

1 [Waiving contracting provisions to allow the City to meet State requirements to participate in
2 Proposition 1A bond sale.]

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4 **Emergency ordinance (1) finding that an emergency exists for purposes of Charter**
5 **Section 2.107; and (2) waiving certain City contracting provisions that are not allowed**
6 **by the State under the State's standard form of purchase and sale agreement with the**
7 **California Statewide Communities Development Authority and thus allowing the City to**
8 **meet the deadline to participate in the State program to issue bonds to offset the**
9 **adverse effects of the State's Proposition 1A borrowing of local property taxes.**

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

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

15 Section 1. **Finding of Emergency Under Charter Section 2.107.**

16 Section 2.107 of the San Francisco Charter authorizes the City to pass emergency
17 ordinances, with a two-thirds vote of the Board of Supervisors, to address public emergencies
18 threatening life, health, or property, or to provide for the uninterrupted operation of any City
19 department required to comply with time limitations established by law.

20 The Board of Supervisors finds that such a public emergency exists that requires the
21 passage of this emergency ordinance based on the following facts and circumstances:

- 22 1. The State and the City are facing severe financial circumstances. For this fiscal
23 year, both the State and the City have already made severe cuts in government programs.
24 2. To balance its budget for this fiscal year, the State amended its budget to invoke its
25 right under Proposition 1A to divert \$1.9 billion in local property tax revenues from cities,

1 counties, and special districts to the State to offset State general fund spending for education
2 and other programs (the "Shift"). Proposition 1A, a constitutional amendment approved by the
3 voters in November 2004, allows the State under certain conditions to shift to schools and
4 community colleges up to 8% of local government property tax revenues. This amount must
5 be repaid, with interest, within three years. The Governor of the State has proclaimed that the
6 Shift is needed due to a severe State financial hardship, and the Shift was approved by two-
7 thirds of both houses.

8 3. The Shift is estimated by the City Controller (the "Controller") to take approximately
9 \$89 million from the City's property tax revenues, which after associated reductions in
10 baseline transfers would: (a) reduce net general fund resources by \$70 million, (b) reduce
11 baseline transfers to the Municipal Transportation Agency by \$7 million, (c) reduce property
12 tax deposits and baseline transfers to the Library Fund by \$5 million, (d) reduce deposits to
13 the Children's Fund by \$4 million, and (e) reduce deposits to the Open Space Fund by \$3
14 million.

15 4. Under Proposition 1A, such diverted revenues must be repaid, with interest, no later
16 than June 30, 2013. Pending State legislation would enable the City to sell its right to receive
17 this repayment (the "1A Receivable") to California Statewide Communities Development
18 Authority (the "Purchaser"), a joint exercise of powers authority organized and existing under
19 the laws of the State, which would sell bonds payable from the receivables it purchases from
20 participating local jurisdictions.

21 5. The Controller anticipates that the City's participation in the proposed program (the
22 "Program") could replace the lost property taxes at little or no cost to the City General Fund.
23 The Controller therefore projects that the impact of the Shift for the City will be offset entirely
24 in fiscal year 2009-10 if the City participates in the Program.

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1 6. To balance its budget, the City has already made significant cuts to spending,
2 including the elimination or postponement of programs and the reduction of over 1,000 funded
3 positions in the fiscal year 2009-10 budget (all funds), as compared to the prior year. If the
4 City were to fail to participate in the Program and lose \$70 million in fiscal year 2009-10
5 general fund resources, the City would have to address the shortfall by making further cuts in
6 public services either through direct expenditure reductions or through higher-cost borrowing,
7 if available in the market. Addressing the shortfall through personnel reductions would require
8 laying off over 1,000 additional City employees during the balance of fiscal year 2009-10,
9 causing major disruptions and reductions in City services. Alternative ways to address the
10 shortfall through expenditure reductions would necessarily require program reductions of a
11 similar magnitude. Alternative financing for the revenue shortfall may not be available and
12 even if the City could finance the shortfall on its own such alternative financing would likely
13 come with significantly higher financing costs than the Program.

14 7. To participate in the Program, the State requires all participating local agencies,
15 including the City, to adopt a uniform authorizing resolution and approve a standard form of
16 Purchase and Sale Agreement (the "Agreement"), which does not include the applicable City
17 contracting provisions, and such authorizing legislation must be effective no later than
18 November 6, 2009.

19 8. To meet this deadline for participation in the Program imposed by the State, the
20 Board of Supervisors intends to authorize the sale of its 1A Receivable and approve the form
21 of the Agreement relating to such sale in a companion resolution to be adopted by the Board
22 immediately following action on this ordinance.

23 9. Adoption of this emergency ordinance is necessary for the City to meet the State's
24 requirements to participate in the Program and therefore avoid severe financial distress that
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1 will significantly adversely affect life, health, property and the uninterrupted operation of
2 essential City services.

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4 **Section 2. Waiving City Contracting Provisions Applicable to the Agreement.**

5 All applicable provisions of the City's Administrative Code, Campaign and
6 Governmental Conduct Code, and Environment Code that are not included in the Agreement
7 are waived.

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9 APPROVED AS TO FORM:
10 DENNIS J. HERRERA, City Attorney

11 By: _____
12 KENNETH DAVID ROUX
13 Deputy City Attorney

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