Ordinance amending the Administrative Code to confer upon certain nonprofit organizations a first-right-to-purchase, consisting of both a right of first offer and a right of first refusal, over all multi-family residential buildings (and related construction sites and vacant lots) in the City, for the purpose of creating and preserving rent-restricted affordable rental housing; and to establishing related procedures for the selection of such nonprofits, the preservation of rent-restricted affordable housing, and other implementation and enforcement; amending the Business and Tax Regulations Code to exempt rent-restricted affordable housing created under this ordinance from increased rates of transfer tax; and affirming the Planning Department's determination under the California Environmental Quality Act.

NOTE: Unchanged Code text and uncoded text are in plain Arial font. Additions to Codes are in *single-underline* italics Times New Roman font. Deletions to Codes are in *strikethrough* italics Times New Roman font. Board amendment additions are in double-underscored Arial font. Board amendment deletions are in strikethrough Arial 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. Findings.

The Planning Department has determined that the actions contemplated in this ordinance comply with the California Environmental Quality Act (California Public Resources Code Sections 21000 et seq., “CEQA”). This determination is on file with the Clerk of the Board of Supervisors in File No. 181212 and is incorporated herein by reference. The Board affirms this determination.
Section 2. The Administrative Code is amended by adding Chapter 41B, consisting of Sections 41B.1 through 41B.14, to read as follows:

**CHAPTER 41B: COMMUNITY OPPORTUNITY TO PURCHASE ACT**

**SEC. 41B.1. FINDINGS AND PURPOSE.**

(a) The City faces a severe and continuing housing crisis. Many City residents are unable to obtain or retain affordable housing.

(b) This crisis has profoundly negative effects on the City. It causes dislocation, which frays the social ties that bind our neighborhoods and communities together. It forces vulnerable residents to leave their home, the City, for new communities where they are strangers. And it contributes to homelessness—which is itself a severe and continuing crisis in the City.

(c) The City’s housing crisis is caused, in large part, by a shortage of affordable rental housing. The creation and preservation of such housing is therefore of paramount public concern.

(d) One obstacle to the creation and preservation of affordable rental housing is rapid turnover in the City’s real estate market. Nonprofit organizations seeking to create and preserve affordable housing may be willing and able to pay market prices to purchase residential buildings for sale, but nevertheless find themselves unable to purchase such buildings before they leave the market. Nonprofit organizations serving the broader public interest must often move more deliberately and borrow purchase money from non-traditional lenders in such real estate transactions than private entities concerned solely with profit.

(e) The purpose of this Chapter 41B (which may be referred to as the “Community Opportunity to Purchase Act”) is to enhance nonprofit organizations’ ability to purchase multi-family residential buildings, at market prices, within a reasonable period of time, and to thereby promote the creation and preservation of affordable rental housing.
This Chapter 41B is intended to complement existing anti-displacement and preservation programs administered by the Mayor's Office of Housing and Community Development (the "Agency"). In particular, this Chapter is intended to complement the Small Sites Program and Preservation and Seismic Safety ("PASS") program.

(1) The Small Sites Program was created to establish and protect long-term affordable housing in smaller properties throughout the City, particularly at sites where market pressures may otherwise result in tenant evictions and rising rents. By January 2019, the Small Sites Program had empowered local nonprofit housing organizations to preserve 28 buildings, containing 205 residential units and 13 commercial spaces.

(2) The PASS program provides low-cost, long-term senior financing to fund the acquisition, rehabilitation, seismic retrofitting, and preservation of affordable multi-family housing, funded through bond revenues previously approved by City voters. It is anticipated that the PASS program will preserve up to 1,400 units of affordable housing in the City.

SEC. 41B.2. DEFINITIONS.

For purposes of this Chapter 41B, the following definitions apply:

"Agency" means the Mayor's Office of Housing and Community Development, or any successor agency, department, or office.

"Area Median Income" means the Unadjusted Area Median Income published by the U.S. Department of Housing and Urban Development for the geographic area that includes the City.

"City" means the City and County of San Francisco.

"Fee Interest" means ownership of real property in fee simple absolute.

"Multi-Family Residential Building," or "Building," means any privately-owned real property in San Francisco improved with three or more residential rental units (whether or not the property also includes non-residential uses), any privately-owned real property on which three or more residential
units are under construction, and any privately-owned vacant lot on which the Planning Code and
other applicable laws would permit the construction of three or more residential rental units.

“Notice of Special Restrictions” means an agreement executed by a Qualified Nonprofit
and recorded against a Multi-Family Residential Building Purchased by such Qualified
Nonprofit, substantially in the form published by the Agency.

