

1 [Housing Bond Approval Policy.]

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3 **Ordinance amending the San Francisco Administrative Code by adding Chapter 43.9,**  
4 **Sections 43.9.1 through 43.9.5, to adopt findings and a City policy requiring housing**  
5 **project sponsors to comply with certain City contracting programs and other**  
6 **conditions in connection with the issuance of revenue bonds by joint exercise of**  
7 **powers authorities to finance private affordable housing projects within the City.**

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~~.

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

13 Section 1. The San Francisco Administrative Code is hereby amended by adding  
14 Chapter 43.9, Sections 43.9.1 through 43.9.2, entitled "Housing Bond Approval Policy," to  
15 read as follows:

16 SECTION 43.9.1. FINDINGS.

17 The City and County of San Francisco (the "City") promotes the financing and construction of  
18 new affordable and mixed income housing by, among other things, issuing multifamily housing revenue  
19 bonds or 501(c)(3) bonds for private projects. The proceeds of such bonds are loaned by the City to a  
20 project sponsor to help it finance affordable and mixed income housing construction. The City is not  
21 liable for repayment of the bonds; the primary reason for the City's participation is that interest on  
22 qualifying City housing bonds is exempt from federal income taxation, reducing the project's cost of  
23 borrowing and thereby helping to make the affordable housing projects financially feasible. In return  
24 for the City's issuance of the bonds, the sponsor agrees to, among other things, (i) repay the loan by  
25 making payments of debt service and other amounts payable in connection with the bonds, (ii) enter a  
regulatory agreement with the City that sets forth restrictions on the housing units to ensure their

1 affordability, and (iii) comply with certain other City contracting requirements that apply to  
2 contractors receiving City funds for project construction (the "City's Contracting Requirements"). The  
3 City's Contracting Requirements include, without limitation, provisions requiring compliance with the  
4 City's contracting requirements and policies regarding nondiscrimination, equal benefits, minimum  
5 compensation, health care accountability, prevailing wage, local disadvantaged business enterprise  
6 subcontracting and jobs programs (such the City's First Source Hiring or City Build programs), as  
7 applicable. The San Francisco Redevelopment Agency (the "Agency") issues these housing revenue  
8 bonds as well and in doing so requires compliance with applicable Agency contracting requirements  
9 and policies, which are similar to the City's Contracting Requirements.

10 The City also supports affordable and mixed income housing construction through its  
11 membership in joint exercise of powers authorities such as the California Statewide Communities  
12 Development Authority and the Association of Bay Area Governments (all such joint powers authorities  
13 of which the City is a member are referred to in this ordinance individually as the "Authority"). Each  
14 Authority issues housing revenue bonds similar to the bonds described in the preceding paragraph.  
15 Under the terms of the City's membership in these Authorities, along with certain provisions of the  
16 federal Internal Revenue Code if such bonds are to be issued on a tax-exempt basis, the City's Board of  
17 Supervisors (the "Board of Supervisors") must adopt a resolution approving the bond financing prior to  
18 its issuance (a "TEFRA Resolution"). Again, the City is not liable for repayment of the bonds.

19 While the Authority and City transaction structures are similar on their face, in an Authority  
20 transaction the City is typically not a party to the transaction documents, and as such the project  
21 sponsors are not required to comply with the City's Contracting Requirements.

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23 SECTION 43.9.2. DEFINITIONS.

24 (a) "Agency" shall have the meaning assigned to such term in Section 43.9.1.

1           (b) "Authority" shall have the meaning assigned to such term in Section 43.9.1.

2           (c) "Board of Supervisors" shall have the meaning assigned to such term in Section  
3 43.9.1.

4           (d) "City" shall have the meaning assigned to such term in Section 43.9.1.

5           (e) "City's Contracting Requirements" shall have the meaning assigned to such term  
6 in Section 43.9.1.

7           (f) "HUD" shall mean the United States Department of Housing and Urban  
8 Development.

9           (g) "Residential Project" shall mean a residential development involving new  
10 construction, an addition, a conversion, or a rehabilitation, the financing of which is proposed to be  
11 assisted by any of the following: a HUD mortgage insurance program; a contract for project-based  
12 Section 8 rental assistance; HUD operating funds under HUD's Section 202 or Section 811 programs;  
13 or participation in the Low Income Housing Tax Credit program.

