



**San Francisco Administrative Code
CHAPTER 14B**

Rules and Regulations

**LOCAL BUSINESS ENTERPRISE UTILIZATION AND NON-
DISCRIMINATION IN CONTRACTING ORDINANCE**

Effective Date: July 1, 2022

The City Administrator adopts these rules and regulations pursuant to Section 14B.1(D) of the Local Business Enterprise Utilization and Non-Discrimination in Contracting Ordinance, codified as Administrative Code Chapter 14B.

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I. DEFINITIONS

The definitions listed below are supplements to those set forth in Section 14B.2 of the Administrative Code.¹ Please refer to those definitions when consulting these Rules.

“Affiliation” shall mean when one firm is controlled by another firm or when two firms have an identity of interest including, but not limited to, having shared resources, interests or business dealings.

“Broker” shall mean a firm that purchases and sells, but does not regularly take possession of stock materials and is not a “supplier”.

“Business day(s)” shall mean all days excluding all City holidays and/or weekends, when referring to a time period within which an action must be taken.

“Day” or “days” shall mean calendar days unless otherwise specified, when referring to a time period within which an action must be taken.

“Harm” means any material and tangible economic detriment, loss, or damage.

“Prime Level Work” means any portion of work that is listed in the prime’s minimum qualification section in the RFQ/RFP.

“Rules” shall refer to these Rules and Regulations.

“Supplier” shall mean a firm with the financial and physical capability to purchase, to stock, and to distribute or to sell. The supplier shall stock the types of items consistent with the relevant industry practice, and have appropriate invoices and inventory located within the boundaries of the City. A supplier must continually maintain a warehouse stocked with inventory within the geographical boundaries of the City.

II. POWERS AND DUTIES OF THE CITY ADMINISTRATOR

- A. The City Administrator's powers and duties under Chapter 14B are set forth in Section 14B.10.
- B. The Contract Monitoring Division, through its staff, shall gather data on industry subgroups and compile a list of contractors/consultants to determine the availability and utilization of local contractors/consultants in a particular industry under each subgroup.

III. POWERS AND DUTIES OF THE DIRECTOR OF THE CONTRACT MONITORING DIVISION (CMD)

- A. The powers and duties of the Director are set forth in Section 14B.10.
- B. In addition to the powers and duties set forth in Chapter 14B, the Director:

¹ All subsequent references are to Chapter 14B of the San Francisco Administrative Code unless specified.

1. Shall monitor the level of LBE subcontractor participation for each contract;
2. May investigate suspected violations of the LBE Ordinance, in accordance with the procedures provided by the Ordinance and these Rules.

C. Non-Discrimination Program.

1. As provided in Section 14B.9, CMD will monitor the administration of City Contracts, including the selection of subcontractors, to prevent unlawful discrimination in the selection of subcontractors.
2. CMD will investigate, mediate, and resolve discrepancies concerning City contracting requirements and processes involving the LBE program. If CMD discovers evidence of discrimination in a bidder's selection of subcontractors, CMD will refer the matter to the Human Rights Commission.
3. For Contracts with an LBE Subcontracting Participation Requirement, the Director shall determine the availability percentages of MBE, WBE, and OBE subcontractor participation which would be expected in a bid or proposal in the absence of discrimination.
4. A Bidder is not required to achieve the MBE, WBE, and OBE availability subcontractor percentage for a particular contract. If there is significant difference between a Bidder's list of MBE, WBE, and/or OBE Subcontractors in dollar amounts which reflect the availability percentages, CMD shall document the actual subcontractor utilization and may refer the matter to HRC for further investigation.
5. All Bidders must fully cooperate in an investigation of discrimination. All Bidders must immediately respond to HRC requests for information and shall comply with document requests. Failure to cooperate shall be treated as non-compliance.
6. The Director shall issue an exit report or close out memo for any Contract that includes LBE subcontracting participation and/or prime joint venture participation.

IV. POWERS AND DUTIES OF THE DEPARTMENTS AND CONTRACTING PROCEDURES

- A. The powers and duties of Contracting Awarding Authorities are set forth in Section 14B.13.

B. Bid Discount or Rating Bonus.

Contract Awarding Authorities shall apply the bid discount/rating bonus to bids and proposals from LBEs, pursuant to Sections 14B.7(D), (E), and (F). LBEs shall not receive the bid discount for brokerage, referral or temporary employment services unless the request for proposal or bid specifications specifically requires these services in the proposed project.

- C. **Pilot Neighborhood LBE Program.** Pursuant to Section 14B.22, the Director shall implement a five-year long pilot neighborhood preference program. CMD will implement this pilot program in phases. The initial “roll-out” phase will occur in fiscal year 2022-2023.
- a) **Contract Selection in First Year.** During fiscal year 2022-2023, CMD will apply the pilot Neighborhood LBE Program to a total of eight Contracts. The Program will apply to the first two contracts – if possible, one professional service contract and one construction contract -- solicited on or after July 1, 2022 from Public Works, PUC, Recreation and Park, and Port of San Francisco departments that meet the following criteria:
 - 1) Contracts procured under Administrative Code Chapter 6, including both construction and professional service Contracts; (ii) Are for projects located within the jurisdictional boundary of San Francisco; (iii) estimated to cost over \$10,000 and less than \$10,000,000; (iv) a specific project location is specified at the time of bid; (v) the project location is in a HUB Zone or a New Market Tax Credit ZIP Code area in the following order of priority: 94124, 94110, 94107, 94134, or 94103; and (vi) has an LBE subcontracting participation requirement of 15% or higher.
 - b) **Discounts.** In addition to discounts provided under Sections 14B.7(E) and (F), bidders for applicable contracts are eligible for the following discounts, up to a maximum bid discount of 13%:
 - 1) **Prime Neighborhood/ZIP Code LBE Bid Discount**
 - (a) LBE Bidders on a Contract where the project is located in the same supervisorial district as the LBE bidder’s principal place of business is eligible for a 1% bid discount. -OR-
 - (b) LBE Bidders on a Contract where the project is located in the same ZIP code as the LBE bidder’s principal place of business is eligible for a 1.5% bid discount.
 - 2) **Subcontractor Neighborhood/ZIP Code LBE Bid Discount**
 - (a) Any bidder, whose bid demonstrates that at least 50% of their proposed LBE subcontracting participation dollar amount is allocated to LBE subcontractors in the same supervisorial district as the project, is eligible for a 0.5% bid discount. -OR-
 - (b) Any bidder, whose bid demonstrates that at least 50% of their proposed LBE subcontracting participation dollar amount is allocated to LBE subcontractors in the same ZIP code as the project, is eligible for a 1.5% bid discount.
 - c) For Contracts where the project is located in more than one Neighborhood or ZIP code, LBEs from all of the Neighborhoods or ZIP codes specific to the project will be eligible for program bid discount.
 - d) Contract Awarding Authorities shall apply the Neighborhood/ZIP Code Bid Discount to Neighborhood/ZIP Code Micro-LBE bidders competing on Micro-LBE Set-Aside Contracts. Subcontractor Neighborhood/ZIP Code LBE Bid Discount does not apply

to Micro-LBE Set-Aside Contracts.

- e) Prime Neighborhood/ZIP Code LBE Bid Discount shall apply to LBE Joint Ventures that have a Neighborhood/ZIP Code LBE Prime JV partner(s) performing at least 40% of the prime scope of work.

D. Formal Contracting Procedures.

1. For purposes of these Rules and Regulations, the following shall be considered formal contracts:
 - a) Public Works construction Contracts valued at and above the “Threshold Amount” as defined by Chapter 14B; and
 - b) Professional services, general services², architect/engineering, and commodities contracts valued at and above the “Minimum Competitive Amount” as defined by Chapter 14B.
2. For formal Contracts, the procedures the Contract Awarding Authority must adhere to include, but are not limited to, the following:
 - a) No less than ten (10) business days prior to advertisement, Contract Awarding Authority shall submit the draft RFQ/P and/or Request for Bids including scope of work, evaluation criteria, and cost estimate evaluation to CMD so that appropriate LBE subcontracting participation requirements may be determined;
 - b) Comply with all Awarding Authority “Good Faith” efforts to obtain LBE Bids as provided in Section 14B.7(A), copied below for reference as follows:
 - Arrange Contracts by size and type of work to maximize opportunities for LBEs;
 - Consult with the Director on dividing contracts into smaller contracts;
 - Outreach to all LBEs with appropriate certification to solicit their interest in the contracting opportunity;
 - Encourage LBEs to attend pre-bid meetings;
 - Post contracting opportunities on the department, OCA, and/or other centralized City website with adequate lead time for LBEs to effectively respond to the opportunity;
 - Use the services of community and contractors’ groups to assist in the recruitment of LBEs; Provide all Bidders, including LBEs access to adequate information about the plans, specifications and requirements of the proposed Contract;
 - c) Work with CMD to apply the Bid discount/rating bonus at each stage of the selection process.

D. Contracts Between \$10,000 and Threshold Amount or Minimum Competitive Amount

²The Minimum Competitive Amount for general services is equal to the “Threshold Amount” as defined in Section 6.1 of the Administrative Code.

1. Contracts greater than \$10,000 but less than the Threshold Amount (Public Works or General Services) or Minimum Competitive Amount (Professional or Commodities) must be procured through either the Micro-LBE Set-Aside Program or the San Francisco First Program. As described below, Contract Awarding Authorities are urged to procure Contracts first through the Micro-LBE Set-Aside Program, then using San Francisco First, then through other selection processes.
2. If the Contract meets the parameters of the Micro-LBE Set-Aside Program, Contract Awarding Authorities shall use its best efforts to procure the Contract under this program, to ensure it meets its yearly Micro-LBE Set-Aside requirement under Section 14B.7(K). If the Contract is not procured under the Micro-LBE Set-Aside Program, the Contract Awarding Authority shall provide CMD with a written explanation why the contract was not set aside, or if it was set aside, why it was not awarded to a Micro-LBE.
3. If the Contract cannot be procured as a Micro-LBE Set Aside, then the Contract must be procured through the San Francisco First Program as provided in Section 14B.7(L).

E. Micro-LBE Set-Aside Program.

1. Pursuant to Section 14B.7(K), Contract Awarding Authorities, in consultation with the Director shall:
 - a) Set-aside award to Micro-LBEs not less than 50% of public works Contracts estimated to cost between \$10,000 and the Threshold Amount;
 - b) Set-aside award to Micro-LBEs not less than 25% of Contracts other than public works construction Contracts estimated to cost between \$10,000 and the Minimum Competitive Amount;
2. If (i) fewer than two Micro-LBEs submit Bids, or (ii) the Contract Awarding Authority determines that the Contract would not be awarded at a fair market price, then the Contract Awarding Authority, may reject all Bids and rebid the Contract without restriction to Micro-LBEs.
3. Contracts that are set-aside for award to Micro-LBEs shall not be subject to subcontracting participation requirements under Section 14B.8. Micro-LBEs that subcontract any portion of a set-aside contract should subcontract to businesses certified as Micro-LBEs, to the maximum extent possible. Micro-LBEs that subcontract any portion of a set-aside contract must serve a commercially useful function based on the Contract's scope of work, and must perform at least 25% of the contract work.
4. The Bid discount provisions of Section 14B.7(D) and (E) shall not apply to Micro-LBE Set-Aside contracts. The Bid discount provisions of Section 14.B.22(d)(1) and 14.B.22(d)(2) shall apply to Micro-LBE Set-Aside contracts.
5. At the beginning of each fiscal year, each Contract Awarding Authority shall meet with CMD to determine all Contracts that are eligible for the Micro-LBE Set-Aside Program. This information shall be updated quarterly by each Contract Awarding Authority.

6. Contract Awarding Authorities shall annually report on its compliance towards meeting the Micro-LBE Set Aside requirements as provided in Section 14B.7(K)(3).

