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DEPARTMENT OF ELECTIONS

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ELECTIONS DIVISION
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Submittal Form
For Proposed Initiative Measure(s)
Prior to the Submittal
to the
Department of Elections

By 4 or more Board of Supervisors or the Mayor

I, hereby submit the following proposed initiative measure(s) for hearing before the Board of Supervisors, Rules Committee prior to the submittal of the proposed initiative measure to the Department of Elections. (Prop C. Nov. 2007)

This matter is for the November 3, 2015 Election.

Sponsor(s): Supervisor or Mayor

Supervisors David Campos, John Avalos, Jane Kim, Eric Mar

SUBJECT: Establishing the Legacy Business Historic Preservation Fund

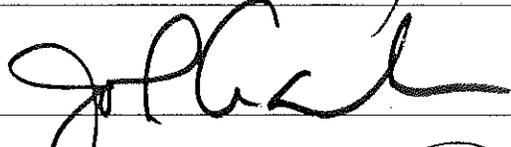
The text is attached:

Signatures of Sponsoring Supervisors:

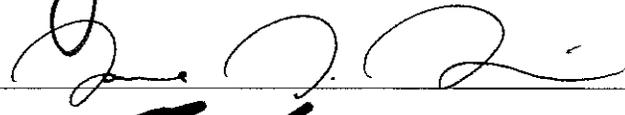
Supervisor David Campos



Supervisor John Avalos



Supervisor Jane Kim



Supervisor Eric Mar



Time Stamp by Clerk's Office:

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The text and signatures are attached:

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PROPOSED INITIATIVE ORDINANCE TO BE SUBMITTED BY FOUR OR MORE SUPERVISORS TO THE VOTERS AT THE NOVEMBER 3, 2015 ELECTION.

[Under Charter Section 2.113(b), this measure must be submitted to the Board of Supervisors and filed with the Department of Elections no less than 45 days prior to the deadline for submission of such initiatives to the Department of Elections set in Municipal Elections Code Section 300(b).]

[Initiative Ordinance - Administrative Code - Establishing the Legacy Business Historic Preservation Fund]

Ordinance amending the Administrative Code to modify the definition of a Legacy Business and to establish the Legacy Business Historic Preservation Fund, which will fund grants for Legacy Businesses equal to \$500 per full-time equivalent employee in San Francisco and grants for landlords that extend real property leases to Legacy Businesses for terms of at least ten years equal to \$4.50 per square foot of the improvements in San Francisco leased to the Legacy Businesses.

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

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

Section 1. The Administrative Code is hereby amended by revising Section 2A.242, to read as follows:

SEC. 2A.242. LEGACY BUSINESS REGISTRY.

(a) The ~~Small Business Commission~~*Office of Small Business* shall establish and maintain a registry of Legacy Businesses in San Francisco (the "Registry"). The purpose of the Registry

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is to recognize that longstanding, community-serving businesses can be valuable cultural assets of the City. In addition, the City intends that the Registry be a tool for providing educational and promotional assistance to Legacy Businesses to encourage their continued viability and success.

(b) For purposes of this Section 2A.242, "Legacy Business" means a business that has been nominated by a member of the Board of Supervisors or the Mayor in accordance with subsection (c) below, and that the Small Business Commission, after a noticed hearing, determines meets each of the following criteria:

(1) The business has operated in San Francisco for 30 or more years, with no break in San Francisco operations exceeding two years. The business may have operated in more than one location or jurisdiction, but must have been founded or currently be headquartered in San Francisco. If the business has operated in San Francisco for more than 20 years but less than 30 years it may still satisfy this subsection (b)(1) if the Small Business Commission finds that the business has significantly contributed to the history or identity of a particular neighborhood or community and, if not included in the Registry, the business would face a significant risk of displacement.

(2) The business has contributed to the neighborhood's history and/or the identity of a particular neighborhood or community. Prior to the hearing, the Small Business Commission, or the Executive Director of the Office of Small Business on its behalf, shall request an advisory recommendation from the Historic Preservation Commission as to whether the business meets the requirement in this subsection (b)(2). If the Historic Preservation Commission does not provide an advisory recommendation within 30 days of receipt of the request, the Small Business Commission shall treat such nonresponse as an advisory recommendation that the business meets the requirement in this subsection (b)(2).

(3) The business is committed to maintaining the physical features or traditions that define the business, including craft, culinary, or art forms.

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If the Small Business Commission makes all three findings, it shall include the business in the Registry as a Legacy Business.

