

1 [Establishing an Alternative Affordable Housing Assistance and Home Ownership Bond
2 Program.]

3 **Ordinance amending the San Francisco Administrative Code by adding a new Article**
4 **IIIA, consisting of Sections 43.3A.1 through 43.3A.24 to establish an alternative**
5 **affordable housing assistance and home ownership bond program.**

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. The San Francisco Administrative Code is hereby amended by adding a
11 new Article IIIA, consisting of Sections 43.3A.1 through 43.3A.24, to read as follows:

12 **Section 43.3A.1 Title.**

13 *This Article shall be cited as the Alternative Affordable Housing Assistance and Home*
14 *Ownership Program.*

15 **Section 43.3A.2 Purpose.**

16 *The cost of housing in the City and County of San Francisco (the “City”) continues to be among*
17 *the highest in the nation. The City hereby finds and declares that it is a necessary, essential public*
18 *purpose and municipal affair of the City to create a fund for the purpose of financing the acquisition of*
19 *housing in the City by creating a new affordable housing assistance and home ownership bond*
20 *program pursuant to which the City may loan mortgage revenue bond proceeds to individuals of low*
21 *and moderate income who are first-time homebuyers for payment of acquisition costs and to defray*
22 *certain closing costs associated with the purchase of a single family residence within the geographic*
23 *boundaries of the City, as further described in this Article IIIA.*

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1 **Section 43.3A.3 Additional Complete Authority.**

2 *This Article is full authority for the issuance of Bonds by the City for the purposes specified*
3 *herein. This Article IIIA shall be deemed to provide a complete, additional, and alternative method for*
4 *doing the things authorized thereby, and shall be regarded as supplemental and additional to the*
5 *powers conferred by other laws. This issuance of Bonds under the provisions of this Article IIIA need*
6 *not comply with the requirements of any other law applicable to the issuance of bonds.*

7 *The purposes authorized hereby may be effectuated and Bonds may be issued for any purposes*
8 *under this Article IIIA notwithstanding that any other law may provide for the issuance of bonds for*
9 *like purposes and without regard to the requirements, restrictions, limitations or other provisions*
10 *contained in any other law.*

11 **Section 43.3A.4 Definitions.**

12 *As used in this Article IIIA, the following terms shall have the following meanings:*

13 *"Annual net income" shall mean net income as defined in CCR Title 25, Section 6916, as*
14 *amended from time to time.*

15 *"Board of Supervisors" shall mean the Board of Supervisors of the City and County of San*
16 *Francisco.*

17 *"Bonds" shall mean any bonds, notes, certificates, debentures or other obligations issued by*
18 *the City pursuant to this Article IIIA.*

19 *"Bond Proceeds" shall mean the proceeds of any issue of Bonds, net of issuance costs.*

20 *"Eligible Household" shall mean a household whose combined annual gross income for all*
21 *members does not exceed 100 percent of the area median income for the San Francisco Metropolitan*
22 *Statistical Area, as calculated by the United States Department of Housing and Urban Development*
23 *(HUD) adjusted for household size in accordance with adjustment factors adopted by HUD and none of*
24 *whose members has at any time previously owned a Housing Unit, regardless of the location within or*
25 *outside of the City of the previously owned Housing Unit.*

1 "Household" shall mean any person or persons who reside or intend to reside in the same
2 Housing Unit.

3 "Housing Unit" or "Unit" shall mean a dwelling unit as defined in San Francisco Housing Code
4 Section 401.

5 "Owner Occupied Unit" shall mean a unit that is a condominium, stock cooperative,
6 community apartment, or detached single-family home the Owner or Owners of which occupy as their
7 primary residence.

8 "Owner" shall mean the record owner of the fee or a vendee in possession.

9 "Program" shall mean the first-time homebuyers and purchase assistance program created by
10 this Article IIIA.

11 "Program Fund" shall mean the First-Time Homebuyers and Purchase Assistance Program
12 Fund created by Section 43.3A.12 of this Article IIIA.

13 "Program Loan" shall mean a loan by the City of Bond Proceeds or other available funds
14 under the Program to the Owner of an Owner Occupied Unit, as borrower.

15 "Program Loan Agreement" shall mean an agreement setting forth the terms and conditions
16 under which a Program Loan is made to the Owner of an Owner Occupied Unit (including all
17 documents ancillary to the Program Loan).

18 "Purchased Unit" shall mean a Unit purchased by a person who receives a Program Loan.

19 "Revenues" shall mean amounts received by the City as (i) payments of principal, interest and
20 all other charges with respect to a Program Loan authorized by this Article IIIA, other than payments
21 that are reimbursements to the City for payments made by the City from funds other than Bond
22 Proceeds to third persons, such as brokers or attorneys, as payments under a Program Loan
23 Agreement, (ii) proceeds from mortgage, hazard or other insurance on or with respect to a Program
24 Loan (or property securing a Program Loan), or (iii) investment earnings on moneys deposited in any
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1 bond fund, and any other legally available moneys as the Board of Supervisors may, in its sole
2 discretion, lawfully designate as Revenues.

