

1 [Multifamily Housing Revenue Bonds – Hotel Essex.]  
2

3 **Resolution declaring the intent of the City and County of San Francisco (the “City”) to**  
4 **reimburse certain expenditures from proceeds of future bonded indebtedness;**  
5 **authorizing the Director of the Mayor’s Office of Housing (the “Director”) to submit an**  
6 **application and related documents to the California Debt Limit Allocations Committee**  
7 **(“CDLAC”) to permit the issuance of qualified multifamily housing revenue bonds in an**  
8 **aggregate principal amount not to exceed \$13,000,000 for the Hotel Essex project;**  
9 **authorizing and directing the Director to direct the Controller’s Office to hold in trust an**  
10 **amount not to exceed \$65,000 in accordance with CDLAC procedures; authorizing the**  
11 **Director to certify to CDLAC that the City has on deposit the required amount;**  
12 **authorizing the Director to pay an amount equal to such deposit to the State of**  
13 **California if the City fails to issue the qualified multifamily housing revenue bonds;**  
14 **approving, for purposes of the Internal Revenue Code of 1986, as amended, the**  
15 **issuance and sale of qualified multifamily housing revenue bonds by the City in an**  
16 **aggregate principal amount not to exceed \$13,000,000; authorizing and directing the**  
17 **execution of any documents necessary to implement this Resolution; and ratifying and**  
18 **approving any action heretofore taken in connection with the Project (as defined**  
19 **herein) and the Application (as defined herein).**  
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21 WHEREAS, The Board of Supervisors of the City and County of San Francisco (the  
22 “Board of Supervisors”), after careful study and consideration, has determined that there is a  
23 shortage of safe and sanitary housing within the City and County of San Francisco (the “City”),  
24 particularly for low and moderate income persons, and that it is in the best interest of the  
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1 residents of the City and in furtherance of the health, safety, and welfare of the public for the  
2 City to assist in the financing of multifamily rental housing projects for such persons; and,

3 WHEREAS, Acting under and pursuant to the powers reserved to the City under  
4 Sections 3, 5, and 7 of Article XI of the Constitution of the State of California and Sections  
5 1.101 and 9.107 of the Charter, the City has enacted the City and County of San Francisco  
6 Residential Mortgage Revenue Bond Law (the "City Law"), constituting Article I of Chapter 43  
7 of the San Francisco Administrative Code, in order to establish a procedure for the  
8 authorization, issuance and sale of qualified multifamily housing revenue bonds by the City for  
9 the purpose of providing funds to encourage the availability of adequate housing and home  
10 finance for persons and families of low or moderate income, and to develop viable  
11 communities by providing decent housing, enhanced living environments and increased  
12 economic opportunities for persons and families of low or moderate income; and,

13 WHEREAS, In addition, pursuant to Division 31 of the Health and Safety Code of the  
14 State of California, and particularly Chapter 7 of Part 5 thereof (the "State Law"), the City is  
15 empowered to issue and sell bonds for the purpose of making mortgage loans or otherwise  
16 providing funds to finance the development of multifamily rental housing including units for  
17 lower income households and very low income households; and,

18 WHEREAS, Hotel Essex, L.P., a California limited partnership, or a successor thereto  
19 (the "Developer"), desires to finance the rehabilitation and conversion of a 108-room tourist  
20 and residential hotel located at 684 Ellis Street, San Francisco, California 94109 into an 84-  
21 unit affordable housing facility (the "Project"); and,

22 WHEREAS, The Developer has requested that the City assist in the financing of the  
23 Project through the issuance of one or more series of tax-exempt multifamily housing revenue  
24 bonds (the "Bonds") and a loan of the proceeds of such issuance to the Developer; and,  
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1           WHEREAS, The City expects that proceeds of the Bonds will be used to pay certain  
2 costs incurred on and after the date hereof by the Developer in connection with the Project;  
3 and,

4           WHEREAS, The City intends to issue the Bonds in an amount not to exceed  
5 \$13,000,000 to finance the costs of the Project; and,

6           WHEREAS, The City shall have no obligation to make any payments in respect of the  
7 Bonds if and when they are issued; all such payments shall be the obligation of the  
8 Developer; and

