

BOARD of SUPERVISORS



City Hall
Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. (415) 554-5184
Fax No. (415) 554-5163
TDD/TTY No. (415) 554-5227

September 15, 2023

Rich Hillis, Director
Planning Department
1650 Mission Street, Ste. 400
San Francisco, CA 94103

Dear Director Hillis:

The Board of Supervisors' Budget and Finance Committee has received the following General Obligation Bond legislation for the March 5, 2024, Election, introduced by Mayor London Breed:

File No. 230969

Ordinance calling and providing for a special election to be held in the City and County of San Francisco on Tuesday, March 5, 2024, for the purpose of submitting to San Francisco voters a proposition to incur bonded indebtedness of not to exceed \$300,000,000 to finance the construction, reconstruction, development, acquisition, improvement, rehabilitation, preservation, and repair of rental affordable housing projects, and to expand homeownership opportunities through the Downpayment Assistance Loan Program; and related costs necessary or convenient for the foregoing purposes; authorizing landlords to pass-through 50% of the resulting property tax increase to residential tenants under Administrative Code, Chapter 37; providing for the levy and collection of taxes to pay both principal and interest on such Bonds; incorporating the provisions of the Administrative Code relating to the Citizens' General Obligation Bond Oversight Committee's review of Affordable Housing Bond expenditures; setting certain procedures and requirements for the election; affirming a determination under the California Environmental Quality Act; and finding that the proposed Bond is consistent with the General Plan, and with the eight priority policies of Planning Code, Section 101.1.

File No. 230970

Resolution determining and declaring that the public interest and necessity demand the construction, reconstruction, development, acquisition, improvement, rehabilitation, preservation, and repair of rental affordable housing projects, and the expansion of homeownership opportunities through the Downpayment Assistance Loan Program, and related costs necessary or convenient for the foregoing purposes; to be financed through bonded indebtedness in an amount not to exceed \$300,000,000; authorizing landlords to pass-through 50% of the resulting property tax increase to residential tenants under Administrative Code, Chapter 37; providing for the levy and collection of taxes to pay both principal and interest on such bonds; affirming a determination under the California Environmental Quality Act; and finding that the proposed Bond is consistent with the General Plan, and with the eight priority policies of Planning Code, Section 101.1.

The proposed ordinance and resolution is being transmitted to the Planning Department for review and determination regarding consistency with the City's General Plan and eight priority policies of Planning Code, Section 101.1. The ordinance is pending before the Budget and Finance Committee and will be scheduled for hearing following receipt of your response.

Angela Calvillo, Clerk of the Board

Brent Jalipa

By: Brent Jalipa, Assistant Clerk
Budget and Finance Committee

Attachment

- c: Dan Sider, Chief of Staff
- Corey Teague, Zoning Administrator
- Tina Tam, Deputy Zoning Administrator
- Lisa Gibson, Environmental Review Officer
- Devyani Jain, Deputy Environmental Review Officer
- Aaron Starr, Manager of Legislative Affairs
- Josh Switzky, Acting Director of Citywide Planning
- Joy Navarrete, Environmental Planning
- Debra Dwyer, Principal Environmental Planner
- Elizabeth Watty, Current Planning Division

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MEMORANDUM

Date: September 15, 2023
To: Planning Department / Commission
From: Brent Jalipa, Clerk of the Budget and Finance Committee
Subject: Board of Supervisors Legislation Referral - File Nos. 230969 and 230970
General Obligation Bond Election - Affordable Housing - Not to Exceed \$300,000,000

- California Environmental Quality Act (CEQA) Determination
(*California Public Resources Code, Sections 21000 et seq.*)
 - Ordinance / Resolution
 - Ballot Measure

- Amendment to the Planning Code, including the following Findings:
(*Planning Code, Section 302(b): 90 days for Planning Commission review*)
 - General Plan Planning Code, Section 101.1 Planning Code, Section 302

- Amendment to the Administrative Code, involving Land Use/Planning
(*Board Rule 3.23: 30 days for possible Planning Department review*)

- General Plan Referral for Non-Planning Code Amendments
(*Charter, Section 4.105, and Administrative Code, Section 2A.53*)
(Required for legislation concerning the acquisition, vacation, sale, or change in use of City property; subdivision of land; construction, improvement, extension, widening, narrowing, removal, or relocation of public ways, transportation routes, ground, open space, buildings, or structures; plans for public housing and publicly-assisted private housing; redevelopment plans; development agreements; the annual capital expenditure plan and six-year capital improvement program; and any capital improvement project or long-term financing proposal such as general obligation or revenue bonds.)

- Historic Preservation Commission
 - Landmark (*Planning Code, Section 1004.3*)
 - Cultural Districts (*Charter, Section 4.135 & Board Rule 3.23*)
 - Mills Act Contract (*Government Code, Section 50280*)
 - Designation for Significant/Contributory Buildings (*Planning Code, Article 11*)

Please send the Planning Department/Commission recommendation/determination to Brent Jalipa at Brent.Jalipa@sfgov.org.

