract, any failure to comply with the level of MBE and~~
15 ~~WBE subcontractor participation specified in the contract shall be deemed a material breach of~~
16 ~~contract.~~

17
18 ~~**SEC. 12D.10. ADDITIONAL FINDINGS SUPPORTING RACE AND GENDER-**~~
19 ~~**CONSCIOUS BID PREFERENCES CONTRACTS.**~~

20 ~~—(A) In addition to the general findings set forth in Sections 12D.2, 12D.2-1, 12D.2-2, 12D.2-~~
21 ~~3, 12D.2-4, 12D.2-5 and 12D.2-6 and based upon the record before this Board, the Board hereby~~
22 ~~makes these additional findings in support of the race and gender conscious bid preferences for~~
23 ~~purchasing contracts:~~

24 ~~—1. In Ordinance No. 139-84 this Board identified discriminatory procurement practices in~~
25 ~~the award of purchasing contracts.~~

1 ~~—2. The evidence before this Board relating to the award of contracts for fiscal year 1987-~~
2 ~~1988 reflects that MBEs (each ethnic group listed as a minority) and WBEs continue to be awarded~~
3 ~~contract dollars in certain categories of purchasing contracts in dollar amounts that are~~
4 ~~disproportionately lower than the available number of MBEs and WBEs in the private sector. These~~
5 ~~results cannot be attributed to chance. In light of the testimony before this Board and the Commission~~
6 ~~in 1983, 1984, 1988 and 1989, this Board finds that these results can only be attributed to~~
7 ~~discriminatory procurement practices.~~

8 ~~—3. The evidence before this Board supports the conclusion that MBEs and WBEs continue~~
9 ~~to be disadvantaged by discriminatory practices when competing for the aforementioned purchasing~~
10 ~~contracts.~~

11 ~~—4. Race neutral measures employed by the City in the past for those purchasing contracts~~
12 ~~subject to the "lowest, reliable, responsible bidder" standard did not prevent the discriminatory~~
13 ~~practices from occurring.~~

14 ~~—5. The Board is granting a competitive advantage, the bid preference, to MBEs and WBEs~~
15 ~~to offset the identified competitive disadvantage caused by the City's discriminatory procurement~~
16 ~~practices.~~

17 ~~—6. The evidence before this Board relating to the award of purchasing contracts for fiscal~~
18 ~~years 1989-1990 and 1990-1991 reflects that certain minority groups have improved their participation~~
19 ~~in City purchasing contracts. However, based on the testimony and other evidence before this Board,~~
20 ~~the Board concludes that remedial action continues to be necessary to enable these groups to overcome~~
21 ~~past discrimination in the award of purchasing contracts. The Director shall closely monitor the~~
22 ~~participation of these groups in purchasing contracts and report the results of such monitoring to the~~
23 ~~Board pursuant to Section 12D.6(B)(2).~~

1 ~~—(B) Equipment and supplies contracts or general services contracts as defined herein~~
2 ~~awarded by the purchaser shall be subject to the race and gender conscious bid preferences of this~~
3 ~~ordinance.~~

4 ~~—(C) In addition to the duties given the purchaser elsewhere, the purchaser shall maintain,~~
5 ~~with the assistance of the Director, a current list of Minority and Woman Business Enterprises certified~~
6 ~~by the Commission to provide each of those commodities or services subject to this ordinance which the~~
7 ~~purchaser indicates are required by the City. The purchaser shall notify the Director prior to~~
8 ~~solicitation of bids or quotations whenever no such certified businesses are available for a contract~~
9 ~~subject to the race and gender conscious bid preferences of this ordinance, unless the Director waives~~
10 ~~such notification based on the known unavailability of such qualified businesses to perform a particular~~
11 ~~contract. The Director shall attempt to identify qualified businesses, and if successful, shall notify the~~
12 ~~purchaser of their availability; the purchaser shall provide such MBEs and WBEs every practical~~
13 ~~opportunity to submit bids or quotations.~~

14 ~~—(D) The purchaser shall also maintain a central office where all bids, requests for proposals~~
15 ~~and solicitations will be listed and kept current.~~

16
17 ~~**SEC. 12D.11. ADDITIONAL FINDINGS SUPPORTING THE RACE AND GENDER-**~~
18 ~~**CONSCIOUS BID PREFERENCES AND PROFESSIONAL SERVICES.**~~

19 ~~—(A) In addition to the general findings set forth in Sections 12D.2, 12D.2-1, 12D.2-2, 12D.2-~~
20 ~~3, 12D.2-4, 12D.2-5 and 12D.2-6 and based upon the record before this Board, the Board hereby~~
21 ~~makes additional findings in support of the race and gender conscious bid preferences for the~~
22 ~~following specifically enumerated professional services contracts:~~

23 ~~—Legal, architect and engineer, computer systems, management consulting, medical services.~~

24 ~~—1. In Ordinance No. 139-84 this Board identified discriminatory procurement practices~~
25 ~~against MBEs and WBEs in the award of prime professional services contracts.~~

1 —2. ~~The evidence before this Board relating to the award of prime legal services contracts~~
2 ~~for fiscal year 1987-1988 reflects that Black law firms continue to be awarded contract dollars in~~
3 ~~amounts that are disproportionately lower than the available numbers of Black law firms willing and~~
4 ~~able to perform legal services for the City. These results cannot be attributed to chance. This Board~~
5 ~~finds that these results can only be attributed to discriminatory procurement practices.~~

6 —~~The statistical evidence before this Board reflects that there are few Asian, Black, Latino~~
7 ~~and woman owned law firms certified by the Director to provide legal services to the City. An April~~
8 ~~1988 San Francisco Bar Association study concludes that there is significant disparity between equally~~
9 ~~qualified white and minority lawyers in terms of income, current employment positions, hiring,~~
10 ~~promotion and retention in San Francisco. The study also concludes that a high percentage of white~~
11 ~~and minority lawyers believe that racial discrimination plays a role in the employment practices of San~~
12 ~~Francisco legal employers. The report of the Judicial Council Advisory Committee on Gender Bias in~~
13 ~~the Courts on Civil Litigation and Courtroom Demeanor concludes, among other points, that~~
14 ~~opportunities for advancement and promotion in the legal profession appear less available to women~~
15 ~~than to men. In view of these studies, the Board finds that minority lawyers are excluded from~~
16 ~~employment opportunities due to discriminatory employment practices in San Francisco and that~~
17 ~~women lawyers are excluded from employment opportunities due to discriminatory practices in~~
18 ~~California. These employment practices prevent minority and women lawyers from gaining the~~
19 ~~necessary experience that would enable minority and women lawyers to compete for City legal services~~
20 ~~contracts. The City in its award of legal services contracts will become a passive participant in those~~
21 ~~practices.~~

22 —~~The City is granting Asian, Black, Latino and woman owned law firms a bid preference~~
23 ~~pursuant to Section 12D.8.(B)2 to encourage majority law firms to joint venture with these minority~~
24 ~~and woman owned law firms when competing for the award of City contracts for legal services.~~
25 ~~Department shall also grant a seven and one half percent (7.5%) bid/rating preference to any majority~~

1 ~~owned law firm based in San Francisco that enters into an affirmative action program with the~~
2 ~~Director and agrees to take affirmative action to perform the following: (1) increase the recruitment,~~
3 ~~hiring, retention and advancement to partnership of minority lawyers within the firm; (2) have minority~~
4 ~~lawyers within the firm capable of providing the required services included among those who represent~~
5 ~~the City; (3) maintain and expand existing joint ventures or other formal associations with minority~~
6 ~~owned law firms, and retain and otherwise enter into joint ventures or other formal associations with~~
7 ~~minority owned law firms with which the firm does not currently have such a relationship, on legal~~
8 ~~matters of the law firm clientele calling for such a relationship; (4) request all law firms which serve as~~
9 ~~associate counsel, co-counsel or local counsel to the firm to adopt in principle these goals; (5) refer~~
10 ~~conflict of interest situations to minority owned law firms; and (6) take such additional steps as are~~
11 ~~practicable to foster and enhance relations between the majority firm and minority owned law firms,~~
12 ~~including but not limited to providing educational and training opportunities in furtherance of the~~
13 ~~objectives of this Ordinance as it relates to the legal profession. The affirmative action program~~
14 ~~developed pursuant to this subsection shall be effective for a period of 12 months after the date of~~
15 ~~agreement in writing by the law firm and the Director or the term of the legal services contract,~~
16 ~~whichever term is greater.~~

17 ~~— 3. The evidence before this Board relating to the award of prime architect and engineering~~
18 ~~contracts for fiscal year 1987-1988 reflects that Black and woman owned architectural/engineering~~
19 ~~firms continue to be awarded contract dollars in amounts that are disproportionately lower than the~~
20 ~~available numbers of Black and woman owned architectural/engineering firms willing and able to~~
21 ~~perform these services for the City. The evidence before this Board relating to the award of prime~~
22 ~~architect and engineering contracts for fiscal year 1989-1990 reflects that Asian owned~~
23 ~~architectural/engineering firms have been awarded contract dollars in amounts that are~~
24 ~~disproportionately lower than the available numbers of Asian owned architectural/engineering firms~~
25 ~~willing and able to perform these services for the City. Given that Asian owned~~

1 ~~architectural/engineering firms enjoy a relatively large share of this market, these statistically~~
2 ~~significant results cannot be attributed to chance. This Board finds that these results can only be~~
3 ~~attributed to discriminatory procurement practices.~~

4 ~~—The evidence before this Board relating to the award of prime architect and engineering~~
5 ~~contracts for fiscal year 1989-90 reflects that Latino-owned architectural/engineering firms have not~~
6 ~~been awarded any contract dollars notwithstanding the available numbers of Latino-owned~~
7 ~~architectural/engineering firms willing and able to perform these services for the City. Based on the~~
8 ~~statistical and other evidence before this Board, the Board concludes that the lack of participation by~~
9 ~~Latino-owned architectural and engineering firms on prime architectural/engineering contracts cannot~~
10 ~~be attributed to chance. This Board finds that these results can only be attributed to discriminatory~~
11 ~~procurement practices.~~

12 ~~—4.—The evidence before this Board relating to the award of prime computer systems services~~
13 ~~contracts for fiscal year 1987-1988 reflects that Asian, Black and woman-owned computer systems~~
14 ~~firms continue to be awarded contract dollars in amounts that are disproportionately lower than the~~
15 ~~available numbers of Asian, Black and woman-owned computer systems firms willing and able to~~
16 ~~perform these services for the City. These results cannot be attributed to chance. This Board finds that~~
17 ~~these results can only be attributed to discriminatory procurement practices.~~

18 ~~—5.—The evidence before this Board relating to the award of prime management consulting~~
19 ~~services contracts for fiscal year 1987-1988 reflects that Asian, Black and woman-owned management~~
20 ~~consulting firms continue to be awarded contract dollars in amounts that are disproportionately lower~~
21 ~~than the available numbers of Asian, Black and woman-owned management consulting firms willing~~
22 ~~and able to perform these services for the City. These results cannot be attributed to chance. This~~
23 ~~Board finds that these results can only be attributed to discriminatory procurement practices.~~

24 ~~—6.—The evidence before this Board relating to the award of prime medical services~~
25 ~~contracts for fiscal year 1987-1988 reflects that Asian, Latino and woman-owned medical services~~

1 ~~firms continue to be awarded contract dollars in amounts that are disproportionately lower than the~~
2 ~~available numbers of Asian, Latino and woman owned medical services firms willing and able to~~
3 ~~perform these services for the City. The evidence before this Board relating to the award of prime~~
4 ~~medical services contracts for fiscal year 1989-90 reflects that Black owned medical services firms are~~
5 ~~awarded contract dollars in amounts that are disproportionately lower than the available numbers of~~
6 ~~Black owned medical services firms willing and able to perform these services for the City. These~~
7 ~~results cannot be attributed to chance. This Board finds that these results can only be attributed to~~
8 ~~discriminatory procurement practices.~~

9 ~~—7. The evidence before this Board relating to the award of prime miscellaneous~~
10 ~~professional services contracts for fiscal year 1989-1990 reflects that Asian, Latino, Black and woman~~
11 ~~owned firms which provide miscellaneous professional services are awarded contract dollars in~~
12 ~~amounts that are disproportionately lower than the available numbers of Asian, Latino, Black and~~
13 ~~woman owned firms willing and able to perform these services for the City. These results cannot be~~
14 ~~attributed to chance. This Board finds that these results can only be attributed to discriminatory~~
15 ~~procurement practices.~~

16 ~~—8. The evidence before this Board supports the conclusion that aforementioned MBEs and~~
17 ~~WBEs are disadvantaged by discriminatory practices when competing for City prime professional~~
18 ~~services contracts.~~

19 ~~—9. The Board is granting a competitive advantage, the bid preference, to the MBEs and~~
20 ~~WBEs identified as having been subject to the identified competitive disadvantage caused by the City's~~
21 ~~discriminatory procurement practices in the award of the aforementioned professional services~~
22 ~~contracts.~~

23 ~~—10. The evidence before this Board relating to the award of professional services contracts~~
24 ~~for fiscal year 1990-1991 reflects that certain minority groups have improved their participation in~~
25 ~~certain City professional services contracts. However, based on the testimony and other evidence~~

1 ~~before this Board, the Board concludes that remedial action continues to be necessary to enable these~~
2 ~~groups to overcome past discrimination in the award of professional services contracts. The Director~~
3 ~~shall closely monitor the participation of these groups in professional services contracts and report the~~
4 ~~results of such monitoring to the Board pursuant to Section 12D.6(B)2.~~

5 ~~—(A) (1) In addition to the general findings set forth in Section 12D.2 and the findings set~~
6 ~~forth in 12D.2-2, 12D.2-3, 12D.2-4, 12D.2-5 and 12D.2-6 and 12D.11(A)3, and based upon the record~~
7 ~~before this Board, the Board hereby makes these additional findings in support of establishing~~
8 ~~subcontractor participation goals for architectural/engineering contracts:~~

9 ~~—a. The evidence before this Board relating to the award of architectural and engineering~~
10 ~~prime contracts and subcontracts for fiscal years 1989-1991 shows that Black, Asian, Latino and~~
11 ~~woman owned architectural and engineering firms continue to be awarded contract dollars in amounts~~
12 ~~that are disproportionately lower than the available numbers of Black, Asian, Latino and woman~~
13 ~~owned architectural and engineering firms willing and able to perform these services for the City.~~
14 ~~These statistically significant disparities exist despite the fact that Black, Asian, Latino and woman~~
15 ~~owned firms are entitled to a bid preference on prime architectural and engineering contracts. In light~~
16 ~~of the testimony before this Board and the Commission in 1983, 1984, 1988, 1989, 1991 and 1992, the~~
17 ~~San Francisco Redevelopment Agency in 1991, and the San Francisco Unified School District in 1991~~
18 ~~and 1992, this Board finds that these results can be attributed in part to discriminatory contracting~~
19 ~~practices and in part to discrimination in the local architectural and engineering industries against~~
20 ~~MBE and WBE architects and engineers. This discrimination is manifested in, and perpetuated and~~
21 ~~exacerbated by, the City's contracting practices.~~

22 ~~—b. The evidence before this Board supports the conclusion that MBEs and WBEs continue~~
23 ~~to be disadvantaged by discriminatory practices when competing for City architectural and~~
24 ~~engineering contracts, and when competing to provide subcontractor services on City architectural and~~
25 ~~engineering contracts. The weight of the testimony and other evidence before this Board supports the~~

1 ~~conclusion that nonminority architects and engineers competing for or doing business with the City~~
2 ~~and/or in the private sector limit the participation of MBE and WBE subcontractors on architectural~~
3 ~~and engineering contracts by engaging in discriminatory business practices.~~

4 ~~—c. Race-neutral measures employed by the City in the past did not prevent the~~
5 ~~discriminatory practices from occurring. Since February 1989 the City has pursued race-neutral~~
6 ~~measures to facilitate MBE/WBE subcontractor participation in architectural and engineering~~
7 ~~contracts. From about February 1st to June 30, 1989 the City adopted a race-neutral disadvantaged~~
8 ~~business program for its architectural and engineering contracts. Since July 1, 1989 the City has urged~~
9 ~~prime architects and engineers to voluntarily extend subcontracting opportunities to MBE/WBE~~
10 ~~subcontractors on City architectural and engineering contracts. These race- and gender-neutral~~
11 ~~measures employed by the City have not been successful in increasing MBE/WBE participation in City~~
12 ~~architectural and engineering contracts.~~

13 ~~—(A)-(2) MBE/WBE Subcontracting Program. For all architectural and engineering contracts~~
14 ~~which the contract awarding authority reasonably anticipates will include subcontractor participation~~
15 ~~involving architectural/engineering and related services, the contract awarding authority, prior to~~
16 ~~requesting proposals, shall provide the Director with a proposed job scope, and may submit written~~
17 ~~recommendations to the Director regarding MBE and WBE subcontractor participation goals to be set~~
18 ~~for the contract. The Director shall set the participation goals pursuant to Section 12D.11(A)-(3).~~

19 ~~—(A)-(3) Upon receipt of a proposed job scope and/or a written recommendation from a~~
20 ~~contract awarding authority pursuant to Section 12D.11(A)-(2), the Director, shall set the MBE and~~
21 ~~WBE participation goals for each architectural and engineering contract based on the following~~
22 ~~factors:~~

23 ~~—1. The extent of subcontracting opportunities presented by the contract for~~
24 ~~architectural/engineering and related services;~~

1 ~~—2. The availability of MBE/WBE subcontractors capable of providing such services on the~~
2 ~~contract.~~

3 ~~—The Director shall set the MBE and WBE participation goals within 10 working days of the~~
4 ~~date the Director receives from a contract awarding authority a proposed job scope and/or written~~
5 ~~recommendation. If the Director fails to act within 10 days, and if the contract awarding authority~~
6 ~~submitted to the Director recommended goals pursuant to 12D.11(A) (2), the recommended goals shall~~
7 ~~be deemed approved by the Director, provided that the recommended goals are based upon the factors~~
8 ~~identified in this subsection.~~

9 ~~—(A) (4) Requests for proposals shall require bidders on architectural and engineering~~
10 ~~contracts to do the following:~~

11 ~~—1. Demonstrate in their proposal that they have used good faith efforts to utilize MBE and~~
12 ~~WBE subcontractors;~~

13 ~~—2. Identify the particular MBE and WBE subcontractors (which may include lower tier~~
14 ~~MBE and WBE subcontractors) to be utilized in performing the contract, specifying for each the dollar~~
15 ~~value of participation, the type of work to be performed and such information as may reasonably be~~
16 ~~required to determine the responsiveness of the proposal.~~

17 ~~—Except as provided in Section 12D.11(A) (7), proposals not meeting the requirements of~~
18 ~~Section 12D.11(A) (4) shall be declared nonresponsive.~~

19 ~~—(A) (5) A contract awarding authority may request that the Director waive or reduce the~~
20 ~~MBE and WBE subcontractor participation goals on architectural and engineering contracts by~~
21 ~~submitting the reasons therefor in writing to the Director prior to requesting proposals.~~

22 ~~—(A) (6) A bidder may request that the Director waive or reduce the MBE and WBE~~
23 ~~subcontractor participation goals on an architectural or engineering contract by submitting the~~
24 ~~reasons therefor in writing to the contract awarding authority with its bid.~~

1 ~~—(A) (7) The Director may grant the request for waiver or reduction made pursuant to~~
2 ~~Sections 12D.11(A) (5) and (A) (6) upon a determination that:~~

3 ~~—1. The reasonable and necessary requirements of the architectural or engineering contract~~
4 ~~render subcontracting or the participation of businesses other than the bidder unfeasible;~~

5 ~~—2. Qualified MBEs and/or WBEs capable of providing the services required by the contract~~
6 ~~are unavailable, despite the bidder's or the department's good faith efforts to locate MBEs and WBEs~~
7 ~~to meet the participation goals; or~~

8 ~~—3. The available MBEs and WBEs have given price quotes which are unreasonably high in~~
9 ~~that they exceed competitive levels beyond amounts which can be attributed to cover costs inflated by~~
10 ~~the present effects of discrimination.~~

11 ~~—(A) (8) Whenever the Director denies a bidder's request to waive or reduce the participation~~
12 ~~goals, the bidder may appeal that denial to the Subcontracting Goals Committee established pursuant~~
13 ~~to Section 12D.8(A)4. The Subcontracting Goals Committee's decision on the request shall be final. In~~
14 ~~reviewing the Director's denial of a bidder's request to waive or reduce participation goals, the~~
15 ~~Subcontracting Goals Committee shall consider the extent of subcontracting opportunities presented by~~
16 ~~the contract and the availability of MBE/WBE subcontractors capable of providing services on the~~
17 ~~contract.~~

18 ~~—The Subcontracting Goals Committee may overrule the Director and grant the request for~~
19 ~~waiver or reduction only upon finding that:~~

20 ~~—1. The reasonable and necessary requirements of the contract render subcontracting or the~~
21 ~~participation of businesses other than bidder unfeasible;~~

22 ~~—2. Qualified MBEs and/or WBEs capable of providing the services required by the contract~~
23 ~~are unavailable, despite the bidder's or the department's good faith efforts to locate MBEs and WBEs~~
24 ~~to meet the participation goals; or~~

1 ~~—3. The available MBEs and WBEs have given price quotes which are unreasonably high in~~
2 ~~that they exceed competitive levels beyond amounts which can be attributed to cover costs inflated by~~
3 ~~the present effects of discrimination.~~

4 ~~—(A) (9) The contract awarding authority shall require bidders on architectural and~~
5 ~~engineering contracts to contact all MBEs and WBEs listed as subcontractors in proposals before~~
6 ~~listing such MBEs and WBEs.~~

7 ~~—(A) (10) During the term of the contract, any failure to comply with the level of MBE and~~
8 ~~WBE subcontractor participation specified in the contract shall be deemed a material breach of~~
9 ~~contract.~~

10 ~~—(A) (11) In implementing this subcontracting program, the Director may encourage contract~~
11 ~~awarding authorities and prime contractors to take into consideration when recruiting subcontractors~~
12 ~~the degree of underutilization of MBEs and WBEs within the specific industries or subindustries called~~
13 ~~for by the contract.~~

14 ~~—(B) For all professional services contracts as defined herein, the contract awarding~~
15 ~~authority or the department making the contract award recommendation shall furnish the Director with~~
16 ~~an informational copy of all bid conditions and requests for proposals, if any, along with a statement~~
17 ~~identifying all funds provided by any other governmental agency which will be used in payment of the~~
18 ~~contract. Prior to solicitation of bids or proposals, the Director may make recommendations to the~~
19 ~~contract awarding authority with respect to provisions pertaining to MBE and WBE participation.~~

20 ~~—(C) Professional services contracts, the estimated cost of which exceeds \$10,000, shall be~~
21 ~~awarded and administered in accordance with the following standards and procedures:~~

22 ~~—1. The contract awarding authority or the department making the contract award~~
23 ~~recommendation shall use good faith efforts to solicit bids or proposals from MBEs and WBEs certified~~
24 ~~to provide the specified services. MBEs and WBEs shall be provided every practical opportunity to~~
25 ~~submit bids or proposals;~~

1 ~~—2. City departments shall include amongst consultant selection panelists individuals who~~
2 ~~are women and minorities;~~

3 ~~—3. All consultant selection panels and awarding officers shall apply the bid/rating~~
4 ~~preferences to each stage of the selection process, e.g., qualifications, proposals and interviews. Each~~
5 ~~evaluator shall score each consultant on a point system based on a predetermined evaluation criteria~~
6 ~~and predetermined point value. The selection criteria shall be based solely on objective factors that are~~
7 ~~related to the ability of the contractor to perform the proposed project. The bid/rating preference shall~~
8 ~~be applied to the score attained by the MBE, WBE, and/or LBE as set forth in this ordinance. If the~~
9 ~~highest score is attained by a MBE or WBE, the department shall enter into good faith negotiations~~
10 ~~with that consultant. Subject to the prior approval of the Director and upon a showing that those~~
11 ~~negotiations were undertaken in good faith with the aforementioned MBE or WBE consultant, a~~
12 ~~department may award the contract to another competing consultant.~~

13 ~~—4. The Director is empowered to take actions as are designed to ensure compliance with~~
14 ~~the provisions of this Section, which shall include, but are not limited to:~~

15 ~~——(a) Order the suspension of the selection process;~~

16 ~~——(b) Intervene in the selection process to correct contracting practices which hinder equal~~
17 ~~business opportunities for MBEs and WBEs.~~

18
19 **~~SEC. 12D.12. GOOD-FAITH EFFORTS REQUIRED FOR OTHER CONTRACTS.~~**

20 ~~—(A) All City and County departments, commissions, boards, officers and employees, in the~~
21 ~~deposit of City funds and performance of their other official duties, and in the award of leases,~~
22 ~~franchises, concessions, and contracts not subject to the race and gender conscious bid preferences of~~
23 ~~this ordinance shall make every good faith effort to use the services of Minority Business Enterprises~~
24 ~~and Women Business Enterprises. Such services shall include, but are not limited to, the financial~~
25 ~~services of banks, savings and loan companies and other commercial financial institutions,~~

1 ~~arrangement of travel and accommodations when traveling on official City business and such other~~
2 ~~services needed by City departments. Commissions and boards shall submit to the Director on an~~
3 ~~annual basis a written report on the efforts made pursuant to this Subsection.~~

4 ~~—(B) The City Treasurer, the Controller, the Health Service System and the Retirement Board~~
5 ~~shall report annually to the Director, with copies to the Mayor and the Board of Supervisors, their~~
6 ~~utilization of MBEs and WBEs.~~

7 **~~SEC. 12D.13. EXCEPTIONS AND WAIVERS.~~**

8 ~~—(A) The Director shall waive the race and gender-conscious bid preferences and good faith~~
9 ~~efforts requirements of this ordinance under the following circumstances:~~

10 ~~—1. Whenever the Director finds, with the advice of the contract awarding authority, that~~
11 ~~needed goods or services are available only from a sole source and the prospective contractor is not~~
12 ~~currently disqualified from doing business with the City, or from doing business with any governmental~~
13 ~~agency based on a failure to comply with Minority or Women Business Enterprise or contract~~
14 ~~compliance requirements;~~

15 ~~—2. If the contract awarding authority certifies in writing to the Director that: (1) pursuant~~
16 ~~to Administrative Code Section 6.30 the contract is necessary to respond to an emergency which~~
17 ~~endangers the public health or safety and (2) there is no time to apply the bid preference(s) and no~~
18 ~~MBEs or WBEs capable of performing the emergency work are immediately available; provided that~~
19 ~~such certification shall be made prior to the Controller's contract certification.~~

20 ~~—(B) The Director shall waive the five percent LBE bid preference for contracts in excess of~~
21 ~~\$5,000,000 whenever a contract awarding authority establishes that: (1) sufficient qualified Local~~
22 ~~Business Enterprises capable of providing the needed goods and services required by the contract are~~
23 ~~unavailable and (2) sufficient qualified businesses located outside of San Francisco capable of~~
24 ~~providing the needed goods and services required by the contract are available; or (3) the application~~
25

1 ~~of the five percent LBE preference will result in significant additional costs to the City if the waiver of~~
2 ~~the bid preference is not granted.~~

3 ~~—(C) Pursuant to Administrative Code Section 6.29-2, the bid preference provisions of this~~
4 ~~ordinance are not applicable to any contract for the construction, reconstruction or repair of public~~
5 ~~buildings, streets, utilities or other public work or improvement estimated to cost in excess of~~
6 ~~\$10,000,000.~~

7 ~~—(D) Pursuant to Administrative Code Section 21.11-2, the bid preference provisions of this~~
8 ~~ordinance are not applicable to any contract for the purchase of materials, supplies or equipment~~
9 ~~estimated to cost in excess of \$10,000,000.~~

10
11 **~~SEC. 12D.14. MONITORING AND COMPLIANCE.~~**

12 ~~—(A) The Director shall monitor the City's progress toward achievement of the goals stated in~~
13 ~~Section 12D.3 (declaration of policy). The Director shall issue an exit report for any contract which~~
14 ~~includes MBE/WBE prime contractor participation as a joint venture partner. The purpose of the exit~~
15 ~~report is to ensure that MBE/WBEs are actually performing services on joint ventures.~~

16 ~~—(B) Noncompliance By Contractors. In cases where the Director has cause to believe that a~~
17 ~~contractor acting in good faith has failed to comply with any of the requirements of this ordinance,~~
18 ~~rules and regulations adopted pursuant to this ordinance, or contract provisions pertaining to MBE or~~
19 ~~WBE participation, the Director shall notify the contract awarding authority and shall attempt to~~
20 ~~resolve the noncompliance through conciliation. If the noncompliance cannot be resolved, the Director~~
21 ~~shall submit to the Commission and the contractor a written Finding of Noncompliance. The Human~~
22 ~~Rights Commission shall give the contractor an opportunity to appeal the Finding, and if the~~
23 ~~Commission concurs with the finding of the Director, it shall take such action as will effectuate the~~
24 ~~purposes of this ordinance.~~

1 ~~—(C) Wilful or Bad Faith Noncompliance by Contractors. In cases where the Director has~~
2 ~~cause to believe that any bidder or contractor has wilfully failed to comply with any of the provisions of~~
3 ~~this ordinance, rules and regulations adopted pursuant to this ordinance, or contract provisions~~
4 ~~pertaining to MBE or WBE participation, the Director shall be empowered to conduct an investigation~~
5 ~~and after affording the contractor notice and an opportunity to be heard, may impose sanctions for~~
6 ~~each violation of this subsection. Such sanctions shall include but are not limited to:~~

7 ~~—(a) Declare the bidder or contractor non-responsive and ineligible to receive the award of~~
8 ~~the contract;~~

9 ~~—(b) Declare the bidder or contractor an irresponsible bidder and disqualify the bidder or~~
10 ~~contractor from eligibility for providing goods or services to the City and County for a period of five~~
11 ~~years, with a right of review and reconsideration by the Commission after two years upon a showing of~~
12 ~~corrective action indicating violations are not likely to reoccur;~~

13 ~~—(c) If the bidder or contractor is a MBE, WBE and/or LBE, revoke that business'~~
14 ~~certification as a MBE, WBE and/or LBE;~~

15 ~~—(d) Determine that the bidder or contractor has wilfully failed to comply with the~~
16 ~~provisions of this ordinance and pursuant to the provision in the contract contemplated by Section~~
17 ~~12D.8(E)3 of the ordinance, calculate the liquidated damages for which the bidder or contractor shall~~
18 ~~be liable.~~

19 ~~—Thereafter the Director shall send a written notice to the Controller, the Mayor and to all~~
20 ~~contract awarding authorities or City department officials overseeing any contract with the bidder or~~
21 ~~contractor that a determination of a bad-faith compliance has been made and that all payments due the~~
22 ~~bidder or contractor shall be withheld as agreed to by the bidder or contractor and the City pursuant to~~
23 ~~Section 12D.8(E)3.~~

24 ~~—In addition, the Director shall transmit to the Bureau of Delinquent Revenues a report of the~~
25 ~~determination of liability and ask the Bureau of Delinquent Revenues to coordinate efforts with the~~

1 ~~Controller and other applicable City departments to ensure that the liquidated damages are paid to the~~
2 ~~City.~~

3 ~~—The bidder or contractor may appeal the Director's decision to the Human Rights~~
4 ~~Commission, which may sustain, reverse or modify the Director's findings and sanctions imposed or~~
5 ~~take such other action as will effectuate the purposes of this ordinance.~~

6 ~~—An appeal by a contractor under this subsection shall not stay the Director's findings.~~

7 ~~—(D) The Director may require such reports, information and documentation from~~
8 ~~contractors, bidders, contract awarding authorities and the head of any department, division, or office~~
9 ~~of the City as are reasonably necessary to determine compliance with the requirements of this~~
10 ~~ordinance.~~

11 ~~—(E) Noncompliance by City Departments. Whenever the Director finds after investigation~~
12 ~~that a contract awarding authority has wilfully failed to comply with the provisions of this ordinance, a~~
13 ~~written Finding of Noncompliance specifying the nature of the noncompliance shall be transmitted to~~
14 ~~the contract awarding authority, the Commission, the Mayor and Board of Supervisors; and~~

15 ~~—The Director shall attempt to resolve any noncompliance through conference and~~
16 ~~conciliation. Should such attempt fail to resolve the noncompliance, the Director shall transmit a copy~~
17 ~~of the Finding of Noncompliance along with a finding that conciliation was attempted and failed to the~~
18 ~~Commission which shall notify the contract awarding agency to take appropriate action to secure~~
19 ~~compliance.~~

20 ~~—The Finding of Noncompliance shall be communicated to the Mayor and the Board of~~
21 ~~Supervisors.~~

22 ~~—(F) If the Director has reason to believe that any person has knowingly made, filed, or~~
23 ~~caused to be filed with the City any materially false or misleading statement or report made in~~
24 ~~connection with this ordinance, the Director shall report that information to the City Attorney or the~~
25 ~~District Attorney for appropriate action. The Director shall be empowered to conduct an investigation~~

1 ~~and for each violation of this subsection, 12D.14(F), to impose sanctions as set forth in Section~~
2 ~~12D.14(C).~~

3
4 ***SEC. 12D.15. REPORTING AND REVIEW; EXTENSION.***

5 ~~—(A) Reporting by Departments. By December 31st of each fiscal year all contract awarding~~
6 ~~authorities and departments shall report annually to the Mayor on their progress in the preceding~~
7 ~~fiscal year toward achievement of the MBE and WBE participation goals.~~

8 ~~—(B) Reporting by the Director.~~

9 ~~—1. The Director shall report quarterly to the Commission and the Board of Supervisors~~
10 ~~whether the goals stated in Section 12D.3 have been met in whole or in part.~~

11 ~~—2. The Director shall report to the Commission all waivers acted upon pursuant to Section~~
12 ~~12D.13. Such report shall be made at the first Commission meeting following the granting of the~~
13 ~~waiver.~~

14 ~~—(C) Reporting by the Commission. By March 1st of each fiscal year subject to this ordinance,~~
15 ~~the Commission shall submit an annual report to the Mayor and the Board of Supervisors on the~~
16 ~~progress of the City toward the goals stated in Section 12D.3 of this ordinance, together with an~~
17 ~~identification of problems and specific recommendations for: (1) discontinuing the race or gender-~~
18 ~~conscious bid preferences in those cases where the bid preferences have remedied the identified~~
19 ~~discrimination against MBEs and WBEs; and (2) improving the City's performance in remedying the~~
20 ~~identified discrimination against MBEs and WBEs.~~

21 ~~—(D) The Board of Supervisors shall act upon the Commission's recommendations by the third~~
22 ~~Board meeting of May in each fiscal year subject to this ordinance.~~

23 ~~—(E) Review by the Commission. This ordinance shall expire June 30, 1997 unless the~~
24 ~~Commission, after conducting public hearings, finds that the purposes identified in Section 12D.3 have~~
25 ~~not yet been achieved, in which case it shall certify said finding to the Board of Supervisors no later~~

1 ~~than 120 days prior to the expiration date. Thereafter the Board of Supervisors may extend the~~
2 ~~ordinance for additional three-year periods.~~

3 ~~—(F) Review by the Contract Review Committee. The Contract Review Committee established~~
4 ~~pursuant to Section 12D.8(A)3 shall have the following powers and duties:~~

5 ~~—1. To review contracts referred to it by the Director or a department for determining~~
6 ~~whether the contract should be set aside, where competition for the contract is limited to MBEs, WBEs~~
7 ~~and/or joint ventures with MBE/WBEs;~~

8 ~~—2. Before approving a set aside of a contract, the Contract Review Committee shall first~~
9 ~~determine that: (1) the department seeking or affected by the set aside has complied with all of the~~
10 ~~requirements of Section 12D.8(B); and (2) there are at least three business enterprises which are~~
11 ~~certified or eligible for certification as a MBE or WBE which can compete for the contract set aside.~~

12 ~~—3. After making the findings required by Section 12D.15(F)2, the Contract Review~~
13 ~~Committee may approve that a contract be set aside. However, the Contract Review Committee shall~~
14 ~~first consider the feasibility of approving a set aside where competition is limited to joint ventures with~~
15 ~~MBE and/or WBE participation which equals or exceeds 35 percent. The Contract Review Committee~~
16 ~~shall issue its findings and approval in writing to the department affected by the set aside.~~

17 ~~—(G) Extension. Pursuant to Section 12D.15(E) of Ordinance 155-92, as amended by~~
18 ~~Ordinances 210-97, 457-97, 82-98 and 186-98 and based upon the Further Additional Findings~~
19 ~~Supporting Six Month Extension of MBE/WBE/LBE Ordinances set forth in Section 12D.2-2, the Further~~
20 ~~Additional Findings Supporting a Three Month Extension of MBE/WBE/LBE Ordinances as set forth in~~
21 ~~Section 12D.2-3, Further Additional Findings Supporting a Three Month Extension of MBE/WBE/LBE~~
22 ~~Ordinances as set forth in Section 12D.2-4, Further Additional Findings Supporting a Two Month~~
23 ~~Extension of MBE/WBE/LBE Ordinances as set forth in Section 12D.2-5, and Additional Findings~~
24 ~~Supporting a Two Month Extension of the MBE/WBE/LBE Ordinance as set forth in Section 12D.2-6,~~
25 ~~the Board hereby extends Ordinance 155-92, as amended, to October 31, 1998.~~

1
2 **~~SEC. 12D.16. CLERK OF BOARD TO TRANSMIT COPIES OF THIS CHAPTER;~~**
3 **~~INFORMING CITY EMPLOYEES.~~**

4 ~~—The Clerk of the Board of Supervisors shall send copies of this Chapter, as amended, to every~~
5 ~~department, agency, commission and contract awarding authority in the City and County of San~~
6 ~~Francisco. Each appointing officer of the City shall inform all employees under his or her jurisdiction~~
7 ~~of the provisions of this ordinance and of the duty of all of his or her employees to comply with the~~
8 ~~provisions of this ordinance. Each appointing officer shall also inform employees that if the employee~~
9 ~~fails to comply with the requirements of this ordinance the employee shall be subject to appropriate~~
10 ~~disciplinary action.~~

11 ~~—The Clerk of the Board of Supervisors shall also inform every department, agency,~~
12 ~~commission and contract awarding authority that whenever in accordance with the provisions of the~~
13 ~~Charter or of the Administrative Code a proposed ordinance, resolution, contract, lease, franchise,~~
14 ~~license, or other agreement or transaction is submitted to this Board for its adoption or approval, it~~
15 ~~shall be the policy of this Board to adopt legislation or approve those agreements or transactions~~
16 ~~where the department first has demonstrated in writing to this Board that the department has engaged~~
17 ~~in good faith efforts to include the participation of MBEs and WBEs in the department's procurement~~
18 ~~and contract award practices.~~

19
20 **~~SEC. 12D.17. IMPLEMENTING REGULATIONS.~~**

21 ~~—Not later than 30 days after the enactment of this ordinance, the Commission shall adopt~~
22 ~~amendments to the rules, regulations and procedures it adopted and publicly promulgated pursuant to~~
23 ~~Ordinance 175-89. The Commission shall afford the public and City departments the opportunity to~~
24 ~~provide input to and comment on the amendments to the regulations prior to their formal adoption.~~
25

1 **~~SEC. 12D.18. SEVERABILITY.~~**

2 ~~—The provisions of this ordinance are declared to be separate and severable. The invalidity of~~
3 ~~any clause, sentence, paragraph, subdivision, section or portion of this ordinance, or the invalidity of~~
4 ~~the application thereof to any person or circumstances shall not affect the validity of the remainder of~~
5 ~~this ordinance, or the validity of its application to other persons or circumstances.~~

6
7 **~~SEC. 12D.19. EFFECTIVE DATE.~~**

8 ~~—This ordinance shall take effect on July 1, 1992, and shall govern all contracts for which a bid~~
9 ~~has not been solicited by the effective date.~~

10
11 **~~PROVISIONS EFFECTIVE FOR CONTRACTS SOLICITED ON OR AFTER~~**
12 **~~NOVEMBER 1, 1998~~**

13 **~~SEC. 12D.A.1. SHORT TITLE.~~**

14 ~~This ordinance shall be entitled the "Minority/Women/Local Business Utilization Ordinance"~~
15 ~~and may be cited as the "MBE/WBE/LBE Ordinance V."~~

16
17 **~~SEC. 12D.A.2. GENERAL FINDINGS.~~**

18 ~~This Board initially passed Ordinance No. 139-84 on April 2, 1984 to combat the City and~~
19 ~~County of San Francisco's own active and passive participation in discrimination against minority and~~
20 ~~women-owned businesses, both in its own contracting for goods and services and in the private market~~
21 ~~for such goods and services. At the time of passage, women and minority-owned businesses were~~
22 ~~virtually excluded as contractors on prime City contracts. The ordinance also sought to offset economic~~
23 ~~disadvantages faced by local businesses that are not shared by nonlocal businesses, and to increase~~
24 ~~employment in the City and County of San Francisco by encouraging the participation of local business~~
25 ~~enterprises in City contracting.~~

1 —Since that time, this Board and the City's Human Rights Commission have actively and
2 extensively documented and studied discrimination against and disadvantages faced by these groups to
3 gauge the effectiveness of the prior Minority, Women and Local Business Enterprise Ordinances (the
4 "M/W/LBE Ordinances") and to assess the need for further and continuing action.

5 —The earlier studies are documented in the legislative history of the previous amendments and
6 re-enactments of the ordinance, including Ordinance Nos. 175-89, 155-92, 210-97, 457-97, 82-98, 296-
7 98, 210-99 and 283-99. The 1989 Ordinance was challenged in federal court and upheld by the Ninth
8 Circuit Court of Appeals. See *Associated General Contractors of California v. Coalition for Economic*
9 *Equity*, 950 F.2d 1401 (9th Cir. 1991).

10 —The findings underlying the 1984 and 1989 ordinances have been reviewed and analyzed in
11 the preparation of the current ordinance and are hereby incorporated by reference into the legislative
12 history of this ordinance. These materials, prepared up to and including May 1989, include disparity
13 studies, transcripts of live testimony by dozens of witnesses, case studies of discrimination, and
14 voluminous other materials. An index and a separate synopsis of this material are on file with the Clerk
15 of this Board in File No. 98-0612.

16 —Since 1989, the City has devoted substantial additional resources to the task of understanding
17 and documenting discrimination against women and minorities in awarding City contracts and in the
18 private market for such contracts. Given the prior findings of discrimination and the need for this
19 ordinance, this Board examined whether the identified discrimination had been eradicated.

20 —Between 1989 and 1998, together this Board and the Human Rights Commission held 14
21 hearings on the subject of women and minority-owned business enterprises, heard live testimony from
22 254 witnesses, reviewed videotaped oral histories by numerous witnesses, reviewed many volumes of
23 social science materials, three disparity studies undertaken by the City and County of San Francisco
24 and numerous other relevant statistical disparity studies undertaken by the City agencies and various
25 other groups and governments from around the Bay Area. The Board also reviewed case studies and

1 ~~other statistical information gathered by the Human Rights Commission. These materials are all~~
2 ~~incorporated by reference into the legislative history of this ordinance and are in file with the Clerk of~~
3 ~~this Board in File No. 98-0612.~~

4 ~~—In its hearings on the MBE/WBE/LBE ordinance between 1989 and 1998, this Board gave~~
5 ~~close consideration to the need for adding Native Americans and Arab Americans to the list of minority~~
6 ~~groups covered by the ordinance. As part of this process, the Board and the Human Rights Commission~~
7 ~~heard or reviewed testimony from 47 individuals concerning discrimination against Arab Americans~~
8 ~~and Native Americans. In addition, a Mason Tillman Associates study covering City contracting in the~~
9 ~~years 1992 through 1995 found statistically significant evidence of discrimination against Native~~
10 ~~Americans and Arab Americans in several categories of contracting. That study also closely reviewed~~
11 ~~testimonial evidence of discrimination against these groups.~~

12 ~~—In 1997 and 1998, this Board and the Human Rights Commission held eight public hearings~~
13 ~~at which testimony was given by 170 individuals concerning discrimination against Minority and~~
14 ~~Women Business Enterprises, the transcripts of which, the written submittals accompanying same, and~~
15 ~~other evidence that was before the Board are in file with the Clerk of this Board in Board File No. 98-~~
16 ~~0612.~~

17 ~~—On January 4, 1999 and June 30, 1999, the Human Rights Commission issued reports~~
18 ~~regarding discrimination in City contracting against Iranian Americans. Those reports recounted~~
19 ~~testimony from HRC hearings regarding discrimination against Iranian American contractors.~~

20 ~~—In addition, the Board considered and reviewed oral histories from many persons involved in~~
21 ~~the bidding and compliance process taken in the summer of 1998. Many of the oral histories have been~~
22 ~~preserved on video tape. These oral histories recount personal incidents of discrimination as well as~~
23 ~~compliance difficulties. The oral histories were taken in this manner because many of the individuals~~
24 ~~were fearful of retaliation and further discrimination if they testified at a public forum. In fact, this fear~~
25 ~~caused some of the oral histories to be given in a manner in which the identities of those testifying were~~

1 ~~not identified. An index and a separate synopsis of the oral histories are on file with the Clerk of this~~
2 ~~Board in File Nos. 98-0612, 99-0266 and 99-1326.~~

3 ~~—The findings and evidence underlying the 1998 ordinance and the subsequent amendments to~~
4 ~~that ordinance have been reviewed and analyzed in the preparation of the current ordinance and are~~
5 ~~hereby incorporated by reference into the legislative history of this ordinance.~~

6 ~~—In 2002 and 2003, this Board and the Human Rights Commission held additional public~~
7 ~~hearings to determine the extent to which the remedies provided by this Ordinance continue to be~~
8 ~~necessary. At these hearings, 134 individuals and organizations testified about the discrimination~~
9 ~~minorities and women continue to face in City contracting and in obtaining contracts in the Bay Area~~
10 ~~that are not subject to affirmative action programs. Additionally, in 2002 and 2003, the Human Rights~~
11 ~~Commission and this Board received written statements of individuals describing the discrimination~~
12 ~~minorities and women continue to experience in City contracting and in other contracting in the Bay~~
13 ~~Area. In December 2001, the Human Rights Commission issued a report entitled "Violence in Our City:~~
14 ~~Research and Recommendations to Empower Our Community" regarding increasing violence and~~
15 ~~discrimination against African Americans in San Francisco.~~

16 ~~—In September 2002, the Human Rights Com-mission issued a report entitled "Blacklash,~~
17 ~~Violence, Human Rights Violations & Discrimination in San Francisco in the Wake of September 11,~~
18 ~~2001." The report found that the bombing of the World Trade Center and Pentagon on September 11,~~
19 ~~2001 have led to a significant increase in San Francisco in discrimination and violence against those~~
20 ~~who are perceived to have Middle Eastern ancestry.~~

21 ~~—In April 2003, the Human Rights Commission conducted a disparity analysis of the utilization~~
22 ~~of minority-owned businesses and women-owned businesses in prime contracting and subcontracting.~~
23 ~~Even with the remedial programs set forth in this Ordinance in place, the study shows statistically~~
24 ~~significant underutilization of minorities and women in most City contracting programs.~~

1 ~~—But as the Tenth Circuit Court of Appeals recently recognized in upholding the City and~~
2 ~~County of Denver's remedial contracting program in Concrete Works of Colorado, Inc. v. City and~~
3 ~~County of Denver (10th Cir. 2003) 321 F.3d 950, a public entity cannot reliably ascertain whether a~~
4 ~~remedial race and gender conscious affirmative action contracting program that has been in place~~
5 ~~should be continued based on a disparity analysis of the utilization of minority and women owned~~
6 ~~businesses in the public entity's contracting programs. That the remedial program in place has given~~
7 ~~some minorities and women contracting opportunities in certain limited industries provides little~~
8 ~~evidence of whether minorities and women would be given those opportunities in the absence of the~~
9 ~~remedial program. Instead, the Tenth Circuit concluded that disparities in private markets in the region~~
10 ~~provide a strong indicator of the extent to which minorities and women would be used in public entity's~~
11 ~~contracting programs absent the remedial affirmative action program.~~

12 ~~—Accordingly, the Human Rights Commission retained the National Economic Research~~
13 ~~Associates (NERA)—the same firm whose studies about discrimination in the Denver metropolitan area~~
14 ~~the Tenth Circuit found to be so persuasive conduct studies to assess the level of discrimination against~~
15 ~~minority and women owned businesses in the Bay Area private sector. NERA examined business~~
16 ~~formation and earnings rates, and NERA found significant disparities in the formation and earnings~~
17 ~~rates of minorities and women as compared to majority men. These disparities are especially~~
18 ~~pronounced for African Americans and Latino Americans. NERA also examined the market for credit~~
19 ~~and capital and found strong evidence of discrimination against minorities, as well as evidence of~~
20 ~~recent discrimination against women. Consistent with the Tenth Circuit's ruling, NERA concluded that~~
21 ~~the evidence of discrimination it found in Bay Area private markets is a valid substitute for evidence of~~
22 ~~actual discrimination in City contracting programs.~~

23 ~~—In April 2003, the Human Rights Commission also retained Godbe Research to conduct a~~
24 ~~telephone survey of minority and women owned businesses certified with the HRC. Twenty-one~~
25 ~~percent of the 266 firms surveyed reported that since 1998 they have been declined Bay Area~~

1 ~~subcontracting work that was not subject to affirmative action requirements by prime contractors who~~
2 ~~typically do award them work on contracts that are subject to the remedial subcontracting~~
3 ~~requirements of this Ordinance. And each of those firms that experienced such discrimination reported~~
4 ~~that it had been rejected as a subcontractor by a prime contractor who gave it work on City contracts~~
5 ~~on average 13 times in the last five years.~~

6 ~~—Additionally, the Board has reviewed studies undertaken by various public entities in the Bay~~
7 ~~Area, and testimony, articles and studies prepared by academicians. All of these materials are~~
8 ~~incorporated by reference into the legislative history of this Ordinance. The collection and analysis of~~
9 ~~relevant information is ongoing.~~

10 ~~—As a result of these hearings and review of these materials and the materials archived by the~~
11 ~~Human Rights Commission and the relevant statistical and social science data, oral histories, articles~~
12 ~~and studies, the Board makes the following findings:~~

13 ~~—1. In April 2003, NERA conducted studies to assess the level of discrimination against~~
14 ~~minority and women owned businesses in the Bay Area private sector. NERA examined business~~
15 ~~formation rates, earnings rates, and disparities in the market for credit and capital.~~

16 ~~—NERA reported significant disparities in the formation rates of minority and women owned~~
17 ~~business as compared to businesses owned by Caucasian men. In particular, African Americans, Asian~~
18 ~~Americans, Latino Americans, and women have statistically significantly lower business formation~~
19 ~~rates in the Bay Area than do comparable Caucasian men in the construction, architectural and~~
20 ~~engineering, professional services, general services and goods and services industries. These~~
21 ~~disparities are especially large in the construction industry, where, for example, business formation~~
22 ~~rates for African Americans are approximately 12 percentage points lower than for comparable~~
23 ~~Caucasian men. Further, NERA found that the disparities for African Americans and Latino Americans~~
24 ~~are especially pronounced and have increased in the recent six years over the prior fourteen years.~~

1 —NERA further reported significant disparities in the earnings of self-employed minorities and
2 women compared to the earnings of self-employed Caucasian men. The disparity in earnings between
3 self-employed African Americans and self-employed Caucasians, for example, has increased
4 dramatically from 1991-2002 over the prior 13 years, and is much greater than the disparity between
5 African American wage and salary workers and Caucasian wage and salary workers over the same
6 time period.

7 —NERA also reported discrimination against minorities and women in the credit markets in all
8 industries, which NERA concluded partially explains the large disparities found in minority and
9 women-owned business formation rates. NERA reported that even when controlling for firm size, credit
10 history and other valid credit worthiness factors, the loan applications of minority-owned firms were
11 substantially more likely to be denied than the loan applications of Caucasian firms. For example, the
12 loan rejection rates for African American and Latino American firms are roughly twice that of
13 Caucasian firms. NERA also found that minority firms are more likely not to apply for loans because of
14 the low loan approval rate for such firms, and that when minority businesses did receive loans, they
15 had to pay higher interest rates, regardless of their credit worthiness or geography. NERA further
16 reported that credit market conditions are a far bigger concern for minority-owned firms than for
17 Caucasian-owned firms, and that a greater share of minority-owned firms than Caucasian-owned firms
18 believe that credit availability is the most important issue likely to confront the firm in the next 12
19 months. NERA also reported that discrimination in the market for credit has increased for minority
20 groups during the 1990s, and re-appeared for women in the late 1990s.

21 —Based on NERA's studies, the testimony and all of the other evidence before the Board, the
22 Board finds that minority and women-owned businesses continue to face systemic race and gender
23 discrimination in public and private markets in the Bay Area.

