

1 [Corrective Actions in Connection with Proposed Federal Tax Reform - Multifamily Housing  
2 Revenue Bonds - Various Multifamily Rental Housing Projects]

3 **Resolution authorizing corrective actions by the Mayor and the Director of the Mayor's**  
4 **Office of Housing and Community Development to mitigate, ameliorate or avoid the**  
5 **negative consequences of proposed federal tax reform on multifamily housing revenue**  
6 **bonds of the City and on the multifamily rental housing projects financed thereby;**  
7 **authorizing the collection of certain fees; ratifying and approving any action heretofore**  
8 **taken in connection with such corrective actions; granting general authority to City**  
9 **officials to take actions necessary to implement this Resolution, as defined herein; and**  
10 **related matters, as defined herein.**

11  
12 WHEREAS, Pursuant to the Charter of the City and County of San Francisco (the  
13 "City"), Article I of Chapter 43 of the Administrative Code of the City and, to the extent  
14 applicable, Chapter 7 of Part 5 of Division 31 (commencing with Section 52075) of the Health  
15 and Safety Code of the State of California (collectively, the "Act"), the City has issued multiple  
16 issues of revenue bonds, notes and other obligations to finance various multifamily rental  
17 housing Projects (defined below), including obligations, the proceeds of which were, when  
18 originally issued, intended to be drawn down over time but which, as of the date hereof, have  
19 not been fully drawn down, and/or obligations that may require related amendments to avoid a  
20 reissuance for tax purposes after the effective date of the proposed federal tax reform  
21 mentioned below (each, an "Issue" of Bonds and collectively, the "Bonds"); and

22 WHEREAS, In connection with the Bonds, LIHTC (defined below) and funding from  
23 Other Sources (defined below), the City has entered into, acknowledged, consented to or  
24 approved, or has accepted as beneficiary, various documents (collectively, "Financing  
25 Documents"), including, without limitation, indentures, loan agreements, bond purchase

1 agreements, regulatory agreements, tax certificates, assignments, subordinations,  
2 intercreditor agreements, leases, security instruments, bonds, notes and other agreements  
3 and documents; and

4 WHEREAS, Each Issue of the Bonds provides financing to a limited partnership, limited  
5 liability company or other entity (each, a "Borrower") for a portion of the costs of the  
6 acquisition, development and construction, or the acquisition and rehabilitation, of a  
7 multifamily rental housing development located in the City to provide rental housing for  
8 occupancy, wholly or in part, by persons and families of low or very low income at below-  
9 market rents (each, a "Project" and collectively, including the Projects set forth in Exhibit A,  
10 attached hereto, the "Projects"); and

11 WHEREAS, The interest on the Bonds, when originally issued, qualified for tax  
12 exemption under Section 103 of the Internal Revenue Code of 1986, as amended (the  
13 "Code"); and

14 WHEREAS, In addition to the financing provided by the related Issue of Bonds, one or  
15 more of the Projects is relying on capital funding provided through the syndication of certain  
16 low-income housing tax credits authorized under Section 42 of the Code ("LIHTC"); and

17 WHEREAS, Under said Section 42, the availability of LIHTC financing for each Project  
18 is dependent on the tax exemption of interest on the related Issue of Bonds; and

19 WHEREAS, In addition to the financing provided by the related Issue of Bonds, one or  
20 more of the Projects is relying on (i) capital or other funding, including one or more loans  
21 provided by the City, (ii) one or more loans provided by the Office of Community Investment  
22 and Infrastructure of the City and County of San Francisco, as successor agency to the  
23 Redevelopment Agency of the City and County of San Francisco, (iii) subsidies from the  
24 federal government, and (iv) funding from other sources (collectively, the "Other Sources");  
25 and

1           WHEREAS, The availability of funding from the Other Sources for each Project may  
2 depend on the continued availability of capital funding from the Bonds and LIHTC; and

3           WHEREAS, On November 16, 2017, the United States House of Representatives  
4 passed a tax reform bill (H.R.1) (the “Bill”) which would, if enacted into law in pertinent part,  
5 eliminate the exemption from federal income taxation of interest on the Bonds or the portion  
6 thereof drawn down after the effective date of such Bill, and could, in turn, jeopardize the  
7 availability of continued funding from the Bonds, LIHTC and Other Sources of funding for one  
8 or more of the Projects; and