1 [General Obligation Bond Election - Affordable Housing - Not to Exceed \$300,000,000]

2

3 **Ordinance calling and providing for a special election to be held in the City and County**
 4 **of San Francisco on Tuesday, March 5, 2024, for the purpose of submitting to**
 5 **San Francisco voters a proposition to incur bonded indebtedness of not to exceed**
 6 **\$300,000,000 to finance the construction, reconstruction, development, acquisition,**
 7 **improvement, rehabilitation, preservation, and repair of rental affordable housing**
 8 **projects, and to expand homeownership opportunities through the Downpayment**
 9 **Assistance Loan Program; and related costs necessary or convenient for the foregoing**
 10 **purposes; authorizing landlords to pass-through 50% of the resulting property tax**
 11 **increase to residential tenants under Administrative Code, Chapter 37; providing for**
 12 **the levy and collection of taxes to pay both principal and interest on such Bonds;**
 13 **incorporating the provisions of the Administrative Code relating to the Citizens'**
 14 **General Obligation Bond Oversight Committee's review of Affordable Housing Bond**
 15 **expenditures; setting certain procedures and requirements for the election; affirming a**
 16 **determination under the California Environmental Quality Act; and finding that the**
 17 **proposed Bond is consistent with the General Plan, and with the eight priority policies**
 18 **of Planning Code, Section 101.1.**

19 **NOTE:** **Unchanged Code text and uncodified text** are in plain Arial font.
 20 **Additions to Codes** are in *single-underline italics Times New Roman font*.
 21 **Deletions to Codes** are in *strikethrough italics Times New Roman font*.
 22 **Board amendment additions** are in double-underlined Arial font.
 23 **Board amendment deletions** are in ~~strikethrough Arial font~~.
 24 **Asterisks (* * * *)** indicate the omission of unchanged Code
 25 subsections or parts of tables.

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

1 Section 1. Findings.

2 A. The City and County of San Francisco (“City”)’s General Plan 2022 Housing
3 Element (“2022 Housing Element”) details the City’s goals, objectives, and corresponding
4 policies and programs to meet the housing needs of all San Francisco residents, with a focus
5 on racial and social equity. This includes the objective to substantially expand the amount of
6 affordable housing for extremely low- to moderate-income households and expand housing
7 opportunities for middle-income households (as defined in Section 3 below) (2022 Housing
8 Element, Objectives 4.A and 4.B), as well as the requirement for San Francisco to plan for
9 and support the production of 46,598 affordable housing units over the next eight years as
10 mandated by the Regional Housing Needs Allocation Plan.

11 B. The U.S Department of Housing and Urban Development (HUD) considers
12 housing to be “affordable” when a household spends 30 percent or less of its income on
13 housing costs, including rent and utilities. By this definition, the median condominium price of
14 \$1.2 million is affordable to households making \$222,000 annually. Less than 25 percent of
15 San Francisco households earn this income and less than 10 percent of San Francisco
16 workers have this salary. In 2022, the median rent for a 2-bedroom apartment was \$3,800,
17 affordable to a household earning \$137,000; less than 40 percent of San Francisco
18 households earn this income. (2022 Housing Element, Goal 4).

19 C. The need for affordable housing was severely exacerbated during the
20 COVID-19 pandemic, when the City’s unemployment rate rose to 13 percent in April 2020
21 from 2.2 percent in February 2020. As a result, the City invested in policies and programs to
22 support residents at risk of eviction, foreclosure, and displacement due to loss of income
23 related to the pandemic. These investments included (i) establishment of the Emergency
24 Rental Assistance Program, (ii) expansion of the Homeowner Emergency Loan Program, and
25 (iii) issuance of a moratorium on evictions due to nonpayment of rent.

1 D. While these policies and programs provided temporary support, overwhelming
2 demand far exceeded and continues to exceed the City's available resources. The City's
3 economy is still recovering from the pandemic, and the impacts of the pandemic will have
4 lasting effects, particularly for families and individuals that were disproportionately impacted
5 by the pandemic (2022 Housing Element, Figure 33).

6 E. The City's ability to produce the affordable rental housing it needs has been
7 significantly impacted by the limited availability of state and federal resources. From 2018 to
8 2022, for every \$1 of local funding invested by the City to create affordable housing, the City's
9 affordable housing projects received \$2 in funding from state and federal sources. As detailed
10 in the 2024 Affordable Housing Bond Report, the economic environment for affordable
11 housing has changed significantly in recent years, with state affordable housing funding
12 programs becoming more competitive and severely oversubscribed, including the state's
13 allocation of volume cap for tax-exempt housing revenue bonds.

14 F. The City contributes significant resources to ensure project delivery. San
15 Francisco voters have approved measures to create local funds dedicated to the construction,
16 preservation, and rehabilitation of affordable housing, including the 2012 Housing Trust Fund
17 and affordable housing general obligation bonds in 2015 and 2019. The City's local funds
18 from the 2015 and 2019 bonds are projected to be exhausted by 2028 (2024 Affordable
19 Housing Bond Report). Additional sources of affordable housing funds from the City's impact
20 fees have been decreasing due to the economic environment, such as the Jobs-Housing
21 Linkage Fee (Planning Code, Sec. 413), the Inclusionary Affordable Housing Program
22 (Planning Code, Sec. 415), various development agreements, and other impact fees. Funding
23 from such sources decreased by 95 percent between Fiscal Year 2019-2020 and Fiscal Year
24 2021-2022. Moreover, the Office of the Controller's FY 2023-2024 and 2024-2025 Revenue
25

1 Letter projects only modest tax revenue growth over the coming years, severely limiting the
2 amount of resources the City will have to fund the development of affordable housing.

