

1 [Authorizing Certificates of Participation - Concourse Garage Project - Not to Exceed  
2 \$29,000,000]

3 **Ordinance authorizing the execution and delivery of Certificates of Participation on a**  
4 **tax-exempt or taxable basis evidencing and representing an aggregate principal**  
5 **amount of not to exceed \$29,000,000 to fund all or a portion of the acquisition of the**  
6 **Concourse Garage; authorizing the issuance of commercial paper notes in advance of**  
7 **the delivery of the Certificates; approving the form of Trust Agreement between the**  
8 **City and County of San Francisco and the Trustee (including certain indemnities**  
9 **contained therein); authorizing the selection of the Trustee by the Director of Public**  
10 **Finance; approving respective forms of a Property Lease and a Lease Agreement, each**  
11 **between the City and County of San Francisco and the Trustee for the lease and lease**  
12 **back of certain property and facilities of the City; approving the forms of Purchase**  
13 **Contract, Official Notice of Sale, and Notice of Intention to Sell Certificates; directing**  
14 **the publication of the Notice of Intention to Sell Certificates; approving the form of the**  
15 **Preliminary Official Statement and the form and execution of the Official Statement**  
16 **relating to the sale of the Certificates; approving the form of the Continuing Disclosure**  
17 **Certificate; granting general authority to City officials to take necessary actions in**  
18 **connection with the authorization, execution, sale and delivery of the Certificates,**  
19 **including termination of the Ground Lease and transfer of the Concourse Garage**  
20 **property and related property to the City and County of San Francisco under the**  
21 **jurisdiction of the Recreation and Park Commission; approving modifications to**  
22 **documents and agreements; declaring the City's intent to reimburse certain**  
23 **expenditures; and ratifying previous actions taken in connection therewith, as defined**  
24 **herein.**

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

1                   **Deletions to Codes** are in ~~*Times New Roman font*~~.  
2                   **Board amendment additions** are in Arial font.  
3                   **Board amendment deletions** are in ~~Arial font~~.  
4                   **Asterisks (\* \* \* \*)** indicate the omission of unchanged Code  
5                   subsections or parts of tables.

6  
7                   Be it ordained by the People of the City and County of San Francisco:

8                   Section 1. The City and County of San Francisco (“City”), acting by and through the  
9                   Golden Gate Park Concourse Authority ( “Authority”) and the Recreation and Park  
10                  Commission ( “Commission”), leased certain City property under a Ground Lease, dated as of  
11                  February 27, 2004 (as amended, the “Ground Lease”), to the Music Concourse Community  
12                  Partnership.

13                  (a) The property leased under the Ground Lease has been developed into the  
14                  underground parking facility (“Concourse Garage”) contemplated by the Golden Gate Park  
15                  Revitalization Act of 1998 (adopted as Proposition J on June 2, 1998, at an election of the  
16                  voters of the City) (“Proposition J”); and

17                  (b) Proposition J was amended by an ordinance known as Proposition N (“Proposition  
18                  N”) approved by the City’s voters at an election held on November 8, 2022, to permit the City  
19                  to acquire the Concourse Garage and place the Concourse Garage under the jurisdiction of  
20                  the Commission.

21                  (c) The Board of Supervisors ( “Board”) of the City desires to fund all or a portion of the  
22                  costs to acquire the Concourse Garage and related property (“Project”) through the execution  
23                  and delivery of one or more series of certificates of participation (“Certificates”).

24                  (d) The Certificates will be executed and delivered in one or more series on a tax-  
25                  exempt and/or taxable basis pursuant to a trust agreement (“Trust Agreement”) between the  
                    City and the trustee to be named therein ( “Trustee”).

1 (e) In advance of the execution and delivery of the Certificates, the Board desires to  
2 authorize the issuance of commercial paper notes under the City's Commercial Paper  
3 Program (established by the Board through the adoption of resolutions 85-09 and 136-10, as  
4 amended to date) to fund costs of the Project on an interim basis until the Certificates are  
5 executed and delivered to provide permanent financing for the acquisition costs of the  
6 Concourse Garage and related property..