“Purchase of a Multi-Family Residential Building,” or “Purchase,” means to acquire any
interest that is transferred pursuant to the Sale of a Multi-Family Residential Building.

“Purchaser” means the individual, individuals, entity, or entities engaged, or seeking to
engage, in the Purchase of a Multi-Family Residential Building.

“Sale of a Multi-Family Residential Building,” or “Sale,” is defined in Section 41B.3.

“Sell” means to engage in the Sale of a Multi-Family Residential Building.

“Seller” means the individual, individuals, entity, or entities engaged, or seeking to engage, in
the Sale of a Multi-Family Residential Building.

“Qualified Nonprofit” is defined in Section 41B.4(a).

SEC. 41B.3. “SALE OF A MULTI-FAMILY RESIDENTIAL BUILDING” DEFINED.

(a) General Definition. As used in this Chapter 41B, “Sale of a Multi-Family Residential
Building,” or “Sale,” means any of the following:

(1) The transfer, in exchange for money or any other thing of economic value, of a
present interest in the Multi-Family Residential Building, including beneficial use, where the value of
the present interest is the Fee Interest in the Multi-Family Residential Building, or substantially equal
to the value of that Fee Interest:

(2) If an interest in the Multi-Family Residential Building is held by a trust, the
transfer, in exchange for money or any other thing of economic value, of a beneficial interest in the
trust, where the value of the beneficial interest in the trust is substantially equal to the value of the Fee Interest of the Multi-Family Residential Building; or

(3) If an interest substantially equal to the value of the Fee Interest of the Multi-Family Residential Building is held by any kind of corporate entity or partnership (including, but not limited to, a corporation, limited liability company, general partnership, limited partnership, or limited liability partnership), and if that interest is substantially equal in value to the total value of assets held by the corporate entity or partnership, the transfer, in exchange for money or any other thing of economic value, of a controlling interest in the corporate entity or partnership.

(b) Multiple Owners. For purposes of this Section 41B.3, in any instance in which multiple entities (whether those entities are natural persons, trusts, corporate entities, partnerships, or any other kind of entity, or any combination of different kinds of entities) hold interests in a Multi-Family Residential Building, the transfer of multiple interests by or in those entities shall be considered the transfer of a single interest, if the transfers are made in connection with substantially the same transaction or set of transactions.

(c) Exclusions. Notwithstanding subsections (a) and (b), “Sale of a Multi-Family Residential Building,” or “Sale,” does not include any of the following:

(1) Any transfer made under a mortgage, deed of trust, or deed in lieu of foreclosure;

(2) Any transfer made in connection with any bankruptcy proceeding (including, but not limited to, any transfer made by a bankruptcy trustee);

(3) Any transfer of an interest in real property held by the Federal government, by the State government, or by any special district created by State law (including, but not limited to, any transfer of any such interest held because of a taxpayer’s nonpayment of tax);
(4) Any transfer by devise or intestacy, or any other transfer made in connection with a bona fide effort to pass an interest in real property to one’s devisees or heirs (including, but not limited to, such transfers made in connection with a living trust); or

(5) Any transfer between or among spouses, domestic partners, siblings (including, but not limited to, half-siblings, step-siblings, and adoptive siblings), parents (including, but not limited to, step-parents and adoptive parents) or guardians and their children, grandparents and their grandchildren, aunts or uncles and their nieces or nephews, great-aunts or great-uncles and their grand-nieces or grand-nephews, or first or second cousins, or any combination thereof.

(6) Any transfer of an interest in a Multi-Family Residential Building income-restricted at or below an average of 80% of Area Median Income for a minimum of 10 years, if such transfer is to an entity controlled by a California public benefit corporation, and that entity also participates in the management, direction, or control of the Building.

SEC. 41B.4. QUALIFIED NONPROFITS.

(a) Annual Selection of Qualified Nonprofits. The Agency shall establish a process for certifying, on an annual basis, nonprofit organizations that meet the following criteria:

(1) The organization is a bona fide nonprofit, as evidenced by the fact that it is exempt from federal income tax under 26 U.S.C. § 501(c)(3);

(2) The organization has demonstrated a commitment to the provision of affordable housing for low- and moderate-income City residents, and to preventing the displacement of such residents;

(3) The organization has demonstrated a commitment to community engagement, as evidenced by relationships with neighborhood-based organizations or tenant counseling organizations;
(4) The organization has demonstrated the capacity (including, but not limited to, the legal and financial capacity) to effectively acquire and manage residential real property at multiple locations in the City; and

(5) The organization has, within the previous three years, acquired or partnered with another nonprofit housing development organization to acquire at least two residential buildings under a "Small Sites" program operated by the Agency consistent with Section 415.5(f)(2)(A) of the Planning Code, or using funding provided by the Agency, or has acquired or partnered with another nonprofit organization to acquire at least two residential buildings under this Chapter 41B.