3 G. The City’s economic future and ongoing recovery will ultimately depend on its
4 ability to produce and preserve enough affordable housing to ensure the City’s economically
5 diverse households can equitably access housing and remain stably housed in San
6 Francisco. Failure to meet this need will result in the displacement of more households to
7 areas with more affordable housing. This displacement could result in (i) greater disparity
8 between above moderate-income and lower-income households in the City with little change
9 to the City’s median income levels as determined by the U.S. Census Bureau; and (ii) long
10 commutes, road congestion, and environmental harm as people seek affordable housing at
11 greater distances from where they work.

12 H. The proposed Bond is recommended by the City’s 10-year capital plan,
13 approved each odd-numbered year by the Mayor and this Board (“Board”).

14 I. The proposed Bond will provide a portion of the critical funding necessary to
15 construct, reconstruct, develop, acquire, improve, rehabilitate, repair, and preserve rental
16 affordable housing projects in the City, and to expand homeownership opportunities for San
17 Franciscans (as further defined in Section 3 below).

18 Section 2. A special election is called and ordered to be held in the City on Tuesday,
19 March 5, 2024, for the purpose of submitting to the electors of the City a proposition to incur
20 bonded indebtedness of the City for the programs described in the amount and for the
21 purposes stated (herein collectively, the “Project”):

22 “SAN FRANCISCO AFFORDABLE HOUSING BONDS. \$300,000,000 to construct,
23 reconstruct, develop, acquire, improve, rehabilitate, repair, and preserve housing that will be
24 affordable to households ranging from extremely low-income to moderate-income households;
25 and to expand downpayment assistance loan programs for eligible households, including

1 middle-income households, to support first-time homebuyers who would otherwise not be able
2 to purchase a primary residence in San Francisco; with a duration of up to 30 years from the
3 time of issuance, an estimated average tax rate of \$0.0057/\$100 of assessed property value,
4 and projected average annual revenues of \$25,000,000, all subject to independent citizen
5 oversight and regular audits; and authorizing landlords to pass-through to residential tenants
6 in units subject to Administrative Code Chapter 37 (the “Residential Rent Stabilization and
7 Arbitration Ordinance”) 50 percent of the increase in the real property taxes attributable to the
8 cost of the repayment of such Bonds.”

9 The special election called and ordered to be held hereby shall be referred to in this
10 ordinance as the “Bond Special Election.

11 Section 3. PROPOSED PROGRAM. The City intends to allocate the Bond
12 proceeds described below to provide to extremely low-, very low-, lower-, moderate- and
13 middle-income households in San Francisco affordable housing rental and homeownership
14 opportunities in accordance with policies and programs set forth by the 2022 Housing
15 Element. “Median Income” is the median income for the City and County of San Francisco
16 determined annually by the Mayor’s Office of Housing and Community Development
17 (“MOHCD”), adjusted solely for household size, and derived in part from the income limits and
18 area median income determined by HUD for the San Francisco Metro Fair Market Rent Area,
19 but not adjusted for a high housing cost area. For this Bond, income levels are defined as
20 follows: households earning up to 30 percent of Median Income are “extremely low-income”;
21 households earning up to 50 percent of Median Income are “very low-income”; households
22 earning up to 80 percent of Median Income are “lower-income households”; households
23 earning up to 120 percent of Median Income are “moderate-income households”; and
24 households earning 120 percent to 200 percent of Median Income are “middle-income
25 households.” Contractors and City departments shall comply with all applicable City laws

1 when awarding contracts or performing work funded with the proceeds of Bonds authorized by
2 this measure.

3 A. CONSTRUCTION: Up to \$258,000,000 of Bond proceeds will be allocated to
4 construct, reconstruct, develop, acquire, rehabilitate, repair, and improve new affordable
5 rental housing serving extremely low-income households, very low-income households, and
6 lower-income households.

7 B. PRESERVATION: Up to \$30,000,000 of Bond proceeds will be allocated to
8 acquire, construct, reconstruct, repair, develop, rehabilitate, and improve rental housing, so as
9 to preserve it as affordable for lower-income households and moderate-income households.

10 C. DOWNPAYMENT ASSISTANCE: Up to \$12,000,000 of Bond proceeds will be
11 allocated to expand the City's Downpayment Assistance Loan Program to assist prospective
12 first-time homebuyers who would otherwise not be able to purchase a market-rate residence
13 in San Francisco. This portion of the Bond shall be allocated to MOHCD's existing programs
14 that provide downpayment assistance loans to eligible households earning up to 200 percent
15 of Median Income, including loans to assist middle-income households described in 2022
16 Housing Element Objective 4.B.