9           WHEREAS, The Board of Supervisors has determined that the moneys advanced and  
10 to be advanced to pay certain expenditures of the Project are or will be available only for a  
11 temporary period and it is necessary to reimburse all such expenditures made on and after  
12 the date hereof with respect to the Project from the proceeds of the Bonds; and,

13           WHEREAS, Section 1.150-2 of the Treasury Regulations requires the Board of  
14 Supervisors to declare its reasonable official intent to reimburse prior expenditures for the  
15 Project with proceeds of a borrowing; and,

16           WHEREAS, The interest on the Bonds may qualify for tax exemption under Section  
17 103 of the Internal Revenue Code of 1986, as amended (the "Code"), only if the Bonds are  
18 approved in accordance with Section 147(f) of the Code; and,

19           WHEREAS, The City now wishes to approve the issuance of the Bonds in order to  
20 satisfy the public approval requirements of Section 147(f) of the Code; and,

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

22           WHEREAS, On May 19, 2006, the City caused a notice stating that a public hearing  
23 with respect to the issuance of the Bonds would be held by the Mayor's Office of Housing on  
24 June 5, 2006, to appear in *The San Francisco Examiner*, which is a newspaper of general  
25 circulation in the City; and,

1           WHEREAS, The Mayor's Office of Housing has held the public hearing described  
2 above on June 5, 2006 and an opportunity was provided for persons to comment on the  
3 issuance of the Bonds and the Project; and,

4           WHEREAS, This Board of Supervisors is the elected legislative body of the City and is  
5 the applicable elected representative required to approve the issuance of the Bonds within the  
6 meaning of Section 147(f) of the Code; and,

7           WHEREAS, Section 146 of the Code limits the amount of qualified private activity  
8 bonds that may be issued in any calendar year by entities within a state and authorizes the  
9 legislature of such state to provide the method of allocating authority to issue qualified private  
10 activity bonds within such state; and,

11           WHEREAS, Chapter 11.8 of Division 1 of Title 2 of the Government Code of the State  
12 of California governs the allocation in the State of California of the state ceiling established by  
13 Section 146 of the Code among governmental units in the State having the authority to issue  
14 qualified private activity bonds; and,

15           WHEREAS, Section 8869.85 of the Government Code requires a local agency to file  
16 an application for a portion of the state ceiling with or upon the direction of the California Debt  
17 Allocation Committee ("CDLAC") prior to the issuance of qualified private activity bonds; and,

18           WHEREAS, CDLAC procedures require an applicant for a portion of the state ceiling  
19 for multifamily housing revenue bonds to certify to CDLAC that applicant has on deposit an  
20 amount equal to one-half of one percent (1/2%) of the amount of allocation requested; now,  
21 therefore be it

22           RESOLVED, by the Board of Supervisors of the City and County of San Francisco, as  
23 follows:

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

SUPERVISOR DALY  
BOARD OF SUPERVISORS

1           Section 2. The Board of Supervisors adopts this Resolution for purposes of  
2 establishing compliance with the requirements of Section 1.150-2 of the Treasury  
3 Regulations. This Resolution does not bind the Board of Supervisors to make any  
4 expenditure, incur any indebtedness or proceed with the Project.

5           Section 3. The Board of Supervisors hereby declares its official intent under Treasury  
6 Regulations Section 1.150-2 and declares its intent to use proceeds of indebtedness to  
7 reimburse all future expenditures incurred in connection with the Project. The Board of  
8 Supervisors hereby further declares its intent to use such proceeds to reimburse the  
9 Developer for actual expenditures made by the Developer on the Project.

10          Section 4. On the date of the expenditure to be reimbursed, all reimbursable costs of  
11 the Project will be of a type properly chargeable to a capital account under general federal  
12 income tax principles.

13          Section 5. The maximum principal amount of debt expected to be issued for the  
14 Project is \$13,000,000.

15          Section 6. This Board of Supervisors, as the applicable elected representative of the  
16 governmental unit having jurisdiction over the area in which the Project is located, hereby  
17 approves the issuance of the Bonds for purposes of Section 147(f) of the Code.

18          Section 7. This approval of the issuance of the Bonds by the City is neither an  
19 approval of the underlying credit issues of the proposed Project nor an approval of the  
20 financial structure of the Bonds.

