

File No. 100580

Committee Item No. 3

Board Item No. _____

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: Budget and Finance

Date: July 9, 2010

Board of Supervisors Meeting

Date: _____

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Completed by: Andrea S. Ausberry

Date Friday, July 2, 2010

Completed by: _____

Date _____

An asterisked item represents the cover sheet to a document that exceeds 25 pages. The complete document is in the file.

1 [General Obligation Bond - Earthquake Safety Retrofit Loan Program General Obligation
2 Bond, November 2, 2010, Election]

3 Ordinance calling and providing for a consolidated special election to be held in the
4 City and County of San Francisco on Tuesday, November 2, 2010, for the purpose of
5 submitting to the voters of the City and County of San Francisco a proposition to
6 authorize general obligation bonded indebtedness of the City and County in the
7 Amount of Thirty Nine Million One Hundred and Forty Thousand Dollars (\$39,140,000)
8 to provide loans to pay the costs of seismic retrofits to multi-story wood structures
9 that are at significant risk of substantial damage and collapse during an earthquake,
10 finding that the estimated cost of such proposed project is and will be too great to be
11 paid out of the ordinary annual income and revenue of the City and County and will
12 require expenditures greater than the amount allowed therefor by the annual tax levy;
13 reciting the estimated cost of such proposed project; fixing the date of election and the
14 manner of holding such election and the procedure for voting for or against the
15 proposition; fixing the maximum rate of interest on such bonds and providing for the
16 levy and collection of taxes to pay both principal and interest thereof; prescribing
17 notice to be given of such election; finding that the proposed bond is not a project
18 under the California Environmental Quality Act; finding that the proposed project is in
19 conformity with the priority policies of Planning Code Section 101.1(b) and with the
20 General Plan consistency requirement of Administrative Code Section 2A.53;
21 consolidating the special election with the general election on the same date;
22 establishing the election precincts, voting places and officers for the election; waiving
23 the word limitation on ballot propositions imposed by San Francisco Municipal
24 Elections Code Section 510; complying with Section 53410 of the California
25 Government Code; incorporating the provisions of Article V of Chapter V of the San

1 **Francisco Administrative Code; and waiving the time requirements specified in Section**
2 **2.34 of the San Francisco Administrative Code.**

3 Note: Additions are *single-underline italics Times New Roman*;
4 deletions are ~~*strikethrough italics Times New Roman*~~.
5 Board amendment additions are double underlined.
6 Board amendment deletions are ~~strikethrough normal~~.

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

8 Section 1. Findings.

9 A. The San Francisco Department of Building Inspections caused to be prepared a
10 report dated February 2009, entitled "Here Today---Here Tomorrow: Earthquake Safety for
11 Soft Story Buildings" (the "Report").

12 B. The Report made several recommendations to mitigate the potential damage
13 and destruction to multi-story wood-frame buildings, including the initiation of a program to
14 finance the costs of seismic retrofits to such soft story buildings that are at significant risk for
15 substantial damage and collapse during an earthquake.

16 C. The Report identified approximately 2,800 buildings constructed before 1974
17 and consisting of three or more stories that have large perimeter wall openings (referred to in
18 the Report and herein as "soft-story buildings") and which, therefore, are potentially most at
19 significant risk of substantial damage and collapse during an earthquake.

20 D. Keeping San Franciscans in their homes after an earthquake is a vital public
21 interest and would avert a post-earthquake shelter crisis and thereby reduce the demands
22 placed upon emergency responders; and that keeping residents in their homes serves a valid
23 public purpose resulting in significant public benefits.

24 E. The Mayor's Office of Housing, the San Francisco Redevelopment Agency and
25 the U.S. Department of Housing and Urban Development funds 125 affordable housing multi-

1 story units which are at significant risk of substantial damage and collapse during and
2 earthquake.

3 F. In addition, there are 31 potential soft-story buildings containing single room
4 occupancy units that are owned by private parties, and such structures are at a significant risk
5 of substantial damage and collapse during and earthquake.

6 G. The Mayor and this Board of Supervisors of the City and County of San
7 Francisco (the "City") now wish to describe the terms of a ballot measure seeking approval for
8 general obligation bonding authority for a Earthquake Safety Retrofit Loan Program (the
9 "Bonds").

10 Section 2. A special election is hereby called and ordered to be held in the City on
11 Tuesday, the 2nd day of November, 2010, for the purpose of submitting to the electors of the
12 City a proposition to authorize the issuance of general obligation bonded indebtedness of the
13 City for the project hereinafter described in the amount and for the purposes stated:

14 "EARTHQUAKE SAFETY RETROFIT LOAN PROGRAM GENERAL OBLIGATION
15 BONDS, 2010. To provide loans to pay the costs for seismic retrofits of certain multi-story
16 wood-frame buildings with vulnerable soft-story construction at significant risk of substantial
17 damage and collapse during a major earthquake and funded by a qualified governmental
18 housing finance agency for permanent or long-term affordability, or single room occupancy
19 buildings owned by private parties, and pay related costs, shall the City issue up to
20 \$39,140,000 of general obligation bonded indebtedness, subject to citizen oversight and
21 regular audits?"