Nonprofit organizations that the Agency certifies as having met these criteria shall be known as "Qualified Nonprofits." An organization's certification as a Qualified Nonprofit shall be valid for a period not to exceed one year, but three years. The Agency shall solicit new applications for Qualified Nonprofit status at least once each calendar year, at which time existing Qualified Nonprofits shall be eligible to apply for renewed certification as Qualified Nonprofits. In the absence of new information raising doubts about whether the organization qualifies as a Qualified Nonprofit, an existing Qualified Nonprofit's application for renewed certification as a Qualified Nonprofit shall be routinely and swiftly granted.

(b) Existence and Publication of Qualified Nonprofits List. The Agency shall publish on its website, and make available upon request, a list of Qualified Nonprofits. In addition to such other information as the Agency may include, this list shall include contact information for each Qualified Nonprofit. This contact information shall include, but need not be limited to, a mailing address, an e-mail address that the Qualified Nonprofit monitors regularly, and a telephone number.

(c) Disqualification of Qualified Nonprofits. The Agency shall promptly investigate any complaint alleging that a Qualified Nonprofit has failed to comply with this Chapter 41B. If, after providing the Qualified Nonprofit with notice and opportunity to be heard, the Agency determines that
a nonprofit organization listed as a Qualified Nonprofit has failed to comply with this Chapter, the
Agency may suspend or revoke that nonprofit organization’s certification as a Qualified Nonprofit.

SEC. 41B.5. GENERAL PROVISIONS.

(a) First Right to Purchase Conferred. This Chapter 41B shall be construed to confer
upon each Qualified Nonprofit a first right to purchase any Multi-Family Residential Building for Sale
in the City. This first right to purchase shall consist of both a right of first offer, as set forth in Section
41B.6, and a right of first refusal, as set forth in Section 41B.7.

(b) Confidential Information Protected. Any information obtained from a Seller by a
Qualified Nonprofit under this Chapter 41B—including, but not limited to, disclosures made under
Section 41B.6(c) and (e), and terms and conditions of an offer of Sale made under Section 41B.7(b)—
shall be kept confidential to the maximum extent permitted by law, except that a Qualified Nonprofit
may, if otherwise permitted by law, share such information with other Qualified Nonprofits to facilitate
Qualified Nonprofits’ exercise of the rights conferred by this Chapter. Nothing in this Chapter permits
or requires the disclosure of information where such disclosure is otherwise prohibited by law.

(c) Preexisting Rights Unaffected. This Chapter 41B shall not be construed to impair any
contract, or affect any property interest held by anyone other than the Seller of a Multi-Family
Residential Building (including, but not limited to, any interest held under a mortgage, deed of trust, or
other security interest; any option to purchase; or any right of first offer or right of first refusal), in
existence before the effective date of this Chapter.

SEC. 41B.6. RIGHT OF FIRST OFFER.

(a) General Construction. This Section 41B.6 shall be construed to confer upon each
Qualified Nonprofit a right of first offer with respect to any Multi-Family Residential Building for Sale

in the City, as set forth in this Section. This right of first offer is cumulative with the right of first refusal set forth in Section 41B.7.

(b) Opportunity for Qualified Nonprofits to Submit Offers. Before the Seller of a Multi-Family Residential Building may offer that Building for Sale to any Purchaser other than a Qualified Nonprofit, or otherwise solicit any offer to Purchase that Building from any Purchaser other than a Qualified Nonprofit, the Seller shall notify each Qualified Nonprofit, via e-mail, of its intent to Sell the Building, and shall provide each Qualified Nonprofit with an opportunity to make an offer to Purchase the Building as set forth in subsections (d)–(f). The Seller shall submit this notification on the same calendar day and, to the extent possible, at the same time, to each of the e-mail addresses included on the Agency’s list of Qualified Nonprofits pursuant to Section 41B.4(b).

(c) Related Disclosures. When the Seller, pursuant to subsection (b), notifies each Qualified Nonprofit, via e-mail, of its intent to sell a Multi-Family Residential Building, the Seller shall also provide each Qualified Nonprofit with the following information:

1. The number of rental units in the Building;
2. The address or location of each rental unit; and
3. The rate of rent due for each unit.

