

1 [Limited Payment Guaranty - Maceo May Apts, L.P. - 100% Affordable Housing at 401
2 Avenue of the Palms - Silicon Valley Bank - \$43,040,00 - Raymond James Tax Credit
Investment, Inc. - \$3,202,238]

3
4 **Resolution approving and authorizing the execution of a Limited Payment Guaranty for**
5 **the benefit of Silicon Valley Bank in an amount equal to \$43,040,000 plus accrued**
6 **interest and any other costs, and a Limited Payment Guaranty for the benefit of**
7 **Raymond James Tax Credit Investment, Inc., in an amount equal to \$3,202,238 if the**
8 **construction of the 100% affordable, 105-unit multifamily rental housing development**
9 **(plus one staff unit) for low and moderate income veteran households on Treasure**
10 **Island (“Maceo May Project”) cannot be completed as a result of injunctive relief to the**
11 **stop work or other similar notice issued by a court as a result of a current lawsuit.**

12
13 WHEREAS, The Treasure Island Development Authority (“TIDA”) acquired real
14 property from the United States Navy at Treasure Island and Yerba Buena Island for the
15 purpose of developing residential and commercial buildings, including the development of 435
16 units of affordable housing by members of the Treasure Island Homeless Development
17 Initiative (the “Project”); and

18 WHEREAS, A Finding of Suitability was approved on February 15, 2006, and a Final
19 Environmental Impact Report (“EIR”) for the Treasure Island/Yerba Buena Island
20 Redevelopment Project was certified on April 21, 2011, by the Board of Supervisors under
21 Resolution No. 246-11, which Resolution is on file with the Clerk of the Board of Supervisors
22 in File No. 110328, and incorporated herein by this reference; and

23 WHEREAS, Mitigation measures were identified in the Treasure Island and Yerba
24 Buena Island Mitigation Monitoring and Reporting Program for the Project; and

1 WHEREAS, The Planning Commission determined that the Project, and the various
2 actions being taken by the City and TIDA to approve and implement the Project, are
3 consistent with the General Plan, and with the eight priority policies of Planning Code, Section
4 101.1, and made findings in connection therewith (the "General Plan Consistency
5 Determination"), a copy of which is on file with the Clerk of the Board of Supervisors in File
6 No. 110228 and is incorporated into this Resolution by reference; and

7 WHEREAS, The Board of Supervisors adopted findings contained in the General Plan
8 Consistency Determination as its own under Resolution No. 241-11, and said findings of
9 consistency with the General Plan are on file with the Clerk of the Board of Supervisors in File
10 No. 110228, and incorporated into this Resolution by reference; and

11 WHEREAS, TIDA and Treasure Island Community Development, LLC, ("Master
12 Developer") entered into that certain Disposition and Development Agreement dated June 28,
13 2011 (the "DDA"), and pursuant to the Housing Plan (Exhibit E) of the DDA, TIDA is
14 committed to the development of affordable housing; and

15 WHEREAS, TIDA is the fee owner of Assessor's Parcel C3.2, San Francisco, also
16 known by its street address as "401 Avenue of the Palms" (the "Maceo May Property"), a land
17 parcel with approximately 32,203 square feet area; and

18 WHEREAS, According to the Finding of Suitability to Transfer (FOST) dated February
19 15, 2006, and the Amendment Number 1 to the FOST dated November 1, 2014, the Maceo
20 May Property has been remediated of contaminants of concern consistent with the intended
21 land use; and

22 WHEREAS, There is currently no evidence that the Maceo May Property was not
23 properly remediated as set forth in the FOST; and

24 WHEREAS, Chinatown Community Development Corporation ("CCDC"), a California
25 nonprofit public benefit corporation, and Swords to Plowshares ("STP"), a California nonprofit

1 public benefit corporation, were selected by TIDA pursuant to the DDA to jointly develop the
2 Maceo May Project; and

3 WHEREAS, STP and CCDC established a separate entity named Maceo May Apts,
4 L.P. ("Borrower"), a California limited partnership, under which to lease the Maceo May
5 Property from TIDA and develop the Maceo May Project; and

6 WHEREAS, TIDA intends to convey a leasehold interest in the Maceo May Property to
7 Borrower under a ground lease for Borrower to develop Maceo May Project; and

8 WHEREAS, The Board of Supervisors and Mayor approved of the issuance of an
9 amount not to exceed \$44,615,000 in Multifamily Housing Revenue Bonds (Maceo May
10 Apartments), Series 2020C (the "Bonds") under Resolution No. 28-20 for construction
11 financing of the Maceo May Project and a loan by MOHCD to the Borrower in the aggregate
12 amount of \$24,255,000.00 ("MOHCD Loan") under Resolution No. 29-20 for the purpose of
13 development, construction and permanent financing of the Maceo May Project; and

14 WHEREAS, Pursuant to that certain Loan Agreement to be executed among the City,
15 U.S. Bank National Association, and Borrower, City has agreed to lend to Borrower certain
16 proceeds of the sale of the Bonds (the "Construction Loan") for the construction of the Maceo
17 May Project, and Borrower's obligation to repay the Construction Loan is evidenced by a
18 Promissory Note by Borrower to the order of the City in the original principal amount of the
19 Construction Loan; and

