

1 [Multifamily Housing Revenue Bonds - 909 and 921 Howard Street, 206-228 5th Street, and  
2 414 Tehama Street (also known as "5th and Howard") - Not to Exceed \$225,000,000]

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 and Community Development**  
6 **(the "Director") to submit an application and related documents to the California Debt**  
7 **Limit Allocation Committee ("CDLAC") to permit the issuance of residential mortgage**  
8 **revenue bonds in an aggregate principal amount not to exceed \$225,000,000 for 909**  
9 **and 921 Howard Street, 206-228 5th Street, and 414 Tehama Street; authorizing and**  
10 **directing the Director to direct the Controller's Office to hold in trust an amount not to**  
11 **exceed \$100,000 in accordance with CDLAC procedures; authorizing the Director to**  
12 **certify to CDLAC that the City has on deposit the required amount; authorizing the**  
13 **Director to pay an amount equal to such deposit to the State of California if the City**  
14 **fails to issue the residential mortgage revenue bonds; authorizing and directing the**  
15 **execution of any documents necessary to implement this Resolution, as defined**  
16 **herein; and ratifying and approving any action heretofore taken in connection with the**  
17 **Project as defined herein, and the Application as defined herein.**

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19 WHEREAS, The Board of Supervisors of the City and County of San Francisco (the  
20 "Board of Supervisors"), after careful study and consideration, has determined that there is a  
21 shortage of safe and sanitary housing within the City and County of San Francisco (the "City"),  
22 particularly for low and moderate income persons, and that it is in the best interest of the  
23 residents of the City and in furtherance of the health, safety, and welfare of the public for the  
24 City to assist in the financing of multi-family rental housing units; and  
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1           WHEREAS, Acting under and pursuant to the powers reserved to the City under  
2 Sections 3, 5, and 7 of Article XI of the Constitution of the State of California and Sections  
3 1.101 and 9.107 of the Charter of the City and County of San Francisco, the City has enacted  
4 the City and County of San Francisco Residential Mortgage Revenue Bond Law (the “City  
5 Law”), constituting Article I of Chapter 43 of the San Francisco Administrative Code, in order  
6 to establish a procedure for the authorization, issuance and sale of residential mortgage  
7 revenue bonds by the City for the purpose of providing funds to encourage the availability of  
8 adequate housing and home finance for persons and families of low or moderate income, and  
9 to develop viable communities by providing decent housing, enhanced living environments,  
10 and increased economic opportunities for persons and families of low or moderate income;  
11 and

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

17           WHEREAS, Tenderloin Neighborhood Development Corporation, a California non-  
18 profit public benefit corporation (or any successor thereto including any successor owner of  
19 the Project, the “Developer”), desires to acquire land and construct a 293-unit affordable  
20 residential rental housing development located at 909 & 921 Howard Street, 206-228 5th  
21 Street, and 414 Tehama Street, San Francisco, California 94103 (Block 3732, Lots 003, 004,  
22 005, 099, 100, 145A, 146, and 149 in the records of the City’s Assessor-Recorder) (the  
23 “Project”); and

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1           WHEREAS, The Developer has requested that the City assist in the financing of the  
2 Project through the issuance of one or more series of tax-exempt mortgage revenue bonds  
3 (the “Bonds”); and

4           WHEREAS, The City expects that proceeds of the Bonds will be used to pay certain  
5 costs incurred in connection with the Project prior to the date of issuance of the Bonds; and

6           WHEREAS, The City intends to issue the Bonds in an amount not to exceed  
7 \$225,000,000 and to loan the proceeds of the Bonds to the Developer (the “Loan”) to finance  
8 the costs of the Project; and

9           WHEREAS, The Bonds will be limited obligations, payable solely from pledged  
10 security, including Project revenues, and will not constitute a debt of the City; and

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

15           WHEREAS, Section 1.150-2 of the United States Treasury Regulations requires that  
16 the Board of Supervisors declare its reasonable official intent to reimburse prior expenditures  
17 for the Project with proceeds of the Bonds; and