(c) Nominations for the Registry shall be limited to a total of 300 businesses per fiscal year (July 1 through June 30). A nomination is deemed to have been made on the date the Small Business Commission receives the nomination in writing from a member of the Board of Supervisors or the Mayor. Nominations received after the close of business on June 30 shall be considered received in the following fiscal year. The nominations for any fiscal year shall be the first 300 received in that fiscal year.

There is no limit on the number of nominations that may be made by the Mayor or a Member of the Board of Supervisors. Notwithstanding the previous sentence, the Small Business Commission may adopt regulations under subsection (e) below to ensure that the Mayor and each member of the Board of Supervisors have the same opportunity to submit nominations, and to prescribe procedures as appropriate for the nomination process.

(ed) The ~~Small Business Commission~~ Executive Director of the Office of Small Business, in consultation with the Controller, shall establish a one-time non-refundable administrative fee, to offset the costs of administering the program, which shall ~~but~~ ~~not~~ ~~to~~ exceed \$50, to be paid by ~~for~~ businesses that are nominated for inclusion in the Registry and that wish to be included in the Registry.

(de) The Small Business Commission may, after a noticed hearing, adopt such rules, regulations, and forms necessary to implement this Section 2A.242. Any rules and regulations adopted under this authority shall be subject to disapproval of the Board of Supervisors by ordinance. The Small Business Commission shall provide written notice to the Clerk of the Board of Supervisors of its adoption of any rule or regulation under this subsection (e), along with a copy of said rule or regulation. If a Member of the Board of Supervisors does not introduce an ordinance to disapprove the rule or regulation within 30 days of the date of delivery of such notice to the Clerk of the Board of

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Supervisors, or if such an ordinance is introduced within the 30-day period but the ordinance is not enacted by the Board of Supervisors within 90 days of the date of the Commission's delivery of notice to the Clerk of the Board of Supervisors, the rule or regulation shall go into effect.

(ef) The Small Business Commission shall survey San Francisco's Legacy Businesses and, no later than September 30, 2015, make substantive recommendations to the Board of Supervisors for programs for Legacy Businesses. Such programs may include business and technical assistance, lease renewal and acquisition assistance, public education and commendation initiatives to recognize and honor the contributions of Legacy Businesses to San Francisco, financial incentives to encourage the stability of Legacy Businesses, and additional business stabilization and neighborhood continuity initiatives.

Section 2. The Administrative Code is hereby amended by adding Section 2A.243, to read as follows:

SEC. 2A.243. LEGACY BUSINESS HISTORIC PRESERVATION FUND.

(a) Findings and Purpose.

(1) According to a September 2014 report by San Francisco Architectural Heritage (San Francisco Heritage) entitled "Sustaining San Francisco's Living History: Strategies for Conserving Cultural Heritage Assets," long-operating businesses in San Francisco foster civic engagement and pride as neighborhood gathering spots, and contribute to San Francisco's cultural identity.

(2) In San Francisco's current economic climate, many otherwise successful, long-operating businesses are at risk of displacement, despite continued value to the community and a record of success.

(3) In recent years, San Francisco has witnessed the loss of many long-operating businesses because of increased rents or lease terminations.

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(4) To the extent that property owners have little incentive to retain longstanding tenants, a long-operating business that does not own its commercial space or have a long-term lease is particularly vulnerable to displacement. A viable strategy for securing the future stability of San Francisco's long-operating businesses is to provide incentives for them to stay in the community, and incentives for their landlords to enter into long-term leases with such businesses.

(5) The purpose of the Legacy Business Historic Preservation Fund, therefore, is to maintain San Francisco's cultural identity and to foster civic engagement and pride by assisting long-operating businesses to remain in the City.

(b) Grants To Legacy Businesses.

(1) Qualifications for Grant. Subject to the budgetary and fiscal provisions of the City Charter, the Office of Small Business shall award a Legacy Business, as defined in Section 2A.242, an annual grant as calculated in subsection (b)(3) below, provided that the Legacy Business: (A) annually files an application for the grant with the Office of Small Business between July 1 and September 30; (B) has no amounts owing to the City as a result of fines, penalties, interest, assessments, taxes, fees, or any other financial obligations imposed by law, regulation, or contract that were delinquent as of the date of application; and (C) meets all other requirements for the grant established by this Section 2A.243 and by any rules and regulations of the Small Business Commission. A Legacy Business qualifying under this subsection (b)(1) shall be referred to as a "Qualified Legacy Business" for purposes of this Section 2A.243.