17 D. CITIZENS' OVERSIGHT COMMITTEE. A portion of the Bond shall be used to
18 perform audits of the Bond, as further described in Section 4 and Section 16 below.

19 Section 4. BOND ACCOUNTABILITY MEASURES.

20 The Bonds shall include the following administrative rules and principles:

21 A. OVERSIGHT. The proposed Bond funds shall be subject to approval processes
22 and rules described in the San Francisco Charter and Administrative Code. Pursuant to
23 Administrative Code Section 5.31, the Citizens' General Obligation Bond Oversight
24 Committee shall conduct an annual review of Bond spending, and shall provide an annual
25 report of the Bond program to the Mayor and the Board.

1 B. TRANSPARENCY. The City shall create and maintain a web page outlining and
2 describing the bond program, progress, and activity updates. The City shall also hold an
3 annual public hearing and review on the bond program and its implementation before the
4 Capital Planning Committee and the Citizens' General Obligation Bond Oversight Committee.

5 Section 5. The estimated cost of the bond-financed portion of the project described
6 in Section 2 above was fixed by the Board by the following Resolution and in the amount
7 specified below:

8 Resolution No. _____, on file with the Clerk of the Board in File No.
9 _____ \$300,000,000.

10 Such resolution was passed by two-thirds or more of the Board and approved by the
11 Mayor. In such resolution it was recited and found by the Board that the sum of money
12 specified is too great to be paid out of the ordinary annual income and revenue of the City in
13 addition to the other annual expenses or other funds derived from taxes levied for those
14 purposes and will require expenditures greater than the amount allowed by the annual tax
15 levy.

16 The method and manner of payment of the estimated costs described in this ordinance
17 are by the issuance of Bonds by the City not exceeding the principal amount specified.

18 Such estimate of costs as set forth in such resolution is adopted and determined to be
19 the estimated cost of such bond-financed improvements and financing, respectively.

20 Section 6. The Bond Special Election shall be held and conducted and the votes
21 received and canvassed, and the returns made and the results ascertained, determined, and
22 declared as provided in this ordinance and in all particulars not recited in this ordinance such
23 election shall be held according to the laws of the State of California ("State") and the Charter
24 of the City ("Charter") and any regulations adopted under State law or the Charter, providing
25

1 for and governing elections in the City, and the polls for such election shall be and remain
2 open during the time required by such laws and regulations.

3 Section 7. The Bond Special Election is consolidated with the Presidential Primary
4 Election scheduled to be held in the City on Tuesday, March 5, 2024 (“Presidential Primary
5 Election”). The voting precincts, polling places, and officers of election for the Presidential
6 Primary Election are hereby adopted, established, designated, and named, respectively, as
7 the voting precincts, polling places, and officers of election for the Bond Special Election
8 called, and reference is made to the notice of election setting forth the voting precincts, polling
9 places, and officers of election for the Presidential Primary Election by the City’s Director of
10 Elections to be published in the official newspaper of the City on the date required under the
11 laws of the State.

12 Section 8. The ballots to be used at the Bond Special Election shall be the ballots to
13 be used at the Presidential Primary Election. The word limit for ballot propositions imposed by
14 Municipal Elections Code Section 510 is waived. On the ballots to be used at the Bond
15 Special Election, in addition to any other matter required by law to be printed thereon, shall
16 appear the following as a separate proposition:

17 “SAN FRANCISCO AFFORDABLE HOUSING BONDS. To construct, reconstruct,
18 repair, develop, acquire, improve, rehabilitate, and preserve housing that will be affordable to
19 households ranging from extremely low-income to moderate-income households; and to
20 expand downpayment assistance loan programs for eligible households, including middle-
21 income households, to support first-time homebuyers who would otherwise not be able to
22 purchase a primary residence in San Francisco; shall the City and County of San Francisco
23 issue \$300,000,000 in general obligation bonds with a duration of up to 30 years from the time
24 of issuance, an estimated average tax rate of \$0.0057/\$100 of assessed property value, and
25

1 projected average annual revenues of \$25,000,000, subject to independent citizen oversight
2 and regular audits?”

3 The City’s current debt management policy is to maintain the property tax rate for City
4 general obligation bonds below the 2006 rate by issuing new general obligation bonds as
5 older ones are retired and the tax base grows, though this property tax rate may vary based
6 on other factors.

7 Each voter to vote in favor of the foregoing bond proposition shall mark the ballot in the
8 location corresponding to a “YES” vote for the proposition, and to vote against the proposition
9 shall mark the ballot in the location corresponding to a “NO” vote for the proposition.

10 Section 9. If at the Bond Special Election it shall appear that two-thirds of all the
11 voters voting on the proposition voted in favor of and authorized the incurring of bonded
12 indebtedness for the purposes set forth in such proposition, then such proposition shall have
13 been accepted by the electors, and the Bonds authorized shall be issued upon the order of
14 the Board. Such Bonds shall bear interest at a rate not exceeding that permitted by law.

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

18 Section 10. The actual expenditure of Bond proceeds provided for in this ordinance
19 shall be net of financing costs.