F. San Francisco First Program.

1. The San Francisco First Program applies to the following informal contracts:
 - a) Public works Contracts not set-aside for Micro-LBEs under Section 14B.7(K), the estimated cost of which exceeds \$10,000 but is less than the Threshold Amount; and
 - b) Professional services, general services, architect/engineering, and commodities Contracts not set-aside for Micro-LBEs under Section 14B.7(K), the estimated cost of which exceeds \$10,000 but is less than the Minimum Competitive Amount.
2. For all Contracts subject to the San Francisco First Program, the Contract Awarding Authority must adhere to the following:
 - a) For Contracts estimated to cost more than 50% of the Threshold Amount or Minimum Competitive Amount, Contract Awarding Authorities, no less than ten (10) business days prior to advertisement or quote/proposal submittal deadline if no advertisement is required, shall submit the draft RFQ/P and/or Request for Bids or Quotes, if any, including scope of work, evaluation criteria, and cost estimate evaluation to CMD so that appropriate LBE subcontracting participation requirements may be determined.
 - b) Comply with all Awarding Authority “Good Faith” efforts to obtain LBE Bids as provided in Section 14B.7(A), copied below for reference as follows:
 - Arrange Contracts by size and type of work to maximize opportunities for LBEs;
 - Consult with the Director on dividing contracts into smaller contracts;
 - Outreach to all LBEs with appropriate certification to solicit their interest in the contracting opportunity;
 - Encourage LBEs to attend pre-bid meetings;
 - Post contracting opportunities on the department and/or other centralized City website with adequate lead time for LBEs to effectively respond to the opportunity if not impracticable to do so;
 - Use the services of community and contractors’ groups to assist in the recruitment of LBEs;
 - Provide all Bidders, including LBEs access to adequate information about the plans, specifications and requirements of the proposed Contract.
 - c) Attempt to obtain at least three quotes, bids, or proposals from Micro or Small LBEs.
 - d) Work with CMD to apply the Bid discount/rating bonus at each stage of the selection process.
 - e) If the Contracting Awarding Authority is unable to obtain at least three quotes, bids, or proposals from Micro or Small LBEs, the Contract Awarding Authority shall

prepare a written finding explaining why at least three bids, quotes, or proposals from LBEs were not obtained. The written justification should include the following:

- The outreach efforts performed by the Contract Awarding Authority including the specific LBE categories outreached to and the number of Micro and/or Small LBEs solicited; and
 - A summary of the responses received from Micro and/or Small LBEs.
- f) In cases where the LBE subcontracting participation requirement does not apply because the Contract Awarding Authority let out a Contract that is under 50% of the Minimum Competitive Amount or Threshold Amount, CMD will not approve contract amendments, modifications, supplements, or change orders that cumulatively increase the original contract amount by more than 20% unless CMD determines that there is a compelling reason that justifies such an approval. Where the amended contract amount is at least 50% of the Minimum Competitive Amount or Threshold Amount, CMD will impose a subcontracting participation requirement if appropriate. As such, Contract Awarding Authorities should be mindful when letting out contracts that are under 50% of the Minimum Competitive Amount or Threshold Amount as applicable.
3. Contract Awarding Authorities shall consult with CMD prior to awarding any Contract solicited through the above process where the bid/proposal resulted in the contract significantly exceeding the Threshold Amount for public works contracts, or the Minimum Competitive Amount for professional services, general services, architect/engineering and commodities contracts.

G. Prequalified Pools; Procedure and Recommendations.

1. Public Works Construction Contracts. For prequalified pools for public works construction contracts, where the Contract Awarding Authority conducts a Request for Qualifications process, the following procedures shall apply:
 - a) Contract Awarding Authorities that wish to establish a pool of prequalified firms to provide construction services may do so using objective criteria (e.g., Yes/No or True/False responses). If objective criteria are used and a positive response is required for each question, the LBE bid discount/rating bonus provision of the Ordinance shall not be applied because of the nature of the criteria. However, if objective criteria are used and the respondent is not required to provide a positive response to each question (e.g., 8 out of 10 questions must be answered in the affirmative) then the LBE bid discount/rating bonus provisions of the Ordinance shall be applied. After the pre-qualification process, the LBE bid discount provisions of the Ordinance shall apply to the selection of a contractor. The LBE Joint Venture bid discount/bonus does not apply to construction contracts.
 - b) Contract Awarding Authorities that wish to establish a pool of prequalified firms to provide construction services may do so using subjective criteria (e.g., price or other open responses that are scored by the contract awarding department/selection panel). If subjective criteria are used to establish the prequalified pool, the LBE bid discount/rating bonus provisions of the Ordinance shall be applied. After the pre-

qualification process, the LBE bid discount provisions of the Ordinance shall apply to the selection of a contractor. The LBE Joint Venture bid discount/rating bonus does not apply to construction contracts.

2. Professional and General Services, and Commodities. For prequalified pools for professional services, general services, architect/engineering, and commodities Contracts, where the Contract Awarding Authority conducts a Request for Qualifications process, the following procedures shall apply:
 - a) Contract Awarding Authorities that wish to establish a pool of prequalified firms to provide these types of services may do so using objective criteria (e.g., Yes/No or True/False responses). If objective criteria are used and a positive response is required for each question, the LBE bid discount/rating bonus provision of Chapter 14B shall not be applied because of the nature of the criteria. However, if objective criteria are used and the respondent is not required to provide a positive response to each question (e.g. 8 out of 10 questions must be answered in the affirmative) then the LBE bid discount/rating bonus provisions of Chapter 14B shall be applied. The Contract Awarding Authority must specify in the RFQ, the method used to assign work/select the consultant from the prequalified pool (e.g., if after the pre-qualification process, the Contract Awarding Authority will rotate using the prequalified firms based on the ranking, or if the Contract Awarding Authority will conduct an evaluation process to determine which pre-qualified firm shall receive work). After the pre-qualification process, if the Contract Awarding Authority conducts an evaluation process to determine which pre-qualified contractor shall receive work, the LBE bid discount/rating bonus provisions of Chapter 14B shall apply to the selection of a consultant. In this subsection, "evaluation process" shall include the submission of proposals, submission of quotes, and/or conducting interviews. If an entity is selected from the pool with no further selection process (and such selection is allowed under provisions of the Administrative Code), the Contract Awarding Authority shall report to CMD whether or not the firm selected is an LBE. If the entity selected is not an LBE, the Contract Awarding Authority shall deliver to the CMD within five (5) business days of the selection a written explanation of the reasons for said selection.
 - b) Contract Awarding Authorities that wish to establish a pool of prequalified firms to provide these types of services may do so using subjective criteria (e.g., price or other open responses that are scored by the contract awarding department/selection panel). If subjective criteria are used to establish the prequalified pool, the LBE bid discount/rating bonus provisions of Chapter 14B shall be applied. The Contract Awarding Authority must specify in the RFQ, the method used to assign work/select the consultant from the prequalified pool (e.g., if after the pre-qualification process, the Contract Awarding Authority will rotate using the prequalified firms based on the ranking, or if the Contract Awarding Authority will conduct an evaluation process to determine which pre-qualified firm shall receive work). After the pre-qualification process, if the Contract Awarding Authority conducts an evaluation process to determine which pre-qualified contractor shall receive work, the LBE bid discount/rating bonus provisions of the Ordinance shall apply to the selection of the consultant. In this

subsection, “evaluation process” shall include the submission of proposals, submission of quotes, and/or conducting interviews. If an entity is selected from the pool with no further selection process (and such selection is allowed under provisions of the Administrative Code), the Contract Awarding Authority shall report to CMD whether or not the firm selected is an LBE. If the entity selected is not an LBE, the Contract Awarding Authority shall deliver to CMD within five (5) business days of the selection a written explanation of the reasons for said selection.

H. Contractor Selection Process; Selection Panel Procedures.

1. CMD has the power and duty to monitor and ensure compliance with the provisions of Chapter 14B including ensuring that all aspects of City contracting processes are transparent, fair, and do not arbitrarily disadvantage or discriminate against LBEs or any other business or person on any basis prohibited by law. Specifically, under Section 14B.10(B)(6), CMD shall take actions to ensure compliance with the provisions of this Chapter, including, without limitation, intervening in the selection process in the event of actual discrimination or harm, or issuing recommendations for selection processes administered directly by Contract Awarding Authorities to ensure that the minimum qualifications, evaluation criteria, or scoring methodologies set forth in the requests for bids, qualifications, or proposals, or the selection panel deliberations do not inadvertently disadvantage qualified Small-LBEs, Micro-LBEs, WBEs, and OBEs, in competing for opportunities in City contracting.
2. Pursuant to Sections 14B.7(C) and 14B.10(B)(6), Contract Awarding Authorities shall:
 - a) Not less than ten business days prior to Contract advertisement, submit the draft RFQ/P, or other document specifying the scope of work, engineer’s estimate or project budget breakdown, minimum qualifications requested, and proposed evaluation criteria and selection procedures to CMD.
 - b) Provide CMD with at least ten business day notice of the Contract’s selection schedule including dates, times, and locations of any deadlines, interviews, meetings, or other selection milestone. CMD staff may monitor, observe, or be present during any stage of the selection process.
 - c) Provide CMD with a list of the selection panel members, if any. The list shall be submitted no later than ten business days prior to the Bid or proposal due date, and shall include each panel member’s ethnicity, gender, expertise, place of business, and job title.
3. At its discretion, CMD may record the selection process, including any interviews or panel member deliberations.
4. **Selection Panel Member Makeup.** To ensure that selection processes do not arbitrarily disadvantage or discriminate against any LBE or other person, Contract Awarding Authorities shall abide by the following:
 - a) Selection panel members should reflect the diversity of San Francisco.
 - b) The project manager and any staff who worked on the RFP or RFQ shall not

serve on the selection panel.

- c) No more than 50% of the selection panel members should be from the Contract Awarding Authority. This is consistent with the Controller's contracting guidelines.

- 5. **Selection Panel Deliberation/Discussion.** Prior experience has indicated that on occasions, discussion among panelists has introduced discriminatory considerations and unfairness into the selection process. Accordingly, CMD urges Contract Awarding Authorities and the selection panel members not to hold discussions. If the panel members decide to deliberate, the discussion shall be limited to the criteria listed in the RFP/RFQ or the oral interview questions/criteria. Selection panel members are subject matter experts and must score individually based on the responses provided by the proposers. Panel members shall not bring in unsubstantiated outside information.

Selection panel members shall not, (i) discuss among themselves the scores or ratings of individual proposers; (ii) advocate for or against a particular firm; or (iii) single out a particular firm until after the selection process has been completed.

If the Director finds that panel deliberations result in discrimination or harm to an LBE, the Director shall intervene in the selection process as set forth in Section 14B.10(B)(6). Such intervention can include, but is not limited to, excluding scores or requiring that the Contract Awarding Authority redo the selection process. The Contract Awarding Authority shall not inform the panel members of the identities of firms that are eligible for the bid discount/rating bonus at any stage of the selection process.

- 6. Contract Awarding Authorities shall ensure that each evaluator will score each proposer or consultant on a predetermined point system, or other system that permits the application of bid discount/rating bonus at each stage of the selection process, in a fair and objective fashion.
- 7. **Oral Interviews.** If the selection process includes an oral interview, the Contract Awarding Authority shall abide by the following procedures:
 - a) After each consultant's oral interview is complete, panel members shall tally their respective raw scores.
 - b) After each consultant's oral interview, the Contract Awarding Authority will immediately forward the original score sheets from each panel member to CMD.
 - c) The Contract Awarding Authority shall issue a letter to CMD listing the ranking, score, and bid discount/rating bonus of each consultant not less than two business days after oral interviews have been completed.
 - d) If the highest ranked consultant is an LBE, and after engaging in good faith negotiations the Contract Awarding Authority is unable to reach final agreement with that LBE, it may proceed to negotiate with the next ranked proposer after notifying the Director. If the Director finds that the Contract Awarding Authority's failure to award the contract to an LBE is in violation of Chapter 14B, the Director shall intervene in the selection process to correct any discriminatory

contracting processes as set forth in Section 14B.10.

8. **Waivers or Modification to Procedures.** If the Contract Awarding Authority believes that one or more of the above provisions are not feasible, the Contract Awarding Authority shall immediately request a waiver or modification to the procedures from CMD. The request must be in writing. If CMD determines that one or more of the procedures are not feasible or in the best interest of the City, the CMD Director may waive or modify a particular procedure.
- I. Each Contract Awarding Authority shall designate a staff person to be responsible for responding to CMD regarding the requirements of Chapter 14B.
- J. Contract Awarding Authorities shall include all relevant CMD attachments with solicitations for bids or proposals. These attachments explain in detail the CMD requirements for the procurement process. Proposers for architect/engineering and professional services contracts must complete and submit all applicable CMD Forms at the time of proposal. Contract Awarding Authorities shall deliver a complete set of the proposal documents to CMD. Following completion of the selection process, CMD shall give a copy of the relevant CMD forms to the Contract Awarding Authority.
- K. **LBE Utilization Tracking.**
 1. The Director shall notify all Contract Awarding Authorities in writing of what information the Contract Awarding Authority must enter into the City approved LBE Utilization Tracking System and the timeframes for entering the required data into the system so that CMD may effectively monitor City contracting in furtherance of Chapter 14B.
 2. Contract Awarding Authorities bear all operational and fiscal responsibilities in ensuring that all necessary contracting data is entered into the City approved LBE Utilization Tracking System. Necessary data is that which allows CMD to effectively monitor and issue reports on each Contracting Awarding Authority's progress toward achieving the requirements of this Chapter. Contract Awarding Authorities with in-house contract data tracking are required to pay for and allocate resources to build any necessary programming bridges to ensure that all data is entered timely and accurately into the said system.
 3. Contract Awarding Authorities shall inform the Director when they require training to comply with the reporting requirements.
 4. Contract Awarding Authorities shall input accurately and completely the required contracting information into the City approved LBE Utilization Tracking System on a timely basis. Data concerning any particular payment issued by a Contract Awarding Authority shall be entered completely and accurately within 10 calendar days of issuing such payment.
 5. Any Contract Awarding Authority that fails to input accurate and complete contracting information shall be reported to the Mayor and the Board of Supervisors in the Director's Quarterly Report. Consistent failure to input accurate and complete information shall be treated as willful non-compliance under Section 14B.17(J).
 6. Prime Contractors are responsible for inputting accurately and completely, all

subcontractors listed on their original LBE participation breakdown submitted at time of bid or proposal into the City approved LBE Utilization Tracking System, unless already populated by a Department's in-house contract administration database. Any adjustments or deviations must have CMD concurrence. Upon receipt of notification of payment by said system, Primes are responsible for paying their LBE subcontractors as provided under 14B.7(H)(9) as well as identifying the date of payment in said system.

