Ordinance amending Administrative Code Chapter 14B, Local Business Enterprise and Non-Discrimination In Contracting Ordinance, to add a new Section 14B.19 establishing uniform procedures to attain project LBE goals for design-build and integrated project delivery contracts.

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

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

Section 1. The San Francisco Administrative Code is hereby amended by adding Section 14B.19, to read as follows:

SEC. 14B.19. SUBCONTRACTING: DESIGN-BUILD AND INTEGRATED PROJECT DELIVERY CONTRACTS.

(A) For design-build contracts authorized under Administrative Code Section 6.61 and integrated project delivery contracts authorized under Administrative Code Section 6.68, the Director shall establish project-wide subcontracting and subconsulting goals for LBE participation.

(B) The procedure to attain the project-wide LBE goals for low bid design-build contracts awarded under Administrative Code Chapter 6, Section 6.61, shall be in accordance with Section 14B.8.

(C) The procedure to attain the project-wide LBE goal for trade package subcontracts awarded under design-build contracts (Administrative Code Chapter 6, Section 6.61(L)) and integrated project delivery contracts (Administrative Code Chapter 6, Section 6.68), shall be as follows:

(1) Prior to the advertisement of a trade package design-build contract or an integrated project delivery contract, the Director shall determine the availability of LBEs who could perform the...
work or supply materials and equipment for each trade package, with reference to the project-wide LBE subcontracting and subconsulting participation goals. In the case of a design-build prime contract, the professional design services such as architectural or engineering performed by LBE firms will be credited toward the established project-wide goal. In the case of a trade package subcontract where some or all of the work is design-build, professional design services such as architectural or engineering performed by LBE firms will be credited toward the established trade package goal.

(2) The Design-Builder or Construction Manager/General Contractor (the "Prime Contractor") shall undertake the good faith outreach required in Section 14B.8(D).

(3) The Prime Contractor, with the assistance of the Director, shall set forth the LBE goal for each trade package. Upon receipt of bids from trade package subcontractors for a specific scope of work, the Director shall evaluate whether or not the trade package low bidder has met the stated LBE goal.

(4) In the event the trade package low bidder fails to meet the stated goal, the bidder shall be allowed to make up the goal within two weeks of bid opening, provided the bidder does not violate the California Subletting and Subcontracting Fair Practices Act (Public Contract Code Section 4100 et seq.). Failure by the bidder to achieve the goal within the two week period, or within some other time allowed by the Director in writing, shall deem the bidder ineligible for award of the trade package subcontract. In such an instance, the Director and the Prime Contractor shall evaluate the second low bidder in the same manner for potential contract award.

(5) The Director shall monitor the actual LBE participation being attained as the trade package bids are received. In the event the Director determines that the actual LBE participation at a particular time in the bidding of trade packages is less than anticipated, relative to the project LBE goal, the Prime Contractor shall make all efforts to negotiate and award trade packages to LBEs using the seven and one half percent (7½%) of total trade package costs available to it for negotiating subcontracts per Administrative Code Chapter 6, Sections 6.61(L)(3) or 6.68(H)(3), as appropriate.
After all the trade packages have been awarded, the Prime Contractor must have met the project-wide LBE subcontracting/subconsulting goal. Otherwise, the Prime Contractor shall be subject to sanctions as described herein in Section 14B.17.

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

By: [Signature]
GEORGE K. WONG
Deputy City Attorney
Ordinance amending Administrative Code Chapter 14B, Local Business Enterprise, and Non-Discrimination in Contracting Ordinance, to add a new Section 14B.19 establishing uniform procedures to attain project LBE goals for design-build and integrated project delivery contracts.

January 26, 2010 Board of Supervisors - PASSED, ON FIRST READING
Ayes: 10 - Avalos, Campos, Chiu, Chu, Daly, Dufty, Elsbernd, Mar, Maxwell and Mirkarimi
Excused: 1 - Alioto-Pier

February 02, 2010 Board of Supervisors - FINALLY PASSED
Ayes: 10 - Avalos, Campos, Chiu, Chu, Daly, Dufty, Elsbernd, Mar, Maxwell and Mirkarimi
Excused: 1 - Alioto-Pier

I hereby certify that the foregoing Ordinance was FINALLY PASSED on 2/2/2010 by the Board of Supervisors of the City and County of San Francisco.

Angela Calvillo
Clerk of the Board

Mayor Gavin Newsom

Date Approved