

1 [55-year Seismic Safety Retrofit Loan Program Loans.]

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3 **Ordinance amending San Francisco Administrative Code Sections 66.1, 66.3, 66.4, 66.5,**
4 **66A.2, 66A.4, 66A.13, 66A.24, 66A.25, and 66A.26 to allow for 55-year term Seismic**
5 **Safety Retrofit Loan Program loans, to name the Mayor's Office of Housing as the**
6 **Seismic Safety Retrofit Loan Program Administrator, and to make certain**
7 **administrative clarifications.**

8 Note: Additions are *single-underline italics Times New Roman*;
9 deletions are *strikethrough italics Times New Roman*.
10 Board amendment additions are double underlined.
11 Board amendment deletions are ~~strikethrough normal~~.

11 Be it ordained by the People of the City and County of San Francisco:
12 Section 1. The San Francisco Administrative Code is hereby amended by amending
13 Section 66.1, to read as follows:

14 SEC. 66.1. DEFINITIONS.

15 Unless otherwise indicated by the context, the following definitions shall govern
16 construction of terms in this Chapter:

17 (a) "Below Market Rate Loan" shall mean a loan made from the proceeds of any
18 individual series of bonds issued under the Program which shall bear an interest rate that
19 yields a total annual return to the City that equals 1/3 of the City's cost of funds for that series.

20 (b) "City's cost of funds" for any individual series of bonds issued under the program
21 shall mean the true interest cost as set forth in the resolution of the Board of Supervisors
22 awarding that series of bonds.

23 (c) "Deferred Extended Loan" is a Below Market Rate Loan on which repayment of
24 principal and interest is deferred until the sooner to occur of (1) 55 years after such loan is made or
25 (2) the borrower transfers title to the property whose improvements were financed by the proceeds of

1 such loan, unless such transfer is a Permitted Transfer. Deferred interest shall accrue and be repaid at
2 the time the principal amount of the Deferred Extended Loan is due.

3 ~~(e)~~(d) “Deferred Standard Loan” is a Below Market Rate ~~loan~~ Loan on which
4 repayment of principal and interest is deferred until the sooner to occur of (1) 20 years after
5 ~~the such~~ loan is made or (2) the borrower transfers title to the building property whose
6 improvements were financed by the ~~loan~~ proceeds of such loan, unless such transfer is a
7 Permitted Transfer. Deferred interest shall accrue and be repaid at the time the principal
8 amount of the Deferred Standard Loan is due.

9 ~~(d)~~(e) “Fund” shall mean the Seismic Strengthening Loan Fund, established pursuant
10 to Administrative Code Section 10.117-110.

11 ~~(e)~~(f) “Market Rate Loan” shall mean a loan made from the proceeds of any
12 individual series of bonds issued under the program which shall bear an interest rate that,
13 when coupled with the annual administrative fees charged by the City, yields a total annual
14 return to the City that equals the City's cost of funds for that series, plus 100 basis points.

15 ~~(f)~~(g) “Median income” shall mean the median income for San Francisco PMSA,
16 adjusted for household size, as published from time to time by the United States Department
17 of Housing and Urban Development, or any successor to that figure published by that
18 department or any successor to that department.

19 (h) “Permitted Transfer” shall mean any transfer of title of a property whose improvements
20 were financed by Below Market Rate Loan proceeds (1) from the borrower to a limited partnership or
21 limited liability company formed for the tax credit syndication of such property, provided that the
22 borrower or its affiliated nonprofit public benefit corporation is the sole general partner or manager of
23 such entity, or (2) pursuant to an option agreement entered into by the borrower and its general
24 partner, manager, or affiliate in connection with the tax credit syndication of such property.

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1 ~~(g)~~(i) "Program" shall mean the seismic safety retrofit bond and loan program funded
2 by the Fund and established by this Chapter.

3 ~~(h)~~(j) "Seismic ~~strengthening~~Strengthening" shall mean actions taken by or on behalf of
4 the owner of a building to comply with the requirements of Chapters ~~4416B~~ and ~~4516C~~ of the
5 San Francisco Building Code, as amended from time to time.