22
23 The special election hereby called and ordered shall be referred to herein as the "Bond
24 Special Election."
25

1 Section 3. Subject to approval by the voters, the Seismic Safety Retrofit Loan Program
2 General Obligation Bonds shall be authorized in the aggregate principal amount of
3 \$39,140,000, shall be issued upon such terms and conditions permitted by law, and allocated
4 as follows:

5 A. Public Agency Earthquake Retrofit Loan Program. The City is authorized to issue
6 up to \$35,340,000 of general obligation bonds to be allocated to fund a loan program to pay
7 the cost associated with seismic retrofits of affordable housing buildings constituting Soft
8 Story Structures constructed on or before 1974 and funded by the Mayor's Office of Housing,
9 San Francisco Redevelopment Agency or other affordable housing governmental finance
10 agency (referred to herein as the "Public Agency Earthquake Safety Retrofit Loan Program").
11 Such loans shall be made in accordance with the terms and conditions established by the
12 implementing City agency; provided however that such terms and conditions shall require that
13 such loans shall become immediately due and payable if the property is sold or otherwise
14 transferred, in either case, resulting in a loss of affordability or income restrictions, and such
15 repayments shall be used to repay the Bonds. The Board of Supervisors hereby finds that
16 loans made from bond proceeds for the purpose of seismic retrofits to affordable housing
17 buildings as authorized hereby constitute a public purpose resulting in significant public
18 benefits.

19 B. Private Party Earthquake Safety Retrofit Loan Program. The City is authorized to
20 issue up to \$3,800,000 of general obligation bonds to be allocated to fund a private party loan
21 (referred to herein as the "Private Party Earthquake Safety Retrofit Loan Program") program
22 to pay for seismic retrofits single occupancy residence buildings constituting Soft Story
23 Structures constructed on or before 1974 that are at significant risk of substantial damage and
24 destruction during an earthquake, and to administer said fund upon the terms set forth below.
25

1 Loans made through the Private Party Earthquake Safety Retrofit Loan Program shall be
2 upon the terms and conditions set forth by the implementing City agency; provided however,
3 that such terms and conditions shall require that such loans become due and payable upon a
4 sale or other transfer of the property if such sale or transfer would change the character or
5 use of the building for single residence occupancy tenancy, and such repayments shall be
6 used to repay the Bonds. The Board hereby finds that loans made from bond proceeds for
7 the purpose of seismic retrofits to the buildings as authorized hereby constitute a public
8 purpose resulting in significant public benefits.

9 C. All amounts loaned to private borrowers ("Borrowers") under the Private Party
10 Earthquake Safety Retrofit Loan Program must be repaid in full on such other terms and
11 conditions as the implementing City agency shall determine. It is the intent of the City that
12 administrative fees be set such that no City funds are used to pay administrative costs of the
13 Private Party Earthquake Safety Retrofit Loan Program, unless such funds are to be
14 reimbursed by a Borrower. Administrative costs may be included as additional principal on a
15 loan to be repaid as a separate fee payment obligation of the Borrower.

16 D. The City may impose the Earthquake Safety Retrofit Loan Program's repayment
17 obligations on Borrowers through a loan agreement or the Borrower's agreement to pay any
18 other special tax or special assessment that provides the City appropriate remedies should
19 the Borrower fail to make loan payments as and when due. These remedies shall include the
20 ability to assess late fees in amounts sufficient to repay the City for funds used to repay bond
21 principal and/or interest in the event of a delinquency in repayment by such Borrower.

22 E. The City shall be entitled to pay costs of issuance related to the issuance of Bonds
23 authorized hereby.

1 Section 5. The estimated cost of the Bond financed portion of the project described in
2 Section 2 hereof was fixed by the Board of Supervisors of the City by the following resolution
3 and in the amount specified below:

4 **"Resolution determining and declaring that the public interest and necessity**
5 **demand the construction, improvement and seismic retrofitting of multi-story wood**
6 **framed affordable housing soft-story buildings for earthquake safety funded by the City**
7 **or other qualified governmental housing finance agency, or owned by private third-**
8 **parties and the payment of related costs necessary or convenient for the foregoing**
9 **purposes; finding that the estimated cost of \$39,140,000 for such improvements is and**
10 **will be too great to be paid out of the ordinary annual income and revenue of the City**
11 **and County and will require incurring bonded indebtedness; finding that a portion of**
12 **the proposed bond is not a project under the California Environmental Quality Act**
13 **("CEQA") and adopting findings under CEQA, CEQA Guidelines, and San Francisco**
14 **Administrative Code Chapter 31 for the remaining portion of the proposed bond;**
15 **finding the proposed bond is in conformity with the priority policies of Planning Code**
16 **Section 101.1(b) and with the General Plan consistency requirement of Charter**
17 **Section 4.105 and Administrative Code Section 2A.53; and waiving the time limits set**
18 **forth in Administrative Code Section 2.34."**

19
20 Such resolution was passed by two-thirds or more of the Board of Supervisors and
21 approved by the Mayor of the City. In such resolution it was recited and found that the sum of
22 money specified is too great to be paid out of the ordinary annual income and revenue of the
23 City in addition to the other annual expenses thereof or other funds derived from taxes levied
24
25

1 for those purposes and will require expenditures greater than the amount allowed therefor by
2 the annual tax levy.

3 The method and manner of payment of the estimated costs described herein are by the
4 issuance of bonds of the City not exceeding the principal amount specified.

5 Such estimate of costs as set forth in such resolution is hereby adopted and
6 determined to be the estimated cost of such Bond financed improvements and financing, as
7 designed to date.