14           (h) "TEFRA Resolution" shall have the meaning assigned to such term in Section  
15 43.9.1.

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17           SECTION 43.9.3. DECLARATION OF POLICY.

18           This Board of Supervisors hereby declares that it is the policy of the City to require sponsors of  
19 private residential projects financed with multifamily housing revenue bonds or 501(c)(3) bonds within  
20 the City to comply with the City's Contracting Requirements. If such bonds are to be issued by an  
21 Authority, it shall be the policy of the City to require a project sponsor to satisfy the requirements of  
22 Section 43.9.4 as a condition to the City's approval of a TEFRA resolution. For bond-financed  
23 residential projects located within a redevelopment area, the Agency's policies and contracting

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1 requirements applicable to that redevelopment area may replace some or all of the City's Contracting  
2 Requirements for purposes of this section.

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4 SECTION 43.9.4. BONDS ISSUED BY AN AUTHORITY.

5 Any TEFRA Resolution to be considered by the Board of Supervisors in connection with bonds  
6 proposed to be issued by an Authority must include or be accompanied by the following:

7 (a) An agreement by the project sponsor to be bound by provisions consistent with the City's  
8 Contracting Requirements, provided that in recognition of the exemptions from the Minimum  
9 Compensation Ordinance and the Health Care Accountability Ordinance for affordable housing loan  
10 transactions to which the City is a party as set forth in Section 12P.2 and 12Q.2.4 of the Administrative  
11 Code, respectively, the City may waive the applicability of its minimum compensation or health care  
12 accountability requirements for nonprofit sponsors of affordable housing projects upon  
13 recommendation by the Director of the Mayor's Office of Housing or his or her designee and subject to  
14 approval of the Board of Supervisors by resolution.

15 (b) Except as approved in writing by the Mayor's Office of Housing, and subject to  
16 applicable HUD and state regulations, an agreement by the project sponsor to protect current tenants  
17 of the Residential Project from eviction due to the financing based solely on any such tenant's failure to  
18 meet a financing-related income standard at the time of bond issuance or at any time during the term of  
19 the affordability restrictions.

20 (c) Except as approved in writing by the Mayor's Office of Housing, and subject to  
21 applicable HUD and state regulations, an agreement by the project sponsor to limit annual rent  
22 increases for current tenants of the Residential Project to the percentage change in area median  
23 income for such year as such amount is determined by HUD. In the event that HUD does not make  
24 such a determination such amount shall be determined by the Mayor's Office of Housing.

1           (d) A written description of the expected ownership and management structure of the  
2 Residential Project after bond issuance. Such description shall include a description of the experience  
3 of the project sponsor in managing similar affordable residential projects. Such description shall also  
4 include a summary of the affordable residential project experience of any nonprofit corporations or  
5 other entities the project sponsor anticipates including in a joint venture with respect to the Residential  
6 Project. The Board of Supervisors hereby expresses a policy preference to support (i) Residential  
7 Projects with proposed management teams that include nonprofit partners based within the City and  
8 (ii) Residential Projects proposed to be managed by entities that demonstrate substantial experience  
9 with affordable housing projects.

10           (e) Proof of the delivery of written notice via mail to all current tenants and posting at the  
11 project location regarding the application for bond financing and the TEFRA hearing. Such proof may  
12 be provided in the form of a letter signed by the project sponsor and must be accompanied by the notice  
13 in the form in which it was delivered.

14           (f) A recommendation as to passage of the TEFRA Resolution from the Director of the  
15 Mayor's Office of Housing or his or her designee.

16           (g) An agreement by the project sponsor to reimburse the City for staff time, including fees  
17 and costs of the City Attorney's Office, relating to the TEFRA Resolution and the satisfaction of the  
18 policies set forth in this Article. The City may waive the applicability of this clause (g) for nonprofit  
19 sponsors of affordable housing projects upon recommendation by the Director of the Mayor's Office of  
20 Housing or his or her designee and subject to approval of the Board of Supervisors by resolution.

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SECTION 43.9.5. APPLICABILITY.

This Chapter shall not be interpreted to apply to any residential project for which the sponsor has submitted a request for the introduction of a TEFRA resolution on or before June 20, 2006.

APPROVED AS TO FORM:  
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By: \_\_\_\_\_  
Michael J. Martin  
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