

7/22/15

FILE NO. 150659

MOTION NO. M15-123

[Initiative Ordinance - Administrative Code - Surplus City Property Ordinance]

1
2 **Motion ordering submitted to the voters an Ordinance amending the Administrative**
3 **Code to update provisions of the Surplus City Property Ordinance, expand the**
4 **affordability criteria for housing developed on property acquired for affordable housing**
5 **under that Ordinance, restrict for 120 days any other disposition of surplus City**
6 **property being considered for transfer to the Mayor's Office of Housing and**
7 **Community Development for development of affordable housing under that Ordinance,**
8 **provide for implementation of the State Surplus Property Statute, and provide for**
9 **amendment of the initiative ordinance by the Board of Supervisors, at an election to be**
10 **held on November 3, 2015; and affirming the Planning Department's determination**
11 **under the California Environmental Quality Act.**

12
13 **MOVED, That the Planning Department has determined that the actions contemplated**
14 **in this ordinance comply with the California Environmental Quality Act (California Public**
15 **Resources Code Sections 21000 et seq.). Said determination is on file with the Clerk of the**
16 **Board of Supervisors in File No. 150659 and is incorporated herein by reference. The Board**
17 **affirms this determination; and be it**

18 **MOVED, That the Board of Supervisors hereby submits the following ordinance to the**
19 **voters of the City and County of San Francisco, at an election to be held on November 3,**
20 **2015.**

21
22 **Ordinance amending the Administrative Code to update provisions of the Surplus City**
23 **Property Ordinance, expand the affordability criteria for housing developed on property**
24 **acquired for affordable housing under the Ordinance, restrict for 120 days any other**
25

1 disposition of surplus City property being considered for transfer to the Mayor's Office
2 of Housing and Community Development for development of affordable housing under
3 the Ordinance, provide for implementation of the State Surplus Property Statute, and
4 provide for amendment of the initiative ordinance by the Board of Supervisors..

5 NOTE: **Unchanged Code text and uncodified text** are in plain font.
6 **Additions to Codes** are in *single-underline italics Times New Roman font*.
7 **Deletions to Codes** are in ~~strikethrough italics Times New Roman font~~.
8 **Asterisks (* * * *)** indicate the omission of unchanged Code subsections or
9 parts of tables.

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

11 Section 1. The Administrative Code is hereby amended by revising Sections 23A.1,
12 23A.2, 23A.3, 23A.4, 23A.5, 23A.6, 23A.7, 23A.8, 23A.10, and 23A.11, and adding
13 Section 23A.12, to read as follows:

14 **SEC. 23A.1. TITLE.**

15 This ordinance may be cited as the "Surplus Public Lands ~~City Property~~ Ordinance."

16 **SEC. 23A.2. FINDINGS.**

17 The Board of Supervisors of the City and County of San Francisco hereby finds:

18 (a) Homelessness in San Francisco is a crisis. The Mayor's Offices of Community
19 Development and Housing estimate that there are 3,125 homeless families and 9,375
20 homeless individuals in San Francisco.

21 (b) The main causes of homelessness are high cost of living, lack of affordable
22 housing units, welfare reform, de-institutionalization of the mentally ill, substance abuse
23 and San Francisco's unique place as a destination point. These causes are identified by
24 the Mayor's Offices of Community Development and Housing in the 2000 Consolidated
25 Plan.

1 (c) For homeless individuals and families, there is an unmet need of 3,187 housing
2 slots for individuals and 2,025 slots for families.

3 (d) Surplus City property could be utilized to provide housing to homeless men,
4 women and children.

5 (e) Surplus City property that is unsuitable for housing could be sold to generate
6 income for permanent housing for people who are homeless.

7 (f) San Francisco's housing stock is unaffordable for many residents. The average
8 rent for a two-bedroom apartment increased by 110% from 1980 to 1990, while the overall
9 cost of living increased by 64%. At \$1,940, the average two-bedroom unit is out of reach to
10 households earning less than \$77,600 per year, based on the Department of Housing and
11 Urban Development's standards.

12 (g) San Francisco is experiencing a severe shortage of housing resulting in a
13 negligible vacancy rate for habitable housing for persons earning less than half of the area
14 median income.

15 (h) Many renters are unable to locate rental housing of any kind. These persons
16 are increasingly seeking shelter in already overcrowded emergency shelters and, when
17 such shelters are full, finding themselves on the City's streets.

18 (i) Existing rental housing constitutes much of the remaining affordable housing in
19 the City. The number of such units is diminishing as a result of increased pressures for
20 more development both downtown and in many neighborhoods.

21 (j) Frequently, real estate speculation results in the premature closure of existing
22 habitable buildings and the withdrawal of existing rental units from the market long before
23 such closure would be needed for any physical redevelopment of such sites.

24 (k) The Board of Supervisors and the Mayor have concurred with the findings of the
25 City's Health Commission that there exists a health and housing emergency, as

1 enumerated in Board Resolution 537-01, adopted by the Board of Supervisors on June 25,
2 2001 and approved by the Mayor on July 6, 2001.

3 (l) Under the City's Charter, a number of City Commissions and Departments,
4 including the Port, the Airport, the Public Utilities Commission, the Municipal
5 Transportation Agency, the Recreation and Parks Commission and the Fine Arts
6 Museums Board of Trustees have jurisdiction and control of their respective Property, and,
7 thus, the provisions of this Chapter regarding declaring Property surplus or conveying
8 Property shall operate only as recommendations of policy to such departments and
9 Commissions.