(2) Grant Application. A Legacy Business seeking a grant under subsection (b) of this Section 2A.243 shall submit an application on a form prepared by the Office of Small Business, and shall certify: (A) the number of full-time equivalent employees employed in San Francisco by the Legacy Business as of the immediately preceding June 30; and (B) that the Legacy Business meets all of the requirements for the grant established by this Section 2A.243 and by any rules and regulations of the Small Business Commission. For purposes of this Section 2A.243, the number of full-time

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equivalent employees employed in San Francisco by a Legacy Business as of the immediately preceding June 30 is determined by adding, for each employee employed as of that date, the employee's average weekly hours over the preceding 12 months (July 1-June 30), dividing the result by 40, and rounding to the nearest full employee.

(3) Amount of Grant. After the September 30 application deadline, the Office of Small Business shall award to a Qualified Legacy Business a grant equal to \$500 per full-time equivalent employee employed in San Francisco by the Qualified Legacy Business as of the immediately preceding June 30, up to a maximum of 100 full-time equivalent employees, except that the total combined grants paid to all Qualified Legacy Businesses in a fiscal year (July 1-June 30) shall not exceed the appropriations into the Legacy Business Assistance Account in the Legacy Business Historic Preservation Fund. If in a fiscal year the total grants requested by Qualified Legacy Businesses under this Section 2A.243 exceed the amount of the appropriations into the Legacy Business Assistance Account, the Office of Small Business shall allocate the grants to be paid to all Qualified Legacy Businesses proportionately based on the number of full-time equivalent employees employed in San Francisco by each Qualified Legacy Business as of the immediately preceding June 30. The Office of Small Business shall pay the grants from the Legacy Business Assistance Account in the Legacy Business Historic Preservation Fund.

(c) Grants To Landlords.

(1) Qualifications for Grant. Subject to the budgetary and fiscal provisions of the City Charter, the Office of Small Business shall award an annual grant to a landlord that, on or after January 1, 2016, enters into an agreement with a Legacy Business that leases real property in San Francisco to the Legacy Business for a term of at least 10 years or extends the term of the Legacy Business's existing lease to at least 10 years, for each year of a lease entered into on or after January 1, 2016, or each year that was added to an existing lease on or after January 1, 2016 (e.g., an existing five-year lease that is extended to 20 years on January 1, 2016 would entitle the landlord to 15

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years of grants), as calculated in subsection (c)(3) below, provided that: (A) the landlord files an initial application for the grant with the Office of Small Business after execution of the qualifying lease, and annually files an application for the grant prior to the anniversary date of the landlord's first grant payment; (B) the lease meets all other criteria required by rules and regulations of the Small Business Commission, including criteria tied to the amount of rent and other lease provisions that may impact the long-term stability of the Legacy Business; (C) the landlord has no amounts owing to the City as a result of fines, penalties, interest, assessments, taxes, fees, or any other financial obligations imposed by law, regulation, or contract that were delinquent as of the date of application; (D) the landlord is not related by ownership, either directly or indirectly, to the Legacy Business to which the landlord leases the property; and (E) the landlord meets all other requirements for the grant established by this Section 2A.243 and by any rules and regulations of the Small Business Commission. Any lease or lease extension between a landlord and a Legacy Business shall not fail to meet the requirements of this subsection (c)(1) as a result of a provision in the lease making the lease, or any portion thereof, contingent upon the landlord receiving a grant from the City under this subsection (c)(1) equal to \$4.50 per square foot, up to a maximum of 5,000 square feet per location, of the improvements in San Francisco leased to the Legacy Business from which the Legacy Business operates its business. A landlord qualifying under this subsection (c)(1) shall be referred to as a "Qualified Landlord" for purposes of this Section 2A.243.

(2) Grant Application. A landlord seeking a grant under subsection (c)(1) of this Section 2A.243 shall submit an application on a form prepared by the Office of Small Business, and shall include: (A) a certification of the total square footage of the improvements in San Francisco leased to the Legacy Business from which the Legacy Business operates its business; (B) a copy of the lease with the Legacy Business; and (C) a certification that the landlord meets all of the requirements for the grant established by this Section 2A.243 and by any rules and regulations of the Small Business Commission. The landlord shall submit any subsequent annual applications for grants under

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subsection (c)(1) by the anniversary date of their first grant payment under subsection (c)(1) on a form prepared by the Office of Small Business, and shall include: (A) a certification of the total square footage of the improvements in San Francisco leased to the Legacy Business from which the Legacy Business operates its business; (B) a certification that there have been no changes to the lease that would impact the Qualified Landlord's eligibility for the grant; and (C) a certification that the Qualified Landlord continues to meet all of the requirements for the grant established by this Section 2A.243 and by any rules and regulations of the Small Business Commission. If the Office of Small Business denies a landlord's application for a grant, the Office of Small Business shall, to the extent permitted by law, keep confidential any lease submitted by that landlord under this subsection (c)(2) in connection with the application. If the Office of Small Business approves a landlord's application for a grant, the Office of Small Business shall, to the extent permitted by law, keep confidential all provisions in any lease submitted by that landlord under this subsection (c)(2) in connection with the application to the extent that such provisions did not form some or all of the basis for the Office of Small Business's decision to award the grant to the landlord.

