

1 [Identification and Use of Surplus City Property for Housing for the homeless.]

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3 **Ordinance adding San Francisco Administrative Code Chapter 23A to identify surplus,**
4 **unutilized and underutilized City real property to be used for housing for the homeless.**
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6 Note: Additions are *single-underline italics Times New Roman*;
7 deletions are *strikethrough italics Times New Roman*.
8 Board amendment additions are double underlined.
9 Board amendment deletions are ~~strikethrough normal~~.

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

11 Section 1. The San Francisco Administrative Code is hereby amended by adding a
12 new Chapter 23A to read as follows:

13 *Sec. 23A.1. Title. This ordinance may be cited as the "Surplus City Property Ordinance."*

14 *Sec. 23A.2. Findings. The Board of Supervisors of the City and County of San Francisco*
15 *hereby finds:*

16 *(a) Homelessness in San Francisco is a crisis. The Mayor's Offices of Community*
17 *Development and Housing estimate that there are 3,125 homeless families and 9,375 homeless*
18 *individuals in San Francisco.*

19 *(b) The main causes of homelessness are high cost of living, lack of affordable housing units,*
20 *welfare reform, de-institutionalization of the mentally ill, substance abuse and San Francisco's unique*
21 *place as a destination point. These causes are identified by the Mayor's Offices of Community*
22 *Development and Housing in the 2000 Consolidated Plan.*

23 *(c) For homeless individuals and families, there is an unmet need of 3,187 housing slots for*
24 *individuals and 2,025 slots for families.*

25 *(d) Surplus City property could be utilized to provide housing to homeless men, women and*

1 children.

2 (e) Surplus City property that is unsuitable for housing could be sold to generate income for
3 permanent housing for people who are homeless.

4 (f) San Francisco's housing stock is unaffordable for many residents. The average rent for a
5 two-bedroom apartment increased by 110% from 1980 to 1990, while the overall cost of living
6 increased by 64%. At \$1,940, the average two-bedroom unit is out of reach to households earning less
7 than \$77,600 per year, based on the Department of Housing and Urban Development's standards.

8 (g) San Francisco is experiencing a severe shortage of housing for low-income people,
9 resulting in a negligible vacancy rate for habitable low-income housing.

10 (h) Many low-income renters are unable to locate rental housing of any kind. These persons
11 are increasingly seeking shelter in already overcrowded emergency shelters and, when such shelters
12 are full, finding themselves on the City's streets.

13 (i) Existing rental housing constitutes much of the remaining low-income housing in the City.
14 The number of such units is diminishing as a result of increased pressures for more development both
15 downtown and in many neighborhoods.

16 (k) Frequently, real estate speculation results in the premature closure of existing habitable
17 buildings and the withdrawal of existing rental units from the market long before such closure would be
18 needed for any physical redevelopment of such sites.

19 (l) The Board of Supervisors and the Mayor have concurred with the findings of the City's
20 Health Commission that there exists a health and housing emergency, as enumerated in Board
21 Resolution 537-01, adopted by the Board of Supervisors on June 25, 2001 and approved by the Mayor
22 on July 6, 2001.

23 **Sec. 23A.3. Purpose.** The purpose of this ordinance is to:

24 (a) Identify and utilize City-owned property for the purpose of providing housing, shelter,
25 and other services for people who are homeless;

1 (b) Relieve the crisis of homelessness in the City and County of San Francisco;

2 (c) Provide low or no cost facilities for agencies serving homeless people;

3 (d) Provide sweat-equity opportunities for homeless people to create permanent housing
4 opportunities through rehabilitation and repair of the units;

5 (f) Provide a centralized mechanism to responsibly dispose of surplus City property in a
6 manner which will ensure that the property or its proceeds will be used for the highest and best use.

7 **Sec. 23A.4. Definitions. For purposes of this section:**

8 (a) "Administrator" shall mean the Director of Real Property as set forth in Administrative
9 Code Sec. 23.1.

10 (b) "Homeless" shall mean:

11 1. an individual or family who lacks a fixed, regular and adequate nighttime
12 residence; or

13 2. an individual or family who has a primary nighttime residence that is:

14 A. a supervised publicly or privately operated shelter designed to provide
15 temporary living accommodations; or

16 B. an institution that provides a temporary residence for individuals who have
17 been institutionalized; or

18 C. a public or private place not designed for, or ordinarily used as, a regular
19 sleeping accommodation for human beings.

20 (c) "Property" shall mean any interest in real property, excluding land reserved for open space
21 or parks purposes, or roads, or transit lines, or public utility rights-of-way, or owned by the San
22 Francisco Unified School District.

23 (d) "Surplus Property" shall mean any real property under the control of a City department or
24 agency that is not required to fulfill the mission of the department or agency or the discharge of its
25 duties, as determined by the Executive Director of the department or agency;

1 (e) "Underutilized Property" shall mean an entire property or portion thereof, with or without
2 improvements, which is used only at irregular periods of time or intermittently, or which is used for
3 current program purposes that can be satisfied with a portion of the property.

