

1 [Lease Agreement and Sublease Agreement - 833 Bryant, L.P. - 833 Bryant Street -
2 Permanent Supportive Housing - Annual Rent Not to Exceed \$2,014,800]

3 **Resolution approving a building Lease Agreement and Sublease Agreement each by**
4 **and between the City and 833 Bryant, L.P., a California limited partnership as the**
5 **developer and housing provider (“Housing Provider”) to provide permanent supportive**
6 **housing units for chronically homeless households in San Francisco (as referred**
7 **through the City’s Coordinated Entry System) through the lease and concurrent**
8 **sublease of a building consisting of 145 units, one manager’s unit, approximately 650**
9 **square feet of commercial space, and ancillary program space located at 833 Bryant**
10 **Street, for an initial 30-year term, with an extension of up to 10 years in the event of the**
11 **occurrence of certain rent abatement events, subject to and will commence after**
12 **Housing Provider’s satisfaction in the event of the occurrence of certain conditions**
13 **described below, securing a temporary certificate of occupancy from the San**
14 **Francisco Department of Building Inspection, anticipated in August 2021, at a not to**
15 **exceed rent of \$2,014,800 annually; authorizing the execution of a Continuing**
16 **Disclosure Certificate with respect to any bonds issued by the Housing Provider;**
17 **finding the proposed transaction is in conformance with the General Plan, and the**
18 **eight priority policies of Planning Code, Section 101.1; and adopting California**
19 **Environmental Quality Act findings.**

20
21 WHEREAS, The mission of the Department of Homelessness and Supportive Housing
22 ("HSH") is to prevent homelessness and to make homelessness rare, brief and one time in
23 San Francisco through the provision of coordinated, compassionate, and high-quality
24 services; and
25

1 WHEREAS, HSH published in 2019 a Five-Year Strategic Framework Update and
2 Implementation Plan that set forth the goal of reducing chronic homelessness by 50% by
3 December 2022; and

4 WHEREAS, The creation of permanent supportive housing units is essential to
5 achieving the goal of reducing chronic homelessness by providing permanent exits from
6 homelessness; and

7 WHEREAS, Mercy Housing California formed the Housing Provider for the purpose of
8 developing a building consisting of 145 permanent supportive housing units, one manager’s
9 unit, approximately 650 square feet of commercial space, and ancillary program space
10 (“Project”) located at 833 Bryant Street, in the City (“Property”); and

11 WHEREAS, The Housing Provider sought and received private acquisition,
12 predevelopment and construction financing for the development of the Project, with the goal of
13 delivering 145 permanent supportive housing units quickly and cost-effectively to help meet
14 the City’s goals; and

15 WHEREAS, HSH and the Director of Property have negotiated a Lease Agreement of
16 the Project substantially in the form on file with the Clerk of the Board of Supervisors in File
17 No. _____ (“Lease Agreement”), pursuant to which City will lease the building from the
18 Housing Provider to provide permanent supportive housing at an annual rent of not more than
19 \$2,014,800 (“Annual Rent”), which is \$1,150 per unit per month and \$30.50 per square foot
20 per year, for an initial term of up to 30 years (subject to extension of up to 10 additional years
21 for certain rent abatement events) commencing when the Project is ready for occupancy
22 (anticipated in August 2021); and

23 WHEREAS, The Project provides newly constructed units (rather than older,
24 rehabilitated units), high-quality ancillary program space, and an option and first right of
25 refusal for the City to acquire a fee interest in the land upon any proposed land transfer or at

1 the maturity of the lease term, whichever may come first, thus ensuring permanent
2 affordability for the Project; and

3 WHEREAS, In consideration of those factors, the Director of Property has determined
4 that the Annual Rent payable by City is at or below fair market rent; and

5 WHEREAS, In order to provide for the day-to-day operation of the Project by the
6 Housing Provider, HSH and the Director of Property have negotiated and approved a
7 Sublease Agreement of the Project substantially in the form on file with the Clerk of the Board
8 of Supervisors in File No. _____ (“Sublease Agreement”), pursuant to which the City
9 will lease the Project back to the Housing Provider for a term of up to 30 years commencing
10 concurrently with the Lease Agreement at a total rent of \$1 allowing the Housing Provider to
11 operate and manage the Property as permanent supportive housing, plus an agreement by
12 the Housing Provider to accept tenant referrals through the City’s Coordinated Entry System;
13 and

14 WHEREAS, While the proposed nominal rent of the Sublease Agreement will be less
15 than Market Rent as defined in Administrative Code, Section 23.2, the nominal rent will serve
16 a public purpose by providing permanent supportive housing to formerly homeless
17 households and further the City’s goals; and

18 WHEREAS, The Housing Provider is expected to issue or cause the issuance of bonds
19 through the California Housing Finance Agency to provide a loan to the Housing Provider to
20 fund construction costs for the Project, and in connection therewith the City will be required to
21 provide information for a preliminary official statement (the “Preliminary Official Statement”)
22 and official statement (the “Official Statement”) for distribution to potential investors, and to
23 certify on behalf of the City that the Preliminary Official Statement is deemed final as of its
24 date, within the meaning of Rule 15c2-12 (the “Rule”) promulgated under the Securities
25 Exchange Act of 1934, as amended; and