24 —2.—In April 2003, the City conducted a comprehensive disparity study to gauge
25 discrimination against women and minority-owned businesses in the City's contracting from 1998 to

1 ~~early 2003. Under a fair and equitable system of awarding contracts, the proportion of contract dollars~~
2 ~~awarded to minority and women-owned business enterprises would be equal to the proportion of~~
3 ~~willing and able minority and women-owned enterprises in the relevant market area. If, based on~~
4 ~~statistical testing, there is a very low probability of attributing to chance the existence of a disparity~~
5 ~~between these proportions, the Supreme Court has stated that an inference of discrimination can be~~
6 ~~made.~~

7 ~~—3. The Human Rights Commission's 2003 study thoroughly and conclusively documented~~
8 ~~the fact that with the City's remedial contracting programs in place and women-owned business~~
9 ~~enterprises continue to receive a smaller share of certain types of contracts for the purchases of goods~~
10 ~~and services by the City than would be expected based on the number of able and available women-~~
11 ~~and minority-owned businesses. This poor utilization cannot be attributed to chance. This Board finds,~~
12 ~~based on these statistical studies, testimony and on all the other evidence of persistent discrimination~~
13 ~~presented to the Board, that the disproportionately small share of City contracting and subcontracting~~
14 ~~that goes to women and minority-owned businesses in certain industries is due to discrimination by the~~
15 ~~City and discrimination in the private market.~~

16 ~~—4. The Human Rights Commission's April 2003 study also documents that in the last five~~
17 ~~years, in certain limited industries, some minority groups and women have received City contract~~
18 ~~dollars close to or above the level that would be expected based on their availability. Based on the~~
19 ~~studies and reports issued by NERA and Godbe Associates, the testimonial evidence, the history of~~
20 ~~discrimination against minority and women contractors in City contracting programs and the other~~
21 ~~materials before the Board, the Board finds that these favorable minority utilization rates are~~
22 ~~attributable to the fact that the City has remedial contracting programs in place, and that the~~
23 ~~discrimination the City previously identified in its prime contracting and subcontracting programs has~~
24 ~~not yet been eradicated. In particular, the Board finds that if the City were to discontinue, at this time,~~
25 ~~the race and gender-conscious bid discount program or the subcontracting program authorized by this~~

1 ~~Ordinance, minority and women utilization rates in City contracting would plummet. Under those~~
2 ~~circumstances, the Board finds that minority and women utilization rates would likely return to the~~
3 ~~same judicially recognized low levels to which they fell in 1989 after the City discontinued its prior~~
4 ~~race- or gender-conscious remedial contracting programs. In fact, many minorities and women report~~
5 ~~that they are frequently refused subcontracting opportunities on contracts that are not subject to a~~
6 ~~race- or gender-conscious affirmative action program by the same prime contractors that do hire them~~
7 ~~on contracts that are subject to a race- and gender-conscious affirmative action program. And, many~~
8 ~~minority- and women-owned businesses that have benefited from the City's remedial program and have~~
9 ~~since graduated from the program, report that prime contractors who gave them subcontracts on~~
10 ~~contracts subject to the City's subcontracting requirements before they graduated, refuse to give them~~
11 ~~subcontracts now that they are no longer certified under the M/WBE program.~~

12 ~~—5. The Human Rights Commission Study reviewed contracts entered into by the City and~~
13 ~~County of San Francisco in a variety of areas and categories from 1998 through early 2003 and~~
14 ~~determined the following:~~

15 ~~—A. For prime construction contracts, even with the race- and gender-conscious~~
16 ~~bid/ratings discount program in place, African Americans, Arab Americans, Asian Americans and~~
17 ~~women still received fewer construction prime contracting dollars than would be expected given their~~
18 ~~availability. The disparity was statistically significant for African Americans, Asian Americans and~~
19 ~~Arab Americans. Although African Americans represent 4.49 percent of the available construction~~
20 ~~firms, they received only 1.01 percent of the construction contract dollars. Although Arab Americans~~
21 ~~represent 0.14 percent of the available construction firms, they received no construction contract~~
22 ~~dollars at all. Although Asian Americans represent 13.74 percent of the available construction firms,~~
23 ~~they received only 4.98 percent of the construction contract dollars. Although women represent 8.84~~
24 ~~percent of the available construction firms, they received only 8.23 percent of the construction contract~~
25 ~~dollars. Although Caucasian men represent 67.74 percent of available construction firms, they received~~

1 ~~70.79 percent of the construction contract dollars. Although Latino American firms received more~~
2 ~~construction contracts than expected based on their availability, the Board finds, based on the studies,~~
3 ~~statistics, testimony and other evidence before it of discrimination against Latino Americans in City~~
4 ~~contracting and contracting in other Bay Area markets, that in the absence of the bid/ratings discount~~
5 ~~program that the City has had in place, Latino Americans would receive well below the level of prime~~
6 ~~City construction contracts that one would expect based on their availability.~~

7 ~~——B. For architecture and engineering prime contracts between 1998 and early 2003, even~~
8 ~~with the race- and gender-conscious bid/ratings discount program in place, African Americans, Arab~~
9 ~~Americans, Asian Americans, Iranian Americans, Latino Americans, and women received fewer~~
10 ~~contracts than would be expected given their availability. Notwithstanding the bid/ratings discount~~
11 ~~program, more than 87 percent of the contracts in this area went to Caucasian male-owned businesses,~~
12 ~~even though those firms represent less than 63 percent of the available architecture and engineering~~
13 ~~firms. The disparities against Arab Americans, Asian Americans, Iranian Americans, Latino~~
14 ~~Americans, and women, and the particularly pronounced disparity in favor of Caucasian men, were~~
15 ~~statistically significant.~~

16 ~~——C. For professional services prime contracts in the years 1998 through early 2003, even~~
17 ~~with the race-conscious bid/ratings discount program in place, Arab Americans, Iranian Americans~~
18 ~~and Latino Americans received fewer contracts than expected based on their availability, and the~~
19 ~~disparities were statistically significant for those groups. Arab Americans, who represent .11 percent of~~
20 ~~the available professional service firms, received only .08 percent of the professional services contract~~
21 ~~dollars. Iranian Americans, who represent .11 percent of the available professional services firms,~~
22 ~~received 0.00 percent of the professional services dollars. Latino Americans, who represent .79 percent~~
23 ~~of the professional services firms, received .22 percent of the professional service dollars. And,~~
24 ~~although African Americans, Asian Americans and women received more than the number of~~
25 ~~professional service contracts one would expect based on their availability, the Board finds, based on~~

1 ~~the studies, statistics, testimony and other evidence before it of discrimination against African~~
2 ~~Americans, Asian Americans and women in City contracting and contracting in other Bay Area~~
3 ~~markets, that in the absence of the bid/ratings discount program that the City has had in place, African~~
4 ~~Americans, Asian Americans and women would receive well below the level of prime City professional~~
5 ~~service contracts that one would expect based on their availability.~~

6 ~~——D. For purchases of goods and services prime contracts for 1998 through early 2003,~~
7 ~~even with the race- and gender-conscious bid/ratings discount in place, Asian Americans, Iranian~~
8 ~~Americans and women received fewer contract dollars than expected. Although Asian Americans~~
9 ~~represent 4.15 percent of the available goods and services firms, those firms received only 1.84 percent~~
10 ~~of the goods and services contract dollars. Similarly, although Iranian Americans represent .22 percent~~
11 ~~of the available goods and services firms, those firms received only .17 percent of the goods and~~
12 ~~services contract dollars. Although women represent 6.22 percent of the available goods and services~~
13 ~~firms, women received only 4.60 of the goods and services contract dollars. Although African~~
14 ~~Americans, Arab Americans and Latino Americans received slightly more than the number of good and~~
15 ~~services contracts one would expect based on their availability, the Board finds, based on the studies,~~
16 ~~statistics, testimony and other evidence before it of discrimination against African Americans, Arab~~
17 ~~Americans and Latino Americans in City contracting and contracting in other Bay Area markets, that~~
18 ~~in the absence of the bid/ratings discount program that the City has had in place, African American,~~
19 ~~Arab American and Latino American firms would receive well below the level of prime City goods and~~
20 ~~services contracts that one would expect based on their availability.~~

21 ~~——E. For general services prime contracts for 1998 through early 2003, even with the race-~~
22 ~~and gender-conscious bid/ratings discount in place, African Americans, Arab Americans, Asian~~
23 ~~Americans and Iranian Americans received fewer contract dollars than expected based on their~~
24 ~~availability. Although African Americans represent 1.28 percent of the available general services firms,~~
25 ~~those firms received only .64 percent of the general services contract dollars. Similarly, although Arab~~

1 ~~Americans represent .04 percent of the available general services firms, those firms received only .01~~
2 ~~percent of the general services contract dollars. Although Asian Americans represent 2.60 percent of~~
3 ~~the available general service firms, they received only 1.11 percent of the general services contract~~
4 ~~dollars. Although Iranian Americans represent .09 percent of the general services firms, they received~~
5 ~~0.00 percent of the general services contract dollars. The disparities against African Americans and~~
6 ~~Iranian Americans are statistically significant. Although Latino Americans and women received~~
7 ~~somewhat more than the number of general services contracts one would expect based on their~~
8 ~~availability, the Board finds, based on the studies, statistics, testimony and other evidence before it of~~
9 ~~discrimination against Latino Americans and women in City contracting and contracting in other Bay~~
10 ~~Area markets, that in the absence of the bid/ratings discount program that the City has had in place,~~
11 ~~Latino Americans and women would receive well below the level of prime City general services~~
12 ~~contracts that one would expect based on their availability.~~

13 ~~——F. For telecommunications prime contracts entered into between 1998 and early 2003,~~
14 ~~even with the race- and gender-conscious bid/ratings discounts in place, African Americans, Asian~~
15 ~~Americans, Iranian Americans and women received fewer contract dollars than expected based on~~
16 ~~their availability. Although African Americans represent 2.26 percent of the telecommunications firms,~~
17 ~~they received only .19 percent of the telecommunications contract dollars. Although Asian Americans~~
18 ~~represent 13.53 percent of the telecommunications firms they received only 2.93 percent of the~~
19 ~~telecommunications contract dollars. Although Iranian Americans represent .75 percent of the~~
20 ~~telecommunications firms, they received .01 percent of the telecommunications contract dollars.~~
21 ~~Although women represent 14.29 percent of the telecommunications firms, they received only 12.86~~
22 ~~percent of the telecommunication contract dollars. Even with the bid/ratings discount program in~~
23 ~~place, although Caucasian men represent 70.68 percent of the available telecommunications firms, they~~
24 ~~received 77.56 percent of the telecommunication contract dollars. The disparities against African~~
25 ~~Americans, Asian Americans and Iranian Americans are statistically significant. Although Latino~~

1 ~~Americans received more than the number of telecommunication contracts one would expect based on~~
2 ~~their availability, the Board finds, based on the studies, statistics, testimony and other evidence before~~
3 ~~it of discrimination against Latino Americans in City contracting and contracting in other Bay Area~~
4 ~~markets, that in the absence of the bid/ratings discount program that the City has had in place, Latino~~
5 ~~Americans would receive well below the level of prime City telecommunication contracts that one~~
6 ~~would expect based on their availability.~~

7 ~~——G. For City construction subcontracts entered into between 1998 and early 2003, even~~
8 ~~with the race-conscious subcontracting program in place, Arab Americans and Asian Americans still~~
9 ~~received fewer construction subcontracts than expected based on their availability. Although Arab~~
10 ~~Americans represent .14 percent of the available construction firms, they received only .05 percent of~~
11 ~~the construction subcontract dollars. Although Asian Americans represent 13.74 percent of the~~
12 ~~construction firms, they received only 12.99 percent of the construction subcontract dollars. Although~~
13 ~~African Americans, Latino Americans and women received more than the number of construction~~
14 ~~subcontracts one would expect based on their availability, the Board finds, based on the studies,~~
15 ~~statistics, testimony and other evidence before it of discrimination against African Americans, Latino~~
16 ~~Americans and women in City contracting and contracting in other Bay Area markets, that in the~~
17 ~~absence of the subcontracting program that the City has had in place, African Americans, Latino~~
18 ~~Americans and women would receive well below the level of City construction subcontracts that one~~
19 ~~would expect based on their availability.~~

20 ~~——H. For City architectural and engineering subcontracts entered into between 1998 and~~
21 ~~early 2003, even with the race and gender-conscious subcontracting program in place, African~~
22 ~~Americans, Arab Americans, Latino Americans and women received fewer architectural and~~
23 ~~engineering subcontracts than expected based on their availability. Although African Americans~~
24 ~~represent 4.67 percent of the available architectural and engineering firms, they received only 4.48~~
25 ~~percent of the architectural and engineering subcontract dollars. Although Arab Americans represent~~

1 ~~.98 percent of the architectural and engineering firms, they received only .40 percent of the~~
2 ~~architectural and engineering subcontract dollars. Although Latino Americans represent 4.18 of the~~
3 ~~available architectural and engineering firms, they received only 2.51 percent of the architectural and~~
4 ~~engineering subcontract dollars. Although women represent 12.53 percent of the available~~
5 ~~architectural and engineering firms, they received only 9.29 percent of the architectural and~~
6 ~~engineering subcontract dollars. Although Asian Americans and Iranian Americans received slightly~~
7 ~~more than the number of architectural and engineering subcontracts one would expect based on their~~
8 ~~availability, the Board finds, based on the studies, statistics, testimony and other evidence before it of~~
9 ~~discrimination against Asian Americans and Iranian Americans in City contracting and contracting in~~
10 ~~other Bay Area markets, that in the absence of the subcontracting program that the City has had in~~
11 ~~place, Asian Americans and Iranian Americans would receive well below the level of City architectural~~
12 ~~and engineering subcontracts that one would expect based on their availability.~~

13 ~~——I. For City professional services subcontracts entered into between 1998 and early 2003,~~
14 ~~even with the race-conscious and gender-conscious subcontracting program in place, Arab Americans~~
15 ~~Iranian Americans and Latino Americans received fewer professional services subcontracts than~~
16 ~~expected based on their availability. Arab Americans and Iranian Americans received no professional~~
17 ~~services subcontracts at all. Although Latino Americans represent .79 percent of the professional~~
18 ~~services firms, they received only .46 percent of the professional services subcontract dollars. Although~~
19 ~~African Americans, Asian Americans and women received more than the number of professional~~
20 ~~service subcontracts one would expect based on their availability, the Board finds, based on the~~
21 ~~studies, statistics, testimony and other evidence before it of discrimination against African Americans,~~
22 ~~Asian Americans and women in City contracting and contracting in other Bay Area markets, that in the~~
23 ~~absence of the subcontracting program that the City has had in place, African Americans, Asian~~
24 ~~Americans and women would receive well below the level of City professional services subcontracts~~
25 ~~that one would expect based on their availability.~~

1 ~~—J. For City telecommunications subcontracts entered into between 1998 and early 2003,~~
2 ~~even with the race- and gender-conscious subcontracting program in place, African Americans, Asian~~
3 ~~Americans, Iranian Americans and women received fewer telecommunications subcontracts than~~
4 ~~expected based on their availability. Iranian Americans received no telecommunications subcontracts~~
5 ~~at all. Although Asian Americans represent 13.82 percent of the available telecommunications firms,~~
6 ~~they received only .83 percent of the telecommunications subcontract dollars. Although women~~
7 ~~represent 13.82 percent of the telecommunications firms, they received only 8.84 percent of the~~
8 ~~telecommunications subcontract dollars. Although African Americans represent 2.44 percent of the~~
9 ~~telecommunications firms, they received only 2.22 percent of the telecommunications subcontract~~
10 ~~dollars. The disparity is statistically significant for Asian Americans. And, even with the subcontracting~~
11 ~~program in place, although Caucasian men represent less than 70 percent of the telecommunications~~
12 ~~firms, they received more than 86 percent of the telecommunications subcontracts. Although Latino~~
13 ~~Americans received somewhat more than the number of telecommunication subcontracts one would~~
14 ~~expect based on their availability, the Board finds, based on the studies, statistics, testimony and other~~
15 ~~evidence before it of discrimination against Latino Americans in City contracting and contracting in~~
16 ~~other Bay Area markets, that in the absence of the bid/ratings discount program that the City has had~~
17 ~~in place, Latino Americans would receive well below the level of City telecommunications subcontracts~~
18 ~~that one would expect based on their availability.~~

19 ~~—6. In 2002 and 2003, the Human Rights Commission and this Board heard testimony from~~
20 ~~134 individuals at public hearings about discrimination against minority- and women-owned~~
21 ~~businesses and received written statements documenting such discrimination. Additionally, in 2003,~~
22 ~~Godbe Research conducted a telephone survey of HRC-certified MBEs and WBEs.~~

23 ~~—Based on this evidence, and the findings and evidence supporting the 1984, 1989 and 1998~~
24 ~~Ordinances, and amendments to those ordinances, the Board finds that minorities and women~~
25 ~~continuously face racial prejudice in both the public and private sector markets in San Francisco. The~~

1 ~~prejudice against minorities takes the form of stereotyping, prejudging, discomfort in working with~~
2 ~~minorities, an absence of opportunities to prove one's skill and ability, exclusion, networking~~
3 ~~difficulties, and racial slurs. Women also face prejudging and stereotyping. Women are often made to~~
4 ~~feel that they are not qualified to be running a company and that they are innately incapable of certain~~
5 ~~tasks. Women also sometimes face questions as to whether they are really running their firms. Women-~~
6 ~~and minority-owned firms also face overt hostility from majority male firms, reporting harassment,~~
7 ~~intimidation, and undue pressure during the course of doing business with majority male firms.~~
8 ~~Women and minority-owned businesses also are often subjected to increased and higher standards of~~
9 ~~review of their work than Caucasian, male-owned firms. Minorities and women also reported~~
10 ~~difficulties and discrimination in obtaining financing and credit for their firms, difficulty obtaining~~
11 ~~bonding and insurance, and other forms of business institutional discrimination.~~

12 ~~—Minorities and women also report of discrimination in the award of City prime contracts.~~
13 ~~Minorities and women report that project managers in many City Departments continue to operate~~
14 ~~under an "old boy network in awarding City prime contracts. The practice creates a barrier to the entry~~
15 ~~of women and minority-owned businesses and puts those firms at a competitive disadvantage in their~~
16 ~~efforts to secure City prime contracts.~~

17 ~~—Minority and women-owned businesses also reported being discriminated against by prime~~
18 ~~contractors, by, for example, being given inadequate lead time to bid on projects, being paid late after~~
19 ~~a bid award, being listed on a bid without permission, and having the scope of their work reduced or~~
20 ~~canceled after the bid award. Minority and women-owned businesses report that the only reason they~~
21 ~~are able to get work from many prime City contractors is because the City requires prime contractors~~
22 ~~to provide minorities and women with opportunities to compete for City subcontracts. In particular,~~
23 ~~many minorities and women report that they are frequently refused subcontracting opportunities on~~
24 ~~contracts that are not subject to a race or gender-conscious affirmative action program by the same~~
25 ~~prime contractors that do hire them on contracts that are subject to a race- and gender-conscious~~

1 ~~affirmative action program. And, many minority- and women-owned businesses that succeeded because~~
2 ~~of the City's remedial program, and graduated from the program, report that prime contractors who~~
3 ~~gave them subcontracts on contracts subject to the City's subcontracting requirements before they~~
4 ~~graduated, refuse to give them subcontracts now. Finally, minorities and women report of hostility in~~
5 ~~the industry toward the M/WBE program.~~

6 —7. In February 1998, the Human Rights Commission issued a report that documents
7 hostility and active resistance to the W/MBE program by various City departments and agencies. The
8 HRC report also found the following discriminatory practices at work in City contracting: (1) listing
9 minority- and women-owned enterprises as subcontractors but never using the listed minority- and
10 women-owned subcontracting firms; (2) the use of additional nonminority, male subcontractors never
11 listed on the relevant HRC forms; and (3) the creation of fraudulent joint ventures involving minority-
12 or women-owned and majority, men-owned firms. In particular, the HRC's investigation found that in
13 at least four out of 86 contracts involving joint ventures, the minority- or women-owned firms listed in
14 the joint venture did not perform any work on the project. A report issued by the HRC in May 2003
15 reveals that these discriminatory practices continue, and that the HRC has encountered the following
16 additional discriminatory practices in City contracting: (1) attempts by City personnel to improperly
17 influence contract selection panels to ensure that MBEs/WBEs do not obtain City prime contracts; (2)
18 attempts by City personnel to blame MBEs/WBEs unjustifiably for project delays; (3) the imposition of
19 unnecessary minimum requirements on City contracts that act as a barrier to MBEs/WBEs; (4) the
20 failure by City departments to submit draft requests for proposals to HRC with sufficient time to permit
21 the HRC to ensure that adequate MBE/WBE subcontracting goals have been set; (5) attempts by City
22 departments to circumvent the requirements of this ordinance by extending or modifying existing
23 contracts rather than putting new contract out to bid; (6) the failure by City departments to comply
24 with the prompt payment provisions of this ordinance which ensure that MBEs/WBEs do not suffer
25 unnecessary financial hardships; and (7) resistance by City prime contractors to provide the City with

1 ~~required subcontractor payment information, making it difficult for the City to ensure that MBE/WBE~~
2 ~~subcontractors receive prompt payment for their work on City contracts.~~

3 ~~—8. Based on the studies, reports, testimony and other evidence before it, the Board finds~~
4 ~~that the race and gender conscious remedial programs authorized by this Ordinance continue to be~~
5 ~~necessary to remedy discrimination against minority and women-owned businesses in City prime~~
6 ~~contracting and subcontracting. The Board finds that the City and County of San Francisco is actively~~
7 ~~discriminating against women and minority groups in its contracting, and is passively participating in~~
8 ~~discrimination in the private sector. This Board finds that the evidence before it establishes that the~~
9 ~~City's current contracting practices are in violation of federal law and that, as a result, this ordinance~~
10 ~~continues to be required by federal law to bring the City into compliance with federal civil rights laws~~
11 ~~in its contracting practices.~~

12 ~~—9. In addition, the Board has reviewed numerous studies by San Francisco-based agencies.~~
13 ~~These studies, although narrower in scope than San Francisco's study, support the findings undertaken~~
14 ~~to assess discrimination against women and minorities in City contracting:~~

15 ~~—In 1991, the San Francisco Unified School District undertook a disparity study of its~~
16 ~~contracting in various categories. The study found "substantial evidence of statistically significant~~
17 ~~disparities between utilization and availability of minority and women contractors." For prime~~
18 ~~contracts over \$15,000 in value, the study found statistically significant evidence of discrimination~~
19 ~~against African Americans, Latino Americans, and other minorities, in the number of contracts willing~~
20 ~~and able firms owned by these groups were able to obtain. For prime contracts under \$15,000 in total~~
21 ~~value, the study found statistically significant evidence of discrimination against Asian Americans,~~
22 ~~Latino Americans, minorities in general, and women, in the number of contracts willing and able firms~~
23 ~~owned by members of these groups were able to obtain. For subcontracts, the study found statistically~~
24 ~~significant evidence of discrimination in the number of subcontracts that African American, Asian~~
25 ~~American, Latino American, and minority firms in general were able to obtain. In a review of contracts~~

1 under its Earthquake program, the study found statistically significant evidence of discrimination
2 against Asian Americans, minorities in general, and women in the number of contracts businesses
3 owned by members of these groups were able to obtain. In construction-related professional services,
4 the study found statistically significant evidence of discrimination against African Americans, Asian
5 Americans, minorities in general and women. In printing and publishing contracts, the study found
6 statistically significant discrimination against African Americans, Asian Americans, Latino Americans,
7 minorities in general, and women. The study also reviewed testimonial evidence of discrimination that
8 supported its findings of discrimination.

9 —In November 1992, the San Francisco Redevelopment Agency ("SFRA") issued a study of its
10 use of minority and women-owned business enterprises. The comprehensive study found that women-
11 owned business enterprises received none of the publicly funded prime contract dollars and only 24
12 percent of the privately funded contract dollars SFRA would have expected given their availability. The
13 study found from a survey of private construction contractors that minority and women-owned
14 businesses received none of the prime contracts and only 2.32 percent of the subcontract dollars. The
15 study also surveyed 95 local minority and women-owned construction firms, out of which 75 percent
16 reported that prime contractors who use their firms on public contracts with W/MBE requirements
17 never use their firms on private contracts.

18 —In May 1993, the Regional Transit Association of the San Francisco Bay Area issued a report
19 entitled "The Utilization of Minority and Women-Owned Business Enterprises by Member Agencies of
20 the Regional Transit Association." The study found significant underutilization of minority and women-
21 owned enterprises in those jurisdictions in the Bay Area without programs designed to increase
22 minority and women participation. The study also found that for each transit agency, including San
23 Francisco's Municipal Railway, "M/WBEs were used less than we would expect given their
24 availability." The study also examined anecdotal evidence of discrimination from 502 minority and
25 women-owned enterprises in the Bay Area.

1 —In December 2001, the Human Rights Commission issued a report entitled "Violence in Our
2 City: Research and Recommendations to Empower Our Community," which addresses the increase in
3 violence against African Americans that began in 2000, and discrimination against African Americans
4 in San Francisco. This report supports the finding of the Board that an ordinance encouraging
5 minority-owned enterprise participation in City contracting is necessary to remedy race discrimination
6 against African American-owned firms in San Francisco.

7 —10.—A number of broad disparity studies undertaken by State and other local governments
8 and agencies also support the findings of discrimination in San Francisco's studies, including:

9 —In 1992, the Contra Costa County issued a comprehensive study of the use of women and
10 minority-owned businesses by that county. The study examined Contra Costa's own contracts, data
11 about subcontractors collected from prime contractors, data on Contra Costa's payments to vendors,
12 data on 7,993 minority and women-owned vendors in the Bay Area identified from various directories,
13 questionnaires on purchasing practices by Contra Costa officials and census data, testimony Contra
14 Costa solicited in public hearings in Alameda and San Francisco, and Bay Area wide mail surveys of
15 540 women and minority-owned businesses. The study found that minorities received a smaller share
16 of Contra Costa County contracts than would be expected given their availability. The study also
17 examined the private sector for construction in San Francisco, Oakland, and San Jose and found that
18 minority and women-owned businesses received a smaller share of prime and subcontracts than would
19 be expected given their availability. The study also found strong evidence of discrimination against
20 women and minority firms in Contra Costa's professional services contracting and commodity
21 purchases.

22 —In 1996, the City of Oakland and the Oakland Redevelopment Agency issued a study of the
23 utilization of minorities and women in their contracting programs. The study revealed that even after
24 having programs aimed at increasing contracting opportunities for minority and women-owned
25 businesses, those businesses still get fewer contracts than one would expect based on their availability.

1 ~~The study revealed that a culture of discrimination among prime contractors, lending institutions, and~~
2 ~~other businesses prevented minority and women-owned businesses from competing for public~~
3 ~~contracting opportunities in Oakland. For instance, even though the majority of ready and willing~~
4 ~~construction contractors in Oakland were African American-owned, Caucasian male contractors~~
5 ~~received more than twice the contract dollars from 1991-1994 as African American contractors. And~~
6 ~~although nearly 68 percent of all ready and willing contractors were minority and women-owned~~
7 ~~businesses, Caucasian male-owned firms received more than 55 percent of the contract dollars during~~
8 ~~this period. Even those minorities who achieved statistical parity in contract availability during the~~
9 ~~study period suffered from discrimination. Anecdotal evidence gathered for the study revealed that~~
10 ~~prime contractors often refuse to allow the minority and women-owned businesses to perform~~
11 ~~subcontracting work after the contract has been awarded. Women contractors reported that they must~~
12 ~~ask male co-workers to present their ideas to prime contractors, since otherwise their ideas are~~
13 ~~ignored.~~

14 ~~—In 1994, the City of Richmond, California commissioned a study to determine whether its~~
15 ~~race and gender-conscious remedial contracting programs continued to be necessary. The study~~
16 ~~revealed great disparities between Caucasian male-owned firms, and minority and women-owned~~
17 ~~businesses. For instance, although Caucasian men represented only 49 percent of the available~~
18 ~~contracting firms, 85 percent of all contract dollars went to those firms. The disparity was even greater~~
19 ~~in Richmond's professional services contracts, where Caucasian firms received 95 percent of the~~
20 ~~contract dollars even though such firms represent only 15 percent of the available firms. The study~~
21 ~~further revealed that although minority and women-owned firms represented between 32 and 71~~
22 ~~percent of the available firms depending on the particular industry (construction, professional services,~~
23 ~~engineering, and procurement), minority and women-owned businesses never received more than 14.8~~
24 ~~percent of the contract dollars in any industry. And testimonial evidence revealed that Richmond's~~
25 ~~MBE/WBE ordinance had done little to address the underlying causes of discrimination. Minorities and~~

1 ~~women were consistently faced with obstacles not placed before Caucasian male contractors, based~~
2 ~~solely on their race and gender. In fact, based on their experience, some MBEs and WBEs gave up~~
3 ~~trying to contract with Richmond in the future.~~

4 ~~—In 1995 the California Senate Office of Research issued a report entitled "The Status of~~
5 ~~Affirmative Action in California." The report explained, in part, that "[c]ities and counties have~~
6 ~~affirmative action programs as a matter of public policy, as a requirement for contracting with the~~
7 ~~State, or because they receive federal money that requires attention to nondiscrimination hiring." The~~
8 ~~report concluded that despite past affirmative action efforts, "salaries remain disparate among racial~~
9 ~~and ethnic groups and between men and women."~~

10 ~~—In April 1996, the California Senate Office of Research issued a report entitled "Exploring the~~
11 ~~Glass Ceiling and Salary Disparities in California State Government." The report examined the salary~~
12 ~~levels of 164,000 state civil service employees and compared compensation according to gender, race~~
13 ~~and ethnicity. The study found that women of equal educational attainment earn only \$.74 for every~~
14 ~~dollar earned by their male counterparts.~~

15 ~~—11.—Based on the testimony, studies and reports contained in Board File Nos. 98-0612, 99-~~
16 ~~0266 and 99-1326, and the evidence before the Board in support of this Ordinance, the Board finds that~~
17 ~~Arab and Iranian Americans continue to suffer discrimination in the City's procurement process. In~~
18 ~~fact, discrimination against Arab Americans and Iranian Americans has increased dramatically. Based~~
19 ~~on testimony presented at public hearings before the Human Rights Commission and this Board~~
20 ~~between 2001 and 2003, and the Human Rights Commission Report issued in September 2002, the~~
21 ~~Board finds that since September 11, 2001, there has been a sharp increase in threats, harassment,~~
22 ~~violence, and discrimination against individuals perceived as having Middle Eastern origins in both the~~
23 ~~private sector in San Francisco as well as in the City's procurement processes. As a direct result of this~~
24 ~~systemic discrimination, Arab American and Iranian American-owned businesses have been prevented~~
25 ~~from obtaining City prime contracting and subcontracting.~~

1 —12.— In 1989, based on the significant evidence before it, this Board found that Native
2 Americans who sought prime and subcontracting opportunities have received fewer such contracts than
3 expected based on their availability, and that such underutilization was attributable to discrimination
4 both in the private sector and in the City's procurement practices. Based on the historical record of
5 discrimination against Native Americans, and the testimonial evidence given at public hearings, the
6 Board found that there was compelling evidence of discrimination to support the addition of Native
7 Americans to the MBE program and to justify remedial measures on their behalf. The HRC's 2003
8 disparity study reveals that there are no longer any San Francisco-based businesses in any industry
9 that are owned by Native Americans and available to perform City prime contracts or subcontracts.
10 Based on the significant evidence before it, the Board finds that the pervasive discrimination and
11 hostility against Native Americans in the Bay Area and in the City's procurement processes has
12 resulted in the recent disappearance of available San Francisco-based Native American-owned
13 contractors. The Board further finds that this discrimination against Native Americans will prevent
14 Native Americans from re-establishing businesses in San Francisco without the bid/ratings discount
15 program and subcontracting program set forth in this Ordinance. For that reason, the Board finds it
16 necessary to continue to extend its remedial contracting program to businesses owned by Native
17 Americans.

18 —13.— The Board has also reviewed and considered several volumes of collected social
19 science materials concerning discrimination against women and minorities in the Bay Area and in
20 public contracting in California. These social science materials strongly support, and are consistent
21 with, the findings in the statistical and testimonial evidence that discrimination exists against women
22 and minorities in the City's contracting and in the private market for similar contracts.

23 —14.— The Board has considered a substantial body of evidence in enacting the ordinance.
24 The findings set forth herein represent certain salient portions derived from the evidence and hearings.
25 These findings, however, are intended to be representative and non-exhaustive of the evidence and

1 ~~reasons supporting the enactment herein. The Board will consider relevant evidence that continues to~~
2 ~~be collected.~~

3 ~~—15.— In enacting this ordinance, the Board considered and relied on (a) the fact that a~~
4 ~~substantial percentage of City agencies receive federal funds, a vast portion of which is expended in~~
5 ~~City contracts, (b) the federal requirements for eradication of discrimination, including the evidence~~
6 ~~supporting those requirements, and (c) all applicable constitutional standards including those that~~
7 ~~apply to federally funded projects.~~

8 ~~—16.— This Board finds that the testimony of minority and women business owners who seek~~
9 ~~to enter into contracts with the City or are doing business with the City, as presented to this Board and~~
10 ~~the Human Rights Commission, offer clear and persuasive evidence of discrimination to such an extent~~
11 ~~that the disparity of contract dollars awarded to minority and women-owned enterprises can only be~~
12 ~~explained by discrimination. The statistical evidence, oral and written histories, and social science~~
13 ~~evidence reviewed by this Board also support this finding. Accordingly, this Board adopts this~~
14 ~~ordinance to remedy the specifically identified City contracting practices and conditions in the~~
15 ~~Community and industries that cause the exclusion or reduction of contracting opportunities for~~
16 ~~minority and women-owned businesses in City prime and subcontracting programs.~~

17 ~~—17.— Based on a comparative review of the use of minority and women-owned businesses in~~
18 ~~the public and private sectors in the City, oral and written histories and additional evidence, this Board~~
19 ~~finds that there is a substantial reduction in the use of minority and women-owned firms in private~~
20 ~~sector contracting in the absence of MBE/WBE requirements such as those found in this ordinance. In~~
21 ~~the private sector, substantial evidence demonstrates that minority and women-owned businesses are~~
22 ~~seldom or never used by prime contractors for projects that do not have MBE/WBE goal requirements.~~
23 ~~Therefore, this Board finds that if this ordinance were not enacted and the MBE/WBE goal~~
24 ~~requirements eliminated, the discrimination against and nonutilization of minority and women-owned~~
25

1 ~~businesses now existing in the private sector would occur immediately in the awarding of City~~
2 ~~contracts.~~

3 ~~—18. This Board further finds that local businesses that seek prime contracting and~~
4 ~~subcontracting opportunities in City contracting continue to labor under a competitive disadvantage~~
5 ~~with businesses from other areas because of the higher administrative costs of doing business in the~~
6 ~~City (e.g., higher taxes, higher rents, higher wages and benefits for labor, higher insurance rates, etc.).~~

7 ~~—19. This Board finds that public interest is served by encouraging economically~~
8 ~~disadvantaged businesses to locate and to remain in San Francisco through the provision of bid~~
9 ~~discounts to such San Francisco businesses in the award of City contracts and by requiring prime~~
10 ~~contractors to use good faith efforts to use such businesses as subcontractors when there are~~
11 ~~subcontracting opportunities available on City contracts.~~

12 ~~—20. Additionally, this Board finds that policies and programs that enhance the~~
13 ~~opportunities and entrepreneurial skills of local businesses will best serve the public interest because~~
14 ~~the growth and development of such businesses will have a significant positive impact on the economic~~
15 ~~health of San Francisco by, among other things, the creation of local jobs and increased tax revenue.~~

16 ~~—21. The Board finds that affording a five percent bid discount for economically~~
17 ~~disadvantaged local businesses bidding on City contracts reduces the disadvantages under which these~~
18 ~~businesses compete.~~

19 ~~—22. The bid discount mechanism in this ordinance is used to assure equality in the~~
20 ~~treatment of opportunities to any bidder for City contracts. This Board further finds that the failure to~~
21 ~~use such a bid discount would result in discrimination against or preferential treatment to certain~~
22 ~~individuals and/or groups.~~

1 ***SEC. 12D.A.3. DECLARATION OF POLICY.***

2 ~~—It is the policy of the City and County of San Francisco to ensure full and equitable~~
3 ~~opportunities for minority business enterprises, woman business enterprises, and local business~~
4 ~~enterprises to participate as prime contractors in providing goods and services to the City. This~~
5 ~~program is intended to correct identified discriminatory practices inherent in the City's procurement~~
6 ~~process and in the award of prime contracts to MBE/WBEs. Another goal of this ordinance is to offset~~
7 ~~some of the economic disadvantages local businesses continue to face that are not shared by nonlocal~~
8 ~~businesses.~~

9 ~~—The City will continue to rely on the relationship between the percentages of MBEs/WBEs in~~
10 ~~the relevant sector of the San Francisco business community and their respective shares of City~~
11 ~~contract dollars as a measure of the effectiveness of this ordinance in remedying the effects of the~~
12 ~~forementioned discrimination.~~

13 ~~—The City is continuing to use a discount for local business in the award of City contracts in~~
14 ~~order to encourage businesses to locate and to remain in San Francisco and thereby enhance~~
15 ~~employment opportunities for persons living in San Francisco. The cost of locating and doing business~~
16 ~~in San Francisco continues to be as much as 15 percent and greater than the cost of doing business in~~
17 ~~the surrounding communities. Providing a five-percent bid discount for local businesses bidding on~~
18 ~~City contracts reduces the disadvantages under which City located businesses labor when competing~~
19 ~~for City contracts. For that reason, affording them a five-percent bid discount makes good sense. In~~
20 ~~effect, the bid discount assists these businesses in contributing to the economic health of the City. The~~
21 ~~five-percent bid discount does not unduly hamper nonlocal businesses in the contracting process, and~~
22 ~~parallels the discounts awarded in many other local jurisdictions.~~

1 ***SEC. 12D.A.4. SCOPE.***

2 ~~*—The race and gender-conscious bid discounts of this ordinance shall be afforded only to*~~
3 ~~*economically disadvantaged minority and women-owned businesses in all specifically enumerated*~~
4 ~~*categories of City contracts for the procurement of goods and services subject to exemptions*~~
5 ~~*hereinafter specifically enumerated. The local business bid discount shall be afforded to all*~~
6 ~~*economically disadvantaged local businesses in the award of all City contracts for the procurement of*~~
7 ~~*goods and services subject to exceptions hereinafter specifically enumerated in Section 12D.A.15.*~~

8
9 ***SEC. 12D.A.5. DEFINITIONS.***

10 ~~*—"Architect/Engineering Contracts" shall mean an agreement for architects, engineers, and*~~
11 ~~*other outside temporary professional design, consultant or construction management services for a*~~
12 ~~*public work project.*~~

13 ~~*—"Back contracting" shall mean any agreement or other arrangement between a prime*~~
14 ~~*contractor and its subcontractor that requires the prime contractor to perform or to secure the*~~
15 ~~*performance of the subcontract in such a fashion and/or under such terms and conditions that the*~~
16 ~~*prime contractor enjoys the financial benefits of the subcontract. Such agreements or other*~~
17 ~~*arrangements include, but are not limited to, situations in which either a prime contractor or*~~
18 ~~*subcontractor agrees that any term, condition or obligation imposed upon the subcontractor by the*~~
19 ~~*subcontract shall be performed by or be the responsibility of the prime contractor.*~~

20 ~~*—"Best efforts" when required of contract awarding authority shall mean reasonable efforts to*~~
21 ~~*include minorities, MBEs, women, or WBEs in City contracting.*~~

22 ~~*—"Bid" shall mean and include a quotation, proposal, solicitation or offer by a bidder or*~~
23 ~~*contractor to perform or provide labor, materials, equipment, supplies or services to the City and*~~
24 ~~*County of San Francisco for a price.*~~

1 ~~—"Bidder" shall mean any business that submits a quotation, bid or proposal to provide labor,~~
2 ~~materials, equipment, supplies or services to the City and County of San Francisco.~~

3 ~~—"City" shall mean the City and County of San Francisco.~~

4 ~~—"Commercially useful function" shall mean that the business is directly responsible for~~
5 ~~providing the materials, equipment, supplies or services to the City as required by the solicitation or~~
6 ~~request for quotes, bids or proposals. MBEs, WBEs or LBEs that engage in the business of providing~~
7 ~~brokerage, referral or temporary employment services shall not be deemed to perform a "commercially~~
8 ~~useful function" unless the brokerage, referral or temporary employment services are those required~~
9 ~~and sought by the City. When the City requires and seeks specialty products made to order for the City~~
10 ~~or otherwise seeks products which, by industry practice, are not regularly stocked in warehouse~~
11 ~~inventory but instead are purchased directly from the manufacturer, the value of the "commercially~~
12 ~~useful function" provided by a supplier or distributor shall be valued at no more than five percent of the~~
13 ~~cost of the product. When the City requires and seeks products which are, by industry practice, stocked~~
14 ~~in warehouse inventory and are in fact, regularly stocked by the listed supplier or distributor, the value~~
15 ~~of the "commercially useful function" provided by the supplier or distributor shall not exceed sixty~~
16 ~~percent of the cost of the product. If the listed supplier or distributor does not regularly stock the~~
17 ~~required product, the value of the "commercially useful function" provided by the supplier or~~
18 ~~distributor shall be valued at no more than five percent of the cost of the product.~~

19 ~~—"Commission" shall mean the Human Rights Commission of the City and County of San~~
20 ~~Francisco.~~

21 ~~—"Commodity" shall mean products, including materials, equipment and supplies, purchased~~
22 ~~by the City.~~

23 ~~—"Concession" shall mean any privilege conferred by the City on a person to engage in~~
24 ~~business on property owned or leased by the City.~~

1 ~~—"Contract" shall mean and include any agreement between the City and a person to provide~~
2 ~~or procure labor, materials, equipment, supplies or services to, for or on behalf of the City. A~~
3 ~~"contract" shall include an agreement between the City and a person or nonprofit entity to perform~~
4 ~~construction related services or fund the performance of such services. A "contract" does not include:~~
5 ~~(1) awards made by the City with federal/State grant or City funds to a nonprofit entity where the City~~
6 ~~offers assistance, guidance, or supervision on a project or program and the recipient of the grant~~
7 ~~award uses the grant monies to provide services to the community; (2) sales transactions where the~~
8 ~~City sells its personal or real property; (3) a loan transaction where the City is acting as a debtor or a~~
9 ~~creditor; (4) lease, franchise, or concession agreements; (5) agreements to use City real property; (6)~~
10 ~~gifts of materials, equipment, supplies or services to the City; or (7) agreements with a public agency~~
11 ~~except as provided in Section 12D.A.9(E).~~

12 ~~—"Contract awarding authority" shall mean the City officer, department, commission, employee~~
13 ~~or board authorized to enter into contracts on behalf of the City. In the case of an agreement with a~~
14 ~~person or nonprofit entity to perform or fund the performance of construction related services, the term~~
15 ~~"contract awarding authority" shall mean the person or nonprofit entity receiving funds from the City~~
16 ~~to perform or fund the performance of such services.~~

17 ~~—"Contractor" shall mean any person(s), firm, partnership, corporation, or combination~~
18 ~~thereof, who submits a bid or proposal to perform, performs any part of, agrees with a person to~~
19 ~~provide services relating to and/or enters into a contract with department heads and officers or~~
20 ~~contract awarding authorities empowered by law to enter into contracts on the part of the City for~~
21 ~~public works or improvements to be performed, or for goods or services or supplies to be purchased at~~
22 ~~the expense of the City or to be paid out of monies deposited in the treasury or out of trust monies~~
23 ~~under the control of or collected by the City.~~

24 ~~—"Control" of a business shall refer to the possession of the legal authority and power to~~
25 ~~manage business assets, good will and daily operations of the business, and the active and continuous~~

1 ~~exercise of such authority and power in determining the policies and directing the operations of the~~
2 ~~business.~~

3 ~~—"Director" shall mean the Director of the Human Rights Commission of San Francisco.~~

4 ~~—"Discount" shall mean an upward or downward price adjustment, according to the context,~~
5 ~~that is made for the purpose of remedying, in the case of MBEs and WBEs, identified discrimination,~~
6 ~~and, in the case of LBEs, the competitive disadvantage caused by the higher administrative costs of~~
7 ~~doing business in the City.~~

8 ~~—"Economically disadvantaged business" shall mean a business whose average gross annual~~
9 ~~receipts in the three fiscal years immediately preceding its application for certification as a MBE, WBE~~
10 ~~or LBE do not exceed the following limits: (1) public works/construction; specialty construction~~
11 ~~contractors; (2) goods/materials/equipment and general services suppliers; (3) professional services~~
12 ~~and architect/engineering; (4) trucking; and (5) telecommunications. Any business under common~~
13 ~~ownership, in whole or in part, with any other business(es) shall be considered an "economically~~
14 ~~disadvantaged business" only if the aggregate gross annual receipts of all the businesses under such~~
15 ~~common ownership do not exceed the limits specified in this section. All businesses owned by married~~
16 ~~spouses or domestic partners shall be considered under common ownership unless the businesses are~~
17 ~~in unrelated industries and no community property or other jointly owned assets were used to establish~~
18 ~~or are used to operate either business.~~

19 ~~—"Franchise" shall mean and include the right or privilege conferred by grant from the City, or~~
20 ~~any contracting agency thereof, and vested in and authorizing a person to conduct such business or~~
21 ~~engage in such activity as is specified in the grant. A "franchise" shall not include an agreement to~~
22 ~~perform construction related services.~~

23 ~~—"General services contract" shall mean an agreement for those services that are not~~
24 ~~professional services. Examples of "General Services" include: janitorial, security guard, pest control,~~
25 ~~parking lot management and landscaping services.~~

1 ~~—"Good faith efforts" when required of a contract awarding authority or department shall~~
2 ~~mean the actions undertaken by a department to obtain MBE or WBE participation in a contract as~~
3 ~~prime contractors, and shall include the following efforts: (1) encouraging MBE/WBEs to attend prebid~~
4 ~~meetings scheduled by a department or the Commission to inform potential contractors of contracting~~
5 ~~opportunities; (2) advertising in general circulation media, trade association publications and~~
6 ~~minority/woman business focused media and posting the contacting opportunity on the Office of~~
7 ~~Contract Administration's website pursuant to Section 12.D.A.9(A)6; (3) notifying MBE/WBEs that are~~
8 ~~available to perform the work contemplated in a contract and soliciting their interest in the contract;~~
9 ~~(4) dividing the contract work into economically feasible units to facilitate MBE/WBE participation in~~
10 ~~the contract; (5) pursuing solicitations of interest by contacting MBE/WBEs to determine whether these~~
11 ~~businesses are interested in participating on the contract; (6) providing MBE/WBEs with adequate~~
12 ~~information about the plan, specifications and requirements of the contract; (7) where applicable,~~
13 ~~negotiating with MBE/WBEs in good faith and demonstrating that MBE/WBEs were not rejected as~~
14 ~~unqualified without sound reasons based on a thorough investigation of their capabilities; and (8)~~
15 ~~using the services of available community and contractors' groups, local, State or federal minority and~~
16 ~~woman business assistance offices that provide assistance in the recruitment of MBE/WBEs for public~~
17 ~~sector contracts.~~

18 ~~—"Good faith efforts" when required of a prime city contractor shall mean the steps undertaken~~
19 ~~to comply with the goals and requirements imposed by the City for participation by MBE/WBEs as~~
20 ~~subcontractors, and shall include the following:~~

21 ~~—(1) Attending any presolicitation or prebid meetings scheduled by the City to inform all~~
22 ~~bidders of MBE/WBE program requirements for the project for which the contract will be awarded;~~

23 ~~—(2) Identifying and selecting specific items of the project for which the contract will be~~
24 ~~awarded to be performed by MBE/WBEs to provide an opportunity for participation by those~~
25 ~~enterprises;~~

1 ~~—(3) Advertising for MBEs or WBEs that are interested in participating in the project, not~~
2 ~~less than 10 calendar days before the date the bids can first be submitted, in one or more daily or~~
3 ~~weekly newspapers, trade association publications, minority or trade-oriented publications, trade~~
4 ~~journals, or other media, specified by the City. This paragraph applies only if the City gave public~~
5 ~~notice of the project not less than 15 calendar days prior to the date the bids can first be submitted;~~

6 ~~—(4) Providing, not less than 10 calendar days prior to the date on which bids can first be~~
7 ~~submitted, written notice of his or her interest in bidding on the contract to the number of MBEs or~~
8 ~~WBEs required to be notified by the project specifications. The City shall make available to the bidder~~
9 ~~not less than 15 calendar days prior to the date the bids are opened a list or a source of lists of~~
10 ~~enterprises that are certified by the Director as MBE/WBEs;~~

11 ~~—(5) Following up initial solicitations of interest by contacting potential MBE/WBE~~
12 ~~subcontractors to determine with certainty whether those enterprises were interested in performing~~
13 ~~specific items of the project;~~

14 ~~—(6) Providing interested MBE/WBEs with information about the plans, specifications, and~~
15 ~~requirements for the selected subcontracting or material supply work;~~

16 ~~—(7) Requesting assistance from minority and women community organizations; minority~~
17 ~~and women contractor or professional groups; local, State or federal minority and women business~~
18 ~~assistance offices; or other organizations that provide assistance in the recruitment and placement of~~
19 ~~minority or women business enterprises, if any are available;~~

20 ~~—(8) Negotiating in good faith with interested MBEs or WBEs, and not unjustifiably~~
21 ~~rejecting as unsatisfactory bids or proposals prepared by any MBEs or WBEs, as determined by the~~
22 ~~City;~~

23 ~~—(9) Where applicable, advising and making efforts to assist interested MBE/WBEs in~~
24 ~~obtaining bonds, lines of credit, or insurance required by the City or contractor;~~

1 ~~—(10) Making efforts to obtain MBE/WBE participation that the City could reasonably~~
2 ~~expect would produce a level of participation sufficient to meet the City's goals and requirements.~~

3 ~~—"Human Rights Commission (HRC)" shall mean the Human Rights Commission of San~~
4 ~~Francisco, hereinafter referred to as the "Commission."~~

5 ~~—"Joint venture" shall mean an association of two or more businesses acting as a contractor~~
6 ~~and performing or providing services on a contract, in which each joint venture partner combines~~
7 ~~property, capital, efforts, skill, and/or knowledge and each joint venture partner shares in the~~
8 ~~ownership, control, management responsibilities, risks and profits of the joint venture in proportion to~~
9 ~~its claimed level of participation.~~

10 ~~—"Lease" shall mean and include an agreement by which the City or any contracting agency~~
11 ~~thereof, grants to a person the temporary possession and use of property for consideration.~~

12 ~~—"Local business" or "Local business enterprise (LBE)" shall mean an economically~~
13 ~~disadvantaged business that is an independent and continuing business for profit, performs a~~
14 ~~commercially useful function and is a firm that:~~

15 ~~—(1) Has fixed offices or distribution points located within the geographical boundaries of~~
16 ~~the City where a commercially useful function is performed. Businesses that supply commodities must~~
17 ~~continuously maintain warehouses stocked with inventory within the geographical boundaries of the~~
18 ~~City. Truckers must park their registered vehicles and trailers within the geographical boundaries of~~
19 ~~the City. Post office box numbers or residential addresses shall not suffice to establish status as a~~
20 ~~"Local Business";~~

21 ~~—(2) Is listed in the Permits and License Tax Paid File with a San Francisco business street~~
22 ~~address; and~~

23 ~~—(3) Possesses a current Business Tax Registration Certificate at the time of the application~~
24 ~~for certification as a local business;~~

1 ~~— (4) Has been located and doing business in the City for at least six months preceding its~~
2 ~~application for certification as a local business; and~~

3 ~~— (5) Is certified as an LBE pursuant to Section 12D.A.6(B)(1).~~

4 ~~— No business that is owned in part or in whole by a full time City employee or City officer shall~~
5 ~~be considered a "local business" or "local business enterprise (LBE)" within the meaning of this~~
6 ~~ordinance.~~

7 ~~— "Lower tier subcontracting" shall mean any agreement or other arrangement between a sub-~~
8 ~~contractor and a person as defined herein where it is agreed that said person shall to perform any~~
9 ~~term, condition or obligation imposed by the subcontract upon the subcontractor.~~

10 ~~— "Minority," "minorities," or "minority person" shall mean members of one or more of the~~
11 ~~following ethnic groups:~~

12 ~~— African Americans: (defined as persons whose ancestry is from any of the Black racial groups~~
13 ~~of Africa or the Caribbean);~~

14 ~~— Arab Americans: (defined as persons whose ancestry is from an Arabic speaking country that~~
15 ~~is a current or former member of the League of Arab States);~~

16 ~~— Asian Americans (defined as persons with Chinese, Japanese, Korean, Pacific Islander,~~
17 ~~Samoan, Filipino, Asian Indian, and Southeast Asian ancestry);~~

18 ~~— Iranian Americans (defined as persons whose ancestry is from the country of Iran);~~

19 ~~— Latino Americans (defined as persons with Mexican, Puerto Rican, Cuban, Central American~~
20 ~~or South American ancestry. Persons with European Spanish ancestry are not included as Latino~~
21 ~~Americans); and~~

22 ~~— Native Americans (defined as any person whose ancestry is from any of the original peoples~~
23 ~~of North America, and who maintains cultural identification through tribal affiliation or community~~
24 ~~recognition.~~

1 ~~—"Minority business enterprise (MBE)" shall mean an economically disadvantaged local~~
2 ~~business that is an independent and continuing business for profit, performs a commercially useful~~
3 ~~function, is owned and controlled by one or more minority persons residing in the United States or its~~
4 ~~territories and is certified as an MBE pursuant to Section 12D.A.6(B).~~

5 ~~"Office" or "offices" shall mean a fixed and established place where work is performed of a~~
6 ~~clerical, administrative, professional or production nature directly pertinent to the business being~~
7 ~~certified. A temporary location or movable property or one that was established to oversee a project~~
8 ~~such as a construction project office does not qualify as an "office" under the ordinance. Work space~~
9 ~~provided in exchange for services (in lieu of monetary rent) does not constitute an "office." The office is~~
10 ~~not required to be the headquarters for the business but it must be capable of providing all the services~~
11 ~~to operate the business for which LBE certification is sought.~~

12 ~~"Owned," for purposes of determining whether a business is a MBE or WBE shall mean that~~
13 ~~minorities or women, as the context requires:~~

14 ~~—(1) Possess an ownership interest of at least 51 percent of the business;~~

15 ~~—(2) Possess incidents of ownership, such as an interest in profit and loss, equal to at least~~
16 ~~the required ownership interest percentage; and~~

17 ~~—(3) Contribute capital, equipment to the business equal to at least the required ownership~~
18 ~~percentage. Promissory notes are not sufficient to constitute capital contributions.~~

19 ~~—(4) Contribute expertise relevant to the business' essential functions at least equivalent to~~
20 ~~the ownership interest.~~

21 ~~—For an individual seeking MBE or WBE certification, ownership shall be measured as though~~
22 ~~the applicant's ownership were not subject to the community property interest of a spouse, if both~~
23 ~~spouses certify that (a) only the woman or minority spouse participates in the management of the~~
24 ~~business and the nonparticipating spouse relinquishes control over his/her community property interest~~
25 ~~in the subject business or (b) both spouses have bona fide management and control of the business.~~

1 ~~—"Participation commitment" shall mean the targeted level of MBE/WBE subcontractor~~
2 ~~participation that each prime city contractor has designated in its bid.~~

3 ~~—"Participation goals" shall mean the targeted levels of City-wide MBE/WBE participation in~~
4 ~~City prime contracts that reflect the relevant share of MBEs or WBEs in a given industry or profession~~
5 ~~referred to as "percent availability" in the utilization indices contained on file with the Clerk of this~~
6 ~~Board in File No. 98-0612.~~

7 ~~—"Percent availability" shall mean the relevant share of MBEs or WBEs in a given industry or~~
8 ~~profession.~~

