

NOTE: Unchanged Code Text and uncodified text are in plain font.
Additions to Codes are in single-underline italics Times New Roman font

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

SECTION 1. Title.

This measure shall be known and may be cited as the “Competitive Bid Process for City-Funded Housing Ordinance” (hereinafter referred to as the “Initiative”).

SECTION 2. Findings.

San Francisco is in the midst of a severe housing affordability crisis with affordable housing in critically short supply for middle and working class residents and families. Due to the continuing influx of new residents, according to an October 2015 report by the Association of Bay Area Governments, between 2010 and 2040 the Bay Area is estimated to need at least 808,000 new housing units to meet projected population growth. According to a memorandum issued by the Planning Department, the City expects an overall increase of approximately 174,045 people by 2030, and a projected need of 70,000 new units by 2030 to accommodate the City’s projected growth.

The City’s projected population growth makes the need for more affordable housing critical. Every dollar committed to affordable housing must be stretched to its maximum utility.

The City utilizes three affordable housing funds – the Citywide Affordable Housing Fund, the Mayor’s Housing Affordability Fund and the Mayor’s Housing Program Fees Fund – and administers them through the Mayor’s Office of Housing and Community Development. These funds receive dollars committed to affordable housing from a variety of sources, including but not limited to mandatory inclusionary housing fees. The core purpose of each fund is to facilitate and finance the production of more affordable housing in San Francisco, which is generally accomplished by partnering with or providing financial assistance to for-profit or non-profit housing developers willing to undertake housing development projects that are either entirely affordable or contain a significant affordable housing component.

The affordable housing projects which use these funds are not currently subject to a competitive bidding process, which may lead to wasted City resources and may lead to the use of City funds based on favored relationships instead of merit and cost. Transparent and fair bidding should be required of developers and builders who bid on affordable housing projects which receive City funds, and the bidding process should be a competitive one which maximizes the best price for the City and maximizes the amount of affordable housing which can be obtained in any given project.

SECTION 3. Purpose.

The People of the City and County of San Francisco in enacting this Initiative hereby declare the following purposes:

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- (a) To ensure that affordable housing projects funded, at least in part, with the City's affordable housing resources undergo an open and transparent competitive bidding process.
- (b) To ensure that the City actively seeks competitive bids or proposals from qualified and competent bidders.
- (c) To ensure that the City, except in limited circumstances, chooses the best value proposal in order to maximize the City's return on its affordable housing resources.
- (d) To ensure that the City's affordable housing policies seek to maximize the efficiency and minimize the costs to taxpayers of affordable housing projects.
- (e) To ensure that the City maximizes the amount of affordable housing which can be built in any given affordable housing project by getting the most out of the City's affordable housing resources.

SECTION 4. Amendments to Administrative Code.

The following sections of the Administrative Code are hereby amended as follows:

1. Administrative Code section 10.100-49 is modified to add subsection (e) as follows:

(a) **Establishment of Fund.** The Citywide Affordable Housing Fund is established as a category eight fund to receive fee revenue dedicated to affordable housing and other contributions to the fund. The fund receives money from, among other sources:

- (1) The Jobs Housing Linkage Program, Planning Code Section 413 *et seq.*;
- (2) The Inclusionary Affordable Housing Program, Planning Code Section 415 *et seq.*;
- (3) The Market and Octavia Affordable Housing Program, Planning Code Section 416.5;
- (4) The Eastern Neighborhoods Housing Fund. Planning Code Section 423.5;
- (5) The Expedited Condominium Conversion Program. Subdivision Code Section 1396.4; and,
- (6) Repayments of loans and other program income associated with investments initially made with monies from the fund.

(b) **Use of Fund.** The fund is to be used exclusively by the Mayor's Office of Housing and Community Development, or its successor, for the purpose of

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supporting affordable housing in San Francisco. Specific eligible uses of the fund are delineated for each fee in the code where the fee is established. Within the fund, all fees, repayments, and program income shall be separately accounted for as required by each fee.

(c) **Exceptions to Fund Category.** The Director of the Mayor's Office of Housing and Community Development shall approve all expenditures from the fund.

