

1 [Lease Financing For Improvements to Moscone Convention Center.]

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3 **Resolution authorizing the execution, delivery and sale of Certificates of Participation**  
4 **(the “Certificates”)** evidencing undivided, proportionate interests in the right to receive  
5 **certain rental payments to be made by the City under a Lease Agreement, for the**  
6 **purpose of financing various capital projects at Moscone Convention Center;**  
7 **approving the form of a Trust Agreement by and between the City and County of San**  
8 **Francisco (the “City”)** and a corporate trustee to be selected by the City (the  
9 **“Trustee”), including without limitation certain indemnification obligations of the City**  
10 **contained therein; authorizing the selection of the Trustee; approving the form of a**  
11 **Facilities Lease by and between the City and the Trustee relating to certain real**  
12 **property described herein; approving the form of the Lease Agreement by and between**  
13 **the Trustee and the City relating to said real property; authorizing the payment of costs**  
14 **of issuance; authorizing the reimbursement of certain expenditures; granting general**  
15 **authority to City officials to take certain actions in connection with the Certificates, the**  
16 **Trust Agreement, the Facilities Lease and the Lease Agreement; authorizing**  
17 **modifications to documents; and ratifying previous actions taken in connection**  
18 **therewith.**

19 WHEREAS, The City has committed to provide certain funding for various  
20 improvements to Moscone Convention Center (collectively, the “Project”); and,

21 WHEREAS, In order to provide funds to pay certain costs of the Project, the City  
22 proposes to enter into a Facilities Lease with the Trustee (the “Facilities Lease”), pursuant to  
23 which the City would lease to the Trustee certain City-owned property, as further described  
24 herein (the “Leased Property”), in return for which the Trustee would make an advance rental  
25 payment (“Advance Rental”) to the City sufficient to pay such costs; and,

1           WHEREAS, In furtherance of such financing, the City proposes to enter into a Lease  
2 Agreement with the Trustee (the "Lease"), pursuant to which the City would lease back the  
3 Leased Property from the Trustee and make certain periodic rental payments ("Base Rental")  
4 to the Trustee; and,

5           WHEREAS, In order to provide for the Trustee's Advance Rental payment, the City  
6 proposes to enter into a Trust Agreement with the Trustee (the "Trust Agreement"), pursuant  
7 to which the Trustee would execute and sell certificates of participation (the "Certificates")  
8 evidencing undivided, proportionate interests in the Trustee's right to receive the Base Rental  
9 payments to be made by the City; and,

10           WHEREAS, The City reasonably expects to reimburse certain expenditures incurred  
11 prior to the execution and delivery of the Certificates with proceeds of the sale of such  
12 Certificates; now, therefore, be it

13           RESOLVED, By the Board of Supervisors of the City and County of San Francisco (the  
14 "Board"), as follows:

15           Section 1.   Approval of Recitals. The Board hereby finds and declares that the  
16 above recitals are true and correct.

17           Section 2.   Approval of the Form of Facilities Lease. The form of the Facilities  
18 Lease, as presented to this Board, a copy of which is on file with the Clerk of the Board of  
19 Supervisors of the City or her designee (together with the Clerk of the Board of Supervisors of  
20 the City, the "Clerk of the Board"), is hereby approved. The Mayor of the City, or his designee  
21 (together with the Mayor of the City, the "Mayor"), or the Director of Real Estate of the City, or  
22 his designee (together with the Director of Real Estate of the City, the "Director of Real  
23 Estate"), each acting alone, is hereby authorized to execute the Facilities Lease, and the  
24 Clerk of the Board is hereby authorized to attest to such execution, with such changes,  
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1 additions, modifications or deletions as the Mayor or the Director of Real Estate, as the case  
2 may be, may make or approve in accordance with Section 10 hereof.

3 Section 3. Approval of the Form of Lease Agreement. The form of the Lease, as  
4 presented to this Board, a copy of which is on file with the Clerk of the Board, is hereby  
5 approved. The Mayor or the Director of Real Estate, each acting alone, is hereby authorized  
6 to execute the Lease, and the Clerk of the Board is hereby authorized to attest to such  
7 execution, with such changes, additions, modifications or deletions as the Mayor or the  
8 Director of Real Estate, as the case may be, may make or approve in accordance with  
9 Section 10 hereof; provided however, that, with respect to the Leased Property, the maximum  
10 Base Rental scheduled to be paid under the Lease in any fiscal year shall not exceed  
11 \$8,300,000 and the term of the Facilities Lease and the Lease shall not be longer than sixteen  
12 (16) years, except as such date may be extended by future resolution.

13 Section 4. Approval of the Form of Trust Agreement; Authorization to Select the  
14 Trustee. The form of the Trust Agreement, as presented to this Board, a copy of which is on  
15 file with the Clerk of the Board, is hereby approved. The Mayor is hereby authorized to  
16 execute the Trust Agreement, and the Clerk of the Board is hereby authorized to attest to  
17 such execution, with such changes, additions, modifications or deletions as the Mayor may  
18 make or approve in accordance with Section 10 hereof. The Director of Public Finance of the  
19 City or her designee (together with the Director of Public Finance of the City, the “Director of  
20 Public Finance”) is hereby authorized to select the Trustee in accordance with City policies  
21 and procedures, including, but not limited to, the City’s policy to provide locally disadvantaged  
22 minority business enterprises and women enterprises an equal opportunity to participate in  
23 the performance of all City contracts.