9 ~~—"Person" includes one or more individuals, partnerships, associations, organizations, trade or~~
10 ~~professional associations, corporations, cooperatives, legal representatives, trustees, trustees in~~
11 ~~bankruptcy, receivers, or any group of persons, including any official, agent or employee of the City.~~

12 ~~—"Professional services contract" shall mean an agreement for services which require extended~~
13 ~~analysis, the exercise of discretion and independent judgment in their performance, and/or the~~
14 ~~application of an advanced, specialized type of knowledge, expertise, or training customarily acquired~~
15 ~~either by a prolonged course of study or equivalent experience in the field. Examples of professional~~
16 ~~service providers include licensed professionals such as accountants, and non-licensed professionals~~
17 ~~such as software developers and financial and other consultants, except that services of architects,~~
18 ~~engineers, and other outside temporary professional design, consultant or construction management~~
19 ~~services for a public work project shall be considered architect/engineering contracts and shall not be~~
20 ~~considered professional services contracts for the purpose of this Ordinance.~~

21 ~~—"Public works/construction contract" shall mean an agreement for the erection, construction,~~
22 ~~renovation, alteration, improvement, demolition, excavation, installation, or repair of any public~~
23 ~~building, structure, infrastructure, bridge, road, street, park, dam, tunnel, utility or similar public~~
24 ~~facility performed by or for the City and County of San Francisco, the cost of which is to be paid wholly~~
25 ~~or partially out of moneys deposited in the treasury of the City and County.~~

1 ~~—"Services" shall mean Professional Services and General Services.~~

2 ~~—"Subcontractor" shall mean any business providing goods or services to a contractor for~~
3 ~~profit, if such goods or services are procured or used in fulfillment of the contractor's obligations~~
4 ~~arising from a contract with the City.~~

5 ~~—"Subcontractor participation goals" shall mean the targeted level of MBE/WBE subcontractor~~
6 ~~participation designated by the Director for prime city contracts.~~

7 ~~—"Woman business enterprise (WBE)" shall mean an economically disadvantaged local~~
8 ~~business that is an independent and continuing business for profit, performs a commercially useful~~
9 ~~function, is owned and controlled by one or more women residing in the United States or its territories~~
10 ~~and is certified as a WBE pursuant to Section 12D.A.6(B).~~

11
12 **~~SEC. 12D.A.6. POWERS AND DUTIES OF THE COMMISSION AND THE DIRECTOR.~~**

13 ~~—(A) In addition to the duties and powers given to the Human Rights Commission elsewhere,~~
14 ~~the Commission shall:~~

15 ~~—1. Collect, analyze and periodically report to this Board relevant data that will assist this~~
16 ~~Board in determining whether (a) the scope of this ordinance in terms of race or gender conscious~~
17 ~~remedies shall be expanded to include new contract areas or minority groups and (b) whether the~~
18 ~~scope of this ordinance should be limited because the City has met its obligation to adopt and to~~
19 ~~implement necessary measures to remedy both its active discrimination and its passive perpetuation of~~
20 ~~private discrimination;~~

21 ~~—2. Levy the same sanctions that a contracting awarding authority may levy as specified in~~
22 ~~Section 12D.A.9(A)(7);~~

23 ~~—3. When necessary, subpoena persons and records, books and documents for a proceeding~~
24 ~~of the Commission or an investigation by the Director or an audit pursuant to Section 12D.A.6(E)~~
25 ~~conducted to further the purposes of this ordinance;~~

1 ~~—4. Adopt rules and regulations establishing standards and procedures for effectively~~
2 ~~carrying out this ordinance. Among other things, the rules and regulations shall provide for~~
3 ~~administrative procedures that will allow a business to prove and the Commission to recommend to this~~
4 ~~Board that the ordinance's remedial measures should not be applied to an industry or profession~~
5 ~~because MBE/WBE participation in City prime contracts has reached parity with MBE/WBE~~
6 ~~participation in the relevant business community and that MBE/WBEs no longer suffer from a~~
7 ~~discrimination-induced competitive disadvantage in the applicable industry or profession. The~~
8 ~~regulations shall also provide a mechanism for contractors to seek a determination by the Director that~~
9 ~~a MBE or WBE may not be granted a race or gender conscious bid discount where it is demonstrated~~
10 ~~that the MBE's or WBE's bid price is not attributable to the effects of past discrimination;~~

11 ~~—5. Issue forms for the Controller or contract awarding departments to collect information~~
12 ~~from contractors as prescribed by this ordinance;~~

13 ~~—6. Hear appeals challenging: (i) the Director's disqualification of a bidder or Contractor~~
14 ~~as specified in Section 12D.A.16(b), (ii) the Director's denial of an application for or revocation of the~~
15 ~~certification of a business as an MBE, WBE, or LBE, as specified in Section 12D.A.6(B)(2), or (iii) the~~
16 ~~Director's denial of a request to waive or to reduce subcontractor participation goals as specified in~~
17 ~~Section 12D.A.17(H);~~

18 ~~—7. By regulation require contract awarding authorities, departments and the Controller to~~
19 ~~provide to the Director such information as will be necessary to enable the Director to keep a database~~
20 ~~from which discrimination can be identified, to report to the Mayor and the Board of Supervisors at the~~
21 ~~end of each fiscal year on the progress each City department has made towards the achievement of~~
22 ~~MBE and WBE participation goals and to perform his/her other duties. The database is a public record~~
23 ~~available to the public as provided by state and local law;~~

24 ~~—8. Adopt rules and regulations as deemed necessary by the Director to ensure that the joint~~
25 ~~venture bid/ratings discount is applied only to joint ventures where the MBE, WBE or LBE has~~

1 ~~sufficient skill, experience, and financial capacity to perform the portion of the work identified for the~~
2 ~~MBE, WBE or LBE.~~

3 ~~—9.— Consistent with the provisions of the ordinance make such other rules and regulations as~~
4 ~~are necessary to guide its implementation.~~

5 ~~—(B) In addition to the duties and powers given to the Director elsewhere, the Director shall~~
6 ~~have the following duties and powers:~~

7 ~~—1.— Through appropriately promulgated procedures, the Director shall certify businesses as~~
8 ~~bona fide MBEs/WBEs/LBEs. These procedures shall provide that any business seeking certification as~~
9 ~~an LBE shall meet the definition of an LBE and possess or establish all of the following: (1) business~~
10 ~~cards for the San Francisco office; (2) business stationery for the San Francisco office; (3) a written~~
11 ~~agreement for occupancy of a San Francisco office including documentation of payment of monetary~~
12 ~~rent (receipts and copies of cancelled checks); (4) a listing of the business in an appropriate business~~
13 ~~buyers guide such as a telephone yellow pages listing San Francisco based businesses; (5) a San~~
14 ~~Francisco office in which business is transacted that is appropriately equipped for the type of business~~
15 ~~for which the enterprise seeks certification as an LBE; (6) a conspicuously displayed business sign at~~
16 ~~the San Francisco business premises except where the business operates out of a residence; and (7)~~
17 ~~licenses issued to the business owner appropriate for the type of business for which the enterprise seeks~~
18 ~~certification;~~

19 ~~—2.— Except where the Director cannot certify a business because the business has not been~~
20 ~~established in San Francisco for the requisite six months, whenever the Director denies an application~~
21 ~~for or revokes the certification of a business as a MBE, WBE, LBE because the business is not eligible~~
22 ~~to be certified as a bona fide MBE, WBE, LBE, the Director shall, within three working days of his/her~~
23 ~~decision, notify the aggrieved business in writing of the basis for revocation or denial of certification~~
24 ~~and the date on which the business will be eligible to reapply for certification. The notice shall be~~
25 ~~transmitted to the business via certified mail or via facsimile. The Director shall require a business to~~

1 wait at least six months but not more than two years after the denial or revocation before reapplying to
2 the Director for certification as a MBE, WBE or LBE. The Director shall provide any business whose
3 certification is revoked an opportunity to be heard within three business days of the revocation. A
4 business may appeal the Director's denial or revocation of certification of a business as an MBE, WBE,
5 or LBE to the Commission. The appeal must be filed with the Commission within three business days
6 following receipt of the Director's decision. Notice by the Director to the business of denial or
7 revocation of certification as an MBE, WBE or LBE shall apprise the business of its right to appeal the
8 decision;

9 — 3. The Director shall have the ultimate responsibility for ensuring that the necessary data
10 is collected and analyzed. Annually, and more often if the Director deems necessary, the Director shall
11 analyze the most recently available data of MBEs and WBEs in the various industries and professions
12 doing business with the City. Applying statistically sound methods of analysis and considering other
13 evidence of discrimination, the Director shall identify areas of contracting where the City or any of its
14 departments (a) is failing to meet the participation goals to such an extent that an inference of
15 discrimination can be made, or (b) is otherwise discriminating in its contracts. In addition, the Director
16 shall identify areas of contracting where the City is meeting and/or exceeding participation goal to
17 such an extent that the MBE or WBE bid discounts can no longer be justified. The results of this study
18 shall be included in the Commission's annual report required by Section 12D.A.18(B);

19 — 4. Not later than July 1st of each fiscal year, the Director shall transmit to this Board
20 proposed amendments to this ordinance that the Director deems necessary to ensure that the ordinance
21 provides adequate remedies for identified discrimination while going no further than necessary to
22 remedy the identified discrimination;

23 — 5. The Director shall work with the Controller and City departments to implement a City-
24 wide prompt payment policy requiring that MBEs, WBEs and LBEs be paid by the City, within 30 days
25

1 ~~after the date on which the City receives an invoice from an MBE, WBE or LBE for work performed for~~
2 ~~the City;~~

3 ~~—6. The Director shall provide information and other assistance to MBEs and WBEs to~~
4 ~~increase their ability to compete effectively for the award of City contracts;~~

5 ~~—7. The Director shall assist the City to increase participation by MBEs and WBEs in City~~
6 ~~contracts;~~

7 ~~—8. The Director shall continue to develop and to strengthen education and training~~
8 ~~programs for MBEs and WBEs and City contract awarding personnel;~~

9 ~~—9. The Director shall grant waivers as set forth in Sections 12D.A.15 and 12D.A.17(E)~~
10 ~~through (H), and may disqualify a bidder or contractor as set forth in Section 12.D.A.16(b).~~

11 ~~—(C) The requirements of this ordinance are in addition to those imposed by the United States~~
12 ~~or the State of California as a condition of financial assistance or otherwise. In contracts which involve~~
13 ~~the use of any funds furnished, given or loaned by the government of the United States or the State of~~
14 ~~California, all laws, rules and regulations of the government of the United States or the State of~~
15 ~~California or of any of its departments relative to the performance of such work and the conditions~~
16 ~~under which the work is to be performed, shall prevail over the requirements of this ordinance when~~
17 ~~such laws, rules or regulations are in conflict. In addition, the Director may authorize the substitution~~
18 ~~of such State or federal minority business enterprise and women business enterprise requirements for~~
19 ~~the requirements of this ordinance whenever such State or federal requirements are substantially the~~
20 ~~same as those of this ordinance.~~

21 ~~—(D) The Director, with the approval of the Commission, may enter into cooperative~~
22 ~~agreements with agencies, public and private, concerned with increasing the use of MBEs and WBEs in~~
23 ~~government contracting, subject to the approval of this Board.~~

24 ~~—(E) The Director, in cooperation with the Controller, shall randomly audit at least three~~
25 ~~prime contractors each fiscal year in order to insure their compliance with the provisions of this~~

1 ~~ordinance. The Director, in cooperation with the Controller, shall furthermore randomly audit 10~~
2 ~~percent of the joint ventures granted bid discounts in each fiscal year. The Controller shall have the~~
3 ~~right to audit the books and records of the contractors, joint venture participants, and any and all~~
4 ~~subcontractors to insure compliance with the provisions of this ordinance.~~

5
6 **~~SEC. 12D.A.7. POWERS AND DUTIES OF THE CONTROLLER.~~**

7 ~~—(A) In addition to the duties given to the Controller elsewhere, the Controller shall work~~
8 ~~cooperatively with the Director to provide such contractual encumbrance and payment data as the~~
9 ~~Director advises are necessary to form the basis of the Commission's report to the Mayor, this Board~~
10 ~~and the public on the participation of MBEs and WBEs in City prime contracts. If any department~~
11 ~~refuses or fails to provide the required data to the Controller, the Controller shall immediately notify~~
12 ~~the Mayor, this Board and the Director.~~

13 ~~—(B) The Controller shall not certify the award of any contract subject to this ordinance~~
14 ~~where the Director has notified the Controller that the contract awarding authority has not provided~~
15 ~~the information the Director advises is necessary under this ordinance.~~

16 ~~—(C) Each request for payment to a City contractor submitted to the contract awarding~~
17 ~~authority shall be accompanied by a subcontractor participation form approved by the Commission.~~
18 ~~That form shall contain information that the Commission has determined is necessary to enable the~~
19 ~~Commission and the Director (1) to monitor compliance by City departments and their prime~~
20 ~~contractors with their obligations under this ordinance (2) to determine whether City departments are~~
21 ~~achieving their prime and subcontracting goals under this ordinance, (3) to determine whether to~~
22 ~~recommend changes in this ordinance to ensure that the ordinance continues to serve as a remedy for~~
23 ~~discrimination in contracting while going no further than necessary to remedy that discrimination, and~~
24 ~~(4) to make such other reports and analyses as are required by this ordinance.~~

1 ~~—In the event that a request for payment fails to include the information required pursuant to~~
2 ~~this Section, the contract awarding authority shall, within two working days, notify the Director and the~~
3 ~~affected prime contractor[s] of the failure and afford each affected prime contractor an opportunity to~~
4 ~~be heard promptly. That notice shall inform the contractor that the contract awarding authority has~~
5 ~~tentatively determined that the information has not been provided, what information is missing and that~~
6 ~~if this failure is substantiated, then the Controller will be notified to withhold 20 percent of the payment~~
7 ~~until the information is provided. If the Controller finds, after consultation with the Director and the~~
8 ~~notice and opportunity to be heard, that the information has not been provided, the Controller shall~~
9 ~~withhold 20 percent of the payment otherwise due until the information is provided.~~

10 ~~—(D) It is the City's policy that MBEs, WBEs and LBEs should be paid by the City within 30~~
11 ~~days of the date on which the City receives an invoice from an MBE, WBE or LBE for work performed~~
12 ~~for the City. The Controller shall work with the Director and representatives of City departments to~~
13 ~~implement this City-wide prompt payment policy.~~

14 ~~—(E) The contract awarding authority shall require all prime contractors to submit, within 10~~
15 ~~days following payment to the prime contractor of moneys owed for work completed on a project, an~~
16 ~~affidavit under penalty of perjury, that all subcontractors on the project or job have been paid and the~~
17 ~~amounts of each of those payments. The name, telephone number and business address of every~~
18 ~~subcontractor shall be listed on the affidavit. If a prime contractor fails to submit this affidavit, the~~
19 ~~contract awarding authority shall notify the Director who shall take appropriate action as authorized~~
20 ~~under Section 12D.A.16(B) and (F).~~

21
22 **~~SEC. 12D.A.8. POWERS AND DUTIES OF THE MAYOR.~~**

23 ~~—In addition to the duties given to the Mayor elsewhere, the Mayor shall:~~

24 ~~—1. By July 1st of each fiscal year, issue notices to all City departments informing them of~~
25 ~~their duties under this ordinance. The notice shall contain the following information: (1) the City-wide~~

~~MBE/WBE participation goals that departments are expected to use good faith efforts to attain during the fiscal year and that a department's failure to use good faith efforts to attain the MBE/WBE participation goals shall be reported to this Board in the Commission's annual report; and (2) the data each department is required to provide the Controller on each contract award;~~

~~—2.—Coordinate and enforce cooperation and compliance by all departments with this ordinance.~~

~~SEC. 12D.A.9. POWERS AND DUTIES OF CONTRACT AWARDING AUTHORITIES.~~

~~—(A)—Contract awarding authorities shall:~~

~~—1.—Use good faith efforts for all contracts subject to the bid/ratings discount provisions of this ordinance to solicit and to obtain quotes, bids or proposals from MBEs and WBEs on all solicitations, or document their unavailability;~~

~~—2.—Unless otherwise indicated in this ordinance, extend a discount in all bids, proposals and contracts and in the composition of rating scales as follows: (1) a five percent discount to (i) an LBE or (ii) a joint venture with MBE or WBE participation that equals or exceeds 35 percent but is under 40 percent; or (iii) where a joint venture is composed of only LBEs with no MBE or WBE participation or where the MBE or WBE participation is less than 35 percent; (2) a seven and one-half percent bid discount to a joint venture with MBE or WBE participation that equals or exceeds 40 percent; (3) a 10 percent discount to (i) an MBE or WBE or (ii) a joint venture between or among MBEs or/and WBEs.~~

~~—The contracting awarding authority shall apply the aforementioned appropriate bid/ratings discount only to a joint venture (1) that meets the requirements of Section 12D.A.6(A)7 and (2) when the MBE or WBE is an active partner in the joint venture and performs work, manages the job and takes financial risks in proportion to the required level of participation stated in the bid documents and is responsible for a clearly defined portion of the work to be performed, and shares proportionately~~

1 ~~in the ownership, control, management responsibilities, risks, and profits of the joint venture. The~~
2 ~~portion of the MBE or WBE joint venture's work shall be set forth in detail separately from the work to~~
3 ~~be performed by the nonMBE or nonWBE joint venture partner. The MBE or WBE joint venture's~~
4 ~~portion of the contract must be assigned a commercially reasonable dollar value;~~

5 ~~— 3. Arrange contracting by size and type of work to be performed so as most effectively to~~
6 ~~enhance the opportunity for participation by MBEs and WBEs to the maximum extent feasible. As soon~~
7 ~~as practical before soliciting quotes, bids or proposals, all contract awarding authorities or in the case~~
8 ~~of a professional services contract, the department making the contract award recommendation, shall~~
9 ~~submit all large proposals to the Director for review. The purpose of the Director's review is to~~
10 ~~determine whether the proposed project can be divided into smaller projects so as to enhance the~~
11 ~~opportunity for participation by MBEs and WBEs in the project purposes of this subsection, the term~~
12 ~~"large project" shall mean the following: (1) any public works/construction project estimated to cost~~
13 ~~more than \$5,000,000; and (2) any professional services contract estimated to cost more than~~
14 ~~\$100,000. If the Director determines, after consulting with the contract awarding authority or~~
15 ~~department responsible for the project, that the project can be divided into smaller projects, the~~
16 ~~contract awarding authority or department shall comply with the Director's determination and issue~~
17 ~~the solicitation for quotes, bids or proposals in accordance with the Director's determination;~~

18 ~~— 4. Adjust bid bonding and insurance requirements in accordance with the most current~~
19 ~~version of the City's "Contract Insurance Manual" or as otherwise authorized by the City Risk~~
20 ~~Manager, Department of Administrative Services;~~

21 ~~— 5. Use the City's Surety Bonding Program set forth in Administrative Code Section~~
22 ~~12D.A.10 to assist MBEs, WBEs and LBEs bidding on and performing City public works contracts to~~
23 ~~meet bonding requirements and/or obtain construction loans;~~

24 ~~— 6. Submit to the Office of Contract Administration (OCA) in electronic format or a format~~
25 ~~specified by the all bid opportunities, requests for proposals and Solicitations for which published~~

~~notice or advertising is required, no later than 10 calendar days prior to the announcement of the bid opportunity, request for proposal or Solicitation. A contract awarding authority must obtain a waiver from its commission, or in the case of a department that has no commission, from the Board of Supervisors, if it cannot meet the requirements of this Section 12D.A.9(A)6. The OCA shall cause to be posted upon a website the following information concerning current bids, requests for proposals and Solicitations: the title and number; the name of the contract awarding authority; and the name and telephone number of the person to be contacted for further information. Such information shall be posted with sufficient lead time to provide adequate notice and opportunity to potential City contractors and vendors to participate in the bid opportunity, request for proposals or Solicitation, but in no event less than 10 calendar days prior to the due date for such bid opportunity, request for proposals or Solicitation;~~

~~—7. Impose such sanctions or take such other actions as are designed to ensure compliance with the provisions of this ordinance, which shall include, but are not limited to:~~

- ~~——(a) Refuse to award a contract,~~
- ~~——(b) Order the suspension of a contract,~~
- ~~——(c) Order the withholding of funds,~~
- ~~——(d) Order the revision of a contract based upon a material breach of contract provisions pertaining to MBE or WBE participation,~~
- ~~——(e) Disqualify a bidder, contractor, subcontractor, or other business from eligibility for providing goods or services to the City for a period not to exceed five years, based on the standards set forth in this ordinance and rules and regulations promulgated by the Commission. Any business disqualified under this subsection shall have a right to review and reconsideration by the Commission after two years upon a showing of corrective action indicating that violations are not likely to recur;~~

~~—8. Not award any contract to a person or business that is disqualified from doing business with the City under the provisions of this ordinance;~~

1 ~~—9. Designate a staff person to be responsible for responding to the Director and~~
2 ~~Commission regarding the requirements of this ordinance;~~

3 ~~—10. Maintain accurate records as required by the Director and the Commission for each~~
4 ~~contract awarded, its dollar value, the nature of the goods or services to be provided, the name of the~~
5 ~~contractor awarded the contract, the efforts made by a contractor to solicit bids from and award~~
6 ~~subcontracts to MBEs and WBEs and LBEs;~~

7 ~~—11. Where feasible, provide technical assistance to MBEs and WBEs to increase their~~
8 ~~ability to compete effectively for the award of City contracts;~~

9 ~~—12. Work with the Director and the Controller to implement a City-wide prompt payment~~
10 ~~policy requiring that MBEs, WBEs and LBEs be paid by the City within 30 days of the date on which~~
11 ~~the City receives an invoice from an MBE, WBE or LBE for work performed for the City;~~

12 ~~—13. Provide the Director with written notice of all contract amendments, modifications,~~
13 ~~supplements and change orders that cumulatively result in an increase or decrease of the contract's~~
14 ~~dollar amount of more than 10 percent. Such notice shall be provided within 10 days of each such~~
15 ~~contract modification;~~

16 ~~—14. Whenever contract amendments, modifications, supplements or change orders~~
17 ~~cumulatively increase the total dollar value of a contract by more than 10 percent, the contract~~
18 ~~awarding authority shall require compliance with those MBE and WBE provisions of this ordinance~~
19 ~~that applied to the original contract;~~

20 ~~—15. All contract amendments, modifications, supplements or change orders that~~
21 ~~cumulatively increase by more than 20 percent the total dollar value of all contracts originally valued~~
22 ~~at \$50,000 or more shall be subject to prior approval of the Director, who shall review the proposed~~
23 ~~amendment, modification, supplement or change order to correct contracting practices that exclude~~
24 ~~women or minorities from new contracting opportunities.~~

1 ~~—(B)—Contract awarding authorities or departments may invite, encourage or request~~
2 ~~businesses to joint venture on any contract to promote MBE or WBE participation.~~

3 ~~—(C)—For the purpose of determining MBE and WBE participation, contracts awarded to joint~~
4 ~~ventures in which one or more MBEs or WBEs are combined with one or more businesses that are not~~
5 ~~MBEs or WBEs shall be deemed by the contract awarding authority to be awarded to MBEs or WBEs~~
6 ~~only to the extent of the MBEs or WBEs participation in the joint venture. MBE and/or WBE~~
7 ~~participation in the supply of goods shall be included in determining MBE and/or WBE participation in~~
8 ~~a joint venture if the goods are supplied in accordance with established general industry practice.~~

9 ~~—(D)—Contract awarding authorities shall ensure that all contracts subject to this ordinance~~
10 ~~include the following requirements, in addition to such other requirements as may be set forth~~
11 ~~elsewhere:~~

12 ~~—1.—Each bidder, proposer and contractor shall be required to sign an affidavit, declaring~~
13 ~~under penalty of perjury, attesting to its intention to comply fully with the provisions of this ordinance~~
14 ~~and attesting to the truth and accuracy of all information provided regarding such compliance;~~

15 ~~—2.—Each contract shall incorporate this ordinance by reference and shall provide that the~~
16 ~~wilful failure of any bidder or contractor to comply with any of its requirements shall be deemed a~~
17 ~~material breach of contract;~~

18 ~~—3.—Contracts shall provide that in the event that the Director finds that any bidder,~~
19 ~~subcontractor or contractor that wilfully fails to comply with any of the provisions of this ordinances,~~
20 ~~rules and regulations implementing the ordinance or contract provisions pertaining to MBE or WBE~~
21 ~~participation bidder, subcontractor or contractor shall be liable for liquidated damages for each~~
22 ~~contract in an amount equal to the bidder's or contractor's net profit on the contract, 10 percent of the~~
23 ~~total amount of the contract or \$1,000, whichever is greatest, as determined by the Director pursuant to~~
24 ~~Section 12D.A.16(C). All contracts shall also contain a provision in which the bidder, subcontractor or~~
25 ~~contractor acknowledges and agrees that the liquidated damages assessed shall be payable to the City~~

1 ~~upon demand and may be set off against any monies due to the bidder, subcontractor or contractor~~
2 ~~from any contract with the City;~~

3 ~~—4. Contracts shall require all contractors to maintain records, including such information~~
4 ~~requested by the Director or Commission, necessary for monitoring their compliance with this~~
5 ~~ordinance and shall require prime contractors to include in any subcontract with an MBE or WBE a~~
6 ~~provision requiring the subcontractor to maintain the same records;~~

7 ~~—5. Contracts shall require prime contractors, during the term of the contract, to fulfill the~~
8 ~~MBE and WBE participation commitments submitted with their bids;~~

9 ~~—6. Contracts shall require prime contractors to include in any subcontract with an MBE or~~
10 ~~WBE a provision requiring the prime contractor to compensate any MBE or WBE subcontractor for~~
11 ~~damages for breach of contract or liquidated damages equal to 5% of the subcontract amount,~~
12 ~~whichever is greater, if the prime contractor fails to comply with its commitment to use MBE and WBE~~
13 ~~subcontractors as specified in the bid/proposal unless the Commission and the contract awarding~~
14 ~~authority both give advance approval to the prime contractor to substitute subcontractors or otherwise~~
15 ~~modify the commitments in the bid/proposal documents. Contracts shall also require prime contractors~~
16 ~~to compensate any MBE or WBE subcontractor for breach of contract or liquidated damages equal to~~
17 ~~5% of the subcontract amount, whichever is greater, if the prime contractor does not fulfill its~~
18 ~~commitment to use the MBE or WBE subcontractor as specified in the bid/proposal unless the~~
19 ~~Commission and the contract awarding authority both give advance approval to the prime contractor~~
20 ~~to substitute subcontractors or otherwise modify the commitments in the bid/proposal documents. This~~
21 ~~provision shall also state that it is enforceable in a court of competent jurisdiction;~~

22 ~~—7. Contracts shall require prime contractors, whenever amendments, modifications,~~
23 ~~supplements, or change orders cumulatively increase the total dollar value of a construction contract~~
24 ~~by more than 10 percent, to comply with those MBE and WBE provisions of this ordinance that applied~~
25 ~~to the original contract with respect to the amendment, modification, supplement or change order;~~

1 ~~—8.— Contracts shall require prime contractors to submit to the Director for approval all~~
2 ~~contract amendments, modifications, supplements, and change orders that cumulatively increase by~~
3 ~~more than 20 percent the total dollar value of all contracts originally valued at \$50,000 or more. The~~
4 ~~Director shall review the proposed amendment, modification, supplement or change order to correct~~
5 ~~any contracting practices that exclude women and minorities from new contracting opportunities;~~

6 ~~—9.— Contracts in which subcontracting is used shall prohibit back contracting to the prime~~
7 ~~contractor or lower tier subcontracting for any purpose inconsistent with the provisions of this~~
8 ~~ordinance, rules and regulations adopted pursuant to this ordinance, or contract provisions pertaining~~
9 ~~to MBE and WBE utilization;~~

10 ~~—10.— Contracts in which subcontracting is used shall require the prime contractor to pay its~~
11 ~~subcontractors within three working days after receiving payment from the City unless the prime~~
12 ~~contractor notifies the Director in writing within 10 working days prior to receiving payment from the~~
13 ~~City that there is a bona fide dispute between the prime contractor and the subcontractor, in which~~
14 ~~case the prime contractor may withhold the disputed amount but shall pay the undisputed amount. The~~
15 ~~Director may, upon making a determination that a bona fide dispute exists between the prime~~
16 ~~contractor and subcontractor, waive this three day payment requirement. In making the determination~~
17 ~~as to whether a bona fide dispute exists, the Director shall not consider the merits of the dispute.~~
18 ~~Contracts in which subcontracting is used shall also require the contractor/consultant, within 10~~
19 ~~working days following receipt of payment from the City, to file an affidavit, under penalty of perjury,~~
20 ~~that he or she has paid all subcontractors. The affidavit shall provide the names and address of all~~
21 ~~subcontractors and the amount paid to each;~~

22 ~~—11.— Contracts shall require contractors and subcontractors to maintain records necessary~~
23 ~~for monitoring their compliance with this ordinance for three years following completion of the project~~
24 ~~and shall permit the Commission and Controller to inspect and audit such records.~~

1 ~~—(E) All contracts or other agreements between the City and persons or entities, public or~~
2 ~~private, in which such persons or entities receive money from or through the City for the purpose of~~
3 ~~contracting with businesses to perform public improvements, shall require such persons or entities to~~
4 ~~comply with the provisions of this ordinance in awarding and administering such contracts.~~

5
6 ***SEC. 12D.A.10. PUBLIC WORKS CONTRACTS.***

7 ~~—(A) In addition to the general findings set forth in Section 12D.A.2, and based upon the~~
8 ~~record before this Board, the Board hereby finds that the evidence before the Board relating to the~~
9 ~~award of prime public works contracts for fiscal years 1992-93, 1993-94, 1994-95, 1996-97, 1997-98~~
10 ~~and 1998-2003 reflects that MBEs and WBEs continue to be disadvantaged by discriminatory practices~~
11 ~~when competing for City prime public works contracts. Further, the Board finds that race-neutral~~
12 ~~measures employed by the City have not prevented such discrimination against MBEs and WBEs from~~
13 ~~occurring.~~

14 ~~—(B) Contract awarding authorities shall apply bid discounts as enumerated in Section~~
15 ~~12D.A.9(A) to all public work contracts the estimated cost of which exceeds \$10,000.~~

16 ~~—(C) Bonding and Financial Assistance Program.~~

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

22 ~~—2. Eligible Contracts. The assistance described in this Subsection 12D.A.10(C) shall be~~
23 ~~available for any City public works contract awarded in accordance with San Francisco Administrative~~
24 ~~Code Chapter 6.~~

1 ~~3. Eligible Businesses. Businesses must meet the following criteria to qualify for assistance~~
2 ~~under this Subsection 12D.A.10(C):~~

3 ~~—— (a) The business may be either a prime contractor or subcontractor; and~~

4 ~~—— (b) The business must be certified by the HRC as a Minority Business Enterprise~~
5 ~~("MBE"), Woman Business Enterprise ("WBE") or Local Business Enterprise ("LBE") according to the~~
6 ~~requirements of San Francisco Administrative Code Chapter 12D.A:~~

7 ~~—— (c) The business may be required to participate in a "bonding assistance training~~
8 ~~program" as offered by the HRC, which is anticipated to provide the following:~~

9 ~~—— (i) Bond application assistance,~~

10 ~~—— (ii) Assistance in developing financial statements,~~

11 ~~—— (iii) Assistance in development of a pre-bond surety profile,~~

12 ~~—— (iv) Identification of internal financial control systems,~~

13 ~~—— (v) Development of accurate financial reporting tools, and~~

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

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

19 ~~—— (b) With respect to a construction loan to be made to a contractor or subcontractor, an~~
20 ~~agreement to guaranty up to 50 percent of the original principal amount of the construction loan or 50~~
21 ~~percent of the actual loss suffered by the financial institution as a result of a loan default, whichever is~~
22 ~~less; provided that in any event the City's obligations with respect to a guaranty shall not exceed~~
23 ~~\$750,000;~~

1 ~~——(c) Any other documents deemed necessary by the HRC to carry out the objectives of this~~
2 ~~program, provided that such documents shall be subject to review and approval by the City Attorney's~~
3 ~~Office.~~

4 ~~——5. Monitoring and Enforcement. The HRC shall maintain records on the use and~~
5 ~~effectiveness of this program, including but not limited to (1) the identities of the businesses and~~
6 ~~bonding companies participating in this program, (2) the types and dollar amounts of public work~~
7 ~~contracts for which the program is utilized, and (3) the types and dollar amounts of losses which the~~
8 ~~City is required to fund under this program. The HRC shall submit written reports to the Board of~~
9 ~~Supervisors every six months beginning January 1, 2001, advising the Board of the status of this~~
10 ~~program and its funding capacity, and an analysis of whether this program is proving to be useful and~~
11 ~~needed.~~

12 ~~——6. Funding and Accounts. As of July 1, 2001, funding for this program may be derived~~
13 ~~from the following sources:~~

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

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

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

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

5 ~~—7.—Term of Bonding Assistance Program. The HRC is authorized to enter into the~~
6 ~~agreements described in this Subsection for a period ending on the earlier of (1) June 30, 2008 or (2)~~
7 ~~the date on which the Controller is no longer able to certify the availability of funds for any new~~
8 ~~guarantee agreement.~~

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

13
14 **~~SEC. 12D.A.11. PURCHASING CONTRACTS.~~**

15 ~~—(A)—In addition to the general findings set forth in Section 12D.A.2, and based upon the~~
16 ~~record before this Board, the Board finds that the evidence before the Board relating to the award of~~
17 ~~prime contracts for commodities and general services for fiscal years 1992-93, 1993-94, 1994-95,~~
18 ~~1996-97, 1997-98 and 1998-2003 reflects that MBEs and WBEs continue to be disadvantaged by~~
19 ~~discriminatory practices when competing for such contracts. The Board further finds that race-neutral~~
20 ~~measures employed by the City have not prevented such discriminatory practices from occurring.~~

21 ~~—(B)—Contract awarding authorities shall apply all bid discounts as enumerated in Section~~
22 ~~12D.A.9(A) to all commodities contracts the estimated cost of which exceeds \$2,500 and general~~
23 ~~services contracts the estimated cost of which exceeds \$10,000.~~

24 ~~—(C)—In addition to the duties given the Office of Contract Administration elsewhere in this~~
25 ~~Section, the Office of Contract Administration shall maintain, with the assistance of the Director, a~~

1 ~~current list of MBEs and WBEs to provide each of those commodities or services subject to this~~
2 ~~ordinance that the Office of Contract Administration indicates are required by the City.~~

3 ~~—(D) The Office of Contract Administration shall also maintain a central office where all bids,~~
4 ~~requests for proposals and solicitations will be listed and kept current.~~

5
6 **~~SEC. 12D.A.12. ARCHITECT/ENGINEERING CONTRACTS.~~**

7 ~~—(A) In addition to the general findings set forth in Section 12D.A.2, and based upon the~~
8 ~~record before this Board, the Board hereby finds that the evidence before this Board relating to the~~
9 ~~award of prime architect/engineering contracts for fiscal years 1992-93, 1993-94, 1994-95, 1996-97,~~
10 ~~1997-98 and 1998-2003 reflects that MBEs and WBEs continue to be disadvantaged by discriminatory~~
11 ~~practices when competing for City prime architect/engineering contracts. The Board further finds that~~
12 ~~race-neutral measures employed by the City have not prevented these discriminatory practices from~~
13 ~~occurring.~~

14 ~~—(B) Contract awarding authorities and architect/engineering selection panels shall apply all~~
15 ~~bid/rating discounts as enumerated in Section 12D.A.9(A) to all bids and proposals for~~
16 ~~architect/engineering contracts, the estimated cost of which exceeds \$10,000. Where~~
17 ~~Architect/Engineering contracts are formally bid, all consultants selection panels and awarding~~
18 ~~officers shall apply the bid/rating discounts to each stage of the selection process, e.g., qualifications,~~
19 ~~proposals and interviews. Minorities and women shall be included on consultant selection panels.~~

20 ~~—(C) The Director is empowered to take actions to ensure compliance with the provisions of~~
21 ~~this ordinance, including, without limitation, intervening in the selection process, by modifying the~~
22 ~~criteria used for selecting selection panelists or prime architect/engineering contractors to correct any~~
23 ~~contracting practices that hinder equal business opportunities for MBEs and WBEs.~~

1 **~~SEC. 12D.A.13. CONSULTANTS AND PROFESSIONAL SERVICES CONTRACTS.~~**

2 ~~—(A) In addition to the general findings set forth in Section 12D.A.2, and based upon the~~
3 ~~record before this Board, the Board hereby finds that the evidence before the Board relating to the~~
4 ~~award of professional services contracts for fiscal years 1993-93, 1993-94, 1994-95, 1996-97, 1997-98~~
5 ~~and 1998-2003 reflects that MBEs and WBEs continue to be disadvantaged by discriminatory practices~~
6 ~~when competing for City prime professional service contracts. Further, the Board finds that race-~~
7 ~~neutral measures employed by the City do not prevent such discrimination against MBEs and WBEs~~
8 ~~from occurring.~~

9 ~~—(B) Contract awarding authorities shall apply bid/ratings discounts as enumerated in~~
10 ~~Section 12D.A.9(A) to all bids and proposals as enumerated in Section 12D.A.9(A) to all professional~~
11 ~~service contracts the estimated cost of which exceeds \$10,000. Where professional service contracts~~
12 ~~are formally bid, all consultants selection panels and awarding officers shall apply the bid/rating~~
13 ~~discounts to each stage of the selection process, e.g., qualifications, proposals and interviews.~~
14 ~~Minorities and women shall be included on consultant selection panels.~~

15 ~~—(C) The Director is empowered to take actions to ensure compliance with the provisions of~~
16 ~~this ordinance, including, without limitation, intervening in the selection process by modifying the~~
17 ~~criteria used to select selection panelists or prime professional service contractors to correct any~~
18 ~~contracting practice that hinders equal business opportunities for MBEs and WBEs.~~

19
20 **~~SEC. 12D.A.14. BEST EFFORTS REQUIRED FOR OTHER CONTRACTS.~~**

21 ~~—All City departments, commissions, boards, officers and employees, in the performance of~~
22 ~~their duties, and in the award of leases, franchises, concessions, and other contracts not subject to the~~
23 ~~race and gender conscious bid/ratings discounts of this ordinance, shall make best efforts to use the~~
24 ~~services of MBEs, WBEs and LBEs.~~

1 **~~SEC. 12D.A.15. EXCEPTIONS AND WAIVERS.~~**

2 ~~—(A) The Director shall waive the race and gender-conscious bid discounts and good faith~~
3 ~~efforts requirements of this ordinance under the following circumstances:~~

4 ~~—1. Whenever the Director finds, with the advice of the contract awarding authority and the~~
5 ~~Office of Contract Administration, that needed goods or services are available from a sole source that~~
6 ~~is not currently disqualified from doing business with the City.~~

7 ~~—2. If the contract awarding authority certifies in writing to the Director, prior to the~~
8 ~~Controller's contract certification, that (a) the contract is being awarded under emergency~~
9 ~~circumstances as described and defined in Administrative Code Section 6.60 or Administrative Code~~
10 ~~Section 21.15 and (b) (i) there is no time to apply bid/ratings discounts or establish subcontracting~~
11 ~~goals, or (ii) there are no immediately available MBEs and WBEs that are capable of performing the~~
12 ~~emergency work.~~

13 ~~—(B) The Director shall waive the five percent LBE bid discount for contracts in excess of~~
14 ~~\$5,000,000 whenever a contract awarding authority establishes that:~~

15 ~~—1. Sufficient qualified LBEs capable of providing the needed goods and services required~~
16 ~~by the contract are unavailable and sufficient qualified businesses located outside San Francisco~~
17 ~~capable of providing the needed goods and services required by the contract are available; or~~

18 ~~—2. The application of the five percent LBE discount will result in significant additional~~
19 ~~costs to the City if the waiver of the bid discount is not granted.~~

20 ~~—(C) The bid/ratings discount provisions of this ordinance are not applicable to any contract~~
21 ~~estimated by the contract awarding authority to cost in excess of \$10,000,000.~~

22
23 **~~SEC. 12D.A.16. MONITORING AND COMPLIANCE.~~**

24 ~~—(A) The Director shall monitor the City's progress toward achievement of the goals stated in~~
25 ~~Section 12D.A.3. The Director shall issue an exit report for any contract that includes MBE/WBE~~

1 ~~subcontracting participation or MBE/WBE prime contract participation as a joint venture partner. The~~
2 ~~purpose of this exit report is to ensure that prime contractors are complying with their commitments to~~
3 ~~use MBE and WBE subcontractors and MBE/WBEs are performing services as set forth in the~~
4 ~~bid/proposal and contract documents for the joint ventures.~~

5 ~~—(B) Noncompliance By Contractors. In cases in which the Director has cause to believe that~~
6 ~~a contractor has failed to comply with any of the requirements of this ordinance, rules and regulations~~
7 ~~adopted pursuant to this ordinance or contract provisions pertaining to MBE or WBE participation, the~~
8 ~~Director shall notify the contract awarding authority and shall attempt to resolve the noncompliance~~
9 ~~through conference and conciliation. If the noncompliance cannot be resolved, the Director shall~~
10 ~~conduct an investigation and, where the Director so finds, issue a written finding of noncompliance.~~
11 ~~The Director's finding shall indicate whether the contractor acted in good faith or whether~~
12 ~~noncompliance was based on willful or bad faith noncompliance with requirements of this ordinance,~~
13 ~~rules and regulations adopted pursuant to this ordinance or contract provisions pertaining to MBE or~~
14 ~~WBE participation. Where the Director finds that the contractor acted in good faith, after affording the~~
15 ~~contractor notice and an opportunity to be heard, the Director shall recommend that the contract~~
16 ~~awarding authority take appropriate action. Where the Director finds willful or bad faith~~
17 ~~noncompliance, after affording the contractor notice and an opportunity to be heard, the Director shall~~
18 ~~impose sanctions for each violation of the ordinance, rules and regulations adopted pursuant to this~~
19 ~~ordinance or contract provisions pertaining to MBE or WBE participation that may include:~~

20 ~~—1. Declaring the bidder or contractor nonresponsive and ineligible to receive the award of~~
21 ~~any pending contract;~~

22 ~~—2. Declaring the bidder or contractor to be an irresponsible bidder and disqualifying the~~
23 ~~bidder or contractor from eligibility for providing goods or services to the City for a period of up to~~
24 ~~five years, with a right of review and reconsideration by the Commission after two years upon a~~
25 ~~showing of corrective action indicating violations are not likely to recur;~~

1 ~~—3. If the bidder or contractor is a MBE, WBE and/or LBE, revoking that business'~~
2 ~~certification as a MBE, WBE and/or LBE;~~

3 ~~—4. Determining that the bidder or contractor has wilfully failed to comply with the~~
4 ~~provisions of this ordinance and, pursuant to the provision in the contract contemplated by Section~~
5 ~~12D.A.9(D)(3) of this ordinance, calculating the liquidated damages for which the bidder or contractor~~
6 ~~shall be liable. Thereafter the Director shall send a written notice to the Controller, the Mayor and all~~
7 ~~contract awarding authorities overseeing any contract with the bidder or contractor, that a~~
8 ~~determination of willful or bad faith compliance has been made and that all payments due the bidder or~~
9 ~~contractor shall be withheld as agreed by the bidder or contractor and the City pursuant to Section~~
10 ~~12D.A.9(D)(3).~~

11 ~~—(C) The bidder or contractor may appeal the Director's decision to the Commission. The~~
12 ~~Commission may sustain, reverse or modify the Director's findings and sanctions imposed or take such~~
13 ~~other action to effectuate the purpose of this ordinance. An appeal by a contractor under this~~
14 ~~subsection shall not stay the Director's findings.~~

15 ~~—(D) The Director may require such reports, information and documentation from~~
16 ~~contractors, subcontractors, bidders, contract awarding authorities, and heads of departments,~~
17 ~~divisions, and offices of the City as are reasonably necessary to determine compliance with the~~
18 ~~requirements of this ordinance.~~

19 ~~—(E) Wilful Noncompliance by Contract Awarding Authority. Whenever the Director finds~~
20 ~~after investigation that a contract awarding authority has willfully failed to comply with its duties~~
21 ~~pursuant to Section 12D.A.9, the Director shall transmit a written finding of noncompliance specifying~~
22 ~~the nature of the noncompliance, to the contract awarding authority, the Commission, the Mayor and~~
23 ~~this Board.~~

24 ~~—The Director shall attempt to resolve any noncompliance through conference and~~
25 ~~conciliation. Should such attempt fail to resolve the noncompliance, the Director shall transmit a copy~~

1 ~~of the finding of noncompliance along with a finding that conciliation was attempted and failed to the~~
2 ~~Commission and this Board.~~

3 ~~—The finding of noncompliance shall be communicated to the Mayor for appropriate action to~~
4 ~~secure compliance pursuant to Section 12D.A.8(2).~~

5 ~~—(F) If the Director has reason to believe that any person has knowingly made, filed, or~~
6 ~~caused to be filed with the City any materially false or misleading statement or report made in~~
7 ~~connection with this ordinance, the Director shall report that information to the City Attorney or the~~
8 ~~District Attorney for appropriate action. The Director shall be empowered to conduct an investigation~~
9 ~~and for each violation of this Subsection 12D.A.16(F), to impose sanctions as set forth in Subsection~~
10 ~~12D.A.16.~~

11
12 **~~SEC. 12D.A.17. SUBCONTRACTOR PARTICIPATION GOALS; SUBCONTRACTING~~**
13 **~~PROGRAM.~~**

14 ~~—(A) The findings set forth in Section 12D.A.2 that relate to MBEs, WBEs are hereby~~
15 ~~incorporated by reference. This Board further finds that requiring prime contractors to demonstrate~~
16 ~~good faith efforts to use MBEs and WBEs as subcontractors on the City's contracts would offset some~~
17 ~~of the disadvantages that such businesses face and would promote competition by requiring prime~~
18 ~~contractors to solicit the participation of MBEs and WBEs that they might not otherwise solicit.~~

19 ~~—(B) For all public works/construction, architect/engineering, professional service, and~~
20 ~~general service contracts which the contract awarding authority reasonably anticipates will include~~
21 ~~subcontractor participation, prior to the solicitation of bids or proposals, the contract awarding~~
22 ~~authority shall provide the Director with a proposed job scope, and may submit written~~
23 ~~recommendations to the Director regarding MBE and WBE subcontractor participation goals to be set~~
24 ~~for the contract.~~

1 ~~—(C) Upon receipt of a proposed job scope and/or a written recommendation from a~~
2 ~~contracting awarding authority pursuant to Section 12D.A.9 (A)(3), the Director shall set the MBE and~~
3 ~~WBE participation goals for each public works/construction, architect/engineering, professional~~
4 ~~services, and general service contract based upon the following factors:~~

5 ~~—1. The extent of subcontracting opportunities presented by the contract;~~

6 ~~—2. The availability of MBE/WBE subcontractors capable of providing goods and services~~
7 ~~on the contract.~~

8 ~~—3. The Director shall set these goals within 10 working days of the date the Director~~
9 ~~receives from a contract awarding authority a proposed job scope and/or written recommendation. If~~
10 ~~the Director fails to act within 10 days, and the contract awarding authority submitted to the Director~~
11 ~~recommended goals, the recommended goals shall be deemed approved by the Director, provided the~~
12 ~~goals are based upon the factors identified above.~~

13 ~~—(D) All solicitations for bidders on prime public works/construction, architect/engineering,~~
14 ~~professional services, and general service contracts shall require each bidder to do the following:~~

15 ~~—1. Demonstrate in its bid that it has used good faith efforts to use MBE and WBE~~
16 ~~subcontractors; and~~

17 ~~—2. Identify the particular MBEs and WBEs subcontractors to be used in performing the~~
18 ~~contract, specifying for each the dollar value of the participation, the type of work to be performed and~~
19 ~~such information as may reasonably be required to determine the responsiveness of the bid.~~

20 ~~—Except as provided in Section 12D.A.17, bids not meeting the requirements of Section~~
21 ~~12D.A.17 shall be declared nonresponsive.~~

22 ~~—(E) A contract awarding authority may request that the Director waive or reduce the MBE~~
23 ~~and WBE subcontractor participation goals on public works/construction, architect/engineering and~~
24 ~~professional services contracts by submitting the reasons therefor in writing to the Director prior to the~~
25 ~~solicitation of bids.~~

1 ~~—(F) A bidder or contractor may request that the Director waive or reduce the amount of~~
2 ~~MBE or WBE subcontractor participation goals on a public works/construction, architect/engineering,~~
3 ~~professional service, and general service contract by submitting in writing with its bid to the contract~~
4 ~~awarding authority the reasons therefor.~~

5 ~~—(G) The Director may grant the request for waiver or reduction made pursuant to Sections~~
6 ~~12D.A.17(E) and (F) upon a determination that:~~

7 ~~—1. The reasonable and necessary requirements of the public works/construction,~~
8 ~~architect/engineering, professional service, and general service contract render subcontracting or the~~
9 ~~participation of businesses other than the public works/bidder unfeasible;~~

10 ~~—2. Qualified MBEs and/or WBEs capable of providing the goods or services required by~~
11 ~~the contract are unavailable, despite the prime contractor's or the department's good faith efforts to~~
12 ~~locate MBEs and WBEs to meet the participation goals; or~~

13 ~~—3. The available MBEs and WBEs have given price quotes that exceed competitive levels~~
14 ~~beyond amounts that can be attributed to cover costs inflated by the present effects of discrimination.~~

15 ~~—(H) Whenever the Director denies a contractor's request to waive or reduce the participation~~
16 ~~goals, the contractor may appeal that denial to the Commission. The Commission's decision on the~~
17 ~~request shall be final. In reviewing the Director's denial of a contractor's request to waive or to reduce~~
18 ~~participation goals, the Commission shall consider the extent of subcontracting opportunities presented~~
19 ~~by the contract and the availability of MBE/WBE subcontractors capable of providing goods and~~
20 ~~services on the contract.~~

21 ~~—The Commission may overrule, sustain or modify the Director's decision by applying the same~~
22 ~~standards that the Director is required to apply, as set forth in Subsection (G) above.~~

23 ~~—(I) The contract awarding authority shall require bidders or proposers on the contracts to~~
24 ~~contact MBEs and WBEs before listing them as subcontractors in the bid or proposal. The contract~~
25 ~~awarding authority shall declare bids or proposals that fail to satisfy this requirement nonresponsive.~~

1 ~~—(J) During the term of the contract, any failure to comply with the level of MBE and WBE~~
2 ~~subcontractor participation specified in the contract shall be deemed a material breach of contract.~~

3
4 **~~SEC. 12D.A.18. REPORTING AND REVIEW.~~**

5 ~~—(A) Reporting by the Director. Commencing November 1, 2003 and no later than the first~~
6 ~~day of every third month thereafter, the Director shall issue a written report to this Board. That report~~
7 ~~shall document each City department's performance under the terms of this ordinance, including,~~
8 ~~among other things, each City department's progress in meeting its MBE/WBE goals and the success of~~
9 ~~each department's prime contractors complying with its best efforts obligations to meet MBE/WBE~~
10 ~~subcontracting goals. That report shall also state whether or not each City department has fully~~
11 ~~reported all data required by this ordinance or requested by HRC or the Controller.~~

12 ~~—1. Whenever the Director's report concludes that a department management's intentional~~
13 ~~disregard or negligent performance of obligations imposed by this ordinance has contributed to that~~
14 ~~department's failure to meet its prime contracting goals or the failure of its prime contractors to use~~
15 ~~their best efforts to meet their subcontracting goals or whenever the Director's report concludes that a~~
16 ~~City department has failed to provide any data required by this ordinance or requested by the HRC or~~
17 ~~the Controller, the Clerk of this Board shall schedule before the appropriate committee of the Board a~~
18 ~~hearing on that report. The Clerk shall also give notice of that hearing to the heads of the departments~~
19 ~~identified in the report and request the attendance of the heads of those departments at the committee~~
20 ~~hearing. The Clerk's notice shall inform the department heads that they must be prepared to respond to~~
21 ~~the Director's finding of intentional disregard and/or negligent performance and to explain what steps~~
22 ~~they intend to take to forestall repetition of the problems, identified in the Directors' report. The same~~
23 ~~procedure shall be followed whenever the Director's report identifies any department as having failed~~
24 ~~to meet its prime or subcontracting goals for three consecutive quarters. If the Director's report~~
25 ~~indicates that a City department has not met its goals for three consecutive quarters, HRC and the City~~

1 ~~department shall institute a targeted program to remedy lack of participation by or in any affected~~
2 ~~ethnic group/gender/industry.~~

3 ~~—2. The Director shall report to the Commission all waivers acted upon pursuant to Section~~
4 ~~12D.A.15. Such report shall be made on a monthly basis following the granting of the waiver.~~

5 ~~—(B) Reporting by the Commission. By July 1st of each fiscal year subject to this ordinance,~~
6 ~~the Commission shall submit an annual report to the Mayor and this Board on the progress of the City~~
7 ~~toward the goals stated in Section 12D.A.3 of this ordinance, together with an identification of~~
8 ~~problems and specific recommendations for: (1) discontinuing the race or gender-conscious bid~~
9 ~~discounts in those cases where the bid discounts have remedied the identified discrimination against~~
10 ~~MBEs and WBEs; and (2) improving the City's performance in remedying the identified discrimination~~
11 ~~against MBEs and WBEs.~~

12 ~~—(C) This Board shall act upon the Commission's recommendations by the first Board meeting~~
13 ~~of January in each fiscal year subject to this ordinance.~~

14 ~~—(D) By the last day of each fiscal year, all contract awarding authorities and City~~
15 ~~departments shall report annually to the Mayor on their progress in the preceding fiscal year toward~~
16 ~~the achievement of the MBE and WBE participation goals.~~

17
18 **~~SEC. 12D.A.19. SEVERABILITY.~~**

19 ~~—The provisions of this ordinance are declared to be separate and severable. The invalidity of~~
20 ~~any clause, sentence, paragraph, subdivision, section or portion of this ordinance, or the invalidity of~~
21 ~~the application thereof to any person or circumstances shall not affect the validity of the remainder of~~
22 ~~this ordinance, or the validity of its application to other persons or circumstances.~~

1 **~~SEC. 12D.A.20. GENERAL WELFARE CLAUSE.~~**

2 ~~—In undertaking the enforcement of this ordinance, the City is assuming an undertaking only to~~
3 ~~promote the general welfare. It is not assuming, nor is it imposing on its officers and employees, an~~
4 ~~obligation for breach of which it is liable in money damages to any person who claims that such breach~~
5 ~~proximately caused injury.~~

6
7 **~~SEC. 12D.A.21. OPERATIVE DATE.~~**

8 ~~—This ordinance shall become operative on July 1, 2003, and shall govern all contracts for~~
9 ~~which a bid or proposal has not been solicited by the operative date.~~

10
11 **~~SEC. 12D.A.22.~~**

12
13 **CHAPTER 12F:**

14 **IMPLEMENTING THE MACBRIDE PRINCIPLES – NORTHERN IRELAND**

15 * * * *

16 **SEC. 12F.6. RESEARCH AND EDUCATION.**

17 * * * *

18 (b) ~~The Clerk of the Board shall report to the Board of Supervisors by July 1, 1989 and by~~
19 ~~January 1, 1990 on the letters that were sent as required in the immediately preceding paragraph, and~~
20 ~~on any responses received. The Controller shall report to the Board of Supervisors by July 1, 1989 and~~
21 ~~by January 1, 1990 on the number of companies with whom the City is doing business who are~~
22 ~~conducting business in Northern Ireland.~~

23 ~~(e)~~—The City Treasurer shall send~~d~~t a statement to banks with whom the City has
24 deposits and encourage them to do business with corporations that abide by the MacBride
25 Principles.