6 ~~(i)~~(k) "UMB" shall mean an unreinforced masonry bearing wall building, the seismic
7 strengthening of which may be financed by loan from the fund.

8 Section 2. The San Francisco Administrative Code is hereby amended by amending
9 Section 66.3 to read as follows:

10 SEC. 66.3. AMOUNT AND USE OF PROGRAM FUNDS.

11 (a) A maximum of \$350,000,000 will be raised through the sale of general obligation
12 bonds of the City for deposit into the fund for use in the Program and for payment of bond
13 issuance costs.

14 (b) A maximum of \$150,000,000 of the fund shall be made available for Below
15 Market Rate ~~loans~~Loans under the Program for ~~seismic strengthening~~Seismic Strengthening of
16 UMB's in which 50 percent or more of the floor area is residential and at least 70 percent of
17 the residential units are and will continue to be affordable to and occupied by a household
18 whose income is at or below 60 percent of median income.

19 (c) Of the \$150,000,000 available for Below Market Rate Loans, a maximum of
20 \$60,000,000 shall be made available for Deferred Standard Loans or Deferred Extended Loans
21 under the Program for Seismic Strengthening of UMB's in which 60 percent or more of the
22 floor area is residential and at least 80 percent of the residential units are and will continue to
23 be affordable to and occupied by a household whose income is at or below 40 percent of
24 median income.

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1 (d) A maximum of \$200,000,000 of the fund shall be made available for Market Rate
2 Loans for Seismic Strengthening of UMB's not qualifying for loans under Subsections 66.3(b)
3 or 66.3(c).

4 (e) To the extent legally required for completion of the ~~seismic strengthening~~ Seismic
5 Strengthening of or to permit occupancy of a building, up to 25 percent of the proceeds of any
6 loan funded under the Program may be spent on improvements to protect the life or safety of
7 or to provide disability access for occupants of that building.

8 Section 3. The San Francisco Administrative Code is hereby amended by amending
9 Section 66.4 to read as follows:

10 SEC. 66.4. LOAN PERIOD.

11 All loans made under the Program shall be fully amortized over a period of 20 years,
12 provided that all principal and interest payments under a Deferred Standard Loan shall be
13 repaid in a single lump sum at the end of the Deferred Standard Loan period and all principal
14 and interest payments under a Deferred Extended Loan shall be repaid in a single lump sum at the end
15 of the Deferred Extended Loan period.

16 Section 4. The San Francisco Administrative Code is hereby amended by amending
17 Section 66.5 to read as follows:

18 SEC. 66.5. PRESERVATION OF HOUSING.

19 (a) Any loan, including a Market Rate Loan, used to finance Seismic Strengthening
20 of a residential structure containing units rented to households specified in Section 50079.5 of
21 the California Health and Safety Code before strengthening shall be subject to a regulatory
22 agreement and related documents that will ensure that the number of those units in the
23 structure will not be reduced and will remain available at affordable rents pursuant to Section
24 50053 of the California Health and Safety Code (1) for as long as any portion of the loan is
25 unpaid, ~~and~~ (2) in the case of Below Market Rate Loans other than Deferred Extended Loans,

1 repaid in full in less than 20 years, for at least 20 years, and (3) in the case of Deferred Extended
2 Loans, repaid in full in less than 55 years, for at least 55 years.

3 (b) In the case of Below Market Rate Loans other than Deferred Extended Loans, the
4 Regulatory Agreement, and related documents will include provisions to assure the continued
5 affordability and occupancy, for at least 20 years, by households as described in Section 66.3,
6 and such other restrictions and requirements as deemed appropriate by the Board of
7 Supervisors or the entity designated as administrator of the Program. In the case of Deferred
8 Extended Loans, the Regulatory Agreement and related documents will include provisions to assure
9 continued affordability and occupancy, for at least 55 years, by households as described in Section
10 66.3, and such other restrictions and requirements as deemed appropriate by the Board of Supervisors
11 or the entity designated as administrator of the Program.