20 WHEREAS, Silicon Valley Bank ("Bank"), has agreed to purchase the Bonds pursuant
21 to that certain Construction Disbursement and Permanent Loan Agreement by and between
22 Bank and Borrower (the "Construction Disbursement Agreement"), and the Promissory Note
23 will be assigned to the Bank; and

1 WHEREAS, In connection with the Construction Loan and the MOHCD Loan, City and
2 Bank will enter into that certain Subordination Agreement related to their respective rights and
3 obligations under the Loan and the MOHCD Loan; and

4 WHEREAS, Pursuant to that certain limited partnership agreement between Raymond
5 James Tax Credit Investments (“Investor”) and the Borrower, Investor will provide up to
6 \$29,420,000 in equity for the construction and completion of the Maceo May Project, of which
7 \$3,202,238 (“Initial Investment”) will be provided at the commencement of construction; and

8 WHEREAS, Former and current residents of Treasure Island have filed a complaint
9 with the Superior Court of the State of California County of San Francisco claiming, among
10 other things, that Treasure Island has not been adequately environmentally remediated and
11 demanding, among other things, that all development and construction on Treasure Island be
12 stopped until independent verified reports demonstrate complete remediation of all toxic
13 substances including radioactive materials from Treasure Island (the “Lawsuit”); and

14 WHEREAS, The Plaintiffs have not requested a preliminary injunction to immediately
15 halt development and construction on Treasure Island, and the Master Developer has
16 continued construction of the Project; and

17 WHEREAS, The City and TIDA believe that there are strong defenses available against
18 the causes of action relating to the City and TIDA and that it is highly unlikely that injunctive
19 relief arising from the Lawsuit would be granted and interrupt construction of the Maceo May
20 Project; and

21 WHEREAS, TIDA, MOHCD and the Borrower desire for the Maceo May Project to
22 begin construction as soon as possible in order for the Borrower to retain its modular
23 production window and to retain the Maceo May Project’s additional public financing awards,
24 including an allocation of bond proceeds from the California Debt Limit Allocation Committee,
25 an allocation of federal low income housing tax credits through the California Tax Credit

1 Allocation Committee, an allocation of funds from the Veterans Housing and Homelessness
2 Prevention Program through the California Department of Housing and Community
3 Development and an allocation of Section 8 Project-Based VASH rental vouchers; and

4 WHEREAS, In order for the Borrower to secure the financing approvals necessary to
5 execute the Ground Lease and close the Construction Loan prior to final resolution of the
6 lawsuit, Bank and Investor require that TIDA and MOHCD guaranty the Construction Loan
7 and the Initial Investment, respectively, to ensure timely payment of the construction financing
8 in the event the Lawsuit prevents completion of the Maceo May Project by the maturity date of
9 the Construction Loan (including any extensions); and

10 WHEREAS, California Community Reinvestment Corporation (“CCRC”) will provide
11 permanent financing for the Maceo May Project, and the City’s Risk Manager has approved of
12 a limited indemnity for the benefit of CCRC regarding any litigation costs that may arise from
13 the Lawsuit; and

14 WHEREAS, To commence construction of the Maceo May Project, MOHCD and TIDA
15 desire to provide the Bank and the Investor with the Bank Limited Payment Guaranty and
16 Investor Limited Payment Guaranty, respectively, in substantially the forms on file with the
17 Clerk of the Board of Supervisors in File No. 200317, and in such final forms as approved by
18 the Acting Director of MOHCD and the City Attorney; and

19 WHEREAS, In the event that the Guaranties are triggered, TIDA and MOHCD have
20 agreed that TIDA will use funds from its accrued Master Developer Housing Subsidy funds to
21 pay the obligation under the Bank Limited Payment Guaranty to the fullest extent possible,
22 and MOHCD will pay any remaining amount due under the Bank Limited Payment Guaranty
23 and Equity Investor Limited Payment Guaranty, as set forth in the letter agreement on file with
24 Clerk of the Board of Supervisors in File No. 200317; now, therefore, be it

1 RESOLVED, That the Board of Supervisors hereby approves the Bank Limited
2 Payment Guaranty and Investor Limited Payment Guaranty (collectively, the “Guaranties”)
3 and authorizes the Acting Director of MOHCD or his designee and the Executive Director of
4 TIDA to enter into any amendments or modifications to the Guaranties (including, without
5 limitation, preparation and attachment or, or changes to, any of all of the exhibits and ancillary
6 agreements) and any other documents or instruments necessary in connection therewith that
7 the MOHCD Acting Director and TIDA Executive Director determine, in consultation with the
8 City Attorney, are in the best interest of the City, do not materially increase the obligations or
9 liabilities for the City or materially diminish the benefits of the City, are necessary or advisable
10 to effectuate the purposes and intent of this Resolution and are in compliance with all
11 applicable laws, including the City Charter; and, be it

12 FURTHER RESOLVED, That all actions authorized and directed by this Resolution and
13 heretofore taken are hereby ratified, approved and confirmed by this Board of Supervisors;
14 and be it

15 FURTHER RESOLVED, That within thirty (30) days of the Guaranties being fully
16 executed by all parties, MOHCD shall provide the final Guaranties to the Clerk of the Board
17 for inclusion into the official file.

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