9           WHEREAS, in order to ensure the continued tax exemption of interest on the Bonds  
10 and the continued availability of the funding sources provided by the Bonds, LIHTC and Other  
11 Sources, and otherwise to mitigate, ameliorate or avoid the negative consequences or  
12 potential negative consequences of the proposed federal tax reform on the Projects and on  
13 the Bonds, LIHTC and Other Sources of funding therefor, the City desires to take one or more  
14 corrective actions including, but not limited to: (i) the creation of new or changes to existing  
15 funds and accounts with respect to the Bonds and the Projects, including new or amended  
16 disbursement provisions, (ii) changes to any interest rates or interest rate determination  
17 methods with respect to the Bonds or other funding sources, (iii) changes to the draw-down or  
18 funding of installments under, or the amortization or repayment dates with respect to, the  
19 Bonds, LIHTC or funding from Other Sources, (iv) additional Borrower funding requirements;  
20 (v) changes in any agreements relating to events of taxability of interest on any Issue of  
21 Bonds and the consequences thereof, (vi) changes in provisions for the investment of  
22 proceeds of any Issue of Bonds or other amounts held under the applicable Financing  
23 Documents, irrespective of any contrary investment policy of the City; (vii) actions taken in  
24 connection with a reissuance of any Issue of the Bonds, including but not limited to the  
25 holding of public hearings following public notice and the reapproval of such Issue and the

1 related Project for purposes of Section 147(f) of the Code by an applicable elected  
2 representative of the City, including the Mayor or the Board of Supervisors, the amendment or  
3 supplementing of tax documents and the filing of tax forms; (viii) amending or supplementing  
4 any Financing Documents to provide for any of the foregoing or the following corrective  
5 actions; and (ix) such other corrective actions as the Mayor, the Director of the Mayor's Office  
6 of Housing and Community Development, or the designee of either (each, an "Authorized  
7 Representative"), may deem necessary or appropriate in light of the purposes and intent of  
8 this Resolution or any other resolution of this Board in connection with any Issue of Bonds or  
9 the related Project or Projects (collectively, the "Corrective Actions"); and

10 WHEREAS, Because the enactment into law of federal tax reform could come in 2018  
11 with a retroactive effective date, it may be necessary to take Corrective Actions before the  
12 final provisions of such tax reform, if any, as enacted into law, are known; now, therefore, be it

13 RESOLVED, by this Board of Supervisors of the City and County of San Francisco as  
14 follows:

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

17 Section 2. Approval of Corrective Actions. The City, acting through the Mayor's  
18 Office of Housing and Community Development ("MOHCD"), is hereby authorized and  
19 directed to take any Corrective Actions with respect to any of the Projects and any Issue of  
20 the Bonds; provided that such Corrective Actions are taken in consultation with the City  
21 Attorney and bond counsel. The Authorized Representatives are each authorized to  
22 negotiate, execute, attest and deliver any agreements, instruments, amendments,  
23 supplements, consents, approvals, certificates, forms or other documents necessary or  
24 appropriate to effectuate or facilitate any such Corrective Actions. The Clerk of the Board of  
25

1 Supervisors, or the designee thereof, is hereby authorized and directed to attest or certify any  
2 such documents or the execution thereof.

3 Section 3. Fees and Expenses. The City, acting through MOHCD, is hereby authorized  
4 to charge each Borrower a fee for the City's administrative costs associated with authorizing,  
5 implementing, executing and monitoring any Corrective Action with respect to the applicable  
6 Project or the related Bonds, LIHTC or Other Sources of funding. The City, acting through  
7 MOHCD, is also authorized to charge each Borrower for any other out-of-pocket costs  
8 incurred in connection with any applicable Corrective Action, including but not limited to the  
9 fees and expenses of advisors, consultants, attorneys, fiscal agents, trustees, bidding agents  
10 and other providers of services or property in connection with any such Corrective Action. The  
11 Board hereby authorizes MOHCD to charge and collect the fees and reimbursements  
12 described in this section. Such amounts may be charged and collected irrespective of the  
13 outcome of the pending federal tax reform legislation and irrespective of whether the  
14 applicable Corrective Actions are ultimately effectuated.

15 Section 4. Modifications, Changes, Additions. Any Authorized Representative  
16 executing the documents mentioned in Section 2 hereof (collectively, the "City Documents"),  
17 in consultation with the City Attorney and bond counsel, is hereby authorized to approve and  
18 make such modifications, changes or additions to the City Documents as may be necessary  
19 or advisable, provided such modification, change or addition is not inconsistent with the  
20 purposes of this Resolution. The approval of any modification, addition or change to any of the  
21 aforementioned documents shall be evidenced conclusively by the execution and delivery of  
22 the document in question.

23 Section 5. Ratification. All actions heretofore taken by the officers and agents of the  
24 City with respect to any Corrective Actions, to the extent not inconsistent with the purposes of  
25 this Resolution, are hereby approved, confirmed and ratified.