3 **Section 43.3A.5 Issuance and Repayment of Bonds.**

4 Subject to Section 43.3A.6 hereof, the City, through the Mayor's Office of Housing, is hereby
5 authorized to take all steps necessary to and to issue Bonds in an amount not to exceed, in the
6 aggregate principal amount of one-hundred million dollars (\$100,000,000) in accordance with Section
7 9.107(3) of the City Charter. The Bonds may be issued in multiple series. Bonds issued hereunder shall
8 not have a maturity greater than thirty (30) years.

9 Any issue of Bonds shall be limited obligations of the City that is payable only from all or any
10 specified part of the Revenues. The obligation of the City to pay from time to time the owners of the
11 Bonds shall be only from the Revenues.

12 Bonds shall not be deemed to and shall not constitute a debt or liability of the City or a pledge
13 of the faith and credit of the City. The issuance of Bonds shall not directly, indirectly, or contingently
14 obligate the City to levy or pledge any form of taxation or to make any appropriation for their
15 repayment. No owner of any Bond issued hereunder shall ever have the right to compel the exercise of
16 the taxing power of the City to pay the Bonds or interest thereon. All Bonds shall contain on the face
17 thereof a statement to the following effect: "Neither the faith and credit nor the taxing power of the
18 City and County of San Francisco is pledged to the payment of the principal of or premium or interest
19 on this bond."

20 **Section 43.3A.6 Board of Supervisors' Approval.**

21 All Bonds issued hereunder shall be subject to prior approval by the Board of Supervisors.
22 Bonds may be issued as serial bonds, term bonds, installment bonds or pass-through certificates or any
23 combination thereof and shall be authorized by resolution approved by the Board of Supervisors and
24 shall bear such date or dates; mature at such time or times; bear interest at such fixed or variable rate
25 or rates; be payable at such time or times; be in such denominations, be in such form, either coupon or

1 registered, carry such registration privileges, be executed in such manner, be payable in lawful money
2 of the United States of America at such place or places, be subject to such terms of redemption and
3 have such other terms and conditions as such resolution, or any indenture authorized by such
4 resolution to be entered into by the City, may provide. The Board of Supervisors shall also approve the
5 form of indenture of trust, the Official Statement and such other security documents and instruments
6 necessary or desirable in connection with the issuance of the Bonds. Bonds may be sold at either
7 public or private sale and for such prices as the City shall determine.

8 **Section 43.3A.7 No Limitation on Appropriations.**

9 None of the Revenues, as defined in this Article IIIA, shall be taken into account in any manner
10 in determining the City's compliance with Article IIIB of the California Constitution.

11 **Section 43.3A.8 Pledge of Revenues, Money or Assets; Lien.**

12 Any pledge of Revenues or other moneys or assets pursuant to the provisions of this Article
13 shall be valid and binding from the time such pledge is made. Revenues, moneys and assets so pledged
14 and thereafter received by the City shall immediately be subject to the lien of such pledge without any
15 physical delivery thereof or further act; and the lien of any such pledge shall be valid and binding as
16 against all parties having claims of any kind in tort, contract, or otherwise against the City,
17 irrespective of whether such parties have notice thereof. Neither the resolution nor any indenture by
18 which a pledge is created need be filed or recorded except in the records of the City.

19 **Section 43.3A.9 No Personal Liability.**

20 Neither the members of the Board of Supervisors, the officers or employees of the City, nor any
21 person executing any Bonds shall be liable personally on the Bonds or be subject to any personal
22 liability or accountability by reason of the issuance thereof.

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1 **Section 43.3A.10 Purchase of Bonds By City.**

2 The City shall have the power out of any funds available therefor to purchase its Bonds. The
3 City may hold, pledge, cancel, or resell such Bonds, subject to and in accordance with agreements with
4 the bondholders.

5 **Section 43.3A.11 Refunding Bonds.**

6 The City may issue refunding bonds under this Article IIIA for the purpose of refinancing any
7 Bonds then outstanding.

8 **Section 43.3A.12 Creation of Program Fund.**

9 There is hereby created the First-Time Homebuyers and Purchase Assistance Program Fund
10 ("Program Fund"). All Bond Proceeds shall be deposited into the Program Fund. The Program Fund
11 shall be a segregated fund of the City and shall be separately accounted for. All costs of administration
12 of the Program Fund shall be paid out of Revenues, unless the Board of Supervisors elects, in its sole
13 discretion, to appropriate some or all of the administrative costs of the Program Fund.