(d) Time for Qualified Nonprofits to Express Interest. No later than 11:59 p.m. on the fifth full calendar day after a Seller has, pursuant to subsection (b), notified each Qualified Nonprofit, via e-mail, of its intent to Sell a Multi-Family Residential Building, each Qualified Nonprofit shall notify the Seller and every other Qualified Nonprofit, via e-mail, as to whether or not that the Qualified Nonprofit wishes to further consider whether to make an offer to Purchase the Building. If, after 11:59 p.m. on the fifth full calendar day after a Seller has notified each Qualified Nonprofit of its intent to Sell the Building, no Qualified Nonprofit has notified the Seller that it wishes to further consider whether to make an offer to Purchase the Building, the Seller may immediately proceed to offer the Building for Sale to, and to solicit offers of Purchase from, prospective Purchasers other...
than Qualified Nonprofits, subject to the right of first refusal set forth in Section 41B.7. If, at or before
11:59 p.m. on the fifth full calendar day after a Seller has notified each Qualified Nonprofit of its intent
to Sell the Building, each Qualified Nonprofit has notified the Seller that the Qualified Nonprofit does
not wish to further consider whether to make an offer to Purchase the Building, the Seller may likewise
immediately offer the Building for Sale to, and solicit offers of Purchase from, prospective Purchasers
other than Qualified Nonprofits, subject to the right of first refusal set forth in Section 41B.7.

(e) Additional Disclosures. If, no later than 11:59 p.m. on the fifth full calendar day after a
Seller has notified each Qualified Nonprofit of its intent to Sell a Multi-Family Residential Building,
the any Qualified Nonprofit has, consistent with subsection (d), notified the Seller that the Qualified
Nonprofit wishes to further consider whether to make an offer to Purchase the Building, the Seller shall
disclose to the each such Qualified Nonprofit, via e-mail, the name or names of any tenant or tenants
in each rental unit of the Building, as well as any available contact information for each tenant.

(f) Time for Qualified Nonprofits to Make Offer. Upon receipt, via e-mail, of the
disclosures described in subsection (e), the each such Qualified Nonprofit (that is, each Qualified
Nonprofit that has, consistent with subsection (d), notified the Seller that the Qualified
Nonprofit wishes to further consider whether to make an offer to Purchase the Building) shall
have 25 additional calendar days to decide whether to make an offer to Purchase the Building, and to
submit any such offer to the Seller. Any such offer of Purchase shall be presumed to be contingent
upon the Qualified Nonprofit’s ability to conduct due diligence and secure financing in a manner
consistent with subsection (g), unless the Seller and the Qualified Nonprofit expressly agree otherwise
in writing.

(g) Seller Free to Accept or Reject Offer. The Seller is free to accept or reject any offer of
Purchase submitted by a Qualified Nonprofit under subsection (e). Any such acceptance or rejection
shall be communicated in writing. If the Seller rejects all such offers of Purchase, or if the 25-day
period described in subsection (e) has elapsed and no Qualified Nonprofit has submitted an offer of
Purchase, the Seller may immediately offer the Building for Sale to, and solicit offers of Purchase from, prospective Purchasers other than Qualified Nonprofits, subject to the right of first refusal set forth in Section 41B.7.

(h) **Seller’s Acceptance of Offer.** If the Seller accepts an offer of Purchase submitted by a Qualified Nonprofit, the Qualified Nonprofit shall have 60 days to conduct due diligence and secure financing related to the Purchase, unless the Seller and the Qualified Nonprofit have expressly agreed otherwise in writing. At the end of this 60-day period (or any other period to which the Seller and the Qualified Nonprofit have expressly agreed in writing), the Seller shall proceed to Sell the Multi-Family Residential Building to the Qualified Nonprofit in a manner consistent with the Qualified Nonprofit’s offer of Purchase.

SEC. 41B.7. **RIGHT OF FIRST REFUSAL.**

(a) **General Construction.** This Section 41B.7 shall be construed to confer upon each Qualified Nonprofit a right of first refusal, as set forth in this Section, with respect to any Multi-Family Residential Building for sale in the City, as set forth in this Section. This right of first refusal is cumulative with the right of first offer set forth in Section 41B.6, which that Qualified Nonprofit has previously made an offer of purchase under Section 41B.6(f), or for which that Qualified Nonprofit was not previously given the opportunity described in Section 41B.6(b).