20 Section 11. For the purpose of paying the principal and interest on the Bonds, the
21 Board shall, at the time of fixing the general tax levy and in the manner for such general tax
22 levy provided, levy and collect annually each year until such Bonds are paid, or until there is a
23 sum in the Treasury of the City, or other account held on behalf of the Treasurer of the City,
24 set apart for that purpose to meet all sums coming due for the principal and interest on the
25 Bonds, a tax sufficient to pay the annual interest on such Bonds as the same becomes due

1 and also such part of the principal thereof as shall become due before the proceeds of a tax
2 levied at the time for making the next general tax levy can be made available for the payment
3 of such principal.

4 Section 12. This ordinance shall be published in accordance with any State law
5 requirements, and such publication shall constitute notice of the Bond Special Election and no
6 other notice of the Bond Special Election hereby called need be given.

7 Section 13. The Planning Department has determined that the actions contemplated
8 in this ordinance comply with the California Environmental Quality Act (California Public
9 Resources Code Section 21000 et seq.). Said determination is on file with the Clerk of the
10 Board of Supervisors in File No. ____ and is incorporated herein by reference. The Board
11 affirms this determination.

12 Section 14. On _____, the Planning Department issued its General Plan
13 Referral Report finding that the actions contemplated in this ordinance are consistent, on
14 balance, with the City's General Plan and eight priority policies of Planning Code Section
15 101.1. The Board adopts these findings as its own. A copy of said General Plan Referral
16 Report is on file with the Clerk of the Board of Supervisors in File No. _____, and is
17 incorporated herein by reference.

18 Section 15. Under Section 53410 of the California Government Code, the Bonds shall
19 be for the specific purpose authorized in this ordinance and the proceeds of such Bonds will
20 be applied only for such specific purpose. The City will comply with the requirements of
21 Sections 53410(c) and 53410(d) of the California Government Code.

22 Section 16. The Bonds are subject to, and incorporate by reference, the applicable
23 provisions of Administrative Code Sections 5.30-5.36 (the "Citizens' General Obligation Bond
24 Oversight Committee"). Consistent with Administrative Code Section 5.31, to the extent
25 permitted by law, 0.1% of the gross proceeds of the Bonds shall be deposited in a fund

1 established by the Controller’s Office and appropriated by the Board of Supervisors at the
2 direction of the Citizens’ General Obligation Bond Oversight Committee to cover the costs of
3 such committee.

4 Section 17. The time requirements specified in Administrative Code Section 2.34 are
5 waived.

6 Section 18. The City hereby declares its official intent to reimburse prior expenditures
7 of the City incurred or expected to be incurred prior to the issuance and sale of any series of
8 the Bonds in connection with the Project. The Board hereby declares the City’s intent to
9 reimburse the City with the proceeds of the Bonds for expenditures with respect to the Project
10 (the “Expenditures” and each, an “Expenditure”) made on and after that date that is no more
11 than 60 days prior to the passage of this ordinance. The City reasonably expects on the date
12 hereof that it will reimburse the Expenditures with the proceeds of the Bonds.

13 Each Expenditure was and will be either (a) of a type properly chargeable to a capital
14 account under general federal income tax principles (determined in each case as of the date
15 of the Expenditure), (b) a cost of issuance with respect to the Bonds, or (c) a nonrecurring
16 item that is not customarily payable from current revenues. The maximum aggregate principal
17 amount of the Bonds expected to be issued for the Project is \$300,000,000. The City shall
18 make a reimbursement allocation, which is a written allocation by the City that evidences the
19 City’s use of proceeds of the applicable series of Bonds to reimburse an Expenditure, no later
20 than 18 months after the later of the date on which the Expenditure is paid or the related
21 portion of the Project is placed in service or abandoned, but in no event more than three years
22 after the date on which the Expenditure is paid. The City recognizes that exceptions are
23 available for certain “preliminary expenditures,” costs of issuance, certain de minimis
24 amounts, expenditures by “small issuers” (based on the year of issuance and not the year of
25 expenditure) and Expenditures for construction projects of at least five years.

1 Section 19. Landlords may pass through to residential tenants under the Residential
2 Rent Stabilization and Arbitration Ordinance (Administrative Code Chapter 37) 50 percent of
3 any property tax increase that may result from the issuance of Bonds authorized by this
4 ordinance. The City may enact ordinances authorizing tenants to seek waivers from the pass-
5 through based on financial hardship.

6 Section 20. The appropriate officers, employees, representatives, and agents of the
7 City are hereby authorized and directed to do everything necessary or desirable to accomplish
8 the calling and holding of the Bond Special Election, and to otherwise carry out the provisions
9 of this ordinance.

10 Section 21. Documents referenced in this ordinance are on file with the Clerk of the
11 Board of Supervisors in File No. _____, which is hereby declared to be a part of this
12 ordinance as if set forth fully herein.