7. Upon payment notification by the Prime Contractor, Subcontractors are responsible for validating their receipt of payment on the City approved LBE Utilization Tracking System.
8. Failure by the Prime or Subcontractor to perform their requirements in the City approved LBE Utilization Tracking System shall be a material breach of contract and subject to sanctions or penalties as provided in Section 14B.17.

V. REPORTING REQUIREMENTS AND DEADLINES

A. Contracting Department Annual Reports.

1. As provided in Section 14B.15(B), all Contract Awarding Authorities each fiscal year shall submit to the Board of Supervisors a report detailing the department's:
 - a) Progress toward the achievement of the City-wide LBE Participation Goal;
 - b) Progress toward Contract-specific LBE subcontracting participation requirements;
 - c) Steps to ensure non-discrimination against MBEs, WBEs, and OBEs; and
 - d) Compliance with the Section 14B.7(K)(3) Micro-LBE Set Aside Program.

B. Quarterly Reports.

1. In the event that a Contract Awarding Authority has not made its contracting data readily available in the City-approved LBE Utilization Tracking System, the Contract Awarding Authority shall provide CMD with the following information in a format as requested:
 - a) The total number and value of contracts awarded in that fiscal year subject to Chapter 14B.
 - b) The total number and value of contracts subject to Chapter 14B awarded to LBEs, including a breakdown by MBE, WBE, and OBE.
 - c) The total number and value of contracts subject to Chapter 14B awarded to Non-LBEs.
 - d) The total value of LBE subcontractor participation, including a breakdown by MBE, WBE, and OBE, on each contract subject to Chapter 14B awarded in that fiscal quarter.
 - e) The total number and value of all task orders issued under any As-Needed or Job Order contract, including the overall LBE participation (prime versus sub), non-

LBE participation (prime versus sub), a brief description of the scope of work, and whether or not the task order issued was for specialty work.

- f) A list of contracts awarded with a contract value under 50% of the Minimum Competitive Amount/Threshold Amount and included no LBE subcontracting participation requirement, but were subsequently amended, modified, supplemented and/or had change orders so that the contract value is over the Minimum Competitive Amount/Threshold Amount.

2. The data required in subsection (B)(1) above shall be provided by the following dates:

- a) November 1 for the prior fiscal quarter July 1 through August 31.
- b) February 1 for the prior fiscal quarter October 1 through December 31.
- c) May 1 for the prior fiscal quarter January 1 through March 31.
- d) August 1 for the prior fiscal quarter April 1 through June 30.

C. City Administrator Annual Report.

1. As provided in Section 14B.15(C), the City Administrator shall submit its annual report to the Mayor and the Board on the progress of the City towards achieving the goals of Chapter 14B, including identification of problems and specific recommendations for improving participation by all categories of LBEs in City contracting. The report shall include an analysis of the availability of MBEs, WBEs, and OBEs and the bidding environment in the various industries that participate in City contracts.

VI. MICRO-LBE, SMALL-LBE, AND SBA-LBE CERTIFICATION

A. Principal Place of Business in San Francisco Certification Criteria.

To establish that a business' principal place of business is located in San Francisco, in addition to the requirements of Section 14B.3(A)(5), the business must meet the following criteria, or as otherwise determined by the Director:

1. The business owner(s) must declare under penalty of perjury that the business maintains its principal place of business in San Francisco consistent with Section 14B.3(A)(5).
2. The business must submit documentation demonstrating that it has been located and doing business in San Francisco for at least six (6) months preceding its application for certification as an LBE. Firms, other than suppliers, requesting a change from PUC-LBE to San Francisco LBE must be headquartered in San Francisco for six months.
3. If a business seeking to be certified has more than one operating location, it must demonstrate that its San Francisco office is its principal place of business. It must maintain its principal place of business in a fixed office within the geographic boundaries of the City of San Francisco, where it must provide all of the services for which LBE certification is sought, other than work required to be performed at a job site. All businesses, except for suppliers, must demonstrate that the majority of its principals are based and work a majority of the time in the San Francisco office.

4. To be certified as a supplier, a business is not required to maintain its principal place of business in San Francisco, but must maintain a fixed office in San Francisco that meets all of the office requirements consistent with Section 14B.3(A)(5) other than the principal place of business requirement.
5. All business owners are considered principals for purposes of determining principal place of business.
6. A business must operate from an independent office that has daily functions, its own fixtures and equipment, and sufficient space necessary to operate the business for which certification is sought.
7. An arrangement for the right to use office space on an “as needed” basis where there is no office exclusively reserved for the firm does not qualify as an “office”. The applicant must submit a rental agreement and proof of a recent payment for the office space/home. If the office space is owned by the business, the business must submit documentation showing ownership.
8. The business location, unless located in an owner’s residence, must prominently display the name of the firm.
9. A business that is located in an owner’s residence and that seeks to be certified as an LBE must substantiate that none of the owners of the business also maintain an office that is located outside of the City for this business activity. A residence qualifies as an office only if an owner shows that the home is their primary residence, as shown on the owner’s federal tax returns, Voter Registration Card or other supporting documents.
10. Businesses must submit copies of their annual San Francisco Business Registration Certificate as well as Federal and State Payroll documents (i.e., W-3 and DE-9C forms).

B. Size Criteria.

1. LBEs must submit complete business Federal Income Tax returns. for the five most recent years. Business owners must submit complete individual Federal income tax returns (including all affiliated companies) for the five most recent years Thereafter, upon recertification or upon request, all LBEs shall submit to CMD a copy of the business’ and owners’ most recent annual Federal Income Tax Returns, and any additional financial documents requested in order to support the continuing certified status of that business. Failure to provide the appropriate documentation as required under this paragraph may result in suspension of the certification.
2. Additional documentation relating to financial status, including, but not limited to, audit and financial statements, must be submitted upon request. Failure to provide such documentation may result in suspension or denial of certification.

C. Expertise, Ownership, and Control.

1. All business owners shall possess incidents of ownership, such as interest in profit and loss, equal to at least the required ownership interest percentage. They must exercise control of the business, including but not limited to the legal authority to manage business assets, goodwill and the daily operation of a business consistent with the required ownership interest percentage. All business owners must actively and continuously exercise such authority. A franchise is not permitted.
2. All business owners shall contribute capital, equipment, and/or expertise to the business equal to at least the required ownership percentage.
3. All businesses must submit recent invoices or contracts from three clients demonstrating the type of work and expertise for which certification is sought.
4. All LBEs shall possess a valid California license for the type of work it is certified to perform, if such license is required by state law. Where the applicant is a business owned by a single person, it must submit proof of applicable professional licenses as well as proof that the owner is the license qualifier and has the training, education and work experience in that type of business. For businesses that do not require a license, the owner must have training, education and work experience in that type of business.
5. Where the applicant is a business owned by more than one person, it must submit proof that the business owners, individually and collectively, have the relevant training, education and work experience in that type of business. If a license is required by state law, at least one business owner must have the appropriate license.
6. Business owners must fully manage and control their business. In order to maintain operational independence, an LBE firm shall not share equipment, personnel resources, facilities, or financial support with any other firm.
7. Business owners with former employers in the same industry as the applicant firm or who owned firms in the same industry as the applicant firm will have restrictions on their certification for one year. Restriction on applicant firm includes inability of former employer to use that applicant firm for LBE subcontractor participation credit. Additionally, the application firm cannot have a financial or operational affiliation with former employers in the same industry.
8. A business owner may not be employed outside of the LBE firm by another firm in the same industry. A business owner may be employed in a different industry only if the certified firm employs dedicated personnel to oversee the daily operations of the certified business while the owner is engaged in their outside employment.

D. Criteria for Suppliers.

1. In addition to the local office requirements identified above, suppliers must maintain a warehouse in San Francisco that is stocked with inventory consistent with their

certification. A residential warehouse qualifies only if an owner shows that the warehouse is at their primary residence, as shown on the owner's federal tax returns, voter registration card or other supporting documents, in addition to all other warehouse requirements.

2. A supplier must have a direct relationship with manufacturers for the materials, equipment, and supplies for which they seek certification, demonstrating that: The supplier has an agreement with the manufacturer, or the manufacturer's authorized representative, that permits the supplier to distribute their products; and the supplier is able to provide a manufacturer's warranty.
3. A supplier must take possession and control of items to be supplied and delivered to the City. A supplier may not ship items directly to the job site unless the LBE firm first takes possession of the item at the job site.

E. Criteria for Truckers.

1. In addition to the local office requirements identified above, an LBE trucking entity must possess the appropriate motor vehicle registration and Motor Carrier Permit, in its own name, for all trucks and/or trailers to be used in the work.
2. LBE trucking entities must park their registered vehicles and trailers within the geographical boundaries of the City. Parking on the street is insufficient for LBE certification. Trucking entities must submit a lease agreement for their parking spaces, and proof of payment on the lease. If the parking spaces are owned by the business, it must provide proof of ownership.

F. MBE, WBE, and OBE Certification.

1. A business seeking LBE certification may indicate on its certification application whether it is owned and controlled (as defined in Chapter 14B) by a person or persons who is a member of one or more of the groups specified in Section 14B.3(E). To be certified as an MBE or WBE, owners must submit evidence of MBE or WBE status by providing a copy of a driver license, passport, birth certificate or other appropriate documentation. Any business owner that does not submit documentation of MBE or WBE status will be certified as an OBE.
2. A business that qualifies to be certified as both MBE and WBE must select to be certified as either MBE or WBE.

VII. NON-PROFIT LBE CERTIFICATION

- A. Non-profit LBEs shall have the status of LBEs for all purposes of Chapter 14B, including but not limited to bid discounts/rating bonuses and subcontracting participation credit.
- B. **Principal Place of Business in San Francisco Certification Criteria.**

1. The Director of the non-profit must declare under penalty of perjury that the non-profit maintains its principal place of business in the City and County of San Francisco consistent with Section 14B.6.
2. The non-profit must submit documentation demonstrating that it has been located and doing the same type of business activity as the type(s) for which certification is sought in San Francisco for at least six (6) months preceding its application for certification.
3. If a non-profit seeking to be certified has more than one operating location, it must demonstrate that its local office is its principal place of business. It must maintain its principal place of business in a fixed office within the geographic boundaries of the City, where it provides all of the services for which non-profit certification is sought, other than work required to be performed at a job site. A non-profit firm's paid and volunteer staff must be based in the San Francisco office, and it must pay San Francisco payroll taxes on at least 51% of the total payroll for non-exempt employees.
4. To be certified as a non-profit supplier, a non-profit is not required to maintain its principal place of business in San Francisco, but must maintain a fixed office in San Francisco that meets all of the office requirements consistent with Section 14B.3(A)(5) other than the principal place of business requirement.
5. A non-profit must operate from an independent office that has daily functions, fixtures and equipment and sufficient space necessary to operate the business for which certification is sought.
6. An arrangement for the right to use office space on an 'as needed' basis where there is no office exclusively reserved for the firm does not qualify as an 'office'. The non-profit must submit a rental agreement and proof of a recent payment for the office space/home. If the office space is owned by the non-profit, the non-profit must submit documentation showing ownership.
7. The non-profit location, unless located in an owner's residence, must prominently display the name of the non-profit. A non-profit that is located in a residence that seeks to be certified must substantiate that there is no other office outside of the City for the non-profit activities. A residence qualifies as an office only if an owner shows that the home is their primary residence, as shown on the owner's federal tax returns and other supporting documents.
8. Non-profits must submit copies of their annual San Francisco Business Tax Registration Certificate as well as Federal and State Payroll documents (i.e. W-3 and DE-9C forms). For non-profits having more than one operating location, the non-profit must submit the comparable forms required in those locations.

