

FILE NO. 100580

ORDINANCE NO. 167-10

1 [Earthquake Safety Retrofit Deferred Loan and Grant Program General Obligation Bond, 2010
2 Election.]

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4 **Ordinance calling and providing for a special election to be held in the City and County**
5 **of San Francisco on Tuesday, November 2nd 2010, for the purpose of submitting to the**
6 **voters of the City and County of San Francisco a proposition to authorize general**
7 **obligation bonded indebtedness of the City and County in the Amount of Forty Six**
8 **Million One Hundred and Fifty Thousand Dollars (\$46,150,000) to provide deferred**
9 **loans and/or grants to pay the costs of seismic retrofits to multi-story wood structures**
10 **that are at significant risk of substantial damage and collapse during an earthquake;**
11 **authorizing landlords to pass-through 50% of the resulting property tax increase to**
12 **residential tenants in accordance with Chapter 37 of the San Francisco Administrative**
13 **Code; finding that the estimated cost of such proposed project is and will be too great**
14 **to be paid out of the ordinary annual income and revenue of the City and County and**
15 **will require expenditures greater than the amount allowed therefor by the annual tax**
16 **levy; reciting the estimated cost of such proposed project; fixing the date of election**
17 **and the manner of holding such election and the procedure for voting for or against the**
18 **proposition; fixing the maximum rate of interest on such bonds and providing for the**
19 **levy and collection of taxes to pay both principal and interest thereof; prescribing**
20 **notice to be given of such election; finding that the proposed bond is not a project**
21 **under the California Environmental Quality Act; finding that the proposed project is in**
22 **conformity with the priority policies of Planning Code Section 101.1(b) and with the**
23 **General Plan consistency requirement of Administrative Code Section 2A.53;**
24 **consolidating the special election with the general election on the same date;**
25 **establishing the election precincts, voting places and officers for the election; waiving**

1 the word limitation on ballot propositions imposed by San Francisco Municipal
2 Elections Code Section 510; complying with Section 53410 of the California
3 Government Code; incorporating the provisions of Article V of Chapter V of the San
4 Francisco Administrative Code; and waiving the time requirements specified in Section
5 2.34 of the San Francisco Administrative Code.

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~~.

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

10 Section 1. Findings.

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

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

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

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

3 E. The Mayor's Office of Housing, the San Francisco Redevelopment Agency and
4 the U.S. Department of Housing and Urban Development funds 125 affordable housing multi-
5 story units which are at significant risk of substantial damage and collapse during and
6 earthquake.

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

10 G. The Mayor and this Board of Supervisors of the City and County of San
11 Francisco (the "City") now wish to describe the terms of a ballot measure seeking approval for
12 general obligation bonding authority for a Earthquake Safety Retrofit Deferred Loan and Grant
13 Program (the "Bonds").

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

18 "EARTHQUAKE SAFETY RETROFIT DEFERRED LOAN AND GRANT PROGRAM
19 GENERAL OBLIGATION BONDS, 2010. To provide deferred loans and grants to pay the
20 costs for seismic retrofits of certain multi-story wood-frame buildings with vulnerable soft-
21 story construction at significant risk of substantial damage and collapse during a major
22 earthquake and funded by a qualified governmental housing finance agency for permanent or
23 long-term affordability, or single room occupancy buildings owned by private parties, and pay
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1 related costs, shall the City issue up to \$46,150,000 of general obligation bonded
2 indebtedness, subject to citizen oversight and regular audits?"

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4 The special election hereby called and ordered shall be referred to herein as the "Bond
5 Special Election." Subject to approval by the voters, landlords shall be authorized to pass-
6 through 50% of the resulting property tax increase associated with the costs of the bonds to
7 residential tenants in accordance with Chapter 37 of the San Francisco Administrative Code.

8 Section 3. Subject to approval by the voters, the Seismic Safety Retrofit Deferred Loan
9 and Grant Program General Obligation Bonds shall be authorized in the aggregate principal
10 amount of \$46,150,000, shall be issued upon such terms and conditions permitted by law, and
11 allocated as follows:

