

File No. 091458

Committee Item No. \_\_\_\_\_

Board Item No. 13

## COMMITTEE/BOARD OF SUPERVISORS

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Committee \_\_\_\_\_

Date \_\_\_\_\_

Board of Supervisors Meeting

Date 2/23/10

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Completed by: Renee Craig

Date 2/10/10

Completed by: \_\_\_\_\_

Date \_\_\_\_\_

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FILE NO. 091458

ORDINANCE NO.

1 [Earthquake Safety and Emergency Response General Obligation Bond Election.]

2  
3 **Ordinance calling and providing for a special election to be held in the City and County**  
4 **of San Francisco on Tuesday, June 8, 2010, for the purpose of submitting to**  
5 **San Francisco voters a proposition to incur the following bonded debt of the City and**  
6 **County: \$412,300,000 to finance the construction, acquisition, improvement, and**  
7 **retrofitting of Neighborhood Fire and Police Stations, the Auxiliary Water Supply**  
8 **System, a Public Safety Building , and other critical infrastructure and facilities for**  
9 **earthquake safety and related costs necessary or convenient for the foregoing**  
10 **purposes; authorizing landlords to pass-through 50% of the resulting property tax**  
11 **increase to residential tenants in accordance with Chapter 37 of the San Francisco**  
12 **Administrative Code; finding that the estimated cost of such proposed project is and**  
13 **will be too great to be paid out of the ordinary annual income and revenue of the City**  
14 **and County and will require expenditures greater than the amount allowed therefor by**  
15 **the annual tax levy; reciting the estimated cost of such proposed project; fixing the**  
16 **date of election and the manner of holding such election and the procedure for voting**  
17 **for or against the proposition; fixing the maximum rate of interest on such bonds and**  
18 **providing for the levy and collection of taxes to pay both principal and interest;**  
19 **prescribing notice to be given of such election; finding that a portion of the proposed**  
20 **bond is not a project under the California Environmental Quality Act ("CEQA") and**  
21 **adopting findings under CEQA, CEQA Guidelines, and San Francisco Administrative**  
22 **Code Chapter 31 for the remaining portion of the proposed bond; finding that the**  
23 **proposed bond is in conformity with the priority policies of Planning Code Section**  
24 **101.1(b) and with the General Plan consistency requirement of Charter Section 4.105**  
25 **and Administrative Code Section 2A.53; consolidating the special election with the**

1 general election; establishing the election precincts, voting places and officers for the  
2 election; waiving the word limitation on ballot propositions imposed by San Francisco  
3 Municipal Elections Code Section 510; complying with the restrictions on the use of  
4 bond proceeds specified in Section 53410 of the California Government Code;  
5 incorporating the provisions of the San Francisco Administrative Code, Sections 5.30 –  
6 5.36; and waiving the time requirements specified in Section 2.34 of the San Francisco  
7 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. This Board of Supervisors (this "Board") recognizes the need to safeguard and  
15 enhance the City's earthquake and emergency response and recovery by rehabilitating critical  
16 facilities that support the City's first responders.

17 B. The Earthquake Safety and Emergency Response Bond (the "Bond") will  
18 provide funding to construct, improve and rehabilitate earthquake safety and emergency  
19 responsiveness facilities and infrastructure (as described below in Section 3).

20 C. This Board now wishes to describe the terms of a ballot measure seeking  
21 approval for the issuance of general obligation bonds to finance all or a portion of the City's  
22 earthquake safety and response needs as described below.