8 Section 6. The Bond Special Election shall be held and conducted and the votes
9 thereafter received and canvassed, and the returns thereof made and the results thereof
10 ascertained, determined and declared as herein provided and in all particulars not herein
11 recited such election shall be held according to the laws of the State of California and the
12 Charter of the City (the "Charter") and any regulations adopted pursuant thereto, providing for
13 and governing elections in the City, and the polls for such election shall be and remain open
14 during the time required by such laws and regulations.

15 Section 7. The Bond Special Election is hereby consolidated with the Statewide
16 General Election scheduled to be held in the City on Tuesday, November 2, 2010. The
17 voting precincts, polling places and officers of election for the November 2, 2010 Statewide
18 General Election are hereby adopted, established, designated and named, respectively, as
19 the voting precincts, polling places and officers of election for the Bond Special Election
20 hereby called, and reference is hereby made to the notice of election setting forth the voting
21 precincts, polling places and officers of election for the November 2, 2010 Statewide General
22 Election by the Director of Elections to be published in the official newspaper of the City on
23 the date required under the laws of the State of California.

1 Section 8. The ballots to be used at the Bond Special Election shall be the ballots to
2 be used at the November 2, 2010 Statewide General Election. The word limit for ballot
3 propositions imposed by San Francisco Municipal Elections Code Section 510 is hereby
4 waived. On the ballots to be used at the Bond Special Election, in addition to any other matter
5 required by law to be printed thereon, shall appear the following as a separate proposition:

6 " EARTHQUAKE SAFETY RETROFIT LOAN PROGRAM GENERAL OBLIGATION
7 BOND , 2010.

8 To provide loans to pay the costs for seismic retrofits of certain multi-story wood-frame
9 buildings with vulnerable soft-story construction at significant risk of substantial damage and
10 collapse during a major earthquake and funded by a qualified governmental housing finance
11 agency for permanent or long-term affordability, or single room occupancy buildings owned by
12 private parties, and pay related costs, shall the City issue up to \$39,140,000 of general
13 obligation bonded indebtedness, subject to citizen oversight and regular audits?"

14 Each voter to vote in favor of the issuance of the foregoing bond proposition shall mark
15 the ballot in the location corresponding to a "YES" vote for the proposition, and to vote against
16 the proposition shall mark the ballot in the location corresponding to a "NO" vote for the
17 proposition.

18 Section 9. If at the Bond Special Election it shall appear that two-thirds of all the voters
19 voting on the proposition voted in favor of and authorized the incurring of bonded
20 indebtedness for the purposes set forth in such proposition, then such proposition shall have
21 been accepted by the electors, and Bonds authorized thereby shall be issued upon the order
22 of the Board of Supervisors. Such Bonds shall bear interest at a rate not exceeding
23 applicable legal limits.
24
25

1 The votes cast for and against the proposition shall be counted separately and when
2 two-thirds of the qualified electors, voting on the proposition, vote in favor thereof, the
3 proposition shall be deemed adopted.

4 Section 10. For the purpose of paying the principal and interest on the Bonds, the
5 Board of Supervisors shall, at the time of fixing the general tax levy and in the manner for
6 such general tax levy provided, levy and collect annually each year until such Bonds are paid,
7 or until there is a sum in the Treasury of said City, or other account held on behalf of the
8 Treasurer of said City, set apart for that purpose to meet all sums coming due for the principal
9 and interest on the bonds, a tax sufficient to pay the annual interest on such Bonds as the
10 same becomes due and also such part of the principal thereof as shall become due before the
11 proceeds of a tax levied at the time for making the next general tax levy can be made
12 available for the payment of such principal.

13 Section 11. This ordinance shall be published in accordance with any State law
14 requirements, and such publication shall constitute notice of the Bond Special Election and no
15 other notice of the Bond Special Election hereby called need be given.

16 Section 12. The Board of Supervisors having reviewed the proposed legislation, finds
17 and declares that (i) the proposed Project is excluded from CEQA under CEQA Guidelines
18 section 15378(b)(4) as the creation of a government funding mechanism that does not involve
19 any commitment to any specific project, (ii) that the proposed project is in conformity with the
20 priority policies of Section 101.1(b) of the City Planning Code and, (iii) in accordance with
21 Section 2A.53(f) of the City Administrative Code, that the proposed project is consistent with
22 the City's General Plan, and hereby adopts the findings of the City Planning Department, as
23 set forth in the General Plan Referral Report, dated _____, 20___, and incorporates said
24 findings by reference.

1 Section 13. Pursuant to Section 53410 of the California Government Code, the Bonds
2 shall be for the specific purpose authorized herein and the proceeds of such Bonds will be
3 applied only to the project described herein. The City will comply with the requirements of
4 Sections 53410(c) and 53410(d) of the California Government Code.

5 Section 14. The Bonds are subject to, and incorporate by reference, the applicable
6 provisions of Article V of Chapter V of the San Francisco Administrative Code (the "Citizens'
7 General Obligation Bond Oversight Committee"). Pursuant to Section 5.31 of the
8 Administrative Code, to the extent permitted by law, one-tenth of one percent (0.1%) of the
9 gross proceeds of the Bonds shall be deposited in a fund established by the Controller's
10 Office and appropriated by the Board of Supervisors at the direction of the Citizens' General
11 Obligation Bond Oversight Committee to cover the costs of said committee.

12 Section 15. The time requirements specified in Section 2.34 of the San Francisco
13 Administrative Code are hereby waived.