1 WHEREAS, The Housing Provider is expected to issue or cause the issuance of bonds
2 through the California Housing Finance Agency to provide a loan to the Housing Provider to
3 fund construction costs for the Project, and in connection therewith the City will be required to
4 enter into a continuing disclosure certificate to provide certain annual operating and financial
5 information about the City to the Housing Provider until the bonds mature; and

6 WHEREAS, The Board of Supervisors and Mayor demonstrated their support for the
7 Project by recognizing the funding needs in the City’s Fiscal Year (FY) 2019-21 budget, with
8 the expectation of providing annual payments for the Lease Agreement, operating and
9 services subsidies commencing in 2021; and

10 WHEREAS, The Director of Property and HSH Director will provide a letter to the
11 Housing Provider to document the City’s commitment to enter into the Lease and Sublease
12 pursuant to the terms and conditions of this resolution; and

13 WHEREAS, HSH will quantify the annual operating and services subsidies needed and
14 request funding authorization through the annual budget process, as is customary for
15 permanent supportive housing developments; and

16 WHEREAS, The Planning Department, through a General Plan Referral letter dated
17 April 1, 2020 (“Planning Letter”), which is on file with the Clerk of the Board of Supervisors in
18 File No. _____, has verified that the Project, Lease Agreement, and Sublease
19 Agreement would be consistent with the General Plan, and the eight priority policies under
20 Planning Code, Section 101.1, and is not subject to California Government Code under the
21 California Environmental Quality Act (“CEQA”), for the reasons set forth in the Planning Letter,
22 and the Board affirms this determination; now, therefore, be it

23 RESOLVED, That the Board of Supervisors hereby finds that the Lease Agreement
24 and Sublease Agreement of the Project is consistent with the General Plan, and eight priority
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1 policies of Planning Code, Section 101.1, adopts CEQA findings, and hereby incorporates
2 such findings by reference as though fully set forth in this Resolution; and, be it

3 FURTHER RESOLVED, The Sublease Agreement will serve a public purpose by
4 providing permanent supportive housing to formerly homeless households and further the
5 City's goals; and, be it

6 FURTHER RESOLVED, That in accordance with the recommendation of the Director
7 of HSH and the Director of Property, the Board of Supervisors approves the Lease Agreement
8 and Sublease Agreement, each in substantially the form presented to the Board, and
9 authorizes the Director of HSH and the Director of Property to execute and deliver the Lease
10 Agreement and Sublease Agreement, each in substantially the form presented to the Board,
11 and any such other documents that are necessary or advisable to complete the transaction
12 contemplated by the Lease Agreement and Sublease Agreement, and to effectuate the
13 purpose and intent of this Resolution; and, be it

14 FURTHER RESOLVED, That the Board of Supervisors authorizes the Director of
15 Property and Director of HSH to enter into any amendments or modifications to the Lease
16 Agreement and Sublease Agreement (including, without limitation, exhibits or other ancillary
17 documents) that the Director of Property and Director of HSH determine, in consultation with
18 the City Attorney, are in the best interest of the City, do not materially increase the obligations
19 or liabilities of the City, do not materially decrease the benefits to the City, or are necessary or
20 advisable to effectuate the purposes of this resolution, and are in compliance with all
21 applicable laws; and, be it

22 FURTHER RESOLVED, That the Board of Supervisors hereby authorizes the Director
23 of HSH to commit the City to the execution of the Lease Agreement and Sublease Agreement
24 upon satisfaction by Housing Provider of certain conditions precedent as follows: 1) Housing
25 Provider's securing a Temporary Certification of Occupancy ("TCO") from the San Francisco

1 Department of Building Inspection for 145 residential apartments, one manager's unit, and
2 ancillary program space; 2) the Director of HSH's determination that placement of tenants is
3 ready to commence through referrals by HSH through the City's Coordinated Entry System;
4 and 3) the Director of HSH's determination that the annual rent has been adjusted to reflect
5 the Project's financing, but not to exceed \$2,014,800 per year; and be it

6 FURTHER RESOLVED, That the Lease Agreement shall be subject to certification as
7 to funds by the Controller, pursuant to Charter, Section 3.105; and be it

8 FURTHER RESOLVED, That the Board of Supervisors hereby authorizes the
9 Controller, in consultation with the City Attorney, to provide information for inclusion in the
10 Preliminary Official Statement and Official Statement, to deem final the Preliminary Official
11 Statement as of its date in accordance with the Rule, and to enter into a Continuing
12 Disclosure Certificate in connection with the issuance of bonds issued by the California
13 Housing Finance Agency to make a loan to the Housing Provider to provide funds to construct
14 the Project; and, be it

15 FURTHER RESOLVED, That the Board of Supervisors hereby authorizes the Director
16 of HSH, the Controller, the City Attorney, and all other designated officers of the City to take
17 all other actions that may be necessary in connection with the bond financing; and be it

18 FURTHER RESOLVED, That the Director of Property shall provide a copy of the
19 executed Lease Agreement and Sublease Agreement within thirty (30) days of its execution to
20 the Clerk of the Board for the Board's file.

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