23 Section 2. A special election is called and ordered to be held in the City on Tuesday,  
24 the 8th day of June, 2010, for the purpose of submitting to the electors of the City a  
25 proposition to incur bonded indebtedness of the City for the project described in the amount  
and for the purposes stated:

1 "SAN FRANCISCO EARTHQUAKE SAFETY AND EMERGENCY RESPONSE BOND,  
2 2010. \$412,300,000 of bonded indebtedness to improve fire, earthquake and emergency  
3 response and ensure firefighters a reliable water supply for fires and disasters, through  
4 projects including: improving deteriorating pipes, hydrants, reservoirs, water cisterns and  
5 pumps built after the 1906 earthquake; improving neighborhood fire stations; replacing the  
6 seismically-unsafe emergency command center with an earthquake-safe building; and to pay  
7 related costs, subject to independent citizen oversight and regular audits; and authorizing  
8 landlords to pass-through to residential tenants in units subject to Chapter 37 of the San  
9 Francisco Administrative Code (the "Residential Stabilization and Arbitration Ordinance") 50%  
10 of the increase in the real property taxes attributable to the cost of the repayment of the  
11 bonds."

12 The special election called and ordered shall be referred to in this ordinance as the  
13 "Bond Special Election."

14 Section 3. PROPOSED PROGRAM. All contracts that are funded with the proceeds of  
15 bonds authorized hereby shall be subject to the provisions of Chapter 83 of the City's  
16 Administrative Code (the "First Source Hiring Program"), which fosters construction and  
17 permanent employment opportunities for qualified economically disadvantaged individuals. In  
18 addition, all contracts that are funded with the proceeds of bonds authorized hereby also shall  
19 be subject to the provisions of Chapter 14B of the City's Administrative Code (the "Local  
20 Business Enterprise and Non-Discrimination in Contracting Ordinance"), which assists small  
21 and micro local businesses to increase their ability to compete effectively for the award of City  
22 contracts. The proposed program can be summarized as follows:

23 A. AUXILIARY WATER SUPPLY SYSTEM. A portion of the Bond shall be  
24 allocated to the renovation and seismic upgrading of Auxiliary Water Supply System (the  
25

1 "AWSS") core facilities consisting of a reservoir, two storage tanks and two pump stations  
2 (collectively, the "AWSS Project").

3 B. CRITICAL FIREFIGHTING FACILITIES AND INFRASTRUCTURE. A portion of  
4 the Bond shall be allocated to the construction, acquisition, improvement, retrofitting and  
5 completion of critical firefighting facilities and infrastructure for earthquake safety and  
6 emergency response not otherwise specifically enumerated in this ordinance, including  
7 without limitation, neighborhood fire stations, and such facilities as cisterns, pipes and tunnels  
8 for the water system for firefighting (collectively, the "Critical Firefighting Facilities and  
9 Infrastructure").

10 C. PUBLIC SAFETY BUILDING. A portion of the Bond shall be allocated to  
11 construct in Mission Bay a Public Safety Building consisting of a new police department  
12 command center, a southern district police station, and a neighborhood fire station in a  
13 seismically secure facility to serve Mission Bay to accommodate safety needs in a growing  
14 community (the "Public Safety Building").

15 D. CITIZEN'S OVERSIGHT COMMITTEE. A portion of the Bond shall be used to  
16 perform audits of the Bond, as further described in Section 15.

17 The proposed uses and amounts described in this Section 3 are estimates only and,  
18 with the exception of Section 3D above, are subject, without limitation, to review and revision  
19 by the Mayor and the Board.

#### 20 Section 4. BOND ACCOUNTABILITY MEASURES

21 The Bond shall include the following administrative rules and principles:

22 A. OVERSIGHT. The proposed bond funds shall be subjected to approval  
23 processes and rules described in the San Francisco Charter and Administrative Code.  
24 Pursuant to S.F. Administrative Code 5.31, the Citizen's General Obligation Bond Oversight  
25

1 Committee shall conduct an annual review of bond spending, and shall provide an annual  
2 report of the bond program to the Mayor and the Board of Supervisors.

3 B. TRANSPARENCY. The City shall create and maintain a Web page outlining and  
4 describing the bond program, progress, and activity updates. The City shall also hold an  
5 annual public hearing and reviews on the bond program and its implementation before the  
6 Capital Planning Committee, the Police and Fire Commissions, and the Citizen's General  
7 Obligation Bond Oversight Committee.