14 Section 16. The appropriate officers, employees, representatives and agents of the
15 City are hereby authorized and directed to do everything necessary or desirable to accomplish
16 the calling and holding of the Bond Special Election, and to otherwise carry out the provisions
17 of this ordinance.

18 Section 17. Documents referenced herein are on file with the Clerk of the Board of
19 Supervisors in File No. , which is hereby declared to be a part of this ordinance as if set
20 forth fully herein.

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

23 By:

24 
25 Mark D. Blake
Deputy City Attorney

LEGISLATIVE DIGEST

[Earthquake Safety Retrofit Loan Program General Obligation Bond, 2010 Election.]

Ordinance calling and providing for a special election to be held in the City and County of San Francisco on Tuesday, November 2nd 2010, for the purpose of submitting to the voters of the City and County of San Francisco a proposition to authorize general obligation bonded debt of the City and County of San Francisco in the amount of Thirty Nine Million One Hundred Thousand and Forty Thousand Dollars (\$39,140,000), such amount to be used to (i) provide funds for a loan program to pay the cost of seismic retrofits to multi-story wood-frame affordable housing buildings funded by the Mayor's Office of Housing, San Francisco Housing Authority, and/or the U.S. Department of Housing and Urban Development or other governmental housing financing agency which are at significant risk of substantial damage and collapse during an earthquake (in an amount up to \$35,340,000), (ii) provide funds for a loan program for privately owned multi-story wood-frame single room occupancy buildings at substantial risk of damage and collapse during an earthquake (in an amount up to \$3,800,000), and (iii) provide funds to pay the costs of issuance relating to the bonds; finding that the estimated cost of such proposed project is and will be too great to be paid out of the ordinary annual income and revenue of the City and County and will require expenditures greater than the amount allowed therefore by the annual tax levy; reciting the estimated cost of such proposed project; fixing the date of election and the manner of holding such election and the procedure for voting for or against the proposition; fixing the maximum rate of interest on such bonds and providing for the levy and collection of taxes to pay both principal and interest thereof; prescribing notice to be given of such election; finding that the proposed bond is not a project under the California Environmental Quality Act; finding that the proposed project is in conformity with the priority policies of Planning Code Section 101.1(b) and with the General Plan consistency requirement of Administrative Code Section 2A.53; consolidating the special election with the general election on the same date; establishing the election precincts, voting places and officers for the election; waiving the word limitation on ballot propositions imposed by San Francisco Municipal Elections Code Section 510; complying with Section 53410 of the California Government Code; incorporating the provisions of Article V of Chapter V of the San Francisco Administrative Code; and waiving the time requirements specified in Section 2.34 of the San Francisco Administrative Code.

Existing Law

General Obligation Bonds of the City and County of San Francisco may be issued only with the assent of two-thirds of the voters voting on the proposition.

Ballot Proposition

This ordinance authorizes the following ballot proposition to be placed on the November 2, 2010 ballot:

"EARTHQUAKE SAFETY RETROFIT LOAN PROGRAM GENERAL OBLIGATION BOND, 2010. To provide loans to pay the costs for seismic retrofits of certain multi-story wood-frame buildings with vulnerable soft-story construction at significant risk of substantial damage and collapse during a major earthquake and funded by a qualified governmental housing finance agency for permanent or long-term affordability, or single room occupancy buildings owned by private parties, and pay related costs, shall the City issue up to \$39,140,000 of general obligation bonded indebtedness, subject to citizen oversight and regular audits?"

The Ordinance fixes the maximum rate of interest on the Bonds. The Ordinance provides for a levy and a collection of taxes to repay both the principal and interest on the Bonds. The Ordinance also describes the manner in which the Bond Special Election will be held, and the Ordinance provides for compliance with applicable state and local laws.

Background Information

The San Francisco Department of Building Inspections caused to be prepared a report dated February 2009 entitled "Here Today---Here Tomorrow: Earthquake Safety for Soft Story Buildings" (the "Report"). The Report made several recommendations to mitigate the potential damage and destruction to multi-story wood-frame buildings (referred to in the Report as "soft-story buildings"), including the initiation of a program to finance the costs of seismic retrofits to such soft story buildings that are at risk for major damage and collapse during an earthquake. Without retrofits, the Report estimates that approximately one-third of soft-story buildings in San Francisco would collapse after a major seismic event on the San Andreas Fault; after retrofits, however, less than three percent of soft-story buildings would be expected to collapse.

The Mayor Office of Housing (MOH), the San Francisco Redevelopment Agency, and the U.S. Department of Housing and Urban Development or other governmental housing finance agency funds or supports 125 affordable housing multi-story structures that have large perimeter wall openings and which, therefore, are potentially at significant risk of substantial damage and destruction during an earthquake. In addition, there are up to 31 buildings containing single room occupancy units owned by private parties, and such buildings are at significant risk for substantial damage and destruction during an earthquake. Seismic retrofits to such buildings would mitigate the damage to such structures during and earthquake and keep vulnerable San Franciscans in their houses thereby reducing the post-earthquake emergency response and shelter needs. By mitigating structure collapse, the soft story

**Mayor Newsom
BOARD OF SUPERVISORS**

FILE NO.

earthquake safety retrofit effort may also lead to a reduced demand on emergency services responding to fires in the time period immediately following a major seismic event.

The Board of Supervisors found that the amount of funding specified for this project is and will be too great to be paid out of the ordinary annual income and revenue of the City, and will require expenditures greater than the amount allowed therefore by the annual tax levy.