(b) **Written Offer of Sale to Qualified Nonprofits; Terms and Conditions Set by Market.** Except as provided in subsection (f), whenever the Seller of a Multi-Family Residential Building receives from a Purchaser other than a Qualified Nonprofit an offer to Purchase the Multi-Family Residential Building that the Seller wishes to accept, and whenever the Seller of a Multi-Family Residential Building makes an offer to Sell the Multi-Family Residential Building that a Purchaser other than a Qualified Nonprofit expresses a desire to accept, the Seller shall, before any such offer of Purchase or Sale may be accepted, offer to Sell the Building to each any Qualified Nonprofit that has...
previously made an offer of purchase under Section 41B.6(f) with respect to that Building, or 
that was not previously given the opportunity described in Section 41B.6(b) with respect to 
that Building. This Any such offer of Sale to a Qualified Nonprofits shall contain the same terms and 
conditions (including, but not limited to, price) as the offer of Purchase previously received by the 
Seller which the Seller wishes to accept or the offer of Sale previously made by the Seller which a 
Purchaser has expressed a desire to accept, except that the terms and conditions in the offer of Sale to 
a Qualified Nonprofits shall not be inconsistent with the applicable timeframe described in subsection 
(c) or (d). The Such an offer of Sale to a Qualified Nonprofits shall be submitted in writing, on the 
same calendar day (and, to the extent possible, at the same time), to each of the e-mail addresses 
included on the Agency's list of Qualified Nonprofits for any Qualified Nonprofits that have 
previously made an offer of purchase under Section 41B.6(f) with respect to the relevant 
Building, or that were not previously given the opportunity described in Section 41B.6(b) with 
respect to that Building. If the Seller has not previously made the disclosures set forth in Section 
41B.6(c) and Section 41B.6(e) with respect to the Multi-Family Residential Building, the Seller shall 
include those disclosures with the any offer of Sale required by this subsection (b).

(c) Time for Qualified Nonprofits to Accept Offer, in General. Except as provided in 
subsection (d), no later than 11:59 p.m. on the fifth full calendar day after a Seller has submitted an 
offer of Sale under subsection (b) to a Qualified Nonprofit via e-mail, that Qualified Nonprofit shall 
notify the Seller and every other Qualified Nonprofit, via e-mail, of its decision to accept or reject the 
Seller's offer of Sale. If, during this time period, any Qualified Nonprofit that has received such an 
offer of Sale decides to accept the Seller's offer of Sale, that Qualified Nonprofit shall immediately 
notify the Seller and every other Qualified Nonprofit of that decision, via e-mail. After a Qualified 
Nonprofit notifies the Seller of its decision to accept the Seller's offer of Sale, and notwithstanding any 
defect in that Qualified Nonprofit's notice to other Qualified Nonprofits, that Qualified Nonprofit shall
be deemed to have accepted the offer of Sale, and no other Qualified Nonprofit may accept the Seller’s offer of Sale, whether or not the time period described in this subsection (c) has elapsed.

(d) **Time for Qualified Nonprofits to Accept Offer, Absent Prior Opportunity to Exercise Right of First Offer.** Notwithstanding subsection (c), if Qualified Nonprofits have not previously had an opportunity to exercise the right of first offer set forth in Section 41B.6 with respect to the Sale of a Multi-Family Residential Building (because, for example, the Seller of the Building has received an unsolicited offer to Purchase the Building), each Qualified Nonprofit shall notify the Seller and every other Qualified Nonprofit, via e-mail, of its decision to accept or reject the Seller’s offer of Sale no later than 11:59 p.m. on the 30th full calendar day after the Seller has, pursuant to subsection (b), notified the Qualified Nonprofit of its intent to Sell a Multi-Family Residential Building. If, during this time period, any Qualified Nonprofit decides to accept the Seller’s offer of Sale, that Qualified Nonprofit shall immediately notify the Seller and every other Qualified Nonprofit of that decision, via e-mail. After a Qualified Nonprofit notifies the Seller of its decision to accept the Seller’s offer of Sale, and notwithstanding any defect in that Qualified Nonprofit’s notice to other Qualified Nonprofits, that Qualified Nonprofit shall be deemed to have accepted the offer of Sale, and no other Qualified Nonprofit may accept the Seller’s offer of Sale, whether or not the time period described in this subsection (d) has elapsed.

(e) **Qualified Nonprofit’s Acceptance of Offer.** If, in accordance with subsection (c) or (d), as applicable, a Qualified Nonprofit notifies the Seller that the Qualified Nonprofit has decided to accept the Seller’s offer of Sale, the Seller shall proceed to Sell the Multi-Family Residential Building to that Qualified Nonprofit in a manner consistent with the offer of Sale. A Qualified Nonprofit that so notifies the Seller (that is, before any other Qualified Nonprofit so notifies the Seller) shall be obliged to Purchase the Multi-Family Residential Building in a manner consistent with the offer of Sale.

