

1 [Affordable Energy Improvement Loan Program General Obligation Bond Election.]

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3 **Ordinance calling and providing for a special election to be held in the City and County**  
4 **of San Francisco on Tuesday, June 3<sup>rd</sup> 2008, for the purpose of submitting to the voters**  
5 **of the City and County of San Francisco a proposition to restructure the City's**  
6 **previously approved Seismic Safety Loan Program to authorize the following bonded**  
7 **debt of the City and County: Fifty Million Dollars (\$50,000,000) for a loan program**  
8 **seeking to finance privately-owned renewable energy and energy efficiency projects,**  
9 **subject to loan repayments from the borrowers in amounts necessary to pay debt**  
10 **service on such bonded indebtedness; amending the previously approved Seismic**  
11 **Safety Loan Program bonding authority to reflect such reallocation; finding that the**  
12 **estimated cost of such proposed project is and will be too great to be paid out of the**  
13 **ordinary annual income and revenue of the City and County and will require**  
14 **expenditures greater than the amount allowed therefor by the annual tax levy; reciting**  
15 **the estimated cost of such proposed project; fixing the date of election and the manner**  
16 **of holding such election and the procedure for voting for or against the proposition;**  
17 **fixing the maximum rate of interest on such bonds and providing for the levy and**  
18 **collection of taxes to pay both principal and interest thereof; prescribing notice to be**  
19 **given of such election; finding that the proposed project is excluded from the**  
20 **California Environmental Quality Act; finding that the proposed project is in conformity**  
21 **with the priority policies of Planning Code Section 101.1(b) and with the General Plan**  
22 **consistency requirement of Administrative Code Section 2A.53; authorizing landlords**  
23 **to passthrough to residential tenants in units subject to Chapter 37 of the San**  
24 **Francisco Administrative Code (the "Residential Stabilization and Arbitration**  
25 **Ordinance") 50% of the increase in the real property taxes attributable to the cost of the**

1    **repayment of the bonds; consolidating the special election with the general election on**  
2    **the same date; establishing the election precincts, voting places and officers for the**  
3    **election; waiving the word limitation on ballot propositions imposed by San Francisco**  
4    **Municipal Elections Code Section 510; complying with Section 53410 of the California**  
5    **Government Code; incorporating the provisions of Article V of Chapter V of the San**  
6    **Francisco Administrative Code; and waiving the time requirements specified in Section**  
7    **2.34 of the San Francisco Administrative Code.**

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

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

13                    Section 1. Findings.

14                    A.        In November 1992 the voters in the City and County of San Francisco (the  
15                    "City") approved Proposition A, a general obligation bond measure authorizing the issuance of  
16                    up to \$350,000,000 in bonded indebtedness to finance the costs of a loan program to finance  
17                    seismic improvements to privately owned buildings within the City. The program is known as  
18                    the "Seismic Safety Loan Program" or "SSLP".

19                    B.        The SSLP created two separate loan programs: a market rate program of  
20                    \$200,000,000 to be used for market-rate residential, commercial and institutional buildings  
21                    requiring seismic improvements, and a below-market-rate program of \$150,000,000 to be  
22                    loaned to finance seismic improvements to affordable housing buildings at a lower rate of  
23                    interest.

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1 C. For various reasons the demand for the market-rate loans under the SSLP has  
2 been significantly less than the level anticipated at the time of Proposition A, with more than  
3 \$160,000,000 of the market-rate allocation as yet unborrowed.

4 D. Based on statistics showing the limited number of unreinforced masonry  
5 buildings still requiring retrofit and the current state of the private lending market, City public  
6 finance staff believes that a portion of this borrowing authority can be reallocated without  
7 jeopardizing the objectives of the Proposition A.

8 E. The City continues its effort to foster the development of private and public  
9 financing options for renewable energy and energy efficiency, in order to make more projects  
10 feasible and to bolster the sustainability of the City's energy consumption patterns.

11 F. The Mayor and this Board of Supervisors of the City (the "Board of Supervisors")  
12 now wish to describe the terms of a ballot measure seeking approval for an amendment of the  
13 Proposition A general obligation bond authority to reallocate a portion of the general obligation  
14 bonding authority to finance a new Affordable Energy Improvement Loan Program (as so  
15 reallocated, the "Bonds").