7 (f) In connection with the execution and delivery of the Certificates, the Board desires  
8 to cause the execution of a Property Lease ("Property Lease"), pursuant to which the City will  
9 lease to the Trustee the Concourse Garage property, and/or other property designated by the  
10 Director of Public Finance ("Leased Property"), and a Lease Agreement ("Lease Agreement"),  
11 pursuant to which the Trustee will lease the Leased Property back to the City.

12 (g) The Board has been presented with the form of certain documents and agreements  
13 referred to herein relating to the Certificates, and the Board has examined and is approving  
14 each such document and agreement and desires to authorize the execution of such  
15 documents and agreements and the consummation of such financing.

16 (h) Upon the effectiveness of this Ordinance, all conditions, things and acts required  
17 by law to exist, to happen and to be performed precedent to and as a condition of the  
18 execution and delivery of the Property Lease, the Lease Agreement, the Trust Agreement and  
19 the Certificates will exist, have happened and have been performed in due time, form and  
20 manner in accordance with applicable law, and the City shall be authorized pursuant to its  
21 Charter and other applicable law to execute and deliver the Property Lease, the Lease  
22 Agreement, the Continuing Disclosure Certificate, the Trust Agreement and, if applicable, the  
23 Purchase Contract, and to cause the execution and delivery of the Certificates in the manner  
24 and form provided in this Ordinance.

1 (i) The City has paid and expects to pay certain expenditures in connection with the  
2 Project to be financed by the Certificates prior to the execution and delivery of the Certificates,  
3 and the City intends to reimburse itself and to pay third parties for such prior expenditures  
4 from the proceeds of the Certificates.

5 (j) Section 1.150-2 of the Treasury Regulations promulgated under the Internal  
6 Revenue Code of 1986 (“Reimbursement Regulations”) requires the City to declare its  
7 reasonable official intent to reimburse prior expenditures with the proceeds of a subsequent  
8 borrowing.

9 (k) The Reimbursement Regulations require that any reimbursement allocation of  
10 proceeds of the Certificates to be made with respect to expenditures incurred prior to the  
11 execution and delivery of the Certificates will occur not later than eighteen (18) months after  
12 the later of (i) the date on which the expenditure is paid or (ii) the date on which the facilities  
13 are placed in service, but in no event later than three (3) years after the expenditure is paid.

14 (l) The adoption of this Ordinance shall constitute authorization of the Certificates  
15 within the meaning of Section 864 of the California Code of Civil Procedure and any Validation  
16 Act that is effective after this Ordinance takes effect.

17 Section 2. Findings. The Board hereby finds and determines that the recitals set  
18 forth above are true and correct.

19 Section 3. File Documents. The documents presented to the Board and on file with  
20 the Clerk of the Board or their designee (collectively, the “Clerk”) are contained in File No.  
21 \_\_\_\_\_.

22 Section 4. Authorization of the Certificates. The Board hereby authorizes and  
23 approves the execution and delivery of the Certificates in accordance with the Trust  
24 Agreement. The Board hereby approves the issuance of commercial paper notes from time to  
25 time to fund certain costs relating to the Project. The proceeds of the Certificates will be used

1 to fund (i) costs of the Project, including repayment of commercial paper notes and interest  
2 thereon issued for such purpose; (ii) a debt service or other similar reserve, as appropriate;  
3 (iii) capitalized interest, if any; and (iv) costs of the execution and delivery of the Certificates.  
4 The Certificates shall be designated as “Certificates of Participation (Concourse Garage  
5 Project),” with such other or additional designation, including the year of execution and  
6 delivery, as determined by the Director of Public Finance of the City or their designee, acting  
7 for and on behalf of the City Controller (collectively, the “Director of Public Finance”).