(f) **Qualified Nonprofits’ Rejection of Offer.** If, at or before the deadline set forth in subsection (c) or (d), as applicable, each Qualified Nonprofit that has received an offer of Sale has
notified the Seller that it does not wish to accept the Seller’s offer of Sale, the Seller may immediately proceed with the Sale of the Multi-Family Residential Building, consistent with the offer of Purchase or offer of Sale that the Seller previously received from, or made to, a Purchaser other than a Qualified Nonprofit, as described in subsection (b). If, after the deadline set forth in subsection (c) or (d), as applicable, no Qualified Nonprofit has notified the Seller that it has decided to accept the Seller’s offer of Sale, the Seller may likewise immediately proceed with the Sale of the Multi-Family Residential Building, consistent with such offer of Purchase or offer of Sale. If, however, the Seller does not proceed with the Sale of the Building in a manner consistent with such offer of Purchase or offer of Sale, and instead receives from a Purchaser other than a Qualified Nonprofit a materially different offer to Purchase the Multi-Family Residential Building that the Seller wishes to accept, or makes a materially different offer to Sell the Multi-Family Residential Building that a Purchaser other than a Qualified Nonprofit expresses a desire to accept, that materially different offer of Purchase or offer of Sale shall be considered a new offer of Purchase or offer of Sale for purposes of subsection (b).

**Conditional Third-Party Sales Agreements Permitted.** If, as described in subsection (b), the Seller of a Multi-Family Residential Building receives from a Purchaser other than a Qualified Nonprofit an offer to Purchase the Multi-Family Residential Building that the Seller wishes to accept, or if the Seller of a Multi-Family Residential Building makes an offer to Sell the Multi-Family Residential Building that a Purchaser other than a Qualified Nonprofit expresses a desire to accept, that offer of Sale or offer of Purchase may be accepted subject to the contingency that no Qualified Nonprofit exercises the right of first refusal conferred by this Section 41B.7. In such a circumstance, the Seller and the Purchaser shall each expressly acknowledge, in writing, that the Purchaser’s Purchase of the Multi-Family Building will not occur if a Qualified Nonprofit exercises the right of first refusal conferred by this Section.
SEC. 41B.8. PRESERVATION AS RENT-RESTRICTED AFFORDABLE HOUSING; TENANT PROTECTIONS.

(a) **Existing Tenants Protected.** Following the Purchase of a Multi Family Residential Building by a Qualified Nonprofit under the first right-to-purchase conferred by this Chapter 41B, each existing residential tenant in the Building shall be permitted to retain that tenant's existing leasehold interest according to the terms (including, but not limited to, duration) of that tenant's existing lease.

(b) **Affordable Housing Preserved.** Any Multi-Family Residential Building Purchased by a Qualified Nonprofit under the first-right-to-purchase conferred by this Chapter 41B shall be maintained as rent-restricted affordable housing in perpetuity. For purposes of this subsection (b), "rent-restricted affordable housing" shall mean that the mean value of all rents paid by residential tenants in the Building shall not exceed 80% of Area Median Income, and that the gross household income of new tenants in the Building shall not exceed 120% of Area Median Income. The Agency shall establish procedures to ensure that each Building acquired under this Chapter is subject to a Notice of Special Restrictions setting that: (a) sets forth the manner in which that Building shall be preserved as rent-restricted affordable housing, and (b) provides that no existing residential tenants at the time of the Purchase or new residential tenants following the Purchase may be evicted without just cause consistent with the substantive provisions of Administrative Code Section 37.9(a).

SEC. 41B.9. INCENTIVES.

(a) **Access to Buyers.** The Agency shall endeavor to maintain and publicize the list of Qualified Nonprofits described in Section 41B.4 in a manner that, to the maximum extent feasible, promotes the existence of the Qualified Nonprofits as a readily accessible pool of potential buyers for Multi-Family Residential Buildings. The Agency shall, to the maximum extent permitted by law and
otherwise feasible, publicize the existence of this list in a manner intended to facilitate voluntary sales

to Qualified Nonprofits in a manner that avoids or minimizes the need for a broker, other search costs,
or other transaction costs.