C. Size Criteria.

1. A non-profit must annually submit copies of its current filings with State and Federal agencies, including the California Attorney General Form RRF-1, the California Franchise Tax Board Forms 199 and or 109, the California Secretary of State Form SI-

100 and the Internal Revenue Service Form 990, including Schedule A. Executive Directors must submit their five most recent individual income tax returns.

2. Additional documentation relating to financial status, including audit reports and financial statements, must be submitted upon request. Failure to provide the appropriate documentation as required under this paragraph may result in suspension of the certification. In addition to the above documents, the nonprofit enterprise shall submit to the CMD a copy of its Articles of Incorporation as filed with the California Secretary of State as well as a copy of the IRS determination letter confirming its exempt status under section 501(c)(3) of the Internal Revenue Code.
3. Gross receipts for non-profits shall include all gifts, grants and other revenues from business activities and investments. Upon request, the non-profit shall submit, as evidence of all gifts, grants and other revenues, a copy of its most recent audited annual financial statement and a copy of its most recent annual report listing sources of charitable contribution, grant funding and other revenues.
4. If a non-profit enterprise loses its federal tax-exempt status, it shall notify CMD immediately. The Director may suspend or revoke its certification.

D. Expertise, Ownership and Control.

1. A non-profit must submit invoices or contracts from three clients demonstrating the type of work and expertise for which certification is sought.
2. A non-profit shall demonstrate that it has continuously employed and will continue to employ an individual qualified to perform the type of work for which it seeks certification. A qualified individual possesses a valid California license for the type of work for which certification is sought, if such license is required by State law. Where no such license is required, the qualified individual must have training, education and work experience in the type of work for which certification is sought.
3. A non-profit must notify CMD within 10 days of any change in the employment status of the qualified individual. Failure to do so may result in the decertification of the non-profit for a period of one year.
4. The qualified individual must fully manage and control all of the non-profit's certified work activities in the industry in which it is certified. The qualified individual may not be employed outside of the non-profit by any other non-profit or for-profit enterprise in the same industry. A qualified individual may be employed in a different industry only if the non-profit also employs dedicated personnel to oversee the daily operations of the certified work activities while the qualified individual is engaged in their outside employment.

E. Criteria for Non-Profit Suppliers.

1. In addition to the local office requirements identified above, suppliers must maintain a warehouse in San Francisco that is stocked with inventory consistent with their

certification. A residential warehouse qualifies only if an owner shows that the warehouse is at their primary residence, as shown on the owner's federal tax returns, voter registration card or other supporting documents, in addition to all other warehouse requirements.

2. A supplier must have a direct relationship with manufacturers for the materials, equipment, and supplies for which they seek certification, demonstrating that: The supplier has an agreement with the manufacturer, or the manufacturer's authorized representative, that permits the supplier to distribute their products; and the supplier is able to provide a manufacturer's warranty.
3. A supplier must take possession and control of items to be supplied and delivered to the City. A supplier may not ship items directly to the job site unless the LBE firm first takes possession of the item at the job site.

F. Criteria for Non-Profit Truckers.

1. In addition to the local office requirements identified above, a non-profit trucking entity must possess the appropriate motor vehicle registration and Motor Carrier Permit, in its own name, for all trucks and/or trailers to be used in the work.
2. Non-profit trucking entities must park their registered vehicles and trailers within the geographical boundaries of the City. Parking on the street is insufficient for NPE certification. Trucking entities must submit a lease agreement for their parking spaces, and proof of payment on the lease. If the parking spaces are owned by the business, it must provide proof of ownership.

G. OBE Classification.

1. All certified non-profits will be classified as Other Business Enterprises ("OBES").

VIII. PUC-LBE CERTIFICATION

- A. PUC-LBEs may only be certified for public works/construction, specialty construction, construction material suppliers, construction equipment rental firms, trucking, and professional services including architectural and engineering for PUC Regional Projects.

LBEs shall have the same status as PUC LBEs for PUC Regional Projects. PUC-LBEs shall not have the status of LBEs for non-PUC Regional Projects, PUC Regional General Services projects, or other City Department Projects.

B. Principal Place of Business/Location.

1. The business owner(s) must declare under penalty of perjury that the business maintains its principle place of business in the PUC Water System Service Area as defined by the ZIP codes attached in Appendix A.

2. The business must submit documentation demonstrating that it has been located and doing business in the PUC Water System Service Area for at least six (6) months preceding its application for certification as a PUC-LBE.
3. If a business seeking to be certified has more than one operating location, it must demonstrate that its PUC Water System Service Area office is its principal place of business. It must maintain its principal place of business in a fixed office within the geographic boundaries of the PUC Water System Service Area where it provides all of the services for which PUC-LBE certification is sought, other than work required to be performed at a job site. All businesses, except for suppliers, must demonstrate that the majority of its principals are based and work and work a majority of the time in the PUC Water System Service Area office.
4. To be certified as a supplier, a business is not required to maintain its principal place of business in the PUC Water System Service Area, but must maintain a fixed office in PUC Water System Service Area that meets all of the office requirements consistent with Section 14B.3(A)(5) other than the principal place of business requirement.
5. All business owners are considered principals for purposes of determining principal place of business.
6. A business must operate from an independent office that has daily functions, fixtures and equipment and sufficient space necessary to operate the business for which certification is sought.
7. An arrangement for the right to use office space on an “as needed” basis where there is no office exclusively reserved for the firm does not qualify as an “office”. The applicant must submit a rental agreement and proof of a recent payment for the office space/home. If the office space is owned by the business, the business must submit documentation showing ownership.
8. The business location, unless located in a residence, must prominently display the name of the firm.
9. A business that is located in an owner’s residence and that seeks to be certified as a PUC-LBE must substantiate that none of the owners of the business also maintain an office that is located outside of the PUC Water System Service Area for the same type of business activity. A residence qualifies as an office only if an owner shows that the home is their primary residence, as shown on the owner’s federal tax returns, Voter Registration Card and other supporting documents.
10. PUC-LBEs must submit copies of their annual business license, if applicable.
11. A PUC-LBE requesting a change to become a San Francisco LBE must be headquartered in San Francisco for at least six months.

C. Size Criteria.

1. PUC-LBEs must submit complete business federal income tax returns for the five most recent years. Business owners must submit their five most recent individual income tax returns. Thereafter, upon recertification or upon request, all PUC-LBEs shall submit to CMD a copy of the business' and the owners' most recent federal income tax returns. Failure to provide the appropriate documentation as required under this paragraph may result in suspension of the certification.
2. Additional documentation relating to financial status, including, but not limited to, audit and financial statements, must be submitted upon request. Failure to provide such documentation may result in suspension of certification.

D. Expertise, Ownership, and Control.

1. All business owners shall possess incidents of ownership, such as interest in profit and loss, equal to at least the required ownership interest percentage. They must exercise control of the business, including but not limited to the legal authority to manage business assets, good will and the daily operation of a business consistent with the required ownership interest percentage. All business owners must actively and continuously exercise such authority. A franchise is not permitted.
2. All business owners shall contribute capital, equipment and/or expertise to the business equal to at least the required ownership percentage.
3. All businesses must submit recent invoices or contracts from three clients outlining the scope of work and expertise for which certification is sought.
4. All PUC-LBEs shall possess a valid California license for the type of work it is certified to perform, if such license is required by state law. Where the applicant is a business owned by a single person, it must submit proof of applicable professional licenses as well as proof that the owner is the license qualifier and has the training, education and work experience in that type of business. For businesses that do not require a license, the owner must have training, education and work experience in that type of business.
5. Where the applicant is a business owned by more than one person, it must submit proof that the business owners, individually and collectively, have the relevant training, education and work experience in that type of business. If a license is required by state law, at least one business owner must have the appropriate license.
6. Business owners must fully manage and control their business. In order to maintain operational independence, an LBE firm should not share equipment and resources with another firm. Additionally, a business owner may not be employed outside of the LBE firm by another firm in the same industry. A business owner may be employed in a different industry only if the certified firm employs dedicated personnel to oversee the daily operations of the certified business while the owner is engaged in their outside

employment.

7. Business owners with former employers in the same industry as the applicant firm or who owned firms in the same industry as the applicant firm will have restrictions on their certification for one year.
8. Business owners with family members that work in the same industry as the applicant firm may have restrictions on their certification.

E. Criteria for PUC-LBE Suppliers.

1. In addition to the local office requirements identified above, a PUC-LBE supplier must maintain a warehouse in the PUC Water System Service Area as defined by the ZIP codes identified in Appendix A. The warehouse must be stocked with inventory consistent with its certification. A residential warehouse qualifies only if an owner shows that the warehouse is at their primary residence, as shown on the owner's federal tax returns and other supporting documents, in addition to all other warehouse requirements. Suppliers must own the items to be rented.
2. A supplier must have a direct relationship with manufacturers for the materials, equipment, and supplies for which they seek certification, demonstrating that: The supplier has an agreement with the manufacturer, which includes a manufacturer's authorized representative, that permits the supplier to distribute their products; and the supplier is able to provide a manufacturer's warranty.
3. A supplier must take possession and control of items to be supplied and delivered to the City. A supplier may not ship items directly to the job site unless the PUC-LBE firm first takes possession of the item at the job site.

F. Criteria for PUC-LBE Truckers.

1. In addition to the local office requirements identified above, a PUC-LBE trucking entity must possess the appropriate motor vehicle registration and Motor Carrier Permit in its own name, for all trucks and/or trailers to be used in the work.
2. PUC-LBE trucking entities must park their registered vehicles and trailers within the geographical boundaries of the PUC Water System Service Area as defined by the ZIP codes identified in Appendix A. Trucking entities must submit a lease agreement for their parking spaces, and proof of payment on the lease. If the parking spaces are owned by the business, it must provide proof of ownership.

G. MBE, WBE, and OBE Certification.

1. Businesses seeking PUC-LBE certification may indicate on their certification application whether they are owned and controlled by a person or persons who

is a member of one or more of the groups specified in Section 14B.3(E). To be certified as MBE or WBE, owners must submit evidence of MBE or WBE status by providing a copy of driver license, passport, birth certificate or other appropriate documentation. Any business owner that does not submit documentation of MBE or WBE status will be certified as an OBE.

IX. AUDITS, CERTIFICATION-RENEWAL PERIODS, AND RECERTIFICATION APPLICATION

- A. A certification may be audited at any time to ensure eligibility. Certification may be denied, suspended and/or revoked after an audit is performed. A firm that fails to continuously meet the requirements for LBE certification may have their certification denied, suspended, or revoked, even after the deficiency has been cured. Loss of a license will result in immediate suspension until the license is reinstated. A firm will be permitted to contest a suspension within three (3) business days of being notified.
- B. Certification renewal is generally granted for a period of three (3) years, or for such shorter times as may be warranted.
- C. A certified business is required to notify CMD in writing within 10 days of any possible relevant change affecting its certification eligibility, such as size, location, ownership or employment of a qualified individual, control, telephone/fax numbers, email addresses, licenses and/or LBE certification category. Failure to do so may result in suspension or revocation before the certification period expires.
- D. An LBE prime contractor must be certified at the time of the Bid submission to qualify for a bid discount/rating bonus. An LBE subcontractor must be certified at the time of Bid to be counted towards meeting the LBE subcontracting participation requirement. LBE benefits do not apply to certifications that have been denied, suspended, revoked or are under appeal of the Director's decision to deny, suspend or revoke.
- E. To be recertified, a business must submit a recertification application in which the business attests to the accuracy and truthfulness of the information provided. The business must also submit all required supporting documents.
- F. CMD may request any other document it considers necessary to determine eligibility for recertification.

X. PROCEDURES FOR DENIAL OF AN APPLICATION FOR

- A. Pursuant to Sections 14B.4(C), for a denial of an application for certification or a nonrenewal upon expiration of the certification term, whenever the Director proposes to deny a certification application of a business, the Director shall notify the applicant or certified business in writing of the basis for the denial. The Director shall provide the applicant or certified business with an opportunity to be heard before a final determination

is made. The Director shall notify the business of the date on which the business will be eligible to reapply for certification. The Director shall require a business to wait at least six months, but not more than two years before reapplying for certification in the same category.

- B. The City Administrator, or a hearing officer appointed by the City Administrator, shall hear appeals challenging the Director's denial. Such appeal must be filed in writing with the City Administrator within three business days following the Director's decision. The City Administrator shall set the procedures for the appeal, or may follow the hearing procedures contained in these Rules in Subsection XIX(E). Unless the City Administrator or Hearing Officer so orders, an appeal shall not stay the Director's determination. The City Administrator's or Hearing Officer's decision shall be final and shall be made a public record.