10 (m) State law includes a number of statutes that potentially govern the disposition
11 of surplus City Property, including Government Code Section 54220 et seq. (the "State
12 Surplus Property Statute"). Under the State Surplus Property Statute, State agencies and
13 subdivisions of the State, including cities or counties, disposing of surplus real property
14 must first send a written offer to sell surplus property to and negotiate in good faith the
15 conveyance of such surplus property with certain local agencies designated by the State
16 for affordable housing, recreation, open space and school purposes. Any conveyances of
17 Surplus Property under this Chapter would be subject to and would first need to comply
18 with applicable State law, including the State Surplus Property Statute, and the application
19 of the State Surplus Property Statute may preclude or impair disposing of Surplus Property
20 for the purposes and in the manner set forth in this Chapter.

21 (n) San Francisco is suffering from an urgent crisis of housing affordability and displacement
22 that requires immediate action.

23 (o) The passage by the voters of Proposition K in November 2014 demonstrated a clear policy
24 imperative to increase production of housing, especially housing affordable to households of low,
25 moderate and middle incomes.

1 (p) Publicly owned land that is suitable for housing development represents a unique
2 opportunity for San Francisco to meet the affordable housing policy goals set forth in Proposition K.

3 (q) Affordable housing is of vital importance to the health, safety, and welfare of the residents
4 of San Francisco and provision of a decent home and a suitable living environment for every
5 San Franciscan is a priority of the highest order.

6 (r) There is a shortage of sites available for housing for persons and families of low, moderate
7 and middle incomes, and surplus publicly owned land, prior to disposition, should be strategically
8 deployed to address that shortage.

9 (s) This Chapter 23A will have no impact on park lands, which are protected from development
10 under the City Charter.

11 (t) The State of California adopted Assembly Bill 2135 in November 2014, requiring local
12 agencies and school districts to give priority in disposing of the surplus land to affordable housing.

13 (u) California Government Code Sections 54220-54232, the "State Surplus Property Statute,"
14 applies to any local agency, including any city and county, and district, including school districts of
15 any kind or class, and sets out rules for "surplus land" that is determined to be no longer necessary for
16 the agency's use.

17 (v) The Board of Supervisors approved this Chapter 23A in November 2002 to identify and use
18 surplus City-owned property for the purpose of providing housing, shelter, and other services for
19 people who are homeless, which resulted in the development of two 100% affordable housing
20 developments.

21 (w) The sale or lease of surplus land at less than fair market value to facilitate the creation of
22 affordable housing is consistent with goals and objectives of San Francisco's Housing Element and
23 Proposition K.

24
25 **SEC. 23A.3. PURPOSE.**

1 The ~~purposes~~ ~~purpose~~ of this ordinance ~~are~~ ~~is~~ to:

2 (a) Prioritize surplus and underutilized public land in San Francisco that is suitable for the
3 construction of housing in order to maximize the creation of deed-restricted affordable housing
4 citywide, including ground floor retail and community facilities and open space;

5 (b) Establish policy that the portfolio of housing built on public lands in San Francisco should
6 maximize the amount of permanently affordable housing at extremely low, very low, low, moderate and
7 middle income affordability levels, taking into account available subsidy sources for such affordable
8 housing;

9 (c) Establish policy to encourage state and special-district agencies (other than the City and
10 County of San Francisco) that own surplus and underutilized public lands in San Francisco to
11 prioritize permanently affordable housing for disposition and development of their sites;

12 (d) Establish policy that any City department process for planning the disposition and
13 development of any public lands should assume the standards of this ordinance;

14 (e) ~~(a)~~ Establish policy that the first priority use of Identify and use surplus City-owned
15 property shall be for the purpose of providing housing, shelter, and other services for people
16 who are homeless;

17 (f) ~~(b)~~ Help relieve the crisis of homelessness in the City and County of San Francisco;

18 (g) ~~(e)~~ Potentially provide Provide low or no cost facilities for agencies serving homeless
19 people;

20 (h) ~~(d)~~ Potentially provide Provide "sweat-equity" opportunities for homeless people to
21 create permanent housing opportunities through rehabilitation and repair of the units; and

22 (i) ~~(e)~~ Create a centralized mechanism to responsibly dispose of surplus City property
23 in a manner that will help ensure that the property or its proceeds will be used for purposes
24 consistent with this Chapter 23A.

25 **SEC. 23A.4. DEFINITIONS.**

For purposes of this Chapter 23A section:

~~(a)~~ "Administrator" shall mean the City Administrator as set forth in Section 3.104 of the City's Charter.

"Affordable Housing" shall mean housing that is restricted as affordable to households earning up to 120% of the Area Median Income, and may also include housing for Homeless or formerly Homeless persons.

~~(b)~~ "Area Median Income" shall have the meaning set forth in Charter Section 16.110.

"Citizens' Advisory Committee" shall mean the group of citizens appointed pursuant to Section 23A.9.

"Education Districts" shall mean the San Francisco Unified School District and the San Francisco Community College District.

~~(c)~~ "Enterprise Departments" shall mean the following City departments: the Port, the Airport, the Public Utilities Commission, the Municipal Transportation Agency, the Recreation and Parks Commission and the Fine Arts Museums Board of Trustees.

~~(d)~~ "Executive Director" shall mean the Executive Director of MOHCD ~~the Mayor's Office of Housing~~.

~~(e)~~ "Homeless" shall mean:

1. an individual or family who lacks a fixed, regular and adequate nighttime residence; or

2. an individual or family who has a primary nighttime residence that is:

A. a supervised publicly or privately operated shelter designed to provide temporary living accommodations; or

B. an institution that provides a temporary residence for individuals who have been institutionalized; or

1 C. a public or private place not designed for, or ordinarily used as, a
2 regular sleeping accommodation for human beings; or

3 3. families with minor children living in single resident occupancy rooms and other
4 overcrowded housing conditions.