(~~c~~d) The Board of Supervisors, through the Clerk of the Board, shall send a letter to the government of the United Kingdom conveying a copy of this legislation and expressing opposition to religious discrimination.

~~**SEC. 12J.8. IMPLEMENTATION REPORTS.**~~

~~The Purchaser shall provide a written report on the implementation of this ordinance to the Board of Supervisors as follows:~~

~~—(1) At the first Board of Supervisors meeting held one year after this Chapter has been in effect; and~~

~~(2) Annually thereafter.~~

~~Each City department, board and commission shall provide in writing all information requested by the Purchaser as necessary to prepare such reports.~~

~~CHAPTER 14A:~~

~~**DISADVANTAGED BUSINESS ENTERPRISE PROGRAM**~~

~~SEC. 14A.01. AFFIRMING CITY POLICY AGAINST DISCRIMINATION IN PUBLIC CONTRACTING; TEMPORARILY SUSPENDING CHAPTER 12D.A.~~

~~The City, and every commission, department, officer and employee, shall fully and vigorously enforce all laws prohibiting discrimination and requiring equal opportunity in City contracting. All City contracts require contractors to comply with all such applicable local, state and federal laws. These include but are not limited to the Unruh Civil Rights Act and Section 3303(a)(4) of the San Francisco Police Code, which prohibit contractors from discriminating against subcontractors on any basis prohibited by law. The City shall fully enforce its contractual rights, and shall consider discrimination by a prime contractor against subcontractors on any basis prohibited by law to be a~~

1 ~~material breach of contract. The City shall vigorously pursue appropriate remedies for any breach by~~
2 ~~any contractor of such obligations under law or contract to the maximum extent allowed by law.~~

3 ~~Effective immediately upon the passage of this ordinance, all provisions of Administrative Code~~
4 ~~Chapter 12D.A and any other contracting program invalidated by the Superior Court order dated July~~
5 ~~26, 2004, in Coral Construction, Inc. v. City and County of San Francisco (Sup. Ct. No. 421249) shall~~
6 ~~be and are suspended and are of no force and effect; provided, however, the provisions of Chapter~~
7 ~~12D.A and any other contracting program invalidated by the court order shall be suspended only so~~
8 ~~long as, and only to the extent that, the City is enjoined by the court from enforcing the provisions of~~
9 ~~Chapter 12D.A or other similar program. If the injunction is lifted or stayed in its entirety, Chapter~~
10 ~~12D.A and any other contracting program previously invalidated by the court order shall automatically~~
11 ~~become effective and enforceable, and this Chapter 14A shall be suspended for such period of time~~
12 ~~during which Chapter 12D.A is operative.~~

13
14 ***SEC. 14A.02. OPERATIVE DATE; APPLICABILITY.***

15 ~~This ordinance shall become effective and operative immediately upon passage, and shall~~
16 ~~expire on the 61st day following passage unless reenacted as provided by Section 2.107 of the San~~
17 ~~Francisco Charter.~~

18 ~~The provisions of this ordinance are intended to substitute, on a temporary emergency basis,~~
19 ~~only a DBE program for the MBE and WBE programs that the Superior Court invalidated in its order~~
20 ~~of July 26, 2004, in Coral Construction, Inc. v. City and County of San Francisco (Sup. Ct. No.~~
21 ~~421249). When any provision of local law refers to Chapter 12D.A of the Administrative Code or any~~
22 ~~other contracting program enjoined by the court's order of July 26, 2004, it shall be read as referring~~
23 ~~instead to Chapter 14A as set forth in this emergency ordinance.~~

1 ~~This ordinance shall govern all contracts initiated on or after July 26, 2004 and any~~
2 ~~Amendment to a Pre-existing Contract as that term is defined in Section 14A.4 and as those contracts~~
3 ~~are governed by Section 14A.14(k).~~

4
5 **~~SEC. 14A.03. REENACTING EMERGENCY ORDINANCE.~~**

6 ~~The emergency ordinance enacted by the Board of Supervisors on August 10, 2004, which~~
7 ~~amended the San Francisco Administrative Code by adding Chapter 14A to establish a Disadvantaged~~
8 ~~Business Enterprise Program and suspend Chapter 12D.A; adopted a declaration of emergency; made~~
9 ~~applicable certain emergency contracting procedures; and provided for data collection to ensure~~
10 ~~nondiscrimination in City contracting, is hereby reenacted as provided under Section 2.107 of the San~~
11 ~~Francisco Charter.~~

12 ~~This ordinance shall become effective and operative immediately upon passage, and shall~~
13 ~~expire on the 61st day following passage unless reenacted as provided by Section 2.107 of the San~~
14 ~~Francisco Charter.~~

15
16 **~~SEC. 14A.04. ENACTING CHAPTER 14A AS A NON-EMERGENCY ORDINANCE.~~**

17 ~~(A) This Chapter 14A, which was initially enacted by the Board of Supervisors as an~~
18 ~~emergency ordinance, is hereby enacted as a non-emergency ordinance. Chapter 14A shall apply to (1)~~
19 ~~all contracts in which the Contractor agreed to comply with Chapter 14A and any amendment to those~~
20 ~~contracts and (2) all contracts initiated on or after July 26, 2004 and before September 1, 2006 and~~
21 ~~any amendment to such contracts; provided, however, that if a competitive solicitation for an~~
22 ~~agreement to the proposed changes to the contract is required by law, or the law would otherwise~~
23 ~~require execution of a new contract, rather than an amendment to an existing contract, the provisions~~
24 ~~of Chapter 14B and not Chapter 14A shall apply.~~

1 ~~(B) Any amendment to a contract initiated before July 26, 2004 in which the Contractor~~
2 ~~agreed to comply with Chapter 12D.A shall be governed by Chapter 12D.A; provided, however, that if~~
3 ~~a competitive solicitation for an agreement to the proposed changes to the contract is required by law,~~
4 ~~or the law would otherwise require execution of a new contract, rather than an amendment to an~~
5 ~~existing contract, the provisions of Chapter 14B and not Chapter 12D.A shall apply.~~

6 ~~(C) All contracts initiated on or after September 1, 2006 shall be governed by Chapter 14B.~~

7
8 **~~SEC. 14A.1. SHORT TITLE.~~**

9 ~~This ordinance shall be entitled the "Disadvantaged Business Enterprise Ordinance."~~

10
11 **~~SEC. 14A.2. FINDINGS.~~**

12 ~~1.—The Board finds that San Francisco's small businesses drive our economy and form the~~
13 ~~backbone of our neighborhoods. Small businesses pump hundreds of millions of dollars into San~~
14 ~~Francisco's economy each year. Through payroll taxes alone, small businesses make a significant~~
15 ~~contribution to the economic health of our City and the quality of life of its citizens and visitors.~~

16 ~~2.—Because San Francisco's small businesses experience higher costs, they suffer disadvantage~~
17 ~~in any competition with big and/or out of town businesses. The Board finds that small local businesses~~
18 ~~are at a competitive disadvantage in competing for work on public contracts, both as prime contractors~~
19 ~~and as subcontractors.~~

20 ~~3.—The Board finds that the public has an interest in fostering a strong and vibrant network of~~
21 ~~small businesses in San Francisco. In part, San Francisco can accomplish this goal by ensuring that~~
22 ~~small local businesses can compete for public contracts on a level playing field.~~

23 ~~4.—The Board finds that the disadvantages suffered by small local businesses in competing as~~
24 ~~prime contractors on public contracts can be reduced by discounting their bids and ratings by ten~~
25 ~~percent. Granting a ten percent discount does not unduly burden businesses not eligible for such~~

1 ~~discounts, and is similar to the corrective adjustments given to small local businesses in other~~
2 ~~jurisdictions. The Board also finds that the disadvantages suffered by small local businesses in~~
3 ~~competing for subcontracting opportunities on public contracts can be reduced by requiring prime~~
4 ~~contractors to use good faith efforts to use such businesses as subcontractors. Requiring good faith~~
5 ~~efforts to use small local businesses does not unduly burden prime contractors or businesses not~~
6 ~~eligible for such efforts, and is similar to subcontracting requirements in other jurisdictions.~~

7
8 **~~SEC. 14A.3. SCOPE.~~**

9 ~~The disadvantaged business enterprise ("DBE") bid/ratings discount shall be afforded to~~
10 ~~economically disadvantaged local businesses certified under Section 14A.5 in the award of all City~~
11 ~~contracts subject to exceptions hereinafter specifically enumerated in Sections 14A.12 and 14A.19.~~

12
13 **~~SEC. 14A.4. DEFINITIONS.~~**

14 ~~"Amendment to a Pre-existing Contract" shall mean a substantive change to the terms of any~~
15 ~~contract the term of which has not expired on or before the date that this emergency ordinance takes~~
16 ~~effect, but shall not include amendments to decrease the scope of work or decrease the amount to be~~
17 ~~paid under a contract.~~

18 ~~"Architect/Engineering Contracts" shall mean an agreement for architects, engineers, and other~~
19 ~~outside temporary professional design, consultant or construction management services for a public~~
20 ~~work project.~~

21 ~~"Back contracting" shall mean any agreement or other arrangement between a prime~~
22 ~~contractor and its subcontractor that requires the prime contractor to perform or to secure the~~
23 ~~performance of the subcontract in such a fashion and/or under such terms and conditions that the~~
24 ~~prime contractor enjoys the financial benefits of the subcontract. Such agreements or other~~
25 ~~arrangements include, but are not limited to, situations in which either a prime contractor or~~

1 ~~subcontractor agrees that any term, condition or obligation imposed upon the subcontractor by the~~
2 ~~subcontract shall be performed by or be the responsibility of the prime contractor.~~

3 ~~"Best efforts" when required of contract awarding authority shall mean reasonable efforts to~~
4 ~~include DBEs in City contracting.~~

5 ~~"Bid" shall mean and include a quotation, proposal, solicitation or offer by a bidder or~~
6 ~~contractor to perform or provide labor, materials, equipment, supplies or services to the City and~~
7 ~~County of San Francisco for a price.~~

8 ~~"Bidder" shall mean any business that submits a quotation, bid or proposal to provide labor,~~
9 ~~materials, equipment, supplies or services to the City and County of San Francisco.~~

10 ~~"City" shall mean the City and County of San Francisco.~~

11 ~~"Commercially useful function" shall mean that the business is directly responsible for~~
12 ~~providing the materials, equipment, supplies or services to the City as required by the solicitation or~~
13 ~~request for quotes, bids or proposals. Businesses that engage in the business of providing brokerage,~~
14 ~~referral or temporary employment services shall not be deemed to perform a "commercially useful~~
15 ~~function" unless the brokerage, referral or temporary employment services are those required and~~
16 ~~sought by the City. When the City requires and seeks specialty products made to order for the City or~~
17 ~~otherwise seeks products which, by industry practice, are not regularly stocked in warehouse inventory~~
18 ~~but instead are purchased directly from the manufacturer, the value of the "commercially useful~~
19 ~~function" provided by a supplier or distributor shall be valued at no more than five percent of the cost~~
20 ~~of the product. When the City requires and seeks products which are, by industry practice, stocked in~~
21 ~~warehouse inventory and are in fact, regularly stocked by the listed supplier or distributor, the value of~~
22 ~~the "commercially useful function" provided by the supplier or distributor shall not exceed sixty percent~~
23 ~~of the cost of the product. If the listed supplier or distributor does not regularly stock the required~~
24 ~~product, the value of the "commercially useful function" provided by the supplier or distributor shall be~~
25 ~~valued at no more than five percent of the cost of the product.~~

1 ~~"Commission" shall mean the Human Rights Commission of the City and County of San~~
2 ~~Francisco.~~

3 ~~"Commodity" shall mean products, including materials, equipment and supplies, purchased by~~
4 ~~the City.~~

5 ~~"Concession" shall mean any privilege conferred by the City on a person to engage in business~~
6 ~~on property owned or leased by the City.~~

7 ~~"Contract" shall mean and include any agreement between the City and a person to provide or~~
8 ~~procure labor, materials, equipment, supplies or services to, for or on behalf of the City for a price. A~~
9 ~~"contract" shall include an agreement between the City and a person or nonprofit entity to perform~~
10 ~~construction related services or fund the performance of such services. A "contract" does not include:~~
11 ~~(1) awards made by the City with federal/State grant or City funds to a nonprofit entity where the City~~
12 ~~offers assistance, guidance, or supervision on a project or program and the recipient of the grant~~
13 ~~award uses the grant monies to provide services to the community; (2) sales transactions where the~~
14 ~~City sells its personal or real property; (3) a loan transaction where the City is acting as a debtor or a~~
15 ~~creditor; (4) lease, franchise, or concession agreements; (5) agreements to use City real property; (6)~~
16 ~~gifts of materials, equipment, supplies or services to the City; or (7) agreements with a public agency~~
17 ~~except as provided in Section 14A.8(E).~~

18 ~~"Contract awarding authority" shall mean the City officer, department, commission, employee~~
19 ~~or board authorized to enter into contracts on behalf of the City. In the case of an agreement with a~~
20 ~~person or nonprofit entity to perform or fund the performance of construction related services, the term~~
21 ~~"contract awarding authority" shall mean the person or nonprofit entity receiving funds from the City~~
22 ~~to perform or fund the performance of such services.~~

23 ~~"Contractor" shall mean any person(s), firm, partnership, corporation, or combination thereof,~~
24 ~~who submits a bid or proposal to perform, performs any part of, agrees with a person to provide~~
25 ~~services relating to and/or enters into a contract with department heads and officers or contract~~

1 ~~awarding authorities empowered by law to enter into contracts on the part of the City for public works~~
2 ~~or improvements to be performed, or for goods or services or supplies to be purchased at the expense~~
3 ~~of the City or to be paid out of monies deposited in the treasury or out of trust monies under the control~~
4 ~~of or collected by the City.~~

5 ~~"Control" of a business shall refer to the possession of the legal authority and power to manage~~
6 ~~business assets, good will and daily operations of the business, and the active and continuous exercise~~
7 ~~of such authority and power in determining the policies and directing the operations of the business.~~

8 ~~"Director" shall mean the Director of the Human Rights Commission of San Francisco.~~

9 ~~"Disadvantaged Business Enterprise" ("DBE") shall mean a business that meets all the~~
10 ~~requirements for, and is certified as, a DBE under Section 14A.5(B) and any duly adopted rules and~~
11 ~~regulations.~~

12 ~~"Discount" shall mean an upward or downward price adjustment, according to the context, that~~
13 ~~is made pursuant to Section 14A.8.~~

14 ~~"Franchise" shall mean and include the right or privilege conferred by grant from the City, or~~
15 ~~any contracting agency thereof, and vested in and authorizing a person to conduct such business or~~
16 ~~engage in such activity as is specified in the grant. A "franchise" shall not include an agreement to~~
17 ~~perform construction related services.~~

18 ~~"General services contract" shall mean an agreement for those services that are not~~
19 ~~professional services. Examples of "General Services" include: janitorial, security guard, pest control,~~
20 ~~parking lot management and landscaping services.~~

21 ~~"Good faith efforts" when required of a contract awarding authority or department shall mean~~
22 ~~the actions undertaken by a department to obtain DBE participation in a contract as prime contractors,~~
23 ~~and shall include the following efforts: (1) encouraging DBEs to attend prebid meetings scheduled by a~~
24 ~~department or the Commission to inform potential contractors of contracting opportunities; (2)~~
25 ~~advertising in general circulation media, trade association publications and local business focused~~

1 ~~media and posting the contacting opportunity on the Office of Contract Administration's website~~
2 ~~pursuant to Section 14A.9(3); (3) notifying DBEs that are available to perform the work contemplated~~
3 ~~in a contract and soliciting their interest in the contract; (4) dividing the contract work into~~
4 ~~economically feasible units to facilitate DBE participation in the contract; (5) pursuing solicitations of~~
5 ~~interest by contacting DBEs to determine whether these businesses are interested in participating on~~
6 ~~the contract; (6) providing DBEs with adequate information about the plan, specifications and~~
7 ~~requirements of the contract; (7) where applicable, negotiating with DBEs in good faith and~~
8 ~~demonstrating that DBEs were not rejected as unqualified without sound reasons based on a thorough~~
9 ~~investigation of their capabilities; and (8) using the services of available community and contractors'~~
10 ~~groups that provide assistance in the recruitment of DBEs for public sector contracts.~~

11 ~~"Good faith efforts" when required of a prime City contractor shall mean the steps undertaken~~
12 ~~to comply with the goals and requirements imposed by the City for participation by DBEs as~~
13 ~~subcontractors, and shall include the following:~~

14 ~~— (1) Attending any presolicitation or prebid meetings scheduled by the City to inform all~~
15 ~~bidders of DBE program requirements for the project for which the contract will be awarded;~~

16 ~~— (2) Identifying and selecting specific items of the project for which the contract will be~~
17 ~~awarded to be performed by DBEs to provide an opportunity for participation by those enterprises;~~

18 ~~— (3) Advertising for DBEs that are interested in participating in the project, not less than 10~~
19 ~~calendar days before the date the bids can first be submitted, in one or more daily or weekly~~
20 ~~newspapers, trade association publications, trade-oriented publications, trade journals, or other~~
21 ~~media, specified by the City. This paragraph applies only if the City gave public notice of the project~~
22 ~~not less than 15 calendar days prior to the date the bids can first be submitted;~~

23 ~~— (4) Providing, not less than 10 calendar days prior to the date on which bids can first be~~
24 ~~submitted, written notice of his or her interest in bidding on the contract to the number of DBEs~~
25 ~~required to be notified by the project specifications. The City shall make available to the bidder not less~~

1 ~~than 15 calendar days prior to the date the bids are opened a list or a source of lists of enterprises that~~
2 ~~are certified by the Director as DBEs;~~

3 ~~—(5) Following up initial solicitations of interest by contacting potential DBE~~
4 ~~subcontractors to determine with certainty whether those enterprises were interested in performing~~
5 ~~specific items of the project;~~

6 ~~—(6) Providing interested DBEs with information about the plans, specifications, and~~
7 ~~requirements for the selected subcontracting or material supply work;~~

8 ~~—(7) Requesting assistance from community organizations; contractor or professional~~
9 ~~groups; or other organizations that provide assistance in the recruitment and placement of DBEs, if~~
10 ~~any are available;~~

11 ~~—(8) Negotiating in good faith with interested DBEs, and not unjustifiably rejecting as~~
12 ~~unsatisfactory bids or proposals prepared by any DBEs, as determined by the City;~~

13 ~~—(9) Where applicable, advising and making efforts to assist interested DBEs in obtaining~~
14 ~~bonds, lines of credit, or insurance required by the City or contractor;~~

15 ~~—(10) Making efforts to obtain DBE participation that the City could reasonably expect~~
16 ~~would produce a level of participation sufficient to meet the City's goals and requirements.~~

17 ~~"Human Rights Commission (HRC)" shall mean the Human Rights Commission of San~~
18 ~~Francisco, hereinafter referred to as the "Commission."~~

19 ~~"Joint venture" shall mean an association of two or more businesses acting as a contractor and~~
20 ~~performing or providing services on a contract, in which each joint venture partner combines property,~~
21 ~~capital, efforts, skill, and/or knowledge and each joint venture partner shares in the ownership, control,~~
22 ~~management responsibilities, risks and profits of the joint venture in proportion to its claimed level of~~
23 ~~participation.~~

24 ~~"Lease" shall mean and include an agreement by which the City or any contracting agency~~
25 ~~thereof, grants to a person the temporary possession and use of property for consideration.~~

1 ~~"Lower tier subcontracting" shall mean any agreement or other arrangement between a~~
2 ~~subcontractor and a person as defined herein where it is agreed that said person shall perform any~~
3 ~~term, condition or obligation imposed by the subcontract upon the subcontractor.~~

4 ~~"Office" or "Offices" shall mean a fixed and established place where work is performed of a~~
5 ~~clerical, administrative, professional or production nature directly pertinent to the business being~~
6 ~~certified. A temporary location or movable property or one that was established to oversee a project~~
7 ~~such as a construction project office does not qualify as an "office" under the ordinance. Work space~~
8 ~~provided in exchange for services (in lieu of monetary rent) does not constitute an "office." The office is~~
9 ~~not required to be the headquarters for the business but it must be capable of providing all the services~~
10 ~~to operate the business for which DBE certification is sought.~~

11 ~~"Participation commitment" shall mean the targeted level of DBE subcontractor participation~~
12 ~~that each prime city contractor has designated in its bid.~~

13 ~~"Participation goals" shall mean the targeted levels of City-wide DBE participation in City~~
14 ~~prime contracts.~~

15 ~~"Person" includes one or more individuals, partnerships, associations, organizations, trade or~~
16 ~~professional associations, corporations, cooperatives, legal representatives, trustees, trustees in~~
17 ~~bankruptcy, receivers, or any group of persons, including any official, agent or employee of the City.~~

18 ~~"Professional services contract" shall mean an agreement for services which require extended~~
19 ~~analysis, the exercise of discretion and independent judgment in their performance, and/or the~~
20 ~~application of an advanced, specialized type of knowledge, expertise, or training customarily acquired~~
21 ~~either by a prolonged course of study or equivalent experience in the field. Examples of professional~~
22 ~~service providers include licensed professionals such as accountants, and non-licensed professionals~~
23 ~~such as software developers and financial and other consultants, except that services of architects,~~
24 ~~engineers, and other outside temporary professional design, consultant or construction management~~
25

1 ~~services for a public work project shall be considered architect/engineering contracts and shall not be~~
2 ~~considered professional services contracts for the purpose of this Ordinance.~~

3 ~~"Public works/construction contract" shall mean an agreement for the erection, construction,~~
4 ~~renovation, alteration, improvement, demolition, excavation, installation, or repair of any public~~
5 ~~building, structure, infrastructure, bridge, road, street, park, dam, tunnel, utility or similar public~~
6 ~~facility performed by or for the City and County of San Francisco, the cost of which is to be paid wholly~~
7 ~~or partially out of moneys deposited in the treasury of the City and County.~~

8 ~~"Services" shall mean Professional Services and General Services.~~

9 ~~"Subcontractor" shall mean any business providing goods or services to a contractor for profit,~~
10 ~~if such goods or services are procured or used in fulfillment of the contractor's obligations arising from~~
11 ~~a contract with the City.~~

12 ~~"Subcontractor participation goals" shall mean the targeted level of DBE subcontractor~~
13 ~~participation designated by the Director for prime city contracts.~~

14
15 **~~SEC. 14A.5. POWERS AND DUTIES OF THE COMMISSION AND THE DIRECTOR.~~**

16 ~~(A) In addition to the duties and powers given to the Human Rights Commission elsewhere, the~~
17 ~~Commission shall:~~

18 ~~— 1. Levy the same sanctions that a contracting awarding authority may levy as specified in~~
19 ~~Section 14A.8(A)(7);~~

20 ~~— 2. When necessary, subpoena persons and records, books and documents for a proceeding~~
21 ~~of the Commission or an investigation by the Director or an audit pursuant to Section 14A.5(E)~~
22 ~~conducted to further the purposes of this ordinance;~~

23 ~~— 3. Adopt rules and regulations establishing standards and procedures for effectively~~
24 ~~carrying out this ordinance;~~

1 ~~—4. Issue forms for the Controller or contract awarding departments to collect information~~
2 ~~from contractors as prescribed by this ordinance;~~

3 ~~—5. Hear appeals challenging: (i) the Director's disqualification of a bidder or Contractor~~
4 ~~as specified in Section 14A.13(B), (ii) the Director's denial of an application for or revocation of the~~
5 ~~certification of a business as a DBE, as specified in Section 14A.5(B), or (iii) the Director's denial of a~~
6 ~~request to waive or to reduce subcontractor participation goals as specified in Section 14A.14(H);~~

7 ~~—6. By regulation require contract awarding authorities, departments and the Controller to~~
8 ~~provide to the Director such information as will be necessary to enable the Director to report to the~~
9 ~~Mayor and the Board of Supervisors at the end of each fiscal year on the progress each City~~
10 ~~department has made towards the achievement of DBE participation goals and to perform his/her other~~
11 ~~duties. The database is a public record available to the public as provided by state and local law;~~

12 ~~—7. Adopt rules and regulations as deemed necessary by the Director to ensure that the joint~~
13 ~~venture bid/ratings discount is applied only to joint ventures where the DBE has sufficient skill,~~
14 ~~experience, and financial capacity to perform the portion of the work identified for the DBE.~~

15 ~~—8. Consistent with the provisions of the ordinance make such other rules and regulations as~~
16 ~~are necessary to guide its implementation.~~

17 ~~(B) In addition to the duties and powers given to the Director elsewhere, the Director shall~~
18 ~~have the following duties and powers:~~

19 ~~—1. Through appropriately promulgated procedures, if any, the Director shall certify~~
20 ~~businesses as a DBE any business that:~~

21 ~~——(a) has average gross annual receipts in the three fiscal years immediately preceding its~~
22 ~~application for certification as a DBE that do not exceed the following limits: (1) public~~
23 ~~works/construction; specialty construction contractors; (2) goods/materials/equipment and general~~
24 ~~services suppliers; (3) professional services and architect/engineering; (4) trucking; and (5)~~
25 ~~telecommunications. Any business under common ownership, in whole or in part, with any other~~

1 ~~business(es) shall meet the requirements of this subparagraph only if the aggregate gross annual~~
2 ~~receipts of all of the businesses under such common ownership do not exceed the limits specified~~
3 ~~herein. All businesses owned by married spouses or domestic partners shall be considered under~~
4 ~~common ownership unless the businesses are in unrelated industries and no community property or~~
5 ~~other jointly owned assets were used to establish or are used to operate either business.~~

6 ~~——(b) is an independent and continuing business for profit;~~

7 ~~——(c) performs a commercially useful function as defined in Section 14A.4;~~

8 ~~——(d) has fixed offices or distribution points, as defined in Section 14A.4, located within the~~
9 ~~geographical boundaries of the City where a commercially useful function is performed. Businesses~~
10 ~~that supply commodities must continuously maintain warehouses stocked with inventory within the~~
11 ~~geographical boundaries of the City. Truckers must park their registered vehicles and trailers within~~
12 ~~the geographical boundaries of the City. Post office box numbers or residential addresses shall not~~
13 ~~suffice to establish a local office;~~

14 ~~——(e) is listed in the Permits and License Tax Paid File with a San Francisco business~~
15 ~~street address;~~

16 ~~——(f) possesses a current Business and Tax Registration Certificate at the time of the~~
17 ~~application for certification as a DBE;~~

18 ~~——(g) has been located and doing business in the City for at least six months preceding its~~
19 ~~application for certification as a DBE;~~

20 ~~——(h) has business cards for the San Francisco office;~~

21 ~~——(i) has business stationary for the San Francisco office;~~

22 ~~——(j) has a written agreement for occupancy of a San Francisco office including~~
23 ~~documentation of payment of monetary rent (receipts and copies of cancelled checks);~~

24 ~~——(k) is a listed business in an appropriate business buyers guide such as a telephone~~
25 ~~yellow pages listing San Francisco based businesses;~~

1 ~~——(l) has a San Francisco office in which business is transacted that is appropriately~~
2 ~~equipped for the type of business for which the enterprise seeks certification as a DBE;~~

3 ~~——(m) has a conspicuously displayed business sign at the San Francisco business premises,~~
4 ~~except where the business operates out of a residence; and~~

5 ~~——(n) has licenses issued to the business owner appropriate for the type of business for~~
6 ~~which the enterprise seeks certification.~~

7 ~~——Notwithstanding the criteria in this subsection, no business that is owned in part or in~~
8 ~~whole by a full time City employee or City officer shall be considered a DBE.~~

9 ~~——2. Because San Francisco Administrative Code 12D.A required a business to meet all of~~
10 ~~the criteria listed in 14A.5(B)1 in order to be certified as a Local Business Enterprise ("LBE") under~~
11 ~~Section 12D.A, and because every business certified as an LBE under Section 12D.A did meet those~~
12 ~~criteria, the prior LBE certification under San Francisco Administrative Code 12D.A shall constitute a~~
13 ~~DBE certification under this ordinance, unless the Director determines that any such business no~~
14 ~~longer meets the criteria set forth for certification in Section 14A.5(B)1. DBE certification under this~~
15 ~~Subsection shall expire on the date that the LBE certification under Section 12D.A would have expired.~~

16 ~~——3. The Director shall deem any application for LBE certification under Section 12D.A that~~
17 ~~is pending on the effective date of this ordinance to be an application for DBE certification under this~~
18 ~~ordinance.~~

19 ~~——4. Except where the Director cannot certify a business because the business has not been~~
20 ~~established in San Francisco for the requisite six months, whenever the Director denies an application~~
21 ~~for or revokes the certification of a business as a DBE because the business is not eligible to be~~
22 ~~certified as a bona fide DBE, the Director shall, within three working days of his/her decision, notify~~
23 ~~the aggrieved business in writing of the basis for revocation or denial of certification and the date on~~
24 ~~which the business will be eligible to reapply for certification. The notice shall be transmitted to the~~
25 ~~business via certified mail or via facsimile. The Director shall require a business to wait at least six~~

1 ~~months but not more than two years after the denial or revocation before reapplying to the Director for~~
2 ~~certification as a DBE. The Director shall provide any business whose certification is revoked an~~
3 ~~opportunity to be heard within three business days of the revocation. A business may appeal the~~
4 ~~Director's denial or revocation of certification of a business as a DBE to the Commission. The appeal~~
5 ~~must be filed with the Commission within three business days following receipt of the Director's~~
6 ~~decision. Notice by the Director to the business of denial or revocation of certification as a DBE shall~~
7 ~~apprise the business of its right to appeal the decision;~~

8 ~~—5. The Director shall have the ultimate responsibility for ensuring that the necessary data~~
9 ~~is collected and analyzed. Annually, and more often if the Director deems necessary, the Director shall~~
10 ~~identify areas of contracting where the City or any of its departments are failing to meet DBE~~
11 ~~participation goals. In addition, the Director shall identify areas of contracting where the City is~~
12 ~~meeting and/or exceeding participation goals to such an extent that the DBE discounts can no longer~~
13 ~~be justified. The results of this study shall be included in the Commission's annual report required by~~
14 ~~Section 14A.15.~~

15 ~~—6. The Director shall work with the Controller and City departments to implement a City-~~
16 ~~wide prompt payment policy requiring that DBEs be paid by the City within 30 days after the date on~~
17 ~~which the City receives an invoice from a DBE for work performed for the City;~~

18 ~~—7. The Director shall provide information and other assistance to DBEs to increase their~~
19 ~~ability to compete effectively for the award of City contracts;~~

20 ~~—8. The Director shall assist the City to increase participation by DBEs in City contracts;~~

21 ~~—9. The Director shall continue to develop and to strengthen education and training~~
22 ~~programs for DBEs and City contract awarding personnel;~~

23 ~~—10. The Director shall grant waivers as set forth in Sections 14A.12 and 14A.14(E) and~~
24 ~~(F), and may disqualify a bidder or contractor as set forth in Section 14A.13(B).~~

1 ~~—(C) The requirements of this ordinance are in addition to those imposed by the United States~~
2 ~~or the State of California as a condition of financial assistance or otherwise. In contracts which involve~~
3 ~~the use of any funds furnished, given or loaned by the government of the United States or the State of~~
4 ~~California, all laws, rules and regulations of the government of the United States or the State of~~
5 ~~California or of any of its departments relative to the performance of such work and the conditions~~
6 ~~under which the work is to be performed, shall prevail over the requirements of this ordinance when~~
7 ~~such laws, rules or regulations are in conflict. In addition, the Director may authorize the substitution~~
8 ~~of such State or federal DBE requirements for the requirements of this ordinance whenever such State~~
9 ~~or federal requirements are substantially the same as those of this ordinance.~~

10 ~~(D) The Director, with the approval of the Commission, may enter into cooperative~~
11 ~~agreements with agencies, public and private, concerned with increasing the use of DBEs in~~
12 ~~government contracting, subject to the approval of this Board.~~

13 ~~(E) The Director, in cooperation with the Controller, shall randomly audit at least three prime~~
14 ~~contractors each fiscal year in order to insure their compliance with the provisions of this ordinance.~~
15 ~~The Director, in cooperation with the Controller, shall furthermore randomly audit 10 percent of the~~
16 ~~joint ventures granted bid discounts in each fiscal year. The Controller shall have the right to audit the~~
17 ~~books and records of the contractors, joint venture participants, and any and all subcontractors to~~
18 ~~insure compliance with the provisions of this ordinance.~~

19 ~~(F) The powers and duties of the Commission and the Director shall be as set forth in this~~
20 ~~ordinance, subject to the power to reorganize functions as provided in Section 4.132 of the San~~
21 ~~Francisco Charter.~~

22
23 **~~SEC. 14A.6. POWERS AND DUTIES OF THE CONTROLLER.~~**

24 ~~(A) In addition to the duties given to the Controller elsewhere, the Controller shall work~~
25 ~~cooperatively with the Director to provide such contractual encumbrance and payment data as the~~

1 ~~Director advises are necessary to monitor the participation of DBEs in City prime contracts. If any~~
2 ~~department refuses or fails to provide the required data to the Controller, the Controller shall~~
3 ~~immediately notify the Mayor, this Board and the Director.~~

4 ~~(B) The Controller shall not certify the award of any contract subject to this ordinance where~~
5 ~~the Director has notified the Controller that the contract awarding authority has not provided the~~
6 ~~information the Director advises is necessary under this ordinance.~~

7 ~~(C) Each request for payment to a City contractor submitted to the contract awarding~~
8 ~~authority shall be accompanied by a subcontractor participation form approved by the Commission.~~
9 ~~That form shall contain information that the Commission has determined is necessary to enable the~~
10 ~~Commission and the Director (1) to monitor compliance by City departments and their prime~~
11 ~~contractors with their obligations under this ordinance, (2) to determine whether City departments are~~
12 ~~achieving their prime and subcontracting goals under this ordinance, and (3) to make such other~~
13 ~~reports and analyses as are required by this ordinance.~~

14 ~~—In the event that a request for payment fails to include the information required pursuant to~~
15 ~~this Section, the contract awarding authority shall, within two working days, notify the Director and the~~
16 ~~affected prime contractor[s] of the failure and afford each affected prime contractor an opportunity to~~
17 ~~be heard promptly. That notice shall inform the contractor that the contract awarding authority has~~
18 ~~tentatively determined that the information has not been provided, what information is missing and that~~
19 ~~if this failure is substantiated, then the Controller will be notified to withhold 20 percent of the~~
20 ~~requested payment until the information is provided. If the Controller finds, after consultation with the~~
21 ~~Director and the notice and opportunity to be heard, that the information has not been provided, the~~
22 ~~Controller shall withhold 20 percent of the payment otherwise due until the information is provided.~~

23 ~~(D) It is the City's policy that DBEs should be paid by the City within 30 days of the date on~~
24 ~~which the City receives an invoice for work performed for the City. The Controller shall work with the~~
25 ~~Director and representatives of City departments to implement this City-wide prompt payment policy.~~

1 ~~(E) The contract awarding authority shall require all prime contractors to submit, within 10~~
2 ~~days following payment to the prime contractor of moneys owed for work completed on a project, an~~
3 ~~affidavit under penalty of perjury, that all subcontractors on the project or job have been paid and the~~
4 ~~amounts of each of those payments. The name, telephone number and business address of every~~
5 ~~subcontractor shall be listed on the affidavit. If a prime contractor fails to submit this affidavit, the~~
6 ~~contract awarding authority shall notify the Director who shall take appropriate action as authorized~~
7 ~~under Section 14A.13(B) and (F).~~

8
9 **~~SEC. 14A.7. POWERS AND DUTIES OF THE MAYOR.~~**

10 ~~In addition to the duties given to the Mayor elsewhere, the Mayor shall:~~

11 ~~—1. By July 1st of each fiscal year, issue notices to all City departments informing them of~~
12 ~~their duties under this ordinance. The notice shall contain the following information: (1) the City-wide~~
13 ~~DBE participation goals that departments are expected to use good faith efforts to attain during the~~
14 ~~fiscal year and that a department's failure to use good faith efforts to attain the DBE participation~~
15 ~~goals shall be reported to this Board in the Commission's annual report; and (2) the data each~~
16 ~~department is required to provide the Controller on each contract award;~~

17 ~~—2. Coordinate and enforce cooperation and compliance by all departments with this~~
18 ~~ordinance.~~

19
20 **~~SEC. 14A.8. POWERS AND DUTIES OF CONTRACT AWARDING AUTHORITIES.~~**

21 ~~(A) Contract awarding authorities shall:~~

22 ~~—1. Use good faith efforts as defined in Section 14A.4 for all contracts subject to the~~
23 ~~bid/ratings discount provisions of this ordinance to solicit and to obtain quotes, bids or proposals from~~
24 ~~DBEs on all solicitations, or document their unavailability;~~

1 ~~—2. Unless otherwise indicated in this ordinance, extend the following bid/rating discount to~~
2 ~~all bids, proposals and contracts from DBEs: (1) five percent to a joint venture with DBE participation~~
3 ~~that equals or exceeds 35 percent but is under 40 percent; or (2) seven and one-half percent to a joint~~
4 ~~venture with DBE participation that equals or exceeds 40 percent; (3) ten percent to a DBE or a joint~~
5 ~~venture among DBEs. Contract awarding authorities shall apply the bid/rating discount to each stage~~
6 ~~of the selection process, including qualifications, proposals and interviews.~~

7 ~~—The contract awarding authority shall apply the aforementioned appropriate bid/ratings~~
8 ~~discount only to a joint venture (1) that meets the requirements contained in this ordinance, and (2)~~
9 ~~when the DBE is an active partner in the joint venture and performs work, manages the job and takes~~
10 ~~financial risks in proportion to the required level of participation stated in the bid documents and is~~
11 ~~responsible for a clearly defined portion of the work to be performed, and shares proportionately in the~~
12 ~~ownership, control, management responsibilities, risks, and profits of the joint venture. The portion of~~
13 ~~the DBE joint venture's work shall be set forth in detail separately from the work to be performed by~~
14 ~~the nonDBE venture partner. The DBE joint venture's portion of the contract must be assigned a~~
15 ~~commercially reasonable dollar value;~~

16 ~~—3. Arrange contracting by size and type of work to be performed so as most effectively to~~
17 ~~enhance the opportunity for participation by DBEs to the maximum extent feasible. As soon as~~
18 ~~practical before soliciting quotes, bids or proposals, all contract awarding authorities or in the case of~~
19 ~~a professional services contract, the department making the contract award recommendation, shall~~
20 ~~submit all large proposals to the Director for review. The purpose of the Director's review is to~~
21 ~~determine whether the proposed project can be divided into smaller projects so as to enhance the~~
22 ~~opportunity for participation by DBEs in the project. For purposes of this subsection, the term "large~~
23 ~~project" shall mean the following: (1) any public works/construction project estimated to cost more~~
24 ~~than \$5,000,000; and (2) any professional services contract estimated to cost more than \$100,000. If~~
25 ~~the Director determines, after consulting with the contract awarding authority or department~~

1 ~~responsible for the project, that the project can be divided into smaller projects, the contract awarding~~
2 ~~authority or department shall comply with the Director's determination and issue the solicitation for~~
3 ~~quotes, bids or proposals in accordance with the Director's determination;~~

4 ~~— 4. Adjust bid bonding and insurance requirements in accordance with the most current~~
5 ~~version of the City's "Contract Insurance Manual" or as otherwise authorized by the City Risk~~
6 ~~Manager, Department of Administrative Services;~~

7 ~~— 5. Use the City's Surety Bonding Program set forth in Section 14A.11 to assist DBEs~~
8 ~~bidding on and performing City public works contracts to meet bonding requirements and/or obtain~~
9 ~~construction loans;~~

10 ~~— 6. Submit to the Office of Contract Administration (OCA) in electronic format or a format~~
11 ~~specified by the OCA all bid opportunities, requests for proposals and solicitations for which published~~
12 ~~notice or advertising is required, no later than 10 calendar days prior to the announcement of the bid~~
13 ~~opportunity, request for proposal or solicitation. A contract awarding authority must obtain a waiver~~
14 ~~from its commission, or in the case of a department that has no commission, from the Board of~~
15 ~~Supervisors, if it cannot meet the requirements of this Section.~~

16 ~~— 7. Impose such sanctions or take such other actions as are designed to ensure compliance~~
17 ~~with the provisions of this ordinance, which shall include, but are not limited to:~~

18 ~~— (a) Refuse to award a contract,~~

19 ~~— (b) Order the suspension of a contract,~~

20 ~~— (c) Order the withholding of funds,~~

21 ~~— (d) Order the revision of a contract based upon a material breach of contract provisions~~
22 ~~pertaining to DBE participation;~~

23 ~~— (e) Disqualify a bidder, contractor, subcontractor, or other business from eligibility for~~
24 ~~providing goods or services to the City for a period not to exceed five years, based on the standards set~~
25 ~~forth in this ordinance and rules and regulations promulgated by the Commission. Any business~~

1 ~~disqualified under this subsection shall have a right to review and reconsideration by the Commission~~
2 ~~after two years upon a showing of corrective action indicating that violations are not likely to recur;~~

3 ~~—8. Not award any contract to a person or business that is disqualified from doing business~~
4 ~~with the City under the provisions of this ordinance;~~

5 ~~—9. Designate a staff person to be responsible for responding to the Director and~~
6 ~~Commission regarding the requirements of this ordinance;~~

7 ~~—10. Maintain accurate records as required by the Director and the Commission for each~~
8 ~~contract awarded, its dollar value, the nature of the goods or services to be provided, the name of the~~
9 ~~contractor awarded the contract, the efforts made by a contractor to solicit bids from and award~~
10 ~~subcontracts to DBEs;~~

11 ~~—11. Where feasible, provide technical assistance to DBEs to increase their ability to~~
12 ~~compete effectively for the award of City contracts;~~

13 ~~—12. Work with the Director and the Controller to implement a City-wide prompt payment~~
14 ~~policy requiring that DBEs, be paid by the City within 30 days of the date on which the City receives an~~
15 ~~invoice from a DBE for work performed for the City;~~

16 ~~—13. Provide the Director with written notice of all contract amendments, modifications,~~
17 ~~supplements and change orders that cumulatively result in an increase or decrease of the contract's~~
18 ~~dollar amount of more than 10 percent. Such notice shall be provided within 10 days of each such~~
19 ~~contract modification;~~

20 ~~—14. Whenever contract amendments, modifications, supplements or change orders~~
21 ~~cumulatively increase the total dollar value of a contract by more than 10 percent, the contract~~
22 ~~awarding authority shall require compliance with those DBE provisions of this ordinance that applied~~
23 ~~to the original contract;~~

24 ~~—15. All contract amendments, modifications, supplements or change orders that~~
25 ~~cumulatively increase by more than 20 percent the total dollar value of all contracts originally valued~~

1 ~~at \$50,000 or more shall be subject to prior approval of the Director, who shall review the proposed~~
2 ~~amendment, modification, supplement or change order to correct contracting practices that exclude~~
3 ~~DBEs from new contracting opportunities.~~

4 ~~(B) Contract awarding authorities or departments may invite, encourage or request businesses~~
5 ~~to joint venture on any contract to promote DBE participation.~~

6 ~~(C) For the purpose of determining DBE participation, contracts awarded to joint ventures in~~
7 ~~which one or more DBEs are combined with one or more businesses that are not DBEs shall be deemed~~
8 ~~by the contract awarding authority to be awarded to DBEs only to the extent of the DBE participation~~
9 ~~in the joint venture. DBE participation in the supply of goods shall be included in determining DBE~~
10 ~~participation in a joint venture if the goods are supplied in accordance with established general~~
11 ~~industry practice.~~

12 ~~(D) Contract awarding authorities shall ensure that all contracts subject to this ordinance~~
13 ~~include the following requirements, in addition to such other requirements as may be set forth~~
14 ~~elsewhere:~~

15 ~~—1. Each bidder, proposer and contractor shall be required to sign an affidavit, declaring~~
16 ~~under penalty of perjury, attesting to its intention to comply fully with the provisions of this ordinance~~
17 ~~and attesting to the truth and accuracy of all information provided regarding such compliance;~~

18 ~~—2. Each contract shall incorporate this ordinance by reference and shall provide that the~~
19 ~~wilful failure of any bidder or contractor to comply with any of its requirements shall be deemed a~~
20 ~~material breach of contract;~~

21 ~~—3. Contracts shall provide that in the event that the Director finds, pursuant to Section~~
22 ~~14A.13, that any bidder, subcontractor or contractor wilfully fails to comply with any of the provisions~~
23 ~~of this ordinance, rules and regulations implementing the ordinance or contract provisions pertaining~~
24 ~~to DBE participation, the bidder, subcontractor or contractor shall be liable for liquidated damages for~~
25 ~~each contract in an amount equal to the bidder's or contractor's net profit on the contract, 10 percent~~

1 ~~of the total amount of the contract or \$1,000, whichever is greatest, as determined by the Director~~
2 ~~pursuant to Section 14A.13(C). All contracts shall also contain a provision in which the bidder,~~
3 ~~subcontractor or contractor acknowledges and agrees that the liquidated damages assessed shall be~~
4 ~~payable to the City upon demand and may be set off against any monies due to the bidder,~~
5 ~~subcontractor or contractor from any contract with the City;~~

6 ~~—4.— Contracts shall require all contractors to maintain records, including such information~~
7 ~~requested by the Director or Commission, necessary for monitoring their compliance with this~~
8 ~~ordinance and shall require prime contractors to include in any subcontract with a DBE provision~~
9 ~~requiring the subcontractor to maintain the same records;~~

10 ~~—5.— Contracts shall require prime contractors, during the term of the contract, to fulfill the~~
11 ~~DBE participation commitments submitted with their bids;~~

12 ~~—6.— Contracts shall require prime contractors to include in any subcontract with a DBE a~~
13 ~~provision requiring the prime contractor to compensate any DBE subcontractor for damages for~~
14 ~~breach of contract or liquidated damages equal to 5% of the subcontract amount, whichever is greater,~~
15 ~~if the prime contractor fails to comply with its commitment to use the DBE subcontractor as specified in~~
16 ~~the bid/proposal unless the Commission and the contract awarding authority both give advance~~
17 ~~approval to the prime contractor to substitute subcontractors or otherwise modify the commitments in~~
18 ~~the bid/proposal documents. Contracts shall also require prime contractors to compensate any DBE~~
19 ~~subcontractor for breach of contract or liquidated damages equal to 5% of the subcontract amount,~~
20 ~~whichever is greater, if the prime contractor does not fulfill its commitment to use the DBE~~
21 ~~subcontractor as specified in the bid/proposal unless the Commission and the contract awarding~~
22 ~~authority both give advance approval to the prime contractor to substitute subcontractors or otherwise~~
23 ~~modify the commitments in the bid/proposal documents. This provision shall also state that it is~~
24 ~~enforceable in a court of competent jurisdiction;~~

1 ~~—7.— Contracts shall require prime contractors, whenever amendments, modifications,~~
2 ~~supplements, or change orders cumulatively increase the total dollar value of a construction contract~~
3 ~~by more than 10 percent, to comply with those DBE provisions of this ordinance that applied to the~~
4 ~~original contract with respect to the amendment, modification, supplement or change order;~~

5 ~~—8.— Contracts shall require prime contractors to submit to the Director for approval all~~
6 ~~contract amendments, modifications, supplements, and change orders that cumulatively increase by~~
7 ~~more than 20 percent the total dollar value of all contracts originally valued at \$50,000 or more. The~~
8 ~~Director shall review the proposed amendment, modification, supplement or change order to correct~~
9 ~~any contracting practices that exclude women and minorities from new contracting opportunities;~~

10 ~~—9.— Contracts in which subcontracting is used shall prohibit back contracting to the prime~~
11 ~~contractor or lower tier subcontracting for any purpose inconsistent with the provisions of this~~
12 ~~ordinance, rules and regulations adopted pursuant to this ordinance, or contract provisions pertaining~~
13 ~~to DBE utilization;~~

14 ~~—10.— Contracts in which subcontracting is used shall require the prime contractor to pay its~~
15 ~~subcontractors within three working days after receiving payment from the City unless the prime~~
16 ~~contractor notifies the Director in writing within 10 working days prior to receiving payment from the~~
17 ~~City that there is a bona fide dispute between the prime contractor and the subcontractor, in which~~
18 ~~case the prime contractor may withhold the disputed amount but shall pay the undisputed amount. The~~
19 ~~Director may, upon making a determination that a bona fide dispute exists between the prime~~
20 ~~contractor and subcontractor, waive this three day payment requirement. In making the determination~~
21 ~~as to whether a bona fide dispute exists, the Director shall not consider the merits of the dispute.~~
22 ~~Contracts in which subcontracting is used shall also require the contractor/consultant, within 10~~
23 ~~working days following receipt of payment from the City, to file an affidavit, under penalty of perjury,~~
24 ~~that he or she has paid all subcontractors. The affidavit shall provide the names and address of all~~
25 ~~subcontractors and the amount paid to each;~~

1 ~~—11.— Contracts shall require contractors and subcontractors to maintain records necessary~~
2 ~~for monitoring their compliance with this ordinance for three years following completion of the project~~
3 ~~and shall permit the Commission and Controller to inspect and audit such records.~~

4 ~~(E) All contracts or other agreements between the City and persons or entities, public or~~
5 ~~private, in which such persons or entities receive money from or through the City for the purpose of~~
6 ~~contracting with businesses to perform public improvements, shall require such persons or entities to~~
7 ~~comply with the provisions of this ordinance in awarding and administering such contracts.~~

8
9 **~~SEC. 14A.9. POWERS AND DUTIES OF THE OFFICE OF CONTRACT~~**
10 **~~ADMINISTRATION.~~**

11 ~~In addition to the duties given the Office of Contract Administration elsewhere in this Section,~~
12 ~~the Office of Contract Administration shall:~~

13 ~~—1.— Maintain, with the assistance of the Director, a current list of DBEs to provide each of~~
14 ~~those commodities or services subject to this ordinance that the Office of Contract Administration~~
15 ~~indicates are required by the City;~~

16 ~~—2.— Maintain a central office where all bids, requests for proposals and solicitations will be~~
17 ~~listed and kept current;~~

18 ~~—3.— Cause to be posted upon a website the following information concerning current bids,~~
19 ~~requests for proposals and solicitations: the title and number; the name of the contract awarding~~
20 ~~authority; and the name and telephone number of the person to be contacted for further information.~~
21 ~~Such information shall be posted with sufficient lead time to provide adequate notice and opportunity to~~
22 ~~potential City contractors and vendors to participate in the bid opportunity, request for proposals or~~
23 ~~solicitation, but in no event less than 10 calendar days prior to the due date for such bid opportunity,~~
24 ~~request for proposals or solicitation.~~

1 ***SEC. 14A.10. APPLICATION OF DISCOUNT.***

2 ~~(A) Contract awarding authorities shall apply a bid/rating discount as follows:~~

3 ~~— 1. Public Works/Construction Contracts. Contract awarding authorities shall apply bid~~
4 ~~discounts as enumerated in Section 14A.8(A) to all public work/construction contracts the estimated~~
5 ~~cost of which exceeds \$10,000.~~

6 ~~— 2. Commodities Contracts. Contract awarding authorities shall apply all bid/rating~~
7 ~~discounts as enumerated in Section 14A.8(A) to all commodities contracts, the estimated cost of which~~
8 ~~exceeds \$2,500.~~

9 ~~— 3. General Services Contracts. Contract awarding authorities shall apply all bid/rating~~
10 ~~discounts as enumerated in Section 14A.8(A) to all general services contracts, the estimated cost of~~
11 ~~which exceeds \$10,000.~~

12 ~~— 4. Architect/Engineering Contracts. Contract awarding authorities and~~
13 ~~architect/engineering selection panels shall apply all bid/rating discounts as enumerated in Section~~
14 ~~14A.8(A) to all bids and proposals for architect/engineering contracts, the estimated cost of which~~
15 ~~exceeds \$10,000.~~

16 ~~— 5. Professional Services Contracts. Contract awarding authorities shall apply all~~
17 ~~bid/rating discounts as enumerated in Section 14A.8(A) to all bids and proposals for all professional~~
18 ~~service contracts, the estimated cost of which exceeds \$10,000.~~

19 ~~(B) Best Efforts Required For Other Contracts. All City departments, commissions, boards,~~
20 ~~officers and employees, in the performance of their duties, and in the award of leases, franchises,~~
21 ~~concessions, and other contracts not subject to the bid/ratings discounts of this ordinance, shall make~~
22 ~~best efforts to use the services of DBEs.~~

23 ~~(C) The Director is empowered to take actions to ensure compliance with the provisions of this~~
24 ~~ordinance, including, without limitation, intervening in the selection process, by modifying the criteria~~
25

1 ~~used for selecting selection panelists or contractors to correct any practices that hinder equal business~~
2 ~~opportunities for DBEs.~~

3
4 **~~SEC. 14A.11. BONDING AND FINANCIAL ASSISTANCE PROGRAM.~~**

5 ~~1.—Program Description. The City and County of San Francisco, acting through its Human~~
6 ~~Rights Commission ("HRC"), intends to provide guarantees to private bonding companies and~~
7 ~~financial institutions in order to induce those entities to provide required bonding and financing to~~
8 ~~eligible contractors and subcontractors bidding on and performing City public work contracts. This~~
9 ~~bonding and financial assistance program is subject to the provisions of this Section 14A.11.~~

