

1 [Earthquake Safety Retrofit Deferred Loan and Grant Program General Obligation Bond, 2010  
2 Election.]

3 **Ordinance calling and providing for a special election to be held in the City and County**  
4 **of San Francisco on Tuesday, November 2nd 2010, for the purpose of submitting to the**  
5 **voters of the City and County of San Francisco a proposition to authorize general**  
6 **obligation bonded indebtedness of the City and County in the Amount of Thirty Nine**  
7 **Million One Hundred and Forty Thousand Dollars (\$39,140,000) to provide deferred**  
8 **loans and/or grants to pay the costs of seismic retrofits to multi-story wood structures**  
9 **that are at significant risk of substantial damage and collapse during an earthquake;**  
10 **authorizing landlords to pass-through 50% of the resulting property tax increase to**  
11 **residential tenants in accordance with Chapter 37 of the San Francisco Administrative**  
12 **Code; finding that the estimated cost of such proposed project is and will be too great**  
13 **to be paid out of the ordinary annual income and revenue of the City and County and**  
14 **will require expenditures greater than the amount allowed therefor by the annual tax**  
15 **levy; reciting the estimated cost of such proposed project; fixing the date of election**  
16 **and the manner of holding such election and the procedure for voting for or against the**  
17 **proposition; fixing the maximum rate of interest on such bonds and providing for the**  
18 **levy and collection of taxes to pay both principal and interest thereof; prescribing**  
19 **notice to be given of such election; finding that the proposed bond is not a project**  
20 **under the California Environmental Quality Act; finding that the proposed project is in**  
21 **conformity with the priority policies of Planning Code Section 101.1(b) and with the**  
22 **General Plan consistency requirement of Administrative Code Section 2A.53;**  
23 **consolidating the special election with the general election on the same date;**  
24 **establishing the election precincts, voting places and officers for the election; waiving**  
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1 **the word limitation on ballot propositions imposed by San Francisco Municipal**  
2 **Elections Code Section 510; complying with Section 53410 of the California**  
3 **Government Code; incorporating the provisions of Article V of Chapter V of the San**  
4 **Francisco Administrative Code; and waiving the time requirements specified in Section**  
5 **2.34 of the San Francisco Administrative Code.**

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. Findings.

11 A. The San Francisco Department of Building Inspections caused to be prepared a  
12 report dated February 2009, entitled "Here Today---Here Tomorrow: Earthquake Safety for  
13 Soft Story Buildings" (the "Report").

14 B. The Report made several recommendations to mitigate the potential damage  
15 and destruction to multi-story wood-frame buildings, including the initiation of a program to  
16 finance the costs of seismic retrofits to such soft story buildings that are at significant risk for  
17 substantial damage and collapse during an earthquake.

18 C. The Report identified approximately 2,800 buildings constructed before 1974  
19 and consisting of three or more stories that have large perimeter wall openings (referred to in  
20 the Report and herein as "soft-story buildings") and which, therefore, are potentially most at  
21 significant risk of substantial damage and collapse during an earthquake.

22 D. Keeping San Franciscans in their homes after an earthquake is a vital public  
23 interest and would avert a post-earthquake shelter crisis and thereby reduce the demands  
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1 placed upon emergency responders; and that keeping residents in their homes serves a valid  
2 public purpose resulting in significant public benefits.

3 E. The Mayor's Office of Housing, the San Francisco Redevelopment Agency and  
4 the U.S. Department of Housing and Urban Development funds 125 affordable housing multi-  
5 story units which are at significant risk of substantial damage and collapse during and  
6 earthquake.

7 F. In addition, there are 31 potential soft-story buildings containing single room  
8 occupancy units that are owned by private parties, and such structures are at a significant risk  
9 of substantial damage and collapse during and earthquake.

10 G. The Mayor and this Board of Supervisors of the City and County of San  
11 Francisco (the "City") now wish to describe the terms of a ballot measure seeking approval for  
12 general obligation bonding authority for a Earthquake Safety Retrofit Deferred Loan and Grant  
13 Program (the "Bonds").

14 Section 2. A special election is hereby called and ordered to be held in the City on  
15 Tuesday, the 2nd day of November, 2010, for the purpose of submitting to the electors of the  
16 City a proposition to authorize the issuance of general obligation bonded indebtedness of the  
17 City for the project hereinafter described in the amount and for the purposes stated:

18 "EARTHQUAKE SAFETY RETROFIT DEFERRED LOAN AND GRANT PROGRAM  
19 GENERAL OBLIGATION BONDS, 2010. To provide deferred loans and grants to pay the  
20 costs for seismic retrofits of certain multi-story wood-frame buildings with vulnerable soft-  
21 story construction at significant risk of substantial damage and collapse during a major  
22 earthquake and funded by a qualified governmental housing finance agency for permanent or  
23 long-term affordability, or single room occupancy buildings owned by private parties, and pay  
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1 related costs, shall the City issue up to \$39,140,000 of general obligation bonded  
2 indebtedness, subject to citizen oversight and regular audits?"  
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4 The special election hereby called and ordered shall be referred to herein as the "Bond  
5 Special Election." Subject to approval by the voters, landlords shall be authorized to pass-  
6 through 50% of the resulting property tax increase associated with the costs of the bonds to  
7 residential tenants in accordance with Chapter 37 of the San Francisco Administrative Code.

