

1 [Housing Bond TEFRA Approval Policy.]

2

3 **Ordinance amending the San Francisco Administrative Code by adding Chapter 43.9,**

4 **Sections 43.9.1 through 43.9.5 43.9.6, to adopt findings and a City policy requiring**

5 **housing project sponsors to comply with certain City contracting programs and other**

6 **conditions in connection with the issuance of revenue bonds by joint exercise of**

7 **powers authorities to finance private affordable housing projects within the City; and**

8 **adopting a City policy regarding the review and approval of the issuance of revenue bonds by**

9 **joint exercise of powers authorities to finance projects within the City other than private**

10 **affordable housing projects.**

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

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

16 Section 1. The San Francisco Administrative Code is hereby amended by adding
17 Chapter 43.9, Sections 43.9.1 through 43.9.2 43.9.6, entitled "Housing Bond Approval Policy,"
18 to read as follows:

SECTION 43.9.1. FINDINGS.

19 *The City and County of San Francisco (the "City") promotes the financing and construction of*
20 *new affordable and mixed income housing by, among other things, issuing multifamily housing revenue*
21 *bonds or 501(c)(3) bonds for private projects. The proceeds of such bonds are loaned by the City to a*
22 *project sponsor to help it finance affordable and mixed income housing construction. The City is not*
23 *liable for repayment of the bonds; the primary reason for the City's participation is that interest on*
24 *qualifying City housing bonds is exempt from federal income taxation, reducing the project's cost of*
25 *borrowing and thereby helping to make the affordable housing projects financially feasible. In return*

1 for the City's issuance of the bonds, the sponsor agrees to, among other things, (i) repay the loan by
2 making payments of debt service and other amounts payable in connection with the bonds, (ii) enter a
3 regulatory agreement with the City that sets forth restrictions on the housing units to ensure their
4 affordability, and (iii) comply with certain other City contracting requirements that apply to
5 contractors receiving City funds for project construction (the "City's Contracting Requirements"). The
6 City's Contracting Requirements include, without limitation, provisions requiring compliance with the
7 City's contracting requirements and policies regarding nondiscrimination, equal benefits, minimum
8 compensation, health care accountability, prevailing wage, local disadvantaged business enterprise
9 subcontracting and jobs programs (such the City's First Source Hiring or City Build programs), as
10 applicable. The San Francisco Redevelopment Agency (the "Agency") issues these housing revenue
11 bonds as well and in doing so requires compliance with applicable Agency contracting requirements
12 and policies, which are similar to the City's Contracting Requirements.

13 The City also supports affordable and mixed income housing construction through its
14 membership in joint exercise of powers authorities such as the California Statewide Communities
15 Development Authority and the Association of Bay Area Governments (all such joint powers authorities
16 of which the City is a member are referred to in this ordinance individually as the "Authority"). Each
17 Authority issues housing revenue bonds similar to the bonds described in the preceding paragraph.
18 Under the terms of the City's membership in these Authorities, along with certain provisions of the
19 federal Internal Revenue Code if such bonds are to be issued on a tax-exempt basis, the City's Board of
20 Supervisors (the "Board of Supervisors") must adopt a resolution approving the bond financing prior to
21 its issuance (a "TEFRA Resolution"). Again, the City is not liable for repayment of the bonds.

22 While the Authority and City transaction structures are similar on their face, in an Authority
23 transaction the City is typically not a party to the transaction documents, and as such the project
24 sponsors are not required to comply with the City's Contracting Requirements.

1

2 **SEC.43.9.2. DEFINITIONS.**

3 (a) *"Agency" shall have the meaning assigned to such term in Section 43.9.1.*

4 (b) *"Authority" shall have the meaning assigned to such term in Section 43.9.1.*

5 (c) *"Board of Supervisors" shall have the meaning assigned to such term in Section 43.9.1.*

6 (d) *"City" shall have the meaning assigned to such term in Section 43.9.1.*

7 (e) *"City's Contracting Requirements" shall have the meaning assigned to such term in*

8 *Section 43.9.1.*

9 (f) *"HUD" shall mean the United States Department of Housing and Urban Development.*

10 (g) *"Other Authority Bonds" shall mean any tax exempt bonds proposed to be*

11 *issued by an Authority on behalf of a project sponsor to finance or refinance any capital*

12 *project other than a Residential Project, including but not limited to the financing of assisted*

13 *living or educational facilities and refunding bonds relating to any type of project.*

14 (g)(h) *"Residential Project" shall mean a residential development (including residential*

15 *portions of a mixed-use project) involving new construction, an addition, a conversion, or a*

16 *rehabilitation, the financing of which is proposed to be assisted by any of the following: a HUD*

17 *mortgage insurance program; a contract for project-based Section 8 rental assistance; HUD operating*

18 *funds under HUD's Section 202 or Section 811 programs; or participation in the Low Income Housing*

19 *Tax Credit program.*

20 (h)(i) *"TEFRA Resolution" shall have the meaning assigned to such term in Section 43.9.1.*

21

22 **SECTION 43.9.3. DECLARATION OF POLICY.**

23 *This Board of Supervisors hereby declares that it is the policy of the City to require sponsors of*

24 *private residential projects financed with multifamily housing revenue bonds or 501(c)(3) bonds within*

1 the City to comply with the City's Contracting Requirements. If such bonds are to be issued by an
2 Authority, it shall be the policy of the City to require a project sponsor to satisfy the requirements of
3 Section 43.9.4 as a condition to the City's approval of a TEFRA resolution. For bond-financed
4 residential projects located within a redevelopment area, the Agency's policies and contracting
5 requirements applicable to that redevelopment area may replace some or all of the City's Contracting
6 Requirements for purposes of this section.