(3) Amount of Grant. Following a landlord's initial application and on the anniversary date of a Qualified Landlord's first grant payment thereafter, the Office of Small Business shall pay to a Qualified Landlord a grant equal to \$4.50 per square foot, up to a maximum of 5,000 square feet per location, of the improvements in San Francisco leased to the Legacy Business from which the Legacy Business operates its business, except that the total grants paid to all Qualified Landlords in a fiscal year shall not exceed the appropriations into the Legacy Business Rent Stabilization Account in the Legacy Business Historic Preservation Fund. The Office of Small Business shall pay the grants from the Legacy Business Rent Stabilization Account in the Legacy Business Historic Preservation Fund. The Office of Small Business shall allocate funds from the Legacy Business Rent Stabilization Account among Qualified Landlords as follows:

(A) The Office of Small Business shall first allocate amounts in the Legacy Business Rent Stabilization Account to cover all grants to be made during the fiscal year to Qualified Landlords from prior years that have years remaining on their leases with respect to which the Qualified Landlords are entitled to grants. If sufficient funds do not exist to cover all grants to be made during the fiscal year to these Qualified Landlords from prior years, the Office of Small Business shall allocate the amount in the Legacy Business Rent Stabilization Account to these Qualified Landlords from prior years proportionately based on the square footage of the improvements in San Francisco leased to the Legacy Businesses from which the Legacy Businesses operate their businesses.

(B) If there are sufficient funds in the Legacy Business Rent Stabilization Account to pay all grants during the fiscal year to Qualified Landlords from prior years, grants to new Qualified Landlords will be made out of any amount remaining in the Legacy Business Rent Stabilization Account (after subtracting amounts necessary to pay all grants during the fiscal year to Qualified Landlords from prior years) in the order that the Office of Small Business receives the Qualified Landlords' completed grant applications, beginning on July 1 of each fiscal year. If any Qualified Landlord from a prior year fails to apply for a grant in a subsequent year or fails to qualify in a subsequent year, the amount of funds that would have been paid to that previously Qualified Landlord shall be available to pay grants to new Qualified Landlords under this subsection (c)(3)(B).

(C) If the Small Business Commission determines that a Legacy Business faces an immediate risk of displacement and that a grant under subsection (c)(1) of this Section 2A.243 would prevent such displacement, but there are insufficient funds in the Legacy Business Rent Stabilization Account (after subtracting any amounts to be paid during the fiscal year to Qualified Landlords from prior years) to make such a grant, the Small Business Commission may request a supplemental appropriation from the Board of Supervisors. Such supplemental appropriation will be used first to pay the grant to the Legacy Business that faces an immediate risk of displacement, with any remaining amount being available to pay grants to new Qualified Landlords.

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(d) Implementation.

(1) After holding a public hearing, the Small Business Commission, in consultation with the Controller, shall adopt rules and regulations to establish the procedures to implement this Section 2A.243. Any rules and regulations adopted under this authority shall be subject to disapproval of the Board of Supervisors by ordinance. The Small Business Commission shall provide written notice to the Clerk of the Board of Supervisors of its adoption of any rule or regulation under this subsection (d)(1), along with a copy of said rule or regulation. If a Member of the Board of Supervisors does not introduce an ordinance to disapprove the rule or regulation within 30 days of the date of delivery of such notice to the Clerk of the Board of Supervisors, or if such an ordinance is introduced within the 30-day period but the ordinance is not enacted by the Board of Supervisors within 90 days of the date of the Commission's delivery of notice to the Clerk of the Board of Supervisors, the rule or regulation shall go into effect.

(2) The Office of Small Business shall have the authority to verify all information provided by a Legacy Business or landlord in connection with an application for a grant under this Section 2A.243. Failure of a Legacy Business or landlord to comply with information requests from the Office of Small Business, or the provision of false information in connection with an application or in response to such requests, shall result in the denial of any grant under this Section 2A.243.

(e) Reports.