13
14 APPROVED AS TO FORM:
15 DAVID CHIU,
16 City Attorney

17 By: /s/ KENNETH D. ROUX
18 KENNETH D. ROUX
19 Deputy City Attorney
20 n:\financ\as2023\2300394\01704184.docx

LEGISLATIVE DIGEST

[General Obligation Bond Election - Affordable Housing - Not to Exceed \$300,000,000]

Ordinance calling and providing for a special election to be held in the City and County of San Francisco on Tuesday, March 5, 2024, for the purpose of submitting to San Francisco voters a proposition to incur bonded indebtedness of not to exceed \$300,000,000 to finance the construction, reconstruction, development, acquisition, improvement, rehabilitation, preservation, and repair of rental affordable housing projects, and to expand homeownership opportunities through the Downpayment Assistance Loan Program; and related costs necessary or convenient for the foregoing purposes; authorizing landlords to pass-through 50% of the resulting property tax increase to residential tenants under Administrative Code, Chapter 37; providing for the levy and collection of taxes to pay both principal and interest on such Bonds; incorporating the provisions of the Administrative Code relating to the Citizens' General Obligation Bond Oversight Committee's review of Affordable Housing Bond expenditures; setting certain procedures and requirements for the election; affirming a determination under the California Environmental Quality Act; and finding that the proposed Bond is consistent with the General Plan, and with the eight priority policies of Planning Code, Section 101.1.

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 March 5, 2024 ballot:

“SAN FRANCISCO AFFORDABLE HOUSING BONDS. To construct, reconstruct, repair, develop, acquire, improve, rehabilitate, and preserve housing that will be affordable to households ranging from extremely low-income to moderate-income households; and to expand downpayment assistance loan programs for eligible households, including middle-income households, to support first-time homebuyers who would otherwise not be able to purchase a primary residence in San Francisco; shall the City and County of San Francisco issue \$300,000,000 in general obligation bonds with a duration of up to 30 years from the time of issuance, an estimated average tax rate of \$0.0057/\$100 of assessed property value, and projected average annual revenues of \$25,000,000, subject to independent citizen oversight and regular audits?”

The ordinance fixes the maximum rate of interest on the Bonds, and provides for a levy and collection of taxes to repay both the principal and interest on the Bonds. The ordinance also

FILE NO. 230969

describes the manner in which the Bond Special Election will be held, and the ordinance provides for compliance with applicable state and local laws. The proposed ordinance includes accountability and transparency measures.

The ordinance allows landlords to pass through to residential tenants 50% of any property tax increase to tenants under the under the Residential Rent Stabilization and Arbitration Ordinance, and authorizes the Board of Supervisors' to adopt future ordinances authorizing tenants to seek waivers from the pass-through based on financial hardship.

Background Information

The City and County of San Francisco ("City")'s General Plan 2022 Housing Element ("2022 Housing Element") details the City's goals, objectives, and corresponding policies and programs to meet the housing needs of all San Francisco residents, with a focus on racial and social equity. This includes the objective to substantially expand the amount of affordable housing for extremely low- to moderate-income households and expand housing opportunities for middle-income households (as defined in Section 3 below) (2022 Housing Element, Objectives 4.A and 4.B), as well as the requirement for San Francisco to plan for and support the production of 46,598 affordable housing units over the next eight years as mandated by the Regional Housing Needs Allocation Plan.

While City policies and programs provided temporary support, overwhelming demand far exceeded and continues to exceed the City's available resources. The City's economy is still recovering from the pandemic, and the impacts of the pandemic will have lasting effects, particularly for families and individuals that were disproportionately impacted by the pandemic (2022 Housing Element, Figure 33).

The proposed Bond will provide a portion of the critical funding necessary to construct, reconstruct, develop, acquire, improve, rehabilitate, repair, and preserve rental affordable housing projects in the City, and to expand homeownership opportunities for San Franciscans.

The Board of Supervisors found that the amount of money 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 therefor by the annual tax levy.

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1 [General Obligation Bond Election - Affordable Housing - Not to Exceed \$300,000,000]

2

3 **Resolution determining and declaring that the public interest and necessity demand**
4 **the construction, reconstruction, development, acquisition, improvement,**
5 **rehabilitation, preservation, and repair of rental affordable housing projects, and the**
6 **expansion of homeownership opportunities through the Downpayment Assistance**
7 **Loan Program, and related costs necessary or convenient for the foregoing purposes;**
8 **to be financed through bonded indebtedness in an amount not to exceed \$300,000,000;**
9 **authorizing landlords to pass-through 50% of the resulting property tax increase to**
10 **residential tenants under Administrative Code, Chapter 37; providing for the levy and**
11 **collection of taxes to pay both principal and interest on such bonds; affirming a**
12 **determination under the California Environmental Quality Act; and finding that the**
13 **proposed Bond is consistent with the General Plan, and with the eight priority policies**
14 **of Planning Code, Section 101.1**

15

16 WHEREAS, The City and County of San Francisco ("City")'s General Plan 2022
17 Housing Element ("2022 Housing Element") details the City's goals, objectives, and
18 corresponding policies and programs to meet the housing needs of all San Francisco
19 residents, with a focus on racial and social equity; and

20 WHEREAS, This includes the objective to substantially expand the amount of
21 affordable housing for extremely low- to moderate-income households and expand housing
22 opportunities for middle-income households (as defined in Section 3 below) (2022 Housing
23 Element, Objectives 4.A and 4.B), as well as the requirement for San Francisco to plan for
24 and support the production of 46,598 affordable housing units over the next eight years as
25 mandated by the Regional Housing Needs Allocation Plan; and.