(d) **Administration of Fund.** The Mayor's Office of Housing and Community Development, or its successor, shall administer the fund and shall report annually to the Board of Supervisors on the current status of the fund, the amounts approved for disbursement, and the number and types of housing units or households assisted. The Mayor's Office of Housing and Community Development shall have the authority to prescribe rules and regulations governing the Fund.

(e) **Competitive Bidding Requirement.** Any time the Mayor's Office of Housing and Community Development, or its successor, issues a request for proposal under which it will contribute money from the Citywide Affordable Housing Fund for the development or construction of an affordable housing project on City-owned land or City-owned property, it shall be required to:

(1) Publish the proposed affordable housing project to the public for open bidding and submission of proposals. It shall be sufficient to disclose the project on the Mayor's Office of Housing and Community Development website, but the Mayor's Office of Housing and Community Development retains discretion to determine the best way to disclose and advertise the request for proposal to the public.

(2) Receive at least three bids or proposals for the affordable housing project. The request for proposal on any given affordable housing project shall stay open until at least three bids/proposals are submitted. Three bids is a minimum amount, and it is anticipated that more than three bids will be desirable in most instances. The Mayor's Office of Housing and Community Development may withdraw the request for proposal in the event that there are not three bids on any given proposed project.

(3) Accept the best value proposal. The Mayor's Office of Housing and Community Development retains discretion to determine which bid or proposal is the best value proposal, subject to subsection (e)(4) below. By way of example, some of the criteria for selecting the best value proposal may include the following:

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(A) Developer's ability to demonstrate their ability to engage in a community design process and cite successful outcomes based on that engagement.

(B) Development plan which examines and proposes ways, means, and methods to demonstrate cost control efforts while providing durability and sustainability.

(C) Community-oriented amenities, such as child-care center or after-school program open to residents and non-residents, health clinic, or other community-serving uses.

(D) Developments which are financially feasible, including realistic development and operating budget projections that conform to industry standards and maximize the use of available financing.

(4) The requirements set forth in subsections (e)(1) through (3) must be met before the Mayor's Office of Housing and Community Development may enter into any affordable housing projects or contracts under which it will contribute money from the Citywide Affordable Housing Fund for the development or construction of an affordable housing project on City-owned land or City-owned property. This subsection (e) is only intended to govern expenditures from the fund for that purpose. Nothing in this subsection (e) is intended to otherwise restrict the Mayor's Office of Housing and Community Development use of money from the Citywide Affordable Housing Fund for capital repair projects, loans, or any other expenditures authorized by the fund.

2. Administrative Code section 10.100-110 is modified to add subsection (c) as follows:

(a) **Establishment of Fund.** The Mayor's Housing Affordability Fund is created as a category two fund to receive any prior legally binding obligations any grants, gifts, bequests from private sources for the purposes cited in subsection (b), any monies repaid to the City as a result of loans made by the City to developers to assist in the development of affordable housing, any repayments of monies to the City where the City is beneficiary under a promissory note which was acquired as a result of the City's housing affordability assistance, any repayments of loans made from this fund and any monies otherwise appropriated to the fund.

(b) **Use of Fund.** The fund shall be used exclusively for the purpose of providing financial assistance to for-profit and nonprofit housing developers, where the contribution of monies from the fund will allow units in a project to be

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affordable to persons and families of low and moderate income. City departments may recover any costs of administering any project receiving funds from the Mayor's Housing Affordability Fund. The Mayor's Office of Housing and Community Development ("MOHCD") shall develop procedures and amend its regulations such that, for all projects funded by this fund, it requires the project sponsor or its successor in interest to give preference in occupying units or receiving assistance as provided for in Administrative Code Chapter 47.

(c) **Competitive Bidding Requirement.** Any time the Mayor's Office of Housing and Community Development, or its successor, issues a request for proposal under which it will contribute money from the Mayor's Housing Affordability Fund for the development or construction of an affordable housing project on City-owned land or City-owned property, it shall be required to:

(1) Publish the proposed affordable housing project to the public for open bidding and submission of proposals. It shall be sufficient to disclose the project on the Mayor's Office of Housing and Community Development website, but the Mayor's Office of Housing and Community Development retains discretion to determine the best way to disclose and advertise the request for proposal to the public.