18           WHEREAS, Section 146 of the Code limits the amount of tax-exempt private activity  
19 bonds, which include qualified mortgage bonds, that may be issued in any calendar year by  
20 entities within a state and authorizes the legislature of each state to provide the method of  
21 allocating authority to issue tax-exempt private activity bonds within the respective state; and

22           WHEREAS, Chapter 11.8 of Division 1 of Title 2 of the Government Code of the State  
23 of California governs the allocation in the State of California of the state ceiling established by  
24 Section 146 of the Code among governmental units in the State having the authority to issue  
25 tax-exempt private activity bonds; and

1           WHEREAS, Section 8869.85(b) of the Government Code requires that a local agency  
2 file an application for a portion of the state ceiling with or upon the direction of the California  
3 Debt Allocation Committee (“CDLAC”) prior to the issuance of tax-exempt private activity  
4 bonds, including qualified mortgage bonds; and

5           WHEREAS, CDLAC procedures require an applicant for a portion of the state ceiling to  
6 certify to CDLAC that applicant has on deposit an amount equal to one-half of one percent  
7 (1/2%) of the amount of allocation requested not to exceed \$100,000.00; now, therefore, be it

8           RESOLVED, By the Board of Supervisors of the City and County of San Francisco, as  
9 follows:

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

12           Section 2. The Board of Supervisors adopts this Resolution for purposes of  
13 establishing compliance with the requirements of Section 1.150-2 of the United States  
14 Treasury Regulations. This Resolution does not bind the Board of Supervisors to issue the  
15 Bonds, approve the Loan or to make any expenditure, incur any indebtedness or proceed with  
16 the Project.

17           Section 3. The Board of Supervisors hereby declares its official intent under United  
18 States Treasury Regulations Section 1.150-2 to use proceeds of the Bonds to reimburse  
19 expenditures incurred in connection with the Project. The Board of Supervisors hereby further  
20 declares its intent to use such proceeds to reimburse the Developer for actual expenditures  
21 made by the Developer on the Project.

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

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1           Section 5. The maximum principal amount of debt expected to be issued for the Project  
2 is \$225,000,000.

3           Section 6. The Board of Supervisors hereby authorizes the Director of the Mayor’s  
4 Office of Housing and Community Development, or his designee (the “Director”), on behalf of  
5 the City, to submit an application (the “Application”), and such other documents as may be  
6 required, to CDLAC pursuant to Government Code Section 8869.85 for an allocation for the  
7 Project of a portion of the state ceiling for private activity bonds in a principal amount not to  
8 exceed \$225,000,000.

9           Section 7. An amount equal to one-half of one percent (0.5%) of the amount of the  
10 CDLAC allocation requested for the Project, not to exceed \$100,000 (“Deposit”), is hereby  
11 authorized to be held on deposit in connection with the Application and the applicable CDLAC  
12 procedures, and the Director is authorized to certify to CDLAC that such funds are available.

13           Section 8. If the City receives a CDLAC allocation for the Project and the Bonds are not  
14 issued, the Mayor’s Office of Housing and Community Development is hereby authorized to  
15 cause an amount equal to the Deposit to be paid to the State of California, if and to the extent  
16 required by CDLAC.

17           Section 9. The officers and employees of the City and the Director are hereby  
18 authorized and directed, jointly and severally, to do any and all things necessary or advisable  
19 to consummate the receipt of an allocation from CDLAC and otherwise effectuate the  
20 purposes of this Resolution, consistent with the documents cited herein and this Resolution,  
21 and all actions previously taken by such officers and employees with respect to the Project,  
22 consistent with the documents cited herein and this Resolution, including but not limited to the  
23 submission of the application to CDLAC, are hereby ratified and approved.

1            Section 10. This Resolution shall take effect from and after its adoption by the Board  
2 and approval by the Mayor.

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

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7        By: \_\_\_\_\_

8            Kenneth David Roux  
9            Deputy City Attorney  
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