12 (c) In addition to any other restriction on the reduction of the number of residential
13 units set forth in this Chapter, any loan made under the Program that is used to finance
14 Seismic Strengthening shall be subject to a regulatory agreement and related documents that
15 will ensure that the number of residential units, if any, in the structure being strengthened will
16 not be reduced for as long as any portion of the loan is unpaid except if one of the following
17 conditions is met at the time that the loan is made: (1) compliance with engineering
18 requirements necessitates a reduction in the number of residential units; (2) the loss of units is
19 required to correct substandard housing conditions as described in the Program regulations;
20 or (3) the structure is an owner-occupied mixed-use building with four or fewer residential
21 units.

22 Section 5. The San Francisco Administrative Code is hereby amended by amending
23 Section 66A.2 to read as follows:

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1 SEC. 66A.2. DEFINITIONS.

2 Unless otherwise defined below, capitalized terms used in this Chapter 66A shall have
3 the meanings set forth in this Chapter 66A or in Administrative Code Chapter 66.

4 (1) "Annual Debt Service" means the projected annual sum of all payments due on
5 obligations secured by the Property, as defined below, for the 12 months following the
6 completion of Seismic Strengthening to be financed by a Seismic Safety Loan, as defined
7 below, including any payments which will be due on the proposed Seismic Safety Loan, but
8 shall not include depreciation of the Property.

9 (2) "Annual Net Operating Income" means the annual sum of all gross income
10 estimated to be generated by the Property, as defined below, during the 12 months following
11 the completion of Seismic Strengthening to be financed by a Seismic Safety Loan, as defined
12 below, less the sum of all operating expenses for the Property during such period.

13 (3) "Applicant" means an applicant for a Seismic Safety Loan, as defined below.

14 (4) "Bolts Plus" means the retrofit standard defined in San Francisco Building Code
15 Section 1603B and permitted under San Francisco Building Code Section 1609C.2.

16 (5) "Bond Proceeds" means the proceeds of taxable general obligation bonds to be
17 issued by the City to finance the Program, including interest on such proceeds.

18 (6) "Borrower" means a recipient of a Seismic Safety Loan, as defined below.

19 (7) "Building Code" means the San Francisco Building Code, as it may be amended
20 from time to time.

21 (8) "Debt Service Coverage Ratio" shall be the ratio of Annual Net Operating Income
22 on the Property, as defined below, to Annual Debt Service on the Property.

23 (9) "General Procedure" means the retrofit standard defined in Building Code
24 Section 1610C.

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1 (10) "Loan Committee" means the Unreinforced Masonry Building Loan Committee,
2 as further defined in Section 66A.13.

3 (11) "Loan to Value Ratio" means the ratio of the outstanding principal balance of all
4 financing secured by the Property, as defined below, including the proposed Seismic Safety
5 Loan, as defined below, to the Market Value of the Property.

6 (12) "Market Value" of the Property, as defined below, means the value of the
7 Property as determined by an appraiser approved by the City who possesses a State of
8 California appraisal license, certified general, based on both historical data and projected
9 income and value following completion of Seismic Strengthening, as defined in Administrative
10 Code Section ~~66.1(h)~~66.1(j). Such appraisal shall be dated no earlier than 90 days prior to the
11 date of application for a Seismic Safety Loan, as defined below. The Applicant shall be fully
12 responsible for the cost of obtaining such an appraisal. The Program Administrator, as defined
13 below, shall provide prospective Applicants with a list of preapproved appraisers. The
14 Applicant may obtain the prior written approval of the Program Administrator in the event the
15 Applicant wishes to utilize an appraiser other than as specified on such list.

16 (13) "Program Administrator" means a representative of the *Director of Business and*
17 *Economic Development's office* ~~Mayor's Office of Housing~~, as specified in Section 66A.25.

18 (14) "Program Regulations" means regulations to be developed by the Program
19 Administrator, which will address those issues specified in this Chapter 66A, in addition to any
20 other matters deemed necessary by the Program Administrator in order to implement
21 Chapters 66 and 66A.

22 (15) "Property" means an unreinforced masonry bearing wall building ("UMB"), as
23 defined in Administrative Code Section ~~66.1(i)~~66.1(k), together with the legal parcel(s) of real
24 property on which the UMB is located.

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1 (16) "Regulatory Agreement" means an agreement to be executed by the Property
2 owner and recorded against the Property in order to restrict subsequent use of the Property,
3 as further described in Administrative Code Section 66.5 and in this Chapter 66A.