XI. JOINT VENTURES FOR PROFESSIONAL SERVICES AND ARCHITECT/ENGINEERING CONTRACTS

- A. Pursuant to Section 14B.7(F), for purposes of this Section XI, "LBE" refers to Micro-LBEs and Small-LBEs. SBA-LBEs are not eligible for the bid discount/rating bonus when joint venturing with a non-LBE firm. However, if the SBA-LBE joint ventures with a Micro-LBE or a Small-LBE, the joint venture will be entitled to the joint venture bid discount/rating bonus only to the extent of the Micro-LBE or Small-LBE participation.
- B. The joint venture bid discount/rating bonus is available only for Professional Services and Architect/Engineering contracts. A business that is bidding or competing for Professional Services or Architect/Engineering contracts may associate with a certified LBE to compete for contracts as a joint venture. Joint Venture partners may be in different industries provided that each joint venture partner meets the minimum qualifications in the bid or proposal, and each is acting as a prime contractor or otherwise meets the definition of a Joint Venture. The LBE joint venture partner must perform Prime Level Work and be CMD certified for the scope of work they are proposing to perform in order to be eligible for the bid discount/rating bonus. Joint ventures receive bid discounts/rating bonuses depending upon the LBE percentage of prime level participation as set forth in Section 14B.7(F).
- C. Each joint venture partner must clearly define the portion of the work it will perform during the project. The work performed by the LBE partner(s) must be the type of work the LBE(s) performs in the normal course of its business and is certified by CMD to perform. The CMD Joint Venture Form must specify which tasks will be performed by each individual joint venture partner.
- D. Each member of the joint venture must perform a "commercially useful function" as that term is defined by Section 14B.2 of the Ordinance. An LBE that relies on the resources and personnel of a non-LBE firm will not be deemed to perform a "commercially useful function."
- E. The following actions are prohibited: i) the non-LBE partner performing work the LBE partner is responsible for; ii) leasing of equipment or property by the LBE partner from the non-LBE partner; and iii) the hiring of the non-LBE partner's employees by the LBE partner.
- F. Responsibilities of the LBE partner:

1. The LBE partner must share in the ownership, control, management responsibilities, risks, and profits of the joint venture in proportion to its level of participation in the project.
 2. The LBE partner must perform work that is commensurate with its experience and demonstrate that their proposed scope of work would be commensurate with that of prime level work.
 3. The LBE partner must use its own employees to perform its portion of the project and have adequate staffing necessary to perform its share of control of the project.
- G. The joint venture must submit the CMD Joint Venture Form. A joint venture must also submit a joint venture management plan and a joint venture agreement, including but not limited to the following:
1. A detailed explanation of the financial contribution of each partner.
 2. A list of the personnel used by each partner.
 3. A detailed breakdown of the specific duties and responsibilities of each partner (include an organizational chart).
 4. An explanation of how the profits and losses will be distributed.
 5. Any management or incentive fees available for any one of the partners.
 6. A written statement on how decisions will be made for work distribution between and among the partners and subcontractors.
 7. The location of the joint venture office.
- H. CMD must first approve the joint venture management plan before the joint venture is eligible for a bid discount/rating bonus. Any changes in the joint venture management plan must also receive the prior approval of CMD.
- I. A proposer requesting a joint venture bid discount/rating bonus shall supply CMD with all such additional information as CMD may deem relevant in order to make a determination of the joint venture's eligibility for the bid discount/rating bonus.

XII. PROCEDURES FOR GRANTING OF WAIVERS

- A. **Bid Discount Waivers.** As provided in Section 14B.7(J), the Director may waive the LBE bid discount or rating bonus as applicable under the following circumstances:
1. Sole Source waivers. Whenever the Director finds, with the advice of the Contract Awarding Authority and the Office of Contract Administration, that needed goods or services are available from a sole source, and the sole source is not disqualified from doing business with the City.
- B. **LBE Subcontracting Participation Requirement Waiver.** Section 14B.8(A) gives the Director the power to waive LBE subcontractor participation requirement for a Contract where the Contract Awarding Authority anticipates that there are no subcontracting opportunities, or there are not sufficient LBEs available to perform the subcontracting work available on the Contract.
- C. **Procedures.** Contract Awarding Authorities who wish to request a waiver of the Bid

Discount or LBE subcontracting participation requirement must adhere to the following procedures:

1. The waiver request must be submitted in writing at least ten business days prior to the advertisement or solicitation of Bids.
 2. The waiver request must be submitted on a CMD-approved waiver form or via workflow. The form must be filled out completely and submitted with the justification for the waiver request.
 3. CMD shall respond to new waiver requests within ten business days after receipt of the request. If CMD has not responded to the Contract Awarding Authority within ten business days, the Contract Awarding Authority may advertise or solicit the Bid.
- D. For all Contracts where a waiver was granted, the Contract Awarding Authority shall obtain CMD approval prior to any Contract modification. CMD will approve retroactive waivers for modifications only if there was a legitimate timely waiver at the start of the Contract, and there are still valid reasons for the waiver at the time of the modification. CMD strongly encourages Contract Awarding Authorities to submit modification waivers in a timely manner.
- E. The Director shall intervene in the modification process to correct any discriminatory practices if they find that the Contract Awarding Authority is attempting to circumvent the bid discount/rating bonus or subcontracting requirements of Chapter 14B through the modification.

XIII. SETTING AND MEETING THE LBE SUBCONTRACTING REQUIREMENT

- A. Except where CMD has set a separate Micro-LBE, Small-LBE, and/or SBA-LBE subcontractor participation requirement or where CMD determines there are not sufficient Small and Micro-LBEs available to perform the subcontracting opportunities presented by the scope of the proposed Contract, bidders must list and use only Small and Micro-LBEs to satisfy the LBE subcontracting participation requirements set by CMD.
- B. For CMD to set the LBE subcontracting requirement, Contract Awarding Authority shall provide: a breakdown of the Engineer's Estimate or scope of work into CMD categories; a list of specialized work, specialized equipment, or specially manufactured items; and where applicable, a breakdown of deletable items, mobilization/demobilization, and/or alternate bid items.
- C. The Director shall set LBE subcontracting participation requirements based on the extent of subcontracting opportunities presented by the scope of the proposed contract; the size of the contract; the availability and capacity of LBE subcontractors certified to provide goods and services required under the proposed contract; and the availability and capacity of LBEs in each size category. Pursuant to Section 14.B.8(A), Director may set separate LBE subcontracting requirements where appropriate.
- D. Where an LBE is certified in more than one size category, the LBE credit will be based on the size category of the service the LBE was listed to perform.

- E. For each Contract where CMD sets an overall LBE subcontracting requirement at less than 20%, CMD in conjunction with the Awarding Department shall prepare a written explanation of the details justifying the LBE subcontracting requirement set.
- F. Excusable Error for Non-Responsive Bids.
 - 1. Non-responsive Bids—LBE Subcontracting Participation Requirements. Bids that do not meet the LBE subcontracting participation requirements set under 14B.8(A) will be rejected as non-responsive unless the Director finds that the Bidder diligently undertook all the good faith efforts required by this Chapter (or that the Bidder is exempt from good faith efforts requirements under Section 14B.8(B)) and that the failure to meet the subcontracting participation requirements resulted from an excusable error. Unless an excusable error is found by the Director, a Bid that fails to document compliance with this requirement will be rejected as non-responsive. The Director has the sole authority in determining whether the error is excusable.
 - 2. Non-responsive Bids—Good Faith Efforts Requirements. Bids that do not meet the good faith efforts requirements set under 14B.8 will be rejected as non-responsive unless the Director finds that the Bidder met the LBE subcontracting participation requirement required by this Chapter and that the failure to meet the good faith efforts requirements resulted from an excusable error. Unless an excusable error is found by the Director, a Bid that fails to document compliance with this requirement will be rejected as non-responsive. The Director has the sole authority in determining whether the error is excusable.

XIV. GOOD FAITH EFFORTS REQUIREMENT AT TIME OF BID or PROPOSAL

- A. In addition to meeting the LBE subcontracting participation requirement, all bidders or proposers must undertake adequate good faith efforts to select LBE subcontractors as required by Section 14B.8(D)
- B. Bidders can satisfy the Section 14B.8(D) good faith efforts requirement by meeting either of the following three options:
 - 1. **Exceed LBE subcontractor participation requirement by at least 35%.** As provided in Section 14B.8(B), if LBE subcontracting participation in the submitted bid or proposal exceeds the LBE subcontracting participation requirement set in the Contract by at least 35%, the bidder or proposer is excused from conducting or documenting its good faith efforts. For the purpose of calculating whether the bidder/proposer exceeded the LBE subcontractor participation requirement by 35%, the percentage in excess of the minimum LBE subcontracting participation requirement shall be determined as the sum of all participation by Small- and Micro-LBE prime contractors, Small- and Micro-LBE joint venture partners, and Small- and Micro- LBE subcontractors and subconsultants. Participation by SBA-LBE subcontractors and subconsultants shall be counted if under subsection 14B(8)(A) where the Director permitted use of SBA-LBE firms to satisfy the Contract's subcontracting participation requirement or a separate SBA-LBE subcontracting participation requirement was set.
 - 2. **Obtain 50 or more points on CMD Form 2B.** A bidder/proposer must obtain at

least sixty (50) points to achieve adequate good faith outreach. A Bidder who fails to achieve adequate good faith outreach will be declared non-responsive, and the Bid will be rejected. Points will be allocated as follows:

- a) CONTACTING LBE FIRMS TO SOLICIT THEIR INTEREST. A Bidder who contacts LBE firms certified in the trades or work categories relevant to the bid/proposal, not less than 10 calendar days prior to due date of the bid/proposal, will receive up to 10 points: 1 point for each LBE firm contacted with information about the plans, specifications, and requirements for the services required by the City. If the City gives public notice of the project less than 15 calendar days prior to the bid/proposal due date, the allocation of points above still applies, except that the bidder/proposer may contact those LBE firms *less* than 10 calendar days prior to the due date of the bids/proposals.
 - b) FOLLOWING UP WITH INTERESTED LBE FIRMS. A bidder/proposer who performs follow-up contact with interested LBEs and negotiates in good faith with interested LBEs will receive 10 points for each interested LBE. An “interested LBE” means an LBE firm that expresses an interest in being a subcontractor or subconsultant to the bidder/proposer. The bidder/proposer must include the following documentation: (i) Name of interested LBE; (ii) copies of all e-mail correspondence following the initial contact; (iii) statement of the reason(s) why interested LBE was not selected or statement or reason(s) why interested LBE was selected.
 - c) SELECTION OF INTERESTED LBE FIRMS. A bidder/proposer who lists interested LBEs on the bid/proposal will receive 30 points for each interested LBE listed. The bidder/proposer must include the following documentation: (i) Copies of all e-mail correspondence between the bidder/proposer and the interested LBE, including but not limited to the interested LBE’s proposed quotes/rates; (ii) statement of the reasons for the selection of the interested LBE ; and (iii) an e-mail showing that the listed LBE has been notified that the LBE has been listed for the contract, and the scope of work and dollar value/percentage of the LBE’s participation.
3. **Include Micro-LBE Firms.** A Bidder may achieve adequate good faith outreach by listing at least one Micro-LBE firm in their Bid that the Bidder had not listed in their Bids for the Bidder’s prior five (5) awarded contracts with the City. For purposes of determining adequate good faith outreach only, “awarded contract” means any bid or proposal for which the City has issued a notification of award. If the Bidder has fewer than five (5) awarded contracts with the City, the Bidder may achieve adequate good faith outreach by listing at least one Micro-LBE firm that the Bidder had not listed in any of their prior awarded contracts with the City.
- C. **Good Faith Outreach on Design-Build or CM/GC Projects.** For Design-Build and CM/GC projects, pursuant to Section 14B.19, the awarded prime contractor shall perform the Good Faith Outreach steps below for the procurement of their trade packages. The awarded prime who fails to perform the good faith outreach steps below for any trade package will be declared to have not met the good faith outreach requirements. In this scenario, the prime will be required to stop the current selection

process and redo the entire good faith outreach process.

1. **ADVERTISE FOR TRADE SUBCONTRACTORS.** The awarded prime contractor must advertise for Trade Subcontractors. The advertisement must include, at a minimum, the prequalification minimum qualifications, brief description of the scope of work, the LBE participation requirements (if applicable), and bid due date.
2. **CONTACTING LBE FIRMS TO SOLICIT THEIR INTEREST.** The awarded prime contractor must contact those LBE firms certified in the trades or work categories identified in the scope of work.
3. **HOLD A PRE-BID/PRE-PROPOSAL MEETING.** The awarded prime contractor shall hold a pre-bid/pre-proposal meeting.