10 ~~2.—Eligible Contracts. The assistance described in this Section 14A.11 shall be available for~~
11 ~~any City public works or construction contract to which this ordinance applies.~~

12 ~~3.—Eligible Businesses. Businesses must meet the following criteria to qualify for assistance~~
13 ~~under this Section 14A.11:~~

14 ~~—(a) The business may be either a prime contractor or subcontractor; and~~

15 ~~—(b) The business must be certified by the HRC as DBE according to the requirements of~~
16 ~~Section 14A5(B).~~

17 ~~—(c) The business may be required to participate in a "bonding assistance training~~
18 ~~program" as offered by the HRC, which is anticipated to provide the following:~~

19 ~~——(i) Bond application assistance,~~

20 ~~——(ii) Assistance in developing financial statements,~~

21 ~~——(iii) Assistance in development of a pre-bond surety profile,~~

22 ~~——(iv) Identification of internal financial control systems,~~

23 ~~——(v) Development of accurate financial reporting tools, and~~

1 ~~4.—Agreements Executed by the Human Rights Commission. The HRC is hereby authorized to~~
2 ~~enter into the following agreements in order to implement the bonding and financial assistance~~
3 ~~program described in this Subsection 14A.11:~~

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

6 ~~—(b) With respect to a construction loan to be made to a contractor or subcontractor, an~~
7 ~~agreement to guaranty up to 50 percent of the original principal amount of the construction loan or 50~~
8 ~~percent of the actual loss suffered by the financial institution as a result of a loan default, whichever is~~
9 ~~less; provided that in any event the City's obligations with respect to a guaranty shall not exceed~~
10 ~~\$750,000;~~

11 ~~—(c) Any other documents deemed necessary by the HRC to carry out the objectives of this~~
12 ~~program, provided that such documents shall be subject to review and approval by the City Attorney's~~
13 ~~Office.~~

14 ~~5.—Monitoring and Enforcement. The HRC shall maintain records on the use and effectiveness~~
15 ~~of this program, including but not limited to (1) the identities of the businesses and bonding companies~~
16 ~~participating in this program, (2) the types and dollar amounts of public work contracts for which the~~
17 ~~program is utilized, and (3) the types and dollar amounts of losses which the City is required to fund~~
18 ~~under this program. The HRC shall submit written reports to the Board of Supervisors every six months~~
19 ~~beginning January 1, 2005, advising the Board of the status of this program and its funding capacity,~~
20 ~~and an analysis of whether this program is proving to be useful and needed.~~

21 ~~6.—Funding and Accounts. Funding for this program may be derived from the following~~
22 ~~sources:~~

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

1 ~~—(b) Each Department authorized to contract for public works or improvements pursuant to~~
2 ~~San Francisco Administrative Code Chapter 6 may commit to this program up to ten percent (10%);~~
3 ~~but not less than one percent (1%), of the budget for every public work or improvement undertaken. (A~~
4 ~~"public work or improvement" is defined in San Francisco Administrative Code Chapter 6.) This~~
5 ~~subsection is effective for those public works or improvements where the award of the construction~~
6 ~~contract (as defined and regulated by Administrative Code Chapter 6) occurs after August 10, 2004.~~

7 ~~—(c) The Treasurer of the City and County of San Francisco is hereby authorized to~~
8 ~~negotiate a line(s) of credit or any credit enhancement program(s) or financial products(s) with a~~
9 ~~financial institution(s) to provide funding; the program's guaranty pool may serve as collateral for any~~
10 ~~such line of credit.~~

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

15 ~~7.—Term of Bonding Assistance Program. The HRC is authorized to enter into the agreements~~
16 ~~described in this Section for so long as the Controller is able to certify the availability of funds for any~~
17 ~~new guarantee agreement.~~

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

22
23 **~~SEC. 14A.12. EXCEPTIONS AND WAIVERS.~~**

24 ~~(A) The Director shall waive the DBE bid/ratings discounts and good faith efforts~~
25 ~~requirements of this ordinance under the following circumstances:~~

1 ~~—1. Whenever the Director finds, with the advice of the contract awarding authority and the~~
2 ~~Office of Contract Administration, that needed goods or services are available from a sole source that~~
3 ~~is not currently disqualified from doing business with the City.~~

4 ~~—2. If the contract awarding authority certifies in writing to the Director, prior to the~~
5 ~~Controller's contract certification, that (a) the contract is being awarded under emergency~~
6 ~~circumstances as described and defined in Administrative Code Section 6.60 or Administrative Code~~
7 ~~Section 21.15 and (b) (i) there is no time to apply bid/ratings discounts or establish subcontracting~~
8 ~~goals, or (ii) there are no immediately available DBEs that are capable of performing the emergency~~
9 ~~work.~~

10 ~~(B) The Director shall waive the DBE bid/rating discount for contracts in excess of \$5,000,000~~
11 ~~whenever a contract awarding authority establishes that:~~

12 ~~—1. Sufficient qualified DBEs capable of providing the needed goods and services required~~
13 ~~by the contract are unavailable and sufficient qualified businesses located outside San Francisco~~
14 ~~capable of providing the needed goods and services required by the contract are available; or~~

15 ~~—2. The application of the DBE discount will result in significant additional costs to the City~~
16 ~~if the waiver of the bid discount is not granted.~~

17 ~~(C) The bid/ratings discount provisions of this ordinance are not applicable to any contract~~
18 ~~estimated by the contract awarding authority to cost in excess of \$10,000,000.~~

19
20 **~~SEC. 14A.13. MONITORING AND COMPLIANCE.~~**

21 ~~(A) The Director shall monitor the City's utilization of DBEs in City Contracting. The Director~~
22 ~~shall issue an exit report for any contract that includes DBE subcontracting participation or DBE~~
23 ~~prime contract participation as a joint venture partner. The purpose of this exit report is to ensure that~~
24 ~~prime contractors are complying with their commitments to use DBE subcontractors and DBEs are~~
25 ~~performing services as set forth in the bid/proposal and contract documents for the joint ventures.~~

1 ~~(B) Noncompliance By Contractors. In cases in which the Director has cause to believe that a~~
2 ~~contractor has failed to comply with any of the requirements of this ordinance, rules and regulations~~
3 ~~adopted pursuant to this ordinance or contract provisions pertaining to DBE participation, the~~
4 ~~Director shall notify the contract awarding authority and shall attempt to resolve the noncompliance~~
5 ~~through conference and conciliation. If the noncompliance cannot be resolved, the Director shall~~
6 ~~conduct an investigation and, where the Director so finds, issue a written finding of noncompliance.~~
7 ~~The Director's finding shall indicate whether the contractor acted in good faith or whether~~
8 ~~noncompliance was based on willful or bad faith noncompliance with requirements of this ordinance,~~
9 ~~rules and regulations adopted pursuant to this ordinance or contract provisions pertaining to DBE~~
10 ~~participation. Where the Director finds that the contractor acted in good faith, after affording the~~
11 ~~contractor notice and an opportunity to be heard, the Director shall recommend that the contract~~
12 ~~awarding authority take appropriate action. Where the Director finds willful or bad faith~~
13 ~~noncompliance, after affording the contractor notice and an opportunity to be heard, the Director shall~~
14 ~~impose sanctions for each violation of the ordinance, rules and regulations adopted pursuant to this~~
15 ~~ordinance or contract provisions pertaining to DBE participation that may include:~~

16 ~~—1. Declaring the bidder or contractor nonresponsive and ineligible to receive the award of~~
17 ~~any pending contract;~~

18 ~~—2. Declaring the bidder or contractor to be an irresponsible bidder and disqualifying the~~
19 ~~bidder or contractor from eligibility for providing goods or services to the City for a period of up to~~
20 ~~five years, with a right of review and reconsideration by the Commission after two years upon a~~
21 ~~showing of corrective action indicating violations are not likely to recur;~~

22 ~~—3. If the bidder or contractor is a DBE, revoking that business' certification as a DBE;~~

23 ~~—4. Determining that the bidder or contractor has wilfully failed to comply with the~~
24 ~~provisions of this ordinance and, pursuant to the provision in the contract required by Section~~
25 ~~14A.8(B)(3) of this ordinance, calculating the liquidated damages for which the bidder or contractor~~

1 ~~shall be liable. Thereafter the Director shall send a written notice to the Controller, the Mayor and all~~
2 ~~contract awarding authorities overseeing any contract with the bidder or contractor, that a~~
3 ~~determination of willful or bad faith compliance has been made and that all payments due the bidder or~~
4 ~~contractor shall be withheld as agreed by the bidder or contractor and the City pursuant to Section~~
5 ~~14A.8(B)(3).~~

6 ~~(C) The bidder or contractor may appeal the Director's decision to the Commission. The~~
7 ~~Commission may sustain, reverse or modify the Director's findings and sanctions imposed or take such~~
8 ~~other action to effectuate the purpose of this ordinance. An appeal by a contractor under this~~
9 ~~subsection shall not stay the Director's findings.~~

10 ~~(D) The Director may require such reports, information and documentation from contractors,~~
11 ~~subcontractors, bidders, contract awarding authorities, and heads of departments, divisions, and~~
12 ~~offices of the City as are reasonably necessary to determine compliance with the requirements of this~~
13 ~~ordinance.~~

14 ~~(E) Wilful Noncompliance by Contract Awarding Authority. Whenever the Director finds after~~
15 ~~investigation that a contract awarding authority has willfully failed to comply with its duties pursuant~~
16 ~~to Section 14A.8, the Director shall transmit a written finding of noncompliance specifying the nature~~
17 ~~of the noncompliance, to the contract awarding authority, the Commission, the Mayor and this Board.~~

18 ~~—The Director shall attempt to resolve any noncompliance through conference and~~
19 ~~conciliation. Should such attempt fail to resolve the noncompliance, the Director shall transmit a copy~~
20 ~~of the finding of noncompliance along with a finding that conciliation was attempted and failed to the~~
21 ~~Commission and this Board.~~

22 ~~—The finding of noncompliance shall be communicated to the Mayor for appropriate action to~~
23 ~~secure compliance pursuant to Section 14A.7.~~

24 ~~(F) If the Director has reason to believe that any person has knowingly made, filed, or caused~~
25 ~~to be filed with the City any materially false or misleading statement or report made in connection with~~

1 ~~this ordinance, the Director shall report that information to the City Attorney or the District Attorney~~
2 ~~for appropriate action. The Director shall be empowered to conduct an investigation and for each~~
3 ~~violation of this Subsection 14A.13(F), to impose sanctions as set forth in Subsection 14A.13.~~

4
5 ***SEC. 14A.14. SUBCONTRACTING PROGRAM.***

6 ~~(A) For all public works/construction, architect/engineering, professional service, and general~~
7 ~~service contracts which the contract awarding authority reasonably anticipates will include~~
8 ~~subcontractor participation, prior to the solicitation of bids or proposals, the contract awarding~~
9 ~~authority shall provide the Director with a proposed job scope, and may submit written~~
10 ~~recommendations to the Director regarding DBE subcontractor participation goals to be set for the~~
11 ~~contract.~~

12 ~~(B) Upon receipt of a proposed job scope and/or a written recommendation from a contracting~~
13 ~~awarding authority pursuant to Section 14A.13(A), the Director shall set the DBE participation goals~~
14 ~~for each public works/construction, architect/engineering, professional service, and general service~~
15 ~~contract based upon the following factors:~~

16 ~~—1. The extent of subcontracting opportunities presented by the contract;~~

17 ~~—2. The availability of DBE subcontractors capable of providing goods and services on the~~
18 ~~contract.~~

19 ~~(C) The Director shall set these goals within 10 working days of the date the Director receives~~
20 ~~from a contract awarding authority a proposed job scope and/or written recommendation. If the~~
21 ~~Director fails to act within 10 days, and the contract awarding authority submitted to the Director~~
22 ~~recommended goals, the recommended goals shall be deemed approved by the Director, provided the~~
23 ~~goals are based upon the factors identified above.~~

24 ~~(D) All solicitations for bidders on prime public works/construction, architect/engineering,~~
25 ~~professional service, and general service contracts shall require each bidder to do the following:~~

1 ~~—1. Demonstrate in its bid that it has used good faith efforts (as defined in Section 14A.4) to~~
2 ~~use DBE subcontractors; and~~

3 ~~—2. Identify the particular DBEs subcontractors to be used in performing the contract,~~
4 ~~specifying for each the dollar value of the participation, the type of work to be performed and such~~
5 ~~information as may reasonably be required to determine the responsiveness of the bid.~~

6 ~~—Except as provided in Section 14A.14, bids not meeting the requirements of Section 14A.14~~
7 ~~shall be declared nonresponsive.~~

8 ~~(E) A contract awarding authority may request that the Director waive or reduce the DBE~~
9 ~~subcontractor participation goals by submitting the reasons therefor in writing to the Director prior to~~
10 ~~the solicitation of bids.~~

11 ~~(F) A bidder or contractor may request that the Director waive or reduce the DBE~~
12 ~~subcontractor participation goals by submitting in writing with its bid to the contract awarding~~
13 ~~authority the reasons therefor.~~

14 ~~(G) The Director may grant the request for waiver or reduction made pursuant to Sections~~
15 ~~14A.14(E) and (F) upon a determination that:~~

16 ~~—1. The reasonable and necessary requirements of the contract render subcontracting or the~~
17 ~~participation of businesses other than the public works/bidder unfeasible;~~

18 ~~—2. Qualified DBEs capable of providing the goods or services required by the contract are~~
19 ~~unavailable, despite the prime contractor's or the department's good faith efforts to locate DBEs to~~
20 ~~meet the participation goals; or~~

21 ~~—3. The available DBEs have given price quotes that exceed competitive levels beyond~~
22 ~~amounts that can be attributed to the increased costs faced by small local businesses.~~

23 ~~(H) Whenever the Director denies a contractor's request to waive or reduce the participation~~
24 ~~goals, the contractor may appeal that denial to the Commission. The Commission's decision on the~~
25 ~~request shall be final. In reviewing the Director's denial of a contractor's request to waive or to reduce~~

1 ~~participation goals, the Commission shall consider the extent of subcontracting opportunities presented~~
2 ~~by the contract and the availability of DBE subcontractors capable of providing goods and services on~~
3 ~~the contract. The Commission may overrule, sustain or modify the Director's decision by applying the~~
4 ~~same standards that the Director is required to apply, as set forth in Subsection (G) above.~~

5 ~~(I) The contract awarding authority shall require bidders or proposers on the contracts to~~
6 ~~contact DBEs before listing them as subcontractors in the bid or proposal. The contract awarding~~
7 ~~authority shall declare bids or proposals that fail to satisfy this requirement nonresponsive.~~

8 ~~(J) During the term of the contract, any failure to comply with the level of DBE subcontractor~~
9 ~~participation specified in the contract shall be deemed a material breach of contract.~~

10 ~~(K) The provisions of this subsection (K) shall govern any Amendment to a Pre-existing~~
11 ~~contract as that term is defined in Section 14A.4 for types of contracts enumerated in subsection (A) of~~
12 ~~this Section. The Contract Awarding authority shall notify the Director of the proposed Amendment to~~
13 ~~a Pre-existing Contract and the Director shall set the DBE participation goals for the contract based~~
14 ~~on the factors set forth in subsection (B) of this Section. The Director may grant a request for a waiver~~
15 ~~or reduction based on the factors set forth in subsection (G) of this Section. The DBE participation~~
16 ~~goals shall apply when the Contractor hires new subcontractors. The Director or the Commission may~~
17 ~~adopt regulations governing the application of DBE participation goals under this subsection.~~

18 19 ***SEC. 14A.15. REPORTING AND REVIEW.***

20 ~~(A) Reporting by the Director. Commencing October 1, 2004 and no later than the first day of~~
21 ~~every third month thereafter, the Director shall issue a written report to this Board. That report shall~~
22 ~~document each City department's performance under the terms of this ordinance, including, among~~
23 ~~other things, each City department's progress in meeting its DBE goals and the success of each~~
24 ~~department's prime contractors complying with its best efforts obligations to meet DBE subcontracting~~
25

1 goals. That report shall also state whether or not each City department has fully reported all data
2 required by this ordinance or requested by HRC or the Controller.

3 —1.—~~Whenever the Director's report concludes that a department management's intentional~~
4 ~~disregard or negligent performance of obligations imposed by this ordinance has contributed to that~~
5 ~~department's failure to meet its prime contracting goals or the failure of its prime contractors to use~~
6 ~~their best efforts to meet their subcontracting goals or whenever the Director's report concludes that a~~
7 ~~City department has failed to provide any data required by this ordinance or requested by the HRC or~~
8 ~~the Controller, the Clerk of this Board shall schedule before the appropriate committee of the Board a~~
9 ~~hearing on that report. The Clerk shall also give notice of that hearing to the heads of the departments~~
10 ~~identified in the report and request the attendance of the heads of those departments at the committee~~
11 ~~hearing. The Clerk's notice shall inform the department heads that they must be prepared to respond to~~
12 ~~the Director's finding of intentional disregard and/or negligent performance and to explain what steps~~
13 ~~they intend to take to forestall repetition of the problems, identified in the Directors' report. The same~~
14 ~~procedure shall be followed whenever the Director's report identifies any department as having failed~~
15 ~~to meet its prime or subcontracting goals for three consecutive quarters. If the Director's report~~
16 ~~indicates that a City department has not met its goals for three consecutive quarters, HRC and the City~~
17 ~~department shall institute a targeted program to remedy lack of participation by DBEs in any affected~~
18 ~~industry.~~

19 —2.—~~The Director shall report to the Commission all waivers acted upon pursuant to Section~~
20 ~~14A.12. Such report shall be made on a monthly basis following the granting of the waiver.~~

21 (B)—~~Reporting by the Commission. By July 1st of each fiscal year subject to this ordinance, the~~
22 ~~Commission shall submit an annual report to the Mayor and this Board on the progress of the City~~
23 ~~toward the goals of this ordinance, together with an identification of problems and specific~~
24 ~~recommendations for: (1) discontinuing the DBE bid discounts in those cases where the bid discounts~~
25

1 ~~are no longer needed; and (2) improving the City's performance in fostering DBE participation in City~~
2 ~~Contracting.~~

3 ~~(C) This Board shall act upon the Commission's recommendations by the first Board meeting~~
4 ~~of January in each fiscal year subject to this ordinance.~~

5 ~~(D) By the last day of each fiscal year, all contract awarding authorities and City departments~~
6 ~~shall report annually to the Mayor on their progress in the preceding fiscal year toward the~~
7 ~~achievement of the DBE participation goals.~~

8
9 **~~SEC. 14A.16. SEVERABILITY.~~**

10 ~~The provisions of this ordinance are declared to be separate and severable. The invalidity of~~
11 ~~any clause, sentence, paragraph, subdivision, section or portion of this ordinance, or the invalidity of~~
12 ~~the application thereof to any person or circumstances shall not affect the validity of the remainder of~~
13 ~~this ordinance, or the validity of its application to other persons or circumstances.~~

14
15 **~~SEC. 14A.17. GENERAL WELFARE CLAUSE.~~**

16 ~~In undertaking the enforcement of this ordinance, the City is assuming an undertaking only to~~
17 ~~promote the general welfare. It is not assuming, nor is it imposing on its officers and employees, an~~
18 ~~obligation for breach of which it is liable in money damages to any person who claims that such breach~~
19 ~~proximately caused injury.~~

20
21 **SEC. 15.11. TO BE ADMINISTERED BY DIRECTOR OF HEALTH; POWERS AND**
22 **DUTIES OF DIRECTOR.**

23 * * * *

1 (d)—*Annual Report.* ~~The Director shall submit an annual report to the Board of Supervisors,~~
2 ~~reporting all activities of the Community Mental Health Services, including a financial~~
3 ~~accounting of expenditures and a forecast of anticipated needs for the ensuing year.~~

4 (e) **Studies.** The Director shall carry on such studies as may be appropriate for the
5 discharge of duties, including the control and prevention of psychiatric disorders.

6 7 **SEC. 16.9-24. EQUAL EMPLOYMENT OPPORTUNITY PLANS.**

8 Each board or commission, each elective officer in charge of an administrative office,
9 the Controller, the Mayor, and each department head appointed by the Mayor shall be
10 responsible for the preparation and implementation of a plan to provide equal employment
11 opportunities to all persons. Each such plan shall address all employment-related subjects the
12 control of which is vested by the Charter in the board, commission, officer, or department.
13 Such subjects shall include, but not be limited to, the following:

14 * * * *

15 (e) The method of dissemination of the equal employment opportunity plan.

16 ~~All such plans shall be prepared in consultation with the Civil Service Commission in order to~~
17 ~~provide technical assistance and recommendations on effective steps to achieve equal employment~~
18 ~~opportunity. Prior to adoption, the Civil Service Commission shall also approve each equal~~
19 ~~employment opportunity plan in cooperation with the City Attorney to ensure that compliance is made~~
20 ~~with all relevant federal, State and local equal opportunity laws or regulations. Should the Civil~~
21 ~~Service Commission find any such plan not in compliance with the above, it shall immediately so report~~
22 ~~to the Mayor's Office and Board of Supervisors. All such plans shall, upon adoption, be filed with the~~
23 ~~Civil Service Commission for public or other inspection.~~

24 In order to facilitate the development of information necessary to the formulation of
25 such plans, the Controller is directed to make appropriate data processing facilities available

1 and to process annual workforce utilization plans as required by this Section, the California
2 Fair Employment Practices Commission, the Equal Employment Opportunity Commission, the
3 Human Rights Commission, the Commission on the Status of Women or any other regulatory
4 agency charged with reviews of nondiscrimination provisions of local, State or federal law.

5 All such plans shall be periodically reviewed, amended and updated as appropriate on
6 at least an annual basis. ~~An annual report on the performance and progress of such plans shall be~~
7 ~~prepared and submitted to the Mayor and Board of Supervisors by the Civil Service Commission by the~~
8 ~~first day of March of each year during the annual budget process.~~

10 **SEC. 16.9-25. SEXUAL HARASSMENT POLICY.**

11 * * * *

12 ~~(e) Department of Human Resources Reports.~~

13 ~~—(1) Quarterly Reports. The Human Resources Director shall provide, on a quarterly basis,~~
14 ~~to the Commission on the Status of Women a written report on the number of sexual harassment~~
15 ~~complaints filed and the departments that were involved. The report also shall include information on~~
16 ~~the dispositions of complaints that are concluded and the status of complaints that are pending. The~~
17 ~~reports shall not include names or other identifying information regarding the parties or the alleged~~
18 ~~harassers.~~

19 ~~—(2) Annual Report. The Human Resources Director shall provide annually to the Mayor,~~
20 ~~the Board of Supervisors, the Human Rights Commission, and the Commission on the Status of Women~~
21 ~~a written report on the number of claims of sexual harassment filed, including information on the~~
22 ~~number of claims pending and the departments in which claims have been filed. The reports shall not~~
23 ~~include names or other identifying information regarding the parties or the alleged harassers.~~

24 ~~(f)~~ **Commission on the Status of Women.** The Commission on the Status of Women
25 is available to offer technical advice on this City and County policy, assistance and referrals

1 for sexual harassment complainants, technical assistance and additional resources to
2 supervisory employees and managers regarding sexual harassment, and to assist in the
3 prevention of sexual harassment incidents.

4 (f) The City and County of San Francisco is assuming an undertaking only to
5 promote the general welfare. It is not assuming, nor is it imposing on its officers and
6 employees, any obligations for which it is liable in money damages or otherwise to any person
7 who claims that such breach proximately caused injury.

9 SEC. 16.9-27. HARASSMENT PREVENTION TRAINING AND REPORTING.

10 (a) Findings and Purpose.

11 * * * *

12 (6) ~~Administrative Code Section 16.9-25(e)(2) requires DHR to provide an annual report~~
13 ~~on the number of sexual harassment claims filed by City employees, including information as to number~~
14 ~~of claims pending, and the City departments in which claims have been filed. Expanding this DHR's~~
15 reporting requirement to include all forms of harassment complaints, ~~not only sexual harassment~~
16 ~~claims,~~ will provide increased transparency and accountability for addressing harassment in
17 the workplace.

18 * * * *

19 (d) Reports.

20 * * * *

21 (4) ~~This Section 16.9-27 does not relieve DHR of its reporting requirements under Section~~
22 ~~16.9-25(e) regarding sexual harassment.~~

23 * * * *

1 **SEC. 17.4. TRANSFER OF PARKING AUTHORITY PROPERTY TO THE**
2 **MUNICIPAL TRANSPORTATION AGENCY.**

3 * * * *

4 (d) ~~The SFMTA has affirmed, in correspondence in Board File No. 170271, that it will provide~~
5 ~~at a minimum semi-annual written reports to the Board of Supervisors on any studies and plans to~~
6 ~~develop the Moscone Center Garage and the Performing Arts Garage, and will also provide to the~~
7 ~~Board of Supervisors a public outreach plan to engage the community on potential development~~
8 ~~alternatives, and any completed studies by third-party consultants shall be made immediately available~~
9 ~~to the Board of Supervisors.~~ At the present time, San Francisco Municipal Transportation
10 Agency, Office of Economic and Workforce Development, and Mayor's Office of Housing and
11 Community Development have been developing a proposal for the Moscone Garage that
12 includes potential development of a hotel and associated uses, and affordable housing units.
13 The current proposed scenario, which is subject to change based on public input,
14 environmental review, and other factors including discussions around Central SoMa
15 community facilities and Yerba Buena Gardens benefits, includes 650 hotel rooms and 100
16 units of affordable housing.

17 * * * *

18
19 **SEC. 18.13-1. MAXIMUM PERMISSIBLE OVERTIME.**

20 * * * *

21 (f) At such time as the Controller submits to the Board of Supervisors six and nine
22 month standard financial reports and, if performed, three month reports, the Controller shall
23 include budgeted overtime versus actual overtime ~~projections~~ in such reports. ~~These reports~~
24 ~~shall also describe the extent to which each department has complied with the requirements of this~~
25 ~~section.~~ The Controller, in consultation with the Director of Human Resources and the Director

1 of Transportation, shall also submit an annual overtime report to the Board of Supervisors.
2 The annual overtime report shall include budgeted and actual overtime by department,~~the~~
3 ~~number of exemptions granted by the Directors of the Human Resources Department and the Municipal~~
4 ~~Transportation Agency and an aggregate analysis of the justifications for these exemptions, the~~
5 ~~identification of critical staffing shortages, improved management practices, and other~~
6 ~~recommendations to reduce overtime spending.~~

7 * * * *

9 **SEC. 20.17-3. REPORTS.**

10 The spending plan described in Section 20.17-2(b) shall also include metrics designed
11 to evaluate the effectiveness of the Initiative and each of its specific components. Within one
12 year of the Department's submission of the spending plan to the Board of Supervisors, and on
13 an annual basis thereafter, the Department shall prepare, and submit to the Children and
14 Families First Commission (the "First Five Commission"), established by Chapter 86 of the
15 Administrative Code, the Early Childhood Community Oversight and Advisory Committee (the
16 "EC COAC"), established by Article XIII of Chapter 5 of the Administrative Code, the CCPAC,
17 and the Board of Supervisors, a report evaluating the effectiveness of the Initiative and each
18 of its specific components, using the metrics previously developed in the Department's
19 spending plan and include a financial analysis forecasting how the Department will achieve
20 universal access to early care and education, and establish a universal system for high-quality
21 early care and education that interrupts racialized outcomes for children by building and
22 funding an integrated system of early childhood supports and service in San Francisco and is
23 based on planned expenditures and anticipated funding. The report should also consider and
24 report on emerging needs, and new conditions or circumstances that would impact
25 effectiveness such as workforce retention or newly identified revenue sources, economic

1 conditions, or new policy directives. Before the Department submits this annual report to the
2 Board of Supervisors, the EC COAC, the CCPAC, and the First Five Commission shall have
3 an opportunity to review the report and submit related recommendations to the Department
4 and the Board of Supervisors. The Department may provide this report as a component of its annual
5 budget submission or annual impact report.

7 **SEC. 20.19-4. ANNUAL REPORT.**

8 (a) ~~By October 1 of each year, Each year,~~ HSA shall submit a written report to the ~~Human~~
9 ~~Services Commission and the~~ Homelessness Oversight Commission containing the information
10 in subsections (b) ~~and (c)~~ for the prior fiscal year.

11 (b) The written report shall provide the following aggregated and de-identified
12 information:

13 * * * *

14 (c) ~~In addition to the information required in subsection (b), HSH shall require each of the~~
15 ~~entities with whom it may contract to provide information on referrals to the Program by program type~~
16 ~~and service provider.~~

18 **SEC. 20.304. POWERS AND DUTIES.**

19 * * * *

20 (b) **Reports.** The Committee shall prepare and submit ~~quarterly~~ reports at least once
21 each quarter that shall include but not be limited to information on the following: safety in the
22 shelter, cleanliness in the shelter, disability access to and within the shelter, family life in the
23 shelter, a review of policies and procedures in place at the shelter, and any information
24 received regarding the treatment and personal experiences of shelter residents. In order to
25

1 enable the Committee to prepare reports required under this subsection (b), City departments
2 that contract for services at a shelter that is under review must respond within 15 days to any
3 reasonable request for information submitted by the Committee relative to the shelter or to
4 City policies that affect shelter clients. The reports shall also include recommended action
5 steps for the shelter and for the City department that contracts for services at the shelter. City
6 departments and the reports referenced in this subsection shall not identify shelter residents
7 or disclose any confidential information concerning shelter residents consistent with state and
8 federal law. The Committee may issue emergency reports at any time it deems necessary.
9 The reports shall be provided to: 1) the Mayor, 2) the Board of Supervisors, 3) the
10 Commission, 4) the appropriate City department responsible to take action, 5) the City
11 department that contracts for services at the shelter, 6) the shelter under review, and 7) the
12 public. These reports shall be public documents. Any City department identified in the report
13 as responsible to take action recommended in the report shall, within 30 days of issuance of
14 the report, provide to the Board of Supervisors a departmental report setting forth how the
15 department intends to respond to the Committee's recommendations.

16 * * * *

18 **SEC. 21A.3. DEPARTMENT OF PUBLIC HEALTH MANAGED CARE CONTRACTS.**

19 * * * *

20 ~~(e) The Director of Health shall provide quarterly reports between September 1, 2015 and~~
21 ~~December 1, 2028 to the Health Commission of the contracts approved under this Section 21A.3, and~~
22 ~~the aggregate amount of reimbursement and revenue generated. The Director of Health shall provide~~
23 ~~annual reports, no later than September 1, 2015, September 1, 2016, September 1, 2017, September 1,~~
24 ~~2018, September 1, 2019, September 1, 2020, September 1, 2021, September 1, 2022, September 1,~~
25 ~~2023, September 1, 2024, September 1, 2025, September 1, 2026 1 September 1, 2027, and September~~

1 ~~1, 2028 to the Mayor and the Board of Supervisors, identifying the contracts approved and the~~
2 ~~aggregate amount of reimbursement and revenue generated.~~

3
4 ***SEC. 21D.3. GOALS FOR HOSPITALS.***

5 *To implement Good Food Purchasing Standards, DPH shall seek the following:*

6 ~~(a) Local Economies: To achieve baseline goals set forth in the 2019 DPH Good Food~~
7 ~~Purchasing Standard baseline report by January 1, 2021, through developing a Request for Proposals~~
8 ~~that reflects the Good Food Purchasing pillars, and awarding a contract to a local produce vendor,~~
9 ~~and sourcing at least 15% of food from very large family-owned producers (as defined by United States~~
10 ~~Department of Agriculture standards) within 250 miles. DPH shall actively pursue extra points towards~~
11 ~~baseline goals by planning to purchase at least 1% cumulatively of food from vendors that are Socially~~
12 ~~Disadvantaged, Beginning, Limited Resource, Veteran, or Disabled Farmers/Ranchers by January 1,~~
13 ~~2022.~~

14 ~~(b) Environmental Sustainability: To achieve baseline goals set forth in the 2019 DPH Good~~
15 ~~Food Purchasing Standard baseline report by January 1, 2022, by purchasing 100% of meat derived~~
16 ~~from animals raised without the routine use of medically important antimicrobial drugs for disease~~
17 ~~prevention purposes. DPH shall achieve a 4% carbon and water footprint reduction by January 1,~~
18 ~~2021 and a 20% carbon and water footprint reduction by January 1, 2025. DPH shall take other~~
19 ~~measures to achieve environmental sustainability, including review and revision of menus (by January~~
20 ~~1, 2021), implementation of Meatless Mondays (by January 1, 2021), eliminating use of disposable~~
21 ~~water bottles (by January 1, 2021), and optimizing waste recovery systems to reduce waste (by January~~
22 ~~1, 2023).~~

23 ~~(c) Valued Workforce: To achieve baseline goals set forth in the 2019 DPH Good Food~~
24 ~~Purchasing Standard baseline report by January 1, 2021, through encouraging all vendors to commit~~

1 ~~to full compliance with labor law and working to prevent labor law violations from occurring, for both~~
2 ~~Laguna Honda Hospital and Zuckerberg San Francisco General Hospital.~~

3 ~~(d) Animal Welfare: To achieve baseline goals set forth in the 2019 DPH Good Food~~
4 ~~Purchasing Standard baseline report by January 1, 2023, through evaluating the menu for~~
5 ~~opportunities to decrease meat use (by January 1, 2021), purchasing 15% of total food purchases from~~
6 ~~animal welfare-certified products (by January 1, 2023), and decreasing animal product purchase~~
7 ~~volume by 15% and replacing it with plant-based foods (by January 1, 2023).~~

8 ~~(e) Nutrition: To achieve baseline goals set forth in the 2019 DPH Good Food Purchasing~~
9 ~~Standard baseline report by January 1, 2021, through offering free drinking water, conducting an~~
10 ~~analysis of products with regards to trans-fat and whole grains, and further refining nutrition goals~~
11 ~~specific to a safety net hospital setting.~~

12 ~~(f) Additional actions to achieve the above goals include: development of a departmental~~
13 ~~sustainability policy to guide purchasing decisions; examination of opportunities for joint procurement~~
14 ~~for the two hospitals; development of specifications for the department's dairy and eggs contracts to~~
15 ~~comply with Good Food Purchasing Standards; development of specifications for the department's~~
16 ~~meat contracts to comply with Good Food Purchasing Standards; and education of vendors on Good~~
17 ~~Food Purchasing Standards.~~

19 **SEC. 21D.4. GOALS FOR JAILS.**

20 ~~To implement Good Food Purchasing Standards, the Sheriff's Department shall seek the~~
21 ~~following with respect to jails:~~

22 ~~(a) Local Economies: To continue to meet the baseline goals set forth in the 2019 Sheriff's~~
23 ~~Department Good Food Purchasing Standard baseline report, with more than 20% of the department's~~
24 ~~total food expenditures meeting the criterion of being locally sourced at Good Food Purchasing~~
25 ~~Standards Level 1. The Sheriff's Department's goal is to increase its local food spending allocation~~

1 ~~from 15% to 20% on vendors who are large or medium-scale operations, family or cooperatively-~~
2 ~~owned, and within 250 miles of San Francisco (Good Food Purchasing Standards Levels 2 and 3), by~~
3 ~~January 1, 2023.~~

4 ~~(b) Environmental Sustainability: To achieve goals set forth in the 2019 Sheriff's Department~~
5 ~~Good Food Purchasing Standard baseline report by January 1, 2022, through spending at least 15% of~~
6 ~~the department's total food expenditures on products grown without the use of pesticides and/or that~~
7 ~~have received one or more of the nationally recognized certifications referenced in the Good Food~~
8 ~~Purchasing Standards Level 1, or reducing the carbon and water footprint of food purchases by at least~~
9 ~~4% after January 1, 2022 (with the goal of doubling the next year), increasing purchasing of products~~
10 ~~derived from animals raised without the routine use of medically important antimicrobial drugs for~~
11 ~~disease prevention purposes to 25% by January 1, 2022, and ensuring each year ongoing that no~~
12 ~~seafood purchases are listed as "avoid" by Monterey Bay Seafood Watch Guide (or other similar~~
13 ~~environmental monitoring body whose standards may be substituted by the Purchaser).~~

14 ~~(c) Valued Workforce: To achieve goals set forth in the 2019 Sheriff's Department Good Food~~
15 ~~Purchasing Standard baseline report by January 1, 2022, through spending at least 5% of the~~
16 ~~department's total food expenditures on products supplied by vendors with a social responsibility~~
17 ~~policy that prioritizes non-poverty wages for their employees, labor peace agreements, safe and healthy~~
18 ~~working conditions, prohibition of child labor, employment benefits, and policies to prevent sexual~~
19 ~~harassment/assault, a Good Food Purchasing policy, a worker education training program, or are~~
20 ~~certified by one or more nationally recognized fair trade organizations, and work with vendors to~~
21 ~~purchase products for whom the grower, processor, and distributor meet the qualifying criteria.~~
22 ~~Wherever possible, in evaluation criteria or reference checks for vendors, the Sheriff's Department~~
23 ~~shall encourage all vendors to commit to full compliance with labor and employment laws and work to~~
24 ~~prevent violations from occurring.~~

1 ~~(d) Animal Welfare: To achieve goals set forth in the 2019 Sheriff's Department Good Food~~
2 ~~Purchasing Standard baseline report by January 1, 2022, through spending at least 15% of the~~
3 ~~department's total food expenditures on products supplied by vendors who have received nationally-~~
4 ~~recognized organic and/or humane certifications (Level 1), and increase purchasing food items at~~
5 ~~higher levels of animal welfare certifications as recognized in the Good Food Purchasing Standards~~
6 ~~(Levels 2 and 3) by January 1, 2022, through replacing 35% of the total volume of animal products~~
7 ~~with plant-based foods and reaching 50% reduction relative to the baseline assessment by January 1,~~
8 ~~2024.~~

9 ~~(e) Nutrition: To achieve goals set forth in the 2019 Sheriff's Department Good Food~~
10 ~~Purchasing Standard baseline report by January 1, 2021, through spending at least 51% of the~~
11 ~~department's total food expenditures on Level 1 products, increasing the amount of whole or minimally~~
12 ~~processed foods by 5% from baseline year, and having fruit, vegetables, and whole grains account for~~
13 ~~at least 50% of the total food purchases.~~

14
15 **~~SEC. 21D.5. REPORTING REQUIREMENTS.~~**

16 ~~One year from the effective date of this Chapter 21D, DPH and the Sheriff's Department shall~~
17 ~~each submit a report to the Board of Supervisors assessing their adherence to the five Good Food~~
18 ~~Purchasing Standards as stated in Section 21D.1(d). This initial report shall constitute the baseline~~
19 ~~standards against which the goals of Sections 21D.3 and 21D.4 will be measured. One year from the~~
20 ~~date of the initial report, DPH and the Sheriff's Department shall each submit a report documenting~~
21 ~~their progress in meeting the baseline standards, and shall continue to submit reports annually from~~
22 ~~that point thereafter.~~

1 **~~SEC. 22B.3. IMPLEMENTATION REPORT.~~**

2 ~~The General Manager of the Department of Telecommunications shall provide the Board of~~
3 ~~Supervisors with a detailed action plan for implementing the telecommunications program.~~

4
5 **SEC. 22D.2. CHIEF DATA OFFICER AND CITY DEPARTMENTS.**

6 * * * *

7 (c) **City Departments.** Each City department, board, commission, and agency
8 ("Department") shall:

9 * * * *

10 (3) Designate a Data Coordinator (DC) no later than three months after the
11 effective date of Ordinance No. 285-13, who will oversee implementation and compliance with
12 the Open Data Policy within his/her respective department. Each DC shall work with the CDO
13 to implement the City's open data policies and standards. The DC shall prepare an Open Data
14 plan for the Department which shall include:

15 (A) A timeline for the publication of the Department's open data and a summary
16 of open data efforts planned and/or underway in the Department;

17 (B) A summary description of all data sets under the control of each Department
18 (including data contained in already-operating information technology systems);

19 (C) All public data sets proposed for inclusion on DataSF;

20 (D) ~~Quarterly~~ Updates of data sets available for publication twice each year.

21 (4) The DC's duties shall include, but are not limited to the following:

22 * * * *

23
24 **SEC. 22G.4. REVIEWING AND APPROVING PILOT PROJECT PROPOSALS.**

25 * * * *

(r) **Annual Report to the Board of Supervisors.** No later than one year from the effective date of this Chapter 22G , and annually thereafter, OET shall submit to the Board of Supervisors and the Mayor an Emerging Technology report (“Annual Report”) that describes the work performed by OET during the prior calendar year including without limitation the Pilot Project Proposals received, the Pilot Projects approved and/or completed during the term covered in the Annual Report, the OET Director’s analysis and recommendations corresponding to each Pilot Project, OET’s analysis of Emerging Technology data, including the effects of Emerging Technologies on public spaces and the labor market, and the OET Director’s conclusions and recommendations regarding such data. As may be required to safeguard public health, safety, welfare, and convenience in light of the effects of particular categories of Emerging Technologies or businesses seeking to utilize, market, test, sell, or launch Emerging Technologies, the Annual Report shall include recommendations that the City, including Special Jurisdiction Agencies, take legislative and/or administrative actions to modify, streamline, consolidate, amend, or terminate, as applicable, existing permit programs and requirements; to create new permit programs; and to streamline or consolidate regulatory review and approval processes and requirements among City Department Partners. The Annual Report shall include recommendations that the Board adopt or refrain from adoption of new legislation to regulate, deregulate, allow, or prohibit such Emerging Technologies upon, above, or below public property or the public right-of-way. No Annual Report is required if OET does not perform any work during the term that would otherwise be covered in the Annual Report.

**SEC. 23.42. PROHIBITION ON LEASING OF CITY-OWNED LAND FOR THE
EXTRACTION OF FOSSIL FUELS.**

* * * *

1 (d) ~~Fossil Fuel Remediation and Constructive Future Use. Regarding any City-owned~~
2 ~~property that is or was previously leased for fossil fuel extraction:~~

3 — (1) ~~Within six months of the effective date of this Section 23.42, the Director of Property, in~~
4 ~~coordination with the Department of the Environment, shall inspect such property to ensure that any~~
5 ~~current or former lessee complies with, or complied with, all applicable federal, state, and local~~
6 ~~environmental laws. Within 30 days of such inspection, the Director of Property shall submit a report~~
7 ~~regarding the state of the property to the Board of Supervisors, including whether the Director~~
8 ~~recommends additional inspections or further action;~~

9 — (2) ~~Upon the termination of any existing lease, the Director of Property, in coordination~~
10 ~~with the Department of the Environment and the San Francisco Public Utilities Commission, shall~~
11 ~~inspect such property to conduct an ecological evaluation of the property and ensure that the lessee has~~
12 ~~removed all equipment and that the state of the property complies with all applicable federal, state, and~~
13 ~~local environmental laws. Within 30 days of such inspection, the Director of Property shall submit a~~
14 ~~report regarding the state of the property to the Board of Supervisors, including a report on the value~~
15 ~~of the property as habitat and potential for restoration, and whether the Director recommends~~
16 ~~additional inspections or further action; and~~

17 — (3) ~~Within 90 days of the inspection required under subsection (d)(2), the Director of~~
18 ~~Property, in coordination with the Department of the Environment and the San Francisco Public~~
19 ~~Utilities Commission, shall submit to the Board of Supervisors a “Just Transition Plan” for the~~
20 ~~property. The Just Transition Plan shall evaluate possible constructive future uses for such property,~~
21 ~~including renewable electricity generation, recreation, and habitat protection and restoration. The Just~~
22 ~~Transition Plan shall also assess adverse impacts to workers from the termination of the lease and~~
23 ~~identify mechanisms to minimize or eliminate those impacts, including potential job creation from the~~
24 ~~possible constructive future uses.~~

1 ~~(e)~~ **Prospective Effect.** The prohibition in this Section 23.42 is intended to have
2 prospective effect only, and shall not be interpreted to impair the obligations of any existing
3 lease entered into by the City before the effective date of this Section, or any reserved rights
4 held by the State of California or other person or entity in a deed or other instrument.

5 ~~(ef)~~ **Exclusive Jurisdiction Departments.** This Section 23.42 shall not apply to any
6 department of the City that has exclusive jurisdiction over its real property to the extent
7 application to that department would violate the Charter or interfere with the department's
8 ability to carry out its core functions under the Charter. The Board of Supervisors urges
9 departments of the City that have exclusive jurisdiction over real property to adopt policies
10 consistent with the prohibition set forth in this Section.

11 ~~(fg)~~ **Undertaking for the General Welfare.** In enacting and implementing this
12 Section, the City is assuming an undertaking only to promote the general welfare. It is not
13 assuming, nor is it imposing on its officers and employees, an obligation for breach of which it
14 is liable in money damages to any person who claims that such breach proximately caused
15 injury.

16
17 ~~**SEC. 24.3. QUARTERLY REPORTS OF REDEVELOPMENT AGENCY.**~~

18 ~~*The Redevelopment Agency of the City and County shall file with the Board of Supervisors a*~~
19 ~~*detailed report of all its transactions, including a statement of all revenues and expenditures, at*~~
20 ~~*quarterly intervals.*~~

21
22 **SEC. 27.3. HEALTHY NAIL SALON RECOGNITION PROGRAM.**

23 The Department of the Environment shall develop and implement a "Healthy Nail-
24 Salon Recognition Program" modeled after a program developed by the California Healthy
25 Nail Salon Collaborative ("the Collaborative"). The Program shall, among other things, provide

1 public acknowledgment of nail salons that use nail polishes that are free of toluene, DBP, and
2 formaldehyde and formaldehyde-releasing chemicals.

3 The Department shall work with the Collaborative and any other interested parties in
4 designing and implementing the Program and conducting public outreach. ~~The Department shall~~
5 ~~evaluate the success of the program after two years and report its findings to the Board of Supervisors.~~

7 **SEC. 31.05. OFFICE OF ENVIRONMENTAL REVIEW.**

8 * * * *

9 ~~(m) The Environmental Review Officer shall prepare an annual report to the Planning~~
10 ~~Commission and the Board of Supervisors on all appeals filed under any of the appeal provisions of~~
11 ~~this Chapter 31. The first annual report shall be filed approximately one year after the effective date of~~
12 ~~this provision of Chapter 31.~~

14 **SEC. 32.54. LIMITATION BASED ON FAIR MARKET VALUE OF WORK.**

15 * * * *

16 ~~(e) The Chief Administrative Officer shall, semi-annually, direct a report to the Board of~~
17 ~~Supervisors setting forth a list of the loans which were in excess of 10 percent of the estimated fair~~
18 ~~market value pursuant to the provisions of Paragraph (a) giving the reasons for approval in each case.~~

20 **SEC. 33.6. REPORTS.**

21 The Commission shall provide a written report of its activities on an annual basis with the
22 submission of the Commission's annual budget to the Mayor and the Board of Supervisors~~render~~
23 ~~written reports of its activities to the Mayor and the Board of Supervisors not less than once every six~~
24 ~~months.~~

1 **SEC. 33.7. COOPERATION OF OTHER CITY AND COUNTY ENTITIES.**

2 (a) The Mayor, Board of Supervisors, and each commission, board, department and
3 agency of the City and County shall fully cooperate with the Commission in fulfilling the
4 provisions and purposes of this Article and shall regularly consult with the Commission on
5 matters relating to women.

6 (b) All agencies, departments, boards and commissions of the City and County, with
7 the exception of the City Attorney, shall make quarterly reports to the Human Resources
8 Department regarding all complaints of gender or sex discrimination file by their employees.
9 Those reports shall include:

- 10 (1) the number of complaints filed that quarter;
11 (2) the specific type of discrimination alleged in each complaint filed;
12 (3) the department, bureau or division in which each complaint arose;
13 (4) the harm allegedly suffered by the complainant;
14 (5) the cost to the department in handling the matter, when available;
15 (6) the status of all outstanding complaints, including, but not limited to a report
16 that the complaint is being investigated or mediated;
17 (7) the findings in all completed cases; and
18 (8) what, if any, corrective action was taken.

19 ~~The Human Resources Department shall compile the information regarding the complaints and~~
20 ~~report it to the Commission quarterly.~~ The Human Resources Department shall consult with the
21 Commission concerning the policy manner in which such complaints are handled. The Human
22 Resources Department shall also send the Commission any and all reports they make to the
23 Board of Supervisors and/or the Mayor concerning any type of discrimination against women
24 (including sexual harassment). The Human Resources Department shall provide the
25 Commission, upon request, access to pertinent, nonconfidential personnel information with

1 respect to current City and County employees and applicants for employment including, but
2 not limited to:

- 3 (1) an employee's or applicant's eligibility or certification status; and
4 (2) any workforce utilization or salary analysis performed by the Human
5 Resources Department.

6 ~~(c) The City Attorney shall submit to the Commission and the Department a quarterly~~
7 ~~report of settlements of lawsuits and claims filed by female employees alleging employment~~
8 ~~discrimination. The report shall include:~~

- 9 ~~— (1) the name of the case or claimant;~~
10 ~~— (2) the nature of the case;~~
11 ~~— (3) the damages allegedly suffered; and~~
12 ~~— (4) the amount of the settlement.~~

13 ~~— The City Attorney shall also provide, quarterly, a summary of litigation judgments in~~
14 ~~favor of and against the City and County, including all lawsuits filed by female employees alleging~~
15 ~~discrimination. The City Attorney shall alert the Commission to the filing of any lawsuit against~~
16 ~~the City and County alleging any form of discrimination against women and shall provide a quarterly~~
17 ~~report of all administrative claims filed against the City, including any claims alleging discrimination~~
18 ~~against women. Upon request, the City Attorney shall forward to the Commission or Department a~~
19 ~~copy of any complaint or claim filed with or served upon the City Attorney.~~

21 **SEC. 36.1. APPLICABILITY.**

22 (a) The Planning Department is currently engaged in comprehensive planning of
23 areas of the City ~~being referred to as the proposed Transit Center District, Market/Octavia, East~~
24 ~~SOMA, West SOMA, Inner Mission, Lower Potrero/Showplace Square, and Central Waterfront plan~~
25 ~~areas.~~ These efforts are expected to lead to new or modified area plans of the City's General

1 Plan ("Area Plans") that address urban design, open space, transportation, housing, and
2 community facilities and present detailed rezoning and policy proposals that cover land use,
3 housing, community facilities, open space, and transportation. ~~The boundaries of these areas are~~
4 ~~generally as outlined in documents posted from time to time on the Planning Department's web page.~~

5 (b) As part of the comprehensive planning leading to preparation and adoption of
6 each Area Plan, the Planning Department, ~~and, in the West SOMA area, the Planning Department~~
7 ~~with the advice and input of the Western SoMa Citizens Planning Task Force,~~ is analyzing the
8 existing deficiencies and improvement needs of each area and the deficiencies and
9 improvement needs that will be created by or exacerbated by the new development permitted
10 by the proposed Area Plan. ~~In the other areas covered by this legislation, the Planning Department~~
11 ~~should also consider the advice and input of citizen groups,~~ Based on this analysis, the Planning
12 Department shall prepare for each area a document that identifies the various facilities,
13 infrastructure and other community improvements needed to address the identified conditions
14 and needs (the "Community Improvements Plan") and an implementation program that
15 summarizes the estimated costs of the various facilities and improvements identified in the
16 Community Improvements Plan, proposes specific funding strategies and sources to finance
17 them, identifies the responsible and supporting agencies, and outlines the steps, including as
18 may be needed more detailed planning, program design, and environmental evaluation,
19 required to refine the proposals and implement them (the "Implementation Program."). ~~In the~~
20 ~~West SOMA area the City is preparing the Community Improvements Plan and Implementation~~
21 ~~Program with the advice and input of the Western SoMa Citizens Planning Task Force. In the other~~
22 ~~areas covered by this legislation, the Planning Department should also consider the advice and input of~~
23 ~~citizen groups.~~ The funding sources proposed in the Implementation Program may include, but
24 are not limited to, use of federal, State, and local public resources, community facility,
25

community benefit or other forms of assessment districts, and area-specific development impact fees, as may be detailed in the final adopted respective area plans.

SEC. 36.3. INTERAGENCY PLANNING AND IMPLEMENTATION COMMITTEES.

(a) ~~For each area subject to the provisions of this Article, there shall be an~~ The Interagency Planning ~~and~~ Implementation Committee that shall be comprised of representatives of the departments, offices, and agencies whose responsibilities include provision of one of more of the community improvements that are likely to be needed or desired in an adopted Area Plan ~~a Plan Area~~. In addition to the Planning Department, these departments, offices, and agencies shall, if relevant, include, but are not limited to, the County Transportation Authority, Municipal Transportation Agency, Department of Public Works, ~~Library Commission~~, Redevelopment Agency or its successor agency, Mayor's Office of Economic and Workforce Development, Mayor's Office of Housing and Community Development, Public Utilities Commission, Department of Recreation and Parks, and Department of the Environment, ~~and the Office of City Greening~~. Representatives from the Transbay Joint Powers Authority (TJPA) and Bay Area Rapid Transit District (BART) shall be consulted when formulating recommendations regarding implementation and funding related to the Transit Center District Plan. The Interagency Planning and Implementation Committees shall be chaired by the Planning Director or ~~his or her~~ the Planning Director's designee. It shall be the responsibility of each such department, office, or agency to participate, using its own administrative funds, ~~in the preparation of that portion of a Community Improvements Plan falling within its area of responsibility and, after Area Plan adoption,~~ to participate in the detailed design of the community improvement or improvements and to seek the funding for its implementation as provided in the Implementation Program, as amended from time to time.

