

1 [Issuance and Sale of Revenue Bonds – Bayview Apartments.]

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3 **Resolution approving the issuance and sale of tax-exempt bonds by the California**  
4 **Statewide Communities Development Authority in an aggregate principal amount not to**  
5 **exceed \$21,000,000 for the financing of the acquisition and rehabilitation of the**  
6 **Bayview Apartments.**

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8 WHEREAS, The California Statewide Communities Development Authority (the  
9 "Authority"), proposes to issue multifamily housing revenue bonds (the "Bonds") in an amount  
10 not to exceed \$21,000,000 and to lend the proceeds thereof to Bayview Preservation, L.P., a  
11 California limited partnership (the "Borrower"), to be used for the acquisition and rehabilitation  
12 by the Borrower of a 146-unit apartment project known as the Bayview Apartments (the  
13 "Project") located at 5 Commer Court in the City and County of San Francisco, California (the  
14 "City"), all to be owned and operated by the Borrower or an entity related thereto or a partner  
15 thereof; and,

16 WHEREAS, The issuance and delivery of the Bonds shall be subject to the approval of  
17 and execution by the Authority of all financing documents relating thereto to which the  
18 Authority is a party and subject to the sale of the Bonds by the Authority; and,

19 WHEREAS, If and when the Bonds are issued, the Bond documents will require the  
20 Project to meet certain affordability requirements for 30 years, including a provision that 90%  
21 of the units be restricted to tenants with incomes at or below 60% of area median income and  
22 10% of the units be restricted to tenants with incomes at or below 50% of area median  
23 income; and,

24 WHEREAS, If and when the Bonds are issued, the Bond regulatory agreement will  
25 include a covenant by the Borrower that it will continue to seek to renew its federal project-

1 based Section 8 rental assistance contract, which establishes rents at 30% of tenant incomes,  
2 for so long as, and up to the full extent that, such program is available for the Project; and,

3 WHEREAS, If and when the Bonds are issued, the Bond regulatory agreement will  
4 reflect the following agreements by the Borrower with respect to the Project:

5 (a) The Borrower shall be bound by the nondiscrimination provisions of San  
6 Francisco Administrative Code Section 12B.2(a), shall include such provisions in all of the  
7 Borrower's contracts and shall require its contractors to include such provisions in all  
8 subcontracts; and

9 (b) The Borrower shall obtain certification from the City's Human Rights  
10 Commission that it does not engage in discrimination in the provision of benefits described in  
11 San Francisco Administrative Code Section 12.B.2(b), and the Borrower shall use good faith  
12 efforts to obtain such a commitment from its prime construction contractor; and

13 (c) The Borrower shall require the payment of prevailing wages for construction  
14 work, as that term is defined in Section 6.1(H) of the San Francisco Administrative Code and  
15 as such payments are confirmed by the City's Office of Labor Standards Enforcement, and  
16 shall notify all unions with whom its prime contractor has agreements of the Borrower 's and  
17 the prime contractor's commitments with respect to prevailing wage, non-discrimination, equal  
18 benefits, minimum compensation, first source hiring and job-training; and

19 (d) In addition to the provisions of paragraph (c) above, the Borrower shall require in  
20 its contracts, and that its contractors include in their subcontracts, a requirement that all  
21 employees shall receive (i) minimum gross compensation of \$10.77 per hour, with an annual  
22 raise of 2.5%, (ii) compensated and uncompensated time off as described in and consistent  
23 with San Francisco Administrative Code Section 12P.3(b) and (c), and (iii) health plan benefits  
24 substantially consistent with the City's Health Care Accountability Ordinance; and

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1 (e) Consistent with the City's Disadvantaged Business Enterprise Ordinance, the  
2 Borrower shall use its good faith efforts to have 50% of its contractors (other than its contract  
3 with its prime construction contractor) be disadvantaged business enterprises as that term is  
4 defined in San Francisco Administrative Code Section 14A.4 ("DBEs"), with a first preference  
5 for DBEs located in the Bayview Hunters Point Project Area, and shall also require its prime  
6 construction contractor to use good faith efforts to have 50% of its subcontractors be DBEs,  
7 with a first preference for DBEs located in the Bayview Hunters Point Project Area; and

8 (f) The Borrower shall require that its prime contractor participate in, and include in  
9 subcontracts a provision that all of its subcontractors participate in, the City's First Source  
10 hiring and training program with a goal that 50% of the individuals hired be residents of San  
11 Francisco, and with a first preference for residents of the Bayview Hunters Point Project Area,  
12 all pursuant to agreements that are consistent with the requirements of Chapter 83 of the San  
13 Francisco Administrative Code; and,

14 WHEREAS, The Bond Documents shall provide that the agreements by the Borrower,  
15 on behalf of itself and its contractors and subcontractors, as described in the foregoing  
16 WHEREAS clause, shall not apply to any contracts the Borrower has for the Project as of the  
17 date this Resolution is adopted by the Board of Supervisors; and,