5 "Housing Trust Fund" shall mean the Housing Trust Fund established by the City under
6 Charter Section 16.110.

7 "Middle Income Housing" shall mean housing that is affordable to households earning up to
8 150% of Area Median Income.

9 "MOHCD" shall mean the Mayor's Office of Housing and Community Development, and any
10 successor City department.

11 ~~(f)~~ "Property" shall mean any real property located within and owned by the City and
12 County of San Francisco of one-quarter acre or more, excluding land and buildings reserved or
13 intended to be reserved for open space or parks purposes, ~~or~~ any land dedicated for public right-
14 of-way purposes, ~~or~~ any land used or reserved for transit lines or public utility rights-of-way, or
15 any publicly dedicated streets or rights-of-way. "Property" shall not include any real property
16 owned by or on behalf of the Education Districts San Francisco Unified School District.

17 "State Surplus Property Statute" shall mean California Government Code Sections 54220
18 through 54233, as may be amended or supplanted.

19 ~~(g)~~ "Surplus Property" shall mean any Property that is not required to fulfill the mission
20 of the City department, commission or agency with jurisdiction or control of such Property ~~or~~
21 and that is not required to fulfill the mission of another governmental agency pursuant to an
22 inter-governmental transfer, and shall not include any land to be exchanged for other land to be used
23 by a City department in accordance with an existing letter of intent or agreement;

24 ~~(h)~~ "Underutilized Property" shall mean an entire Property or portion thereof (including
25 air rights), with or without improvements, that is used by the City only at irregular periods of

1 time or intermittently, or that is used by the City for current purposes that can be satisfied with
2 only a portion of such Property, or that is not currently occupied or used by the City and for
3 which there are no plans by the City to occupy or use such Property, and that within the next
4 fiscal year, has a potential for development as Affordable Housing while maintaining the existing and
5 anticipated City uses of the Property.

7 **SEC. 23A.5. AGENCY REVIEW OF PROPERTY.**

8 By ~~November 1~~ April 1st of each year, each City ~~commission~~ Commission, department or
9 agency shall compile and deliver to the Administrator a list of all Property that it occupies or is
10 otherwise under its control. The list shall include at least the following:

11 (a) The street address of the Property (if there is one), and the Assessor's block and
12 lot number;

13 (b) A general description of the Property, including the land size, dimensions and
14 topography current use of the Property or any planned use of the Property within the next fiscal year;

15 (c) The current use of the Property; and

16 (d) A general description of any structure(s) on the Property as well as an assessment
17 of their physical condition;

18 (d) ~~Whether the Property is now vacant or scheduled or anticipated to be vacant within the~~
19 ~~next fiscal year;~~

20 (e) ~~If the Property is vacant or contains vacant structures, whether the Commission,~~
21 ~~department or agency deems the Property to be "Surplus," or "Underutilized" as defined in this~~
22 ~~Section; and~~

23 (f) ~~A general summary of the terms and conditions of any gift, trust, deed restriction, bond~~
24 ~~covenant or other covenants or restrictions, deed of trust, lease, license, easement, use agreement or~~
25 ~~other agreement applicable to the use or disposition of such Property.~~

1 Each City ~~commission~~, department or agency shall maintain or shall work with the
2 Administrator to maintain adequate inventory and accountability systems for the Property
3 under its control to determine which Properties are Surplus or Underutilized for purposes of
4 this Chapter 23A, and shall reasonably cooperate with requests for information from the
5 Administrator. The Board shall appropriate funds to the Administrator to perform the functions set
6 forth in this Chapter 23A.

8 **SEC. 23A.6. COMPILATION OF INFORMATION BY ADMINISTRATOR.**

9 (a) The Administrator shall review the list of Property submitted by City departments
10 pursuant to Section 23A.5 ~~above~~ to identify any Property that may be Surplus Property or
11 Underutilized Property, and shall strike from this initial list any Property that does not meet the
12 definition of Surplus Property or Underutilized Property under Section 23A.4, is under the
13 jurisdiction of the Recreation and Park Department, the Airport or the Port, is part of the public
14 right-of-way, or is subject to deed restrictions or other legal restrictions that would prevent the
15 City from disposing of such Property pursuant to this Chapter 23A. The Administrator shall also
16 provide to the Board of Supervisors a copy of the initial list upon request. No property shall be deemed
17 Underutilized on the basis of available air rights if the applicable department head determines that
18 development of such air rights would conflict with existing or planned future uses consistent with the
19 department's mission on that property. The Administrator shall also contact the Education Districts to
20 ask if they have any surplus properties suitable for the development of Affordable Housing. The
21 Administrator shall further consult with other City ~~departments~~ Departments, the Mayor,
22 members of the Board of Supervisors and the Citizens' Advisory Committee to identify any
23 Property listed on the initial list for which a City ~~department~~ Department other than the
24 ~~department~~ Department with current jurisdiction has a specific operational need and shall
25 remove such Properties from the Surplus Property Report. The Administrator shall thereafter

1 initiate the transfer of jurisdiction over those identified Properties to the departments
2 ~~Departments~~ that can utilize them. The Administrator shall state in writing the reasons for the
3 removal of each Property from the initial list and shall provide such report to MOHCD the
4 ~~Mayor's Office of Housing~~, the Board of Supervisors, and the Citizens' Advisory Committee.