14 **Section 43.3A.13 Use of Bond Proceeds.**

15 Following payment of cost of issuance, Bond Proceeds shall be used solely for the following
16 costs and purposes.

17 (i) Making Program Loans;

18 (ii) Payment of all legally permissible administrative costs related to the Program, provided
19 that such payment shall not exceed one half percent (0.5%) of Bond Proceeds; and

20 (iii) Defeasance of the Bonds;

21 **Section 43.3A.14 Program Loan Eligibility.**

22 Program Loans may be made solely to the following persons for the following purposes and
23 subject to the following conditions:

24 (i) the Program Loan shall be made solely to Eligible Households in connection with their
25 purchase of a Unit located within the City that they intend to and promptly after the

1 closing of the purchase of the Unit (allowing a reasonable time for any necessary or
2 desirable repair or renovation), do occupy as an Owner Occupied Unit;

3 (ii) the Program Loan shall be made jointly and severally to all persons of legal capacity in
4 an Eligible Household who are Owners of a Purchased Unit;

5 (iii) the proceeds of the Program Loan shall be used solely for payment of closing costs and
6 part of the purchase price for a Purchased Unit;

7 (iv) the Program Loan shall not exceed the greater of: (i) fifty thousand dollars (\$50,000);
8 or (ii) five percent (5.0%) of the purchase price of the Purchased Unit plus bona fide
9 closing costs;

10 (v) repayment of the Program Loan shall be in approximately equal installments made
11 monthly commencing on the first day of the second month following the month of
12 disbursement of the Program Loan, and continuing for not more than three hundred
13 sixty (360) months, subject to the additional limitations and requirements set forth
14 herein;

15 (vi) full repayment of all amounts owing under the Program Loan shall be due upon sale of
16 the Unit purchased in part with the proceeds of the Program Loan;

17 (vii) repayment of the Program Loan shall be secured by a second deed of trust on the
18 Purchased Unit, for the benefit of the City, which deed of trust shall require repayment
19 of the Program Loan in full prior to reconveyance unless the Owner of an Owner
20 Occupied Unit is in default under the first deed of trust and the lienholder under the first
21 deed of trust has exercised its rights to foreclose or take a deed in lieu of foreclosure.

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1 **Section 43.3A.15 Fees**

2 The City is hereby authorized to charge application, commitment, financing and other fees, in
3 order to recover all administrative and other costs and expenses incurred in the exercise of the powers
4 and duties conferred by this Article IIIA. The City shall transmit a letter agreement or contract to any
5 party which will obligate such party to pay such fees and expenses as the City may charge or incur
6 hereunder.

7 **Section 43.3A.16 Insurance.**

8 The City is hereby authorized to obtain, or aid in obtaining, from any department or agency of
9 the United States of America or of the State of California or any private company, any insurance or
10 guarantee as to, or of, or for the payment or repayment of, interest or principal, or both, rents, fees or
11 other charges, or any part thereof, on any Program Loan, lease or sale obligation or any instrument
12 evidencing or securing the same, made or entered into as authorized by this Article IIIA; and is
13 authorized to accept payment in such manner and form as provided therein in the event of default by
14 any party, and to assign any such insurance or guarantee as security for Bonds.

15 **Section 43.3A.17 Security For Loans.**

16 The City is hereby authorized to hold deeds of trust or mortgages or security interests in
17 personal property as security for loans and other obligations authorized by this Article IIIA and to
18 pledge or assign the same as security for repayment of Bonds. Such deeds of trust, mortgages or
19 security interests, or any other interest of the City in any Unit, may be assigned to, and held on behalf
20 of, the City by any bank or trust company appointed to act as trustee by the City in any resolution or
21 indenture providing for the issuance of Bonds.

22 **Section 43.3A.18 Mayor's Office of Housing.**

23 The Mayor's Office of Housing or its successor, or other agency or department as determined
24 by the Mayor, will be responsible for the administration of the Program, subject to any legislation and
25 rules and regulations described in this Article IIIA.

1 **Section 43.3A.19 Regulations.**

- 2 i. The Mayor's Office of Housing or its successor, or other agency or department as determined
3 by the Mayor shall prepare regulations consistent with the provisions herein for the Program.

4 **Section 43.3A.20 Reports to the Board of Supervisors.**

5 The Mayor's Office of Housing shall provide an annual report to the Board of Supervisors on
6 the status of the Program, the number of families being served by the Program and the annual cost of
7 originating and servicing the Program Loans.

8 **Section 43.3A.21 Liberal Construction.**

9 This Article, being necessary for the welfare of the City and its inhabitants, shall be liberally
10 construed to effect its purposes.

11 **Section 43.3A.22 Omissions Not to Affect Validity of the Bonds.**

12 Any omission of any officer of the City in proceedings under the Article or any defect in the
13 proceedings shall not invalidate such proceedings or the Bonds issued pursuant to this Article.

14 **Section 43.3A.23 Article Controlling.**

15 To the extent that the provisions of this Article are inconsistent with the provisions of any
16 general statute or special act or parts thereof the provisions of this Article shall be deemed controlling.

17 **Section 43.3A.24 Severability.**

18 If any provision of this Article or its application to any person, housing project or to any
19 geographical area of the City, is held invalid, the remainder of this Article, or the application of such
20 provision to other persons, housing projects or to any other geographical areas of the City, shall not be
21 affected thereby. The Board of Supervisors hereby declares that it would have adopted and passed this
22 Article and each section, subsection, sentence, clause, phrase and word hereof, irrespective of the fact
23 that one or more of the other sections, subsections, sentences, clauses, phrases or words hereof be
24 declared invalid or unconstitutional.

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APPROVED AS TO FORM:
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By: _____
Theresa Alvarez Hackett
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