XV. DETERMINING LBE SUBCONTRACTING PARTICIPATION CREDIT

CMD will determine the amount of LBE participation that will count towards meeting the contract's LBE subcontracting participation requirement in the following manner:

A. General Rules; Commercially Useful Function.

1. All prime bidders, including LBE prime bidders, must meet the LBE subcontracting participation requirement. An LBE prime bidder cannot count its own work towards meeting the LBE subcontracting participation requirement.
2. If a bidder owns or controls or has any common ownership or control of more than one business, the bidder will not receive LBE subcontracting credit if it lists such other firm(s) to meet the LBE subcontracting participation requirement when bidding as a prime. For purposes of determining ownership of a business, a business owned by the bidder's spouse/domestic partner shall be deemed to be owned by the bidder.
3. For a bidder to receive credit toward the LBE subcontracting participation requirement, a listed LBE subcontractor must be used in the trade(s) for which it is certified by CMD by time of Bid and perform a Commercially Useful Function.
 - a) An LBE subcontractor performs a Commercially Useful Function if it is directly responsible for providing the materials, equipment, supplies or services to the project as required by the bid and contract documents. To perform a Commercially Useful Function, an LBE subcontractor must be solely responsible for execution of a distinct element of the contract work, and must actually perform, manage and supervise the work involved in accordance with normal industry practice.
 - b) To determine whether an LBE subcontractor is performing a Commercially Useful Function, the CMD will evaluate the amount of work subcontracted, industry practices, whether the amount the firm is to be paid under the contract is commensurate with the work it is actually performing and the LBE credit claimed for its performance of the work, and other relevant factors. What constitutes a Commercially Useful Function will vary depending on the type of LBE subcontractor (e.g., construction subcontractor, manufacturer, supplier, broker, or trucker).

- c) An LBE subcontractor does not perform a Commercially Useful Function if its role is limited to that of an extra participant in a transaction, contract, or project through which funds are passed in order to obtain the appearance of LBE participation. In determining whether an LBE is such an extra participant, the CMD will examine similar transactions and determine whether or not non-LBEs would normally participate in such transactions. For these special circumstances or situations, the bidder must seek CMD's prior review and approval.
- B. Prime bidder must meet each LBE subcontracting participation requirement as specified in the LBE Subcontracting Participation Requirement plan for the contract.
 - C. Only the dollar amount of work to be performed by the LBE subcontractor will be credited toward meeting the LBE subcontractor participation requirement.
 - *Example:* Bidder lists an LBE subcontractor for \$1,000,000, but the LBE subcontractor will perform \$510,000 of that amount. The remaining \$490,000 will be further subcontracted out to a lower-tier non-LBE subcontractor. Only \$510,000 will be credited toward the LBE subcontracting participation requirement.
 - D. All work performed by lower-tier LBE subcontractors will be credited toward meeting the LBE subcontracting participation requirement provided that the lower-tier subcontractor was listed on Proposed Subcontractors Form, Section 00 43 36, (and Section 00 43 37, if applicable) at the time of bid.
 - *Example:* A non-LBE subcontractor is listed for \$1,000,000 and will perform \$800,000 of that amount. The remaining \$200,000 will be further subcontracted out to a lower-tier LBE subcontractor. Only \$200,000 will be credited toward the LBE subcontracting participation requirement, provided that the lower-tier LBE subcontractor was listed on Proposed Subcontractors Form, Section 00 43 36, at the time of bid.
- E. Deletable Bid Items, Allowances, Contingency & Alternate Bid Items.**
- 1. CMD will calculate compliance with the LBE subcontracting participation requirement based on the total amount of the bidder's base bid only. A bidder shall not use deletable bid items, allowances, contingency or alternate bid items to fulfill the LBE subcontractor participation requirement at time of Bid. In addition, a bidder must demonstrate good faith efforts to meet the LBE subcontracting participation requirement through LBE participation on the base bid.
 - 2. LBE subcontractors listed on Proposed Subcontractors Form, Section 00 43 36, should again be listed in Section 00 43 37 or equivalent City form for each alternate they will perform.
- F. LBE Construction Subcontractors.**
- 1. Bidders may receive 100% credit for CMD-certified LBE construction subcontractors that perform a Commercially Useful Function by performing labor, supplying materials and supplies for a discrete portion of the contract work performed in accordance with

normal industry practice. To receive credit towards the LBE subcontracting participation requirement with respect to materials and supplies used for the applicable portion of the contract work, the material and supplies must be of the type normally provided by the construction subcontractor in accordance with industry practice. In addition, with respect to materials and supplies, the LBE construction subcontractor must be responsible for negotiating price, determining quality and quantity, ordering the material and supplies, selecting a supplier or dealer from those available, installing the materials, and paying for the materials and supplies. To receive LBE subcontracting credit, the bidder must list the LBE construction subcontractor on Proposed Subcontractors Form - Section 00 43 36 (and Section 00 43 37, if applicable).

2. Bidders may receive 100% credit for LBE construction contractors that perform a Commercially Useful Function by performing labor only for a discrete portion of the contract work in accordance with normal industry practice. To receive LBE subcontracting credit, the bidder must list the LBE construction subcontractor on Proposed Subcontractors Form - Section 00 43 36 (and Section 00 43 37, if applicable). Supplying workers to a Bidder/prime or subcontractor does not constitute a Commercially Useful Function.

G. LBE Manufacturers.

1. If a bidder obtains materials, supplies, articles or equipment directly from an LBE manufacturer certified by the CMD as a manufacturer of such items, 100% of the cost of the items will count toward the LBE subcontracting participation requirement, regardless of who installs such items. An LBE manufacturer is a firm that performs a Commercially Useful Function by operating or maintaining a factory or establishment that produces on the premises, the materials, supplies, articles or equipment required under the contract and of the general character described by the specifications. To receive LBE subcontracting participation credit, the bidder must list the LBE manufacturer on Proposed Subcontractors Form - Section 00 43 36 (and Section 00 43 37, if applicable).

H. LBE Suppliers.

1. If a bidder obtains materials, supplies, articles or equipment from an LBE supplier certified by CMD to supply such items, 60% of the cost of the items will count toward the LBE subcontracting participation requirement if the LBE supplier performs a Commercially Useful Function by taking possession of the items and assuming the risk of their delivery. An LBE supplier is a firm with the financial and physical capability to purchase, to stock, and to distribute or sell the materials, supplies, articles or equipment of the general character described by the specifications and required under the contract consistent with relevant industry practice in the usual course of business. No LBE subcontracting credit beyond 60% of the cost of materials, supplies, articles or equipment will be credited for any claimed services provided by the LBE supplier. To receive LBE subcontracting participation credit, the bidder must list the LBE supplier on Proposed Subcontractors Form - Section 00 43 36 (and Section 00 43 37, if applicable).
2. If a bidder obtains materials, supplies, articles or equipment from an LBE supplier certified by CMD to supply such items, and the supplier performs a Commercially

Useful Function by purchasing and selling the items, but does not take possession of the items and assume the risk of their delivery, then the LBE supplier is serving as a broker or agent, and only 5% of the cost of the materials or supplies will count toward the LBE subcontracting participation requirement. No LBE subcontracting credit beyond 5% of the cost of materials or supplies will be credited for any claimed services (including, but not limited to, costs of insurance, warehousing or general maintenance) provided by the LBE supplier/broker. To receive LBE subcontracting credit, the bidder must list the LBE supplier/broker on Proposed Subcontractors Form - Section 00 43 36 (and Section 00 43 37, if applicable).

3. For CMD-certified LBE equipment rental firms, 60% of the equipment rental fee (current market rate) of equipment owned by the LBE equipment rental firm will be credited towards the LBE subcontracting participation requirement. To receive LBE subcontracting credit, the bidder must list the LBE equipment rental firm on Proposed Subcontractors Form - Section 00 43 36 (and Section 00 43 37, if applicable).

I. Specially Manufactured Items.

1. The Instructions to Bidders or the Technical Specifications may list material, articles, equipment or other manufactured items that the City has designated as Specially Manufactured Items for the purposes of the LBE subcontracting participation requirement. A Specially Manufactured Item is an item that is either typically purchased by the prime contractor directly from the manufacturer or not supplied by suppliers or construction subcontractors in the usual course of business.
2. If the bid or contract documents expressly identify one or more Specially Manufactured Items, CMD will calculate LBE subcontracting credit for such items according to the following rules:
 - a) If a Specially Manufactured Item is manufactured by and purchased from an CMD-certified LBE manufacturer, 100% of the purchase order amount will be credited towards meeting the LBE subcontracting participation requirement, regardless of who installs the item. To receive LBE subcontracting credit, the bidder must list the LBE manufacturer on Proposed Subcontractors Form - Section 00 43 36 (and Section 00 43 37, if applicable).
 - b) If a Specially Manufactured Item is purchased from an CMD-certified LBE supplier, only 5% of the purchase price of the item will be credited towards meeting the LBE subcontracting participation requirement. No LBE participation credit beyond 5% of the purchase price will be credited for any claimed services (including, but not limited to: costs of insurance, warehousing, and general maintenance) provided by the LBE supplier. To receive LBE subcontracting credit, the bidder must list the LBE supplier on Proposed Subcontractors Form - Section 00 43 36 (and Section 00 43 37, if applicable).
 - c) If a Specially Manufactured Item is supplied and installed by an CMD-certified LBE construction subcontractor, 5% of the purchase price of the item and 100% of the installation labor cost will be credited towards meeting the LBE subcontracting participation requirement, provided that installation by the construction subcontractor reflects normal industry practice. To receive LBE subcontracting credit, the bidder must list the LBE construction subcontractor on Proposed

Subcontractors Form - Section 00 43 36 (and Section 00 43 37, if applicable).

- d) A bidder may receive full (100%) LBE subcontracting credit for any labor associated with the installation of a Specially Manufactured Item (regardless of the source of supply), provided the installation is performed by an CMD-certified construction subcontractor in accordance with normal industry practice. To receive LBE subcontracting credit, the bidder must list the LBE construction subcontractor on Proposed Subcontractors Form - Section 00 43 36 (and Section 00 43 37, if applicable).

J. LBE Trucking Firms.

1. To receive LBE participation credit for trucking and hauling, the subcontractor trucking firm must own the cab or trailer and be San Francisco LBE certified in the category of "Trucking and Hauling" at the time of Bid. Prior to the Bid due date, the LBE must have provided ownership information and all necessary permits and registration for the trucking and hauling items that will be utilized for the project to the CMD Certification Unit, which will verify and add this information to the certification file. During the course of the contract the Director may authorize LBE participation credit for vehicles or equipment purchased or leased after the time of Bid on a case by case basis.
2. CMD will count 60% credit toward the LBE subcontracting participation requirement when an LBE-owned trailer is pulled by a non-LBE owned tractor. If the trailer is owned and pulled by an LBE trucker (or its employee), that firm will be credited the full 100% toward the LBE subcontracting participation requirement. To receive LBE subcontracting credit, the bidder must list the LBE trucking firm on Proposed Subcontractors Form - Section 00 43 36 (and Section 00 43 37, if applicable).

K. Construction Equipment.

1. Construction Equipment firms are firms that sell and/or rent construction equipment. For example, items such as storage tanks, grit separators, debris boxes, etc., are considered Construction Equipment and not under the "Trucking and Hauling" Category. If these items are utilized in conjunction with trucking and hauling operations, they are still classified in the Construction Equipment Category. In order to receive LBE participation credit for these types of items, a firm, at the time of Bid, must be certified under the category of "Construction Equipment" with the CMD's Certification Unit.
2. Prior to the Bid due date, the LBE must have provided ownership information of the Construction Equipment items that will be utilized for the project to CMD's Certification Unit, which will verify and add this information to the certification file. The LBE will need to provide documents appropriate to the firm's stock, inventory, and business model. During the course of the Contract, the Director may authorize LBE participation credit for vehicles or equipment purchased or leased after the time of bid on a case by case basis.

3. LBE firms in the “Construction Equipment” category are equipment sales and rental firms. For CMD certified LBE equipment rental firms, only 60% of the equipment rental fee (current market rate) will be credited towards the LBE sub participation requirement(s).

L. Determining LBE subcontracting participation credit for the Subcontractor Neighborhood/ZIP Code Bid LBE Bid Discount.

1. For the purpose of determining whether or not a bid for a Neighbor LBE Program contract is eligible for the Subcontractor Neighborhood/ZIP Code LBE Bid Discount, the same rules for determining LBE subcontracting participation credit apply.