* * * *

1 **SEC. 36.4. ANNUAL PROGRESS REPORTS.**

2 ~~———(a) Preparation.~~ After the final adoption of an Area Plan, including the Community
3 Improvements Plan and Implementation Program, for a portion of the City subject to the
4 provisions of this Article, the Planning Department shall ~~prepare for each Area Plan a brief~~
5 ~~Annual Progress Report indicating the status of implementation of the Area Plan and its various~~
6 ~~components. It shall contain information regarding the progress made to date in implementing the Area~~
7 ~~Plan and its various components, including a summary of the individual development projects, public~~
8 ~~and private, that have been approved during the report period, and shall also describe the steps taken~~
9 ~~regarding implementation of the various community improvements in accordance with the Plan's~~
10 ~~projected phasing and update and, if necessary, modify and amend, the contents and/or phasing of the~~
11 ~~Community Improvements Plan and Implementation Program. It shall also include proposed~~
12 ~~departmental work programs and budgets for the coming fiscal year that describe the steps to be taken~~
13 ~~by each responsible department, office, or agency to implement the Community Improvements Plan. It~~
14 ~~shall be the responsibility of each department, office and agency to provide to the Planning Department~~
15 ~~the following: (i) information regarding its progress in implementing the community improvement(s)~~
16 ~~for which it is responsible; (ii) any changes in the time-phased schedule for implementing the~~
17 ~~improvement(s); and (iii) information regarding its relevant proposed work program and efforts to~~
18 ~~secure the funding sources for implementing the improvement(s) in the coming year. report annually on~~
19 ~~the amount of area plan impact fees collected to date and describe how these funds have been allocated~~
20 ~~or spent on the various community improvements in accordance with the Plan's Community~~
21 ~~Improvements Plan or Implementation Program.~~ The Planning Department shall share this report
22 ~~with the Planning Commission, Board of Supervisors and the Capital Planning Committee. together~~
23 ~~with information regarding it's own progress and relevant proposed work program and budget into the~~
24 ~~Annual Progress Report.~~

1 ~~—— (b) Annual Hearing at Planning Commission. Prior to the annual submission of the Planning~~
2 ~~Department budget requests to the Mayor's Budget Office, the Planning Commission shall hold a~~
3 ~~public hearing on each Area Plan's Annual Progress Report. Notice of the hearing shall be provided at~~
4 ~~least 30 days prior to the meeting as follows: mailed notice to all organizations and individuals who~~
5 ~~have specifically requested mailed notice and published notice at least once in an official newspaper of~~
6 ~~general circulation. The Report shall be posted on the Department's web page for at least 30 days~~
7 ~~before the hearing. This hearing may be held as part of the Planning Commission's hearing on the~~
8 ~~Departmental budget request.~~

9 ~~—— (c) Submission to Relevant Committee of the Board of Supervisors. The Annual Progress~~
10 ~~Report shall also be submitted to the committee of the Board of Supervisors responsible for land use~~
11 ~~matters, which Committee may schedule a public hearing. Further, the Board urges the Planning~~
12 ~~Department Director and/or his or her designee who chairs the Interagency Planning and~~
13 ~~Implementation Committee for each Area Plan to be available to provide a briefing and answer~~
14 ~~questions about the Report at the appropriate Board of Supervisors committee hearing.~~

15 ~~—— (d) Termination. This Annual Progress Report requirement may be terminated by the Planning~~
16 ~~Commission upon its determination after a public hearing, noticed at least 30 days prior to the~~
17 ~~meeting, that full implementation of the Community Improvements Plan and Implementation Program~~
18 ~~has been substantially achieved and that continuation of the Annual Progress Report requirement~~
19 ~~would serve no useful purpose.~~

21
22 **SEC. 37.7. CERTIFICATION OF RENT INCREASES FOR CAPITAL**
23 **IMPROVEMENTS, REHABILITATION WORK, ENERGY CONSERVATION**
24 **IMPROVEMENTS, AND RENEWABLE ENERGY IMPROVEMENTS.**

25 * * * *

1 (h) **Tenant Financial Hardship Applications.**

2 (1) A tenant may file a hardship application at any time on grounds of financial
3 hardship with respect to any rent increase based on certified
4 costs of capital improvements, rehabilitation work, energy conservation improvements, or
5 renewable energy improvements. Payment of such rent increases(s) set forth in the hardship
6 application shall be stayed from the date of filing until a decision is made on the Tenant
7 Financial Hardship Application.

8 (2) Hardship applications shall be available in multiple languages.

9 (3) Multilingual notice of hardship application procedures shall be mailed with
10 each Administrative Law Judge or Board decision.

11 ~~— (4) Within six months after February 21, 2003 the Rent Board shall implement a~~
12 ~~process for direct outreach to landlords and tenants whose primary language is not English, regarding~~
13 ~~availability and use of the hardship application procedure. Within three months of implementation the~~
14 ~~Board shall provide a report to the Board of Supervisors regarding this outreach program, describing~~
15 ~~the implementation process and any known results.~~

16 * * * *

17
18 **SEC. 40.19. LIMITATION BASED ON FAIR MARKET VALUE OF WORK.**

19 * * * *

20 ~~(e) The Chief Administrative Officer shall, semi-annually, direct a report to the Board of~~
21 ~~Supervisors setting forth a list of the loans which were in excess of 110 percent of fair market value~~
22 ~~pursuant to the provisions of Subdivision (d) giving the reasons for approval in each case.~~

1 **SEC. 41.21. ANNUAL REVIEW OF RESIDENTIAL HOTEL STATUS.**

2 ~~(a) The Department of Building Inspection shall prepare and submit to the~~
3 ~~Board of Supervisors an annual status report containing the following:~~

4 ~~— (1) Current data on the number of residential hotels and the number of residential units in~~
5 ~~each of the residential hotels in the City and County of San Francisco, including, to the extent feasible,~~
6 ~~information regarding rents, services provided, and violations of the City's Codes;~~

7 ~~— (2) Current data on the number of residential hotel units converted pursuant to a permit to~~
8 ~~convert;~~

9 ~~— (3) Current data on the number of hotel units demolished or eliminated due to code~~
10 ~~abatement proceedings and fire;~~

11 ~~— (4) Current data on the number of residential hotel units illegally converted;~~

12 ~~— (5) Current data on the number of replacement housing units rehabilitated or constructed;~~

13 ~~— (6) A summary of the enforcement efforts by all City agencies responsible for the~~
14 ~~administration of this Chapter; and~~

15 ~~— (7) An evaluation of the workability and effectiveness of the permitted temporary~~
16 ~~change of occupancy procedures and winter rentals in Section 41.19 herein; and~~

17 ~~— (8) A report on expenditures from the San Francisco Residential Hotel Preservation Fund~~
18 ~~Account.~~

19 ~~(b) The Economic and Social Policy Committee of the Board of Supervisors shall conduct a~~
20 ~~hearing on the annual report submitted by the Department of Building Inspection and shall recommend~~
21 ~~appropriate actions to be taken by the Board of Supervisors.~~

22 (e) The Department of Building Inspection should establish a San Francisco
23 Residential Hotel Operators Advisory Committee composed of:

- 1 — 3 members nominated by the San Francisco Hotel Association (for-profit
- 2 operators);
- 3 — 3 members nominated by the Golden Gate Hotel Association (for-profit
- 4 operators);
- 5 — 2 members nominated by the Council of Community Housing Organizations
- 6 (nonprofit hotel operators);
- 7 — Deputy Mayor for Housing.

8

9 The committee shall meet no less than once every three months to advise the Mayor's

10 Office of Housing on matters including, but not limited to:

- 11 (1) Proposed revisions to this ordinance;
- 12 (2) Programs that various City agencies (i.e. Mayor's Office of Housing,
- 13 Department of Social Services, etc.) should develop to assist the City's residential hotel
- 14 operators;
- 15 (3) Any state or federal laws the City should support, oppose or seek to revise that
- 16 impact residential hotel operators;
- 17 (4) Any new City, State or Federal programs the City shall encourage that would
- 18 provide financial or technical support or assistance to San Francisco Residential Hotel
- 19 Operators.

20

21 **SEC. 41A.7. OFFICE OF SHORT-TERM RESIDENTIAL RENTAL ADMINISTRATION**

22 **AND ENFORCEMENT.**

23 * * * *

24 ~~(c) Reporting to Board of Supervisors.~~

25

1 ~~—(1) Annual Reports. The Office of Short-Term Residential Rental Administration and~~
2 ~~Enforcement shall provide a report to the Board of Supervisors regarding the administration and~~
3 ~~enforcement of the Short-Term Residential Rental program on an annual basis. The report shall make~~
4 ~~recommendations regarding proposed amendments to this Chapter 41A necessary to reduce any~~
5 ~~adverse effects of the Short-Term Residential Rental program.~~

6 ~~—(2) Quarterly Reports. The Office of Short-Term Residential Rental Administration and~~
7 ~~Enforcement shall provide quarterly reports to the Board of Supervisors summarizing the Host~~
8 ~~Platform monitoring activities during the preceding quarter. The periods covered by the quarterly~~
9 ~~reports shall commence on January 1, April 1, July 1, and October 1, respectively. At a minimum, each~~
10 ~~report shall include the number of notices sent to Hosting Platforms, the total number of listings~~
11 ~~included in those notices, the number of any administrative subpoenas issued upon discovery of~~
12 ~~potentially non-compliant listings, and the number and amount of penalties imposed on Owners,~~
13 ~~Business Entities, or Hosting Platforms for violations of their respective obligations under this~~
14 ~~Chapter 41A. Each report shall break down information by zip code, supervisorial district, and any~~
15 ~~other criteria as may be requested by the Board of Supervisors.~~

16
17 **~~SEC. 41C.6. REVIEW OF ORDINANCE.~~**

18 ~~Not later than four years and six months after the initial effective date of this Section, the~~
19 ~~Department of City Planning shall report to the Board of Supervisors with respect to the subject matter~~
20 ~~of this ordinance and the stock of permanent housing in the City and County of San Francisco, and may~~
21 ~~recommend, if appropriate, the modification or repeal of this ordinance. Not later than six months after~~
22 ~~receipt of said report, the Board of Supervisors shall hold a hearing to consider the contents of the~~
23 ~~report, and to consider extension or repeal of this ordinance. Not later than six months after receipt of~~
24 ~~said report, the Board of Supervisors shall hold a hearing to consider the contents of the report, and to~~
25

1 ~~consider extension or repeal of this ordinance. This ordinance shall be repealed five years after its~~
2 ~~initial effective date unless the Board of Supervisors shall on or before that date extend or re-enact it.~~

3
4 **~~SEC. 43.3.7. REPORTS TO THE BOARD OF SUPERVISORS.~~**

5 ~~The Mayor's Office of Housing will provide an annual report to the Board of Supervisors on~~
6 ~~the status of the program.~~

7
8 **~~SEC. 51.03. DUTIES OF MAYOR.~~**

9 * * * *

10 ~~(c) The Mayor shall submit a semiannual report to the Board of Supervisors, setting forth an~~
11 ~~accounting of the amounts disbursed to each nonprofit arts organization and the uses for which said~~
12 ~~funds were made.~~

13
14 **~~SEC. 59.7. ANNUAL PROGRESS REPORTS.~~**

15 ~~By January 1, 2014, and every year thereafter, the Department shall submit a written report to~~
16 ~~the Mayor and Board of Supervisors providing a summary of key Program achievements and~~
17 ~~challenges from the previous year, an accounting of all City funding for Healthy Food Retailer~~
18 ~~initiatives, and an inventory of City resources and programs relevant to Healthy Food Retailers in San~~
19 ~~Francisco.~~

20
21 **~~SEC. 70.5. ANNUAL REPORT AND PLAN.~~**

22 ~~The Authority shall submit annually a report to the Board of Supervisors detailing its functions~~
23 ~~and evaluating its operation for that year. In addition, such report shall present the Authority's specific~~
24 ~~goals and objectives for the coming year and its plan for meeting those goals and objectives. If, for any~~
25 ~~coming year, the Authority intends to expand its duties, the Authority shall present a detailed plan and~~

1 ~~budget for the implementation of that expansion of duties. Such plan shall be circulated to all interested~~
2 ~~City departments and community groups prior to presentation to the Board of Supervisors.~~

3
4 **~~SEC. 71.7. DEPARTMENTAL MONITORING REPORT.~~**

5 ~~On March 31, 2013 and every three years thereafter, the Assessor-Recorder and the Planning~~
6 ~~Department shall submit a joint report to the Board of Supervisors and the Historic Preservation~~
7 ~~Commission providing the Departments' analysis of the historical property contract (Mills Act)~~
8 ~~program. The report shall be calendared for hearing before the Board of Supervisors and the Historic~~
9 ~~Preservation Commission.~~

10
11 **~~SEC. 78.3. REPORTING REQUIREMENTS.~~**

12 ~~DBI and DTIS shall provide a report to the Board of Supervisors every four (4) months for the~~
13 ~~next two (2) years following the effective date of this Ordinance No. 040539 regarding the status of its~~
14 ~~MIS update projects and the improvement of public access to the permit tracking system.~~

15
16 **SEC. 83.6. FIRST SOURCE HIRING ADMINISTRATION.**

17 * * * *

18 (b) Powers and Duties. The FSHA shall be responsible for the implementation,
19 oversight, and monitoring of the first source hiring requirements of this Chapter. Its powers
20 and duties shall include:

21 (1) Providing assistance to individual City departments in designing first source
22 hiring implementation and monitoring plans for that department to use in contracts and
23 property contracts, including criteria for assigning particular numerical hiring goals, or
24 reviewing and approving existing Plans. The FSHA shall work with departments to identify
25 those contracts and property contracts that offer available entry level positions in duration and

1 numbers sufficient to justify the additional administrative duties resulting from the
2 implementation of the requirements of this Chapter. To the greatest extent possible, the
3 development of these plans shall utilize the department's existing contract-monitoring
4 procedures and facilitate a coordinated flow of information;

5 * * * *

6 (9) Submitting all approved first source hiring implementation and monitoring
7 plans ("approved plan") to the Workforce Investment Board Development Advisory Committee for
8 review;

9 * * * *

10
11 **~~SEC. 83.8. WORKFORCE DEVELOPMENT ADVISORY COMMITTEE.~~**

12 ~~There shall be established a Workforce Development Advisory Committee ("Advisory~~
13 ~~Committee") to advise the FSHA on workforce development, employ-mended needs, program policy,~~
14 ~~design, implementation, oversight, and monitoring. This advisory committee shall be appointed by the~~
15 ~~Mayor and shall include representatives of community-based organizations, labor, the business~~
16 ~~community, educational institutions, and City departments. The members of this advisory committee~~
17 ~~shall serve at will for a term of one year, and may be reappointed. This advisory committee shall meet~~
18 ~~at least quarterly.~~

19
20 **~~CHAPTER 84:~~**

21 **~~SAN FRANCISCO RESIDENTIAL RENT ASSISTANCE PROGRAM FOR PERSONS~~**
22 **~~DISQUALIFIED FROM FEDERAL RENT SUBSIDY PROGRAMS BY THE FEDERAL~~**
23 **~~QUALITY HOUSING AND WORK RESPONSIBILITY ACT OF 1998 (QHWRA)~~**
24
25

1 **~~SEC. 84.1. FINDINGS.~~**

2 ~~The Board of Supervisors hereby finds and declares:~~

3 ~~(a) Congress enacted the Quality Housing and Work Responsibility Act of 1998 ("QHWRA,"~~
4 ~~Public Law 105-276) amending Section 214 of the Housing and Community Development Act of 1980~~
5 ~~(Public Law 96-399) and amending Section 576 of the Illegal Immigration Reform and Immigrant~~
6 ~~Responsibility Act of 1996 (Division C of Public Law 104-208). These amendments require recipients~~
7 ~~of identified housing subsidies to affirmatively verify their immigration status. (42 U.S. § 1436a.)~~

8 ~~(b) These changes in federal legislation are likely to result in disruption or loss of housing for~~
9 ~~some City residents, particularly some San Francisco Housing Authority residents. It is in the City's~~
10 ~~interest to minimize the homelessness and disruption to individuals and families resulting from this~~
11 ~~change in federal law.~~

12 ~~(c) The City and County of San Francisco wishes to provide humanitarian assistance through~~
13 ~~residential rent subsidies to San Francisco residents whose federal rent subsidy has been reduced or~~
14 ~~revoked due to failure to meet federal immigration status verification and related requirements under~~
15 ~~QHWRA, including tenants in San Francisco Housing Authority units or Section 8 units ("Section 8" of~~
16 ~~the United States Housing Act of 1937, 42 U.S.C. 1437(f).~~

17 ~~(d) This is a pilot program with the primary goal of preserving households in low-income~~
18 ~~federally subsidized housing. This legislation will focus on San Francisco Housing Authority tenants~~
19 ~~and San Francisco Housing Authority-based Section 8 tenants, and may be later extended to other~~
20 ~~federally subsidized tenants. To maximize the use of limited funding, the program will pay a maximum~~
21 ~~of 60% of the increased tenant payment for one year, and program recipients must pay the remainder~~
22 ~~of the increased tenant payment. The subsidy will be reduced annually after the first year to 40%, then~~
23 ~~to 20%, and then to zero, respectively. Program recipients who are actively pursuing adjustment of~~
24 ~~their immigration status can continue to receive a 20% subsidy, for three years subject to available~~
25 ~~funding.~~

1 ~~(e) This pilot program will also provide two mini-grants of \$5,000 each, to be made available~~
2 ~~by the Program Administrator to culturally and linguistically competent community-based~~
3 ~~organizations, to provide immediate outreach to San Francisco Housing Authority tenants regarding~~
4 ~~QHWRA and this program, to provide referrals to individuals and families for assistance with~~
5 ~~adjustment of immigration status, and to provide information to the San Francisco Housing Authority~~
6 ~~about the numbers of affected individuals and families.~~

7 ~~(f) The Board of Supervisors also wishes to reaffirm that the City and County of San Francisco~~
8 ~~is a City and County of Refuge. This humanitarian assistance shall therefore be administered consistent~~
9 ~~with the provisions of San Francisco Administrative Code Chapter 12H "Im-migration Status."~~

10
11 **~~SEC. 84.2. ESTABLISHMENT OF QHWRA DISQUALIFICATION RENT ASSISTANCE~~**
12 **~~PROGRAM.~~**

13 ~~The Board of Supervisors hereby establishes the QHWRA Disqualification Rent Assistance~~
14 ~~Program for the City and County of San Francisco ("Program"). This is a pilot project. Funds shall be~~
15 ~~expended for the purposes and on the conditions set forth below.~~

16 ~~(a) Purpose. The purpose of this legislation is to preserve households in low-income federally~~
17 ~~subsidized housing by providing residential rent assistance to tenants in San Francisco Housing~~
18 ~~Authority units and Section 8 units whose federal residential rent subsidy has been reduced or revoked~~
19 ~~due to the tenants' failure to meet the immigration status verification requirements or related~~
20 ~~requirements of QHWRA.~~

21 ~~(b) Eligible Persons. In order to be eligible to receive funds from the Program, the person~~
22 ~~must be a tenant in a San Francisco residential rental unit subsidized by a federal rent subsidy~~
23 ~~program, such as a San Francisco Housing Authority unit or a Section 8 unit, whose subsidy has been~~
24 ~~reduced or revoked because of the person's failure to meet the immigration status verification~~
25 ~~requirements or related requirements of QHWRA.~~

1 ~~(c) Limits on QHWRA Disqualification Rent Assistance. Program rent assistance funds shall~~
2 ~~only be used to partially supplant a federal residential rent subsidy provided to an eligible person prior~~
3 ~~to his or her QHWRA disqualification for housing in the City and County of San Francisco.~~

4 ~~(d) Administration.~~

5 ~~— (1) The Program shall be administered by the Fund Administrator. The Fund~~
6 ~~Administrator shall be the Department of Human Services, City and County of San Francisco.~~

7 ~~— (2) The Fund Administrator shall promulgate rules and regulations to implement and~~
8 ~~administer this Program, including provision for the following:~~

9 ~~— (A) An individual may apply to the Program by submitting evidence to the Fund~~
10 ~~Administrator demonstrating the eligibility criteria set forth above. A parent or guardian or other~~
11 ~~appropriate person, as determined by the Fund Administrator, may apply on behalf of a minor child.~~

12 ~~— (B) An application must clearly state the amount of funding the applicant is requesting.~~

13 ~~— (C) Subject to available Program funds, rent assistance received by an eligible person~~
14 ~~will not initially fall below 60% of that individual's increased tenant payment at the time of~~
15 ~~disqualification (see Section 84.2(c)(1)), provided that the individual meets all of the eligibility~~
16 ~~requirements for the federal rent subsidy except for the QHWRA disqualification. If the individual's~~
17 ~~eligibility changes, the Program subsidy may be adjusted accordingly. The subsidy will be reduced~~
18 ~~annually after the first year to 40%, then to 20%, and then to zero, respectively. Program recipients~~
19 ~~who are actively pursuing adjustment of their immigration status can continue to receive a 20% subsidy~~
20 ~~for three years, subject to available funding.~~

21 ~~— (D) If appropriated City funding is limited in relation to the number of eligible persons,~~
22 ~~preferences will be given to San Francisco Housing Authority tenants and San Francisco Housing~~
23 ~~Authority-based Section 8 tenants in the lowest income brackets as defined by HUD for the federal~~
24 ~~program rent subsidy being replaced.~~

1 ~~—(3) The Fund Administrator shall insure that translation services are provided consistent~~
2 ~~with San Francisco Administrative Code Chapter 91 "Equal Access to Services."~~

3 ~~—(4) The Fund Administrator may contract out some or all of the program administration to~~
4 ~~another governmental agency and/or a community service organization serving immigrants, consistent~~
5 ~~with other applicable City contracting requirements.~~

6 ~~—(5) The Fund Administrator shall award and administer two mini-grants of \$5,000 each to~~
7 ~~culturally and linguistically competent community-based organizations to provide immediate outreach~~
8 ~~to San Francisco Housing Authority tenants regarding QHWRA and this program, to provide referrals~~
9 ~~to individuals and families for assistance with adjustment of immigration status, and to provide~~
10 ~~information to the San Francisco Housing Authority about the numbers of affected individuals and~~
11 ~~families.~~

12 ~~(e) Cooperation by the San Francisco Housing Authority. The Board of Supervisors strongly~~
13 ~~uses the San Francisco Housing Authority (SFHA) to fully advise all potentially eligible persons about~~
14 ~~the Program. The Board further strongly urges the SFHA to provide applicants with all necessary~~
15 ~~SFHA documentation for submission of an application to the Program. In addition, the Board strongly~~
16 ~~urges SFHA to track the total number of households affected by QHWRA disqualification, whether or~~
17 ~~not any member of such household applies for or is granted assistance under this Program, in order to~~
18 ~~more comprehensively measure the impact of QHWRA disqualification on the San Francisco~~
19 ~~community.~~

20
21 **~~SEC. 84.3. FUNDING PROCEDURE.~~**

22 ~~(a) Funding for the QHWRA Disqualification Rent Assistance Program shall come from the~~
23 ~~City's General Fund.~~

1 ~~(b) Initial funding for fiscal year 2002-2003, in the amount of \$349,000, has been~~
2 ~~appropriated in the Annual Appropriation Ordinance No. 171-01, found in Board of Supervisors File~~
3 ~~No. 011041.~~

4 ~~(c) For each year following the first full fiscal year of this Program's operation the Fund~~
5 ~~Administrator shall report to the Finance Committee of the Board of Supervisors (or its successor~~
6 ~~Committee) on the administration of the Fund, and shall recommend a level of funding for the following~~
7 ~~fiscal year that is sufficient to meet projected need. The Finance Committee shall recommend a~~
8 ~~Program funding level to the full Board of Supervisors for each year following the first fiscal year of~~
9 ~~the Program's operation, after receipt and consideration of the Fund Administrator's annual report and~~
10 ~~recommendation.~~

11 ~~(d) Appropriated funds that are not expended by the Program during a fiscal year shall be~~
12 ~~applied toward meeting the funding level approved for the Program for the following fiscal year.~~

13 ~~(e) Funding disbursements shall be made available to eligible persons as determined by the~~
14 ~~Fund Administrator, upon the effective date of this legislation.~~

15
16 **~~SEC. 84.4. GENERAL WELFARE.~~**

17 ~~In undertaking this QHWRA Disqualification Rent Assistance Program the City and County of~~
18 ~~San Francisco is assuming an undertaking only to promote the general welfare. It is not assuming, nor~~
19 ~~is it imposing on its officers and employees, an obligation for breach of which it is liable in money~~
20 ~~damages to any person who claims that such breach proximately caused injury.~~

21
22 **~~SEC. 84.5. SEVERABILITY.~~**

23 ~~If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Chapter 84~~
24 ~~or any part thereof is, for any reason, held to be unconstitutional or invalid or ineffective by any court~~
25 ~~of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining~~

1 ~~portions of this Chapter or any part thereof. The Board of Supervisors hereby declares that it would~~
2 ~~have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase thereof~~
3 ~~irrespective of the fact that any one or more section, subsections, subdivisions, paragraphs, sentences,~~
4 ~~clauses or phrases be declared unconstitutional or invalid or ineffective.~~

5
6 **Sec. 85.4. ADMINISTRATION OF PROGRAM.**

7 * * * *

8 ~~(e) MOHCD shall annually report to the Board of Supervisors regarding the implementation~~
9 ~~and results of the Program.~~

10
11 **SEC. 90.8. BI-ANNUAL REPORTS.**

12 The Entertainment Commission shall issue an bi-annual report to the Board of
13 Supervisors and Mayor by March 1st regarding its activities for the preceding two years.

14
15 **~~SEC. 90A.5. REVISION OF CITY CODES.~~**

16 ~~By no later than July 1, 2010, the Entertainment Commission shall submit a report to the Board~~
17 ~~of Supervisors and all affected City officials, boards, commissions, departments, and other entities,~~
18 ~~with recommendations for revising City Codes to conform to and implement the principles contained in~~
19 ~~the music and culture sustainability policy described in Section 90A.2. In developing the report, the~~
20 ~~Executive Director of the Entertainment Commission and/or staff shall consult as appropriate with City~~
21 ~~boards, commissions, departments, entities, and officials, including but not limited to the Planning~~
22 ~~Commission, Recreation and Park Commission, Port Commission, Police Commission, Fire~~
23 ~~Commission, Building Inspection Commission, Municipal Transportation Agency, Health Commission,~~
24 ~~and Interdepartmental Staff Committee on Traffic and Transportation (ISCOTT), each of which shall~~
25 ~~cooperatively assist as appropriate in developing the report.~~

1 ~~The Arts Commission, Grants for the Arts, and the charitable trust departments may, in their~~
2 ~~discretion, make recommendations to the Executive Director of the Entertainment Commission and/or~~
3 ~~staff or the Entertainment Commission regarding the report to be submitted to the Board of Supervisors~~
4 ~~under this section. Before the Entertainment Commission submits any report to the Board of~~
5 ~~Supervisors under this section, the Executive Director of the Entertainment Commission and/or staff~~
6 ~~shall consult with the Arts Commission, Grants for the Arts, and the charitable trust departments with~~
7 ~~respect to the proposed report.~~

8 ~~The Executive Director of the Entertainment Commission and/or staff may hold one or more~~
9 ~~public hearings to aid in development of the report to be submitted to the Board of Supervisors under~~
10 ~~this section. The Entertainment Commission shall hold at least one public hearing regarding the report~~
11 ~~no later than May 1, 2010.~~

12 ~~The Entertainment Commission may submit to the Board of Supervisors the report mandated by~~
13 ~~this section in separate parts at separate times, provided that all parts of the report are the subject of a~~
14 ~~hearing before the Entertainment Commission by May 1, 2010 and before being submitted to the Board~~
15 ~~of Supervisors; and provided further that all parts of the report are submitted to the Board of~~
16 ~~Supervisors by no later than July 1, 2010.~~

17 ~~Nothing in this section is intended or shall be construed to interfere with or override Section~~
18 ~~4.105 of the Charter or any other Charter provision. Nothing in this section is intended or shall be~~
19 ~~construed to prevent any official, board, commission, department, or other entity at any time from~~
20 ~~proposing a revision to City Codes to conform to and implement the music and culture sustainability~~
21 ~~policy or otherwise affect the ability of an official, board, commission, department, or other entity to~~
22 ~~submit proposed legislation to the Board of Supervisors.~~

1 **CHAPTER 92:**

2 **REAL ESTATE LOAN COUNSELING AND EDUCATION**

3 **SEC. 92.1. FINDINGS AND PURPOSE.**

4 ~~This Board makes the following findings:~~

5 ~~—1. Many San Franciscans, particularly poor, elderly, and minority residents, have~~
6 ~~expressed concern and apprehension regarding home lenders who aggressively market high-cost home~~
7 ~~loans in their neighborhoods and who may engage in unfair or fraudulent credit practices with the~~
8 ~~potential to destroy financial resources based on home equity.~~

9 ~~—2. The HUD-Treasury Task Force on Predatory Lending, in its report entitled "Curbing~~
10 ~~Predatory Home Mortgage Lending" (the "HUD/Treasury report"), has documented and analyzed the~~
11 ~~problem of predatory lending in home mortgage lending. The HUD/Treasury report identified the four~~
12 ~~major predatory practices occurring in the sub-prime lending market as "loan flipping" (successive~~
13 ~~refinancing with added fees and prepayment penalties), "packing" (unjustifiably high fees and hidden~~
14 ~~fees), "asset based lending" (lending without regard for the borrower's ability to pay) and outright~~
15 ~~fraud and abuse. The burden of these practices fall predominantly on minorities, women and the elderly~~
16 ~~in minority or low-income neighborhoods without access to mainstream sources of credit.~~

17 ~~—3. The HUD/Treasury report found that consumer literacy and disclosure would assist~~
18 ~~borrowers in avoiding predatory practices and recommended expanded access to consumer loan~~
19 ~~counseling.~~

20 ~~—4. The State legislature recently passed AB 489, adding Division 1.6 to the Financial Code,~~
21 ~~and imposing requirements on consumer loans secured by real property. AB 489 prohibits various~~
22 ~~practices associated with predatory lending and provides civil penalties for violations.~~

23 ~~—5. State and federal regulation of real estate lenders and loans, in combination with legally~~
24 ~~mandated loan disclosure requirements are insufficient to provide protection of targeted communities~~
25 ~~against the abuses of predatory lenders. The Board finds that a consumer counseling and education~~

1 ~~program at the local level is the most effective way to provide consumer protection against predatory~~
2 ~~lending practices within the City and County of San Francisco.~~

3 ~~—6. The Department of Disability and Aging Services currently provides assistance to~~
4 ~~victims of predatory lending practices in San Francisco. The Department works with nonprofit and~~
5 ~~other organizations involved in predatory lending counseling and education programs, but has no~~
6 ~~mandate or funding to develop its own program for these vitally needed services.~~

7
8 **~~SEC. 92.2. PILOT CONSUMER LOAN EDUCATION PROGRAM.~~**

9 ~~A. The Department of Disability and Aging Services shall develop and commence a one-year~~
10 ~~program to educate San Franciscans about predatory loan practices and to prevent sub-prime lenders~~
11 ~~from targeting low-income neighborhoods for predatory loans. All City Departments shall cooperate~~
12 ~~with and assist the Department of Disability and Aging Services in developing and administering the~~
13 ~~consumer loan education program.~~

14 ~~B. The program shall, at a minimum:~~

15 ~~—1. Provide a clear definition of predatory lending and an easy to understand explanation of~~
16 ~~predatory lending practices in selected educational materials.~~

17 ~~—2. Provide and distribute educational materials and training on consumer loans secured by~~
18 ~~real property. All education materials and training sessions shall be available in multiple languages,~~
19 ~~consistent with the San Francisco population base.~~

20 ~~—3. Specify interest rate, fee and point triggers to assist consumers in identifying high-cost~~
21 ~~loans.~~

22 ~~—4. Distribute consumer information and telephone referral numbers of governmental and~~
23 ~~nonprofit agencies which provide assistance to victims of predatory loan practices. Information shall~~
24 ~~be provided to San Francisco residents through mailed brochures in property tax bills, postcards,~~
25

1 ~~public service announcements and cooperation with local nonprofit organizations and community~~
2 ~~groups to organize seminars on predatory lending.~~

3 ~~C. The Department may provide consumer loan educational services using City personnel,~~
4 ~~cooperating nonprofit organizations and institutions, consultants and contractors, or any combination~~
5 ~~of these resources in an effort to reach a citywide audience.~~

6
7 **~~SEC. 92.3. PILOT CONSUMER LOAN COUNSELING PROGRAM.~~**

8 ~~A. The Department of Disability and Aging Services shall commence a one-year program to~~
9 ~~provide free or low-cost financial counseling to individuals with outstanding loans and individuals who~~
10 ~~apply for loans secured by their residence property located in San Francisco. Financial counseling~~
11 ~~shall include:~~

12 ~~—1. Review of loan documents and an explanation of all terms and conditions of a consumer~~
13 ~~loan.~~

14 ~~—2. An explanation of consumer rights under state and federal laws which regulate loan~~
15 ~~practices, verification that all loan documents have been supplied, and that all required disclosures are~~
16 ~~complete.~~

17 ~~B. The Department shall not make personal financial assessments for individuals, recommend~~
18 ~~particular lenders, or provide legal advice. The Department may provide consumer loan counseling~~
19 ~~services using City personnel, cooperating nonprofit organizations and institutions, consultants and~~
20 ~~contractors, or any combination of these resources in an effort to reach a citywide audience. All City~~
21 ~~Departments shall cooperate with and assist the Department of Disability and Aging Services in~~
22 ~~developing and administering the consumer loan counseling program.~~

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1 ~~—C.—Section 4.110 of the Charter of the City and County of San Francisco provides that the~~
2 ~~Health Department and Health Commission shall provide for the preservation, promotion and~~
3 ~~protection of the physical and mental health of the inhabitants of the City and County of San Francisco.~~

4 ~~—D.—Section 127340(a) of the California Health and Safety Code provides that "private not-~~
5 ~~for-profit hospitals meet certain needs of their communities through the provision of essential~~
6 ~~healthcare and other services. Public recognition of their unique status has led to favorable tax~~
7 ~~treatment by the government. In exchange, nonprofit hospitals assume a social obligation to provide~~
8 ~~community benefits in the public interest."~~

9 ~~—E.—Due to their size, larger non-government healthcare providers have significant impact on~~
10 ~~the health of the people of the City and County of San Francisco. Therefore such providers have a~~
11 ~~responsibility to work along with government healthcare agencies and facilities to maintain the health~~
12 ~~of the communities they serve.~~

13
14 **SEC. 97.2. DEFINITIONS.**

15 ~~—The words and phrases as used in this Section and for the purposes of this Section, unless a~~
16 ~~different meaning is plainly required by context, shall have the meaning respectively ascribed to them~~
17 ~~in Section.~~

18 ~~—A.—"Applicant Hospital" shall mean a private, non-governmental hospital that provides more~~
19 ~~than a forty (40) percent, or which is part of a hospital system that provides more than forty (40)~~
20 ~~percent, of the healthcare services provided by private, non-governmental hospitals in the City and~~
21 ~~County of San Francisco in any of the following categories, as defined in the Accounting and Reporting~~
22 ~~Manual for California Hospitals published by the Office of Statewide Health Planning and~~
23 ~~Development ("OSHPD") and as reported in the most recent OSHPD Hospital Annual Disclosure~~
24 ~~Reports available upon review of the hospital's permit application or other request for approval filed~~
25 ~~with an agency or department of the City and County of San Francisco or with the San Francisco~~

1 ~~Redevelopment Agency: licensed hospital beds, available licensed hospital beds, staffed licensed~~
2 ~~hospital beds, total patient days, or total discharges.~~

3 ~~—B.—"Healthcare Impact Report" shall mean a document that analyzes the effects of the~~
4 ~~Applicant Hospital's proposed facility changes on the availability of hospital services, including but not~~
5 ~~limited to, emergency services, urgent care services, and behavioral health services to affected~~
6 ~~neighborhoods. The Healthcare Impact Report shall examine the accessibility of services to patients~~
7 ~~using all modes of transportation. Furthermore, the Healthcare Impact Report shall analyze the~~
8 ~~Applicant Hospital's current performance in the following areas and compare it with that of other~~
9 ~~private, non-governmental hospitals in the City and County of San Francisco:~~

10 ~~1.—Charitable Care: The amount of charitable care provided by the Applicant Hospital as~~
11 ~~defined in the San Francisco Health Code, Article 3, Section 130(b), and expressed as a percentage of~~
12 ~~net patient revenue.~~

13 ~~—2.—Price of Care: The fees charged by the Applicant Hospital for a standardized set of~~
14 ~~hospital services, prescription and nonprescription drugs, medical supplies, and medical equipment.~~
15 ~~The standardized set of hospital services shall be established by the Health Department and shall~~
16 ~~incorporate any data reported in charge description masters recorded pursuant to California Health~~
17 ~~and Safety Code, Sections 1339.50~~

18 ~~—3.—Caregiver Training, Education, and Development: The programs and financial support~~
19 ~~made available by the Applicant Hospital for caregiver training, education, and development.~~

20
21 **~~SEC. 97.3. PREPARATION AND CONSIDERATION OF HEALTHCARE IMPACT~~**
22 **~~REPORTS.~~**

23 ~~—A.—When an Applicant Hospital files a permit application or other request for approval with~~
24 ~~an agency or department of the City and County of San Francisco seeking approval for land use or~~
25 ~~construction activities involving the replacement or addition of more than two hundred (200) licensed~~

1 ~~hospital beds, the Health Department of the City and County of San Francisco shall prepare a~~
2 ~~Healthcare Impact Report. The Health Department shall make reasonable efforts to consult with the~~
3 ~~Applicant Hospital, as the Health Department deems necessary.~~

4 ~~—B.—When an Applicant Hospital files a permit application or other request for approval with~~
5 ~~the San Francisco Redevelopment Agency seeking approval for land use construction activities~~
6 ~~involving the replacement or addition of more than two hundred (200) licensed hospital beds, and said~~
7 ~~application or request ultimately requires approval of an amendment to a Redevelopment Plan by the~~
8 ~~San Francisco Board of Supervisors or an agency or department of the City and County of San~~
9 ~~Francisco, the Health Department of the City and County of San Francisco shall prepare a Healthcare~~
10 ~~Impact Report. The Health Department shall make reasonable efforts to consult with the Applicant~~
11 ~~Hospital, as the Health Department deems necessary.~~

12 ~~—C.—Upon completing the Healthcare Impact Report, the Health Department shall distribute it~~
13 ~~to the Health Commission, the Planning Commission, the Board of Supervisors and other City~~
14 ~~departments or agencies it deems appropriate. The Health Department shall complete and distribute~~
15 ~~the Healthcare Impact Report within six (6) months of being notified of the need for the report. If the~~
16 ~~Health Department does not complete and distribute the Healthcare Impact Report within that~~
17 ~~timeframe, Sections 97.3 (D, E, F) and 97.4 shall not apply.~~

18 ~~—D.—A permit application or other request for approval with an agency or department of the~~
19 ~~City and Count of San Francisco seeking approval for land use or construction activities involving the~~
20 ~~replacement or addition of more than two hundred (200) licensed hospital beds shall not be considered~~
21 ~~complete until the Healthcare Impact Report is completed and distributed as described in this Section.~~

22 ~~—E.—The Board of Supervisors or an agency or department of the City and County of San~~
23 ~~Francisco shall not approve an amendment to a Redevelopment Plan until it has received and reviewed~~
24 ~~a Healthcare Impact Report, when such a Healthcare Impact Report is required under this Section.~~

1 ~~—F. The Board of Supervisors, Planning Commission, Health Commission, and any other City~~
2 ~~departments or agencies provided with the Healthcare Impact Report by the Health Department shall~~
3 ~~review and consider the Healthcare Impact Report and use the comparisons therein as a criterion for~~
4 ~~determining whether or not to enact any legislation, grant any approval, or make any recommendations~~
5 ~~regarding amending a Redevelopment Plan or allowing or enabling the Applicant Hospital to replace~~
6 ~~or add more than two hundred (200) licensed hospital beds by building a new or retrofitting or~~
7 ~~remodeling an existing facility or structure in the City and County of San Francisco.~~

8
9 **~~SEC. 97.4. COST OF REPORT.~~**

10 ~~—The Health Department may charge and collect from the Applicant Hospital a fee for the~~
11 ~~preparation of the Healthcare Impact Report in an amount that does not exceed the actual cost of~~
12 ~~preparing the Healthcare Impact Report. The Health Department shall make reasonable efforts to use~~
13 ~~all data sources available in order to minimize costs.~~

14
15 **SEC. 98.1. BETTER STREETS POLICY; GOVERNING PRINCIPLES;**
16 **COORDINATION OF DEPARTMENTAL ACTIONS.**

17 * * * *

18 (e) To carry out the intent of this Section, the City has developed, and the Board of
19 Supervisors adopted in Ordinance No. 310-10, a citywide streetscape master plan and a
20 comprehensive set of streetscape design guidelines, known as the "Better Streets Plan."

21 The Better Streets Plan identifies street types, and provides design guidelines for
22 pedestrian and streetscape elements such as street trees and landscaping, street lighting,
23 sidewalk widths, sidewalk extensions, sidewalk paving, and site furnishings.

24 * * * *

1 ~~(5) Reporting. All agencies approving projects subject to Administrative Code Section 98.1,~~
2 ~~including the Department of Public Works, Municipal Transportation Agency, Public Utilities~~
3 ~~Commission, and the Planning Department shall produce an annual report documenting compliance~~
4 ~~with the Better Streets Policy and the NACTO Guidelines. The affected agencies shall submit said~~
5 ~~report(s) to the Board of Supervisors within sixty (60) days of the end of the City's fiscal year.~~

6 * * * *

7
8 **~~SEC. 98.2. STREET DESIGN REVIEW COMMITTEE.~~**

9 ~~(a) There shall be a Street Design Review Committee ("the Committee") to advise the Mayor~~
10 ~~on the design of proposed improvements to the public right of way, and to facilitate the resolution at a~~
11 ~~high administrative level of policy conflicts and project-specific conflicts in the design and engineering~~
12 ~~phase of an individual project.~~

13 ~~—(b) The Committee shall consist of the following officials, or their designees:~~

14 ~~—(1) The Mayor, who shall act as chair;~~

15 ~~—(2) The Director of Public Works;~~

16 ~~—(3) The Director of Transportation for the Municipal Transportation Agency ("the MTA");~~

17 ~~—(4) The Director of Planning;~~

18 ~~—(5) The General Manager of the Public Utilities Commission;~~

19 ~~—(6) The Director of the Department of Economic and Workforce Development;~~

20 ~~—(7) The San Francisco Fire Chief; and,~~

21 ~~—(8) Other agencies that are involved in a specific project considered by the Committee may~~
22 ~~participate in the review of their projects, as necessary.~~

23 ~~—(c) The Committee shall review any proposed improvement to the public right of way~~
24 ~~submitted by a Committee member, including projects that are under the jurisdiction of the MTA, where~~
25 ~~the Committee member concludes that the proposed improvement, or a department's interpretation of~~

1 ~~or proposed modifications to the proposed improvement, may conflict with one or more of the policies~~
2 ~~referenced in subsection (d). The Committee shall provide its assessment to the Mayor, with a copy to~~
3 ~~the department proposing the improvement.~~

4 ~~—(d) In conducting its review, the Committee shall examine whether proposed improvements~~
5 ~~are consistent with the City's Better Streets Plan, Transit First Policy, Complete Streets Policy, the~~
6 ~~Mayor's Pedestrian Strategy, the MTA Bicycle Strategy, and other relevant policy documents relating~~
7 ~~to the design of public streets, as applicable. The Committee may recommend changes to departmental~~
8 ~~standards and procedures necessary or appropriate to make those standards and procedures better~~
9 ~~conform to the City policies identified above.~~

10 ~~—(e) To the extent feasible, the Committee shall review projects submitted under subsection (c)~~
11 ~~at the 30 percent and final design stages, and prior to any final board or commission approvals, for~~
12 ~~compliance with the policies referenced in subsection (d). The Committee, in its discretion, may review~~
13 ~~proposed improvements at other design stages.~~

14 ~~—(f) All City departments shall cooperate with the Committee in its operations.~~

15 ~~—(g) The Committee shall submit a report on its activities to the Board of Supervisors once a~~
16 ~~year. Such report shall include, at minimum, a list of projects reviewed any conflicts between~~
17 ~~competing policies identified during the review process, and how the conflicts were resolved.~~

18 ~~—(h) Nothing in this Section shall be construed to limit or interfere with any power or duty~~
19 ~~conferred on any officer or department under the Charter, the Municipal Code, or State law. Nothing in~~
20 ~~this Section shall be construed to require the Municipal Transportation Agency to spend money from~~
21 ~~the Municipal Transportation Fund not budgeted for that purpose by the Agency.~~

22 //

23 //

24 //

25 //

1 **SEC. 106.5. ADMINISTRATIVE IMPLEMENTATION.**

2 * * * *

3 (d) ~~The Controller shall track and evaluate the Navigation Centers' outcomes, including but~~
4 ~~not limited to the number of residents served by the Navigation Centers, residents' lengths of stay,~~
5 ~~residents' destinations upon exit (e.g., permanent housing, skilled nursing facility), and the number of~~
6 ~~residents receiving and retaining public assistance benefits. The Controller shall summarize these~~
7 ~~outcomes in a report to be submitted to the Board of Supervisors no later than within six months of the~~
8 ~~effective date of this Chapter 106, and every six months thereafter, until such time as the Navigation~~
9 ~~Centers are no longer in operation. Within one year of the effective date of this Chapter 106, the~~
10 ~~Controller, in consultation with the City Administrator, shall submit to the Board of Supervisors a~~
11 ~~report that describes any lessons learned from the operation of the Navigation Centers, and makes~~
12 ~~recommendations as to how and whether the Navigation Centers' approach to reducing barriers to~~
13 ~~shelter could be applied to the City's full shelter system, along with a proposed resolution to accept the~~
14 ~~report.~~

15 ~~—(e)—~~All City officers and entities shall cooperate with the City Administrator in
16 the implementation and administration of this Chapter 106.

17
18 **~~SEC. 107.5. ADDITIONAL STEPS FOR CULTURAL DISTRICTS ESTABLISHED~~**
19 **~~BEFORE JUNE 1, 2018.~~**

20 ~~The Mayor's Office of Housing and Community Development shall prepare CHHESS reports~~
21 ~~following the process set forth in Section 107.4(b)(5)-(7) regarding Calle 24 (Veinticuatro)~~
22 ~~Latino Cultural District, SoMa Pilipinas—Filipino Cultural Heritage District,~~
23 ~~Transgender Cultural District, and the Leather Lesbian, Gay, Bisexual, Transgender,~~
24 ~~Queer Cultural District. The Mayor's Office of Housing and Community Development shall produce~~
25 ~~CHHESS reports regarding at least two of these four Districts by no later than July 1, 2019, and shall~~

1 ~~produce CHHESS reports regarding the other two Districts by no later than July 1, 2020. In preparing~~
2 ~~the CHHESS reports, the Mayor's Office of Housing and Community Development shall consult with~~
3 ~~appropriate departments in its discretion and coordinate with people and organizations in the Districts.~~
4 ~~By no later than January 15, 2019 the Mayor's Office of Housing and Community Development shall~~
5 ~~submit to the Board of Supervisors and the Mayor a written report describing the Office's~~
6 ~~plan for preparation of these reports.~~

7
8 **SEC. 107.65. RESPONSIBILITIES OF MAYOR'S OFFICE OF HOUSING AND**
9 **COMMUNITY DEVELOPMENT.**

10 In addition to the responsibilities set forth in Section 107.4 ~~and 107.5~~, the Mayor's Office
11 of Housing and Community Development shall:

12 (a) Provide information upon request to individuals or community organizations
13 inquiring about the process of establishing a Cultural District; and

14 (b) Develop any necessary rules or regulations to implement this Chapter 107. Any
15 rules and regulations shall be subject to disapproval of the Board of Supervisors by resolution.

16
17 **SEC. 117.1. DEFINITIONS.**

18 For purposes of this Chapter 117, the following terms shall have the following
19 meanings:

20 * * * *

21 ~~"Fund" means the Cooperative Living Opportunities for Mental Health Loan Fund~~
22 ~~administered by MOHCD under Administrative Code Chapter 10.100-49.5.~~

23 * * * *

1 **SEC. 117.2. ELIGIBLE SITES, PROGRAM MANAGEMENT, AND REGULATIONS.**

2 * * * *

3 (c) Program Regulations. The MOHCD Director and DPH Director shall jointly publish
4 from time to time Program Regulations as appropriate to implement the Program, consistent
5 with applicable law and this Chapter 117. The MOHCD Director and DPH Director shall
6 publish all Program Regulations on DPH's website and in such additional places as the DPH
7 Director deems appropriate, and shall provide copies or electronic links on request. The
8 Program Regulations shall address matters such as Program ~~and Fund~~ administration, public
9 and competitive processes to apply for Loans, compliance with applicable laws and
10 regulations, appraisal of the Property, affordability restrictions for the longest possible term,
11 eligible uses of ~~F~~unds, underwriting criteria, transaction processing, documentation,
12 compliance monitoring, and enforcement. At a minimum, the Program Regulations shall
13 include, but are not limited to: (1) experienced property management to provide operating and
14 maintenance, rent collection, lease enforcement, financial management and reporting; (2) a
15 harm reduction policy; (3) procedures for lease violation and termination; and (4) limits on
16 rent, which shall not exceed 30% of an Eligible Person's income.

17
18 **SEC. 117.4. ADMINISTRATION OF LOANS AND GRANTS.**

19 * * * *

20 (f) **Monitoring and Enforcement.**

21 (1) DPH shall monitor Contractor compliance with Program Regulations related to
22 delivery of services and enrollment of tenants who meet eligibility criteria. ~~DPH shall establish~~
23 ~~annual reporting requirements for Contractors and shall report annually to the Board of Supervisors~~
24 ~~on the number and types of Cooperative Living units established and maintained under the Program.~~
25 DPH may take such actions as may be reasonably necessary to enforce the terms of any

1 contracts or grants entered into with Contractors for the delivery of services to Eligible
2 Persons as part of the Program.

3 * * * *

4
5 **SEC. 119.5. ADMINISTRATIVE IMPLEMENTATION.**

6 (a) The Director of HSH may issue rules, regulations, and/or guidelines, applicable to
7 the Program, consistent with the objectives and requirements of this Chapter 119. Prior to the
8 amendment of such rules, regulations, and/or guidelines, the Director shall seek input and
9 comment from Program Participants.

10 * * * *

11 ~~(d) HSH shall track and evaluate the Safe Overnight Parking Pilot Program's outcomes. Not~~
12 ~~more than six months after the effective date of Chapter 119 and every six months thereafter, HSH shall~~
13 ~~report key information to the Board of Supervisors, including but not limited to the number of Program~~
14 ~~Participants served by the Vehicle Navigation Triage Center and Safe Parking Lot(s); Program~~
15 ~~Participants' lengths of stay; and Program Participants' destinations upon exit (e.g., permanent~~
16 ~~housing, transitional housing). Within one year of the effective date of this Chapter 119 HSH and the~~
17 ~~Controller shall jointly submit to the Board of Supervisors a report that summarizes these statistics and~~
18 ~~describes any lessons learned from the operation of the Safe Overnight Parking Pilot Program, and~~
19 ~~makes recommendations as to how and whether the Program should be continued, along with a~~
20 ~~proposed resolution to accept the report.~~

21
22 Section 3. Chapters 1, 2, 4, 5, 9, 13, 17, 19, 23, 24, 27 and 28 of the Environment
23 Code are hereby amended by revising Sections 203, 425, 500, 909, 1703.5, 1906, 2305,
24 2407, 2409, and 2803, and deleting Sections 102, 1307, and 2706, to read as follows:

1 **~~SEC. 102. THREE YEAR REVIEW.~~**

2 ~~No later than three years from the effective date of this ordinance, and after a public hearing,~~
3 ~~the Commission on the Environment shall submit a report to the Board of Supervisors on the~~
4 ~~effectiveness of the Precautionary Principle policy.~~

6 **SEC. 203. COMMISSION AND DEPARTMENT OF THE ENVIRONMENT DUTIES.**

7 * * * *

8 ~~(f) Presentation to Board of Supervisors. Not later than 15 months from the effective date of~~
9 ~~this Chapter, the Director will notify Clerk of the Board of Supervisors that the Department is prepared~~
10 ~~to deliver its presentation and ask the Clerk to work with the President of the Board of Supervisors to~~
11 ~~calendar the presentation for the appropriate Board committee.~~

12 ~~(g)~~ **Annual Review and Report to Commission and Board of Supervisors.** Not
13 later than twenty-four months from the effective date of this Chapter, and ~~annually~~every three
14 years thereafter ~~in February~~, the Director shall submit a report to the Commission and the
15 Board of Supervisors on the progress of City departments towards full compliance with this
16 Chapter. The ~~annual~~ report shall include:

17 (i) an evaluation of the progress in meeting the goals in Section 201;
18 (ii) the status and effectiveness of current efforts by City departments to
19 implement this Chapter and additional specific actions, including legislation, needed to
20 effectively implement this Chapter;

21 ~~(iii) a summary of the annual reports submitted by City departments pursuant to~~
22 ~~section 205(b) and a list of waivers granted by the Purchaser during the previous period organized by~~
23 ~~department.~~

24 ~~(iv) an update on the extent and efficacy of training programs for users and purchasers of~~
25 ~~Targeted Products;~~

1 (~~viii~~) a workplan for the next reporting period with specific goals, actions and
2 timelines necessary to implement this Chapter; and

3 (~~iv~~) The ~~annual~~ report required by this section shall include a recommendation by
4 the Director, after consultation with City Departments and the public, on how to expand this
5 Chapter to City contractors.
6

7 **SEC. 425. SAN FRANCISCO MUNICIPAL RAILWAY BUSES.**

8 **Acquisition of Clean Muni Buses.** Muni shall replace all pre-1991 diesel buses on or
9 before January 1, 2007.

10 **Phase Out of Highly Polluting Muni Diesel Buses.** Muni shall remove from active or
11 reserve service and shall no longer operate any diesel bus that exceeds its 12 year useful life
12 based on the following schedule:

13 (1) All diesel buses that were purchased on or before December 31, 1988 shall be
14 removed from active or reserve service on or before December 31, 2004;

15 (2) All diesel buses that were purchased on or before December 31, 1989 shall be
16 removed from active or reserve service on or before December 31, 2005;

17 (3) All diesel buses that were purchased on or before December 31, 1990 shall be
18 removed from active or reserve service on or before December 31, 2006.

19 **Extensions.** If replacement buses are not commercially available or unforeseen
20 circumstances prevent Muni from procuring new buses on a timely basis, Muni may seek a
21 one-time extension of up to twelve months from the San Francisco Transportation Authority
22 (TA) for any of the aforementioned deadlines. Approval for such extensions shall require eight
23 or more votes by the Transportation Authority Board of Commissioners. Extension requests
24 shall be submitted in writing at least sixty days prior to the deadline and shall include a
25 detailed accounting of why Muni is unable to meet its obligations under this measure.