1 WHEREAS, The U.S Department of Housing and Urban Development (HUD) considers
2 housing to be “affordable” when a household spends 30 percent or less of its income on
3 housing costs, including rent and utilities; and

4 WHEREAS, By this definition, the median condominium price of \$1.2 million is
5 affordable to households making \$222,000 annually; and

6 WHEREAS, Less than 25 percent of San Francisco households earn this income and
7 less than 10 percent of San Francisco workers have this salary; and

8 WHEREAS, In 2022, the median rent for a 2-bedroom was \$3,800, affordable to a
9 household earning \$137,000; and

10 WHEREAS, Less than 40 percent of San Francisco households earn this income (2022
11 Housing Element, Goal 4); and

12 WHEREAS, The need for affordable housing was severely exacerbated during the
13 COVID-19 pandemic, when the City’s unemployment rate rose to 13 percent in April 2020
14 from 2.2 percent in February 2020; and

15 WHEREAS, As a result, the City invested in policies and programs to support residents
16 at risk of eviction, foreclosure, and displacement due to loss of income related to the
17 pandemic; and

18 WHEREAS, These investments included (i) establishment of the Emergency Rental
19 Assistance Program, (ii) expansion of the Homeowner Emergency Loan Program, and (iii)
20 issuance of a moratorium on evictions due to nonpayment of rent; and

21 WHEREAS, While these policies and programs provided temporary support,
22 overwhelming demand far exceeded and continues to exceed the City’s available resources;
23 and

24 WHEREAS, The City’s economy is still recovering from the pandemic, and the impacts
25 of the pandemic will have lasting effects, particularly for families and individuals that were

1 disproportionately impacted by the pandemic (2022 Housing Element, Figure 33); and

2 WHEREAS, The City’s ability to produce the affordable rental housing it needs has
3 been significantly impacted by the limited availability of state and federal resources; and

4 WHEREAS, From 2018 to 2022, for every \$1 of local funding invested by the City to
5 create affordable housing, the City’s affordable housing projects received \$2 in funding from
6 state and federal sources; and

7 WHEREAS, As detailed in the 2024 Affordable Housing Bond Report, the economic
8 environment for affordable housing has changed significantly in recent years, with state
9 affordable housing funding programs becoming more competitive and severely
10 oversubscribed, including the state’s allocation of volume cap for tax-exempt housing revenue
11 bonds; and

12 WHEREAS, The City contributes significant resources to ensure project delivery; and

13 WHEREAS, San Francisco voters have approved measures to create local funds
14 dedicated to the construction, preservation, and rehabilitation of affordable housing, including
15 the 2012 Housing Trust Fund and affordable housing general obligation bonds in 2015 and
16 2019; and

17 WHEREAS, The City’s local funds from the 2015 and 2019 bonds are projected to be
18 exhausted by 2028 (2024 Affordable Housing Bond Report); and

19 WHEREAS, Additional sources of affordable housing funds from the City’s impact fees
20 have been decreasing due to the economic environment, such as the Jobs-Housing Linkage
21 Fee (Planning Code, Sec. 413), the Inclusionary Affordable Housing Program (Planning Code,
22 Sec. 415), various development agreements, and other impact fees; and

23 WHEREAS, Funding from such sources decreased by 95 percent between Fiscal Year
24 2019-2020 and Fiscal Year 2021-2022; and

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1 WHEREAS, Moreover, the Office of the Controller’s FY 2023-2024 and 2024-2025
2 Revenue Letter projects only modest tax revenue growth over the coming years, severely
3 limiting the amount of resources the City will have to fund the development of affordable
4 housing; and

5 WHEREAS, The City’s economic future and ongoing recovery will ultimately depend on
6 its ability to produce and preserve enough affordable housing to ensure the City’s
7 economically diverse households can equitably access housing and remain stably housed in
8 San Francisco; and

9 WHEREAS, Failure to meet this need will result in the displacement of more
10 households to areas with more affordable housing; and

11 WHEREAS, This displacement could result in (i) greater disparity between above
12 moderate-income and lower-income households in the City with little change to the City’s
13 median income levels as determined by the U.S. Census Bureau; and (ii) long commutes,
14 road congestion, and environmental harm as people seek affordable housing at greater
15 distances from where they work; and

16 WHEREAS, The proposed Bond will provide a portion of the critical funding necessary
17 to construct, reconstruct, develop, acquire, improve, rehabilitate, repair, and preserve rental
18 affordable housing projects in the City, and to expand homeownership opportunities for San
19 Franciscans; now, therefore, be it

20 RESOLVED, The Board determines and declares that the public interest and necessity
21 demand the construction, reconstruction, development, acquisition, improvement,
22 rehabilitation, repair, and preservation of rental affordable housing projects in the City for
23 households ranging from extremely low-income to moderate-income households, and the
24 expansion of homeownership opportunities for eligible households, including middle-income
25 households, to support first-time homebuyers who would otherwise not be able to purchase a

