

AS AMENDED IN COMMITTEE
10/17/02

FILE NO. 011498

ORDINANCE NO.

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 and**
4 **establish Board policy regarding surplus, unutilized and underutilized City real**
5 **property for housing for the homeless.**

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

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

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

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

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

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

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

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

1 (d) Surplus City property could be utilized to provide housing to homeless men, women and
2 children.

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

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

9 (g) San Francisco is experiencing a severe shortage of housing for low-income people,
10 resulting in a negligible vacancy rate for habitable low-income housing for persons earning less
11 than half of the area median income.

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

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

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

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

1 (l) Under the City’s Charter, a number of City Commissions and Departments, including the
2 Port, the Airport, the Public Utilities Commission, the Municipal Transportation Agency, the
3 Recreation and Parks Commission and the Fine Arts Museums Board of Trustees have jurisdiction and
4 control of their respective Property, and, thus, the provisions of this Chapter regarding declaring
5 Property surplus or conveying Property shall operate only as recommendations of policy to such
6 departments and Commissions.

7 (m) State law includes a number of statutes that potentially govern the disposition of surplus
8 City Property, including Government Code Section 54220 et. seq. (the “State Surplus Property
9 Statute”). Under the State Surplus Property Statute, State agencies and subdivisions of the State ,
10 including cities or counties, disposing of surplus real property must first send a written offer to sell
11 surplus property to and negotiate in good faith the conveyance of such surplus property with certain
12 local agencies designated by the State for affordable housing, recreation, open space and school
13 purposes. Any conveyances of Surplus Property under this Chapter would be subject to and would first
14 need to comply with applicable State law, including the State Surplus Property Statute, and the
15 application of the State Surplus Property Statute may preclude or impair disposing of Surplus Property
16 for the purposes and in the manner set forth in this Chapter.

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

18 (a) Identify and use surplus City-owned property for the purpose of providing housing,
19 shelter, and other services for people who are homeless;

20 (b) Help relieve the crisis of homelessness in the City and County of San Francisco;

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

22 (d) Provide “sweat-equity” opportunities for homeless people to create permanent housing
23 opportunities through rehabilitation and repair of the units;

24 (f) Create a centralized mechanism to responsibly dispose of surplus City property in a
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1 manner that will help ensure that the property or its proceeds will be used for purposes consistent with
2 this Chapter.

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

4 (a) "Administrator" shall mean the City Administrator as set forth in Section 3.104 of the City's
5 Charter.

6 (b). "Homeless" shall mean:

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

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

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

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

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

16 (c) "Property" shall mean any real property owned by the City and County of San Francisco,
17 excluding land and buildings reserved for open space or parks purposes, or roads, or transit lines, or
18 public utility rights-of-way or any publicly dedicated streets or rights-of-way.

19 (d) "Surplus Property" shall mean any Property that is not required to fulfill the mission of the
20 City department, commission or agency with jurisdiction or control of such Property or that would
21 fulfill the mission of another governmental agency pursuant to an inter-governmental transfer;

22 (e) "Underutilized Property" shall mean an entire Property or portion thereof, with or without
23 improvements, that is used by the City only at irregular periods of time or intermittently, or that is used
24 by the City for current purposes that can be satisfied with only a portion of such Property, or that is not
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1 currently occupied or used by the City and for which there are no plans by the City to occupy or use
2 such Property within the next fiscal year.

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

4 {By April 1st of each year}, each City Commission, department or agency shall compile and
5 deliver to the Administrator a list of all Property that it occupies or is otherwise under its control. The
6 list shall include at least the following:

7 (a) The street address of the Property (if there is one), and the Assessor's block and lot number;

8 (b) A general description of the Property, including the current use of the Property or any
9 planned use of the Property within the next fiscal year;

10 (c) A general description of any structure(s) on the Property as well as an assessment of their
11 physical condition;

12 (d) Whether the Property is now vacant or scheduled or anticipated to be vacant within the next
13 fiscal year;

14 (e) If the Property is vacant or contains vacant structures, whether the Commission, department
15 or agency deems the Property to be "Surplus," or "Underutilized" as defined in this Section; and

16 (f) A general summary of the terms and conditions of any gift, trust, deed restriction, bond
17 covenant or other covenants or restrictions, deed of trust, lease, license, easement, use agreement or
18 other agreement applicable to the use or disposition of such Property.

19 Each City department or agency shall maintain or shall work with the Administrator to
20 maintain adequate inventory and accountability systems for the Property under its control to determine
21 which Properties are Surplus or Underutilized for purposes of this Chapter, and shall reasonably
22 cooperate with requests for information from the Administrator or the Surplus Property Citizen's
23 Committee.