Item 3
File 10-0580

Department(s):
Mayor's Office of Housing (MOH)

EXECUTIVE SUMMARY

Legislative Objective

- Ordinance calling for a special election on November 2, 2010 to submit a proposition to San Francisco voters to authorize up to \$39,140,000 in Earthquake Safety Retrofit Loan Program General Obligation Bonds in order to provide for seismic retrofits for seismically vulnerable affordable housing buildings.

Fiscal Impact

- The \$39,140,000 in Earthquake Safety Retrofit Loan Program General Obligation Bonds would be repaid through an increase in annual Property Taxes of approximately \$0.001365 per \$100 of assessed value, such that a single family residence assessed at \$500,000, assuming a homeowners exemption of \$7,000, would pay average additional Property Taxes of \$6.73 per year to the City. The proposed ordinance does not provide authority for landlords to pass-through any portion of the Property Tax increase, which would result from the proposed bond issuance, to residential tenants.

Key Points

- Mr. Jason Elliott, Policy Advisor in the Office of the Mayor, estimates there are up to 156 affordable housing buildings which may be in need of seismic retrofits, including (a) up to 125 buildings which have received City or Federal funding to provide affordable housing, and (b) up to 31 single-room occupancy (SRO) buildings. These buildings are considered seismically vulnerable because they (a) have a wood frame rather than a steel frame, and (b) include a "soft-story", which means the first floor has exterior walls with large openings and a reduced number of interior walls (typically due to retail or parking use).
- According to Mr. Elliott, the City would provide retrofit funding to property owners through a new loan program to be established by the Mayor's Office of Housing (MOH), in which the borrower (property owner) would not be required to repay the loan unless the borrower reduced the number of affordable units or reduced the affordability of such housing units.
- Mr. Elliott stated that MOH would charge loan fees to the property owner to cover the cost of administering the loan program and inspecting the properties to ensure that the retrofits are completed. However, the proposed ordinance would allow such fees to be included in the loan amount, such that the loan fees would be actually paid by all San Francisco property owners, instead of solely by the property owners who receive the loans.
- According to Mr. Elliott, the actual issuance of these General Obligation Bonds would occur only after the new loan program is established and the specific buildings to be retrofitted and the actual cost of such specific retrofits are known. The actual issuance and sale of the proposed bonds would be subject to future separate Board of Supervisors approval.
- Because some affordable housing buildings include both affordable units and market rate units, the proposed loan program would fund capital improvements which would benefit market rate housing as well as affordable housing. Mr. Elliott noted that it is not possible to

seismically retrofit only a portion of a building, such that in order to provide seismic reliability for affordable housing units, it is necessary to also provide seismic reliability for the market rate units which are in the same building.

- On June 9, 2010, the Budget and Finance Subcommittee approved a resolution declaring that the public interest and necessity demand the seismic retrofitting of seismically vulnerable affordable housing units, and finding that the \$39,140,000 estimated costs would be too great to be paid out of the ordinary annual income and revenues of the City and will require the issuance of General Obligation Bonds (File 10-0581). The Budget and Finance Subcommittee also amended that resolution (File 10-0581) to replace the term "loan" with "deferred loan and grant" in order to more accurately reflect the fact the loan amounts would generally not be repaid by the property owners. As of the writing of this report, this resolution (File 10-0581) is currently pending before the Board of Supervisors.

Recommendations

- In order to (a) accurately reflect the fact that the loan amounts are generally not to be repaid to the City by the property owners, and (b) be consistent with the companion resolution as previously approved by the Budget and Finance Subcommittee (File 10-0581), amend the proposed ordinance to replace the term "loan", in every instance and variation in which it occurs, with the term "deferred loan and grant".
- In order to limit the use of bond proceeds to the benefit of affordable housing units, amend the proposed ordinance to specify that the maximum loan amount for each building to be retrofitted shall be equal to (a) the proportion of the total affordable housing units to the total housing units (affordable housing units plus the market rate units), times (b) the total cost of retrofitting that building.
- Because the proposed issuance of General Obligation Bonds would provide City funding for capital improvements to privately-owned property, approval of the proposed ordinance, as amended, is a policy matter for the Board of Supervisors.

MANDATE STATEMENT / BACKGROUND

Mandate Statement

Article VII of the City's Administrative Code state that in order to submit a proposition to issue General Obligation Bonds to the voters of San Francisco, the Board of Supervisors must approve a resolution finding (a) that public interest and necessity demands the acquisition, construction, or completion of the capital improvements to be funded by the proposed General Obligation Bond issuance, and (b) that the cost of such capital improvements would be too great to be paid out of the ordinary annual income and revenues of the City and therefore would require the issuance of General Obligation Bonds. Subsequently, the Board of Supervisors must also approve an ordinance calling for a special election to submit such a General Obligation Bond proposition to the voters.

On June 9, 2010, the Budget and Finance Subcommittee approved a resolution (a) declaring that the public interest and necessity demand the seismic retrofitting of seismically vulnerable affordable housing units, and (b) finding that the \$39,140,000 in estimated costs would be too great to be paid out of the ordinary annual income and revenues of the City and will require the issuance of General Obligation Bonds (File 10-0581). As of the writing of this report, that resolution is currently pending before the Board of Supervisors.