1           Section 6. General Authority. The proper officers of the City are hereby authorized and  
2 directed, for and in the name and on behalf of the City, to do any and all things and take any  
3 and all actions and execute and deliver any and all other certificates, agreements, instruments  
4 and other documents not otherwise authorized herein, including but not limited to  
5 assignments, subordinations, tax documents and other documents which they, or any of them,  
6 may deem necessary or advisable in order to consummate, facilitate or effectuate the  
7 Corrective Actions. Any such actions are solely intended to further the purposes of this  
8 Resolution, and are subject in all respects to the terms of the Resolution. No such actions  
9 shall increase the risk to the City or require the City to spend any resources not otherwise  
10 granted herein, unless indemnity or assurance of repayment therefor is provided to the  
11 satisfaction of the City. Final versions of any such documents shall be provided to the Clerk  
12 of the Board for inclusion in the official file within 30 days of execution by all parties.

13           Section 7. Previously Authorized Multifamily Housing Bonds. The Board hereby  
14 authorizes any Corrective Actions with respect to draw-down bonds and notes for multifamily  
15 rental housing projects that have been previously authorized by the Board of Supervisors but  
16 have not yet been issued. Such prior authorizations are hereby deemed to be supplemented  
17 to permit Corrective Actions.

18           Section 8. Certain Limitations. No provision of this Resolution may be relied upon by  
19 any developer, owner of Bonds, LIHTC investor, provider of any other funding source, or any  
20 other person or entity, as assurance that interest on the applicable Issue of Bonds will remain  
21 tax-exempt following enactment of the proposed tax reform or that the LIHTC or any other  
22 funding source will remain available on the same terms as prior to tax reform. No provision of  
23 this Resolution shall obligate the City or any of its agencies or departments to provide any  
24 funds to any project as a result of tax reform or the matters described in this Resolution.

1           Section 9. File. All documents referenced herein as being on file with the Clerk of the  
2 Board are located in File No. \_\_\_\_\_, which is hereby declared to be a part of this  
3 Resolution as if set forth fully herein.

4

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

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8 By: \_\_\_\_\_  
9       KENNETH D. ROUX  
10       Deputy City Attorney  
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EXHIBIT A

Outstanding Multifamily Housing Revenue Bonds Not Fully Drawn Down

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Project	Series	Issuance Date	Issuance Amount
Bill Sorro	2014 C	12/16/14	\$22,419,916
Mission Bay Block 7W (588 Mission Bay Blvd. North)	2015 D	05/27/15	56,675,000
Hunters Point East West [RAD]	2015 J	11/13/15	63,968,000
1880 Pine [RAD]	2015 K	11/13/15	20,705,000
345 Arguello [RAD]	2015 L	11/13/15	16,411,000
Robert B. Pitts [RAD]	2015 W	11/20/15	43,266,000
990 Pacific [RAD]	2015 V	11/20/15	34,346,000
227 Bay [RAD]	2015 U	11/20/15	12,719,000
666 Ellis [RAD]	2015 O	11/20/15	19,897,000
Alice Griffith Phase 3A Apartments	2016 A	02/29/16	30,500,000
Transbay Block 7 Affordable (222 Beale St)	2016 F	06/14/16	35,000,000
1036 Mission Family Housing	2016 C	08/01/16	31,345,952
Alemanys Apts. [RAD]	2016 S	10/01/16	73,645,000
320 & 330 Clementina Apts. [RAD]	2016 Q	10/01/16	64,422,000
Rosa Parks Apts. [RAD]	2016 P	10/01/16	60,642,000
350 Ellis Apts. [RAD]	2016 R	10/01/16	34,390,000
Westbrook Apartments [RAD]	2016 N	10/01/16	87,459,000
2698 California Apts. [RAD]	2016 W	10/01/16	16,653,000
1760 Bush Apts. [RAD]	2016 V	10/01/16	25,237,000
JFK Tower Apts. [RAD]	2016 X	10/01/16	31,100,000
Westside Courts Apts. [RAD]	2016 M	10/01/16	47,497,000
1750 McAllister Apts. [RAD]	2016 O	10/01/16	30,548,000
Ping Yuen North Apts [RAD]	2016 L	10/01/16	80,800,000
Ping Yuen Apts. [RAD]	2016 K	10/01/16	87,027,000
Mission Dolores Apts. [RAD]	2016 U	10/01/16	28,465,000
3850 18th Street Apts. [RAD]	2016 T	10/01/16	29,407,000
Francis of Assisi Community Apts.	2016 G	10/01/16	47,500,000
1300 Fourth Street (Mission Bay South, Block 6W)	2016 D	10/03/16	40,990,000
Transbay Block 8 Affordable Apartments	2016 J	12/19/16	19,290,833
Potrero Block X Apartments	2016 Y	12/20/16	43,900,000
500 Folsom Apartments (also known as Transbay 9)	2016 E	12/23/16	132,000,000
Eddy & Taylor Family Housing	2017 A	06/21/17	43,503,435
Alice Griffith, Phase 4	2017 C	08/09/17	14,450,000
455 Fell Street (Parcel O)	2017 D	10/04/17	40,187,000
<b>TOTAL</b>			<b>1,466,366,136</b>