(2) Receive at least three bids or proposals for the affordable housing project. The request for proposal on any given affordable housing project shall stay open until at least three bids/proposals are submitted. Three bids is a minimum amount, and it is anticipated that more than three bids will be desirable in most instances. The Mayor's Office of Housing and Community Development may withdraw the request for proposal in the event that there are not three bids on any given proposed project.

(3) Accept the best value proposal. The Mayor's Office of Housing and Community Development retains discretion to determine which bid or proposal is the best value proposal, subject to subsection (c)(4) below. By way of example, some of the criteria for selecting the best value proposal may include the following:

(A) Developer's ability to demonstrate their ability to engage in a community design process and cite successful outcomes based on that engagement.

(B) Development plan which examines and proposes ways, means, and methods to demonstrate cost control efforts while providing durability and sustainability.

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(C) Community-oriented amenities, such as child-care center or after-school program open to residents and non-residents, health clinic, or other community-serving uses.

(D) Developments which are financially feasible, including realistic development and operating budget projections that conform to industry standards and maximize the use of available financing.

(4) The requirements set forth in subsections (c)(1) through (3) must be met before the Mayor's Office of Housing and Community Development may enter into any affordable housing projects or contracts under which it will contribute money from the Mayor's Housing Affordability Fund for the development or construction of an affordable housing project on City-owned land or City-owned property. This subsection (e) is only intended to govern expenditures from the fund for that purpose. Nothing in this subsection (e) is intended to otherwise restrict the Mayor's Office of Housing and Community Development use of money from the Mayor's Housing Affordability Fund for capital repair projects, loans, or any other expenditures authorized by the fund.

3. *Administrative Code section 10.100-117 is modified to add subsection (e) as follows:*

(a) **Establishment of Fund.** The Mayor's Housing Programs Fees Fund is established as a category eight fund to receive monies from fees earned by the Mayor's Office of Housing and Community Development in connection with the administration of affordable housing. Such fees shall include, but are not be limited to, fees from single-family and multifamily housing mortgage revenue bonds as issuer or as administrator, fees from the California Natural Disaster Assistance Program, and fees from similar housing programs in which the city earns fees for services provided by the Mayor's Office of Housing and Community Development. This Section 10.100-117 shall not authorize the levy of fees except as otherwise provided by ordinance or resolution of the Board of Supervisors.

(b) **Use of Fund.** The fund shall be used for the purpose of supporting the City's efforts to provide affordable housing for persons and households of low and moderate income in the City. For the purposes of this Fund, "low and moderate income" shall mean incomes which are not greater than 120 percent of median for San Francisco, as defined by the United States Department of Housing and Urban Development. Monies from the Fund may be used for the following purposes:

(1) To pay the costs of the Mayor's Office of Housing and Community Development for administering housing programs for which administrative funding is not otherwise available from the City's General

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Fund, federal or state grants, or other sources of administrative funding. Such programs shall include the City's single-family and multifamily housing mortgage revenue bond programs, the first time homebuyer programs, rental housing development programs, and the monitoring of units to ensure their continued affordability.

(2) To the extent that monies are available and not needed to cover current and anticipated future administrative costs described in Subparagraph (1), the Mayor's Office of Housing and Community Development may transfer said monies to the Citywide Affordable Housing Fund, Administrative Code Section 10.100-49, to make loans or grants for the development of affordable housing in the City.

(c) **Exceptions to Fund Category.** The Director of the Mayor's Office of Housing and Community Development shall approve expenditures from the fund.

(d) **Administration of Fund.** The Mayor's Office of Housing and Community Development shall administer the Fund, and in such capacity shall review the needs of the administration of affordable housing programs and the availability of monies from the fund for other eligible purposes. The Mayor's Office of Housing and Community Development shall report annually to the Board of Supervisors on the current status of the Mayor's Housing Program Fees Fund as a part of its Annual Report, including the amounts of fees received and to be budgeted for administrative funding, and any recommendations deemed necessary to improve effectiveness of the Mayor's Housing Program Fees Fund in achieving its purpose.