1 primary residence in San Francisco, and the payment of related costs necessary or
2 convenient for the foregoing purposes; and, be it

3 FURTHER RESOLVED, Proceeds of the Bonds will be used to fund the costs of capital
4 projects that will (i) construct, reconstruct, develop, acquire, rehabilitate, repair, and improve
5 new affordable rental housing serving extremely low-income households, very low-income
6 households, and lower-income households; (ii) acquire, construct, reconstruct, repair,
7 develop, and rehabilitate, and improve rental housing, so as to preserve it as affordable for
8 lower-income households and moderate-income households; and (iii) to expand the City's
9 Downpayment Assistance Loan Program to assist prospective first-time homebuyers who
10 would otherwise not be able to purchase a market-rate residence in San Francisco; and, be it

11 FURTHER RESOLVED, This portion of the Bond shall be allocated to MOHCD's
12 existing programs that provide downpayment assistance loans to eligible households earning
13 up to 200 percent of Median Income, including loans to assist middle-income households
14 described in 2022 Housing Element Objective 4.B. (collectively, "San Francisco Affordable
15 Housing Bond"); and, be it

16 FURTHER RESOLVED, The estimated cost of \$300,000,000 for the San Francisco
17 Affordable Housing Bond is and will be too great to be paid out of the ordinary annual income
18 and revenue of the City, will require an expenditure greater than the amount allowed by the
19 annual tax levy, and will require the incurrence of bonded indebtedness in an amount not to
20 exceed \$300,000,000; and, be it

21 FURTHER RESOLVED, The Planning Department has determined that the actions
22 contemplated in this resolution comply with the California Environmental Quality Act
23 (California Public Resources Code, Section 21000 et seq.); and, be it

24 FURTHER RESOLVED, Said determination is on file with the Clerk of the Board of
25 Supervisors in File No. ____ and is incorporated herein by reference; and be it

1 FURTHER RESOLVED, The Board affirms this determination; and, be it

2 FURTHER RESOLVED, On _____, the Planning Department issued its General
3 Plan Referral Report finding that the actions contemplated in this resolution are consistent, on
4 balance, with the General Plan, and eight priority policies of Planning Code, Section 101.1;
5 and, be it

6 FURTHER RESOLVED, The Board adopts these findings as its own; and, be it

7 FURTHER RESOLVED, A copy of said General Plan Referral Report is on file with the
8 Clerk of the Board of Supervisors in File No. _____, and is incorporated herein by
9 reference

10 FURTHER RESOLVED, The time limit for approval of this resolution specified in
11 Administrative Code, Section 2.34 is waived; and, be it

12 FURTHER RESOLVED, Under Administrative Code, Section 2.40, the ordinance
13 submitting this proposal to the voters shall contain a provision authorizing landlords to pass-
14 through 50% of the resulting property tax increases to residential tenants in accordance with
15 Administrative Code, Chapter 37; and, be it

16 FURTHER RESOLVED, The City hereby declares its official intent to reimburse prior
17 expenditures of the City incurred or expected to be incurred prior to the issuance and sale of
18 any series of the Bonds in connection with the San Francisco Affordable Housing Bond. The
19 Board hereby declares the City's intent to reimburse the City with the proceeds of the Bonds
20 for the expenditures with respect to the San Francisco Affordable Housing Project (the
21 "Expenditures" and each, an "Expenditure") made on and after that date that is no more than
22 60 days prior to the adoption of this Resolution; and, be it

23 FURTHER RESOLVED, The City reasonably expects on the date hereof that it will
24 reimburse the Expenditures with the proceeds of the Bonds; and, be it

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1 FURTHER RESOLVED, Each Expenditure was and will be either (a) of a type properly
2 chargeable to a capital account under general federal income tax principles (determined in
3 each case as of the date of the Expenditure), (b) a cost of issuance with respect to the Bonds,
4 (c) a nonrecurring item that is not customarily payable from current revenues, or (d) a grant to
5 a party that is not related to or an agent of the City so long as such grant does not impose any
6 obligation or condition (directly or indirectly) to repay any amount to or for the benefit of the
7 City;the maximum aggregate principal amount of the Bonds expected to be issued for the
8 Project is \$300,000,000; the City shall make a reimbursement allocation, which is a written
9 allocation by the City that evidences the City’s use of proceeds of the applicable series of
10 Bonds to reimburse an Expenditure, no later than 18 months after the later of the date on
11 which the Expenditure is paid or the related portion of the Project is placed in service or
12 abandoned, but in no event more than three years after the date on which the Expenditure is
13 paid; the City recognizes that exceptions are available for certain “preliminary expenditures,”
14 costs of issuance, certain de minimis amounts, expenditures by “small issuers” (based on the
15 year of issuance and not the year of expenditure) and Expenditures for construction projects
16 of at least five years; and, be it

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

20 APPROVED AS TO FORM:
21 DAVID CHIU
22 City Attorney

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24 By: /s/ KENNETH D. ROUX
25 KENNETH D. ROUX
 Deputy City Attorney
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