(1) By the first business day of June of each year commencing with June 2017, the Executive Director of the Office of Small Business shall file a written report with the Board of Supervisors on the implementation of this Section 2A.243. The report shall include a list of: (A) each Qualified Legacy Business and the amount of the grant paid to each Qualified Legacy Business for the prior fiscal year; and (B) each Qualified Landlord, the Legacy Business to which the Qualified Landlord leased the real property, and the amount of the grant paid to each Qualified Landlord for the

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prior fiscal year. The report may include other information relevant to implementation of this Section 2A.243, at the discretion of the Executive Director of the Office of Small Business.

(2) Commencing in fiscal year 2020-2021 (July 2020-June 2021), the Controller shall perform an assessment and review of the effect of this Section 2A.243 on the stability of Legacy Businesses for the prior five fiscal years. Based on such assessment and review, the Controller shall file a written analysis with the Board of Supervisors by no later than the first business day of October 2020, and by the first business day of October at five-year intervals thereafter. The analysis shall be based on criteria deemed relevant by the Controller, and may include, but is not limited to, data contained in the annual reports that the Office of Small Business submits to the Board of Supervisors under subsection (e)(1) above.

(f) For fiscal year 2017-2018 and each second succeeding fiscal year thereafter, the Office of Small Business shall increase the amount per full-time equivalent employee (rounded to the nearest dollar) and the amount per square foot (rounded to the nearest cent) in subsections (b)(3) and (c)(3), respectively, of this Section 2A.243, to reflect increases in the Consumer Price Index: All Urban Consumers for the San Francisco/Oakland/San Jose Area for All Items as reported by the United States Bureau of Labor Statistics, or any other index that, in the discretion of the Controller, better reflects increases in commercial rents, for each of the preceding two years. These revised figures shall be used prospectively to calculate grants under subsections (b)(3) and (c)(3) of this Section 2A.243.

(g) The Board of Supervisors may, without a vote of the people, amend this Section 2A.243 to increase the amount per full-time equivalent employee and the amount per square-foot in subsections (b)(3) and (c)(3) of this Section 2A.243, or to change the metric by which grants are made to Qualified Legacy Businesses and Qualified Landlords consistent with the purposes enumerated in subsection (a) of this Section 2A.243.

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Section 3. Severability. If any section, subsection, sentence, clause, phrase, or word of this ordinance, or any application thereof to any person or circumstance, is held to be invalid or unconstitutional by a decision of a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions or applications of the ordinance. The People of the City and County of San Francisco hereby declare that they would have passed this ordinance and each and every section, subsection, sentence, clause, phrase, and word not declared invalid or unconstitutional without regard to whether any other portion of this ordinance or application thereof would be subsequently declared invalid or unconstitutional.

Section 4. No Conflict with Federal or State Law. Nothing in this ordinance shall be interpreted or applied so as to create any requirement, power, or duty in conflict with any federal or state law.

Section 5. Undertaking for the General Welfare. In enacting and implementing this ordinance, the City is assuming an undertaking only to promote the general welfare. It is not assuming, nor is it imposing on its officers and employees, an obligation for breach of which it is liable in money damages to any person who claims that such breach proximately caused injury.

Section 6. Effective Date. The effective date of this ordinance shall be ten days after the date the official vote count is declared by the Board of Supervisors.

Section 7. Scope of Ordinance. In enacting this ordinance, the People of the City and County of San Francisco intend to amend only those words, phrases, paragraphs, subsections, sections, articles, numbers, letters, punctuation marks, charts, diagrams, or any

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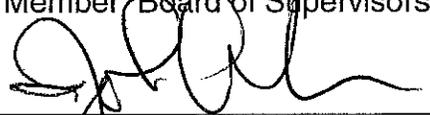
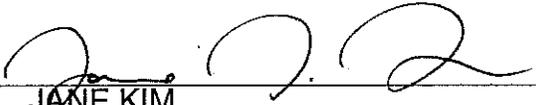
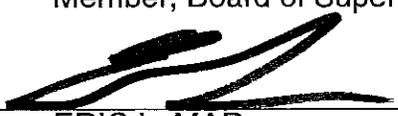
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other constituent parts of the Municipal Code that are explicitly shown in this ordinance as additions or deletions, in accordance with the "Note" that appears under the official title of the ordinance.

* * *

SUBMITTED.

 _____ DAVID CAMPOS Member, Board of Supervisors	Date: <u>6-8-15</u>
 _____ JOHN AVALOS Member, Board of Supervisors	Date: <u>6-8-15</u>
 _____ JANE KIM Member, Board of Supervisors	Date: <u>6/8/15</u>
 _____ ERIC L. MAR Member, Board of Supervisors	Date: <u>6/9/15</u>