12 A. Public Agency Earthquake Retrofit Loan Program. The City is authorized to issue
13 up to \$41,330,000 of general obligation bonds to be allocated to fund a deferred loan and
14 grant program to pay the cost associated with seismic retrofits of affordable housing buildings
15 constituting Soft Story Structures constructed on or before 1974 and funded by the Mayor's
16 Office of Housing, San Francisco Redevelopment Agency or other affordable housing
17 governmental finance agency (referred to herein as the "Public Agency Earthquake Safety
18 Retrofit Loan Program"). Such deferred loans and grants shall be made in accordance with
19 the terms and conditions established by the implementing City agency; provided however that
20 such terms and conditions shall require that such loans and grants shall (i) apply the City's
21 prevailing wage law on any projects funded with such loans or grants, and (ii) become
22 immediately due and payable if the property is sold or otherwise transferred, in either case,
23 resulting in a loss of affordability or income restrictions, and such repayments shall be used to
24 repay the Bonds. The Board of Supervisors hereby finds that loans and grants made from
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1 bond proceeds for the purpose of seismic retrofits to affordable housing buildings as
2 authorized hereby constitute a public purpose resulting in significant public benefits.

3 B. Private Party Earthquake Safety Retrofit Loan Program. The City is authorized to
4 issue up to \$4,820,000 of general obligation bonds to be allocated to fund a private party loan
5 (referred to herein as the "Private Party Earthquake Safety Retrofit Loan Program") program
6 to pay for seismic retrofits single occupancy residence buildings constituting Soft Story
7 Structures constructed on or before 1974 that are at significant risk of substantial damage and
8 destruction during an earthquake, and to administer said fund upon the terms set forth below.
9 Loans made through the Private Party Earthquake Safety Retrofit Loan Program shall be
10 upon the terms and conditions set forth by the implementing City agency; provided however,
11 that such terms and conditions shall require that such loans (i) apply the City's prevailing
12 wage law, and (ii) become due and payable upon a sale or other transfer of the property if
13 such sale or transfer would change the character or use of the building for single residence
14 occupancy tenancy, and such repayments shall be used to repay the Bonds. The Board
15 hereby finds that loans made to private parties from bond proceeds for the purpose of seismic
16 retrofits to the buildings as authorized hereby constitute a public purpose resulting in
17 significant public benefits.

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

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

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

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

12 **"Resolution determining and declaring that the public interest and necessity**
13 **demand the construction, improvement and seismic retrofitting of multi-story wood**
14 **framed affordable housing soft-story buildings for earthquake safety funded by the City**
15 **or other qualified governmental housing finance agency, or owned by private third-**
16 **parties and the payment of related costs necessary or convenient for the foregoing**
17 **purposes; finding that the estimated cost of \$46,150,000 for such improvements is and**
18 **will be too great to be paid out of the ordinary annual income and revenue of the City**
19 **and County and will require incurring bonded indebtedness; finding that a portion of**
20 **the proposed bond is not a project under the California Environmental Quality Act**
21 **("CEQA") and adopting findings under CEQA, CEQA Guidelines, and San Francisco**
22 **Administrative Code Chapter 31 for the remaining portion of the proposed bond;**
23 **finding the proposed bond is in conformity with the priority policies of Planning Code**
24 **Section 101.1(b) and with the General Plan consistency requirement of Charter**
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1 **Section 4.105 and Administrative Code Section 2A.53; and waiving the time limits set**
2 **forth in Administrative Code Section 2.34."**

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4 Such resolution was passed by two-thirds or more of the Board of Supervisors and
5 approved by the Mayor of the City. In such resolution it was recited and found that the sum of
6 money specified is too great to be paid out of the ordinary annual income and revenue of the
7 City in addition to the other annual expenses thereof or other funds derived from taxes levied
8 for those purposes and will require expenditures greater than the amount allowed therefor by
9 the annual tax levy.

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

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

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

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

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

12 " EARTHQUAKE SAFETY RETROFIT DEFERRED LOAN AND GRANT PROGRAM
13 GENERAL OBLIGATION BOND, 2010.

14 To provide deferred loans and grants to pay the costs for seismic retrofits of certain
15 multi-story wood-frame buildings with vulnerable soft-story construction at significant risk of
16 substantial damage and collapse during a major earthquake and funded by a qualified
17 governmental housing finance agency for permanent or long-term affordability, or single room
18 occupancy buildings owned by private parties, and pay related costs, shall the City issue up to
19 \$46,150,000 of general obligation bonded indebtedness, subject to citizen oversight and
20 regular audits?"

21 Each voter to vote in favor of the issuance of the foregoing bond proposition shall mark
22 the ballot in the location corresponding to a "YES" vote for the proposition, and to vote against
23 the proposition shall mark the ballot in the location corresponding to a "NO" vote for the
24 proposition.