18 WHEREAS, Such pre-existing agreements consist of an agreement for architectural  
19 services with Gelfand Partners and other agreements, a list of which shall be provided to the  
20 City prior to the adoption of this Resolution by the Board of Supervisors; and

21 WHEREAS, The Borrower has agreed to establish a residents' advisory committee on  
22 or before 30 days after the effective date of this Resolution to facilitate communication with  
23 the Project tenants regarding the Borrower's rehabilitation and administration of the Project  
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1 and has agreed further to maintain such committee until construction of the Project is  
2 complete; and,

3 WHEREAS, Section 9 of the Authority's Joint Exercise of Powers Agreement (the  
4 "Agreement") requires that any project proposed to be financed with Authority bonds that is  
5 located within the jurisdiction of one of the Authority's members must receive the prior  
6 approval of the governing body of such member or such body's duly authorized  
7 representative, after the submission of the project sponsor's application for Authority financing  
8 to such governing body; and,

9 WHEREAS, Such application for Authority financing is on file with the Clerk of the  
10 Board of Supervisors in File No. \_\_\_\_\_, which is hereby declared to be a part of this  
11 resolution as if set forth fully herein; and,

12 WHEREAS, The Project is located wholly within the City and County of San Francisco  
13 (the "City"); and,

14 WHEREAS, The interest on the Bonds may qualify for tax exemption under Section  
15 103 of the Internal Revenue Code of 1986, as amended (the "Code") only if the Bonds are  
16 approved in accordance with Section 147(f) of the Code; and,

17 WHEREAS, The Board of Supervisors of the City (the "Board") is the elected legislative  
18 body of the City and is one of the applicable elected representatives required to approve the  
19 issue within the meaning of Section 147(f) of the Code; and,

20 WHEREAS, The Authority has requested the Board to approve the issuance and sale  
21 of the Bonds in order to satisfy the public approval requirements of Section 147(f) of the Code;  
22 and,

23 WHEREAS, On May 26, 2006, the City caused a notice to appear in the *San Francisco*  
24 *Examiner*, which is a newspaper of general circulation in the City, stating that a public hearing  
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1 with respect to the issuance of the Bonds would be held by the City's Office of Public Finance  
2 on June 9, 2006; and

3 WHEREAS, the Office of Public Finance held the public hearing described above on  
4 June 9, 2006, and an opportunity was provided for persons to comment on the issuance and  
5 sale of the Bonds and the plan of financing for the Project; now, therefore be it

6 RESOLVED, That this Board hereby finds and declares the above recitals are true and  
7 correct; and, be it

8 FURTHER RESOLVED, That this Board hereby approves the issuance and sale of the  
9 Bonds with respect to the Project by the Authority; and, be it

10 FURTHER RESOLVED, That it is the purpose and intent of this Board that this  
11 Resolution constitute approval of the issuance of the Bonds by the applicable elected  
12 representative of the governmental unit having jurisdiction over the area in which the Project  
13 is located for the purposes of and in accordance with Section 147(f) of the Code and Section  
14 9 of the Agreement; and, be it

15 FURTHER RESOLVED, That the approval of the issuance and sale of the Bonds by  
16 the Authority is neither an approval of the underlying credit issues of the proposed Project nor  
17 an approval of the financial structure of the Bonds; and, be it

18 FURTHER RESOLVED, That the Bonds shall not constitute a debt or obligation of the  
19 City and the payment of the principal, prepayment premium, if any, and purchase price of and  
20 interest on the Bonds shall be solely the responsibility of Borrower; and, be it

21 FURTHER RESOLVED, The adoption of this Resolution shall not obligate (i) the City to  
22 provide financing to the Borrower for the acquisition, rehabilitation and development of the  
23 Project or to issue the Bonds for purposes of such financing; or (ii) the City, or any department  
24 of the City, to approve any application or request for, or take any other action in connection  
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1 with, any environmental, General Plan, zoning or any other permit or other action necessary  
2 for the acquisition, rehabilitation, development or operation of the Project; and, be it

3 FURTHER RESOLVED, That the regulatory agreement for the Bonds shall incorporate  
4 provisions that address (i) the affordability requirements referenced above, (ii) the agreements  
5 by the Borrower referenced above in (a) through (f) inclusive under the fourth WHEREAS  
6 clause, regarding non-discrimination, prevailing wages, contracting and subcontracting, job-  
7 training, and employment, and (iii) the manner in which the City shall have the right to enforce  
8 those agreements consistent with its rights of enforcement under applicable provisions of the  
9 Administrative Code; and, be it

10 FURTHER RESOLVED, That this Resolution shall take effect immediately upon its  
11 adoption.

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13 APPROVED AS TO FORM:

14 DENNIS J. HERRERA  
15 City Attorney

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17 By: \_\_\_\_\_  
MICHAEL J. MARTIN  
18 Deputy City Attorney

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