The proposed ordinance would call for a special election on November 2, 2010 to submit to the voters a proposition to issue \$39,140,000 in General Obligation Bonds to fund such seismic retrofitting.

Section 2.34 of the City's Administrative Code requires that an ordinance ordering a special election, as described above, be adopted no less than 99 days prior to the election. The proposed ordinance would waive this timing requirement.

Section 510 of the Municipal Election Code states that the general question posed to the San Francisco voters regarding the issuance of General Obligation Bonds not exceed 100 words. The proposed ordinance would waive this word limitation.

Background

According to Mr. Jason Elliott, Policy Advisor in the Office of the Mayor, there are approximately 4,400 soft-story wood-frame buildings in the City which are particularly vulnerable during earthquakes and more susceptible to collapse. A building is considered to have a "soft-story" if the first floor has exterior walls with large openings (typically due to windows or garage doors) and a reduced number of interior walls (typically due to retail or parking use).

According to Mr. Elliott, as part of the Department of Building Inspection's (DBI) Community Action Plan for Seismic Safety Project and subsequent to a competitive Request for Proposal process, in April of 2008, DBI awarded a \$928,716 contract¹ to Applied Technology Council, a nonprofit organization, to perform an analysis of soft-story wood-frame buildings in the City to include an evaluation of the range of vulnerabilities, development of potential seismic retrofit options, and estimated costs for such seismic retrofit options.

On February 19, 2009, Applied Technology Council published their report entitled "Here Now – Here Tomorrow" which (a) estimated the average construction cost to seismically retrofit soft-story wood frame buildings at \$93,000 per building, and (b) recommended the City create new programs and incentives to provide for seismic retrofits to soft-story wood-frame buildings.

According to Mr. Elliott, the Mayor is pursuing multiple programs to address the need for seismic retrofits to soft-story wood-frame buildings including (a) the waiver of building fees and waiver of other City fees for voluntary seismic retrofits (previously approved by the Board of Supervisors on March 16, 2010 in File 09-1113), (b) the subject proposed issuance of up to

¹ The \$928,716 (original award amount of \$744,716 plus an amendment to increase the amount by \$184,000) contract with the Applied Technology Council was not subject to Board of Supervisors approval because it did not exceed the \$10,000,000 threshold established in Charter Section 9.118b.

\$39,140,000 in General Obligation Bonds to fund retrofits to soft-story wood frame buildings which include affordable housing units, (c) the creation, subject to approval by the Board of Supervisors in separate future legislation, of a special taxing district which property owners could choose to join in order to finance seismic retrofits, and (d) an ordinance, subject to Board of Supervisors approval in separate future legislation, to require all owners of soft-story wood-frame buildings with five or more housing units and three or more floors to seismically retrofit their buildings.

DETAILS OF PROPOSED LEGISLATION

The proposed ordinance would call for a special election on November 2, 2010 for the purpose of submitting to San Francisco voters a proposition to issue \$39,140,000 in Earthquake Safety Retrofit Loan Program General Obligation Bonds in order to provide for the cost of seismic retrofits to seismically vulnerable affordable housing buildings. According to Mr. Elliott, if the proposed General Obligation Bond proposition is approved by the voters, the City would provide retrofit funding to property owners through a new loan program to be established by the Mayor's Office of Housing, under which the loan amounts are not to be repaid by the property owner unless the property owner reduces the affordability of the building.

Loan Program

Through the new loan program's application process, the Mayor's Office of Housing would review (a) the building's eligibility for the program to verify that the building is seismically vulnerable and that the building provides affordable housing, and (b) the estimated cost to retrofit the property owner applicant's specific building. If approved, the applicant would receive funds in the amount of the estimated retrofit cost.

Under such a new loan program, the property owner (borrower) would not be required to repay the loan to the City unless the borrower reduced the number of affordable units or reduced the affordability levels of such housing units. Therefore, repayment of such loaned funds is only designed to be a penalty for borrowers that reduce affordability of their units, and such repayment is not a requirement of the loan program. However, the Budget and Legislative Analyst notes that if the property owner maintains the affordability of the units, the full costs for individual property owners to retrofit their affordable housing buildings would be borne by all San Francisco property owners through increases in the Property Tax rate (see Fiscal Impact Section below).

Mr. Elliott could not provide an estimate for (a) the cost to administer such a loan program, or (b) the cost to inspect properties to ensure the required retrofits are completed. However, Mr. Elliott stated that the Mayor's Office of Housing intends to offset all administrative costs by charging loan fees to loan recipients. The proposed ordinance would allow for such loan fees to be included in the total amount loaned to each property owner, such that the administrative costs would actually be paid by all property owners of San Francisco through increased Property Taxes, not solely by the property owners who receive the loans.

Total Funds Available

Although the specific buildings to be retrofitted are not currently known, Mr. Elliott estimates that there are up to 156 privately owned soft-story wood-frame buildings which include affordable housing units that are in need of seismic retrofits, including (a) up to 125 buildings which have received City or Federal funding² to provide affordable housing and maintain contractual obligations with the City or the Federal government to maintain such affordable housing units, and (b) up to 31 single-room occupancy (SRO) buildings.

Mr. Elliott stated that the bond issuance in a not-to-exceed amount of \$39,140,000 is designed to provide sufficient funds to retrofit the currently estimated 156 affordable housing buildings, based on an average estimated retrofit cost calculated in the Applied Technology Council report discussed above (see Footnotes 3 and 4 for a discussion on the average retrofit cost calculations). As shown in Table 1 below, the proposed bond issuance would fund (a) \$38,100,000 in project costs for the retrofit of up to 156 buildings, and (b) \$1,040,000 in financing costs.

