

1 [~~Administrative Code~~ – Delegation of Board of Supervisors Authority to Amend Certain Leases
2 for 100% Affordable Housing]

3 **Ordinance amending the ~~Administrative Code~~ to delegating Board of Supervisors**
4 **approval authority under Charter, Section 9.118 and Administrative Code, Section 23.30**
5 **to the Real Estate Division, and based on the recommendation of the Mayor’s Office of**
6 **Housing and Community Development (“MOHCD”), to amend certain existing leases**
7 **regarding residual rent payments and lender protections for 100% affordable housing**
8 **projects.**

9 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
10 **Additions to Codes** are in *single-underline italics Times New Roman font*.
11 **Deletions to Codes** are in *strikethrough italics Times New Roman font*.
12 **Board amendment additions** are in double-underlined Arial font.
13 **Board amendment deletions** are in ~~strikethrough Arial font~~.
14 **Asterisks (* * * *)** indicate the omission of unchanged Code
15 subsections or parts of tables.

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

17 Section 1. ~~Chapter 23 of the Administrative Code is hereby amended by adding~~
18 ~~Section 23.42, to read as follows:~~Findings.

19 **~~SEC. 23.42. LEASE AMENDMENTS FOR 100% AFFORDABLE HOUSING.~~**

20 ~~(a) As of October 2023, the Mayor’s Office of Housing and Community Development~~
21 ~~(“MOHCD”) monitors and regulates approximately 6,200 units of affordable rental housing under~~
22 ~~long-term ground leases between the City and providers of such affordable rental housing. The typical~~
23 ~~term of a ground lease is no less than 55 years and up to 99 years. Older ground leases, particularly~~
24 ~~those originally executed by the former Redevelopment Agency of the City and County of~~
25 ~~San Francisco, include restrictions on surplus cash that constrain the financial dexterity of affordable~~

1 housing providers and are inconsistent with current ground leases and MOHCD's surplus cash policy.
2 In addition, the COVID-19 pandemic caused affordable housing providers to suffer operational
3 deficits, and amending surplus cash requirements under ground leases will provide financial relief to
4 cover such deficits. To maintain affordable housing, -affordable housing providers from time to time
5 must also obtain new financing and amend a ground lease to provide standard protections for a new
6 lender. To respond to these limited but pressing circumstances, delegating authority to the Director of
7 MOHCD and the Director of Property to execute certain lease amendments will reduce administrative
8 costs and streamline the City's ability to be responsive to the needs of affordable housing providers.

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10 Section 2. Delegated Authority to Amend Leases.

11 (a) Notwithstanding the requirements of Charter Section 9.118(c) and Administrative Code
12 Section 23.30, the Board of Supervisors authorizes and delegates to the Director of Property,
13 with based on the recommendation of the Director of the Mayor's Office of Housing and Community
14 Development ("MOHCD"), the authority to enter into and amend the existing leases described in
15 Section 2(b) of this ordinance without seeking approval by the Board of Supervisors for the
16 amendment, provided that all the following conditions are met:

17 (1) The lease that MOHCD and the Real Estate Division intend to amend (A) has
18 already been approved by the Board of Supervisors under Charter Section 9.118(c) and Administrative
19 Code Section 23.30, or (B) was assigned to the City pursuant to the dissolution of the former
20 Redevelopment Agency of the City and County of San Francisco under Ordinance No. 215-12 and
21 Resolution No. 11-12;

22 (2) The lease that MOHCD and the Real Estate Division intend to amend is for a
23 multifamily building where 100% of the residential units (not including any units for managers) are
24 restricted to (A) income eligible households where affordability is ensured based on income, and/or
25 (B) permanent housing for homeless or formerly homeless households;

1 (3) The Director of MOHCD, or the Director’s designee, determines in writing that
2 (A) the affordable housing provider is suffering financial shortfalls, and/or (B) a refinancing of the
3 affordable housing project’s debt is needed for the purpose of preservation or rehabilitation;

4 (4) The Director of MOHCD, or the Director’s designee, in consultation with the City
5 Attorney, determines in writing that the amendment to the existing lease is necessary to (A) mitigate the
6 financial shortfalls and to apply MOHCD’s policies on the distribution of remaining operation revenue
7 after payment of operation costs (“Residual Receipts”) under the lease, and/or (B) add requirements
8 related to government funding, and/or (C) provide reasonable protections to a lender to refinance the
9 affordable housing project’s debt;