5 (b) By February 1 June 1st of each year, the Administrator shall compile a
6 comprehensive report for the remaining Property listed that includes, at a minimum, the
7 following information: the street address, if any, and the block and lot number for each
8 Property; the City department ~~Department~~ with jurisdiction over each Property; a description of
9 the zoning applicable to ~~and surrounding each Property such Properties~~; whether the property is
10 vacant or intended to be vacant, contains any existing structures, and any additional information
11 relevant to the potential development of the Property for Affordable Housing, including a plat map for
12 each Property; the area in square footage for each Property; a description of the surrounding
13 properties and neighborhood; any legal restrictions or limitations on ~~the~~ development of the
14 Property such as the terms and conditions of any gift, trust, deed restriction, bond covenant or other
15 covenants or restrictions; and pictures of the Property (the "Surplus Property Report"). The
16 Surplus Property Report shall also include a list of any and all City-owned properties that are
17 adjacent to each listed Property and appear to be vacant or underutilized, along with the
18 identification of the City department ~~Department~~ with jurisdiction over such adjacent property.
19 The Surplus Property Report may include any property of the Education Districts for information
20 purposes only. No later than March 1 June 30th of each year, the Administrator shall transmit
21 the completed Surplus Property Report to MOHCD the Mayor's Office of Housing and to the
22 Board of Supervisors. If the Administrator determines that there is no Surplus Property or
23 Underutilized Property suitable for the development of Affordable Housing, the Administrator shall
24 notify the Board of Supervisors of this determination. The Administrator shall maintain and release
25

1 written records of all information compiled under this Chapter 23A in conformance with all
2 state and local laws governing the retention and disclosure of public records.

3 (c) No later than April 15 of each year, the Board of Supervisors or a committee thereof shall
4 hold a public hearing on the Surplus Property Report and determine if any Property should be
5 transferred to MOHCD under Section 23A.7, provided the Board President may elect not to hold a
6 hearing during any year in which the Administrator has determined that there is no Surplus Property
7 or Underutilized Property suitable for the development of Affordable Housing. With respect to the
8 Enterprise Departments and the Education Districts, the Board of Supervisors may make a
9 recommendation of surplus and transfer, but the Enterprise Departments and the Education Districts
10 shall each have the right to determine whether real property under its jurisdiction is surplus or
11 underutilized and whether to dispose of property in any particular manner subject to the requirements
12 of the City's Charter and California law.

13 (d) For a period of 120 days following the public hearing held under subsection (c) above, the
14 City shall not initiate a request for bids or proposals or enter into contracts designed to facilitate the
15 sale of Property (including brokerage and appraisal contracts) that the Board intends to transfer to
16 MOHCD for any purpose other than the development of Affordable Housing, without the prior
17 approval of the Board of Supervisors.

18
19 **SEC. 23A.7. TRANSFER OF JURISDICTION OVER SURPLUS PROPERTIES TO THE**
20 **MAYOR'S OFFICE OF HOUSING AND COMMUNITY DEVELOPMENT.**

21 (a) Following the Board of Supervisors hearing under Section 23A.6(c) and no later than
22 June 1 By July 15th of each year, the Administrator, working with the Executive Director and City
23 Attorney's Office, shall submit to the Mayor and Board of Supervisors legislation transferring
24 jurisdiction over the Properties, save and except for those Properties that are under the jurisdiction of
25 Enterprise Departments, on the Surplus Property Report completed in accord with Section 23A.6 above

1 ~~to the Mayor's Office of Housing ("MOH") for the purpose of MOH's assessment of each Surplus~~
2 ~~Property for development as affordable housing consistent with this Chapter. MOHCD shall evaluate~~
3 ~~the feasibility of each property for Affordable Housing based on typical development standards of site~~
4 ~~planning and constructability, and prepare a report to the Administrator identifying the properties~~
5 ~~suitable for Affordable Housing and those that are not suitable for Affordable Housing and explaining~~
6 ~~MOHCD's analysis and conclusions. The feasibility report shall be made available to all interested~~
7 ~~parties that have notified the Administrator to be placed on a notification list for this purpose.~~

8 ~~(b) For those Properties transferred to MOH that MOH does not deem suitable for such~~
9 ~~development, the Executive Director shall notify the Administrator, who Following receipt of the~~
10 ~~MOHCD feasibility report, the Administrator shall prepare and submit to the Mayor and Board of~~
11 ~~Supervisors legislation either transferring jurisdiction over such Surplus Properties to from~~
12 ~~MOHCD or MOH to another City department Department for such department's use, or seeking~~
13 ~~to sell such properties, as determined by the Administrator. The Administrator shall also provide~~
14 ~~to the Mayor and the Board of Supervisors a copy of the MOHCD feasibility report, and shall make~~
15 ~~recommendations to the Board regarding any proposed development of Underutilized Property for~~
16 ~~Affordable Housing. It shall be City policy to encourage the sale of such Surplus Property in~~
17 ~~accordance with the requirements of Administrative Code Section 23.3 and other applicable laws and~~
18 ~~to designate use of the net proceeds of such sales for the purpose of financing affordable housing in~~
19 ~~San Francisco.~~

20 ~~(c) For those Surplus Properties transferred to MOHCD MOH deems suitable for such~~
21 ~~development, the Executive Director shall publicize the availability of the Surplus Properties~~
22 ~~and seek applications for development of the Surplus Properties on a competitive basis in keeping~~
23 ~~with MOHCD's standard practices as described further in Section 23.A8 below. The Executive~~
24 ~~Director also shall take all steps necessary to comply with the State Surplus Property Statute.~~
25 ~~For Underutilized Properties, the City department with jurisdiction over the property (excluding the~~

1 Enterprise Departments) shall take action consistent with direction of the Board of Supervisors. With
2 respect to real property Surplus Property under the jurisdiction of Enterprise Departments or the
3 Education Districts, the Board of Supervisors may ~~, by separate legislation,~~ urge the Commissions
4 ~~or Boards of such~~ Enterprise Departments or the Education Districts to consider approving a sale
5 of such property for Affordable Housing or a transfer of jurisdiction such property to MOHCD for
6 Affordable Housing over the Properties to MOH for uses consistent with this Chapter. ~~If an~~ In the
7 ~~event any Commissions or Boards of~~ Enterprise Department Departments or an Education District
8 elects to transfer real property to MOHCD~~takes such action~~, the Administrator shall then prepare
9 and submit to the Mayor and Board of Supervisors the appropriate legislation to accept the
10 property for the development of Affordable Housing transfer jurisdiction over that Enterprise
11 Department's Surplus Property.