XVI. PROCEDURES FOR CONTRACT MODIFICATIONS

- A. Pursuant to Section 14B.13(A)(11), it is the responsibility of the Contract Awarding Authority to provide the Director with written notice of all contract amendments, modifications, supplements and change orders that cumulatively result in an increase or decrease of the contract's dollar amount of more than ten percent (10%). Such notice shall be provided within ten (10) days of each such contract modification.
- B. Pursuant to Section 14B.13(A)(13), the Contract Awarding Authority must obtain CMD prior approval for all contract amendments, modifications, supplements and/or change orders to a Contract originally valued at or above 50% of the Minimum Competitive Amount, that cumulatively increase the Contract’s total value by more than twenty percent (20%) of its original or last CMD approved value. The Director shall not approve any proposed amendments, modifications, supplements and/or change orders that unreasonably exclude LBEs from new contracting opportunities. The Department must submit to the Director a CMD Contract Modification Approval Form and include:
 1. Copies of all prior contract amendments, modifications, supplements, and/or change orders for the relevant contract; and
 2. A spreadsheet with a breakdown of the list of contractors and subcontractors working on the change order with the contract dollars for each individual firm(s).
- C. Upon receipt of all the required documentation, the Director shall provide the requesting Department a determination regarding the proposed amendments, modifications, supplements, or change orders within ten (10) business days of CMD’s receipt of such documentation. The Director shall impose or increase the subcontracting participation from the proposed amendment, modification, supplement or change order as appropriate. If the Director fails to respond to the request within the specified time frame, the modification shall be deemed approved.
- D. The Contract Awarding Authority and prime contractor must both obtain CMD approval prior to removing an LBE subcontractor(s) or adding additional subcontractor(s). No subconsultant, subcontractor, supplier, trucker or other business listed at time of Bid shall be substituted, removed from the contract, or have its contract, purchase order or other form of agreement modified in any way without CMD's prior approval. Prime must conduct good faith efforts to replace an LBE subcontractor or subconsultant with another

LBE subcontractor or subconsultant to comply with the LBE participation requirements and submit a completed Firm Addition/Substitution Request Form to CMD.

XVII. PROGRESS PAYMENTS

- A. Each prime contractor’s payment request submitted to the Contract Awarding Authority shall be accompanied by the CMD Progress Payment Form. Within ten (10) days following receipt of a progress payment, the prime contractor shall submit to the Contract Awarding Authority a statement, in a form specified by the Director, attesting that the prime contractor has paid all subcontractors all undisputed amounts from previous City payments. The Prime contractor will also ensure that all LBE subcontractors have validated and confirmed their progress payments on the City-approved LBE Utilization Tracking System as part of their invoicing packages.
- B. Each prime contractor is required to submit progress payment requests no less than 30 days upon receipt of an accepted LBE subcontractors’ invoice. Failure to submit LBE subcontractors’ invoices in a timely manner may result in penalties up to 25% of the subcontractors’ total contract amount as provided in Section 14B.7(H)(2).

XVIII. NON-COMPLIANCE BY BIDDERS AND CONTRACTORS

A. Investigations initiated by the Director.

Whenever the Director has cause to believe that a bidder, contractor, certified business or applicant for certification has violated any of the requirements of Chapter 14B, these Rules and Regulations, or contract provisions pertaining to LBE participation, the Director shall have authority to (a) resolve the matter through conference and conciliation and/or (b) investigate, issue findings of noncompliance, and impose sanctions.

B. Complaints of Noncompliance from City Officials or Aggrieved Parties.

Any Contract Awarding Authority, agency, board or commission of the City and County of San Francisco, or any persons ("Complainant") claiming to be aggrieved by a bidder, contractor, certified business, or applicant for certification, or a City Department's noncompliance with the Ordinance may request the Director to initiate an investigation (under Rule XVIII.A) by submitting a written complaint setting forth the alleged violations.

1. Form of Complaint

Complaints must be signed by the Complainant or its authorized representative and must contain at least the following information: (a) Complainant’s identity and address (including phone number), (b) identity of alleged non-complying party with address and phone number, if known, and (c) a detailed description of the act or acts considered to be a violation.

2. Incomplete Information

Where a complaint contains incomplete information, the Director shall notify Complainant of the information needed. If required information is not furnished or its absence is not explained to the satisfaction of the Director within ten (10) business days of such request, the Director may close the matter without further investigation.

3. Place of Filing

The complaint may be presented in person or delivered by mail addressed to the Director at the Commission office.

4. Timeliness of Complaint

Complaints alleging noncompliance must be filed as soon as practicable to enable the Director to investigate and impose appropriate sanctions. The Director may dismiss without investigation any complaint that, in the Director's sole discretion, is untimely, and shall, in any event, dismiss any complaint based on alleged violations occurring more than ninety (90) days prior to the date of the complaint, unless the Director finds good cause to excuse the delay. The Director shall notify Complainant in writing where the Director has determined to dismiss a complaint as untimely. Complainant may appeal the Director's decision to the City Administrator under Rule XIX.

5. Withdrawal of Complaint

A Complainant may withdraw a complaint by submitting to the Director a written declaration, sworn under penalty of perjury, that the complaint is withdrawn. However, withdrawing a complaint does not limit or prevent the Director, where warranted, from investigating the matter under Rule XVIII.A.

6. Resolution of Complaint

The Director shall evaluate, resolve through conference and conciliation, and/or investigate each complaint and issue a written determination within ninety (90) days of the date the complaint was filed, or investigation initiated by the Director, or such additional time as the Director for good cause shall determine is required. The following shall be considered:

- a) If the Director determines that the allegations, if true, would not constitute a violation of any of the requirements of the Ordinance, these Rules and Regulations, or contract provisions pertaining to LBE participation, the Director shall promptly so notify any Complainant in writing and summarily close the investigation.
- b) If the Director resolves the matter through conference and conciliation, the Director shall promptly notify any Complainant, with copies to the Department and/or the affected bidder, contractor, certified business or applicant for certification.
- c) If the investigation shows no violation of any of the requirements of the Ordinance, these Rules and Regulations, or contract provisions pertaining to LBE participation, the Director shall promptly notify any Complainant, with copies to the Department and/or the affected bidder, contractor, certified business or applicant for certification.
- d) If the investigation establishes that a bidder, contractor, certified business or applicant for certification violated any of the requirements of the Ordinance, these Rules and Regulations, or contract provisions pertaining to LBE participation, and the Director determines that the matter cannot be resolved through conference and conciliation, or attempts to resolve the matter through conference and conciliation fail, the Director shall promptly so notify any Complainant, affected bidder, contractor, certified business or applicant for certification, with copies to

the Department and shall initiate Administrative Sanctions Procedures as provided in Rule XIX.

- e) The Director's decision to close a complaint without imposing sanctions under Section 6(a) or (c) above may be appealed to the City Administrator or Hearing officer appointed by the City Administrator under Rule XIX. The Director's decision to close a complaint resolved through conference and conciliation under Section (b) or (d) is final and not subject to appeal to the Commission. A Director's determination that a bidder, contractor, certified business or applicant for certification violated any of the requirements of the Ordinance, these Rules and Regulations, or contract provisions pertaining to LBE participation is subject to the Administrative Sanctions Procedures in Rule XIX.

XIX. ADMINISTRATIVE SANCTION PROCEDURES

- A. Within twenty (20) days of the completion of an investigation where the Director determines that a bidder, contractor, certified business or applicant for certification violated any of the requirements of Chapter 14B, these Rules and Regulations, or contract provisions pertaining to LBE participation, and the Director determines that the matter cannot be resolved through conference and conciliation, or, if the Director attempts to resolve the violation(s) through conference and conciliation but such attempts fail, within twenty days of such failure, the Director shall issue written Counts and Allegations setting forth the basis for the Director's determination and imposing appropriate sanctions as provided in Chapter 14B.

B. Service of the Counts and Allegations.

The Director shall serve the Counts and Allegations on each named individual person or business entity determined to have violated Chapter 14B in a manner ensuring confirmation of delivery. For example, service may be achieved by United States Postal Service certified mail, return receipt requested or with other delivery confirmation, hand delivery (messenger service) or other commercial delivery service that provides written confirmation of delivery. The Director may, but is not required to, serve copies of the Counts and Allegations on any Complainant, Contract Awarding Authority, or other interested city official. The Director shall append to the Counts and Allegations a photocopy of this Rule XIX. Failure to append this Rule XIX, however, shall not affect the force or validity of the Counts and Allegations.

C. Request for a Hearing.

Within fifteen (15) days after receipt of the Counts and Allegations, any individual person or business entity named in the Counts and Allegations may submit a written request for an administrative hearing. Such a request may be made through counsel or other authorized representative. Any such request shall be filed with the Director.

D. Failure to Respond to the Counts and Allegations.

Failure of any individual person or business entity named in the Counts and Allegations to submit to the City a written request to be heard within the time required by this Chapter, or failure of any individual person or business entity named in the Counts and Allegations or that person or entity's representative to appear for a requested hearing that has been duly noticed, shall be deemed admission by that person or entity to the Counts and Allegations. In accordance with the procedures set forth below, the Director shall present evidence in support of the sanctions imposed to the City Administrator or appointed hearing officer, and the City Administrator or hearing officer shall make a determination on such evidence.

E. Hearing by Commission or Hearing Officer.

The Director shall promptly notify the City Administrator of a written request for a hearing under Rule XIX.C. The City Administrator shall (a) hold a hearing on the matter, or (b) appoint a hearing officer.

F. Appointment of Hearing Officer.

1. Unless the City Administrator hears the matter without a hearing officer, the City Administrator shall appoint a hearing officer no later than fifteen (15) days after the written request for the hearing.
2. The notice of appointment shall include the name of the hearing officer. Each individual person or business entity named in the Counts and Allegations or the Director may object to the appointed hearing officer within five business days of the notification. If the City Administrator appoints a new hearing officer, then the City Administrator shall notify each individual person or business entity named in the Counts and Allegations and the Director as soon as practicable but not more than fifteen (15) days after receipt of the objection.

G. Pre-Hearing Procedure.

1. Within fifteen (15) days of his/her appointment, the hearing officer shall notify each individual person or business entity named in the Counts and Allegations and the Director of the scheduled hearing date. The hearing date shall be set at the hearing officer's sole discretion, except the hearing must commence within 120 days of the date the Director served the Counts and Allegations. The hearing officer may extend the 120-day period only upon good cause shown; recognizing that proceeding as expeditiously as possible is in the public's best interests.
2. Discovery pursuant to the California Code of Civil Procedure is not applicable to this administrative proceeding.
3. The hearing officer may, in his/her sole discretion, direct the persons or business entities named in the Counts and Allegations and the Director to submit in advance of the hearing, statements, legal analyses, lists of witnesses, exhibits, documents or any other information the hearing officer deems pertinent to the determination of noncompliance or sanctions. The hearing officer may request the respective parties to submit rebuttals to

such information. The hearing officer may limit the length, scope or content of any such statement, analysis, list, rebuttal, document, or other requested information. The hearing officer shall set firm due dates for all written presentations.

4. If the hearing officer determines, with the written agreement of each individual person or business entity named in the Counts and Allegations and the Director, that the hearing shall be by written presentation, all final writings shall be due no later than 120 days of the date the Director served the Counts and Allegations, unless the hearing officer extends the 120-day period only upon good cause shown.

H. Hearings and Determinations.

1. Hearings may occur in person or in writing, as set forth in the foregoing Section XIX.G.4. If the hearing is to occur in person, the hearing officer shall specify the time and place for the Director to present the case and for the persons or business entities named in the Counts and Allegations to rebut the charges. The hearing officer may, in his/her sole discretion, allow offers of proof, set time limitations and limit the scope of evidence presented based on relevancy. Each side shall be entitled to call witnesses, and the hearing officer may allow cross-examination of witnesses. The hearing officer may ask questions of any party for the purpose of reaching a determination.
2. The hearing officer shall consider the evidence submitted by the Director and the persons or business entities named in the Counts and Allegations. Within 15 days of the hearing, or of the date final written presentations are due, the hearing officer shall issue his/her Findings and Recommendations. The hearing officer shall serve the Findings and Recommendations on the Director, the persons or business entities named in the Counts and Allegations and/or their respective counsel or authorized representatives, and, if appointed by the Controller, to the Controller.