8 Section 3. Subject to approval by the voters, the Seismic Safety Retrofit Deferred Loan  
9 and Grant Program General Obligation Bonds shall be authorized in the aggregate principal  
10 amount of \$39,140,000, shall be issued upon such terms and conditions permitted by law, and  
11 allocated as follows:

12 A. Public Agency Earthquake Retrofit Loan Program. The City is authorized to issue  
13 up to \$35,340,000 of general obligation bonds to be allocated to fund a deferred loan and  
14 grant program to pay the cost associated with seismic retrofits of affordable housing buildings  
15 constituting Soft Story Structures constructed on or before 1974 and funded by the Mayor's  
16 Office of Housing, San Francisco Redevelopment Agency or other affordable housing  
17 governmental finance agency (referred to herein as the "Public Agency Earthquake Safety  
18 Retrofit Loan Program"). Such deferred loans and grants shall be made in accordance with  
19 the terms and conditions established by the implementing City agency; provided however that  
20 such terms and conditions shall require that such loans and grants shall become immediately  
21 due and payable if the property is sold or otherwise transferred, in either case, resulting in a  
22 loss of affordability or income restrictions, and such repayments shall be used to repay the  
23 Bonds. The Board of Supervisors hereby finds that loans and grants made from bond  
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1 proceeds for the purpose of seismic retrofits to affordable housing buildings as authorized  
2 hereby constitute a public purpose resulting in significant public benefits.

3 B. Private Party Earthquake Safety Retrofit Loan Program. The City is authorized to  
4 issue up to \$3,800,000 of general obligation bonds to be allocated to fund a private party loan  
5 (referred to herein as the "Private Party Earthquake Safety Retrofit Loan Program") program  
6 to pay for seismic retrofits single occupancy residence buildings constituting Soft Story  
7 Structures constructed on or before 1974 that are at significant risk of substantial damage and  
8 destruction during an earthquake, and to administer said fund upon the terms set forth below.  
9 Loans made through the Private Party Earthquake Safety Retrofit Loan Program shall be  
10 upon the terms and conditions set forth by the implementing City agency; provided however,  
11 that such terms and conditions shall require that such loans (i) apply the City's prevailing  
12 wage law, and (ii) become due and payable upon a sale or other transfer of the property if  
13 such sale or transfer would change the character or use of the building for single residence  
14 occupancy tenancy, and such repayments shall be used to repay the Bonds. The Board  
15 hereby finds that loans made to private parties from bond proceeds for the purpose of seismic  
16 retrofits to the buildings as authorized hereby constitute a public purpose resulting in  
17 significant public benefits.

18 C. All amounts loaned to private borrowers ("Borrowers") under the Private Party  
19 Earthquake Safety Retrofit Loan Program must be repaid in full on such other terms and  
20 conditions as the implementing City agency shall determine. It is the intent of the City that  
21 administrative fees be set such that no City funds are used to pay administrative costs of the  
22 Private Party Earthquake Safety Retrofit Loan Program, unless such funds are to be  
23 reimbursed by a Borrower. Administrative costs may be included as additional principal on a  
24 loan to be repaid as a separate fee payment obligation of the Borrower.

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

7 E. The City shall be entitled to pay costs of issuance related to the issuance of Bonds  
8 authorized hereby.

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

12 **"Resolution determining and declaring that the public interest and necessity**  
13 **demand the construction, improvement and seismic retrofitting of multi-story wood**  
14 **framed affordable housing soft-story buildings for earthquake safety funded by the City**  
15 **or other qualified governmental housing finance agency, or owned by private third-**  
16 **parties and the payment of related costs necessary or convenient for the foregoing**  
17 **purposes; finding that the estimated cost of \$39,140,000 for such improvements is and**  
18 **will be too great to be paid out of the ordinary annual income and revenue of the City**  
19 **and County and will require incurring bonded indebtedness; finding that a portion of**  
20 **the proposed bond is not a project under the California Environmental Quality Act**  
21 **("CEQA") and adopting findings under CEQA, CEQA Guidelines, and San Francisco**  
22 **Administrative Code Chapter 31 for the remaining portion of the proposed bond;**  
23 **finding the proposed bond is in conformity with the priority policies of Planning Code**  
24 **Section 101.1(b) and with the General Plan consistency requirement of Charter**

1 **Section 4.105 and Administrative Code Section 2A.53; and waiving the time limits set**  
2 **forth in Administrative Code Section 2.34."**

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

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

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

15 Section 6. The Bond Special Election shall be held and conducted and the votes  
16 thereafter received and canvassed, and the returns thereof made and the results thereof  
17 ascertained, determined and declared as herein provided and in all particulars not herein  
18 recited such election shall be held according to the laws of the State of California and the  
19 Charter of the City (the "Charter") and any regulations adopted pursuant thereto, providing for  
20 and governing elections in the City, and the polls for such election shall be and remain open  
21 during the time required by such laws and regulations.