12 13 **SEC. 23A.8. DEVELOPMENT OF PROPERTY.**

14 (a) All real property transferred to MOHCD under this Chapter 23A shall be used to create
15 Affordable Housing, and may include housing designed for Homeless or formerly Homeless
16 individuals. The Executive Director shall seek to maximize the amount of Affordable Housing
17 throughout MOHCD's real estate portfolio, subject to the availability of funds, and nothing in this
18 Chapter shall limit the total number of Affordable Housing units that can be developed on any real
19 property. MOHCD shall solicit development proposals on a competitive basis and impose income
20 restrictions on all housing created under this Chapter in accordance with MOHCD's standard
21 procedures and practices and guided by the priorities set forth below and in accordance with housing
22 needs and performance measures identified in the City's Consolidated Plan, including target
23 populations for affordable housing production over the previous two years.

1 Subject to any disposition priority required by State law and other limitations expressly set forth
2 herein, the development of all Surplus and Underutilized Property should be guided by the following
3 priorities:

4 (1) First, for the development of affordable housing for people who are Homeless and
5 persons earning less than 20% of the Area Median Income, provided that:

6 (A) The housing shall remain affordable for the useful life of the project;

7 (B) Housing costs in such housing shall not exceed 30% of the resident's
8 income;

9 (C) Projects in which people who are Homeless rehabilitate and renovate
10 property in exchange for their tenancy or "sweat equity" in the property shall be encouraged.

11 (2) Second, for the development of very low and low income affordable housing for
12 persons earning no more than 60% of the Area Median Income, provided that the housing shall remain
13 affordable for the useful life of the project.

14 (3) Third, for the development of mixed income housing projects for extremely low, very
15 low, low and moderate income Affordable Housing as defined in Section 23A.4; provided that for any
16 rental project, not less than 15% of the units will be affordable to households earning 55% of the Area
17 Median Income, and for any ownership project, not less than 15% of the units will be affordable to
18 households earning 90% of the Area Median Income.

19 (b) Notwithstanding Section 23A.8(a), for sites with development capacity of 200 or more units
20 as determined by the Executive Director, the Executive Director may propose to use the property for a
21 mixed-income housing project, including Middle Income Housing, by a qualified developer selected on
22 a competitive basis. The Executive Director shall select a developer or co-developer that has at least
23 five years experience developing and maintaining housing for seniors, veterans, the disabled or low
24 income families in San Francisco. Not less than 33% of the residential units developed on the property
25 must be Affordable Housing, and (1) for any rental project, not less than 15% of the units affordable to

1 households earning 55% of the Area Median Income, and for any ownership project, not less than 15%
2 of the units affordable to households earning 90% of the Area Median Income, and (2) subject to
3 financial feasibility, at least 50% of the residential units developed on the property affordable in
4 furtherance of the November 2014 Proposition K affordable housing goals. All deed restricted housing
5 developed as part of these projects shall remain affordable for the useful life of the project.

6 ~~(a) The Executive Director shall solicit applications from non-profit agencies serving the~~
7 ~~Homeless to lease or acquire Property that is listed as Surplus or Underutilized in any Surplus~~
8 ~~Property Report for use to assist the Homeless in accordance with the priorities set forth below in~~
9 ~~Section 23A.10(i) and (ii). The Executive Director shall require that all applications describe in detail~~
10 ~~(i) the type of conveyance the applicant seeks (i.e., a lease for a specific term or transfer of fee title)~~
11 ~~and the legal consideration, if any, the applicant proposes to pay for such conveyance, (ii) the intended~~
12 ~~use of the Property, including how it relates to the priorities of uses set forth in Section 23A.10 below;~~
13 ~~(iii) a specific plan and schedule for the development or improvement of the Property, including~~
14 ~~compliance with all applicable federal, state and local laws, including, without limitation, laws~~
15 ~~regarding disabled access, health, building and safety codes, and environmental compliance with the~~
16 ~~California Environmental Quality Act (CEQA"), California Public Resources Code Sections 21000 et~~
17 ~~seq., and San Francisco Administrative Code Chapter 31; and (iv) a plan to secure adequate financial~~
18 ~~resources to develop, improve, insure, manage and maintain the Property. The Executive Director shall~~
19 ~~make available to all interested non-profit agencies contact information: (a) identifying any~~
20 ~~independent organizations working on behalf of homeless people that can assist homeless service~~
21 ~~providers in resolving any problems that may arise in the application processes; and (b) City staff~~
22 ~~persons who are available to assist in the application process. The Executive Director shall require~~
23 ~~submission of applications by September 30th of each year, but may, in its sole discretion, grant~~
24 ~~extensions of the deadline, provided in no event shall such extensions exceed thirty (30) days.~~

1 ~~(b) Upon receipt of all applications for development of housing or other on-site services for the~~
2 ~~Homeless, the Executive Director shall work with the City Attorney's Office to prepare legislation~~
3 ~~containing the Executive Director's recommendations as to the terms of disposition and development of~~
4 ~~each Surplus Property for submission for the Board of Supervisors' approval in accord with the~~
5 ~~policies and procedures set forth in this Chapter. The Clerk of the Board of Supervisors shall calendar~~
6 ~~a hearing before a committee of the Board of Supervisors no later than January 30 of each year to~~
7 ~~review the status of applications and the recommendations of the Surplus Property Citizens' Advisory~~
8 ~~Committee made pursuant to Section 23A.9(e) below.~~