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

2 By June 1st of each year, the Administrator shall compile the information described in Section
3 23A.5 above into a comprehensive report, including a description of the zoning applicable to and
4 surrounding such Properties (the “Surplus Property Report”) and transmit the Surplus Property
5 Report to the Board of Supervisors and to the Surplus Property Citizens’ Committee described in
6 Section 23.A9 below. The Administrator shall maintain and release written records of all information
7 compiled under this Chapter in conformance with all state and local laws governing the retention and
8 disclosure of public records.

9 **Sec. 23A.7 Publication of Surplus Properties List**

10 By June 15th of each year, the Administrator shall publish the then current Surplus Property
11 Report on the City’s web site. Additionally, the Administrator shall transmit notice of the availability
12 of the Surplus Property Report and the applications described in Section 23A.8 below to those private
13 and public agencies that serve the Homeless that are identified on a list approved by the Board of
14 Supervisors by motion and transmitted to the Administrator. The Administrator shall maintain a
15 public information telephone number to provide the public with specific information about properties
16 on the Surplus Property Report and the application process described below.

17 **Section 23.A8 Application for Property.**

18 A non-profit agency serving the Homeless may submit an application to lease or acquire
19 Property that is listed as Surplus or Underutilized in any Surplus Property Report for use to assist the
20 Homeless. The application form shall be developed by the Administrator. Such application form shall
21 require the applicant to describe in detail (i) the type of conveyance the applicant seeks (i.e., a lease for
22 a specific term or transfer of fee title) and the compensation, if any, the applicant proposes to pay for
23 such conveyance, (ii) the intended use of the Property, including how it relates to the priorities of uses
24 set forth in Section 23A.10 below; (iii) a specific plan and schedule for the development or
25 improvement of the Property, including compliance with all applicable federal, state and local laws,

1 including, without limitation, laws regarding disabled access, health, building and safety codes, and
2 environmental compliance with the California Environmental Quality Act (“CEQA”), California
3 Public Resources Code Sections 21000 et. seq., and San Francisco Administrative Code Chapter 31;
4 and (iv) ~~evidence of a plan to secure~~ adequate financial resources to develop, improve, insure,
5 manage and maintain the Property. The Administrator must provide in each application packet sent to
6 interested persons contact information: (a) identifying any independent organizations working on
7 behalf of homeless people that can assist homeless service providers in resolving any problems that
8 may arise in the application processes; and (b) City staff persons who are available to assist in the
9 application process. An applicant must submit a written notice of intent to apply to the Administrator
10 by July 15th of each year and a complete application to the Administrator by September 15th. The
11 Administrator may, in its sole discretion, grant extensions of the deadline for submitting a completed
12 application, provided in no event shall such extensions exceed thirty (30) days.

13 **Sec. 23A.9. Surplus Property Citizens’ Committee.**

14 There shall be a Surplus Property Citizens’ Committee of nine members. Five members shall be
15 appointed by the Board of Supervisors by motion. Three members shall be appointed by the Mayor,
16 two of whom shall be Executive Directors of City departments or their designees. One member shall be
17 appointed by the Controller. A representative from the Department of Real Estate shall serve as an ex-
18 officio member, but may not vote. Members shall include at least one person who is Homeless or
19 formerly Homeless, at least one person from an organization working with Homeless individuals, and
20 at least one person who is a representative from a non-profit housing development “entity” or
21 “developer”. The Surplus Property Citizen’s Committee shall comply with all applicable public
22 records and meetings laws and shall be subject to the Conflict of Interest provisions of the City’s
23 Charter and Administrative Code.

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1 **Sec. 23A.10. Recommendations of Surplus Property Citizen's Committee.**

2 The Surplus Property Citizen's Committee shall review each Surplus Property Report and any
3 applications for such Surplus or Underutilized Property submitted to the Administrator under Section
4 23A.8 above. Based on such review and testimony from such public hearings as the Surplus Property
5 Citizen's Committee may hold, by December 15th of each year, the Surplus Property Citizen's
6 Committee shall make written recommendations to the Board of Supervisors as to (i) Property that was
7 not listed by the City as Surplus or Underutilized Property, but which should be so listed in the next
8 year's Surplus Property Report, (ii) which Property included in that year's Surplus Property Report as
9 Surplus or Underutilized Property is suitable for disposition for the purpose of directly assisting people
10 who are homeless, (iii) which applications for use of such Surplus or Underutilized Property should be
11 granted, and (vi) which Property should be disposed of for other uses, but the proceeds of which
12 should be applied as set forth in Section 23A.10 (iii) below.