1 Extension requests shall also include a list of specific actions that Muni will undertake to offset
2 the emission reductions that would have resulted if no extension were granted. Proposed
3 emission reductions should benefit Muni passengers or residents living near diesel bus routes
4 or diesel bus yards. All extension requests shall be evaluated by the Department of the
5 Environment to determine the validity of proposed emission reductions. ~~The Department of the~~
6 ~~Environment shall report its findings to the Board of Commissioners at least one week prior to the~~
7 ~~extension request hearing date.~~

8 Notwithstanding Section 404(c)(2), the provisions of Section 404 shall apply to the
9 acquisition of buses by Muni for its fleet.
10

11 **SEC. 500. FINDINGS.**

12 The Board of Supervisors of the City and County of San Francisco hereby finds and
13 declares as follows:

14 (A) The California Integrated Waste Management Act (Public Resources Code §
15 40000 et seq.) requires all cities and counties to reduce their waste by 50% by the year 2000
16 or face potential penalties of up to \$10,000 per day. The City must take a leadership role and
17 act quickly and responsibly to implement the necessary measures to achieve this mandate.

18 (B) City departmental operations and activities have been found to contribute
19 significantly to San Francisco's solid waste stream. The waste management and buy recycled
20 provisions of this ordinance are necessary to help departments reduce their waste.

21 (C) On September 14, 1998, the President of the United States signed Executive
22 Order 13101 *Greening the Government through Waste Prevention, Recycling, and Federal*
23 *Acquisition* to "strengthen the role of the Federal government as an enlightened,
24 environmentally conscious and concerned consumer." The State and Federal governments
25

1 have strongly encouraged local governments to procure recycled and environmentally
2 preferable products and services as a way to increase market demand for such products.

3 (D) Local agencies that use appropriated federal funds to procure \$10,000 or more
4 worth of a designated item in a given year are subject to the federal comprehensive
5 procurement guidelines for recycled products.

6 ~~—(E) Pursuant to Board of Supervisors Resolution No. 246-99, Establishing Dioxin as a High~~
7 ~~Priority for Immediate Action for the City and County of San Francisco in Order to Restore Water~~
8 ~~Quality and Protect the Public Health and Enabling the San Francisco Commission on the~~
9 ~~Environment to Create a Task Force and Report Back on Strategies to Ensure that Less Toxic, Non-~~
10 ~~Chlorinated Sustainable Products and Processes are Actively Supported, each City department must~~
11 ~~report to the Board of Supervisors on strategies they are using to ensure that less toxic, non-~~
12 ~~chlorinated products sustainable alternative products, such as chlorine free paper and PVC free~~
13 ~~plastics, are actively supported and used.~~

14 (FE) The landfill capacity available to San Francisco at the Altamont Landfill is
15 expected to last only until approximately 2012.

16 (GF) The discard of useable or recyclable materials into the waste stream deprives
17 the City of the economic benefit of the value of these materials while creating unnecessary
18 expenses for collection and disposal.

19 (HG) This Chapter applies the Precautionary Principle to the selection of
20 commodities used in City operations that minimize impacts on natural resources by
21 maximizing recycled content, recycling, and reuse.

22 23 **SEC. 909. IMPLEMENTATION OF ALL-ELECTRIC BUILDING STANDARD.**

24 (a) The Department of Environment ("Department") shall coordinate with the
25

1 Department of Building Inspection in implementation of the All-Electric building
2 requirement in Section 106A.1.17 of the Building Code, and shall provide technical assistance
3 to support San Francisco residents, workers, and businesses through the transition to building
4 electrification.

5 (b) The Department shall hold at least one public meeting annually to discuss the
6 annual report from the Department of Building Inspection detailing the status of
7 applications for permits to construct new Mixed-Fuel Buildings pursuant to an exception to
8 Building Code Section 106A.1.17.

9 ~~(c) Concurrent with implementation of the All-Electric building requirement, the San Francisco~~
10 ~~Public Utilities Commission will evaluate opportunities for the expansion of nonpotable onsite water~~
11 ~~treatment systems, graywater heat recovery systems, and solar thermal water heating, and shall present~~
12 ~~findings and recommendations to the Board of Supervisors by no later than March 1, 2021.~~

13
14 **~~SEC. 1307. REPORT TO BOARD OF SUPERVISORS.~~**

15 ~~No later than June 30, 2005, the Commission shall report to the Board of Supervisors~~
16 ~~on the progress of the programs and mandates directed by this Chapter.~~

17
18 **SEC. 1703.5. CHECKOUT BAG CHARGE.**

19 **(a) Imposing a Checkout Bag Charge.**

20 (1) Beginning July 1, 2020, no Store shall provide a Recyclable Paper Bag or
21 Reusable Bag to a customer at the point of sale, unless the Store charges the customer a
22 Checkout Bag Charge of at least \$0.25 per bag.

23 (2) Beginning July 1, 2020, no Store shall provide a Compostable Plastic Bag to a
24 customer at the point of sale, unless the Store charges the customer a Checkout Bag Charge
25 of at least \$0.25 per bag.

1 (3) No Food Establishment shall be required to charge its customers a Checkout
2 Bag Charge for a bag provided for a customer's left-over food from sit-down restaurant dining.

3 ~~(b) Controller's Report. After January 2013, and not later than January 2014, the Controller~~
4 ~~shall perform an assessment and review of the economic impacts on businesses, both large and small,~~
5 ~~of the 10-cent Checkout Bag Charge. Based on such assessment and review, the Controller shall submit~~
6 ~~an analysis to the Board of Supervisors. The analysis shall be based on criteria deemed relevant~~
7 ~~by the Controller, but should include a survey of whether and how the Checkout Bag Charge~~
8 ~~specifically has impacted businesses' profits and losses.~~

9 **(eb) Checkout Bag Charge to be Separately Stated on Receipt.** The amount
10 charged pursuant to subsection (a) shall be separately stated
11 on the receipt provided to the customer at the time of sale and shall be identified as
12 ~~a~~ the Checkout Bag Charge. Any other transaction fee charged by the Store in
13 relation to providing a Checkout Bag shall be identified separately from the Checkout Bag
14 Charge.

15 **~~(dc)~~ Exemptions.**

16 (1) A Store shall not charge the Checkout Bag Charge required under subsection
17 (a) where providing a Checkout Bag to a customer as part of a transaction paid for in whole or
18 in part through the Special Supplemental Food Program for Women, Infants, and Children
19 (Article 2 (commencing with Section 123275) of Chapter 1 of Part 2 of Division 106
20 of the Health and Safety Code), or the State Department of Social Services Food Stamp
21 Program.

22 (2) A Store shall not charge the Checkout Bag Charge required under subsection
23 (a) for a Reusable Bag which meets the requirements of this Chapter and which is
24 distributed to a customer without charge during a limited duration promotional event,
25 not to exceed 12 days per year.

1 (~~ed~~) **Waivers.** Any owner or operator of a Store may petition the Director
2 of the Department of the Environment for a full or partial waiver of the requirements of this
3 Section, for a period of up to one year, if the owner or operator can

4 (1) demonstrate that application of this Section would create undue hardship or
5 practical difficulty for the Store not generally applicable to other stores in similar
6 circumstances, or

7 (2) establish that the business as a whole cannot, under the terms of this Section,
8 generate a return that is commensurate with returns on investments in other enterprises
9 having corresponding risks and is sufficient to attract capital.

10 (~~fe~~) **Violations.** Violations of this Section may be punished under the provisions of
11 Section 1705. Collection of the Checkout Bag Charge shall not excuse any violation of any
12 other provisions of this Chapter 17.

13
14 **SEC. 1906. REQUIREMENTS FOR REFUSE COLLECTORS, TRANSFER**
15 **STATIONS, AND PROCESSING FACILITIES.**

16 * * * *

17 (j) Upon one year from the operative date of Ordinance No. 300-18 and ~~annually~~every
18 three years thereafter, the Director shall report to the Board of Supervisors on notices and
19 orders issued to Large Refuse Generators under this Chapter 19 within the prior ~~12~~36-month
20 period. No more than 39 months after Ordinance No. 300-18 becomes operative, the Director
21 shall submit a report to the Board of Supervisors regarding its implementation to date, and
22 may include recommended amendments to the ordinance as he or she may deem
23 appropriate.

24 * * * *

1 **SEC. 2305. IMPLEMENTATION.**

2 (a) The Public Utilities Commission, the Department of Building Inspection, and the
3 Department of the Environment shall be responsible for the implementation of this Chapter, as
4 further directed below.

5 (b) The Director of the Department of the Environment and the General Manager of
6 the Public Utilities Commission shall be responsible for conducting outreach to building
7 owners, developers, contractors, and others to make them aware of the requirements of this
8 Chapter, and for providing them with a list of vendors who sell Drink Tap Stations, which list
9 shall be developed by the General Manager.

10 (c) The Director of the Department of Building Inspection shall be responsible for
11 notifying developers, contractors, and others of the requirements of this Chapter when such
12 persons request a building permit.

13 (d) The Director of the Department of Building Inspection shall be responsible for the
14 enforcement of this Chapter. The Director shall not issue any permit or first certificate of
15 occupancy for any new construction that is subject to the requirements of this Chapter unless
16 and until the Director first certifies that the project complies with the requirements of this
17 Chapter. For projects under the exclusive jurisdiction of another City department, the head of
18 that department shall first certify that the project complies with the requirements of this
19 Chapter before issuing any permit or first certificate of occupancy for any new construction or
20 granting any equivalent project approval.

21 ~~(e) The Director of the Department of Building Inspection shall also keep a log of all Drink~~
22 ~~Tap Stations installed during the first three years of this Chapter and provide to the Board of~~
23 ~~Supervisors an annual report on total installations under this Chapter for the same three years.~~

1 **SEC. 2407. IMPLEMENTATION.**

2 * * * *

3 (c) The Director of the Department of the Environment shall submit ~~an annual~~ report no
4 less than once every five years to the Mayor and the Board of Supervisors on the implementation
5 of this Chapter. The report shall include the number of waivers granted under Section 2406(a)
6 and determinations of non-applicability made under Section 2406(b) and (c), and a brief
7 explanation of the justifications for the same. The report shall also summarize efforts taken to
8 educate and inform City departments about the requirements of this Chapter, and include
9 plans to continue doing so ~~over the coming year~~.

10
11 **SEC. 2409. INCREASING THE CITY'S COMMITMENT TO PROVIDING PUBLIC**
12 **WATER.**

13 (a) It shall be City policy to increase the availability of clean, free drinking water in
14 public areas. City departments shall take all reasonable and appropriate steps to promote and
15 facilitate achievement of the goals and policies of this Chapter, including helping Event
16 sponsors and other City departments to meet the requirements of this Chapter.

17 (b) The SFPUC, in consultation with the Department of Public Health and other
18 appropriate City departments, shall investigate standards and procedures for allowing Event
19 sponsors to access additional City-controlled or -operated water supplies. ~~The SFPUC shall~~
20 ~~report its findings and recommendations to the Board of Supervisors by July 1, 2014.~~

21 (c) The SFPUC, in consultation with appropriate City departments, shall investigate
22 installing backflow preventers and related plumbing equipment on existing potable water
23 systems, to facilitate public access to such potable water in the park sites most frequently
24 used for special events. ~~The SFPUC shall report its findings and recommendations to the Board of~~
25 ~~Supervisors by July 1, 2014.~~

1 * * * *

2
3 **~~SEC. 2706. CITY PROCUREMENT OF RAW MEAT—REPORTS OF CURRENT~~**
4 **~~PRACTICES AND PUBLICATION OF RECOMMENDATIONS.~~**

5 ~~(a) No later than 90 days after enactment of this Chapter 27, all City departments procuring~~
6 ~~Raw Meat and/or Poultry shall both conduct an audit of their Meat and Poultry purchases in the~~
7 ~~previous calendar year and submit a report to the Department of the Environment with the following~~
8 ~~information:~~

9 ~~——— (1) Percentages of Meat and Poultry procured that were produced with and without the~~
10 ~~Routine Use of Antibiotics, distinguishing between Meat and Poultry raised without any Antibiotics and~~
11 ~~Meat and Poultry raised without Routine Use of Medically Important Antibiotics whenever feasible;~~

12 ~~——— (2) A list of current suppliers, and whether those suppliers currently offer Meat and/or~~
13 ~~Poultry raised without the Routine Use of Antibiotics, distinguishing between Meat and/or Poultry~~
14 ~~raised without any Antibiotics and Meat and/or Poultry raised without Routine Use of Medically~~
15 ~~Important Antibiotics, and whether the suppliers could cease Routine Use of Medically Important~~
16 ~~Antibiotics within three years' time;~~

17 ~~——— (3) The estimated cost of obtaining Meat and/or Poultry raised without the Routine Use~~
18 ~~of Antibiotics, distinguishing between Meat and/or Poultry raised without any Antibiotics and Meat~~
19 ~~and/or Poultry raised without Routine Use of Medically Important Antibiotics; and~~

20 ~~——— (4) The expected timeline if the department were to transition to procurement of only~~
21 ~~Meat and/or Poultry raised without the Routine Use of Medically Important Antibiotics.~~

22 ~~(b) No later than 180 days after enactment of this Chapter 27, the Department of the~~
23 ~~Environment shall compile the departmental reports required by this Section 2706 and publish an~~
24 ~~analysis regarding opportunities for and feasibility of a City-wide procurement policy for Meat and~~
25

~~Poultry raised without the Routine Use of Medically Important Antibiotics. The Department shall submit a copy of its analysis to the Board of Supervisors and the Mayor.~~

SEC. 2803. PROHIBITING THE SALE OF UPHOLSTERED FURNITURE AND JUVENILE PRODUCTS CONTAINING FLAME RETARDANT CHEMICALS.

* * * *

~~(d) Five years from this Chapter 28's effective date, the Director of the Department of the Environment shall evaluate the efficacy of this Chapter in reducing San Franciscans' exposure to flame retardant chemicals, and shall submit a written report based on the evaluation to the Mayor and the Board of Supervisors, with recommendations, if any, for changes in City laws or programs to achieve greater reduction in San Franciscans' exposure to flame retardant chemicals.~~

Section 4. Article 26, Divisions II and IX, and Articles 31, 41 and 45 of the Health Code are hereby amended by revising Sections 3103, and 4118, and deleting Sections 1609 and 4503, to read as follows:

~~SEC. 1609. ANNUAL REPORT.~~

~~(a) The Director shall publish and submit to the Board of Supervisors an annual evaluation report describing the current efforts of all City agencies pursuant to this ordinance, including but not limited to:~~

~~—(1) The extent to which the City is providing community education, screening and treatment of children, lead hazard reduction (testing, interim measures and abatement), and enforcement of the provisions of the Program and the City's ability to obtain funding for its implementation;~~

1 ~~—(2) The effectiveness of the program and City agencies' efforts in implementation,~~
2 ~~including, but not limited to, additional actions needed to effectively implement and carry out the~~
3 ~~Program, the reasons why those actions are not being taken, and the plans of the relevant City agencies~~
4 ~~to implement those actions, including descriptions of specific actions, time lines, and the work plans~~
5 ~~and budgets of all City agencies involved in implementing the Program;~~

6 ~~—(3) Recommendations for legislation and regulations to improve implementation of the~~
7 ~~Program;~~

8 ~~—(4) A survey of other State and local efforts to abate lead hazards which might provide~~
9 ~~models for improvements to this Program.~~

11 **SEC. 1635. COMPREHENSIVE LEAD POISONING FUND.**

12 (a) There is hereby established a special fund to be known as the Comprehensive
13 Environmental Lead Poisoning Fund. Into this fund shall be deposited (1) all monies obtained
14 from civil penalties obtained from enforcement of this Article, (2) all monies obtained from
15 enforcement of Proposition 65 (the Safe Drinking Water and Toxic Enforcement Act of 1986,
16 Health and Safety Code Sections 25249.5 et seq.), Business and Professions Code Sections
17 17200 et seq., or similar laws, insofar as monies are recovered under these laws because of
18 lead contamination, except when the governing law requires that the monies be otherwise
19 allocated, and (3) all donations of money which may be offered to the City to support the
20 Program. The Director is hereby authorized to accept, on behalf of the City and County of San
21 Francisco, any grants, gifts and bequests made for the purpose of furthering the goals of the
22 Program and upon acceptance they shall be deposited into said fund.

23 (b) Subject to the budget and fiscal provisions of the Charter, the monies in this fund
24 may only be expended for expenses related to the development, implementation and
25 operation of the Program.

1 (c) Interest earned from the monies in said fund shall become part of the principal
2 thereof, and shall not be expended for any purpose other than for which said fund is
3 established. The balance remaining in the fund at the close of any fiscal year shall be deemed
4 to have been provided for a specific purpose within the meaning of Charter Section 6.306 and
5 shall be carried forward and accumulated in said fund for the purpose recited herein.

6 (d) No later than one year after the effective date of this ordinance and thereafter
7 annually, the Controller shall submit a report to the Director, the Board of Supervisors and the
8 Mayor which shall include the following information:

- 9 (1) A detailed identification of the sources of monies contributed to the fund;
10 (2) An accounting of the uses of the monies in the fund during the preceding year;
11 (3) An estimate of the amount of money that the Controller anticipates, after
12 consulting with the Director and other appropriate City departments, shall be deposited in the
13 fund during the next year.

14 ~~The Controller shall coordinate with the Director and attempt to issue this report at the same~~
15 ~~time that the Director provides the annual Program report required under Section 1609.~~

16
17 **SEC. 3103. REPORTSMONITORING BY DIRECTOR.**

18 The Director shall monitor compliance with this Article ~~and provide an annual summary of~~
19 ~~compliance with this Article to the Board of Supervisors.~~

20
21 **SEC. 4118. REPORTS.**

22 ~~(a)~~—The Department of Public Health shall comply with the reporting requirements as
23 set forth in California Welfare and Institutions Code § 5348(d).
24
25

1 ~~(b) The Department of Public Health shall provide an annual report to the Board of~~
2 ~~Supervisors on the number of participants in AOT, the length of their treatment, the outcome of their~~
3 ~~treatment, and other matters the Department deems relevant.~~

4 ~~—(c) The Department of Public Health shall retain an external consultant to evaluate the~~
5 ~~efficacy of the AOT program, including but not limited to collecting and analyzing information~~
6 ~~regarding the demographics of Referred Individuals and the cost of the program. By no later than three~~
7 ~~years after the effective date of this Section 4118, the Department of Public Health shall provide a copy~~
8 ~~of this external evaluation to the Board of Supervisors.~~

9
10 ***SEC. 4503. REPORTING.***

11 ~~By no later than March 31, 2020, DPH shall submit to the Board of Supervisors~~
12 ~~a report summarizing the actions it has taken in compliance with this Article 45, and its objective~~
13 ~~analysis and review of the Behavioral Health Center, as referenced in subsection (f) of Section 4502.~~

14
15 Section 5. Division II, Articles 111 and 131 of the Labor and Employment Code are
16 hereby amended by revising Section 131.2, and deleting Section 111.16, to read as follows:

17
18 ***SEC. 111.16. REPORT BY AIRPORT DIRECTOR.***

19 ~~One year after the Effective Date, the Airport Director shall prepare a written report assessing~~
20 ~~the impact of this Article on Airport property contracts, including any economic impact, benefits, and~~
21 ~~recommended changes. The Airport Director shall submit the report to the Clerk of the Board, who~~
22 ~~shall schedule a hearing before the appropriate committee to consider the report.~~

1 **SEC. 131.2. NONDISCRIMINATION PROVISIONS.**

2 * * * *

3 ~~(k) The Commission shall provide an annual report to the Board of Supervisors summarizing~~
4 ~~the effectiveness of the information obtained from the Equal Pay Reports, recommendations for~~
5 ~~legislative change if needed, and a summary of the investigations, if any, that stem from the Equal Pay~~
6 ~~Reports. The Commission's recommendations shall include drafts of one or more ordinances if~~
7 ~~legislative change is necessary or desirable to implement the recommendations.~~

8 ~~(k)~~ Nothing contained in this Article shall be construed in any manner so as to prevent
9 the City from pursuing any other remedies that may be available at law, equity or under any
10 contract or property contract.

11 ~~(m)~~ The contractor or subcontractor will meet the following standards for compliance:

12 (1) If the contractor or subcontractor has been held to be an irresponsible bidder
13 under Section 131.2(i) hereof, the contractor or subcontractor shall furnish evidence that it has
14 established and is carrying out a program in conformity with the nondiscrimination provisions
15 of this Article.

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

22 (3) Personally, or through its representatives, the contractor or subcontractor
23 shall, through negotiations with the unions with whom it has collective bargaining or other
24 agreements requiring the contractor or subcontractor to obtain or clear its employees through
25

1 the union, or when the contractor or subcontractor otherwise uses a union as an employment
2 resource, attempt to develop an agreement which will:

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

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

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

11
12 Section 6. Article 3 of the Park Code is hereby amended by deleting Section 3.20, to
13 read as follows:

14
15 **~~SEC. 3.20. SHARP PARK.~~**

16 ~~(a) No later than July 21, 2009, the Recreation and Park Department shall develop a plan,~~
17 ~~schedule and budget for restoring the habitat for the California red-legged frog (*Rana draytonii*) and~~
18 ~~the San Francisco garter snake (*Thamnophis sirtalis tetrataenia*) in conformance with the Endangered~~
19 ~~Species Act, 16 U.S.C. 1531, et seq., and all other regulatory requirements; and for transferring Sharp~~
20 ~~Park to, or developing a joint management agreement with, the Golden Gate National Recreation Area,~~
21 ~~and the City of Pacifica and/or the County of San Mateo, in accordance with the deed granting Sharp~~
22 ~~Park to the City and County of San Francisco and San Francisco Administrative Code Section 23.41.~~
23 ~~The Department shall base such restoration plans on the best scientific information available, and shall~~
24 ~~include alternatives that (1) retain or redesign the golf course and (2) eliminate the golf course.~~

1 ~~(b) No later than August 31, 2009, the Department shall provide to the Clerk of the Board of~~
2 ~~Supervisors a report detailing the steps taken, and the progress made, to achieve the goals set forth in~~
3 ~~subsection (a) above.~~

4
5 Section 7. Articles 1, 2, 3, 4, 6, and 7 of the Planning Code are hereby amended by
6 revising Sections 103, 155.3, 169.6, 207, 207.1, 207.2, 207.3, 243, 303, 321, 342.3, and
7 425.4, and deleting Sections 206.8, 341, 341.1, 341.2, 341.3, 341.4, 411A.9, 418.6, 604.2,
8 609.12, and 701.2, to read as follows:

9
10 ***SEC. 103. HOUSING BALANCE MONITORING AND REPORTING.***

11 ~~(a) Purposes. To maintain a balance between new affordable and market rate housing City-~~
12 ~~wide and within neighborhoods, to make housing available for all income levels and housing need~~
13 ~~types, to preserve the mixed income character of the City and its neighborhoods, to offset the~~
14 ~~withdrawal of existing housing units from rent stabilization and the loss of single room occupancy~~
15 ~~hotel units, to ensure the availability of land and encourage the deployment of resources to provide~~
16 ~~sufficient housing affordable to households of very low, low, and moderate incomes, to ensure adequate~~
17 ~~housing for families, seniors and the disabled community, to ensure that data on meeting affordable~~
18 ~~housing targets City wide and within neighborhoods informs the approval process for new housing~~
19 ~~development, and to enable public participation in determining the appropriate mix of new housing~~
20 ~~approvals, there is hereby established a requirement, as detailed in this Section 103, to monitor and~~
21 ~~regularly report on the housing balance between market rate housing and affordable housing.~~

22 ~~(b) Findings.~~

23 ~~—(1) In November 2014, the City voters enacted Proposition K, which established City~~
24 ~~policy to help construct or rehabilitate at least 30,000 homes by 2020. More than 50% of this housing~~
25 ~~would be affordable for middle class households, with at least 33% affordable for low and moderate-~~

1 ~~income households, and the City is expected to develop strategies to achieve that goal. This Section 103~~
2 ~~sets forth a method to track performance toward the City's Housing Element goals and the near-term~~
3 ~~Proposition K goal that 33% of all new housing shall be affordable housing, as defined herein.~~

4 ~~—(2) The City's rent stabilized and permanently affordable housing stock serves very low-,~~
5 ~~low-, and moderate-income families, long-time residents, elderly seniors, disabled persons and others.~~
6 ~~The City seeks to achieve and maintain an appropriate balance between market rate housing and~~
7 ~~affordable housing City-wide and within neighborhoods because the availability of decent housing and~~
8 ~~a suitable living environment for every San Franciscan is of vital importance. Attainment of the City's~~
9 ~~housing goals requires the cooperative participation of government and the private sector to expand~~
10 ~~housing opportunities to accommodate housing needs for San Franciscans at all economic levels and to~~
11 ~~respond to the unique needs of each neighborhood where housing will be located.~~

12 ~~—(3) For tenants in unsubsidized housing, affordability is often preserved by the Residential~~
13 ~~Rent Stabilization and Arbitration Ordinance's limitations on the size of allowable rent increases~~
14 ~~during a tenancy. As documented in the Budget and Legislative Analyst's October 2013 Policy Analysis~~
15 ~~Report on Tenant Displacement, San Francisco is experiencing a rise in units withdrawn from rent~~
16 ~~controls. Such rises often accompany periods of sharp increases in property values and housing prices.~~
17 ~~From 1998 through 2013, the Rent Board reported a total of 13,027 no fault evictions (i.e., evictions in~~
18 ~~which the tenant had not violated any lease terms, but the owner sought to regain possession of the~~
19 ~~unit). Total evictions of all types have increased by 38.2% from Rent Board Year (i.e. from March~~
20 ~~through February) 2010 to Rent Board Year 2013. During the same period, Ellis Act evictions far~~
21 ~~outpaced other evictions, increasing by 169.8% from 43 in Rent Board Year 2010 to 116 in Rent Board~~
22 ~~Year 2013. These numbers do not capture the large number of owner buyouts of tenants, which~~
23 ~~contribute further to the loss of rent stabilized units from the housing market. Any fair assessment of~~
24 ~~the affordable housing balance must incorporate into the calculation units withdrawn from rent~~
25 ~~stabilization.~~

1 —(4)—Pursuant to Government Code Section 65584, the Association of Bay Area
2 Governments (ABAG), in coordination with the California State Department of Housing and
3 Community Development (HCD), determines the Bay Area's regional housing need based on regional
4 trends, projected job growth, and existing needs. The regional housing needs assessment (RHNA)
5 determination includes production targets addressing housing needs of a range of household income
6 categories. For the RHNA period covering 2015 through 2022, ABAG has projected that at least 39 of
7 new housing demands for San Francisco will be from very low and low income households (households
8 earning under 80% of area median income), and another 22 of new housing demands to be affordable
9 to households of moderate means (earning between 80% and 120% of area median income). Market-
10 rate housing is considered housing with no income limits or special requirements attached.

11 —(5)—The Housing Element of the City's General Plan states: "Based on the growing
12 population, and smart growth goals of providing housing in central areas like San Francisco, near jobs
13 and transit, the State Department of Housing and Community Development (HCD), with the
14 Association of Bay Area Governments (ABAG), estimates that in the current 2015-2022 Housing
15 Element period San Francisco must plan for the capacity for roughly 28,870 new units, 57% of which
16 should be suitable for housing for the extremely low, very low, low and moderate income households to
17 meet its share of the region's projected housing demand." Objective 1 of the Housing Element states
18 that the City should "identify and make available for development adequate sites to meet the City's
19 housing needs, especially permanently affordable housing." Objective 7 states that San Francisco's
20 projected affordable housing needs far outpace the capacity for the City to secure subsidies for new
21 affordable units.

22 —(6)—In 2012, the City enacted Ordinance 237-12, the "Housing Preservation and
23 Production Ordinance," codified in Administrative Code Section 10E.4, to require Planning
24 Department staff to regularly report data on progress toward meeting San Francisco's quantified
25 production goals for different household income levels as provided in the General Plan's Housing

1 ~~Element. That Ordinance requires data on the number of units in all stages of the housing production~~
2 ~~process at various affordability levels to be included in staff reports on all proposed projects of five~~
3 ~~Residential Units or more and in quarterly housing production reports to the Planning Commission.~~
4 ~~The Planning Department has long tracked the number of affordable housing units and total number of~~
5 ~~housing units built throughout the City and in specific areas and should be able to track the ratio called~~
6 ~~for in this Section 103.~~

7 ~~— (7) As the private market has embarked upon, and government officials have urged, an~~
8 ~~ambitious program to produce significant amounts of new housing in the City, the limited remaining~~
9 ~~available land makes it essential to assess the impact of the approval of new market rate housing~~
10 ~~developments on the availability of land for affordable housing and to encourage the deployment of~~
11 ~~resources to provide such housing.~~

12 ~~(c) Housing Balance Calculation.~~

13 ~~— (1) For purposes of this Section 103, “Housing Balance” shall be defined as the~~
14 ~~proportion of all new housing units affordable to households of extremely low, very low, low, or~~
15 ~~moderate income households, as defined in California Health & Safety Code Sections 50079.5 et seq.,~~
16 ~~as such provisions may be amended from time to time, less the number of units removed from rent-~~
17 ~~controlled or below market status, to the total number of all new housing units for a 10-year Housing~~
18 ~~Balance Period.~~

19 ~~— (2) The Housing Balance Period shall begin with the first quarter of year 2005 to the last~~
20 ~~quarter of 2014, and thereafter for the ten years prior to the most recent calendar quarter.~~

21 ~~— (3) For each year that data is available, beginning in 2005, the Planning Department shall~~
22 ~~report net housing construction by income levels, as well as units that have been withdrawn from~~
23 ~~protection afforded by City law, such as laws providing for rent-controlled and single resident~~
24 ~~occupancy (SRO) units. The affordable housing categories shall include net new units, as well as~~
25 ~~existing units that were previously not restricted by deed or regulatory agreement that are acquired for~~

1 ~~preservation as permanently affordable housing as determined by the Mayor's Office of Housing and~~
2 ~~Community Development (MOHCD) (not including refinancing or other rehabilitation under existing~~
3 ~~ownership), protected by deed or regulatory agreement for a minimum of 55 years. The report shall~~
4 ~~include, by year, and for the latest quarter, all units that have received Temporary Certificates of~~
5 ~~Occupancy within that year, a separate category for units that obtained a site or building permit, and~~
6 ~~another category for units that have received approval from the Planning Commission or Planning~~
7 ~~Department, but have not yet obtained a site or building permit to commence construction (except any~~
8 ~~entitlements that have expired and not been renewed during the Housing Balance Period). Master~~
9 ~~planned entitlements, including but not limited to such areas as Treasure Island, Hunters Point~~
10 ~~Shipyards, and Park Merced, shall not be included in this latter category until individual building~~
11 ~~entitlements or site permits are approved for specific housing projects. For each year or approval~~
12 ~~status, the following categories shall be separately reported:~~

13 ~~——(A) Extremely Low Income Units, which are units available to individuals or families~~
14 ~~making between 0-30% Area Median Income (AMI) as defined in California Health & Safety Code~~
15 ~~Section 50106, and are subject to price or rent restrictions between 0-30% AMI;~~

16 ~~——(B) Very Low Income Units, which are units available to individuals or families making~~
17 ~~between 30-50% AMI as defined in California Health & Safety Code Section 50105, and are subject to~~
18 ~~price or rent restrictions between 30-50% AMI;~~

19 ~~——(C) Lower Income Units, which are units available to individuals or families making~~
20 ~~between 50-80% AMI as defined in California Health & Safety Code Section 50079.5, and are subject~~
21 ~~to price or rent restrictions between 50-80% AMI;~~

22 ~~——(D) Moderate Income Units, which are units available to individuals or families making~~
23 ~~between 80-120% AMI and are subject to price or rent restrictions between 80-120% AMI;~~

24 ~~——(E) Middle Income Units, which are units available to individuals or families making~~
25 ~~between 120-150% AMI and are subject to price or rent restrictions between 120-150% AMI;~~

1 ~~——(F) Market-rate units, which are units not subject to any deed or regulatory agreement~~
2 ~~with price restrictions;~~

3 ~~——(G) Housing units withdrawn from protected status, including units withdrawn from rent~~
4 ~~control (except those units otherwise converted into permanently affordable housing), including all~~
5 ~~units that have been subject to rent control under the San Francisco Residential Rent Stabilization and~~
6 ~~Arbitration Ordinance but that a property owner removes from the rental market including but not~~
7 ~~limited to through owner move-in pursuant to Administrative Code Section 37.9(a)(8), through~~
8 ~~condominium conversion pursuant to Administrative Code Section 37.9(a)(9), demolition or alterations~~
9 ~~(including dwelling unit mergers), or permanent removal pursuant to Administrative Code Section~~
10 ~~37.9(a)(10) or removal pursuant to the Ellis Act under Administrative Code Section 37.9(a)(13);~~

11 ~~——(H) Public housing replacement units and substantially rehabilitated units through the~~
12 ~~HOPE SF and Rental Assistance Demonstration (RAD) programs, as well as other substantial~~
13 ~~rehabilitation programs managed by MOHCD.~~

14 ~~——(4) The Housing Balance shall be expressed as a percentage, obtained by dividing the~~
15 ~~cumulative total of extremely low, very low, low, and moderate income affordable housing units (all~~
16 ~~units 0-120% AMI) minus the lost protected units described in subsection (c)(3)(G) above, by the total~~
17 ~~number of net new housing units within the Housing Balance Period. The Housing Balance shall also~~
18 ~~provide two calculations:~~

19 ~~——(A) the Cumulative Housing Balance, consisting of housing units that have already been~~
20 ~~constructed (and received a Temporary Certificate of Occupancy or other certificate that would allow~~
21 ~~occupancy of the units) within the 10-year Housing Balance Period, plus those units that have obtained~~
22 ~~a site or building permit. A separate calculation of the Cumulative Housing Balance shall also be~~
23 ~~provided, which includes HOPE SF and RAD public housing replacement and substantially~~
24 ~~rehabilitated units (but not including general rehabilitation/maintenance of public housing or other~~
25 ~~affordable housing units) that have received Temporary Certificates of Occupancy within the Housing~~

1 ~~Balance Period. The Housing Balance Reports will show the Cumulative Housing Balance with and~~
2 ~~without public housing included in the calculation; and~~

3 ~~——(B) the Projected Housing Balance, which shall include any residential project that has~~
4 ~~received approval from the Planning Commission or Planning Department, even if the housing project~~
5 ~~has not yet obtained a site or building permit to commence construction (except any entitlements that~~
6 ~~have expired and not been renewed during the Housing Balance period). Master planned entitlements~~
7 ~~shall not be included in the calculation until individual building entitlements or site permits are~~
8 ~~approved.~~

9 ~~(d) Bi-annual Housing Balance Reports. By June 1, 2015, the Planning Department shall~~
10 ~~calculate the Cumulative and Projected Housing Balance for the most recent two quarters City-wide,~~
11 ~~by Supervisorial District, Plan Area, and by neighborhood Planning Districts, as defined in the annual~~
12 ~~Housing Inventory, and publish it as an easily visible and accessible page devoted to Housing Balance~~
13 ~~and Monitoring and Reporting on the Planning Department's website. By October 1 and April 1 of~~
14 ~~each year, the Planning Department shall publish and update the Housing Balance Report, and present~~
15 ~~this report at an informational hearing to the Planning Commission and Board of Supervisors, as well~~
16 ~~as to any relevant body with geographic purview over a plan area upon request, along with the other~~
17 ~~quarterly reporting requirements of Administrative Code Section 10E.4. The annual report to the Board~~
18 ~~of Supervisors shall be accepted by resolution of the Board, which resolution shall be introduced by the~~
19 ~~Planning Department. The Housing Balance Report shall also be incorporated into the Annual~~
20 ~~Planning Commission Housing Hearing and Annual Report to the Board of Supervisors required in~~
21 ~~Administrative Code Section 10E.4.~~

22 ~~(e) Annual Hearing by Board of Supervisors.~~

23 ~~——(1) The Board of Supervisors shall hold a public Housing Balance hearing on an annual~~
24 ~~basis by April 15 of each year, to consider progress towards the City's affordable housing goals,~~

1 ~~including the goal of a minimum 33% affordable housing to low and moderate income households, as~~
2 ~~well as the City's General Plan Housing Element housing production goals by income category.~~

3 ~~— (2) The hearing shall include reporting by the Planning Department, which shall present~~
4 ~~the latest Housing Balance Report City-wide and by Supervisorial District and Planning District; the~~
5 ~~Mayor's Office of Housing and Community Development, the Mayor's Office of Economic and~~
6 ~~Workforce Development, the Rent Stabilization Board, by the Department of Building Inspection, and~~
7 ~~the City Economist on strategies for achieving and maintaining a housing balance in accordance with~~
8 ~~San Francisco's housing production goals. If the Cumulative Housing Balance has fallen below 33% in~~
9 ~~any year, MOHCD shall determine how much funding is required to bring the City into a minimum~~
10 ~~33% Housing Balance and the Mayor shall submit to the Board of Supervisors a strategy to accomplish~~
11 ~~the minimum of 33% Housing Balance. City Departments shall at minimum report on the following~~
12 ~~issues relevant to the annual Housing Balance hearing: MOHCD shall report on the annual and~~
13 ~~projected progress by income category in accordance with the City's General Plan Housing Element~~
14 ~~housing production goals, projected shortfalls and gaps in funding and site control, and progress~~
15 ~~toward the City's Neighborhood Stabilization goals for acquiring and preserving the affordability of~~
16 ~~existing rental units in neighborhoods with high concentrations of low and moderate income~~
17 ~~households or historically high levels of evictions; the Planning Department shall report on current~~
18 ~~and proposed zoning and land use policies that affect the City's General Plan Housing Element housing~~
19 ~~production goals; the Mayor's Office of Economic and Workforce Development shall report on current~~
20 ~~and proposed major development projects, dedicated public sites, and policies that affect the City's~~
21 ~~General Plan Housing Element housing production goals; the Rent Board shall report on the~~
22 ~~withdrawal or addition of rent-controlled units and current or proposed policies that affect these~~
23 ~~numbers; the Department of Building Inspection shall report on the withdrawal or addition of~~
24 ~~Residential Hotel units and current or proposed policies that affect these numbers; and the City~~
25

1 ~~Economist shall report on annual and projected job growth by the income categories specified in the~~
2 ~~City's General Plan Housing Element.~~

3 ~~—(3) All reports and presentation materials from the annual Housing Balance hearing shall~~
4 ~~be maintained by year for public access on the Planning Department's website on its page devoted to~~
5 ~~Housing Balance Monitoring and Reporting.~~

6
7 **SEC. 155.3. BICYCLE PARKING REQUIREMENTS FOR CITY-OWNED AND**
8 **LEASED PROPERTIES.**

9 * * * *

10 (f) ~~Monitoring. The Planning Department shall, every five years, beginning with 2013, survey~~
11 ~~the amount, location, and usage of both Class 1 and Class 2 bicycle parking spaces at (A) City Hall,~~
12 ~~(B) the Main Library, (C) the 25 other City-owned or leased buildings which have the highest square~~
13 ~~footage as identified in a list published by the City's Department of Real Estate, and (D) City-owned~~
14 ~~garages in order to report compliance with this Section and to ascertain whether current requirements~~
15 ~~are adequate to meet demand for such parking spaces. Such survey of usage shall be conducted during~~
16 ~~the months of March through October and shall document usage on at least two fair-weather non-~~
17 ~~holiday week days. A report on such findings shall be submitted to the Planning Commission and the~~
18 ~~San Francisco Municipal Transportation Agency Board of Directors. If current requirements are~~
19 ~~inadequate, the Director shall draft and submit to the Board of Supervisors proposed legislation that~~
20 ~~would remedy the deficiency. For the purposes of this subsection, "inadequate" shall mean an~~
21 ~~occupancy of greater than 85 percent or in cases where bicycles are clearly parked in non-standard~~
22 ~~locations due to crowding of the provided facilities.~~

23 (g) **Miscellaneous Standards and Requirements.**

24 (1) In any City-owned or leased building, non-accessory parking garage, or
25 parking lot that contains more than the required number of bicycle parking spaces as set forth

1 above, the Responsible City Official or private parking garage owner shall not remove such
2 additional bicycle parking spaces without petitioning the Zoning Administrator. Such a petition
3 may not be filed until at least one year after the effective date of this Section. That petition
4 shall demonstrate that the spaces the Responsible City Official or private parking garage
5 owner seeks authority to remove have not been necessary to meet the demand of Employees
6 and other building users.

7 (2) For existing buildings owned, leased or purchased by the City and City-owned
8 parking garages, the Responsible City Official shall comply with this Section 155.3. The Board
9 of Supervisors does not intend to impose requirements of this Section on any Responsible
10 City Official where such application would impair obligations of contract.

12 **169.6. TRANSPORTATION DEMAND MANAGEMENT PROGRAM STANDARDS.**

13 * * * *

14 ~~(c) One year after the effective date of the TDM Program, the Planning Department shall~~
15 ~~prepare a report analyzing the implementation of the TDM Program and describing any changes to the~~
16 ~~TDM Program Standards. Every four years, following the periodic updates to the San Francisco~~
17 ~~Countywide Transportation Plan that the San Francisco County Transportation Authority prepares, the~~
18 ~~Planning Department shall prepare a report containing the same information. The Planning~~
19 ~~Department shall present such reports to the Planning Commission, and may present them to the Board~~
20 ~~of Supervisors during a public hearing, if a Supervisor chooses to request a hearing on the matter.~~

22 **~~SEC. 206.8. AFFORDABLE HOUSING BONUS PROGRAM EVALUATION.~~**

23 ~~(a) Within one year from March 22, 2015, the Planning Department shall provide an~~
24 ~~informational presentation to the Planning Commission, and any other City agency at their request,~~
25 ~~presenting an overview of all projects that request or receive development bonuses under the HOME-~~

~~SF Program, the 100 Percent Affordable Housing Bonus Program and the Analyzed and Individually Requested State Density Bonus Program (“the Bonus Programs”).~~

~~(b) Annual Reporting. The Planning Department, in coordination with MOHCD, shall include information on projects which request and receive development bonuses under the Bonus Programs, in the Housing Inventory Report.~~

~~(c) Report Contents. The Housing Inventory shall include, but not be limited to, information on the:~~

~~— (1) number of projects utilizing the Bonus Programs;~~

~~— (2) number of units approved and constructed under the Bonus Programs and the AMI levels of such units;~~

~~— (3) number of additional affordable units in excess of that otherwise required by Section 415;~~

~~— (4) geographic distribution of projects, including the total number of units in each project, utilizing the Bonus Programs;~~

~~— (5) number of larger unit types, including the number of 3-bedroom units;~~

~~— (6) square feet of units by bedroom count;~~

~~— (7) number of projects with nine or fewer units that participate; and~~

~~— (8) Number of appeals of projects in the Bonus Program and stated reason for appeal.~~

~~(d) Program Evaluation and Update.~~

~~(1) Purpose and Contents. Every five years, beginning five years from March 22, 2015, the Department shall prepare a Program Evaluation and Update. The Program Evaluation and Update shall include an analysis of the Bonus Programs’ effectiveness as it relates to City policy goals including, but not limited to Proposition K (November 2014) and the Housing Element. The Program Evaluation and Update shall include a review of all of the following:~~

1 ~~——(A) Target income levels for the HOME-SF Program in relation to market values and~~
2 ~~assessed affordable housing needs.~~

3 ~~——(B) Feasibility of the HOME-SF Program, in relation to housing policy goals, program~~
4 ~~production, and current market conditions.~~

5 ~~——(C) Requested and granted concessions and incentives, including consideration of~~
6 ~~whether the menu of zoning modification or concessions and incentives set forth in Section 206.3(d)(4),~~
7 ~~206.4(c)(5) and 206.5(c)(4) respond to the needs of projects seeking approvals under the Bonus~~
8 ~~Programs; consideration of whether the elected zoning modifications or incentives and concessions~~
9 ~~result in a residential project that responds to the surrounding neighborhood context; and review and~~
10 ~~recommendation for additions or modifications to the list of zoning modifications or concessions and~~
11 ~~incentives in 206.3(d)(4), 206.4(c)(5) and 206.5(c)(4).~~

12 ~~——(D) Geography and neighborhood specific considerations. Review and analysis of where~~
13 ~~Bonus Program projects are proposed and approved, including an analysis of land values, zoning,~~
14 ~~height controls, and neighborhood support.~~

15 ~~——(E) Review of the process for considering projects under the Bonus Program, including a~~
16 ~~review of Section 328, the appeal process, Section 303 and other relevant process considerations.~~

17 ~~——(2) Public Hearing. The Program Evaluation and Update shall be prepared no less than~~
18 ~~every five years, beginning five years from March 22, 2015, and may be completed as a series of~~
19 ~~reports and in coordination with ongoing monitoring of affordable housing policies, or feasibility~~
20 ~~analyses. The Planning Commission shall hold a hearing on the Program Evaluation and Update and~~
21 ~~any recommendations for modification to any of the Bonus Program.~~

22 ~~(e) Program Expansion Report. The Board of Supervisors directs the Planning Department~~
23 ~~and MOHCD to research, analyze and provide recommendations for further density and development~~
24 ~~bonuses for 100% affordable or mixed income developments. The Program Expansion Report shall be~~
25 ~~published within one year of March 22, 2015.~~

1 **SEC. 207. DWELLING UNIT DENSITY LIMIT**

2 * * * *

3 **(c) Exceptions to Dwelling Unit Density Limits.** An exception to the calculations
4 under this Section 207 shall be made in the following circumstances:

5 * * * *

6 **(8) Residential Density Exception in RH Districts.**

7 * * * *

8 ~~(H) Annual Report on Housing Affordability, Racial Equity, and Language Access~~
9 ~~Goals. To help the City evaluate whether the implementation of this Section 207(c)(8) comports with~~
10 ~~the City's housing affordability, racial equity, and language access goals, each year the Planning~~
11 ~~Department, in consultation with other City departments including the Department of Building~~
12 ~~Inspection, the Rent Board, and the Office of the Assessor-Recorder, shall prepare a report addressing~~
13 ~~the characteristics and demographics of the applicants to and participants in the program established~~
14 ~~in said section; the number of units permitted and constructed through this program; the geographic~~
15 ~~distribution, affordability, and construction costs of those units; and the number of tenants that vacated~~
16 ~~or were evicted from properties as a result of the permitting or construction of units through this~~
17 ~~program ("Affordability and Equity Report"). The Affordability and Equity Report shall be included~~
18 ~~and identified in the annual Housing Inventory Report. The Planning Department shall prepare the~~
19 ~~report utilizing applicant data that has been provided by program applicants voluntarily and~~
20 ~~anonymously, and separate from the submittal of an application for a density exception. An applicant's~~
21 ~~decision to provide or decline to provide the information requested by the Planning Department in~~
22 ~~order to prepare the report shall have no bearing on the applicant's receipt of a density exception.~~

1 **(9) Replacing Auto-Oriented Uses with Housing.**

2 * * * *

3 **(G) Review of Program and Limit on Number of Residential Units.** *The*
4 *Planning Department shall include the number and location of projects using this subsection (c)(9) and*
5 *number of units provided in such projects in the Housing Inventory Report.* This subsection (c)(9)
6 shall remain in effect until the Planning Department approves a total of 5,000 residential units
7 under the authority of this subsection (c)(9). When the Planning Director certifies in writing
8 that the Planning Department has approved 5,000 residential units under this subsection
9 207(c)(9), the subsection shall expire by operation of law, and the City Attorney shall cause
10 the subsection to be removed from the Planning Code.

11
12 **SEC. 207.1. LOCAL ACCESSORY DWELLING UNIT PROGRAM.**

13 * * * *

14 **(i) Monitoring Program.**

15 * * * *

16 ~~———(3) **Department Report.** As part of the annual Housing Inventory, the Department shall~~
17 ~~report the types of units being developed pursuant to this Section 207.1, their affordability rates, their~~
18 ~~use as Short Term Residential Rentals, and such additional information as the Director or the Board of~~
19 ~~Supervisors determines would inform decision makers and the public on the effectiveness and~~
20 ~~implementation of this Section 207.1, and shall include recommendations for any amendments to the~~
21 ~~requirements of this Section 207.1.~~

22 **//**

23 **//**

24 **//**

25 **//**

1 **SEC. 207.2. STATE MANDATED ACCESSORY DWELLING UNIT PROGRAM.**

2 * * * *

3 ~~(k)—Department Report. In addition to the information required by subsection 207.1(i)(3), the~~
4 ~~annual Housing Inventory shall include a description and evaluation of the number and types of units~~
5 ~~being developed pursuant to this Section 207.2, their affordability rates, and such other information as~~
6 ~~the Director or the Board of Supervisors determines would inform decision-makers and the public.~~

7 ~~(l)—~~**Fees.** No impact fees shall be imposed on ADUs or JADUs authorized under this
8 Section 207.2, where the ADU or JADU is smaller than 750 square feet of Gross Floor Area,
9 or for ADUs that are proposed in lots with three existing units or fewer. Impact fees for all
10 other ADUs shall be imposed proportionately in relation to the Gross Floor Area of the primary
11 dwelling unit.

12
13 **SEC. 207.3. AUTHORIZATION OF DWELLING UNITS CONSTRUCTED WITHOUT A**
14 **PERMIT IN AN EXISTING BUILDING ZONED FOR RESIDENTIAL USE.**

15 Notwithstanding Section 207.2 or any other provision of this Code, certain dwelling
16 units that were constructed without benefit of permit in an existing residential building or in an
17 ancillary structure located on the same lot may be granted legal status subject to the
18 conditions and procedures set forth below. For purposes of this Section 207.3, a dwelling unit
19 shall not include single room occupancy units.

20 * * * *

21 ~~(j) Reports. Six months from the effective date of this Section 207.3 and every six months for~~
22 ~~the first three years after the effective date, the Zoning Administrator and the Director of the~~
23 ~~Department of Building Inspection shall issue a joint report on the effectiveness of the additional~~
24 ~~dwelling unit authorization program. After three years, the report will be included in the City's Annual~~
25 ~~Housing Inventory. The report shall, at a minimum, state the number of screening forms and building~~

1 ~~permit applications that have been filed pursuant to this Section 207.3. For the first three years, copies~~
2 ~~of these reports shall be submitted to the Clerk of the Board of Supervisors, the Mayor, and the~~
3 ~~Controller. Upon receiving the reports one year and two years after the effective date, the Clerk of the~~
4 ~~Board of Supervisors shall schedule a public hearing for each report on the agenda of the appropriate~~
5 ~~Board of Supervisors committee to consider the effectiveness of the program.~~

6 (k) Master List of Additional Dwelling Units Approved. The Planning Department shall
7 create and maintain a master list of dwelling units approved pursuant to the provisions of this
8 Section 207.3 and corresponding property addresses for use by the San Francisco Rent
9 Stabilization and Arbitration Board, Tax Assessor, and other interested City departments,
10 boards or commissions.

11
12 **SEC. 243. VAN NESS SPECIAL USE DISTRICT.**

13 * * * *

14 (c) **Controls.** All provisions of the Planning Code applicable to an RC-4 District shall
15 apply except as otherwise provided in this Section.

16 * * * *

17 (8) **Limitation of Nonresidential Uses.**

18 * * * *

19 (B) **Reduction of Ratio of Residential Uses for Affordable Housing.**

20 The Planning Commission may modify the Van Ness Special Use District residential to
21 nonresidential use ratio between Golden Gate Avenue and California Street as a conditional
22 use in one of the following ways:

23 * * * *

24 (iii) ~~Annual Reporting, Evaluation, and Adjustments to Affordability and~~
25 ~~Fee Calculations. The Department shall report annually to the Planning Commission on the activity~~

1 ~~and utilization of Section 243(c)(8)(B). Based on an evaluation of this report, the Planning Commission~~
2 ~~may initiate a modification or deletion of Section 243(c)(8)(B). The dollar amounts used in the~~
3 ~~calculation for Paragraphs (i) and (ii) of this Subsection shall be subject to annual adjustments in~~
4 ~~accord with Section 409 of this Code. Affordability shall be defined by rents or sale prices affordable~~
5 ~~by households with no more than 80 percent of median income standards developed by HUD.~~

6 ~~——(iv)~~ If the Planning Commission finds that taking into consideration projects
7 constructed since the effective date of the Van Ness Special Use District and the housing
8 development potential remaining in the District the overall objective of adding a substantial
9 increment of new housing on Van Ness Avenue will not be significantly compromised, the
10 Commission may by conditional use modify the 3:1 housing ratio or may modify the rules
11 regarding the timing and location of linked projects if in addition to Section 303(c) standards of
12 this Code it finds that:

13 * * * *

15 **SEC. 303. CONDITIONAL USES.**

16 * * * *

17 **(h) Internet Services Exchange.**

18 * * * *

19 ~~——(3) The Planning Department shall have the following responsibilities regarding Internet~~
20 ~~Services Exchanges:~~

21 ~~——(A) Upon the effective date of the requirement of a Conditional Use authorization for an~~
22 ~~Internet Services Exchange, the Planning Department shall notify property owners of all existing~~
23 ~~Internet Services Exchanges that the use has been reclassified as a conditional use;~~

24 ~~——(B) Upon the effective date of the requirement of a Conditional Use authorization for an~~
25 ~~Internet Services Exchange, the Planning Department shall submit to the Board of Supervisors and to~~

1 ~~the Director of the Department of Building Inspection a written report covering all existing Internet~~
2 ~~Services Exchanges and those Internet Services Exchanges seeking to obtain a Conditional Use~~
3 ~~authorization, which report shall state the address, assessor's block and lot, zoning classification,~~
4 ~~square footage of the Internet Services Exchange constructed or to be constructed, a list of permits~~
5 ~~previously issued by the Planning and/or Building Inspection Departments concerning the Internet~~
6 ~~Services Exchange, the date of issuance of such permits, and the status of any outstanding requests for~~
7 ~~permits from the Planning and/or Building Inspection Departments concerning Internet Services~~
8 ~~Exchange; and~~

9 ~~——(C) Within three years from the effective date of the requirement of a Conditional Use~~
10 ~~authorization for an Internet Services Exchange, the Planning Department, in consultation with the~~
11 ~~Department of Environment, shall submit to the Board of Supervisors a written report, which report~~
12 ~~shall contain the Planning Commission's evaluation of the effectiveness of the conditions imposed on~~
13 ~~Internet Services Exchanges, and whether it recommends additional or modified conditions to reduce~~
14 ~~energy and fuel consumption, limit air pollutant emissions, and enhance the compatibility of industrial~~
15 ~~uses, such as Internet Services Exchanges, located near or in residential or commercial districts.~~

16 * * * *

18 **SEC. 321. OFFICE DEVELOPMENT: ANNUAL LIMIT.**

19 **(a) Limit.**

20 * * * *

21 ~~——(4) Not less than six months before the last date of the approval period, the Planning~~
22 ~~Department shall submit to the Board of Supervisors a written report, which report shall contain the~~
23 ~~Planning Commission's recommendation with respect to whether, based on the effects of the limitation~~
24 ~~imposed by this Section on economic growth and job opportunities in the City, the availability of~~
25 ~~housing and transportation services to support additional office development in the City, office vacancy~~

1 ~~and rental rates, and such other factors as the Commission shall deem relevant, there should continue~~
2 ~~to be a quantitative limit on additional office space after the approval period, and as to what amount of~~
3 ~~additional office space should be permitted under any such limit.~~

4 (54) Every holder of a site permit issued on or after July 1, 1982 for any office
5 development, as defined in Section 320(g) without regard to Subsections (g)(2) through (g)(5),
6 shall provide to the Planning Commission reports containing data and information with respect
7 to the following:

8 * * * *

9 (65) **Central SoMa Plan Area.** This Subsection (a)(65) shall apply within the
10 boundaries of the Central SoMa Special Use District, as established and described in
11 Planning Code Sec. 249.78.