9 ~~(c) In the event the Executive Director does not receive any acceptable applications for certain~~
10 ~~of the Surplus Properties for development of housing or other on-site services for the Homeless, then~~
11 ~~the Executive Director may solicit applications from developers for the development of affordable~~
12 ~~housing other than solely housing for the Homeless, provided that the Executive Director first obtains~~
13 ~~the agreement of the Surplus Property Citizens' Advisory Committee that such solicitation of~~
14 ~~applications is warranted. The Executive Director shall require that any proposed affordable housing~~
15 ~~development under this subsection (c) shall serve persons earning no more than 60% of the Area~~
16 ~~Median Income for the San Francisco PMSA and, in preparing recommendations as to the applications~~
17 ~~received, shall give priority to projects that include the highest percentage of extremely low-income~~
18 ~~persons.~~

19 ~~(d) Upon receipt of all applications for development of affordable housing, the Executive~~
20 ~~Director shall work with the City Attorney's Office to prepare legislation containing the Executive~~
21 ~~Director's recommendations as to the terms of disposition and development of each Surplus Property~~
22 ~~for submission for the Board of Supervisor's approval in accord with the policies and procedures set~~
23 ~~forth in this Chapter.~~

24 ~~(c) (e) If the Executive Director determines that any real property transferred to MOHCD~~
25 ~~under this Chapter 23A cannot be developed and used for Affordable Housing, the Executive Director~~

1 ~~shall If, after solicitation of applications pursuant to both subsections (a) and (c), the Executive~~
2 ~~Director determines that further efforts to solicit applications would likely be futile, the Executive~~
3 ~~Director shall notify the Administrator, who shall~~ prepare and submit to the Mayor and Board of
4 Supervisors legislation either transferring jurisdiction over such ~~Properties~~ property from
5 ~~MOHCD MOH~~ to another City ~~department~~ Department for such department's use or seeking to
6 sell such ~~property properties, as determined by the Administrator.~~ It shall be City policy to
7 encourage the sale of such ~~property~~ Surplus Property in accordance with the requirements of
8 Administrative Code Section 23.3 and other applicable laws and to designate use of the net
9 proceeds of such sales for the purpose of financing Affordable Housing ~~affordable housing~~ in
10 San Francisco.

11 (d) For any Property that is not transferred to MOHCD under this Chapter 23A but that the
12 City sells for the development of 10 or more residential units, not less than 33% of the residential units
13 developed on the property must be Affordable Housing, and (1) for any rental project, not less than
14 15% of the units affordable to households earning 55% of the Area Median Income, and for any
15 ownership project, not less than 15% of the units affordable to households earning 90% of the Area
16 Median Income, and (2) subject to financial feasibility, at least 50% of the residential units developed
17 on the property affordable in furtherance of the November 2014 Proposition K affordable housing
18 goals. All deed restricted housing developed as part of these projects shall remain affordable for the
19 useful life of the project.

20
21 **SEC. 23A.10. CITY POLICY REGARDING THE USE OF PUBLIC LANDS FOR**
22 **AFFORDABLE HOUSINGBOARD OF SUPERVISORS REVIEW AND CRITERIA.**

23 The ~~City Board of Supervisors~~ shall be guided by the following policy regarding the
24 disposition of Surplus and Underutilized Property, which policy shall be the official policy of
25

1 the City. This policy applies to Surplus and Underutilized Property regardless of whether such
2 Property has been included in ~~on~~ an annual Surplus Property Report.

3 (a) In furtherance of the State Surplus Property Statute, the City shall ask all local agencies
4 that own real property within the City and County of San Francisco (including the Education Districts,
5 the Bay Area Rapid Transit District, and other local agencies) and that intend to dispose of real
6 property located in the City consisting of one-quarter acre or larger, to give the Executive Director
7 advance notice of the proposed disposition together with an opportunity to negotiate for the acquisition
8 of such real property for a period of not less than 120 days.

9 (b) Upon receipt of any such notice under subsection (a) above, if the Executive Director
10 determines that the real property is feasible for Affordable Housing, the Executive Director shall
11 negotiate in good faith to acquire the property and, if successful, shall seek an appropriation and any
12 required approvals for such acquisition. If the Executive Director determines that the real property is
13 suitable for Affordable Housing but that the City cannot acquire the property for financial or other
14 reasons, the Executive Director shall notify Affordable Housing developers of the proposed disposition
15 so that they may seek to acquire the property. The Executive Director shall maintain a list of
16 Affordable Housing developers that are active in the City for purposes of this notification.

17 (c) Pursuant to the State Surplus Property Statute, and 2014 Proposition K affordable housing
18 goals, if the Executive Director and the non-City local agency negotiate in good faith but cannot reach
19 agreement on the terms for the City's acquisition of the real property, and the local agency then
20 disposes of the property to another person or entity for the development of 10 or more residential units,
21 then: (1) the local agency shall require that not less than 15% of the residential units developed on the
22 property be affordable housing; and (2) rental units shall remain affordable to, and occupied by, lower
23 income households for the useful life of the project, each as determined in accordance with the State
24 Surplus Property Statute, as it may be amended. These requirements shall be contained in a covenant
25

1 or restriction recorded against the real property at the time of disposition and be enforceable by the
2 local agency against any subsequent owner.

3 (d) The Board of Supervisors encourages all non-City local agencies that intend to dispose of
4 real property in the City to determine the fair market value of that real property assuming that not less
5 than 33% of the total number of units developed on that property will be affordable housing, to the
6 extent permitted by applicable law. Any local agency selling or leasing real property to the City for
7 affordable housing may provide for an extended payment period equal to the period during which the
8 property will be restricted as affordable housing.

