

1 [Development of Property Located at Broadway and Battery Streets For Affordable Housing]

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3 **Resolution authorizing the Mayor’s Office of Housing to enter into a lease disposition**
4 **and development agreement and below market long-term ground lease with Chinatown**
5 **Community Development Center, a nonprofit public benefit corporation, for the**
6 **development of affordable housing, together with a child care center, neighborhood-**
7 **serving commercial space, and associated parking on real property located on the**
8 **south side of Broadway between Battery and Front streets; affirming the Planning**
9 **Commission’s adoption of the mitigated negative declaration for the project; adopting**
10 **environmental findings under the California Environmental Quality Act; and adopting**
11 **findings that the project is consistent with the City’s General Plan and Eight Priority**
12 **Policies of City Planning Code Section 101.1.**

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14 WHEREAS, On January 11, 1999, the Board of Supervisors adopted Resolution No.
15 27-99, File No. 98-2098, on file with the Clerk of the Board of Supervisors in File No.
16 _____, which is hereby declared to be a part of this resolution as if set forth fully
17 herein, approving in principle the disposition of three parcels that were formerly owned by the
18 California Department of Transportation as part of the right of way of the Embarcadero
19 Freeway; and,

20 WHEREAS, In Resolution No. 27-99 the Board approved in principle the use by the
21 Mayor’s Office of Housing (“MOH”) of Block 141, Lot 11 (Broadway between Battery Street
22 and Front Street) (the “Site”) for the development of affordable housing consistent with
23 Proposition A approved by the voters in November 1996; and,

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1 WHEREAS, Resolution 27-99 authorized MOH to issue a request for qualifications or
2 proposals for a developer to purchase or lease the Site at less than fair market value for the
3 development of affordable housing; and,

4 WHEREAS, Board Resolution No. 27-99 stipulates that disposition of the Site is subject
5 to the receipt of any required Board of Supervisors' approval; and,

6 WHEREAS, In April 1999 MOH issued a Request for Qualifications (the "RFQ") to
7 select a qualified nonprofit or for-profit developer working in partnership with a qualified
8 nonprofit developer to create a development proposal for the Site, which would include not
9 more than 100 units of affordable housing, a childcare center, neighborhood-serving
10 commercial space and parking facility (the "Project"); and,

11 WHEREAS, A selection committee established by MOH evaluated responses to the
12 RFQ and based on developers' responses and qualifications, the selection committee
13 recommended to the Mayor that MOH commence negotiations with and enter into an
14 Exclusive Negotiating Agreement ("ENA") with Chinatown Community Development Center
15 ("Developer"), a qualified nonprofit developer, for the purpose of, among other things,
16 negotiating the terms and conditions under which the City, through MOH, would enter into a
17 long term ground lease for the site; and,

18 WHEREAS, The ENA expires, as extended, on September 30, 2003; and,

19 WHEREAS, The Project as currently proposed by the Developer and MOH will serve a
20 public purpose of the City and will consist of 87 units of affordable rental housing for low and
21 very low income families, a childcare center, neighborhood-serving commercial space and
22 parking for the housing to be built within the existing 84-foot height limit for the Site; and,

23 WHEREAS, The Site is currently under the jurisdiction of the City's Department of
24 Public Works ("DPW") and DPW is seeking to transfer jurisdiction of the Site to the Mayor's
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1 Office of Housing under Board Resolution No. _____, to be considered
2 concurrently with this resolution; and,

3 WHEREAS, In order to implement the Project, MOH and the Developer negotiated a
4 Lease Disposition and Development Agreement (the "DDA") and long-term ground lease of
5 the Site (the "Lease"), copies of which are on file with the Clerk of the Board of Supervisors in
6 File No. _____; and,

7 WHEREAS, The Board considered the recommendation of the Director of MOH and
8 the proposed DDA and Lease; and,

9 WHEREAS, Board Resolution No. 27-99 provides that any proceeds from the
10 disposition of the Site shall be used in accordance with Streets and Highways Code Section
11 72, to the extent such proceeds are deemed necessary by the City's Waterfront
12 Transportation Project to fulfill the City's obligations under that Section to provide local street
13 access comparable to that provided by the former Embarcadero Freeway (the "Mid-
14 Embarcadero Roadway Project") and, to that end, the Lease provides that the Developer will
15 pay all rent under the lease, totaling \$500,000, to the Department of Public Works for such
16 project; and,

17 WHEREAS, In accordance with Streets and Highways Code Section 72 the City
18 constructed the Mid-Embarcadero Roadway Project the total cost of the Mid-Embarcadero
19 Roadway construction was \$75,571,883 of which the City paid \$62,946,962 through various
20 grants. The remainder of the cost was paid with a San Francisco Transportation Authority
21 loan of which DPW is obligated to repay \$5,600,000. The Lease amount will be paid to DPW
22 which, together with funds received by the City from the sale of other former Embarcadero
23 Roadway parcels, will repay the Transportation Authority loan; and,

24 WHEREAS, Under the DDA, before MOH delivers the lease to the Site, the Developer
25 must satisfy certain conditions including: (i) obtain MOH approval of the construction

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1 documents for the Project, (ii) obtain all regulatory approvals required to commence
2 construction of the Project, (iii) secure issuance of building permits for the Project, (iv) obtain
3 Board of Supervisors approval of the DDA, Lease and any other related agreements, (v)
4 obtain financing for the Project acceptable to MOH, and (vi) accept the Site "as-is", without
5 representation or warranty by MOH; and,