12 (A) **Additional Limitations on Office Development.** No more than a total of
13 6,000,000 square feet of office space shall be approved in office developments within the
14 Central SoMa Plan Area, after January 1, 2019, until a combined total of at least 15,000 new
15 housing units have been Produced within the South of Market Neighborhood, as delineated in
16 the Neighborhood Boundaries Map contained within the Department of City Planning's May
17 2011 "San Francisco Neighborhoods Socio-Economic Profiles" report, after January 1, 2019
18 (the "South of Market Neighborhood"). Space in individual projects that contain less than
19 50,000 square feet of office space shall neither be subject to, nor contribute to, the footage
20 limit described in this Subsection (a)(65)(A).

21 * * * *

22 (76) **Office Jobs/Affordable Housing Balance Incentive Reserve.** At the
23 election of a project sponsor, the Planning Commission may grant an authorization for a
24 proposed office development notwithstanding the limit specified in Subsection (a)(1) if all of
25 the following criteria are satisfied:

1 (A) The proposed office development contains more than 49,999 square of
2 additional office space.

3 (B) The proposed project of which the office development is a component
4 includes development of New Affordable Housing units in an amount no less than 100% of the
5 New Affordable Housing Units required to house the future employees of the proposed
6 project's office development in accordance with the City's Affordable Housing Demand Ratio,
7 and such units are either: (a) on-site, or (b) located off-site within a Community of Concern as
8 designated by the Board of Supervisors and developed pursuant to a requirement included in
9 a development agreement authorized by Government Code Section 65865 or any successor
10 Section for the proposed office development. If the project sponsor elects to satisfy Section
11 415.5 of the Planning Code by payment of an Affordable Housing Fee to the City, then one-
12 half (50%) of the New Affordable Housing Units credited to satisfaction of that inclusionary
13 housing requirement by payment of the Fee in accordance with Planning Code Subsection
14 ~~5415.5(b)(C)~~ shall also be counted toward satisfaction of this Subsection (a)(~~76~~)(B). For
15 projects developed in multiple phases as provided in an approved development agreement
16 authorized by Government Code Section 65865 or any successor Section, the total of all New
17 Affordable Housing Units required to be Produced by the development agreement in all
18 phases shall be considered in evaluating a project sponsor's application for an allocation of
19 office space pursuant to this Subsection (7) at any time.

20 (C) No other City of San Francisco Affordable Housing Development Funding
21 will be used to fund capital development costs of such affordable housing component of the
22 project.

23 (~~87~~) Additional office space in projects approved pursuant to Subsections
24 (a)(~~65~~)(C) and (a)(~~76~~) shall be deducted from the amount otherwise available pursuant to
25 Subsection (a)(1) in equal annual increments of one-tenth of such approved additional office

1 space per year over a ten year period. The first such deduction shall occur at the outset of the
2 approval period that commences following approval of the proposed project, and the nine
3 subsequent deductions shall occur annually at the outset of each approval period thereafter,
4 until the proposed project's entire allocation of additional office space has been deducted from
5 the ten subsequent approval periods.

6 * * * *

7
8 **~~SEC. 341. BETTER NEIGHBORHOODS AREA PLAN MONITORING PROGRAM.~~**

9 ~~Sections 341.1 to 341.4 set forth the requirements and procedures for the Market and Octavia~~
10 ~~Community Monitoring Program.~~

11
12 **~~SEC. 341.1. FINDINGS.~~**

13 ~~(a) The Planning Commission has adopted the Market and Octavia Area Plan as part of the~~
14 ~~General Plan of the City and County of San Francisco. The Area Plan, in conjunction with the Market~~
15 ~~and Octavia Neighborhood Plan, outlines specific goals that cumulatively frame the community's vision~~
16 ~~for the management of growth and development in the plan area. The Market and Octavia~~
17 ~~Neighborhood Plan introduces innovative policies and land use controls to achieve the plan goals.~~
18 ~~Successful fruition of the plan's goals requires a coordinated implementation of land use controls,~~
19 ~~community and public service delivery, key policies, and community infrastructure improvements.~~

20 ~~(b) In order to ensure a balanced implementation of the Market and Octavia Neighborhood~~
21 ~~Plan, the Planning Department will implement a formal monitoring program, with a focus on key~~
22 ~~indicators. The monitoring program is necessary to evaluate the effectiveness of the Plan and the~~
23 ~~impacts of growth, particularly housing supply, neighborhood character, and transportation~~
24 ~~infrastructure and service. The monitoring program will determine whether necessary infrastructure~~
25 ~~improvements have keep pace with development in the Plan Area. If monitoring surveys indicate an~~

1 ~~imbalance in growth of neighborhood and relevant infrastructure and support, the Planning~~
2 ~~Department must recommend policy changes to balance development with infrastructure and services.~~
3 ~~Appropriate responses may include further study of specific conditions, temporary or permanent~~
4 ~~alterations to Market and Octavia Neighborhood Plan policies, amendments to the Planning Code, and~~
5 ~~the dedication of additional revenue for planned improvements.~~

6 ~~(c) Monitoring reports are a standard tool used to ensure a plan's success. The Downtown~~
7 ~~Plan of 1985 implemented a model monitoring system, which includes both an annual and 5-year~~
8 ~~monitoring cycle. Annual monitoring efforts for the Market and Octavia Plan Area should be~~
9 ~~coordinated with these efforts, but include a focus on policies and indicators relevant to the Market and~~
10 ~~Octavia Neighborhood Plan. The Market and Octavia time series monitoring report should be~~
11 ~~published independently.~~

12 ~~(d) The Market and Octavia Plan is a pilot planning effort, implementing modern planning~~
13 ~~strategies. Data on the successes will be a useful contribution to the field of planning and to other~~
14 ~~municipalities aiming to achieve transit-oriented communities.~~

15 ~~(e) The Planning Department will execute a two-tiered monitoring program. The two tiers are:~~
16 ~~1) An annual collection and reporting of data from selected sources that are gathered on a regular~~
17 ~~basis, and 2) every five years, a more extensive data collection effort that includes a evaluation of~~
18 ~~policy objectives specific to the Market and Octavia Area Plan and reporting of neighborhood trends.~~
19 ~~The annual monitoring will provide notice for trends that may develop, gauging progress towards long~~
20 ~~range goals. The time series report will provide in depth analysis of the Plan Area, including a~~
21 ~~discussion of qualitative trends.~~

22 ~~(f) In coordination with relevant Board of Supervisor representatives and related City~~
23 ~~agencies a Citizens Advisory Committee shall be formed to participate in the on-going implementation~~
24 ~~of the Market and Octavia Plan. This Committee shall participate in monitoring efforts, as needed, and~~
25 ~~be presented a copy of all reports.~~

1 **~~SEC. 341.2. ANNUAL REPORTING.~~**

2 ~~The Planning Department shall prepare an annual report detailing the housing supply and~~
3 ~~development, commercial activities, and transportation trends in the Market and Octavia Plan Area.~~
4 ~~The information shall be presented to the Board of Supervisors, Planning Commission, the Citizens~~
5 ~~Advisory Committee, and Mayor, and shall address: (1) the extent of development in the Market and~~
6 ~~Octavia Plan Area; (2) the consequences of that development; (3) the effectiveness of the policies set~~
7 ~~forth in the Market and Octavia Area Plan in maintaining San Francisco's environment and character;~~
8 ~~and (4) recommendations for measures deemed appropriate to deal with the impacts of neighborhood~~
9 ~~growth.~~

10 ~~(a) Time Period and Due Date. Reporting shall be presented by July 1st of each year, and~~
11 ~~shall address the immediately preceding calendar year.~~

12 ~~(b) Data Source. The Planning Department shall assemble data for the purpose of providing~~
13 ~~the reports. City records shall be used wherever possible. Outside sources shall be used when data~~
14 ~~from such sources are reliable, readily available and necessary in order to supplement City records.~~
15 ~~When data is not available for the exact boundaries of the Plan Area, a similar geography will be used~~
16 ~~and noted.~~

17 ~~(c) Categories of Information. The following categories of information shall be included:~~
18 ~~Commercial Space and Employment.~~

19 ~~— (1) The amount of office space "Completed," "Approved," and "Under Construction"~~
20 ~~during the preceding year, both within the Plan Area and elsewhere in the City. This inventory shall~~
21 ~~include the location and square footage (gross and net) of those projects, as well as an estimate of the~~
22 ~~dates when the space "Approved" and "Under Construction" will become available for occupancy.~~

23 ~~— (2) Plan Area and Citywide Employment trends. An estimate of additional employment, by~~
24 ~~occupation type, in the Plan Area and Citywide.~~

1 ~~—(3) Retail Space and Employment. An estimate of the net increment of retail space and of~~
2 ~~the additional retail employment relocation trends and patterns Plan Area and Citywide.~~

3 ~~—(4) Business Formation and Relocation. An estimate of the rate of the establishment of new~~
4 ~~businesses and business and employment relocation trends and patterns within the Plan Area and~~
5 ~~Citywide Housing.~~

6 ~~—(5) Housing Units Certified for Occupancy. An estimate of the number of housing units in~~
7 ~~the Plan Area and throughout the City newly constructed, demolished, or converted to other uses.~~

8 ~~—(6) Affordable Housing Production. An estimate of the number of new affordable housing~~
9 ~~units in the Plan Area and throughout the City, including information on affordability and funding~~
10 ~~sources.~~

11 ~~—(7) Unit size. An estimate of the mix of unit sizes in the Plan Area and throughout the City~~
12 ~~including new construction, unit mergers and unit subdivisions.~~

13 ~~—(8) Unit Conversion. An estimate of average number by unit type in the Plan Area and~~
14 ~~throughout the City, including condo conversion, and eviction cases.~~

15 ~~—(9) Enforcement of Project Entitlements. A summary of successful compliance with~~
16 ~~conditions and design standards for development projects approved in the Plan Area and any~~
17 ~~enforcement actions taken to ensure compliance or adjudicate complaints~~

18 ~~Transportation.~~

19 ~~—(10) Parking Inventory. An estimate of the net increment of off-street parking spaces in all~~
20 ~~Districts.~~

21 ~~—(11) Transit Service. An estimate of transit capacity for peak periods.~~

22 ~~—(12) Transit infrastructure and capacity improvements. A summary of new transit~~
23 ~~infrastructure and capacity improvements in the Plan Area and affecting the Plan Area as projected in~~
24 ~~the Market/Octavia Plan, including a comparison of that increased and improved transit service~~
25 ~~relative to the number of new housing units and office space approved during the same period.~~

1 ~~—(13) Transit Impact Fee. A summary of the use of the transit impact development fee funds,~~
2 ~~identifying the number of vehicles, personnel and facilities acquired.~~

3 ~~(d) Report. The analysis of the factors under Commercial Space, Housing and Transportation~~
4 ~~will compare Plan Area trends to existing conditions, Citywide trends, and regional trends, when~~
5 ~~relevant. The comparisons will indicate the degree that the City is able to accommodate new~~
6 ~~development as projected within the Plan Area. Based on this data, the Department shall analyze the~~
7 ~~effectiveness of City policies governing Plan Area growth and shall recommend any additional~~
8 ~~measures deemed appropriate.~~

9
10 ***SEC. 341.3. TIME SERIES REPORT.***

11 ~~By July 15, 2008, and every fifth year thereafter on July 15th, the report submitted shall address~~
12 ~~the preceding five calendar years and, in addition to the data described above, shall include a cordon~~
13 ~~count of the following key indicators:~~

14 ~~(a) Implementation of Proposed Programming. The area plan proposes the implementation of~~
15 ~~various programs including impact fees for development, parking and curb cuts, residential permit~~
16 ~~parking reform, shared parking programs, and historic preservation survey. Implementation of said~~
17 ~~programs shall report the following:~~

18 ~~—(1) Fees. Monitor expenditure of all implemented fees. Report on studies and~~
19 ~~implementation strategies for additional fees and programming.~~

20 ~~—(2) Parking Programs. Report on implementation strategies, including cooperation with~~
21 ~~relevant agencies, and success of program as implemented.~~

22 ~~—(3) Historic Preservation Surveys. Report findings of survey. Detail further proceedings~~
23 ~~with regards to findings of survey work.~~

1 ~~(b) Community Improvements. The Area Plan outlines major community improvements in the~~
2 ~~areas of open space, transportation, pedestrian realm, and community services. Implementation of~~
3 ~~improvements will be documented, including a focus on the following:~~

4 ~~—(1) Transportation Infrastructure and Services. Successful implementation of the Market~~
5 ~~and Octavia Plan requires that transportation services keep pace with existing and new demands.~~
6 ~~Citywide efforts to improve transit services, including the Transit Effectiveness Project (TEP), must be~~
7 ~~implemented in order to provide adequate service to the area. The time series reports shall report on~~
8 ~~the City's coordination of transit services with projected development, and provide recommendations~~
9 ~~for balancing transportation infrastructure with projected growth.~~

10 ~~—(2) Affordable Housing. Development of subsidized housing, below market rate units, off-~~
11 ~~site inclusionary housing, affordable housing built with in-lieu fee payments, and other types of~~
12 ~~affordable housing~~

13 ~~—(3) First Source Hiring. The Department shall cooperate with the First Source Hiring~~
14 ~~Administration and the CAC to report to the Board of Supervisors on the status of monitoring and~~
15 ~~enforcement of the First Source Hiring ordinance, Administrative Code Sections 83 et seq. in the Plan~~
16 ~~Area with the goal of increasing compliance with the First Source Hiring requirements. The Planning~~
17 ~~Department, First Source Hiring Administration, and CAC shall report to the Board on the compliance~~
18 ~~of ongoing commercial operations subject to the requirements of the First Source Hiring ordinance in~~
19 ~~addition to the compliance of the initial developer of the property.~~

20 ~~(c) Planning Code Performance. Better Neighborhoods plans aim to clarify development~~
21 ~~proceedings, thus reducing the number of variances, articulating conditional use processes, and~~
22 ~~facilitating the development process. The permit process in the Plan Area and Citywide will be~~
23 ~~evaluated.~~

1 **~~SEC. 341.4. INFORMATION TO BE FURNISHED.~~**

2 ~~It shall be the duty of the heads of all departments, offices, commissions, bureaus and divisions~~
3 ~~of the City and County of San Francisco, upon request by the Planning Department, to furnish such~~
4 ~~information as they may have or be able to obtain relating to the matters to be included in the reports~~
5 ~~required herein.~~

6
7 **SEC. 342.3. HEALTH CARE SERVICES MASTER PLAN PROCESS.**

8 * * * *

9 ~~(f) Plan Update. The Department of Public Health and Planning Department shall update the~~
10 ~~Health Care Services Master Plan every three (3) years including a summary of changes since the~~
11 ~~prior Health Care Services Master Plan was approved. The Department of Public Health and the~~
12 ~~Planning Department may update the Health Care Services Master Plan at any time if either~~
13 ~~department believes an update is necessary. If the departments are unable to update the Health Care~~
14 ~~Services Master Plan within three (3) years of the prior update, they must seek an extension of time~~
15 ~~from the Board of Supervisors. The Health Commission, the Planning Commission, and the Board of~~
16 ~~Supervisors shall consider and approve Health Care Services Master Plan updates based upon the~~
17 ~~same procedures described in subsections (a)-(e) above.~~

18
19 **~~SEC. 411A.9. FURTHER STUDY OF ECONOMIC FEASIBILITY.~~**

20 ~~The Controller and the Planning Department shall study the feasibility of creating a variable~~
21 ~~impact fee structure based on economic feasibility of projects in different areas of the City, and report~~
22 ~~back to the Board of Supervisors within six months of the effective date of this Ordinance No. 200-15.~~

23
24 **~~SEC. 418.6. DIRECTOR OF PLANNING'S EVALUATION.~~**

25 ~~Within 18 months following the effective date of Section 418.1 et seq., the Director of~~

1 ~~Planning and the Director of MOH shall report to the Planning Commission, the Board of Supervisors,~~
2 ~~and the Mayor on the status of compliance with Section 418.1 et seq., the efficacy of Section 418.1 et~~
3 ~~seq. in funding infrastructure and stabilization programs in the Rincon Hill Program Area and in~~
4 ~~SoMa, and the impact of the Program on property values in the vicinity of the Program Area.~~

5
6 **SEC. 425.4. THE VAN NESS & MARKET COMMUNITY FACILITIES FEE**

7 (a) There is hereby established a separate fund set aside for a special purpose
8 entitled the Van Ness & Market Community Facilities Fund ("Fund"). All monies collected by
9 the Development Fee Collection Unit at DBI pursuant to this Section 425 shall be deposited in
10 a special fund maintained by the Controller. The receipts in the Fund are to be used solely to
11 fund community facilities subject to the conditions of this Section 425 et seq.

12 (b) Expenditures from the Fund shall be administered by the Mayor's Office of
13 Housing and Community Development (MOHCD), or its successor. The Mayor's Office of
14 Housing and Community Development or its successor shall have the authority to prescribe
15 rules and regulations governing the Fund.

16 * * * *

17 (3) ~~The Planning Department~~MOHCD shall report ~~quarterly~~ annually to the Planning
18 Commission on the current status of the fund, ~~as well as annually~~ as part of the Annual
19 Progress Reports required by Administrative Code Section 36.4.

20 (4) All funds are justified and supported by the Nexus Study, adopted as part of
21 the Market & Octavia Area Plan Amendments (Ordinance No. 125-20, on file with the Clerk of
22 the Board of Supervisors in File No. 200557) and corresponding Planning Code Amendments
23 (Ordinance No. 126-20 on file with the Clerk of the Board of Supervisors in File No. 200559).
24 ~~Implementation of the Fee and Fund shall be monitored according to the Market and Octavia Area~~
25 ~~Plan Monitoring Program required by Planning Code Section 341.~~

1 **SEC. 604.2. GENERAL ADVERTISING SIGN INVENTORIES.**

2 **(a) Submission of Initial Sign Inventory.** ~~Within 60 days of the effective date of this~~
3 ~~Section, any general advertising sign company that owns a general advertising sign located in the City~~
4 ~~shall submit to the Department a current, accurate, and complete inventory of its general advertising~~
5 ~~signs together with the inventory processing fee required by subsection (f) below.~~ Any general
6 advertising company that commences ownership of one or more general advertising signs
7 located in the City after the effective date of this Section shall submit an inventory together
8 with the inventory processing fee within 60 days after its commences such ownership whether
9 or not the signs on the inventory have previously been reviewed by the Department in its
10 review of the inventory of a previous owner.

11 * * * *

12 ~~(h) The Department shall submit to the Commission and the Board of Supervisors an annual~~
13 ~~report that includes: (i) annual revenues from the inventory processing fee, annual inventory~~
14 ~~maintenance fee, in-lieu application fee, and the relocation agreement application fee, (ii) annual~~
15 ~~expenditures for the sign inventory program, and (iii) a progress report on the number of general~~
16 ~~advertising signs verified in the sign inventory; in-lieu requests; and Code enforcement actions for~~
17 ~~general advertising signs processing, backlog, and abatement actions.~~

18
19 **SEC. 609.12. ON AND NEAR MARKET STREET FROM THE CENTRAL SKYWAY**
20 **OVERPASS TO DIAMOND STREET.**

21 * * * *

22 ~~(f) Not less than six months prior to the termination of the amortization period set forth in~~
23 ~~Section 609.12(a), the City Planning Commission shall conduct a hearing regarding general~~
24 ~~compliance with all the removal and conformity requirements of Section 609.12. The City Planning~~
25 ~~Commission shall send a report thereon to the Board of Supervisors, which shall conduct a hearing on~~

1 ~~said report.~~

2
3 **~~SEC. 701.2. REPORT TO THE BOARD OF SUPERVISORS.~~**

4 ~~The Director of City Planning shall prepare a report to the Board of Supervisors on the~~
5 ~~Neighborhood Commercial Zoning controls enacted by Ordinance No. 69-87 and Ordinance No. 445-~~
6 ~~87 within twenty four months from the effective date of Ordinance No. 445-87, and every twenty four~~
7 ~~months thereafter. The City Planning Commission shall hold a public hearing on the Neighborhood~~
8 ~~Commercial Zoning controls to solicit public input on a comprehensive review of said controls prior to~~
9 ~~forwarding the report, and any recommended amendments, to the Board of Supervisors.~~

10
11 Section 8. Articles 16 and 29 of the Police Code are hereby amended by revising
12 Sections 1613, 2912, and 2913, to read as follows:

13
14 **SEC. 1613. LIMITS ON PERMITS.**

15 (a) A Permittee that holds a Cannabis Testing Facility permit shall be ineligible for and
16 may not be issued a permit to operate any other type of Commercial Cannabis
17 Activity permitted by the City. A Permittee that holds a Cannabis Business Permit other than a
18 Cannabis Testing Facility permit, shall be ineligible for and may not be issued a permit to
19 operate a Cannabis Testing Facility.

20 (b) No permit to operate as a Storefront Cannabis Retailer shall be granted if any
21 individual holding a legal or beneficial interest in the proposed Storefront Cannabis Retailer
22 already holds a legal or beneficial interest in four or more existing Storefront Cannabis
23 Retailers that hold permits under this Article 16, except that an interest held in a Storefront
24 Cannabis Retailer shall not be counted towards this limit if the Storefront Cannabis Retailer
25 has received approval from the Planning Commission, following a discretionary review

1 hearing, as of the effective date of the ordinance in Board File No. 180912. If an application
2 for a permit, under this Article 16, to operate as a Storefront Cannabis Retailer is pending for
3 approval before the Planning Commission, and if the approval of that permit would cause an
4 individual to hold a legal or beneficial interest in four or more existing Storefront Cannabis
5 Retailers (other than Storefront Cannabis Retailers that, as of the effective date of the
6 ordinance in Board File No. 180912, have received approval from the Planning Commission
7 following a discretionary review hearing), the Office of Cannabis shall place on hold any
8 additional applications for a permit on behalf of a Storefront Cannabis Retailer in which that
9 individual would hold a legal or beneficial interest in a proposed Storefront Cannabis Retailer.
10 For purposes of this subsection (b), the circumstances in which an individual holds a legal or
11 beneficial interest in a Storefront Cannabis Retailer shall include (but need not be limited to)
12 any circumstance in which an individual holds a legal or beneficial interest in any Person
13 holding a legal or beneficial interest in the Storefront Cannabis Retailer.

14 ~~(c) The Controller shall track the number of permits that are awarded pursuant to this Article~~
15 ~~16. No later than September 30, 2019, the Controller shall submit to the Board of Supervisors a report~~
16 ~~that makes recommendations as to whether the issuance of Cannabis Business Permits should be~~
17 ~~subject to any numerical, geographical, or other limits.~~

18
19 **SEC. 2912. ADDITIONAL RESPONSIBILITIES OF THE DEPARTMENT OF PUBLIC**
20 **HEALTH AND THE DEPARTMENT OF BUILDING INSPECTION.**

21 (a) The Department of Public Health shall designate a Noise Prevention and Control
22 Officer to coordinate the responsibilities of the Department of Public Health under this Article
23 and the Health Code with respect to noise.

24 (b) The Department of Public Health may monitor the noise complaint response by all
25 City agencies charged with regulating noise under this Article. City Departments and Agencies

1 charged with responsibility for responding to noise complaints shall cooperate and share
2 information with the Department of Public Health in tracking and monitoring complaint
3 responses.

4 ~~(c) At least every two years the Department of Public Health shall make recommendations to~~
5 ~~the Planning Commission for noise assessment and prevention in land use planning or environmental~~
6 ~~review.~~

7 ~~(d)~~ The Department of Public Health may investigate and take enforcement action on
8 any noise complaint resulting in human health impacts. The Director of the Department of
9 Public Health shall be the sole determiner of what constitutes a human health impact with
10 respect to noise.

11 ~~(e)~~ The Department of Building Inspection shall send acoustical reports submitted
12 with each building permit to the Department of Public Health within 15 days of the date the
13 building permit applicant submits the acoustical report to the Department of Building
14 Inspection.

15
16 **SEC. 2913. USE OF AMPLIFIED SOUND ON UNENCLOSED TOUR BUSES.**

17 * * * *

18 ~~(g) The Director of Public Health shall report to the Board of Supervisors one year from the~~
19 ~~effective date of this ordinance and every two years thereafter:~~

20 ~~—(1) the number of Certificates issued to Unenclosed Tour Buses;~~

21 ~~—(2) the number of complaints received by the Director of Public Health regarding~~
22 ~~Unenclosed Tour Buses; and~~

23 ~~—(3) the effectiveness of the Department of Public Health's program to regulate amplified~~
24 ~~sound from Unenclosed Tour Buses and any suggested changes to the program.~~

1 (~~h~~g) Decisions by the Director of Public Health regarding the issuance or reissuance
2 of Certificates may be appealed to the Board of Appeals.

3 (~~i~~h) The fee for the initial application to obtain a Certificate and for each yearly
4 renewal shall be \$394, payable to the Director of Public Health. The initial application fee shall
5 be due at the time of application. The annual fee to renew the Certificate shall be due on July
6 1.

7 Beginning with fiscal year 2013-2014, fees set forth in this Section may be adjusted
8 each year, without further action by the Board of Supervisors, as set forth in this Section.

9 Not later than April 1, the Director of Public Health shall report to the Controller the
10 revenues generated by the fees for the prior fiscal year and the prior fiscal year's costs of
11 operation, as well as any other information that the Controller determines appropriate to the
12 performance of the duties set forth in this Section.

13 Not later than May 15, the Controller shall determine whether the current fees have
14 produced or are projected to produce revenues sufficient to support the costs of providing the
15 services for which the fees are assessed and that the fees will not produce revenue that is
16 significantly more than the costs of providing the services for which the fees are assessed.

17 The Controller shall, if necessary, adjust the fees upward or downward for the
18 upcoming fiscal year as appropriate to ensure that the program recovers the costs of
19 operation without producing revenue which is significantly more than such costs. The adjusted
20 rates shall become operative on July 1.

21 (~~j~~i) The requirements of this Section shall not apply to an Unenclosed Tour Bus
22 equipped with and using electronically amplified sound to communicate with passengers
23 where all non-emergency communications through the system are audible to passengers only
24 through technology designed to make such communications audible only to the individual
25 listener, such as individual headsets or headphones.

1 (kj) The noise standards set forth in Section 2909 shall not apply to Unenclosed Tour
2 Buses.

3
4 Section 9. Article 2.4, Subarticle IV; Article 5.4; Article 6.1, Subarticle 4, Subdivisions 5
5 and 6; Article 15; Article 22; and Article 27 of the Public Works Code are hereby amended by
6 revising Sections 2.4.46, 184.12, 250.260, 707, 786.9, 794, and 1203, and deleting Sections
7 2.4.45, 250.242, and 2732, to read as follows:

8
9 ~~**SEC. 2.4.45. REPORT TO BOARD OF SUPERVISORS AND PROCEDURES FOR FEE**~~
10 ~~**ADJUSTMENTS.**~~

11 ~~(a) Street Damage Restoration Fee Adjustment. Within one year after adoption or~~
12 ~~amendment of the street damage restoration fee set forth in this Subarticle, and every three years~~
13 ~~thereafter, the Director shall review the proceeds of the street damage restoration fee and any other~~
14 ~~new information that shall become available, and prepare a report to the Board of Supervisors. Based~~
15 ~~upon the result of the review, the Director shall recommend to the Board of Supervisors any~~
16 ~~necessary adjustments to such fee, along with written justification for the recommended adjustment and~~
17 ~~any necessary legislation. In the event that fee proceeds have exceeded, or are anticipated to exceed,~~
18 ~~the costs for street repaving and reconstruction reasonably attributable to excavation, the Director~~
19 ~~shall recommend legislation to the Board of Supervisors that modifies such fee to ensure~~
20 ~~that fee proceeds do not exceed the costs for street repaving and reconstruction reasonably~~
21 ~~attributable to excavation. In the event that fee proceeds have undercollected, or are~~
22 ~~anticipated to undercollect, for the costs for street repaving and reconstruction reasonably~~
23 ~~attributable to excavation or the City's costs to administer this Article or inspect excavations, the~~
24 ~~Director may recommend legislation to the Board of Supervisors that modifies the~~

1 ~~applicable fee to more accurately recover the costs for street repaving and reconstruction reasonably~~
2 ~~attributable to excavation.~~

3 ~~(b) Administrative and Inspection Fees Adjustments. The procedures to review~~
4 ~~and adjust the fees specified in Sections 2.4.41 and 2.4.42 shall be the procedures for fee review~~
5 ~~and adjustment set forth in Section 2.1.2.~~

7 **SEC. 2.4.46. COLLECTION, RETURN, AND REFUND OF DEPOSIT AND FEES.**

8 (a) **Collection of Deposit and Fees.** The Director shall establish procedures for
9 billing, collection, and refund of a deposit(s), fees, and other charges provided for in this
10 Article. The Director shall deposit all funds in accordance with Sections 10.117-119 and
11 10.117-120 of the San Francisco Administrative Code.

12 (b) **Refunds.**

13 (i) When an application is either withdrawn by the applicant or denied by the
14 Department before the start of construction, the applicant's administrative fee assessed under
15 Section 2.4.41 shall be retained and those fees assessed under Sections 2.4.42 and 2.4.43
16 shall be returned to the applicant.

17 (ii) In the event that the Director determines, ~~after preparing a report pursuant to~~
18 ~~Section 2.4.45,~~ that there has been an overcollection of any of the fees identified in this
19 Subarticle, the Director shall establish procedures to refund excess fee proceeds in a manner
20 which fairly and reasonably reimburses those excavators who paid the fee during the relevant
21 period consistent with their level of excavation.

22 * * * *

1 **SEC. 184.12. FIXED PEDESTAL NEWSRACKS.**

2 * * * *

3 **(f) ESTABLISHMENT OF FIXED PEDESTAL ZONES.**

4 * * * *

5 **(3) Fixed Pedestal Zones.**

6 * * * *

7 ~~——(C) Not later than twelve (12) months after the Director first implements this section~~
8 ~~pursuant to subsection 184.12(l), and at least once every two (2) years thereafter, the Director shall~~
9 ~~issue a report in writing to the Board of Supervisors. This report shall address the implementation of~~
10 ~~this section, inform the Board of the effectiveness of the existing Fixed Pedestal Zones, and make any~~
11 ~~recommendations and include proposed legislation regarding changes that the Director believes are~~
12 ~~necessary, including, without limitation, any changes believed necessary to ensure that publications~~
13 ~~that did not receive space in fixed pedestal units in initial implementation are subsequently able to~~
14 ~~receive such space.~~

15 * * * *

16
17 ~~**SEC. 250.242. ANNUAL REPORT.**~~

18 ~~When any part of the operative cost of parking places is to be paid by a special levy, the San~~
19 ~~Francisco Parking Authority shall annually file with the Clerk a written report stating in reasonable~~
20 ~~detail the estimated cost of maintenance and operation for which an assessment is to be levied in that~~
21 ~~year, including the cost of replacements, improvements and extensions to any parking place. When part~~
22 ~~of the operation costs of transit are to be so paid, such report shall be prepared and filed by the~~
23 ~~Municipal Transportation Agency. The report shall also state the manner of apportioning the levy to be~~
24 ~~made therefor. When such report shall have been primarily approved by the Board, the Clerk shall give~~
25 ~~notice to interested persons that such report has been filed in his office and open to inspection, and of a~~

1 ~~time and place when such report will be heard by the Board and an assessment ordered. Such notices~~
2 ~~may be by publication in a newspaper published in the City, or by mail to the assessees of the property~~
3 ~~at their addresses appearing on the last County tax roll or entitled to be shown on the next equalized~~
4 ~~roll as determined from the records of the Assessor or ascertained prior to the mailing or as known to~~
5 ~~the Clerk, at least 10 days before the day set for hearing.~~

6
7 **SEC. 250.260. NEW MAINTENANCE DISTRICTS.**

8 * * * *

9 (l) **Budget-Contents:** The ~~Parking Authority, the~~ Public Utilities Commission or other
10 responsible agency, whichever is appropriate, shall annually cause to be prepared a budget
11 for the costs and expenses of maintaining and operating any or all of said public
12 improvements or facilities of a local nature or benefit during the ensuing fiscal year which shall
13 at least include the following:

14 (1) The gross amount estimated to be required for the costs and expenses of
15 maintaining and operating said public improvements or facilities;

16 (2) The balance estimated to be available at the end of the current fiscal year for
17 such purpose;

18 (3) The amount, if any, anticipated to be available from revenues or charges for
19 use or availability of such public improvements or facilities;

20 (4) The amount, if any, to be contributed by the City or from other sources to pay
21 any part of said costs and expenses; and

22 (5) The balance of the amount necessary to be raised to pay said costs and
23 expenses.

24 * * * *

1 **SEC. 707. AWARD OF CONTRACT FOR CONSTRUCTION, REPAIR AND**
2 **REPLACEMENT OF SIDEWALKS, ETC.**

3 The Director of Public Works is authorized to invite annual bids in the manner provided
4 in the Administrative Code, and to award a contract effective the first day of July of each year
5 on a unit cost basis for the construction, repair and replacement of sidewalks, driveways,
6 curbs, and gutters where the obligation to perform such construction, repair or replacement is
7 that of the property owner. In addition to insuring the City and County, its officers and
8 employees in their capacities as such as required by the Standard Specifications of the
9 Bureau of Engineering, the contractor shall also name as additional insured the owners of
10 property who are jointly responsible for sidewalk repair, but such insurance shall apply only as
11 respects operations performed by the contractor in connection with this Section. Such owner
12 may request the Director of Public Works to issue a work order to the contractor to do the
13 work for the account of the owner. Such contract shall provide that the contractor shall, on
14 receipt of a work order from the Director of Public Works, repair, construct or replace the
15 sidewalk, curb, or gutter for the account of said owner at the unit prices bid, and shall bill the
16 owner for the cost thereof. Should the owner fail to pay the contractor the amount of said bill
17 within 30 days, the contractor shall give written notice of said failure to the Director of Public
18 Works who, upon determining that the work has been satisfactorily performed, shall cause
19 payment to be made to the contractor from a revolving fund, which shall consist of such
20 monies as may be appropriated for these purposes, and cause a lien to be placed upon the
21 owner's property in the amount of said payment as provided in Sections 706.4, 706.5, 706.6,
22 and 706.7 of this Article, and the amount of said payment shall constitute a lien against said
23 property which shall be enforced, collected, and released as provided in said Sections. *The*
24 ~~Director of Public Works shall make quarterly reports to the Board of Supervisors showing a general~~
25 ~~accounting of the aforementioned revolving fund.~~ The necessary funds shall be appropriated

1 annually for the preparation of contracts, taking of bids and entering into contracts. Each
2 such contract shall provide that the Director of Public Works shall have the power to prescribe
3 the procedures to be followed and specify the forms to be used for the reports to be rendered
4 in the administration of the work to be performed thereunder. Each such contract shall provide
5 that the contractor shall deposit with the Director of Public Works a sum sufficient to defray
6 costs of inspections by City inspectors on each job for which a work order is issued,
7 calculated as follows: a minimum of \$10 for the first 100 square feet, or fraction
8 thereof, of sidewalk, driveway, curb or gutter construction, repair or replacement, and
9 \$5 for each additional 100 square feet or fraction thereof.

10
11 **SEC. 786.9. PERMITS FOR CITY DEPARTMENTS OTHER GOVERNMENTAL**
12 **ENTITIES TIER 3 LOVE OUR NEIGHBORHOODS PROJECTS, AND TEMPORARY**
13 **ENCROACHMENTS.**

14 (a) If a City agency, department, or commission, a Tier 3 Love Our Neighborhoods
15 permit applicant, a State agency, or the federal government applies for a street encroachment
16 permit, the Public Works Director may approve, conditionally approve, or deny in writing the
17 application administratively without action from the Board of Supervisors after the applicant
18 satisfies the requirements of Sections 786 *et seq.* The Department of Public Works shall
19 submit ~~a quarterly~~ an annual report to the Clerk of the Board of Supervisors that includes a
20 description of all of the complete Tier 3 Love Our Neighborhoods Project applications the
21 Department ~~received~~ approved during the applicable quarter.

22 * * * *

1 **SEC. 794. AUTONOMOUS DELIVERY DEVICES ON SIDEWALKS - PERMIT**
2 **REQUIRED.**

3 * * * *

4 ~~(j) Public Works' Report Regarding Permitting Program. Within one year of the issuance of~~
5 ~~the first Autonomous Delivery Device testing permit under this Section 794, Public Works shall provide~~
6 ~~a report to the Board of Supervisors regarding the operation of the permitting program, summarizing~~
7 ~~the data it has collected from permittees, and offering findings and recommendations regarding its~~
8 ~~administration of this program.~~

9 **(k) Penalties.**

10 **(1) Criminal Penalty.**

11 Any permittee who shall violate any of the provisions of this Section 794 shall be
12 guilty of an infraction. Every violation determined to be an infraction is punishable by (1) a fine
13 not exceeding \$100 for the first violation within one year; (2) a fine not exceeding \$200 for a
14 second violation within one year from the date of the first violation; (3) a fine not exceeding
15 \$500 for the third and each additional violation within one year from the date of the first
16 violation.

17 No criminal penalty may be imposed on the employee or staff of any company,
18 corporation or other business entity that is operating an Autonomous Delivery Device in
19 violation of this Section 794.

20 **(2) Civil Penalty.**

21 (A) The Public Works Director may request the City Attorney to maintain an
22 action for injunction to restrain or summary abatement to cause the correction or abatement of
23 a violation of this Section 794 and for assessment and recovery of a civil penalty and
24 reasonable attorney's fees for such violation.
25

1 (B) Any person who violates this Section 794 may be liable for a civil penalty,
2 not to exceed \$500 for each day such violation is committed or permitted to continue, which
3 penalty shall be assessed and recovered in a civil action brought in the name of the people of
4 the City by the City Attorney in any court of competent jurisdiction. In assessing the amount of
5 the civil penalty, the court may consider any one or more of the relevant circumstances
6 presented by any of the parties to the case, including, but not limited to, the following: the
7 nature and seriousness of the misconduct, the number of violations, the persistence of the
8 misconduct, the length of time over which the misconduct occurred, the willfulness of the
9 defendant's misconduct, and the defendant's assets, liabilities, and net worth. The City
10 Attorney may seek recovery of attorney's fees and costs incurred in bringing a civil action
11 pursuant to this subsection (k).

12 (3) **Administrative Penalty.** In addition to the criminal or civil penalties authorized
13 by subsections (1) and (2), Public Works employees designated in Section 38 of the Police
14 Code may issue administrative citations for such violations. The administrative penalty shall
15 not exceed \$1,000 per day for each violation. Such penalty shall be assessed, enforced, and
16 collected in accordance with Section 39-1 of the Police Code.

17
18 **SEC. 1203. NONPOTABLE AND RECLAIMED WATER USE MASTER PLAN.**

19 * * * *

20 (c) **Status Report.** An annual report on the status and implementation of
21 the Nonpotable and Reclaimed Water Use Master Plan shall be jointly prepared by
22 the Water Department and the Department of Public Works and submitted to the Board of
23 Supervisors, the Chief Administrative Officer, the Public Utilities Commission, the Department
24 of Health, the Fire Department, the Recreation and Park Department and any other interested
25

1 City agencies. ~~This annual report shall include a yearly audit of the resulting offset in use of~~
2 ~~fresh water, if any, and identification of the uses of the saved water.~~

3
4 **~~SEC. 2732. DEPARTMENT OF PUBLIC WORKS REPORTING REQUIREMENT.~~**

5 ~~(a) Beginning on September 1, 2019, and by September 1 of every other year thereafter,~~
6 ~~the Department shall submit a report (the "Department Report") to the Board of Supervisors and the~~
7 ~~Mayor concerning the applications for Surface-Mounted Facility Site Permits submitted during the~~
8 ~~prior two-year period and maintenance of existing Surface-Mounted Facilities.~~

9 ~~(b) For each application, the Department Report shall contain the following information: (1)~~
10 ~~the number of applications submitted by applicant; (2) the proposed location of the Surface-Mounted~~
11 ~~Facility set forth in each application; (3) whether those applications were protested; (4) the~~
12 ~~results of all such protests; (5) whether the Department granted or denied those applications; (6)~~
13 ~~whether any Department determinations were appealed; and (7) the outcome of any such appeals. For~~
14 ~~each existing Surface-Mounted Facility, the Department Report shall also describe maintenance and~~
15 ~~graffiti abatement activities by the Permittee during the two-year period.~~

16
17 Section 10. Division 1, Articles 7 and 9, and Division 11 of the Subdivision Code are
18 hereby amended by revising Sections 1359, 1396.1, 1396.3, 1399.6, and 1399.7, to read as
19 follows:

20
21 **SEC. 1359. PARCEL MAP.**

22 * * * *

23 (d) In addition to the requirements of Subsection (c), the owners of record of a two-
24 unit building conversion that qualify for the exemption from Article 9 must certify under penalty
25 of perjury and the Department must verify with the Rent Stabilization and Arbitration Board;

1 ~~and with the Human Rights Commission as applicable,~~ that since November 16, 2004, no eviction
2 as defined in San Francisco Administrative Code Section 37.9(a)(8)-(14) of a senior, disabled
3 person, or catastrophically ill tenant as defined below has occurred, or if an eviction has taken
4 place under Administrative Code Section 37.9(a)(11) or 37.9(a)(14), that the original tenant
5 reoccupied the unit after a temporary eviction. For purposes of this ~~§~~subsection a "senior"
6 shall be a person who is 60 years or older and has been residing in the unit for 10 years or
7 more at the time of the lottery; a "disabled" tenant is defined for purposes of this Subsection
8 as a person who is disabled within the meaning of Title 42 U.S.C. Section 12102(2)(A); and a
9 "catastrophically ill" tenant is defined for purposes of this ~~§~~subsection as a person who is
10 disabled as defined above, and who is suffering from a life threatening illness as certified by
11 the person's ~~his or her~~ primary care physician.

12 * * * *

14 **SEC. 1396.1. ANNUAL CONVERSION LIMITATION LOTTERY PROCEDURES.**

15 * * * *

16 (g) In addition to the other provisions relating to Pool A and Pool B described in
17 subsections (b) through (f) above:

18 (1) the first 175 units selected by lottery in Pools A and B must meet the following
19 requirements: the Applicant for the lottery must certify under penalty of perjury and the
20 Department must verify with the Rent Stabilization and Arbitration Board, ~~and with the Human~~
21 ~~Rights Commission as applicable,~~ that since November 16, 2004, no eviction as defined in San
22 Francisco Administrative Code Section 37.9(a)(8) – (14) of a senior, disabled person, or
23 catastrophically ill tenant as defined below has occurred, or if an eviction has taken place
24 under Administrative Code Section 37.9(a)(11) or (14), that the original tenant reoccupied the
25 unit after a temporary eviction. For purposes of this section a "senior" shall be a person who is

60 years or older and has been residing in the unit for 10 years or more at the time of the lottery; a "disabled" tenant is defined for purposes of this Section as a person who is disabled within the meaning of Title 42 U.S.C. Section 12102(2)(A); and a "catastrophically ill" tenant is defined for purposes of this Subsection as a person who is disabled as defined above, and who is suffering from a life threatening illness as certified by the person's ~~his or her~~ primary care physician.

* * * *

SEC. 1396.3. ANNUAL CONVERSION LIMITATION LOTTERY PROCEDURES BASED ON SENIORITY OF PARTICIPATION.

* * * *

(b) Pool A. Subdivision Code, A

(1) Pool A shall consist of only those eligible buildings which participated but which have failed to be selected for conversion in at least three previous lotteries. In addition, Pool A eligibility requires that each applicant for the lottery certify under penalty of perjury, and the Department must verify with the Rent Stabilization and Arbitration Board, ~~and with the Human Rights Commission as applicable,~~ that since January 1, 2000, no eviction as defined in San Francisco Administrative Code Section 37.9(a)(8) – (14) of a senior, disabled person, or catastrophically ill tenant as defined below has occurred, or if an eviction has taken place under Administrative Code Section 37.9(a)(11) or (14), that the original tenant reoccupied the unit after a temporary eviction. For purposes of this section a "senior" shall be a person who is 60 years or older and has been residing in the unit for 10 years or more at the time of the lottery; a "disabled" tenant is defined for purposes of this Section as a person who is disabled within the meaning of Title 42 U.S.C. Section 12102(2)(A); and a "catastrophically ill" tenant is defined for purposes of this Subsection as a person who is disabled as defined above, and

1 who is suffering from a life threatening illness as certified by the person's ~~his or her~~ primary care
2 physician. If an applicant for Pool A cannot satisfy this certification requirement, the applicant
3 shall participate in Pool B as set forth in Subsections (c) – (g). This certification also is subject
4 to the procedures of Subsection (g)(4). If all buildings eligible in Pool A comprise 100 or fewer
5 units, all such buildings shall automatically be approved for conversion. Any unallocated units
6 in Pool A shall be added to Pool B.

7 * * * *

8 (g) In addition to the other provisions relating to Pool A and Pool B described in
9 subsections (b) through (f) above:

10 (1) The first 175 units selected by lottery in Pools A and B must meet the following
11 requirements: the Applicant for the lottery must certify under penalty of perjury and the
12 Department must verify with the Rent Stabilization and Arbitration Board, ~~and with the Human~~
13 ~~Rights Commission as applicable,~~ that since November 16, 2004, no eviction as defined in San
14 Francisco Administrative Code Section 37.9(a)(8) – (14) of a senior, disabled person, or
15 catastrophically ill tenant as defined below has occurred, or if an eviction has taken place
16 under Administrative Code Section 37.9(a)(11) or (14), that the original tenant reoccupied the
17 unit after a temporary eviction. For purposes of this section a "senior" shall be a person who is
18 60 years or older and has been residing in the unit for 10 years or more at the time of the
19 lottery; a "disabled" tenant is defined for purposes of this Section as a person who is disabled
20 within the meaning of Title 42 U.S.C. Section 12102(2)(A); and a "catastrophically ill" tenant is
21 defined for purposes of this Subsection as a person who is disabled as defined above, and
22 who is suffering from a life threatening illness as certified by the person's ~~his or her~~ primary care
23 physician.

24 * * * *

1 **SEC. 1399.6. MAYOR'S OFFICE OF HOUSING: CERTIFICATE OF CLEARANCE;**
2 **CONVERSION OVERSIGHT AND MONITORING.**

3 * * * *

4 (b) **Ongoing Monitoring:** On an ongoing basis, the Mayor's Office of Housing shall
5 perform the following monitoring activities:

6 * * * *

7 — ~~(4) Prepare an annual monitoring report to the Board of Supervisors that analyzes: (A) the~~
8 ~~number of conversions per year; (B) the type, location, quantity, affordability, and number of resales of~~
9 ~~units in each project converted; (C) a list of projects converted under the ordinance including address~~
10 ~~and contact information; (D) known barriers and issues related to conversion under the ordinance; (E)~~
11 ~~effectiveness of the ordinance in serving low-income households; and (F) recommendations to the~~
12 ~~Board for improvements or legislative amendments.~~

13 * * * *

14
15 **SEC. 1399.7. ADMINISTRATIVE FEES**

16 * * * *

17 (c) Within one year after the date this Article becomes effective, and every three years
18 thereafter if any applications were received during that three-year period, the Director shall review
19 the proceeds of the administrative fee, and the costs of administering and monitoring Article
20 11 and shall prepare a report to the Board of Supervisors. Based upon the result of the
21 review, the Director shall recommend to the Board of Supervisors any necessary adjustment
22 to the fee structure and any necessary legislation to make the processing of such applications
23 more efficient. In the event that the fee proceeds have exceeded, or are anticipated to
24 exceed, the costs of administering and monitoring Article 11, the Director shall recommend
25 legislation to the Board of Supervisors that modifies the applicable fee to ensure that fee

proceeds do not exceed the costs of administration. In the event that fee proceeds have under-collected, or are anticipated to under-collect, the Director may recommend legislation to the Board of Supervisors that modifies the applicable fee to more accurately recover the costs for administration and monitoring.

Section 11. Division I, Article 6 of the Transportation Code is hereby amended by revising Sections 4.1 and 6.6, to read as follows:

SEC. 4.1. ADMINISTRATIVE FEE – POLICE DEPARTMENT.

(a) A fee to reimburse the City and County for costs incurred in the administration of the procedures for removing vehicles shall be charged by the San Francisco Police Department to the owner of a vehicle removed pursuant to Sections 22651(h), 22651(p), 22655.5 or 22850.5 of the Vehicle Code. ~~Such charges collected for the removal or storage of vehicles shall not be subject to reimbursement under Chapter 10C of the Administrative Code.~~

SEC. 6.6. TEMPORARY USE OF STREETS FOR STREET FAIRS.

* * * *

~~(m) Annual Reports. No later than December 1st of each year, the Chief of Police and the Director of Transportation shall provide to the Board of Supervisors written reports setting forth in detail the Police Department and Municipal Transportation Agency's costs, respectively, associated with street fairs for that year.~~

~~(n)~~ **Annual Adjustment of Fees.** Fees set in this Section, including the caps on fees for police services, may be adjusted each year, without further action by the Board of Supervisors or the Municipal Transportation Agency Board of Directors, to reflect changes in the relevant Consumer Price Index, as determined by the Controller. No later than April 15th

1 of each year, the officer, department, or agency administering the fees shall submit its current
2 fee schedule to the Controller, who shall apply the Consumer Price Index adjustment to
3 produce a new fee schedule for the following year. No later than May 15th of each year, the
4 Controller shall file a report with the Board of Supervisors and the Municipal Transportation
5 Agency Board of Directors reporting the new fee schedule and certifying that: (a) the fees
6 produce sufficient revenue to support the costs of providing the services for which each fee is
7 assessed, and (b) the fees do not produce revenue which is significantly more than the costs
8 of providing the services for which each fee is assessed.

9
10 Section 12. Chapters 1A and 1311A of the Building Inspection Commission Code are
11 hereby amended by revising Sections 107A and 1311A.4.1, to read as follows:

12
13 **SECTION 107A – FEES**

14 107A.15 Building Code fee waivers for accessory dwelling unit projects on lots
15 containing single-family homes. Notwithstanding any fee provision of the Building Code to the
16 contrary, the following provisions shall apply to accessory dwelling unit projects located on a
17 lot containing a single-family home.

18 * * * *

19 ~~(g) Department of Building Inspection Reports. On March 1, 2022, the Department of Building~~
20 ~~Inspection shall submit a report to the Board of Supervisors and the Building Inspection Commission~~
21 ~~on the operation of the fee waiver program established by this Section 107A.15 for the period of~~
22 ~~calendar year 2021. On March 1, 2023, the Department of Building Inspection shall submit a report to~~
23 ~~the Board of Supervisors and the Building Inspection Commission on the operation of the fee waiver~~
24 ~~program established by this Section 107A.15 for the period of calendar year 2022. The reports shall~~
25 ~~include, but need not be limited to, the number of projects taking advantage of one or more fee waivers,~~

1 ~~the type and location of such projects, the total amount of fees waived or projected to be waived during~~
2 ~~the term of this Section 107A.15, and any administrative impacts associated with the Department's~~
3 ~~processing of such waivers. The report also shall include the following information in regard to an~~
4 ~~ADU: (a) the length of time the applicant has owned the property; (b) whether the applicant is an~~
5 ~~individual or a business; (c) whether the applicant intends to rent the ADU, and if so, whether the~~
6 ~~applicant has under consideration a price range for rent; (d) whether the applicant has submitted~~
7 ~~building permit applications for other residential properties in the City within the last 10 years; (e)~~
8 ~~whether the ADU received a waiver of code requirements and is subject to the San Francisco~~
9 ~~Residential Rent Stabilization and Arbitration Ordinance pursuant to Planning Code Section~~
10 ~~207(c)(4)(G), and (f) whether the applicant owns, in whole or in part, any other residential property in~~
11 ~~San Francisco either as an individual or as part of a partnership or corporation. The Director of the~~
12 ~~Department of Building Inspection shall decide how best to obtain the information required by this~~
13 ~~subsection (g), which may include self-reporting by applicants.~~

14
15 **SECTION 1311A – PROOF OF COMPLIANCE WITH WATER CONSERVATION**
16 **MEASURES**

17 * * * *

18 **1311A.4.1 Fee schedule.** See Building Code Section 110A, Table 1A-N for the
19 applicable fees, once established.

20 ~~1311A.4.2 Fee review. The Director of the Department of Building Inspection shall cause an~~
21 ~~annual report of fees to be made and filed with the Controller as set forth in Section 3.17-2 of the San~~
22 ~~Francisco Administrative Code. The Controller shall review the report and file it with the~~
23 ~~Board of Supervisors along with a proposed ordinance readjusting the fee rates as necessary.~~

Section 13. Effective Date. This ordinance shall become effective 30 days after enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board of Supervisors overrides the Mayor's veto of the ordinance.

Section 14. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors intends to amend only those words, phrases, paragraphs, subsections, sections, articles, numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal Code that are explicitly shown in this ordinance as additions, deletions, Board amendment additions, and Board amendment deletions in accordance with the “Note” that appears under the official title of the ordinance.

APPROVED AS TO FORM:
DAVID CHIU, City Attorney

By: /s/
KATE G. KIMBERLIN

By: /s/
VICTORIA WONG
Deputy City Attorneys

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