16 Section 2. A special election is hereby called and ordered to be held in the City on  
17 Tuesday, the 3<sup>rd</sup> day of June, 2008, for the purpose of submitting to the electors of the City a  
18 proposition to incur bonded indebtedness of the City for the project hereinafter described in  
19 the amount and for the purposes stated:

20 "AFFORDABLE ENERGY IMPROVEMENT LOAN PROGRAM, 2008. For the  
21 purpose of providing a more affordable lending option for private parties seeking to finance  
22 privately-owned renewable energy and energy efficiency projects, shall the City reallocate  
23 \$50,000,000 of its current Seismic Safety Loan Program bonding authority to an Affordable  
24 Energy Improvement Loan Program, provided that any funds loaned to private individuals  
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1 under this Program must be repaid in amounts sufficient to repay all principal and interest on  
2 the bond funds loaned to that borrower?"

3 The special election hereby called and ordered shall be referred to herein as the "Bond  
4 Special Election."

5 Section 3. The portion of Section 1 of the ordinance placing Proposition A on the  
6 November 1992 ballot pertaining to the Seismic Safety Loan program is hereby amended and  
7 restated as follows:

8 EARTHQUAKE LOAN BOND PROGRAM, 1992, \$350,000,000 to provide loans for the  
9 seismic strengthening of unreinforced masonry buildings, and to pay necessary administrative  
10 costs incidental thereto, of which (a) \$150,000,000 shall be allocated to affordable housing  
11 buildings at an interest rate equal to one-third of the City's true interest cost for the series of  
12 bonds the proceeds of which are used to fund the loan, of which \$60,000,000 shall be  
13 available for deferred loans, and (b) ~~\$200,000,000~~ \$150,000,000 shall be allocated to market-  
14 rate residential, commercial and institutional buildings with the interest rate on said loans  
15 being set in an amount which, when coupled with the annual administrative fees charged by  
16 the City, yields a total annual return to the City which is one percent (1%) above the City's true  
17 interest cost for the series of bonds the proceeds of which are used to fund the loan; providing  
18 that no more than thirty-five million dollars (\$35,000,000) of said authorization shall be sold in  
19 any one fiscal year which amount shall be allocated on a pro-rata basis between the  
20 affordable housing and market rate residential, commercial and institutional buildings in  
21 accordance with the allocations ~~hereinabove~~ set forth at the time this proposition was originally  
22 approved by the voters, such that no more than \$15,000,000 of this authorization may be used for  
23 affordable housing loans in any one fiscal year and no more than \$20,000,000 of this authorization  
24 may be used for market rate loans in any one fiscal year; authorizing carry-over of authorized  
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1 indebtedness to subsequent fiscal years; providing that all loan repayments shall be used to  
2 pay debt service, except for loan repayments received after the retirement of all bonds issued  
3 under this Program which may be used for any lawful purpose, including, but not limited to,  
4 making additional loans for seismic strengthening of unreinforced masonry buildings and the  
5 payment of debt service or the redemption of other outstanding general obligation bonds of  
6 the City.

7 Section 4. Affordable Energy Improvement Loan Program.

8 A. Upon approval by the voters there is hereby established an "Affordable Energy  
9 Improvement Loan Program" in the City. The City is authorized to issue up to \$50,000,000 of  
10 general obligation bonds to create and administer the loan program upon the terms set forth in  
11 this Section 4. All references to the "Program " in this Section 4 shall be deemed to refer to  
12 the Affordable Energy Improvement Loan Program and not the Seismic Safety Loan Program.

13 B. The Program may provide for loans to finance privately-owned improvements to  
14 real property that provide renewable energy and/or improve energy efficiency. Such loans  
15 shall be made according to loan criteria and after satisfying any other requirements set forth  
16 by the implementing City agency.

17 C. All amounts loaned to private borrowers under the Program ("Borrowers") must  
18 be repaid in full, in amounts equal to the principal borrowed plus the interest accruing on the  
19 Bond funds used to make the loan. All such repayments received by the City shall be used to  
20 pay debt service on the Bonds.

21 D. It is the intent of the City that administrative fees be set such that no City funds  
22 are used to pay administrative costs of the program unless such funds are to be reimbursed  
23 by a Borrower. Those fees may be included as additional principal on a loan to be repaid by a  
24 Borrower or as a separate fee payment obligation.

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

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

11                     Resolution No. \_\_\_\_\_, \$50,000,000.

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

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

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

23           Section 6. The Bond Special Election shall be held and conducted and the votes  
24 thereafter received and canvassed, and the returns thereof made and the results thereof

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1 ascertained, determined and declared as herein provided and in all particulars not herein  
2 recited such election shall be held according to the laws of the State of California and the  
3 Charter of the City (the "Charter") and any regulations adopted pursuant thereto, providing for  
4 and governing elections in the City, and the polls for such election shall be and remain open  
5 during the time required by such laws and regulations.