8 Section 5. The estimated cost of the bond financed portion of the project described in  
9 Section 2 above was fixed by the Board by the following resolution and in the amount  
10 specified below:

11 Resolution No. \_\_\_\_\_, \$412,300,000.

12 Such resolution was passed by two-thirds or more of the Board and approved by the  
13 Mayor of the City (the "Mayor"). In such resolution it was recited and found by the Board that  
14 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 or other funds derived from taxes  
16 levied for those purposes and will require expenditures greater than the amount allowed by  
17 the annual tax levy.

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

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

22 Section 6. The Bond Special Election shall be held and conducted and the votes  
23 received and canvassed, and the returns made and the results ascertained, determined and  
24 declared as provided in this ordinance and in all particulars not recited in this ordinance such  
25 election shall be held according to the laws of the State of California (the "State") and the

1 Charter of the City (the "Charter") and any regulations adopted under State law or the Charter,  
2 providing for and governing elections in the City, and the polls for such election shall be and  
3 remain open during the time required by such laws and regulations.

4 Section 7. The Bond Special Election is consolidated with the General Election  
5 scheduled to be held in the City on Tuesday, June 8, 2010. The voting precincts, polling  
6 places and officers of election for the June 8, 2010 General Election are hereby adopted,  
7 established, designated and named, respectively, as the voting precincts, polling places and  
8 officers of election for the Bond Special Election called, and reference is made to the notice of  
9 election setting forth the voting precincts, polling places and officers of election for the June 8,  
10 2010 General Election by the Director of Elections to be published in the official newspaper of  
11 the City on the date required under the laws of the State of California.

12 Section 8. The ballots to be used at the Bond Special Election shall be the ballots to  
13 be used at the June 8, 2010 General Election. The word limit for ballot propositions imposed  
14 by San Francisco Municipal Elections Code Section 510 is waived. On the ballots to be used  
15 at the Bond Special Election, in addition to any other matter required by law to be printed  
16 thereon, shall appear the following as a separate proposition:

17 "SAN FRANCISCO EARTHQUAKE SAFETY AND EMERGENCY RESPONSE BOND,  
18 2010. To improve fire, earthquake and emergency response and ensure firefighters a reliable  
19 water supply for fires and disasters, through projects including: improving deteriorating pipes,  
20 hydrants, reservoirs, water cisterns and pumps built after the 1906 earthquake; improving  
21 neighborhood fire stations; replacing the seismically-unsafe emergency command center with  
22 an earthquake-safe building; and to pay related costs, shall the City and County of San  
23 Francisco issue \$412,300,000 in general obligation bonds, subject to citizen oversight and  
24 regular audits?"  
25

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

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

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

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

22 Section 11. This ordinance shall be published in accordance with any State law  
23 requirements, and such publication shall constitute notice of the Bond Special Election and no  
24 other notice of the Bond Special Election hereby called need be given.  
25



1 Section 12. The Board, having reviewed the proposed legislation, makes the following  
2 findings in compliance with the California Environmental Quality Act ("CEQA"), California  
3 Public Resources Code Sections 21000 et seq., the CEQA Guidelines, 15 Cal. Administrative  
4 Code Sections 15000 et seq., ("CEQA Guidelines"), and San Francisco Administrative Code  
5 Chapter 31 ("Chapter 31"):

6 (i) Critical Firefighting Facilities and Infrastructure. For the reasons set forth in the  
7 letter from the Planning Department, dated 1/7/10, a copy of which is on file  
8 with the Clerk of the Board in File No. 091458 and incorporated by reference, the  
9 Board finds that the bond proposal as it relates to funds for Critical Firefighting Facilities and  
10 Infrastructure is not subject to CEQA because as the establishment of a government financing  
11 mechanism that does not identify individual specific projects to be constructed with the funds,  
12 it is not a project as defined by CEQA and the CEQA Guidelines. The use of bond proceeds  
13 to finance any project or portion of any project with funds for the Critical Firefighting Facilities  
14 and Infrastructure portion of the Bond will be subject to approval of the Board upon completion  
15 of planning and any further required environmental review under CEQA for the individual  
16 Critical Firefighting Facilities and Infrastructure projects.