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

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

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

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

22 Section 12. The Board of Supervisors having reviewed the proposed legislation, finds
23 and declares that (i) the proposed Project is excluded from CEQA under CEQA Guidelines
24 section 15378(b)(4) as the creation of a government funding mechanism that does not involve
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1 any commitment to any specific project, (ii) that the proposed project is in conformity with the
2 priority policies of Section 101.1(b) of the City Planning Code and, (iii) in accordance with
3 Section 2A.53(f) of the City Administrative Code, that the proposed project is consistent with
4 the City's General Plan, and hereby adopts the findings of the City Planning Department, as
5 set forth in the General Plan Referral Report, dated June 3, 20¹⁰, and incorporates said
6 findings by reference.

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

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

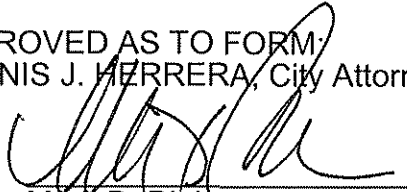
18 Section 15. The time requirements specified in Section 2.34 of the San Francisco
19 Administrative Code are hereby waived.

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

1 Section 17. Documents referenced herein are on file with the Clerk of the Board of
2 Supervisors in File No. ¹⁰⁰⁵⁸⁰, which is hereby declared to be a part of this ordinance as if set
3 forth fully herein.

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5 APPROVED AS TO FORM:
6 DENNIS J. HERRERA, City Attorney

7 By:


8 Mark D. Blake
9 Deputy City Attorney
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City and County of San Francisco

Tails Ordinance

City Hall
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

File Number: 100580

Date Passed: July 20, 2010

Ordinance calling and providing for a consolidated general election to be held in the City and County of San Francisco on Tuesday, November 2, 2010, for the purpose of submitting to the voters of the City and County of San Francisco a proposition to authorize general obligation bonded indebtedness of the City and County in the Amount of Forty Six Million One Hundred and Fifty Thousand Dollars (\$46,150,000) to provide deferred loans and/or grants to pay the costs of seismic retrofits to multi-story wood structures that are at significant risk of substantial damage and collapse during an earthquake; authorizing landlords to pass-through 50% of the resulting property tax increase to residential tenants in accordance with Chapter 37 of the San Francisco Administrative Code; finding that the estimated cost of such proposed project is and will be too great to be paid out of the ordinary annual income and revenue of the City and County and will require expenditures greater than the amount allowed therefor by the annual tax levy; reciting the estimated cost of such proposed project; fixing the date of election and the manner of holding such election and the procedure for voting for or against the proposition; fixing the maximum rate of interest on such bonds and providing for the levy and collection of taxes to pay both principal and interest thereof; prescribing notice to be given of such election; finding that the proposed bond is not a project under the California Environmental Quality Act; finding that the proposed project is in conformity with the priority policies of Planning Code Section 101.1(b) and with the General Plan consistency requirement of Administrative Code Section 2A.53; consolidating the special election with the general election on the same date; establishing the election precincts, voting places and officers for the election; waiving the word limitation on ballot propositions imposed by San Francisco Municipal Elections Code Section 510; complying with Section 53410 of the California Government Code; incorporating the provisions of Article V of Chapter V of the San Francisco Administrative Code; and waiving the time requirements specified in Section 2.34 of the San Francisco Administrative Code.

July 13, 2010 Board of Supervisors - AMENDED, AN AMENDMENT OF THE WHOLE BEARING SAME TITLE

Ayes: 11 - Alioto-Pier, Avalos, Campos, Chiu, Chu, Daly, Dufty, Elsbernd, Mar, Maxwell and Mirkarimi

July 13, 2010 Board of Supervisors - AMENDED, AN AMENDMENT OF THE WHOLE BEARING NEW TITLE

Ayes: 11 - Alioto-Pier, Avalos, Campos, Chiu, Chu, Daly, Dufty, Elsbernd, Mar, Maxwell and Mirkarimi

July 13, 2010 Board of Supervisors - PASSED ON FIRST READING AS AMENDED

Ayes: 11 - Alioto-Pier, Avalos, Campos, Chiu, Chu, Daly, Dufty, Elsbernd, Mar, Maxwell and Mirkarimi

July 20, 2010 Board of Supervisors - FINALLY PASSED

Ayes: 11 - Alioto-Pier, Avalos, Campos, Chiu, Chu, Daly, Dufty, Elsbernd, Mar, Maxwell and Mirkarimi

File No. 100580

I hereby certify that the foregoing Ordinance was FINALLY PASSED on 7/20/2010 by the Board of Supervisors of the City and County of San Francisco.



Angela Calvillo
Clerk of the Board



Mayor Gavin Newsom

JULY 23, 2010

Date Approved