9 (e) Nothing in this Section 23A.10 shall be interpreted to limit the power of any local agency to
10 sell or lease real property at fair market value or at less than fair market value, consistent with
11 applicable law.

12 ~~Subject to any disposition priority required by State law and other limitations expressly set forth~~
13 ~~herein, Surplus and Underutilized Property shall be used in the following order of priority:~~

14 ~~(i) First, for the development of affordable housing for people who are Homeless and~~
15 ~~persons earning less than 20% of the Area Median Income for the San Francisco PMSA as established~~
16 ~~by the United States Department of Housing and Urban Development and reported by the Mayor's~~
17 ~~Office of Housing. Provided that:~~

18 ~~1. The housing shall remain affordable for the useful life of the Property;~~
19 ~~2. Housing costs in such housing shall not exceed 30% of the resident's income;~~
20 ~~3. Projects in which people who are homeless rehabilitate and renovate~~
21 ~~property in exchange for their tenancy or "sweat equity" in the property shall be encouraged.~~

22 ~~(ii) Second, for other on-site services for people who are Homeless or for non-profit~~
23 ~~agencies serving people who are Homeless, including not limited to job training, senior services,~~
24 ~~healthcare and childcare for people who are homeless.~~

1 ~~(iii) Third, for the development of affordable housing for persons earning no more than~~
2 ~~60% of the Area Median Income for the San Francisco PMSA as established by the United States~~
3 ~~Department of Housing and Urban Development and reported by the Mayor's Office of Housing,~~
4 ~~provided that the housing shall remain affordable for the useful life of the Property.~~

5 ~~When the Executive Director determines Surplus Property is unsuitable for the uses described~~
6 ~~in subsections (i), (ii), and (iii) above because it is unsafe, inconveniently located or located in an area~~
7 ~~inappropriate for housing, or otherwise cannot meet the purposes of this Chapter, or when the~~
8 ~~Executive Director receives no acceptable applications pursuant to Section 23A.8, it shall be City~~
9 ~~policy to encourage the sale of such Surplus Property in accordance with the requirements of~~
10 ~~Administrative Code Section 23.3 and other applicable laws and to designate use of the net proceeds of~~
11 ~~such sales and/or leases for the purpose of financing affordable housing in San Francisco that meets~~
12 ~~the criteria set forth in subsection (i) above.~~

13
14 **SEC. 23A.11. DISPOSITION AND UTILIZATION OF SURPLUS, AND UNDERUTILIZED**
15 **~~AND UNUTILIZED~~ PROPERTY.**

16 (a) Subject to (1) ~~(i)~~ the terms and conditions of any gift, trust, deed restriction, bond
17 covenant or other covenants or restrictions, mortgage, deed of trust, lease, license, use
18 agreement or other agreement applicable to such Property, (2) ~~(ii)~~ state or federal laws
19 related to the disposition of surplus property ~~City Property~~, including, without limitation, the State
20 Surplus Property Statute ~~California Government Code Section 54220 et seq.~~, and (3) ~~(iii)~~ the
21 jurisdictional authority over ~~City~~ Property granted to certain commissions ~~Commissions~~ under the
22 City's Charter, including, without limitation, as set forth in Charter Sections 4.112, 4.113,
23 4.114, 4.115, 5.101, ~~and~~ 8A.102, 8B.121 and Appendix B3.581, the Board of Supervisors may
24 by resolution approve the dispositions recommended by the Executive Director in accordance
25 with this Chapter 23A or approve dispositions different from those recommended by the

1 Executive Director. Upon approval of such a resolution, it shall be the duty of the Executive
2 Director to take all steps necessary to implement the resolution. For the avoidance of doubt,
3 property acquired by the City in the future for the specific purpose of developing housing shall not be
4 deemed Surplus or Underutilized for purposes of this Chapter 23A, and the terms of Board of
5 Supervisors approval of any purchase, sale or transfer agreement relative to such Property shall
6 govern the subsequent development arrangements.

7 (b) Any final declaration that Property is Surplus or Underutilized and any final
8 conveyance of Property under this Chapter 23A shall be in accordance with and subject to all
9 applicable laws, including (1) (i) the terms and conditions of any gift, trust, deed restriction,
10 bond covenant or other covenants or restrictions, mortgage, deed of trust, lease, license, use
11 agreement or other agreement applicable to such Property, (2) (ii) state or federal laws
12 related to the disposition of surplus property ~~Surplus City Property~~, including, without limitation,
13 the State Surplus Property Statute Government Code Section 54220 et seq., (3iii) the jurisdictional
14 authority over ~~City~~ Property granted to certain commissions ~~Commissions~~ under the City's
15 Charter, including, without limitation, as set forth in Charter Sections 4.112, 4.113, 4.114,
16 4.115, 5.101, ~~and~~ 8A.102, 8B.121 and Appendix B3.581, and (4) (iv) the requirements set forth in
17 Administrative Code Section ~~See~~ 23.3 of further Board of Supervisors approval by resolution or
18 ordinance of final transaction documents after the completion of all required environmental
19 review under the California Environmental Quality Act (Cal. Pub. Res. Code Secs. 21000 et seq.)
20 ~~CEQA~~, provided, however, that the requirements set forth in ~~Administrative Code~~ Section 23.3
21 of sale by public auction or competitive bidding and a sales price of at least 100% ~~100 percent~~
22 of appraised fair market value shall not apply to dispositions pursuant to this Chapter. Any
23 such duly approved conveyance may be at no cost or less than fair market value as a
24 conveyance that furthers a proper public purpose.