24 Section 5. Authorization for the Certificates. The Board hereby authorizes the  
25 Trustee to execute and deliver the Certificates in accordance with the Trust Agreement (as

1 defined herein). The Certificates shall be comprised of, and designated as, the “City and  
2 County of San Francisco Certificates of Participation, Series 2009B (Moscone Center  
3 Improvement Project)” or such other designation as determined by the Director of Public  
4 Finance. The Director of Public Finance is hereby authorized to approve the payment dates,  
5 the prepayment provisions, the rates at which the interest evidenced thereby is calculated,  
6 and all other terms of the Certificates, subject to the following limitations: the Certificates shall  
7 represent Base Rental payments the principal components of which shall not exceed an  
8 aggregate amount of \$45,000,000 and the interest components of which shall be calculated  
9 using a rate not to exceed twelve percent (12%) per annum. To the extent deemed necessary  
10 or desirable by the Director of Public Finance, this Board authorizes the procurement of credit  
11 enhancement for the Certificates, including, but not limited to, municipal bond insurance  
12 and/or a debt service reserve fund surety bond or insurance policy. Notwithstanding Section  
13 10 hereof, the documents authorized herein may be modified or amended to facilitate the  
14 procurement of credit enhancement for the Certificates or to secure a Trustee, to the extent  
15 deemed necessary by the Director of Public Finance, upon consultation with the City Attorney  
16 of the City (the “City Attorney”).

17 Section 6. Description of Leased Property; Certain Findings and Determinations.

18 The Leased Property shall consist of the following City-owned properties: (i) Bill Graham Civic  
19 Auditorium, 99 Grove Street, San Francisco, California, (ii) the office building located at 25  
20 Van Ness Avenue, San Francisco, California and (iii) any other property deemed by the  
21 Director of Real Estate to be suitable for such purpose. The Board hereby finds and  
22 determines as follows with respect to the Facilities Lease, the Lease Agreement and the  
23 Leased Property:

24 A. The Board hereby finds and determines that the Competitive Bidding  
25 Procedures (as used in Section 23.30 of the San Francisco Administrative Code) for the

1 Facilities Lease are impractical or impossible. The Board hereby authorizes the lease of the  
2 Leased Property, pursuant to the Facilities Lease, to the Trustee selected pursuant to this  
3 resolution, in furtherance of a proper public purpose. The leaseback of the Leased Property  
4 pursuant to the Lease is not subject to the requirements of Section 23.30 of the San Francisco  
5 Administrative Code, and the Board hereby directs that such leaseback be accomplished  
6 without regard to such requirements.

7 B. Based on the information provided to the Board by City staff in connection with  
8 this resolution, which information is on file with the Clerk of the Board, the Board hereby finds  
9 and determines that the maximum annual Base Rental set forth in Section 3 hereof does not  
10 exceed the annual fair rental value of the Leased Property.

11 Section 7. Use of Proceeds of the Certificates. The Board hereby authorizes the  
12 expenditure of the proceeds of the Certificates for the payment of costs of the Project, the  
13 funding of debt service reserves, the payment of costs of issuance, including but not limited  
14 to, legal and other professional fees and amounts for credit enhancement, capitalized interest  
15 and any other costs incidental to the execution and delivery of the Certificates.

16 Section 8. Approval of Reimbursement. Pursuant to Treasury Regulation Section  
17 1.150-2, the City hereby declares its intent to reimburse itself, from proceeds of the sale of the  
18 Certificates, for capital expenditures on the Project paid within sixty (60) days prior to the  
19 effective date of this resolution, costs of issuance of the Certificates, and other expenditures  
20 permitted to be reimbursed pursuant to Treasury Regulation Section 1.150-2. Any  
21 reimbursement allocation of proceeds of the Certificates to be made with respect to  
22 expenditures incurred prior to the execution and delivery of the Certificates (excluding certain  
23 de minimis expenditures and preliminary expenditures in an amount not to exceed twenty  
24 percent (20%) of the issue price of the Certificates) will occur not later than eighteen (18)  
25 months after the later of (i) the date on which the expenditure is paid, or (ii) the date on which

1 the facilities are placed in service, but in no event more than three (3) years after the  
2 expenditure is paid.]

3 Section 9. General Authority. The Mayor, the City Attorney, the Controller, the  
4 Director of Public Finance, the Director of Real Estate, the Clerk of the Board and other  
5 officers of the City and their duly authorized deputies and agents are hereby authorized and  
6 directed, jointly and severally, to take such actions and to execute and deliver such  
7 certificates, agreements, requests or other documents, as they may deem prudent, necessary  
8 or desirable to facilitate and further assure the execution, sale and delivery of the Certificates,  
9 to obtain bond insurance or other credit enhancements with respect to the Certificates, to  
10 obtain title and other insurance with respect to the Leased Property, and otherwise to carry  
11 out the provisions of this resolution.

12 Section 10. Modifications, Changes and Additions. Any City official authorized to  
13 execute a document the form of which is approved hereby is further authorized to approve  
14 and make such modifications, changes, additions or deletions to such document, upon  
15 consultation with the City Attorney, as may be necessary or desirable in the interests of the  
16 City, and not inconsistent with this resolution. The City official's approval of modifications,  
17 changes, additions or deletions to any such document shall be conclusively evidenced by the  
18 execution and delivery of such document by such official.

19 Section 11. Ratification of Prior Actions. All actions authorized and directed by this  
20 resolution and heretofore taken are hereby ratified, approved and confirmed by this Board.

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1           Section 12. File Documents. All documents referred to as on file with the Clerk of the  
2 Board are in File No. \_\_\_\_\_, which is hereby declared to be a part of this resolution  
3 as if fully set forth herein.

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5 APPROVED AS TO FORM:  
6 DENNIS J. HERRERA, City Attorney

7 By: \_\_\_\_\_  
8       Mark D. Blake  
9       Deputy City Attorney

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