

1 [Approval of TEFRA Hearing for Proposed Loan - Asian Art Museum Foundation - Not to  
2 Exceed \$98,400,000]

3 **Resolution approving the TEFRA Hearing in accordance with Section 147(f) of Internal**  
4 **Revenue Code for proposed loan among JPMorgan Chase Bank, National Association,**  
5 **the California Enterprise Development Authority, and the Asian Art Museum**  
6 **Foundation.**

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8 WHEREAS, The Asian Art Commission of the City and County of San Francisco (the  
9 "Commission") is a commission of the City and County of San Francisco (the "City") organized  
10 and operating under the provisions of Article V of the San Francisco Charter (the "Charter")  
11 and is mandated by Charter Section 5.104 to develop and administer the museum currently  
12 known as the Asian Art Museum of San Francisco (the "Museum") and located in the City and  
13 County of San Francisco (the "City"); and;

14 WHEREAS, To facilitate the development and administration of the Museum, the  
15 Commission and the Asian Art Museum Foundation (the "Foundation") entered into a Museum  
16 Project Facilitation Agreement (the "Project Agreement"), dated September 8, 2000; and;

17 WHEREAS, Pursuant to the Project Agreement, Bonds were issued and the proceeds  
18 thereof were loaned to the Foundation to finance the renovation and development of an  
19 existing building to provide the Museum facility; and;

20 WHEREAS, The California Enterprise Development Authority ("Authority") has agreed  
21 to provide a Loan (the "Loan") to the Borrower in an amount not to exceed \$98,400,000 to  
22 retire the currently outstanding California Infrastructure and Economic Development Bank  
23 Variable Rate Revenue Bonds, Series 2005 (Asian Art Museum Foundation of San Francisco)  
24 (the "Project"), simultaneously with the execution of the proposed Loan Agreement; and;  
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1           WHEREAS, The City and County of San Francisco (the "City") is a member of the  
2 Authority; and,

3           WHEREAS, The execution of the Loan Agreement shall be subject to the approval of  
4 and execution by the Authority of all financing documents relating thereto to which the  
5 Authority is a party; and,

6           WHEREAS, The Project is located wholly within the City; and,

7           WHEREAS, The interest on the Loan may qualify for tax exemption under Section 103  
8 of the Internal Revenue Code of 1986, as amended (the "Code") only if the Loan is approved  
9 in accordance with Section 147(f) of the Code; and,

10          WHEREAS, The Board of Supervisors of the City (the "Board") is the elected legislative  
11 body of the City and is one of the applicable elected representatives required to approve the  
12 issuance and execution of the Loan Agreement within the meaning of Section 147(f) of the  
13 Code; and,

14          WHEREAS, The Authority has requested the Board to approve the issuance and  
15 execution of the Loan Agreement in order to satisfy the public approval requirements of  
16 Section 147(f) of the Code and the provisions of the Joint Powers Act, comprising Articles 1,  
17 2, 3 and 4 of Chapter 5 of Division 7 of Title 1 (commencing with Section 6500) of the  
18 Government Code of the State of California (the "Act") and a Joint Exercise of Powers  
19 Agreement, dated June 1, 2006 (the "Joint Powers Agreement"), among the cities of Eureka,  
20 Lancaster and Selma and other public agencies who have and may subsequently become  
21 associate members of Authority thereto (the "Agreement"); and,

22          WHEREAS, On January 12, 2011, the City caused a notice to appear in the *San*  
23 *Francisco Examiner*, which is a newspaper of general circulation in the City, stating that a  
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1 public hearing with respect to the issuance of the Loan would be held by the City's Office of  
2 Public Finance on January 26, 2011; and

3 WHEREAS, The Office of Public Finance held the public hearing described above on  
4 January 26, 2011, and an opportunity was provided for persons to comment on the issuance  
5 and execution of the Loan Agreement and the plan of financing for the Project; now, therefore  
6 be it

7 RESOLVED, That this Board hereby finds and declares the above recitals are true and  
8 correct; and, be it

9 FURTHER RESOLVED, That this Board hereby approves the issuance and execution  
10 of the Loan Agreement by the Authority for the purposes of financing and/or refinancing the of  
11 the Project; and, be it

12 FURTHER RESOLVED, That it is the purpose and intent of this Board that this  
13 Resolution constitute approval by the applicable elected representative of the governmental  
14 unit having jurisdiction over the area in which the Project is located for the purposes of and in  
15 accordance with Section 147(f) of the Code and Article IV of the Agreement; and, be it

16 FURTHER RESOLVED, That the approval of the issuance and execution of the Loan  
17 Agreement by the Authority is neither an approval of the underlying credit issues of the  
18 proposed Project nor an approval of the financial structure of the Loan Agreement; and, be it

19 FURTHER RESOLVED, That the Loan Agreement shall not constitute a debt or  
20 obligation of the City and the payment of the principal, prepayment premium, if any, and  
21 interest on the Loan shall be solely the responsibility of Borrower; and, be it

22 FURTHER RESOLVED, The adoption of this Resolution shall not obligate (i) the City to  
23 provide financing to the Borrower for the acquisition, rehabilitation and development of the  
24 Project or to issue the Loan for purposes of such financing; or (ii) the City, or any department  
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1 of the City, to approve any application or request for, or take any other action in connection  
2 with, any environmental, General Plan, zoning or any other permit or other regulatory action  
3 sought in connection with the Project; and, be it

4 FURTHER RESOLVED, That this Resolution shall take effect immediately upon its  
5 adoption.

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7 APPROVED AS TO FORM:

8 DENNIS J. HERRERA  
9 City Attorney

10 By: \_\_\_\_\_  
11 Mark D. Blake  
12 Deputy City Attorney

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