

1 [Issuance and Sale of Tax-Exempt Bonds – Katherine Delmar Burke School.]

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3 **Resolution approving the issuance and sale of tax-exempt bonds by the ABAG Finance**
4 **Authority for Nonprofit Corporations in an aggregate principal amount not to exceed**
5 **\$17,000,000 to finance various capital facilities owned by The Katherine Delmar Burke**
6 **School or an affiliate.**

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8 WHEREAS, The Katherine Delmar Burke School, a California nonprofit corporation
9 (the "Corporation") has requested that the ABAG Finance Authority for Nonprofit
10 Corporations, a joint exercise of powers agency established pursuant to the laws of the State
11 of California (the "Authority") issue and sell its revenue bonds (the "Bonds") in an aggregate
12 principal amount not to exceed \$17,000,000, for the purpose of making a loan (the "Loan") to
13 the Corporation which will finance various capital facilities as more fully described below; and,

14 WHEREAS, The City and County of San Francisco (the "City") is a member of the
15 Authority; and,

16 WHEREAS, The Corporation plans to use the proceeds of the Loan to finance the
17 following (collectively, the "Project"): (1) the construction, acquisition, installation, renovation,
18 rehabilitation and improvement of real property, facilities, equipment and improvements of the
19 School's educational facilities located on its campus at 7070 California Street, San Francisco,
20 California (the "Campus"), including but not limited to: a new and expanded library; state-of-
21 the-art science labs; enhanced fine arts facilities for studio art, drama and music; enhanced
22 gymnasium and performance facility; enhanced ADA compliance; and renovated kindergarten
23 classrooms; (2) miscellaneous construction, renovation, improvements, demolition, capital
24 maintenance, equipment acquisition and installation thereof and improvements at the
25 Campus; and (3) the payment of various costs of issuing the Bonds, capitalized interest and

1 credit enhancement fees with respect to the Bonds, and the funding of a debt service reserve
2 fund for the Bonds. The Project will be owned and operated by the Corporation or an affiliated
3 entity and used for the educational purposes of the Corporation; and,

4 WHEREAS, The issuance and delivery of the Bonds shall be subject to the approval of
5 and execution by the Authority of all financing documents relating thereto to which the
6 Authority is a party and subject to the sale of the Bonds by the Authority; and,

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

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

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

14 WHEREAS, The Authority has requested the Board to approve the issuance and sale
15 of the Bonds in order to satisfy the public approval requirements of Section 147(f) of the Code;
16 and,

17 WHEREAS, On May 7, 2007, the City caused a notice to appear in the *San Francisco*
18 *Examiner*, which is a newspaper of general circulation in the City, stating that a public hearing
19 with respect to the issuance of the Bonds would be held by the City's Office of Public Finance
20 on May 21, 2007; and,

21 WHEREAS, The Office of Public Finance held the public hearing described above on
22 May 21, 2007, and an opportunity was provided for persons to comment on the issuance and
23 sale of the Bonds and plan of financing the Project; and,

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1 WHEREAS, The Office of Public Finance has satisfied the requirements of the City's
2 Bond TEFRA Approval Policy set forth in San Francisco Administrative Code Section 43.9.5
3 and the Director of Public Finance recommends adoption of this Resolution; now, therefore be
4 it

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

7 FURTHER RESOLVED, That this Board hereby approves the issuance and sale of the
8 Bonds by the Authority; and be it

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

13 FURTHER RESOLVED, That the approval of the issuance and sale of the Bonds by
14 the Authority is neither an approval of the underlying credit issues of the proposed Project nor
15 an approval of the financial structure of the Bonds; and be it

16 FURTHER RESOLVED, That the Bonds shall not constitute a debt or obligation of the
17 City and the payment of the principal, prepayment premium, if any, and purchase price of and
18 interest on the Bonds shall be solely the responsibility of the Corporation; and be it

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

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1 FURTHER RESOLVED, That this Resolution shall take effect immediately upon its
2 adoption.

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4 APPROVED AS TO FORM:

5 DENNIS J. HERRERA
6 City Attorney

7 By: _____
8 KENNETH DAVID ROUX
9 Deputy City Attorney

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