6 WHEREAS, The term of the Lease is 65 years, with one 34-year option to extend, for a
7 maximum term of 99 years; and,

8 WHEREAS, MOH has committed approximately \$10 million of appropriated affordable
9 housing funds to the Project, for which the Developer must maintain the Project as housing
10 affordable to households whose income does not exceed 50% of area median income for a
11 term of 55 years, and which will be disbursed in phases upon the Developer satisfying certain
12 disbursement conditions including but not limited to: (i) securing all project financing to
13 construct and maintain the Project as affordable housing, (ii) obtaining MOH approval of the
14 final design and construction contract, (iii) obtaining all environmental review clearances and
15 land use approvals, and (iv) obtaining MOH approval of the commercial space plan in
16 accordance with MOH's commercial space policy; and,

17 WHEREAS, The Planning Department has undertaken an environmental review
18 process for the proposed Project under the California Environmental Quality Act, California
19 Public Resources Sections 21000 et seq., ("CEQA"), the Guidelines for Implementation of
20 CEQA, 14 California Code of Regulations Sections 15000 et seq. (the "CEQA Guidelines"),
21 and Chapter 31 of the San Francisco Administrative Code ("Chapter 31"), and provided for
22 appropriate public hearings before the San Francisco Planning Commission; and,

23 WHEREAS, On November 2, 2002, the Planning Department released for public
24 review and comment a Preliminary Mitigated Negative Declaration that the Project, as
25 proposed, could not have a significant effect on the environment, File No.2002.0778E (the

1 "Neg Dec"), and on November 22, 2002 two appeals of the decision to issue a mitigated
2 negative declaration were filed; and,

3 WHEREAS, On May 22, 2003, the Planning Commission held a public hearing on the
4 appeal of the Neg Dec and upheld the Neg Dec finding that the contents of said report and the
5 procedures through which the Neg Dec was prepared, publicized and reviewed complied with
6 the provisions of the CEQA, the CEQA Guidelines, and Chapter 31; and,

7 WHEREAS, The Neg Dec files and other Project-related Department files have been
8 made available for review by the Board of Supervisors and the public, and those files are part
9 of the record before this Board of Supervisors; and,

10 WHEREAS, This Board of Supervisors has reviewed and considered the information
11 contained in the Neg Dec; and,

12 WHEREAS, On May 22, 2003 the Planning Commission found, in Motion 16588, that
13 the Project as contemplated by the DDA and the Lease is consistent with the City's General
14 Plan and the Eight Priority Policies of Planning Code Section 101.1; by Motion No. 16589
15 issued a Certificate of Appropriateness due to the Site's location in the Northeast Waterfront
16 Historic District; and by Motion No. 16590, approved a conditional use authorization for a
17 Planned Unit Development under Section 303 and 304 of the Planning Code for certain
18 exceptions from the Planning Code as described in the Motion, all of which Motions are on file
19 with the Clerk of the Board of Supervisors under File No. _____,
20 _____, and No. _____; now, therefore, be it

21 RESOLVED, That the Board of Supervisors has reviewed and considered the Planning
22 Commission Motion No. 16587 certifying the Neg Dec, and hereby endorses and adopts said
23 Planning Commission Motion, and incorporates the same herein by reference; and, be it

24 FURTHER RESOLVED, That under CEQA Guidelines Section 15162, and based upon
25 the Board of Supervisor's review of the Neg Dec, the Board finds that: (1) there are no

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1 substantial modifications in the Project that would require important revisions to the Neg Dec
2 due to the involvement of new significant environmental effects or a substantial increase in the
3 severity of previously identified significant effects; (2) no substantial changes have occurred
4 with respect to the circumstances under which the Project is to be undertaken that would
5 require major revisions to the Neg Dec due to the involvement of significant effects or a
6 substantial increase in the severity of effects identified in the Neg Dec; and (3) no new
7 information of substantial importance to the Project has become available that would indicate
8 (a) the Project or the actions will have significant effects not discussed in the Neg Dec,
9 (b) significant environmental effects would be substantially more severe, (c) mitigation
10 measures or alternatives found not feasible that would reduce one or more significant effects
11 have become feasible, or (d) mitigation measures or alternatives which are considerably
12 different from those in the Neg Dec would substantially reduce one or more significant effects
13 on the environment; and, be it

14 FURTHER RESOLVED, That the Board of Supervisors hereby finds that the Project,
15 as contemplated by the DDA and the Lease, is consistent with the General Plan and Eight
16 Priority Policies of Section 101.1 for the same reasons as set forth in Resolution No. 16588 of
17 the Planning Commission, dated May 22, 2003, and hereby incorporates such findings by
18 reference as though fully set forth in this resolution; and, be it

19 FURTHER RESOLVED, That the Board of Supervisors hereby approves the DDA, the
20 Lease and the transactions contemplated thereby, finds that the Project will further a public
21 purpose of the City, and authorizes MOH, through its Director, to execute the DDA and Lease
22 in substantially the form presented to this Board; and be it

23 FURTHER RESOLVED, That the Board of Supervisors authorizes MOH, through its
24 Director, to enter into any additions, amendments or other modifications to the DDA or the
25 Lease (including, without limitation, the attachment of exhibits) that the Director determines

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1 are in the best interests of MOH and the City, do not decrease the revenues to MOH or the
2 City in connection with the Site, or otherwise materially increase the obligations or liabilities of
3 the MOH or the City, and are necessary or advisable to complete the transactions
4 contemplated in the DDA and the Lease and to effectuate the purpose and intent of this
5 resolution.

6 RECOMMENDED:

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Daryl Higashi
Director, Mayor's Office of Housing

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