8 The Certificates shall evidence an aggregate principal amount of not to exceed Twenty-  
9 Nine Million Dollars (\$29,000,000), and shall evidence interest at a true interest cost up to but  
10 not to exceed twelve percent (12%) per annum. The Certificates shall be subject to  
11 prepayment as set forth in the Lease Agreement and Trust Agreement. The Director of Public  
12 Finance is hereby authorized, to the extent such officer deems it necessary or advisable and  
13 financially advantageous to the City, to procure credit enhancement for the Certificates,  
14 including but not limited to municipal bond insurance and/or a debt service reserve fund surety  
15 policy.

16 The Director of Public Finance is hereby authorized, to the extent such officer deems it  
17 necessary or advisable and in the interests of the City, to cause the execution and delivery of  
18 the Certificates (i) with interest with respect thereto exempt or not exempt from federal income  
19 tax, and (ii) under any federal tax law provisions which provide for federal grants or credits to  
20 the City or to investors in lieu of the exemption of interest from federal income tax.

21 Section 5. Approval of the Trust Agreement; Authorization of the Selection of the  
22 Trustee. The form of the Trust Agreement between the City and the Trustee, as presented to  
23 the Board, a copy of which is on file with the Clerk, is hereby approved. The Mayor of the City  
24 or their designee (collectively, the “Mayor”) or the City Controller or their designee  
25 (“Controller”) and the General Manager of the Recreation and Park Department or their

1 designee (collectively, the “General Manager of the Recreation and Park Department”) are  
2 hereby authorized to execute and deliver the Trust Agreement, and the Clerk is hereby  
3 authorized to attest to the Trust Agreement, with such changes, additions and modifications  
4 as made or approved in accordance with Section 14 hereof.

5 The Director of Public Finance is hereby authorized to select the Trustee in accordance  
6 with City policies and procedures.

7 Section 6. Approval of the Property Lease. The form of the Property Lease between  
8 the City and the Trustee, as presented to the Board, a copy of which is on file with the Clerk,  
9 is hereby approved. The Mayor or the Controller and the General Manager of the Recreation  
10 and Park Department are hereby authorized to execute and deliver the Property Lease, and  
11 the Clerk is hereby authorized to attest to the Property Lease, with such changes, additions  
12 and modifications as made or approved in accordance with Section 14 hereof.

13 Section 7. Approval of the Lease Agreement. The form of the Lease Agreement  
14 between the City and the Trustee, as presented to the Board, a copy of which is on file with  
15 the Clerk, is hereby approved. The Mayor or the Controller and the General Manager of the  
16 Recreation and Park Department are hereby authorized to execute and deliver the Lease  
17 Agreement, and the Clerk is hereby authorized to attest to the Lease Agreement with such  
18 changes, additions and modifications as made or approved in accordance with Section 14  
19 hereof; provided, however, that the maximum Base Rental (as defined in the Lease  
20 Agreement) to be paid under the Lease Agreement in any fiscal year shall not exceed Three  
21 Million Dollars Dollars (\$3,000,000) and the initial stated term of the Lease Agreement shall  
22 not extend beyond the 35th year following its date of execution, as such initial term may be  
23 extended in accordance with the Lease Agreement.

24 Section 8. Approval of the Leased Property and the Base Rental Payments. The  
25 Board hereby approves the leasing, pursuant to the terms of the Property Lease and the

1 Lease Agreement, of all or a portion of the Leased Property. The Board also hereby approves  
2 the payment by the City of the Base Rental with respect thereto.

3 Section 9. Official Statement. The form of proposed Preliminary Official Statement  
4 describing the Certificates (“Preliminary Official Statement”) submitted to the Board is  
5 approved and adopted as the Preliminary Official Statement describing the Certificates, with  
6 such additions, corrections and revisions as may be determined to be necessary or desirable  
7 made in accordance herewith. The Controller is authorized to cause the distribution of a  
8 Preliminary Official Statement deemed final for purposes of Securities and Exchange  
9 Commission Rule 15c2-12 promulgated under the Securities Exchange Act of 1934, as  
10 amended (“Rule”), and to sign a certificate to that effect. The Director of Public Finance is  
11 authorized and directed to cause to be printed and mailed or electronically distributed to  
12 prospective bidders or purchasers for the Certificates the Preliminary Official Statement in  
13 substantially the form of the Preliminary Official Statement approved and adopted by this  
14 Ordinance, as completed, supplemented, corrected or revised. The Controller is authorized  
15 and directed to approve, execute, and deliver the final Official Statement with respect to the  
16 Certificates, which final Official Statement shall be in the form of the Preliminary Official  
17 Statement, with such additions, corrections and revisions as may be determined to be  
18 necessary or desirable made in accordance herewith and as are permitted under the Rule.  
19 The Director of Public Finance is authorized and directed to cause to be printed and mailed or  
20 electronically distributed the final Official Statement to all actual initial purchasers of the  
21 Certificates.