7

8 **SECTION 43.9.4. BONDS ISSUED BY AN AUTHORITY TO FINANCE A RESIDENTIAL**
9 **PROJECT.**

10 Any TEFRA Resolution to be considered by the Board of Supervisors in connection with bonds
11 proposed to be issued by an Authority to finance all or a portion of a residential project must
12 include or be accompanied by the following:

13 (a) An agreement by the project sponsor to be bound by provisions consistent with the City's
14 Contracting Requirements, provided that in recognition of the exemptions from the Minimum
15 Compensation Ordinance and the Health Care Accountability Ordinance for affordable housing loan
16 transactions to which the City is a party as set forth in Section 12P.2 and 12Q.2.4 of the Administrative
17 Code, respectively, the City may waive the applicability of its minimum compensation or health care
18 accountability requirements for nonprofit sponsors of affordable housing projects upon
19 recommendation by the Director of the Mayor's Office of Housing or his or her designee and subject to
20 approval of the Board of Supervisors by resolution. The provisions setting forth the project
21 sponsor's agreements shall include references to compliance monitoring and enforcement
22 regimes consistent with City law applicable to each such City Contracting Requirement. Such
23 agreement shall clearly indicate the City agency charged with monitoring compliance with

1 each requirement provision so imposed, and notice of such agreement shall be provided to
2 each such agency by the Mayor's Office of Housing.

3 (b) Except as approved in writing by the Mayor's Office of Housing, and subject to
4 applicable HUD and state regulations, an agreement by the project sponsor to protect ~~current~~ tenants
5 of the Residential Project as of the date of issuance of the bonds from eviction due to the financing
6 based solely on any such tenant's failure to meet a financing-related income standard at the time of
7 bond issuance or at any time during the term of the affordability restrictions.

8 (c) Except as approved in writing by the Mayor's Office of Housing, and subject to
9 applicable HUD and state regulations, an agreement by the project sponsor to limit annual rent
10 increases for ~~current~~ tenants of the Residential Project as of the date of issuance of the bonds to
11 the percentage change in area median income for such year as such amount is determined by HUD. In
12 the event that HUD does not make such a determination such amount shall be determined by the
13 Mayor's Office of Housing.

14 (d) A written description of the expected ownership and management structure of the
15 Residential Project after bond issuance. Such description shall include a description of the experience
16 of the project sponsor in managing similar affordable residential projects. Such description shall also
17 include a summary of the affordable residential project experience of any nonprofit corporations or
18 other entities the project sponsor anticipates including in a joint venture with respect to the Residential
19 Project. The Board of Supervisors hereby expresses a policy preference to support (i) Residential
20 Projects with proposed management teams that include nonprofit partners based within the City and
21 (ii) Residential Projects proposed to be managed by entities that demonstrate substantial experience
22 with affordable housing projects.

23 (e) Proof of the delivery of written notice via mail to all current tenants and posting at the
24 project location regarding the application for bond financing and the TEFRA hearing. Such proof may

1 be provided in the form of a letter signed by the project sponsor and must be accompanied by the notice
2 in the form in which it was delivered.

3 (f) A recommendation as to passage of the TEFRA Resolution from the Director of the
4 Mayor's Office of Housing or his or her designee.

5 (g) An agreement by the project sponsor to reimburse the City and the Agency, as
6 applicable, for staff time, including fees and costs of the City Attorney's Office, relating to the TEFRA
7 Resolution and the satisfaction of the policies set forth in this Article. The City may waive the
8 applicability of this clause (g) for nonprofit sponsors of affordable housing projects upon
9 recommendation by the Director of the Mayor's Office of Housing or his or her designee and subject to
10 approval of the Board of Supervisors by resolution. For projects located within a redevelopment
11 area, the Agency would be responsible for making the recommendation described in the
12 preceding sentence.

13

14 **SEC. 43.9.5 POLICY REGARDING OTHER AUTHORITY BONDS.**

15 (a) Prior to the consideration by the Board of Supervisors of a TEFRA Resolution
16 relating to any issuance of Other Authority Bonds, the Authority and the project sponsor shall
17 submit the following information to the City's Office of Public Finance:

18 (1) A written description of the financing structure proposed in the current
19 transaction, including anticipated sources and uses.

20 (2) A written description of the expected ownership and management
21 structure of the project after bond issuance. Such description shall include a description of
22 the experience of the project sponsor in managing similar projects. Such description shall
23 also include a summary of the project-related experience of any nonprofit corporations or
24 other entities the project sponsor anticipates including in a joint venture with respect to the

bond-financed project. The Board of Supervisors hereby expresses a policy preference to support (i) projects with proposed management teams that include nonprofit partners based within the City and (ii) projects proposed to be managed by entities that demonstrate substantial experience with type of project being financed.

(3) Such other information as City officials deem necessary to evaluate the proposed bond financing.

(b) The Office of Public Finance shall review the information described under paragraph (a) and provide copies to City departments with expertise relating to the projects in question, to the Mayor's Office of Housing and, if the proposed project is located within a redevelopment area, the Agency.

(c) After soliciting any and all comments from the agencies described in paragraph
(b), the Director of Public Finance shall provide its recommendation as to passage before
consideration of the TEFRA Resolution by the Board of Supervisors.

SEC. 43.9.5 43.9.6. APPLICABILITY.

This Chapter shall not be interpreted to apply to any residential project for which the sponsor has submitted a request for the introduction of a TEFRA resolution on or before June 20-1, 2006.

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

By: Michael J. Martin
Deputy City Attorney

**SUPERVISORS MAXWELL AND PESKIN
BOARD OF SUPERVISORS**