4 (17) "Section 3403.6" means the retrofit standard defined in Building Code Section
5 3403.6.

6 (18) "Seismic Safety Loan" means a loan made pursuant to Administrative Code
7 Chapters 66 and 66A, and includes Below Market Rate Loans, Deferred Extended Loans,
8 Deferred Standard Loans, and Market Rate Loans, each as defined in Administrative Code
9 Section 66.1.

10 (19) "Special Procedure" means the retrofit standard defined in Building Code
11 Section 1611C.

12 Section 6. The San Francisco Administrative Code is hereby amended by amending
13 Section 66A.4 to read as follows:

14 SEC. 66A.4. LENDING CRITERIA.

15 Applicants must satisfy the criteria described in Section 66A.4(1), at a minimum, in
16 order to be eligible for consideration for receipt of a Seismic Safety Loan. The Loan
17 Committee may also consider those additional factors described in Section 66A.4(2) in
18 determining whether to approve a Seismic Safety Loan. In no event will an Applicant's
19 satisfaction of the criteria in this Section 66A.4 be deemed to guarantee approval of a Seismic
20 Safety Loan for the Applicant.

21 (1) Underwriting Criteria.

22 (a) Below Market Rate Loans. Each Applicant for a Below Market Rate Loan
23 must show that the Property to be rehabilitated satisfies one of the following criteria:

24 (i) The Loan to Value Ratio of the Property shall not exceed 95
25 percent, and the Property shall have a minimum Debt Service Coverage Ratio of 1.1x; or

1 (ii) The Loan to Value Ratio of the Property shall not exceed 90
2 percent, and the Property shall have a minimum Debt Service Coverage Ratio of 1.05x.

3 (b) Deferred Extended Loans and Deferred Standard Loans. Each Applicant for a
4 Deferred Extended Loan or a Deferred Standard Loan must show that the Property to be
5 rehabilitated satisfies the following criteria: The Loan to Value Ratio of the Property shall not
6 exceed 95 percent.

7 (c) Market Rate Loans. Each Applicant for a Market Rate Loan must show
8 that the Property to be rehabilitated satisfies one of the following criteria:

9 (i) The Loan to Value Ratio shall not exceed 95 percent, and the
10 Property shall have a minimum Debt Service Coverage Ratio of 1.1x; or

11 (ii) The Loan to Value Ratio shall not exceed 90 percent, and the
12 Property shall have a minimum Debt Service Coverage Ratio of 1.05x.

13 (2) Other Lending Criteria. In addition to the underwriting criteria specified in Section
14 66A.4(1), above, the Loan Committee shall evaluate each of the following factors for each
15 Applicant, as these factors are more fully addressed in the Program Regulations:

16 (a) Creditworthiness. The Loan Committee shall evaluate an Applicant's
17 credit history and likelihood of making timely loan repayments.

18 (b) Net Worth. The Loan Committee shall examine an Applicant's net worth
19 and income.

20 (c) Experience. The Loan Committee shall determine whether an Applicant
21 has experience with rehabilitation projects, and whether such experience may contribute to
22 the likelihood of timely completion of the Seismic Strengthening and repayment of the Seismic
23 Safety Loan.

24 (d) Scope of Work. The Loan Committee shall assess the degree to which
25 the proposed scope and timing of the Seismic Strengthening will address the needs of the

1 Property and the surrounding neighborhood with regard to habitability and marketability of the
2 Property.

3 (e) Additional Factors. In the event a Property does not meet the Loan to
4 Value Ratio and/or Debt Service Coverage Ratio Requirements set forth above, the Loan
5 Committee may consider the following factors in determining whether to approve a Seismic
6 Safety Loan, in the following order of priority:

7 (i) The Applicant's ability and willingness to repay the Seismic Safety
8 Loan, including the availability of additional real property collateral as described in Section
9 66A.6(2), and the availability of personal or corporate guaranties, as described in Section
10 66A.6(2);

11 (ii) The extent to which proposed rehabilitation costs may be reduced
12 in order to permit the Applicant to qualify for a lesser Seismic Safety Loan amount; and

13 (iii) The extent to which existing lenders of financing secured by the
14 Property have agreed to subordinate the liens of their deeds of trust or other encumbrances to
15 the lien of the deed of trust ("Deed of Trust") in favor of the City in connection with a Seismic
16 Safety Loan.