XX. CITYWIDE BONDING AND FINANCIAL ASSISTANCE PROGRAM

- A. Pursuant to Section 14B.16(A)(6)(b), each department authorized to contract for public works or improvements pursuant to San Francisco Administrative Code Chapter 6 may commit to the Citywide Bonding and Financial Assistance program ("Program") up to ten percent (10%), but not less than one percent (1%), of the budget for every public work or improvement undertaken.
- B. Funding for the Program will be contributed from individual departments on a project-by-project basis. Prior to the advertisement of an individual public works contract, the CMD Director, in consultation with each individual Department and the Program Administrator, shall establish the percentage to be applied to the Department's public works contract using the following criteria:
 - a) project budget;
 - b) source and flexibility of funding;
 - c) size of the project;

- d) scope of work; and
- e) the LBE subcontracting participation requirement.

Participating Departments will include the contribution to the Citywide Bonding and Financial Assistance Program as part of the contingency budget for its individual projects.

XXI. MENTOR-PROTÉGÉ PROGRAM

A. Pursuant to Section 14B.16(D), the Director shall implement a Mentor-Protégé Program (MPP).

MPP provides a platform for mentors, successful, established businesses, to partner with protégés, CMD certified Micro-LBE firms, to improve the protégés' ability to compete effectively for City contracts. Mentors are to provide developmental assistance in any of the following areas: (1) business organization and management; (2) leadership development; (3) financial and strategic planning; (4) insurance, loans, and bonding; (5) business engagement.

B. Selection of Participants for the Mentor-Protégé Program.

All prospective mentors and protégés must complete all steps of the selection process. The selection process may include an assessment and an application. CMD will match a protégé with a mentor based on factors determined by CMD, which include the applicants' experience and qualifications.

C. Benefit to Mentors in the Mentor-Protégé Program.

The Director may exempt a MPP mentor from the good faith efforts requirements in Section 14B.8 if in the three months following the cohort kick-off event, the mentor has attended all events and cohort meetings, and has met with their protégé for a minimum of six hours. Once qualified, the exemption from the pre-award good faith outreach requirement is available for two years from the date of determination. The good faith outreach exemption benefit may be rescinded if the mentor-protégé pairing dissolves or if the steering committee finds that the mentor has failed to meaningfully participate in the program.

D. Benefit to Mentors Under the Pilot Mentor-Protégé Expansion.

Mentors participating in the MPP Expansion are eligible for an additional benefit under the pilot expansion program if in the three months following a cohort kick-off event, the mentor has attended all events and cohort meetings and has met with their protégé for a minimum of six hours. Once qualified, the mentor is eligible to receive a 1% bid discount, not to exceed \$300,000, on bids on Administrative Code Chapter 6 public works construction projects. The 1% bid discount will not apply if the application of the discount would result in an LBE losing status as the apparent low bidder and the 1% bid discount cannot be combined with any other Chapter 14B discount for which the mentor may be eligible. Once the mentor is deemed qualified, the 1% bid discount benefit to that mentor is available for two years from the date of determination and may be rescinded if the mentor-protégé pairing dissolves or if the steering committee finds that the mentor has failed to meaningfully participate in the program.

XXII. ALTERNATIVE DELIVERY METHODS FOR CONSTRUCTION

A. Recommended Selection Criteria.

For Contracts let using Best Value, Construction Manager/General Contractor (CM/GC) and Design Build alternative delivery systems, CMD recommends Contract Awarding Authority to include selection criteria related to the bidder/proposer's (i) plan and past experience in meeting subcontracting requirement using LBEs; (ii) plan to create a team that reflects the diversity of the City and the surrounding neighborhood; (iii) past compliance with LBE subcontracting participation requirements.

B. Micro-LBE Trucking Utilization Pilot Program.

Pursuant to Section 14B.16(H), the Director shall implement a five-year long pilot Micro-LBE trucking utilization program to projects let under 6.61(c)(5) and 6.68(c). The initial "roll-out" phase will occur in fiscal year 2022-2023.

1. During fiscal year 2022-2023, CMD will select a project for its initial pilot based on project timing and quantity of off-site hauling. Off-site hauling for this purpose shall mean the transport of construction and demolition material, including but not limited to asphalt grindings, concrete, and mixed loads that contain soil, wood, or other construction materials for their reuse, recycling, or proper disposal.
2. The Contract Awarding Authority shall provide the estimated cost of the off-site hauling work. CMD will develop a Micro-LBE trucking utilization requirement in collaboration with the Contract Awarding Authority based on the estimated quantity of the off-site hauling work and other factors.

XXIII. DEVELOPMENT AGREEMENTS UNDER SECTION 14B.20

A. For development agreements pursuant to Section 14B.20, the developer, Director, and City department shall negotiate a LBE utilization plan that includes good faith outreach requirements, an LBE participation goal(s), and reporting requirements. The LBE utilization plan may also include the following:

1. LBE Liaison. The developer shall identify a "LBE Liaison" as the developer's main point of contact with CMD for outreach or compliance concerns and to be available to meet with CMD staff as necessary.
2. LBE Utilization Goal. The developer will work in good faith with CMD to establish an LBE utilization goal for the project. In order to support the developer in meeting the project's LBE utilization goal, the Director may set individual LBE goals by project phase (e.g. design, construction, etc.) or by individual projects or contracts.

- a) The developer shall satisfy the LBE utilization goal by using Small and Micro-LBEs. If the Director determines there are not sufficient Small and Micro-LBEs available, the Director may permit the developer to satisfy the LBE utilization goal by also using SBA-LBEs.
 - b) Where appropriate, the developer will divide the work as practicable in order to maximize LBE participation, such as identifying specific portions of work that may be performed by subcontractors.
 - c) When warranted, the Director may set up to three individual goals, (i.e., a Micro-LBE, Small-LBE, and SBA-LBE goals) to maximize LBE participation.
3. Advertising. The developer will notify CMD in writing of all upcoming contracting opportunities at least 10 business days before the contract's advertisement date to allow CMD to review and comment on upcoming solicitation. The developer will hold pre-proposal/pre-bid meetings no less than 15 calendar days prior to the bid, proposal, or solicitation submittal due dates.
- E. Outreach and Other Assistance. The developer will:
1. Provide LBEs with plans, specifications, and requirements for all or part of the work solicited;
 2. Notify LBE trade associations that disseminate bid and/or contract information;
 3. Provide plans or project specifications to the SFPUC Contractors Assistance Center, and any other location(s) easily accessible by the public;
 4. Work with CMD to conduct outreach to LBEs for all consulting or contracting opportunities in the applicable trades and services in order to encourage LBE participation on the project; and
 5. Document any efforts taken to encourage participation by LBEs.
- F. Insurance and Bonding. The developer shall make the LBE Liaison available to explain the developer's insurance and bonding requirements as applicable, answer questions, and work with CMD to suggest governmental or third-party avenues of assistance if available.

- G. Data Collection and Reporting. The developer will keep track of the date that each response, proposal, or bid was received from LBEs, including the amount bid by and the amount to be paid (if different) to the non-LBE contractor that was selected. The developer will further create a reporting method to track LBE participation. The data tracked shall include the following:
1. Name/Type of contract or work solicited (e.g. civil engineering, environmental consulting, etc.)
 2. Name of prime contractor and whether a certified LBE
 3. Name of subcontractors and whether any are certified LBE
 4. Scope of work to be performed by the LBEs
 5. Dollar amounts paid to both LBE and non-LBE contractors at both the prime and subcontractor levels
 6. Total LBE participation as a percentage of Total contract dollars
- H. The developer shall include in all of its contracts, a provision that requires all subsequent contractors or subcontractors to follow good faith efforts to subcontract to LBEs.
- I. Monitor and Enforcement. The developer shall provide a detailed quarterly report on LBE participation based on the total value of contracts awarded and paid to LBEs as a percentage of the total value of project dollars awarded and paid to date. When deficiencies are noted, developer shall meet and confer with CMD to come up with a plan to increase LBE participation.

APPENDIX A

The PUC Water System Service Area is defined by defined by the following cities/ZIP codes and may be amended by the PUC from time to time.

Tuolumne County

<u>City</u>	<u>ZIP Code</u>
Big Oak Flat	95305
Chinese Camp	95309
Cold Springs	95335
Columbia	95310
Dardanelle	95314
Groveland	95321
Jamestown	95327
Long Barn	95335
Mi Wuk	95346
Moccasin	95347
Pinecrest	95325 / 95364
Sonora	95370 / 95373
Soulsbyville	95372
Standard	95373
Strawberry	95375
Tuolumne	95379
Twaine Harte	95383

Mariposa County

<u>City</u>	<u>ZIP Code</u>
Cathay's Valley	95306
Coulterville	95311
El Portal	95318
Hornitos	95325
Fish Camp	93623
Mariposa	95338
Midpines	95345
Tuolumne Meadows	95389
Wawona	95389
Yosemite	95389

Stanislaus County

<u>City</u>	<u>ZIP Code</u>
Ceres	95307
Crows Landing	95313
Del Rio	95356
Denir	95316
Empire	95319
Grayson	95363
Gustine	95322
Hickman	95323
Hughson	95326
Keyes	95828
La Grange	95329
Modesto	95350 / 95351 / 95352 / 95353 / 95354 / 95355 / 95356 / 95357 / 95358 / 95397
Newman	95347 / 95350 / 95353 / 95355 / 95358 / 95360

<u>City</u>	<u>ZIP Code</u>
Oakdale	95361
Paterson	95363
Riverbank	95367
Salida	95368
Turlock	95380 / 95381 / 95382
Waterford	95386
Westley	95387

San Joaquin County

<u>City</u>	<u>ZIP Code</u>
Acampo	95220
Clements	95227
Escalon	95320
Farmington	95230
French Camp	95231
Galt	95632
Holt	95234
Lathrop	95330
Linden	95236
Lockeford	95237
Lodi	95240 / 95241 / 95242
Lyoth	95296
Manteca	95336 / 95337
Mountain House	95391
Ripon	95366
Stockton	95201 / 95202 / 95203 / 95204 / 95205 / 95206 / 95206 / 95207 / 95208 / 95210 / 95211 / 95212 / 95213 / 95215 / 95219 / 95267 / 95269 / 95296 / 95297
Tracy	95304 / 95376 / 95377 / 95378 / 95391
Vernalis	95385
Victor	95253
Woodbridge	95258
Thornton	95686

Alameda County

<u>City</u>	<u>ZIP Code</u>
Alameda	94501 / 94502
Castro Valley	94546 / 94552
Fremont	94536 / 94537 / 94538 / 94539 / 94555
Hayward	94540 / 94541 / 94542 / 94543 / 94544 / 94545 / 94557
Livermore	94550 / 94551
Newark	94560
Pleasanton	94566 / 94588
Sunol	94586
Union City	94587

San Mateo County

<u>City</u>	<u>ZIP Code</u>
Atherton	94027
Belmont	94002
Brisbane	94005
Burlingame	94010 / 94011
Daly City	94013 / 94014 / 94015 / 94016 / 94017
El Granada	94018

<u>City</u>	<u>ZIP Code</u>
Half Moon Bay	94019
La Honda	94020
Loma Mar	94021
Menlo Park	94025 / 94026
Millbrae	94030
Montara	94037
Moss Beach	94038
Pacifica	94044
Pescadero	94060
Portola Valley	94028
Redwood City	94061 / 94062 / 94063 / 94064 / 94065
San Bruno	94066
San Carlos	94070
San Francisco	94128
San Gregorio	94074
San Mateo	94401 / 94402 / 94403 / 94404 / 94497
South San Francisco	94080 / 94083 / 94099

Santa Clara County

<u>City</u>	<u>ZIP Code</u>
Alviso	95002
Campbell	95008 / 95009 / 95011
Coyote	95013
Cupertino	95014 / 94015
Los Altos	94022 / 94023 / 94024
Milpitas	95035 / 95036
Mount Hamilton	95140
Mountain View	94035 / 94039 / 94040 / 94041 / 94042 / 94043
Palo Alto	94301 / 94302 / 94303 / 94304 / 94305 / 94306 / 94309
San Jose	95101 / 95103 / 95106 / 95108 / 95109 / 95110 / 95111 / 95112 / 95113 / 95115 / 95116 / 95117 / 95118 / 95119 / 95120 / 95121 / 95122 / 95123 / 95124 / 95125 / 95126 / 95127 / 95128 / 95129 / 95130 / 95131 / 95132 / 95133 / 95134 / 95135 / 95136 / 95138 / 95139 / 95141 / 95148 / 95150 / 95151 / 95152 / 95153 / 95154 / 95155 / 95156 / 95157 / 95158 / 95159 / 95160 / 95161 / 95164 / 95170 / 95172 / 95173 / 95190 / 95191 / 95192 / 95193 / 95194 / 95196
Santa Clara	95050 / 95051 / 95052 / 95053 / 95054 / 95055 / 95056
Stanford	94305
Sunnyvale	94085 / 94086 / 94087 / 94088 / 94089