(b) Partial City Transfer-Tax Exemption. The Board of Supervisors may, by
ordinance, provide that a Qualified Nonprofit’s Purchase of a Multi-Family Residential Building
under the right of first offer set forth in Section 41B.6 is exempt from the increased rate of tax
imposed by Business and Tax Regulations Code Section 1102(d)–(f), to the extent permitted
by, and in a manner consistent with, Section 1102. As set forth in Section 1108.6 of the
Business and Tax Regulations Code, the increased tax rate imposed by subsections (d), (e),
and (f) of Business and Tax Regulations Code Section 1102 shall not apply with respect to
any deed, instrument or writing that effects a transfer under Section 41B.6 of this
Administrative Code, as Administrative Code Section 41B.6 exists as of the effective date of
the ordinance in Board File No. 181212 .

(c) Potential Federal Tax Benefits. Any Qualified Nonprofit that Purchases a Multi-
Family Residential Building under the right of first offer set forth in Section 41B.6 shall, to the
maximum extent permitted by law and otherwise feasible, be obliged to work with the Seller in good
faith to facilitate an exchange of real property of the kind described in 26 U.S.C. § 1031, for the
purpose of facilitating the Seller’s realization of any federal tax benefits available under that section of
the Internal Revenue Code.

(d) Information to Sellers. The Agency shall produce an information sheet describing the
benefits of a Seller’s decision to accept a Qualified Nonprofit’s offer of Purchase made in connection
with the right of first offer set forth in Section 41B.6. The information sheet shall further explain that,
even if a Seller does not accept a Qualified Nonprofit’s offer to Purchase a Multi-Family Residential
Building pursuant to the right of first offer set forth in Section 41B.6, the Building will still be subject to
the right of first refusal set forth in Section 41B.7. The information sheet shall contain a field in which
the Seller may acknowledge, in writing, that the Seller (or the Seller’s authorized representative) has read and understood the information sheet. A Qualified Nonprofit that makes an offer to Purchase a Multi-Family Residential Building under the right of first offer set forth in Section 41B.6 shall include a copy of, or link to, this information sheet with that offer of Purchase, but any failure to comply with this Section 41B.9(d) shall have no effect on a Qualified Nonprofit’s exercise of the right of first offer set forth in Section 41B.6.

SEC. 41B.10. ENFORCEMENT.

(a) Seller Certification. Every Seller of a Multi-Family Residential Building in the City shall, within 15 days of the Sale of that Building, submit to the Agency a signed declaration, under penalty of perjury, affirming that the Sale of that Building substantially complied with the requirements of this Chapter 41B. Each such declaration shall include the address of the relevant Building; the Agency shall publish all such addresses on its website at least once per week. Failure to file the declaration required by this subsection (a) shall be an infraction punishable to the maximum extent provided by Section 36900(b) of the California Government Code.

(b) Civil Action. In the event that a Seller Sells a Multi-Family Residential Building without substantially complying with the requirements of this Chapter 41B, a Qualified Nonprofit may institute a civil action, in a court of competent jurisdiction, to remedy that violation of this Chapter, in a manner consistent with subsections (c) and (d).

(c) Remedies. Remedies in a civil action brought under this Section 41B.10 shall include, but need not be limited to, the following, which may be imposed cumulatively:

(1) Damages in an amount sufficient to remedy the harm to the Qualified Nonprofit. There shall be a rebuttable presumption that this amount is equal to the difference between the price of the relevant Multi-Family Residential Building at the time of the Sale made in violation of this Chapter
41B, and the price for which the Qualified Nonprofit could purchase that Multi-Family Residential Building at the time when damages are awarded:

(2) If the Seller's violation of this Chapter was knowing or willful, mandatory civil penalties in an amount proportional to the culpability of the Seller and the value of the relevant Multi-Family Residential Building. There shall be a rebuttable presumption that this amount is equal to 10% of the Sale price of the Multi-Family Residential Building for a first willful or knowing violation of this Chapter, 20% of the Sale price for a second willful or knowing violation, and 30% of the Sale price for each subsequent willful or knowing violation. Civil penalties assessed under this subsection (b)(2) shall be payable to the Citywide Affordable Housing Fund established by Section 10.100-49 of the Administrative Code:

(3) Reasonable attorneys' fees; and

(4) Such other remedies as might be available under State law, except to the extent that any such remedies would be inconsistent with subsection (d).

(d) Limitation on Remedies. Any remedy imposed in a civil action under this Section 41B.10 shall be imposed only against the Seller or a party that has willfully colluded with the Seller to violate this Chapter 41B. In no event shall any such remedy deprive the Purchaser of a Multi-Family Residential Building of any interest in that Multi-Family Residential Building, or otherwise affect any property interest held by the Purchaser, unless the Purchaser willfully colluded with the Seller to violate this Chapter.