(e) **Competitive Bidding Requirement.** Any time the Mayor's Office of Housing and Community Development, or its successor, issues a request for proposal under which it will contribute money from the Mayor's Housing Programs Fees Fund for the development or construction of an affordable housing project on City-owned land or City-owned property, it shall be required to:

(1) Publish the proposed affordable housing project to the public for open bidding and submission of proposals. It shall be sufficient to disclose the project on the Mayor's Office of Housing and Community Development website, but the Mayor's Office of Housing and Community Development retains discretion to determine the best way to disclose and advertise the request for proposal to the public.

(2) Receive at least three bids or proposals for the affordable housing project. The request for proposal on any given affordable housing project shall stay open until at least three bids/proposals are submitted. Three bids is a minimum amount, and it is anticipated that more than three bids will be desirable in most instances. The Mayor's Office of Housing and Community Development may withdraw the request for

proposal in the event that there are not three bids on any given proposed project.

(3) Accept the best value proposal. The Mayor's Office of Housing and Community Development retains discretion to determine which bid or proposal is the best value proposal, subject to subsection (e)(4) below. By way of example, some of the criteria for selecting the best value proposal may include the following:

(A) Developer's ability to demonstrate their ability to engage in a community design process and cite successful outcomes based on that engagement.

(B) Development plan which examines and proposes ways, means, and methods to demonstrate cost control efforts while providing durability and sustainability.

(C) Community-oriented amenities, such as child-care center or after-school program open to residents and non-residents, health clinic, or other community-serving uses.

(D) Developments which are financially feasible, including realistic development and operating budget projections that conform to industry standards and maximize the use of available financing.

(4) The requirements set forth in subsections (e)(1) through (3) must be met before the Mayor's Office of Housing and Community Development may enter into any affordable housing projects or contracts under which it will contribute money from the Mayor's Housing Programs Fees Fund for the development or construction of an affordable housing project on City-owned land or City-owned property. This subsection (e) is only intended to govern expenditures from the fund for that purpose. Nothing in this subsection (e) is intended to otherwise restrict the Mayor's Office of Housing and Community Development use of money from the Mayor's Housing Programs Fees Fund for capital repair projects, loans, or any other expenditures authorized by the fund.

SECTION 5. Effective Date.

In accordance with the provisions of San Francisco Municipal Elections Code section 380 and California Elections Code section 9217, if a majority of the voters vote in favor of the Initiative,

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the Initiative shall go into effect ten days after the official vote count is declared by the Board of Supervisors.

SECTION 6. Severability.

If any provision of this Initiative, or part thereof, or the applicability of any provision or part to any person or circumstances, is for any reason held to be invalid or unconstitutional, the remaining provisions and parts shall not be affected, but shall remain in full force and effect, and to this end the provisions and parts of this Initiative are severable. The voters hereby declare that this Initiative, and each portion and part, would have been adopted irrespective of whether any one or more provisions or parts are found to be invalid or unconstitutional.

SECTION 7. Conflicting Measures.

This Initiative is intended to be comprehensive. It is the intent of the people of the City and County of San Francisco that in the event that this Initiative and one or more measures relating to the bid selection process for affordable housing projects that receive funding from the Citywide Affordable Housing Fund, the Mayor's Housing Authority Fund, or the Mayor's Housing Programs Fees Fund shall appear on the same ballot, the provisions of the other measure or measures shall be deemed to be in conflict with this Initiative. In the event that this Initiative receives a greater number of affirmative votes, the provisions of this measure shall prevail in their entirety, and all provisions of the other measure or measures shall be null and void. If this Initiative is approved by a majority of the voters but does not receive a greater number of affirmative votes than any other measure appearing on the same ballot relating to the bid selection process for affordable housing projects that receive funding from the Citywide Affordable Housing Fund, the Mayor's Housing Authority Fund, or the Mayor's Housing Programs Fees Fund, this Initiative shall take effect to the extent not in conflict with said other measure or measures.

SECTION 8. Amendment.

This Initiative may be amended to further its purposes by an ordinance passed by a two-thirds vote of the Board of Supervisors and signed by the Mayor.

SECTION 9. Liberal Construction.

This Initiative is an exercise of the initiative power of the people of the City and County of San Francisco for the protection of the health, safety, and welfare of the people, and shall be liberally construed to effectuate its purposes.

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