4 (f) "Unutilized Property" shall mean an entire property or portion thereof, with or without
5 improvements, not occupied for current program purposes or occupied in caretaker status only.

6 **Sec. 23A.5. Agency Review of Property.**

7 On a quarterly basis, each City department or agency shall compile a list of all real property
8 which is under its control. The list shall include at least the following:

9 (a) The address of the property;

10 (b) The current use of the property or any planned use of the property within the next three
11 months;

12 (c) Whether the property contains any structures;

13 (d) Whether the property is now vacant or scheduled or anticipated to be vacant within the next
14 three months;

15 (e) If the property is vacant or contains vacant structures, whether the agency deems the
16 property to be "surplus," "unutilized," or "underutilized" as defined herein;

17 (f) A general description of any structure(s) on the property as well as an assessment of their
18 condition and possible uses;

19 (g) The terms of any gift, trust, deed restriction, bond covenants, or other covenants or
20 restrictions under which the City holds the property.

21 **Sec. 23A.6. Compilation of Information by Administrator.**

22 On a quarterly basis, each City department or agency shall submit to the Administrator the
23 listing of all real property under its control, as defined in Sec. 23A.4(b). The Administrator shall, on a
24 quarterly basis, compile the information received from each such City department or agency. No later
25 than 14 days after receiving a request from the Administrator, the Executive Director of each such City

1 department or agency shall transmit the requested information. No later than thirty days after
2 receiving such information, the Citizens' Committee shall evaluate the real property, and identify and
3 prepare a list of the buildings and other properties that may suitable for use to assist people who are
4 homeless.

5 **Sec. 23A.7. Citizens' Committee.**

6 There shall be a Citizens' Committee of nine members. Five members shall be appointed by the
7 Board of Supervisors. Three members shall be appointed by the Mayor, two of whom shall be Executive
8 Directors of City departments or their designees. One member shall be appointed by the Controller. A
9 representative from the Department of Real Estate shall serve as an ex-officio member, but may not
10 vote. Members shall include at least one person who is homeless; at least one person from an
11 organization working with homeless individuals, and at least one person who is a representative from a
12 non-profit housing development agency.

13 **Sec. 23A.8. Suitability Determination.**

14 Any City property that is currently vacant and for which there are no plans for utilization within
15 the next three months shall be considered surplus, unutilized or underutilized. The determination of
16 whether a property is surplus, underutilized, or unutilized shall be made by the Citizens' Committee in
17 consultation with the City department or agency that controls the property. Any City property which is
18 surplus, underutilized or unutilized shall be made available for the purpose of assisting people who are
19 homeless unless such use would violate the terms of any gift, trust, deed restriction, bond covenants, or
20 other covenants or restrictions under which the City holds the property.

21 **Sec. 23A.9. Utilization of Property.**

22 (a) Surplus, unutilized or underutilized property which the Citizens' Committee recommends to
23 the Administrator as suitable for use to assist homeless individuals, shall be used, as a first priority, for
24 the development of permanent affordable housing for people who are homeless, unless such use would
25

1 violate the terms of any gift, trust, deed restriction, bond covenants, or other covenants or restrictions
2 under which the City holds the property.

3 1. Housing provided under this ordinance shall be permanent housing which remains
4 permanently affordable for the life of the property;

5 2. Tenants' rents in shall not exceed 25% of the tenant's income;

6 3. Projects in which people who are homeless rehabilitate and renovate property in
7 exchange for their tenancy or sweat equity in the property shall be encouraged.

8 (b) A second priority for use of surplus, underutilized, or unutilized property shall be for
9 other services for people who are homeless.

10 (c) Non-profit agencies serving people who are homeless, or people who are homeless may
11 apply to lease the property from the City and County of San Francisco for the sum of \$1 per year or to
12 buy the property for the sum of \$1. Such application shall state the intended use of the property;
13 contain a specific plan and schedule for the development or improvement of the property, including
14 compliance with disabled access, health, building and safety codes; and identify adequate financial
15 resources to develop, improve, insure, manage and maintain the property.

16 (d) Any arrangement which involves transfer of the title under this section shall include
17 covenants which prohibit any purchaser of City property from reselling or transferring City property at
18 a profit, and which require that the property be used in conformance with this Chapter.

19 (e) Any conveyance of City property under this section shall be in accordance with the
20 requirements of Administrative Code Sec. 23.3, except the Board of Supervisors may authorize
21 conveyance for less than full market value.

22 **Sec. 23A.10. Property Unsuitable For Use.**

23 Property which the Citizens' Committee recommends to the Administrator as unsuitable for use
24 because the property is unsafe, inconveniently located, or cannot not meet the purposes of this Chapter
25 shall be conveyed in accordance with the requirements of Administrative Code Sec. 23.3, unless such

1 conveyance would violate the terms of any gift, trust, deed restriction, bond covenants, or other
2 covenants or restrictions under which the City holds the property. The proceeds of the lease or sale are
3 to be reserved exclusively for the purpose of financing affordable housing in San Francisco.