10 (5) The amendment modifies the lease solely to (1) add, change, or remove terms
11 related to residual rent or distributions of Residual Receipts to allow the affordable housing provider to
12 retain a greater portion of Residual Receipts and require that the Residual Receipts retained by an
13 affordable housing provider shall be used solely for affordable housing purposes within the City;
14 and/or (2) add, change, or remove terms related to reasonable lender protections necessary to
15 refinance an affordable housing project’s debt; and/or (3) add, change, or remove terms related to
16 government funding for the affordable housing project; and/or (4) add, change, or remove any other
17 terms that are relevant to MOHCD’s policies on Residual Receipts; and

18 (6) Other than to modify the lease as authorized under subsection (a)(5) of
19 Section 2 of this ordinance, ~~the~~ the amendment does not (A) materially increase the liability or
20 obligations of the City under the lease, or (B) change the duration of the lease, or (C) impose any
21 other new obligations on the City, or (D) materially decrease the benefits to the City with respect
22 to the property under the lease.

23 (b) The delegated authority described in Section 2(a) shall apply only to the following
24 leases:

1 (1) Ground Lease dated June 2, 1999, by and between the Redevelopment
2 Agency of the City and County of San Francisco, as landlord, and GGA 1820 Post, L.P., a
3 California limited partnership, as tenant (known as Golden Gate Apartments).

4 (2) Ground Lease dated November 28, 2000, by and between the
5 Redevelopment Agency of the City and County of San Francisco, as landlord, and Mission
6 Bay Affordable Housing Limited Partnership, a California limited partnership, as tenant (known
7 as Rich Sorro Commons).

8 (3) Ground Lease dated December 7, 2000, by and between the
9 Redevelopment Agency of the City and County of San Francisco, as landlord, and AM
10 Preservation, L.P., a California limited partnership, as tenant (known as Antonia Manor).

11 (4) Ground Lease dated December 7, 2000, by and between the
12 Redevelopment Agency of the City and County of San Francisco, as landlord, and MM
13 Preservation, L.P., a California limited partnership, as tenant (known as Maria Manor).

14 (5) Ground Lease dated June 25, 2002, by and between the Redevelopment
15 Agency of the City and County of San Francisco, as landlord, and Mercy Housing California
16 XXII, a California limited partnership, as tenant (known as the Dudley Apartments).

17 (6) Ground Lease dated December 16, 2003, by and between the
18 Redevelopment Agency of the City and County of San Francisco, as landlord, and Mercy
19 Housing California XX, a California limited partnership, as tenant (known as Mission Creek
20 Senior Community).

21 (7) Ground Lease dated March 19, 2004, by and between the Redevelopment
22 Agency of the City and County of San Francisco, as landlord, and Plaza Apartments
23 Associates, L.P., a California limited partnership, as tenant (known as Plaza Apartments).

24 (8) Ground Lease dated October 21, 2008, by and between Redevelopment
25 Agency of the City and County of San Francisco, as landlord, and 365 Fulton L.P., a

1 California limited partnership, as tenant (known as Richardson Apartments or Central
2 Freeway Parcel G).

3 (9) Ground Lease dated December 6, 2011, by and between Redevelopment
4 Agency of the City and County of San Francisco, as landlord, and 25 Essex L.P., a California
5 limited partnership, as tenant (known as Rene Cazenave Apartments).

6 (10) Ground Lease dated November 19, 2013, by and between the Office of
7 Community Investment and Infrastructure as Successor Agency to the Redevelopment
8 Agency of the City and County of San Francisco, as landlord, and Carroll Avenue Senior
9 Homes, L.P., a California limited partnership, as tenant (known as Dr. George W. Davis
10 Senior Housing).

11 (11) Ground Lease dated December 12, 2013, by and between City and County
12 of San Francisco, as landlord, and Franciscan Towers Associates, L.P., a California limited
13 partnership, as tenant (known as Franciscan Towers).

14 (12) Ground Lease dated May 21, 2015, by and between the Office of
15 Community Investment and Infrastructure as Successor Agency to the Redevelopment
16 Agency of the City and County of San Francisco, as landlord, and Mission Block 7 Housing
17 Partners, L.P., a California limited partnership, as tenant (known as 588 Mission Bay
18 Boulevard North).

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20 Section 23. Effective Date. This ordinance shall become effective 30 days after
21 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the

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1 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
2 of Supervisors overrides the Mayor's veto of the ordinance.

3 APPROVED AS TO FORM:
4 DAVID CHIU, City Attorney

5 By: /s/ Keith Nagayama
6 KEITH NAGAYAMA
7 Deputy City Attorney

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