22 Section 10. Continuing Disclosure Certificate. The form of Continuing Disclosure  
23 Certificate (“Continuing Disclosure Certificate”), to be signed by the Controller to permit the  
24 original purchasers of the Certificates to comply with the Rule, submitted to the Board is  
25 approved and adopted as the Continuing Disclosure Certificate, with such changes, additions

1 and modifications as made or approved in accordance with Section 14 hereof. The Controller  
2 is authorized and directed to execute the Continuing Disclosure Certificate on behalf of the  
3 City and deliver the Continuing Disclosure Certificate to the original purchasers of the  
4 Certificates.

5 Section 11. Sale of the Certificates. The Controller or the Director of Public Finance  
6 is hereby authorized to cause the sale of the Certificates by competitive or negotiated sale. If  
7 sold by competitive sale, the Controller or the Director of Public Finance is hereby authorized  
8 and directed to award the Certificates to the bidder whose bid represents the lowest true  
9 interest cost to the City (as confirmed by the City's municipal advisor) and whose bid  
10 otherwise conforms to the bid requirements contained in the Official Notice of Sale.

11 The form of proposed Notice of Intention to Sell the Certificates ("Notice of Intention to  
12 Sell Certificates") submitted to the Board is approved and adopted as the Notice of Intention  
13 to Sell the Certificates, and the Controller or the Director of Public Finance is authorized and  
14 directed to cause the Notice of Intention to Sell Certificates, subject to such changes,  
15 additions and modifications as made or approved in accordance with Section 14 hereof, to be  
16 published once in *The Bond Buyer* or another financial publication generally circulated  
17 throughout the State of California.

18 If the Controller or the Director of Public Finance determines to sell the Certificates by  
19 negotiated sale, the Controller or the Director of Public Finance is hereby authorized to sell  
20 the Certificates by negotiated sale pursuant to one or more purchase contracts (each, a  
21 "Purchase Contract") by and between the City and the underwriters named therein; provided,  
22 however, that the underwriters' discount under any such Purchase Contract shall not exceed  
23 one and one-half percent (1.5%) of the principal amount of the Certificates.

24 To accomplish the sale of the Certificates by negotiated sale, if applicable, the  
25 Controller or the Director of Public Finance is hereby authorized to appoint one or more



1 financial institutions to act as underwriter for the Certificates in accordance with City policies  
2 and procedures, including but not limited to the City's policy to provide locally disadvantaged  
3 business enterprises an equal opportunity to participate in the performance of all City  
4 contracts.

5 Section 12. Reimbursement. The City declares its official intent to reimburse prior  
6 expenditures of the City incurred prior to the execution and delivery of the Certificates in  
7 connection with the Project or portions thereof with the proceeds of the Certificates. The  
8 Board declares the City's intent to reimburse the City with the proceeds of the Certificates for  
9 the expenditures with respect to the Project ("Expenditures" and each an "Expenditure") made  
10 on and after that date that is no more than 60 days prior to adoption of this Ordinance. The  
11 City reasonably expects on the date of adoption of this Ordinance that it will reimburse the  
12 Expenditures with the proceeds of the Certificates.