22 Section 7. The Bond Special Election is hereby consolidated with the Statewide  
23 General Election scheduled to be held in the City on Tuesday, November 2, 2010. The  
24 voting precincts, polling places and officers of election for the November 2, 2010 Statewide  
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1 General Election are hereby adopted, established, designated and named, respectively, as  
2 the voting precincts, polling places and officers of election for the Bond Special Election  
3 hereby called, and reference is hereby made to the notice of election setting forth the voting  
4 precincts, polling places and officers of election for the November 2, 2010 Statewide General  
5 Election by the Director of Elections to be published in the official newspaper of the City on  
6 the date required under the laws of the State of California.

7 Section 8. The ballots to be used at the Bond Special Election shall be the ballots to  
8 be used at the November 2, 2010 Statewide General Election. The word limit for ballot  
9 propositions imposed by San Francisco Municipal Elections Code Section 510 is hereby  
10 waived. On the ballots to be used at the Bond Special Election, in addition to any other matter  
11 required by law to be printed thereon, shall appear the following as a separate proposition:

12 " EARTHQUAKE SAFETY RETROFIT DEFERRED LOAN AND GRANT PROGRAM  
13 GENERAL OBLIGATION BOND, 2010.

14 To provide deferred loans and grants to pay the costs for seismic retrofits of certain  
15 multi-story wood-frame buildings with vulnerable soft-story construction at significant risk of  
16 substantial damage and collapse during a major earthquake and funded by a qualified  
17 governmental housing finance agency for permanent or long-term affordability, or single room  
18 occupancy buildings owned by private parties, and pay related costs, shall the City issue up to  
19 \$39,140,000 of general obligation bonded indebtedness, subject to citizen oversight and  
20 regular audits?"

21 Each voter to vote in favor of the issuance of the foregoing bond proposition shall mark  
22 the ballot in the location corresponding to a "YES" vote for the proposition, and to vote against  
23 the proposition shall mark the ballot in the location corresponding to a "NO" vote for the  
24 proposition.

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

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

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

19           Section 11. This ordinance shall be published in accordance with any State law  
20 requirements, and such publication shall constitute notice of the Bond Special Election and no  
21 other notice of the Bond Special Election hereby called need be given.

22           Section 12. The Board of Supervisors having reviewed the proposed legislation, finds  
23 and declares that (i) the proposed Project is excluded from CEQA under CEQA Guidelines  
24 section 15378(b)(4) as the creation of a government funding mechanism that does not involve  
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1 any commitment to any specific project, (ii) that the proposed project is in conformity with the  
2 priority policies of Section 101.1(b) of the City Planning Code and, (iii) in accordance with  
3 Section 2A.53(f) of the City Administrative Code, that the proposed project is consistent with  
4 the City's General Plan, and hereby adopts the findings of the City Planning Department, as  
5 set forth in the General Plan Referral Report, dated \_\_\_\_\_, 20\_\_, and incorporates said  
6 findings by reference.

7 Section 13. Pursuant to Section 53410 of the California Government Code, the Bonds  
8 shall be for the specific purpose authorized herein and the proceeds of such Bonds will be  
9 applied only to the project described herein. The City will comply with the requirements of  
10 Sections 53410(c) and 53410(d) of the California Government Code.

11 Section 14. The Bonds are subject to, and incorporate by reference, the applicable  
12 provisions of Article V of Chapter V of the San Francisco Administrative Code (the "Citizens'  
13 General Obligation Bond Oversight Committee"). Pursuant to Section 5.31 of the  
14 Administrative Code, to the extent permitted by law, one-tenth of one percent (0.1%) of the  
15 gross proceeds of the Bonds shall be deposited in a fund established by the Controller's  
16 Office and appropriated by the Board of Supervisors at the direction of the Citizens' General  
17 Obligation Bond Oversight Committee to cover the costs of said committee.

18 Section 15. The time requirements specified in Section 2.34 of the San Francisco  
19 Administrative Code are hereby waived.

20 Section 16. The appropriate officers, employees, representatives and agents of the  
21 City are hereby authorized and directed to do everything necessary or desirable to accomplish  
22 the calling and holding of the Bond Special Election, and to otherwise carry out the provisions  
23 of this ordinance.

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1           Section 17. Documents referenced herein are on file with the Clerk of the Board of  
2 Supervisors in File No.     , which is hereby declared to be a part of this ordinance as if set  
3 forth fully herein.

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

7 By: \_\_\_\_\_  
8       Mark D. Blake  
9       Deputy City Attorney

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