6 Section 7. The Bond Special Election is hereby consolidated with the Statewide Direct  
7 Primary Election scheduled to be held in the City on Tuesday, June 3, 2008. The voting  
8 precincts, polling places and officers of election for the June 3, 2008 Statewide Direct Primary  
9 Election are hereby adopted, established, designated and named, respectively, as the voting  
10 precincts, polling places and officers of election for the Bond Special Election hereby called,  
11 and reference is hereby made to the notice of election setting forth the voting precincts,  
12 polling places and officers of election for the June 3, 2008 Statewide Direct Primary Election  
13 by the Director of Elections to be published in the official newspaper of the City on the date  
14 required under the laws of the State of California.

15 Section 8. The ballots to be used at the Bond Special Election shall be the ballots to  
16 be used at the June 3, 2008 Statewide Direct Primary Election. The word limit for ballot  
17 propositions imposed by San Francisco Municipal Elections Code Section 510 is hereby  
18 waived. On the ballots to be used at the Bond Special Election, in addition to any other matter  
19 required by law to be printed thereon, shall appear the following as a separate proposition:

20 "AFFORDABLE ENERGY IMPROVEMENT LOAN PROGRAM, 2008. For the purpose  
21 of providing a more affordable lending option for private parties seeking to finance privately-  
22 owned renewable energy and energy efficiency projects, shall the City reallocate \$50,000,000  
23 of its current Seismic Safety Loan Program bonding authority to an Affordable Energy  
24 Improvement Loan Program, provided that any funds loaned to private individuals under this  
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1 Program must be repaid in amounts sufficient to repay all principal and interest on the bond  
2 funds loaned to that borrower?"

3 Each voter to vote in favor of the issuance of the foregoing bond proposition shall mark  
4 the ballot in the location corresponding to a "YES" vote for the proposition, and to vote against  
5 the proposition shall mark the ballot in the location corresponding to a "NO" vote for the  
6 proposition.

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

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

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

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1           Section 11. This ordinance shall be published in accordance with any state law  
2 requirements, and such publication shall constitute notice of the Bond Special Election and no  
3 other notice of the Bond Special Election hereby called need be given.

4           Section 12. The Board of Supervisors having reviewed the proposed legislation, finds  
5 and declares that (i) the proposed Project is excluded from CEQA under CEQA Guidelines  
6 section 15378(b)(4) as the creation of a government funding mechanism that does not involve  
7 any commitment to any specific project, (ii) that the proposed project is in conformity with the  
8 priority policies of Section 101.1(b) of the City Planning Code and, (iii) in accordance with  
9 Section 2A.53(f) of the City Administrative Code, that the proposed project is consistent with  
10 the City's General Plan, and hereby adopts the findings of the City Planning Department, as  
11 set forth in the General Plan Referral Report, dated \_\_\_\_\_, 2008, and incorporates said  
12 findings by reference.

13           Section 13. Approval of this measure will provide authorization for landlords to  
14 passthrough to residential tenants in units subject to Chapter 37 of the San Francisco  
15 Administrative Code (the "Residential Stabilization and Arbitration Ordinance") 50% of any  
16 increase in the real property taxes attributable to the cost of the repayment of the bonds.

17           Section 14. Pursuant to Section 53410 of the California Government Code, the Bonds  
18 shall be for the specific purpose authorized herein and the proceeds of such Bonds will be  
19 applied only to the project described herein. The City will comply with the requirements of  
20 Sections 53410(c) and 53410(d) of the California Government Code.

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

4 Section 16. The time requirements specified in Section 2.34 of the San Francisco  
5 Administrative Code are hereby waived.

6 Section 17. The appropriate officers, employees, representatives and agents of the  
7 City are hereby authorized and directed to do everything necessary or desirable to accomplish  
8 the calling and holding of the Bond Special Election, and to otherwise carry out the provisions  
9 of this ordinance.

10 Section 18. Documents referenced herein are on file with the Clerk of the Board of  
11 Supervisors in File No. , which is hereby declared to be a part of this ordinance as if set  
12 forth fully herein.

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

16 By: \_\_\_\_\_  
17 Michael J. Martin  
18 Deputy City Attorney

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