13 Each Expenditure was and will be either (a) of a type properly chargeable to a capital  
14 account under general federal income tax principles (determined in each case as of the date  
15 of the Expenditure), (b) a cost of issuance with respect to the Certificates, (c) a nonrecurring  
16 item that is not customarily payable from current revenues, or (d) a grant to a party that is not  
17 related to or an agent of the City so long as such grant does not impose any obligation or  
18 condition (directly or indirectly) to repay any amount to or for the benefit of the City. The  
19 maximum aggregate principal amount of the Certificates expected to be executed and  
20 delivered for the Project is \$29,000,000. The City shall make a reimbursement allocation,  
21 which is a written allocation by the City that evidences the City's use of proceeds of the  
22 Certificates to reimburse an Expenditure, no later than 18 months after the later of the date on  
23 which the Expenditure is paid or the Project is placed in service or abandoned, but in no event  
24 more than three years after the date on which the Expenditure is paid. The City recognizes  
25 that exceptions are available for certain "preliminary expenditures," costs of issuance, certain

1 *de minimis* amounts, expenditures by “small issuers” (based on the year of issuance and not  
2 the year of expenditure) and expenditures for construction projects of at least 5 years.

3 Section 13. Appraisal Not Required. The appraisal requirement in Section 23.14 of  
4 the Administrative Code shall not apply to any transfer contemplated under this Ordinance.

5 Section 14. General Authority. The Mayor, the City Treasurer, the City Attorney, the  
6 City Controller, the City Administrator, the Director of Public Finance, the Clerk, the General  
7 Manager of the Recreation and Park Department, the Director of Transportation and other  
8 officers of the City and their duly authorized deputies, designees and agents are hereby  
9 authorized and directed, jointly and severally, to take such actions and to execute and deliver  
10 such certificates, agreements (including, without limitation, any escrow agreements), requests  
11 or other documents as they may deem necessary or desirable to accomplish the purposes of  
12 this Ordinance, including but not limited to the execution and delivery of the Property Lease,  
13 the Lease Agreement, the Trust Agreement, the Continuing Disclosure Certificate, the  
14 Purchase Contract and the Certificates, a quitclaim deed and/or termination agreement to  
15 evidence termination of the Ground Lease, an agreement regarding transfer of the Project and  
16 Project operations to the City consistent with this Ordinance and the Ground Lease, to obtain  
17 bond insurance and/or other credit enhancements and/or a surety policy with respect to the  
18 Certificates, to obtain title insurance, to clear any encumbrances to title and to carry out other  
19 title work and transfer jurisdiction of the Concourse Garage to the Commission in accordance  
20 with Proposition N. Any such actions are solely intended to further the purposes of this  
21 Ordinance, and are subject in all respects to the terms of this Ordinance. No such actions  
22 shall increase the risk to the City or require the City to spend any resources not otherwise  
23 granted herein. Final versions of any such documents shall be provided to the Clerk of the  
24 Board for inclusion in the official file within 30 days of execution (or as soon thereafter as final  
25 documents are available) by all parties.

1           Section 15. Modifications, Changes and Additions. The Mayor, the City Treasurer,  
2 the Controller, the Director of Public Finance, and the General Manager of the Recreation and  
3 Park Department each are hereby authorized to make such modifications, changes and  
4 additions to the documents and agreements approved hereby, upon consultation with the City  
5 Attorney, as may be necessary or desirable and in the interests of the City, and which  
6 changes do not materially increase the City’s obligations or reduce its rights thereunder or  
7 hereunder. The respective official’s approval of such modifications, changes and additions  
8 shall be conclusively evidenced by the execution and delivery thereof by such official.

9           Section 16. Partial Invalidity. Any provision of this Ordinance found to be prohibited  
10 by law shall be ineffective only to the extent of such prohibition, and shall not invalidate the  
11 remainder of this Ordinance.

12           Section 17. Ratification of Prior Actions. All actions authorized consistent with any  
13 documents presented herein and approved by this Ordinance but heretofore taken are hereby  
14 ratified, approved and confirmed by the Board.

15           Section 18. Effective Date. This Ordinance shall take effect immediately.

16  
17 APPROVED AS TO FORM:  
18 DAVID CHIU, City Attorney

19 By: /s/ MARK D. BLAKE  
20       MARK D. BLAKE  
21       Deputy City Attorney

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