

[Administrative Code - Certificates of Participation and Commercial Paper Debt Policies]

Ordinance amending the San Francisco Administrative Code by adding Section 10.62 to adopt a binding financial policy under Charter Section 9.120 regarding Certificates of Participation and Commercial Paper.

NOTE: Additions are *single-underline italics Times New Roman*;
deletions are ~~*strike-through italics Times New Roman*~~.
Board amendment additions are double-underlined;
Board amendment deletions are ~~strike-through normal~~.

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

Section 1. Binding Financial Policy. This ordinance is a financial policy adopted under Charter Section 9.120. As such, it must be adopted as an ordinance approved by the Mayor and passed by a two-thirds' vote of the Board of Supervisors. The City may not adopt a budget that the Controller determines is inconsistent with any of the provisions of this ordinance. Upon a two-thirds' vote, the Board of Supervisors by resolution may suspend, in whole or in part, this ordinance for the succeeding fiscal year.

Section 2. The San Francisco Administrative Code is hereby amended by adding Section 10.62, to read as follows:

SEC. 10.62. CERTIFICATES OF PARTICIPATION; COMMERCIAL PAPER.

(a) This Policy shall govern the authorization of Certificates of Participation ("COPs") that may be caused to be executed and delivered by the City in connection with the financing of capital projects payable and secured by the City's General Fund. This Policy also governs the issuance of commercial paper from time to time by the Controller's Office of Public Finance. This Policy supplements the Controller's Office of Public Finance's Debt Policy of the City and County of San

1 Francisco ("Debt Policy"), which document is on file for informational purposes with the Clerk of the
2 Board.

3 (b) Certificates of Participation.

4 (1) The City may cause the execution and delivery of COPs for, without limitation, (i)
5 the acquisition or improvement of existing facilities and/or construction of new facilities that result in
6 immediate or future savings in payments currently made or to be made by the City's General Fund, (ii)
7 to leverage grant and other monies to reduce operating costs of the City, (iii) for the construction,
8 improvement or acquisition of facilities to address legal mandates or (iv) the construction,
9 improvement or acquisition of facilities for critical public health and safety needs. Notwithstanding
10 anything contained in this ordinance, COPs may not be authorized to finance annual operating costs
11 of the City.

12 (2) The Controller and Director of Public Finance shall identify specific revenue
13 sources within the General Fund (e.g., transient occupancy taxes, tobacco settlement receipts, etc) as
14 internal repayment sources for COPs, to ensure that prudent repayment schedules are placed on the
15 General Fund.

16 (3) The Board of Supervisors may authorize the issuance of COPs and other lease
17 financing debt as funding sources for capital projects provided the annual debt service cost of such
18 outstanding indebtedness does not exceed 3.25 percent of discretionary revenue, as determined by
19 the Controller and the Director of Public Finance. For the purposes of this subsection,
20 "discretionary revenue" shall be determined by the Controller in a manner consistent with the
21 calculation of aggregate City and County discretionary revenue under Charter
22 Sections 8A.105 and 16.109, and this calculation shall be included in the staff report
23 requesting approval of any COPs financing.

24 (4) For purposes of subsection (3), the 3.25 percent of discretionary revenue
25 limitation excludes lease-financed projects that result in decreases in costs supported by

1 discretionary General Fund revenues, calculated on a net present value basis by the
2 Controller and Director of Public Finance, and any portion of lease-financing obligations
3 payable from (i) non-General Fund revenue sources, (ii) grants, or (iii) state and/or federal
4 reimbursement.

5 (c) Commercial Paper Program.

6 (1) The Director of Public Finance may issue tax-exempt and taxable commercial paper
7 notes to provide interim funds to finance the acquisition, construction, and rehabilitation of capital
8 improvements and capital equipment. Commercial paper notes shall not be issued for any project
9 unless that project and financing plan therefor shall have received prior approval from the Board of
10 Supervisors and the Mayor.

11 (2) The Director of Public Finance shall provide a written report to the Board of
12 Supervisors twelve months following the initial issuance of commercial paper notes and annually
13 thereafter until no commercial paper note remain outstanding describing (i) the notes issued since
14 commencement of the Commercial Paper Program and since the date of the last
15 report;(ii) summarizing the current status of projects financed with commercial paper; and
16 (iii) identifying the long term plan of finance with respect to any general obligation bonds, COPs or
17 other long term obligation to refund such commercial paper notes.

18 (d) Exceptions from the Policy.

19 (1) The Board of Supervisors, by a resolution adopted by a two-thirds' vote, may
20 temporarily suspend the provisions of this Section 10.62 for the current or upcoming budget year, and
21 may suspend its provisions for individual transactions. The Board of Supervisors may suspend
22 these provisions following a natural disaster that has caused the Mayor or the Governor to
23 declare an emergency, or for any other purpose.

1 (2) The failure of the City to comply with any provision of this Policy shall not affect the
2 authorization or the validity or enforceability of any COPs or other long term obligation that are
3 otherwise issued in accordance with law.

4 (3) The Policy shall only apply to indebtedness secured by the City's General Fund and
5 does not apply to other departments or enterprises of the City, including the Airport Commission, the
6 Mayor's Office of Housing, the Municipal Transportation Authority, the Port Commission, or the
7 Public Utilities Commission.

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9 Section 3. Effective Date; Operative Date.

- 10 (a) This ordinance shall become effective 30 days from the date of passage.
11 (b) This ordinance shall become operative on July 1, 2012.

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

15
16 By: _____
17 THOMAS J. OWEN
 Deputy City Attorney