SEC. 41B.11. IMPLEMENTATION.

The Agency shall have the power to interpret and implement this Chapter 41B. The Agency shall, within 90 days of the effective date of this Chapter, promulgate appropriate rules or regulations interpreting and implementing this Chapter, including the establishment of procedures to implement
this Chapter, in a manner that the Agency deems most appropriate. The Agency may thereafter revise those rules or regulations from time to time.

SEC. 41B.12. UNDERTAKING FOR THE GENERAL WELFARE.

In enacting and implementing this Chapter 41B, 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.

SEC. 41B.13. CONSTRUCTION WITH OTHER LAWS.

Nothing in this Chapter 41B shall be construed to conflict with any State or Federal law, or with any provision of the Charter.

SEC. 41B.14. SEVERABILITY.

If any section, subsection, sentence, clause, phrase, or word of this Chapter 41B, 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 Chapter. The Board of Supervisors hereby declares that it would have passed this Chapter 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 Chapter or application thereof would be subsequently declared invalid or unconstitutional.

Section 3. Article 12C of the Business and Tax Regulations Code is amended by adding Section 1108.6, to read as follows:
SEC. 1108.6. PARTIAL EXEMPTION FOR RENT-RESTRICTED AFFORDABLE HOUSING; COMMUNITY OPPORTUNITY TO PURCHASE ACT.

(a) Exemption from Increased Tax Rate. As authorized by the last sentence of Section 1102, the increased tax rate imposed by subsections (d), (e), and (f) of Section 1102 shall not apply with respect to any deed, instrument or writing that effects a transfer under Section 41B.6 of the Administrative Code, as that Section 41B.6 exists as of the effective date of this Section 1108.6. The lower tax rate imposed by subsection (c) of Section 1102 shall apply to the entire consideration or value of the interest or property conveyed by a deed, instrument or writing that is subject to the exemption in this subsection (a).

(b) Requirements for Exemption. Every person claiming the exemption under subsection (a) must:

(1) Obtain from the Mayor's Office of Housing and Community Development, or its successor agency, department, or office, a certificate confirming that the deed, instrument or writing effects a transfer under Section 41B.6 of the Administrative Code.

(2) Submit the certificate described in subsection (b)(1) of this Section 1108.6 to the County Recorder at the time such person submits the affidavit described in subsection (c) or (d) of Section 1111.

(c) Operative Date. This Section 1108.6 shall apply to all deeds, instruments, or writings that are delivered on or after the effective date of the ordinance in Board File No., but on or before the sunset date in subsection (d).

(d) Sunset Date. This Section 1108.6 shall expire by operation of law on June 30, 2024, and shall not apply to any deeds, instruments, or writings that are delivered on or after July 1, 2024.
Section 34. Effective Date. This ordinance shall become effective 30 days after enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board of Supervisors overrides the Mayor's veto of the ordinance.

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

By:  
JON GIVNER
Deputy City Attorney
File Number: 181212  Date Passed: April 23, 2019

Ordinance amending the Administrative Code to confer upon certain nonprofit organizations a first-right-to-purchase, consisting of both a right of first offer and a right of first refusal, over all multi-family residential buildings (and related construction sites and vacant lots) in the City, for the purpose of creating and preserving rent-restricted affordable rental housing, and to establish related procedures for the selection of such nonprofits, the preservation of rent-restricted affordable housing, and other implementation and enforcement; amending the Business and Tax Regulations Code to exempt rent-restricted affordable housing created under this ordinance from increased rates of transfer tax; and affirming the Planning Department's determination under the California Environmental Quality Act.

April 03, 2019 Budget and Finance Sub-Committee - AMENDED, AN AMENDMENT OF THE WHOLE BEARING NEW TITLE

April 03, 2019 Budget and Finance Sub-Committee - CONTINUED AS AMENDED

April 10, 2019 Budget and Finance Sub-Committee - RECOMMENDED

April 16, 2019 Board of Supervisors - PASSED ON FIRST READING
   Ayes: 11 - Brown, Fewer, Haney, Mandelman, Mar, Peskin, Ronen, Safai, Stefani, Walton and Yee

April 23, 2019 Board of Supervisors - FINALLY PASSED
   Ayes: 11 - Brown, Fewer, Haney, Mandelman, Mar, Peskin, Ronen, Safai, Stefani, Walton and Yee
I hereby certify that the foregoing Ordinance was FINALLY PASSED on 4/23/2019 by the Board of Supervisors of the City and County of San Francisco.

Angela Calvillo
Clerk of the Board

London N. Breed
Mayor

Date Approved

5/3/19