13 In making its recommendations under this Section 23A.10, the Surplus Property Citizen's
14 Committee shall be guided by the following policy regarding the disposition of Surplus and
15 Underutilized Property, which policy shall be the official policy of the City:

16 Subject to any disposition priority required by State law and other limitations expressly
17 set forth herein, Surplus and Underutilized Property shall be used in the following order of priority:

18 (i) first, for the development of affordable housing for people who are Homeless at the
19 time they receive such housing, provided that:

20 1. The housing shall remain affordable for the useful life of the Property;

21 2. Tenants' rents in such housing shall not exceed ~~25~~33% of the tenant's income;

22 3. Projects in which people who are Homeless rehabilitate and renovate property in
23 exchange for their tenancy or "sweat equity" in the property shall be encouraged.

24 (ii) second, for other services for people who are Homeless or for non-profit agencies
25 serving people who are Homeless.

1 (iii) Property that is unsuitable for the uses described in Section (i) and (ii) above
2 (because the property is unsafe, inconveniently located or is located in an area inappropriate for
3 housing, or cannot not meet the purposes of this Chapter) should be sold in accordance with the
4 requirements of Administrative Code Sec. 23.3 and other applicable laws, with the net proceeds of such
5 conveyance to be reserved exclusively for the purpose of financing affordable housing in
6 San Francisco.

7 **Sec. 23A.11. Disposition and Utilization of Surplus, Underutilized and Unutilized Property.**

8 (a) Subject to (i) the terms and conditions of any gift, trust, deed restriction, bond covenant or
9 other covenants or restrictions, mortgage, deed of trust, lease, license, use agreement or other
10 agreement applicable to such Property, (ii) state or federal laws related to the disposition of surplus
11 City Property, including, without limitation, California Government Code Section 54220 et. seq., and
12 (iii) the jurisdictional authority over City Property granted to certain Commissions under the City's
13 Charter, including, without limitation, as set forth in Charter Sections 4.112, 4.113, 4.114, 4.115,
14 5.101, 8A.102, the Board of Supervisors may by resolution direct the Administrator (in cooperation
15 with the City Attorney) to prepare documents regarding the conveyance of specific Surplus or
16 Underutilized Property, prepare other documents related to potential discretionary acts of City related
17 to a change in use or development of such Property, and present such documents to the Board of
18 Supervisors and other City departments or Commissions with jurisdiction over such Property for their
19 approval. In so directing the Administrator, the Board shall consider, but shall not be bound by, the
20 recommendations of the Surplus Property Citizen's Committee.

21 (b) Any final declaration that Property is Surplus or Underutilized and any final conveyance of
22 Property under this Chapter shall be in accordance with and subject to all applicable laws, including
23 (i) the terms and conditions of any gift, trust, deed restriction, bond covenant or other covenants or
24 restrictions, mortgage, deed of trust, lease, license, use agreement or other agreement applicable to
25 such Property, (ii) state or federal laws related to the disposition of surplus City Property, including,

1 without limitation , Government Code Section 54220 et. seq., (iii) the jurisdictional authority over City
2 Property granted to certain Commissions under the City’s Charter, including, without limitation, as set
3 forth in Charter Sections 4.112, 4.113, 4.114, 4.115, 5.101, 8A.102, and (iv) the requirements set forth
4 in Administrative Code Sec. 23.3 of further Board of Supervisors approval by resolution or ordinance
5 of final transaction documents after the completion of all required environmental review under CEQA.
6 Any such duly approved conveyance may be at no cost or less than fair market value.

7 (c) Any conveyance of Property at less than fair market value or for homeless uses under
8 this section shall include covenants that require that the Property be used in conformance with this
9 Chapter and prohibits any purchaser of Property from reselling, transferring or subleasing Property
10 at a profit, or such other “anti-speculation” requirements as the Executive Director of the Mayor’s
11 Office of Housing may approve.

12 **Sec. 23A.12. [Reserved]**

13 **Section 23A.13. General Welfare.** In undertaking this Surplus City Property Program, the City
14 and County of San Francisco is assuming an undertaking only to promote the general welfare. It is not
15 assuming, nor is it imposing on its officers, commissions, and employees, an obligation for breach of
16 which it is liable in money damages to any person who claims that such breach proximately caused
17 injury.

18 **Section 23A.14. Severability.** If any section, subsection, subdivision, paragraph, sentence,
19 clause or phrase of this Chapter 23A or any part thereof is, for any reason, held to be unconstitutional
20 or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the
21 validity or effectiveness of the remaining portions of this Chapter or any part thereof. The Board of
22 Supervisors hereby declares that it would have passed each section, subsection, subdivision,
23 paragraph, sentence, clause or phrase thereof irrespective of the fact that any one or more section,
24 subsections, subdivisions, paragraphs, sentences, clauses or phrases be declared unconstitutional or
25 invalid or ineffective.

1 APPROVED AS TO FORM:
2 DENNIS J. HERRERA, City Attorney

3 By: _____
4 John I. Kennedy
5 Deputy City Attorney
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