17 (ii) AWSS Project. On December 10, 2009, the Planning Department  
18 issued a Final Mitigated Negative Declaration ("FMND") for the AWSS Project, San Francisco  
19 Planning Department Case No. 2009.0568E, which is on file with the Clerk of the Board in File  
20 No. 091458 and which is incorporated into this ordinance by this reference. In  
21 issuing the FMND the Planning Department determined that the AWSS Project could not have  
22 a significant effect on the environment.

23 (a) The Board hereby adopts as its own the CEQA findings for the AWSS Project  
24 made by the Planning Department in the FMND.

1 (b) The Board has reviewed and considered the information contained in the FMND  
2 and all information pertaining to the AWSS Project in the Department's case file and all  
3 documents referenced in this ordinance are either on file with the Clerk of the Board in File  
4 No. 091458 or may be found in the files of the Planning Department, as the  
5 custodian of records, at 1660 Mission Street in San Francisco.

6 (c) The AWSS Project as reflected in this ordinance is consistent with the project  
7 described in the FMND and would not result in any significant impacts not identified in the  
8 FMND nor cause significant effects identified in the FMND to be substantially more severe.

9 (d) In accordance with CEQA, the Board has considered the mitigation measures  
10 described in the FMND and hereby requires the mitigation measures and the mitigation  
11 monitoring and reporting program ("MMRP") denoted as Exhibit A to this ordinance and on file  
12 with the Clerk of the Board in File No. 091458 to be imposed as conditions on the  
13 implementation of the AWSS Project approved by this ordinance.

14 (e) With the implementation of the mitigation measures required in Exhibit A to this  
15 ordinance, the environmental impacts resulting from AWSS Project on cultural resources,  
16 biological resources and from releases of hazardous materials or creation of hazards would  
17 be reduced to a less than significant level as described in the FMND.

18 (f) Based upon the whole record for the FMND, including all written materials and  
19 any oral testimony received by the Board, the Board hereby finds that the FMND reflects the  
20 independent judgment and analysis of the Planning Department and the Board, is adequate  
21 and complete and there is no substantial evidence that the proposed AWSS Project, given the  
22 implementation of the mitigation measures as stated in the FMND and the adoption of the  
23 MMRP, could have a significant effect on the environment as shown in the analysis of the  
24 FMND. The Board hereby adopts the FMND and the MMRP on file with the Clerk of the  
25 Board as Exhibit A to this ordinance.

1 (iii) Public Safety Building. The Public Safety Building is proposed to be  
2 constructed within Mission Bay. On September 17, 1998, the Redevelopment Agency  
3 Commission by Resolution No. 190-98 and the San Francisco Planning Commission by  
4 Resolution No. 14696 certified the Final Subsequent Environmental Impact Report for the  
5 Mission Bay North and South Redevelopment Plans ("FSEIR"). On October 19, 1998, the  
6 Board of Supervisors, by Motion No. 98-132 affirmed certification of the FSEIR and by  
7 Resolution No. 854-98, adopted CEQA findings, including a statement of overriding  
8 considerations and a Mission Bay mitigation monitoring and reporting program ("Mission Bay  
9 MMRP") in support of various approval actions taken by the Board to implement the Mission  
10 Bay Redevelopment Plans. Resolution No. 854-98 is on file with the Clerk of the Board in File  
11 No. 091458 and incorporated in this ordinance by this reference.