Table 1: Uses of Bond Funds

Project Costs	
Retrofits for Up to 125 Affordable Housing Buildings ³	\$34,400,000
Retrofits for Up to 31 Single Room Occupancy Buildings ⁴	3,700,000
Subtotal Project Costs	\$38,100,000
Financing Costs	
Underwriter's Discount	195,700
Costs of Issuance	805,160
General Obligation Bond Oversight Committee	39,140
Subtotal Financing Costs	\$1,040,000
Total	\$39,140,000

² Mr. Elliott stated that such funding is provided through either (a) the Mayor's Office of Housing, (b) the San Francisco Redevelopment Agency, or (c) the U.S. Department of Housing and Urban Development.

³ According to Mr. Elliott, the total estimated retrofit cost for affordable housing buildings is actually \$34,396,500, not \$34,400,000 as shown in Table 1 above. Mr. Elliott stated that because the actual retrofit cost per building will vary based on the actual building conditions, the estimated cost of \$34,396,500 was rounded to \$34,400,000. The total unrounded estimated cost for the 125 buildings was calculated based on a per building average retrofit cost of \$275,172 including (a) \$93,000 in construction costs for seismic improvements as calculated in the Applied Technology Council's report, (b) \$27,900 to provide improvements required by the Americans with Disabilities Act, and (c) \$154,272 in soft costs (engineering, surveying, legal, and other associated costs).

⁴ According to Mr. Elliott, the total estimated retrofit cost for Single Room Occupancy buildings is actually \$3,747,900, not \$3,700,000 as shown in Table 1 above. Mr. Elliott stated that because the actual retrofit cost per building will vary based on the actual building conditions, the estimated cost of \$3,747,900 was rounded to \$3,700,000. The total unrounded estimated cost for the 31 buildings was calculated based on a per building average retrofit cost of \$120,900 including (a) \$93,000 in construction costs for seismic improvements as calculated in the Applied Technology Council's report, and (b) \$27,900 to provide improvements required by the Americans with Disabilities Act. According to Mr. Elliott, soft costs were not included for SRO retrofits because municipal bond proceeds cannot be used to finance soft costs for improvements to buildings which do not have a contractual agreement with the City or HUD to provide affordable housing.

FISCAL IMPACT

According to Ms. Nadia Sesay, Director of the Controller's Office of Public Finance, the proposed not-to-exceed \$39,140,000 in General Obligation bonds would be issued for a term of 20 years at an interest rate of approximately 7.0 percent⁵. Debt service on the proposed bonds would total approximately \$72,807,931, including \$39,140,000 in principal and \$33,667,931 in interest, for average debt service of \$3,640,397 over the 20 year term of the bonds.

Such debt service would be repaid through an increase in annual Property Taxes of approximately \$0.001365 per \$100 of assessed value. Therefore a single family residence assessed at \$500,000, assuming a homeowners exemption of \$7,000, would pay average additional Property Taxes of \$6.73 per year to the City ($\$500,000 \text{ less } \$7,000 \div \$100 \times \0.001365). The proposed ordinance does not provide authority for landlords to pass-through any portion of the Property Tax increase which would result from the proposed bond issuance to residential tenants.

POLICY CONSIDERATIONS

The buildings which would receive funds from the proposed bond issuance have not yet been identified.

As discussed above, although Mr. Elliott estimates that there are up to 156 privately owned soft-story wood-frame buildings which include affordable housing units that are in need of seismic retrofits, the specific buildings which would benefit from the proposed bond issuance have yet to be determined. Mr. Elliott stated that (a) bonds would only be issued after eligible buildings have been identified by the Mayor's Office of Housing for seismic retrofits, and (b) only that portion of the total proposed not-to-exceed bond authority of \$39,140,000 needed to cover the retrofit cost of specific buildings would be issued.

The Budget and Legislative Analyst notes that the proposed bond proposition would provide the City with bond authority not-to-exceed \$39,140,000 in General Obligation Bonds, but the actual issuance of such bonds would still be subject to future approval by the Board of Supervisors.

The seismic retrofits provided by the proposed bond issuance would benefit affordable housing units as well as market rate housing.

According to Mr. Elliott, affordable housing buildings, which have received City or Federal financial support and would be eligible for further financial support under the proposed bond issuance, often include some market rate units. The proposed seismic retrofits would apply to the entire building, such that the proposed bond issuance would benefit both the market rate units and affordable housing units within the same building.

⁵ Ms. Sesay noted that because the capital improvements would apply to privately owned property, some portion of the proposed General Obligation bonds would be taxable bonds, and could therefore incur a higher interest rate than the typically tax-exempt bonds issued by the City.

Mr. Elliott stated it is not possible to seismically reinforce only specific housing units within a building, such that all units in the building, including both affordable housing units and market rate units, would benefit from the proposed seismic retrofits.

In order to limit the use of General Obligation bond proceeds to the benefit of affordable housing units, the Budget and Legislative Analyst recommends amending the proposed ordinance to specify the maximum loan amount for each building to be retrofitted shall be equal to (a) the proportion of the total affordable housing units to the total housing units (affordable housing units plus the market rate units), times (b) the total cost of retrofitting that building.