1 (c) Any conveyance of Property at less than fair market value ~~or for homeless uses~~
2 Affordable Housing under this ~~section~~ Section 23A.11 shall include covenants that require that the
3 Property be used for Affordable Housing in conformance with this Chapter 23A and prohibit any
4 developer of Property from reselling, transferring or subleasing Property at a profit, or such
5 other "anti-speculation" requirements as the Executive Director may approve. ~~In the case of~~
6 ~~home ownership development, the limited equity is subject to the Property remaining available to the~~
7 ~~Homeless population in the calculation of any resale price.~~

8 (d) Any City department other than an Enterprise Department wishing to dispose of
9 Surplus or Underutilized Property under such department's jurisdiction in a manner other than
10 pursuant to this Chapter 23A, regardless of whether such Surplus or Underutilized Property is
11 listed on the then current Surplus Property Report, shall notify the Administrator, the
12 Executive Director and the Surplus Property Citizens' Advisory Committee prior to seeking
13 any approvals of any proposed disposition. The notice shall include the same information
14 about the Surplus or Underutilized Property required under Section 23A.5. The Administrator,
15 the Executive Director, the Board of Supervisors, interested parties that have notified the
16 Administrator to be placed on a notification list for this purpose, and the Surplus Property Citizens'
17 Advisory Committee shall review such information and, within 45 days after submission, make
18 recommendations to the Board of Supervisors regarding the disposition of the Surplus or
19 Underutilized Property ~~and~~ consistent with the policy set forth in Section 23A.10. The Board of
20 Supervisors may by resolution approve a disposition consistent with such recommendations
21 and this Chapter or approve a different disposition. Upon approval of such a resolution, it
22 shall be the duty of the Administrator, the Executive Director and other City officials, as
23 appropriate, to take all steps necessary to implement the resolution.

24 (e) The failure by any City department to comply with this Chapter 23A shall not invalidate the
25 transfer or conveyance of any real property to a purchaser or encumbrancer for value.

1
2 **SEC. 23A.12. WAIVER; AMENDMENT.**

3 *The Board of Supervisors may by ordinance waive the provisions of this Chapter 23A, including*
4 *those provisions adopted by the voters, as applied to any particular property in order to further the*
5 *purposes of the Chapter or for other public purposes, including the delivery, creation or expansion of*
6 *health care, child care, education, open space, public safety, transit and infrastructure. The Board of*
7 *Supervisors may by ordinance amend any provisions of this Chapter 23A relating to the timeline for*
8 *reporting and holding public hearings.*
9

10 Section 2. Scope of Ordinance. In enacting this ordinance, the People of the City and
11 County of San Francisco intend to amend only those words, phrases, paragraphs,
12 subsections, sections, articles, numbers, punctuation marks, charts, diagrams, or any other
13 constituent parts of the Municipal Code that are explicitly shown in this ordinance as additions
14 or deletions, in accordance with the "Note" that appears under the official title of the
15 ordinance.
16

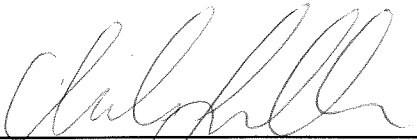
17 Section 3. Undertaking for the General Welfare. In enacting and implementing this
18 ordinance, the City is assuming an undertaking only to promote the general welfare. It is not
19 assuming, nor is it imposing on its officers and employees, an obligation for breach of which it
20 is liable in money damages to any person who claims that such breach proximately caused
21 injury.
22

23 Section 4. Competing Measures. If this ordinance and another measure or measures
24 regarding the disposition of surplus City property in any respect shall appear on the same
25 Citywide election ballot, the provisions of such other measures shall be deemed to be in

1 conflict with this ordinance. If this ordinance shall receive a greater number of affirmative
2 votes, the provisions of this ordinance shall prevail in their entirety and each and every
3 provision of the other measure or measures shall be null and void in their entirety. If the other
4 measure or measures shall receive a greater number of votes, the provisions of this ordinance
5 shall take effect to the extent permitted by law.
6

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

9
10 By:



11 CHARLES R. SULLIVAN
12 Deputy City Attorney

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City and County of San Francisco

Tails

Motion: M15-123

City Hall
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

File Number: 150659

Date Passed: July 28, 2015

Motion ordering submitted to the voters an Ordinance amending the Administrative Code to update provisions of the Surplus City Property Ordinance, expand the affordability criteria for housing developed on property acquired for affordable housing under the Ordinance, restrict for 120 days any other disposition of surplus City property being considered for transfer to the Mayor's Office of Housing and Community Development for development of affordable housing under the Ordinance, provide for implementation of the State Surplus Property Statute, and provide for amendment of the initiative ordinance by the Board of Supervisors, at an election to be held on November 3, 2015; and affirming the Planning Department's determination under the California Environmental Quality Act.

July 22, 2015 Land Use and Transportation Committee - AMENDED, AN AMENDMENT OF THE WHOLE BEARING SAME TITLE

July 22, 2015 Land Use and Transportation Committee - CONTINUED AS AMENDED

July 20, 2015 Land Use and Transportation Committee - MEETING RECESSED

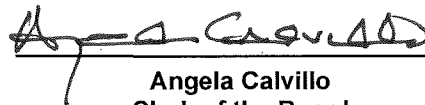
July 27, 2015 Land Use and Transportation Committee - RECOMMENDED AS AMENDED AS A COMMITTEE REPORT

July 28, 2015 Board of Supervisors - APPROVED

Ayes: 11 - Avalos, Breed, Campos, Christensen, Cohen, Farrell, Kim, Mar, Tang, Wiener and Yee

File No. 150659

I hereby certify that the foregoing Motion was APPROVED on 7/28/2015 by the Board of Supervisors of the City and County of San Francisco.


Angela Calvillo
Clerk of the Board