17 Section 7. The San Francisco Administrative Code is hereby amended by amending
18 Section 66A.13 to read as follows:

19 SEC. 66A.13. UNREINFORCED MASONRY BUILDING LOAN COMMITTEE.

20 (1) Members. The Loan Committee shall consist of the following members as
21 appointed by the Director of ~~Business and Economic Development~~ the Mayor's Office of Housing,
22 each of whom shall be voting members:

23 (a) The Program Administrator or his/her designee;

24 (b) A financial expert or mortgage broker;

25 (c) A real estate appraiser or other commercial real estate expert;

1 (d) A finance expert, with experience in affordable housing development, from
2 the Mayor's Office of Housing or the successor to that office, or if no such office exists, from a
3 City department with experience in housing development and finance; and

4 (e) An engineering cost estimator.

5 (2) Quorum. Three members of the Loan Committee shall constitute a quorum for
6 the purposes of accomplishing the duties set forth in Subsection (3) below. A simple majority
7 vote of three members shall be necessary to approve any loan application or take any other
8 action. All decisions of the Loan Committee shall be final.

9 (3) Meetings. The Loan Committee shall meet on a monthly basis at a time and
10 place determined by the Loan Committee. The Program Administrator may cancel the
11 required monthly meeting if no applications have been submitted for approval since the
12 previous monthly meeting. All meetings shall be noticed in accordance with applicable State
13 and local law.

14 (4) Duties. The Loan Committee shall perform the following duties:

15 (a) The Loan Committee shall meet on a monthly basis at times and places
16 specified by the Loan Committee, and determine whether to approve or disapprove a loan
17 application. In the case of disapproval, the Loan Committee may indicate the reasons for such
18 disapproval, and the Applicant may choose to reapply in accordance with the requirements of
19 this Chapter 66A.

20 Section 8. The San Francisco Administrative Code is hereby amended by amending
21 Sections 66A.24 to read as follows:

22 SEC. 66A.24. PROGRAM REGULATIONS.

23 The Program Administrator shall develop Program Regulations to address the issues
24 specified in this Chapter 66A and such other matters as deemed necessary by the Program
25 Administrator for efficient administration of the Program. Such Program Regulations shall be

1 subject to review and approval by the Director of ~~Business and Economic Development~~ the
2 Mayor's Office of Housing and the City Attorney's Office.

3 Section 9. The San Francisco Administrative Code is hereby amended by amending
4 Sections 66A.25 to read as follows:

5 SEC. 66A.25. PROGRAM MANAGEMENT.

6 The Director of ~~Business and Economic Development~~ the Mayor's Office of Housing shall be
7 responsible for management of the Program in accordance with these requirements. The
8 City's Controller's Office upon the direction of the Program Administrator shall be responsible
9 for disbursing from Bond Proceeds the monies needed in connection with any Seismic Safety
10 Loan. The Program Administrator shall direct disbursements in consultation with the Financial
11 Consultant. Disbursements shall be made from time to time or upon the close of a Seismic
12 Safety Loan, as determined by the Controller. The Director of ~~Business and Economic~~
13 ~~Development~~ the Mayor's Office of Housing shall appoint an individual to serve as the Program
14 Administrator, who will be responsible for the day-to-day management of the Program.

15 Section 10. The San Francisco Administrative Code is hereby amended by amending
16 Section 66A.26 to read as follows:

17 SEC. 66A.26. AFFIRMATIVE ACTION.

18 The City's affirmative action goals, as described in Administrative Code Section 12B.4,
19 shall apply to contractors performing Seismic Strengthening under contracts with Borrowers
20 under this Program. Compliance with those goals shall be monitored by the Director of

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1 ~~Business and Economic Development~~ the Mayor's Office of Housing and the Program Administrator,
2 as specified in Administrative Code Section 66A.25.

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

5 By: _____
6 CAROL WONG
7 Deputy City Attorney

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