12 (a) The Public Safety Building is proposed at Parcel 8 in the Mission Bay South  
13 Redevelopment Plan Area, bounded by Mission Rock, China Basin and Third Streets. The  
14 Redevelopment Agency has issued several addenda to the FSEIR to address various issues  
15 and most recently issued Addendum No. 7 to address the location of the Public Safety  
16 Building at Parcel 8; Addendum No. 7 concludes that the proposed Public Safety Building is  
17 within the scope of the project analyzed in the FSEIR and will not result in any new significant  
18 impacts or a substantial increase in the severity of previously identified significant effects that  
19 alter the conclusions reached in the Mission Bay FSEIR. The Addendum No. 7 and any  
20 supporting documents have been made available to the Board and the public, are on file with  
21 the Clerk of the Board in File No. 091458 and Addendum No. 7 is incorporated in  
22 this ordinance by this reference. Hereafter in this ordinance, the reference to the FSEIR  
23 include any addenda to the FSEIR.

24 (b) The Board has reviewed and considered the CEQA Findings and statement of  
25 overriding considerations that it previously adopted, and reviewed and considered the above-

1 referenced CEQA Findings of the Redevelopment Agency Commission and the CEQA  
2 Findings contained in Addendum No. 7 and hereby adopts these additional CEQA Findings as  
3 its own. The Board additionally finds that implementation of the Public Safety Building in  
4 Mission Bay (1) does not require major revisions in the FSEIR due to the involvement of new  
5 significant environmental effects or a substantial increase in the severity of previously  
6 identified significant effects, (2) no substantial changes have occurred with respect to the  
7 circumstances under which the project analyzed in the FSEIR will be undertaken that would  
8 require major revisions to the FSEIR due to the involvement of new significant environmental  
9 effects, or a substantial increase in the severity of effects identified in the FSEIR, and (3) no  
10 new information of substantial importance to the project analyzed in the FSEIR has become  
11 available which would indicate that (i) the Public Safety Building will have significant effects  
12 not discussed in the FSEIR; (ii) significant environmental effects will be substantially more  
13 severe; (iii) mitigation measures or alternatives found not feasible which would reduce one or  
14 more significant effects have become feasible; or (iv) mitigation measures or alternatives  
15 which are considerably different from those in the FSEIR will substantially reduce one or more  
16 significant effects on the environment.

17 Section 13. The Board finds and declares that the proposed Bond is (i) in conformity  
18 with the priority policies of Section 101.1(b) of the San Francisco Planning Code, (ii) in  
19 accordance with Section 4.105 of the San Francisco Charter and Section 2A.53(f) of the  
20 San Francisco Administrative Code, and (iii) consistent with the City's General Plan, and  
21 adopts the findings of the Planning Department, as set forth in the General Plan Referral  
22 Report dated January 7, 2010, a copy of which is on file with the Clerk of the Board in File No.  
23 091458 and incorporates such findings by reference.

24 Section 14. Under Section 53410 of the California Government Code, the bonds shall  
25 be for the specific purpose authorized in this ordinance and the proceeds of such bonds will

1 be applied only for such specific purpose. The City will comply with the requirements of  
2 Sections 53410(c) and 53410(d) of the California Government Code.

3 Section 15. The Bonds are subject to, and incorporate by reference, the applicable  
4 provisions of San Francisco Administrative Code Sections 5.30 – 5.36 (the "Citizens' General  
5 Obligation Bond Oversight Committee"). Under Section 5.31 of the Citizens' General  
6 Obligation Bond Oversight Committee, to the extent permitted by law, one-tenth of one  
7 percent (0.1%) of the gross proceeds of the Bonds shall be deposited in a fund established by  
8 the Controller's Office and appropriated by the Board of Supervisors at the direction of the  
9 Citizens' General Obligation Bond Oversight Committee to cover the costs of such committee.

10 Section 16. The time requirements specified in Section 2.34 of the San Francisco  
11 Administrative Code are waived.

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

16 Section 18. Documents referenced in this ordinance are on file with the Clerk of the  
17 Board of Supervisors in File No. 091458, which is hereby declared to be a part of  
18 this ordinance as if set forth fully herein.

19  
20 APPROVED AS TO FORM:  
21 DENNIS J. HERRERA,  
City Attorney

22  
23 By: Kenneth David Roux  
Kenneth David Roux  
24 Deputy City Attorney  
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