4 **Sec. 23A.11. Duties of City Departments or Agencies.**

5 Each City department or agency shall maintain adequate inventory and accountability systems
6 for the property under its control, and shall continuously survey such property to determine which
7 properties are surplus, underutilized or unutilized, and shall promptly report such property to the
8 Administrator.

9 **Sec. 23A.12. City Agency Responses.**

10 The Administrator shall promptly notify each City department or agency with respect to any
11 property under the control of that department or agency that has been determined by the Citizen's
12 Committee pursuant to Sec. 23A. 8 of this Chapter to be surplus, underutilized, or unutilized. No later
13 than 45 days after receipt of such a notice, the Executive Director of the appropriate department or
14 agency shall transmit a response to the Administrator. This response shall include:

15 (a) a statement of intention to make the property available for use to assist the homeless; or

16 (b) a statement that there is further and compelling local need for the property, including a full
17 explanation of such need; and that the property is not presently available for use to assist the homeless;
18 or

19 (c) use of the property is restricted by the terms of any gift, trust, deed restriction, bond
20 covenants, or other covenants or restrictions under which the City holds the property.

21 **Sec. 23A.13. Records.**

22 The Administrator shall maintain and release written records of all information compiled under
23 this Chapter in conformance with all state and local laws governing the retention and disclosure of
24 public records.

1 **Sec. 23A.14. Publication of Properties**

2 No later than 15 days after the last day of the 30 day period provided for under Sec. 23A.6 of
3 this ordinance, the Administrator shall publish in a newspaper qualified to print legal notice, a list of
4 all properties reviewed by the Administrator, and a list of all properties that are available under this
5 ordinance for application for use to assist the homeless. Each publication of properties shall include a
6 description, the address and zip code of each property, and the current classification of each property
7 as surplus, unutilized, underutilized.

8 Additionally, the Administrator shall transmit a copy of this list to the private and public
9 agencies serving people who are homeless. The Administrator shall make such efforts as are necessary
10 to ensure the widest possible dissemination of the information on the list. The Administrator shall
11 establish a telephone number to provide the public with specific information about properties on such
12 list.

13 On December 31 of each year, the Executive Director of each City Department or agency shall
14 report to the Mayor's Office of Housing the current classification and availability of each property
15 controlled by the department or agency that was included in a list published by the Administrator that
16 year, identifying those properties that remain available for application for use to assist the homeless, or
17 which have become available for application during that year.

18 The Administrator shall publish separately, on an annual basis, all properties identified as
19 being suitable for use to assist the homeless, but reported to be unavailable, and the reasons such
20 properties were unavailable.

21 **Section 23A.15. Application for Property.**

22 A non-profit agency serving homeless individuals, or people who are homeless may submit an
23 application for any property that is published under this Chapter as available for use to assist the
24 homeless. The application shall be developed by the Administrator. An applicant must submit a
25 written notice of intent to apply, and no later than ninety (90) days after the submission of this written

1 notice, shall submit a complete application to the Administrator. The Administrator may grant one
2 extension not to exceed thirty (30) days.

3 No later than twenty-five (25) business days after receipt of a completed application, the
4 Administrator shall review, make all determinations, and complete all action on the application. This
5 period may be extended up to fifty (50) additional business days by agreement of Administrator and the
6 applicant.

7 The Administrator must provide in each application packet sent to interested persons contact
8 information: (a) identifying any independent organizations working on behalf of homeless people that
9 can assist homeless service providers in resolving any problems that may arise in the application and
10 leasing processes; and (b) City staff persons who are available to assist in the application process.

11 **Sec. 23A.16. Availability of Property.**

12 Conveyance of property under this Chapter shall proceed expeditiously and in conformance
13 with the requirements of Administrative Code Sec. 23.3.

14 **Section 23A.17. General Welfare.** In undertaking this Surplus City Property Program, the City
15 and County of San Francisco is assuming an undertaking only to promote the general welfare. It is not
16 assuming, nor is it imposing on its officers and employees, an obligation for breach of which it is liable
17 in money damages to any person who claims that such breach proximately caused injury.

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1 **Section 23A.18. Severability.** *If any section, subsection, subdivision, paragraph, sentence,*
2 *clause or phrase of this Chapter 23A or any part thereof is, for any reason, held to be unconstitutional*
3 *or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the*
4 *validity or effectiveness of the remaining portions of this Chapter or any part thereof. The Board of*
5 *Supervisors hereby declares that it would have passed each section, subsection, subdivision,*
6 *paragraph, sentence, clause or phrase thereof irrespective of the fact that any one or more section,*
7 *subsections, subdivisions, paragraphs, sentences, clauses or phrases be declared unconstitutional or*
8 *invalid or ineffective.*

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

13 By: _____
14 Virginia Dario Elizondo
15 Deputy City Attorney
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