21          Section 8. The Board of Supervisors hereby authorizes the Director of the Mayor's  
22 Office of Housing (the "Director"), on behalf of the City, to submit an application (the  
23 "Application"), and such other documents as may be required, to CDLAC pursuant to  
24 Government Code Section 8869.85 for an allocation of a portion of the state ceiling for private  
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1 activity bonds in a principal amount not to exceed \$13,000,000 for multifamily housing  
2 revenue bonds to finance the Project.

3 Section 9. An amount equal to \$65,000 ("Deposit") is hereby authorized to be held on  
4 deposit in connection with the Application and the applicable CDLAC procedures, and the  
5 Director is authorized to certify to CDLAC that such funds are available; which Deposit shall  
6 consist of a restriction on cash in the Hotel Tax Fund established pursuant to Section 515.01  
7 of Article 7 of the San Francisco Business and Tax Regulations Code (the "Hotel Tax Fund").

8 Section 10. If the City receives a CDLAC allocation and the applicable issuance  
9 requirements are not met, the Mayor's Office of Housing is hereby authorized to cause an  
10 amount equal to the Deposit to be paid to the State of California from the Hotel Tax Fund, if  
11 required.

12 Section 11. The officers and employees of the City and the Director are hereby  
13 authorized and directed, jointly and severally, to do any and all things necessary or advisable  
14 to consummate the receipt of an allocation from CDLAC and otherwise effectuate the  
15 purposes of this Resolution, and all actions previously taken by such officers and employees  
16 with respect to the Project, including but not limited to the submission of the application to  
17 CDLAC, are hereby ratified and approved.

18 Section 12. This Resolution shall take effect from and after its adoption by the Board  
19 and approval by the Mayor.

20  
21 APPROVED AS TO FORM:  
22 DENNIS J. HERRERA  
23 City Attorney

24 By:   
25 Michael Martin  
Deputy City Attorney

SUPERVISOR DALY  
BOARD OF SUPERVISORS



# City and County of San Francisco

City Hall  
1 Dr. Carlton B. Goodlett Place  
San Francisco, CA 94102-4689

## Tails Resolution

**File Number:** 060801

**Date Passed:**

Resolution declaring the intent of the City and County of San Francisco (the "City") to reimburse certain expenditures from proceeds of future bonded indebtedness; authorizing the Director of the Mayor's Office of Housing (the "Director") to submit an application and related documents to the California Debt Limit Allocation Committee ("CDLAC") permit the issuance of qualified multifamily housing revenue bonds in an aggregate principal amount not to exceed \$13,000,000 for the Hotel Essex project; authorizing and directing the Director to direct the Controller's Office to hold in trust an amount not to exceed \$65,000 in accordance with the CDLAC procedures; authorizing the Director to certify CDLAC that the City has on deposit the required amount; authorizing the Director to pay an amount equal to such deposit to the State of California if the City fails to issue the qualified multifamily housing revenue bonds; approving, for purposes of the Internal Revenue Code of 1986, as amended, the issuance and sale of qualified multifamily housing revenue bonds by the City in an aggregate principal amount not to exceed \$13,000,000; authorizing and directing the execution of any documents necessary to implement this Resolution; and ratifying and approving any action heretofore taken in connection with the Project (as defined herein) and the Application (as defined herein).

July 11, 2006 Board of Supervisors — ADOPTED

Ayes: 11 - Alioto-Pier, Ammiano, Daly, Dufty, Elsbernd, Ma, Maxwell,  
McGoldrick, Mirkarimi, Peskin, Sandoval

File No. 060801

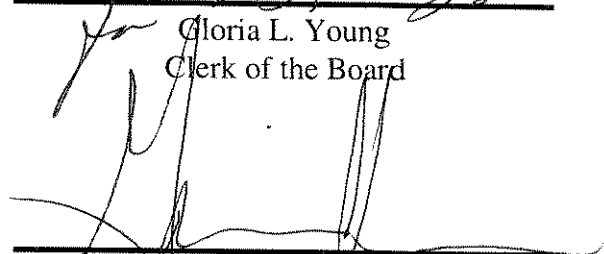
I hereby certify that the foregoing Resolution was ADOPTED on July 11, 2006 by the Board of Supervisors of the City and County of San Francisco.

7/12/06

Date Approved



Gloria L. Young  
Clerk of the Board



Mayor Gavin Newsom