

1 [Broadway Family Apartments Revenue Bonds.]

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3 **Resolution approving the reissuance of not to exceed \$19,200,000 aggregate principal**  
4 **amount of City and County of San Francisco Multifamily Housing Revenue Bonds**  
5 **Series 2004a (Broadway Family Apartments) pursuant to Section 147(f) of the Internal**  
6 **Revenue Code of 1986; approving the Fifth Amendment to Loan Agreement and Fifth**  
7 **Supplemental Indenture; ratifying previous actions; and authorizing the execution and**  
8 **delivery of documents and instruments.**

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10 WHEREAS, The City and County of San Francisco (the "City") has previously issued its  
11 not to exceed \$19,200,000 Multifamily Housing Revenue Bonds Series 2004A (Broadway  
12 Family Apartments) (the "Bonds") pursuant to and in accordance with a Loan Agreement, by  
13 and among the City, Wells Fargo Bank, National Association ("Wells Fargo") and Broadway  
14 Family Apartments, L.P., a California limited partnership (the "Borrower"), dated as of  
15 December 1, 2004, as amended by that certain First Amendment to Loan Agreement, dated  
16 as of January 1, 2008, as further amended by that certain Second Amendment to Loan  
17 Agreement, dated as of December 31, 2008, as further amended by that certain Third  
18 Amendment to Loan Agreement, dated as of June 1, 2009, as further amended by that certain  
19 Fourth Amendment to Loan Agreement, dated as of July 31, 2009, each by and among the  
20 City, Wells Fargo and the Borrower (as amended, the "Loan Agreement") and the Indenture of  
21 Trust by and between the City and Wells Fargo, as Initial Bondowner Representative, as  
22 amended by that certain First Supplemental Indenture dated as of April 1, 2006, as further  
23 amended by that certain Second Supplemental Indenture dated as of January 1, 2008, as  
24 further amended by that certain Third Supplemental Indenture dated as of December 31,  
25 2008, and as further amended by that certain Fourth Supplemental Indenture dated as of

1 June 30, 2009, each by and between the City and Wells Fargo (as amended, the “Indenture”);  
2 and,

3 WHEREAS, The City used the proceeds of the Bonds to make a loan (the “Loan”) to  
4 the Borrower pursuant to the Loan Agreement to provide financing for the acquisition,  
5 construction and development of an 81-unit multifamily rental housing project in the City  
6 known as “Broadway Family Apartments” (the “Project”); and,

7 WHEREAS, The Borrower has requested that the City approve certain amendments to  
8 the Loan Agreement and Indenture set forth in the Fifth Amendment to Loan Agreement, by  
9 and among the City, Wells Fargo and the Borrower (the “Fifth Amendment to Loan  
10 Agreement”) and the Fifth Supplemental Indenture, by and between the City and Wells Fargo  
11 (the “Fifth Supplemental Indenture”), including among other things, a modification to the  
12 Maturity Date of the Bonds and a modification to the definitions of Index, First Reset Rate and  
13 Second Reset Rate (as such terms are defined in the Indenture and/or Loan Agreement); and,

14 WHEREAS, The requested amendments to the Loan Agreement, the Indenture, the  
15 Bonds and the related documents will cause a reissuance of the Bonds for federal income tax  
16 purposes; and,

17 WHEREAS, Upon reissuance of the Bonds, in order for interest on the Bonds to be tax-  
18 exempt, Section 147(f) of the Internal Revenue Code of 1986 (the “Code”) requires that the  
19 Bonds be approved by the “applicable elected representative” after a public hearing following  
20 reasonable public notice; and,

21 WHEREAS, The Mayor’s Office of Housing has requested the Board of Supervisors of  
22 the City, as the “applicable elected representative” of the City under Section 147(f) of the  
23 Code, to approve the reissuance, execution and delivery of the Bonds to satisfy the public  
24 approval requirements of Section 147(f) of the Code; and,

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1           WHEREAS, Notice of a public hearing with respect to the proposed reissuance of the  
2 Bonds was published in a newspaper of general circulation in the City on May 21, 2009; and,

3           WHEREAS, On June 4, 2009, the Mayor’s Office of Housing held a public hearing,  
4 after published notice, providing reasonable opportunity for persons to comment on the  
5 reissuance of the Bonds and the Project; now, therefore be it

6           RESOLVED, By the Board of Supervisors of the City and County of San Francisco, as  
7 follows:

8           Section 1. The Board of Supervisors finds and determines that the foregoing recitals  
9 are true and correct.

10          Section 2. The reissuance, execution and delivery of the Bonds in an amount not to  
11 exceed \$19,200,000 is hereby approved by the Board of Supervisors, as the applicable  
12 elected representative for purposes of Section 147(f) of the Code.

13          Section 3. The form of Fifth Amendment to Loan Agreement (a copy of which is on file  
14 with the Clerk of the Board of Supervisors and which is hereby declared to be a part of this  
15 Resolution as if fully set forth herein) submitted to the Board of Supervisors is hereby  
16 approved. The Director of the Mayor’s Office of Housing (the “Director”), or the written  
17 designee thereof, is hereby authorized to execute and deliver, and the Clerk of the Board of  
18 Supervisors or deputy thereof is hereby authorized to attest, the Fifth Amendment to Loan  
19 Agreement, with such additions, corrections and revisions as may be necessary or desirable  
20 determined in accordance with the terms of this Resolution.

21          Section 4. The form of Fifth Supplemental Indenture (a copy of which is on file with the  
22 Clerk of the Board of Supervisors and which is hereby declared to be a part of this Resolution  
23 as if fully set forth herein) submitted to the Board of Supervisors is hereby approved. The  
24 Director, or the written designee thereof, is hereby authorized to execute and deliver, and the  
25 Clerk of the Board of Supervisors or deputy thereof is hereby authorized to attest, the Fifth

1 Supplemental Indenture, with such additions, corrections and revisions as may be necessary  
2 or desirable determined in accordance with the terms of this Resolution, and an Amended and  
3 Restated Bond is hereby authorized to be issued in accordance with the terms of the  
4 Indenture, as modified by the Fifth Supplemental Indenture, and this Resolution.

5 Section 5. All actions heretofore taken with respect to the Loan Agreement, Indenture,  
6 or the Bonds by officials, employees or agents of the City are hereby approved, confirmed and  
7 ratified.

8 Section 6. Any City official authorized by this Resolution to execute any document is  
9 hereby further authorized, in consultation with the City Attorney, to approve and make such  
10 changes, additions, amendments or modifications to the document or documents such official  
11 is authorized to execute as may be necessary or desirable (provided that such changes,  
12 additions, amendments or modifications shall not authorize an aggregate principal amount of  
13 Bonds in excess of \$19,200,000). The approval of any change, addition, amendment or  
14 modification to any such document shall be evidenced conclusively by the execution and  
15 delivery of such document.

16 Section 7. The Clerk of the Board of Supervisors, the Treasurer, the City  
17 Administrator, the Controller, the Director of the Mayor's Office of Housing, or designee  
18 thereof, the City Attorney of the City are each hereby authorized in the name and on behalf of  
19 the City to take any and all steps and to execute and deliver any and all certificates,  
20 requisitions, agreements, notices, consents and other documents which they are or any of  
21 them might deem necessary or appropriate in order to effectuate the provisions of this  
22 Resolution.

1 APPROVED AS TO FORM:

2 DENNIS J. HERRERA, City Attorney

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By: \_\_\_\_\_

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MARK D. BLAKE

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Deputy City Attorney

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