The Budget and Legislative Analyst does not recommend reducing the proposed General Obligation Bond not-to-exceed amount of \$39,140,000 because the number of market rate units, which would be included in the buildings to be seismically retrofitted, is not yet known.

The proposed ordinance refers to a “loan” program, but such a program would be more accurately described as a “deferred loan and grant” program.


The proposed ordinance repeatedly states that the proposed bonds would be issued to provide “loans” to property owners in order to provide seismic retrofits to their buildings. As discussed above, the repayment to the City of such loaned funds is not required (unless the affordability of the property is reduced), such that this program would be more accurately described to the voters as a deferred loan and grant program, not a loan program. The Budget and Finance Subcommittee amended the prior resolution (File 10-0581) to replace the term “loan” with “deferred loan and grant” in order to more accurately reflect the fact the loan amounts would generally not be repaid by the property owners.

Therefore, in order to (a) more accurately reflect that the loan amounts are generally not to be repaid to the City by the property owners, and (b) be consistent with the companion resolution as previously approved by the Budget and Finance Subcommittee (File 10-0581), the Budget and Legislative Analyst recommends amending the proposed ordinance to replace the term “loans,” in every instance and variation in which it appears, with the term “deferred loan and grant”.

RECOMMENDATIONS

1. In order to (a) accurately reflect the fact that the loan amounts are generally not to be repaid to the City by the property owners, and (b) be consistent with the companion resolution as previously approved by the Budget and Finance Subcommittee (File 10-0581), amend the proposed ordinance to replace the term “loan”, in every instance and variation in which it occurs, with the term “deferred loan and grant”.
2. In order to limit the use of bond proceeds to the benefit of affordable housing units, amend the proposed ordinance to specify that the maximum loan amount for each building to be retrofitted shall be equal to (a) the proportion of the total affordable housing units to the total housing units (affordable housing units plus the market rate units), times (b) the total cost of retrofitting that building.

3. Because the proposed issuance of General Obligation Bonds would provide City funding for capital improvements to privately-owned property, approval of the proposed ordinance, as amended, is a policy matter for the Board of Supervisors.



Harvey M. Rose

cc: Supervisor Avalos
Supervisor Mirkarimi
Supervisor Elsbernd
Supervisor Maxwell
Supervisor Campos
President Chiu
Supervisor Alioto-Pier
Supervisor Chu
Supervisor Daly
Supervisor Dufty
Supervisor Mar
Clerk of the Board
Cheryl Adams
Controller
Greg Wagner



TO: Angela Calvillo, Clerk of the Board of Supervisors
FROM: Mayor Gavin Newsom
RE: Earthquake Safety Retrofit Loan Program General Obligation Bond, 2010 Election
DATE: May 11, 2010

Dear Madame Clerk:

Attached for introduction to the Board of Supervisors are copies of the following legislation:

- 005801) Ordinance calling and providing for a special election to be held in the City and County of San Francisco on Tuesday, November 2nd 2010, for the purpose of submitting to the voters of the City and County of San Francisco a proposition to authorize general obligation bonded indebtedness of the City and County in the Amount of Thirty Nine Million One Hundred and Forty Thousand Dollars (\$39,140,000) to provide loans to pay the costs of seismic retrofits to multi-story wood structures that are at significant risk of substantial damage and collapse during an earthquake, finding that the estimated cost of such proposed project is and will be too great to be paid out of the ordinary annual income and revenue of the City and County and will require expenditures greater than the amount allowed therefore by the annual tax levy; reciting the estimated cost of such proposed project; fixing the date of election and the manner of holding such election and the procedure for voting for or against the proposition; fixing the maximum rate of interest on such bonds and providing for the levy and collection of taxes to pay both principal and interest thereof; prescribing notice to be given of such election; finding that the proposed bond is not a project under the California Environmental Quality Act; finding that the proposed project is in conformity with the priority policies of Planning Code Section 101.1(b) and with the General Plan consistency requirement of Administrative Code Section 2A.53; consolidating the special election with the general election on the same date; establishing the election precincts, voting places and officers for the election; waiving the word limitation on ballot propositions imposed by San Francisco Municipal Elections Code Section 510; complying with Section 53410 of the California Government Code; incorporating the provisions of Article V of Chapter V of the San Francisco Administrative Code; and waiving the time requirements specified in Section 2.34 of the San Francisco Administrative Code.
- 005802) Resolution determining and declaring that the public interest and necessity demand the construction, improvement and seismic retrofitting of multi-story wood framed affordable housing soft-story buildings for earthquake safety funded by the City or other qualified governmental housing finance agency, or owned by private third-parties and the payment of related costs necessary or convenient for the foregoing purposes; finding that the estimated cost of \$39,140,000 for such improvements is and will be too great to be paid out of the ordinary annual income and revenue of the City and County and will require incurring bonded indebtedness; finding that a portion of the proposed bond is not a project under the California Environmental Quality Act ("CEQA") and adopting findings under CEQA, CEQA Guidelines, and San Francisco Administrative Code Chapter 31 for the remaining portion of the proposed bond; finding the proposed bond is in conformity with the priority policies of Planning Code Section 101.1(b) and with the General Plan consistency requirement of Charter Section 4.105 and Administrative Code Section 2A.53; and waiving the time limits set forth in Administrative Code Section 2.34.

I request that these items be calendared together in the Budget and Finance Sub-Committee.

Should you have any questions, please contact Starr Terrell (415) 554-5262.