

1 [Mortgage Revenue Bonds.]

2

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 (the “Director”) to submit an**
6 **application and related documents to the California Debt Limit Allocations Committee**
7 **(“CDLAC”) to permit the issuance of qualified mortgage revenue bonds in an aggregate**
8 **principal amount not to exceed \$22,000,000 for Arlington Residence; authorizing and**
9 **directing the Director to direct the Controller’s Office to hold in trust an amount not to**
10 **exceed \$100,000 in accordance with CDLAC procedures; authorizing the Director to**
11 **certify to CDLAC that the City has on deposit the required amount; authorizing the**
12 **Director to pay an amount equal to such deposit to the State of California if the City**
13 **fails to issue the qualified mortgage revenue bonds; approving, for purposes of the**
14 **Internal Revenue Code of 1986, as amended, the issuance and sale of mortgage**
15 **revenue bonds by the City in an aggregate principal amount not to exceed \$22,000,000;**
16 **authorizing and directing the execution of any documents necessary to implement this**
17 **Resolution; and ratifying and approving any action heretofore taken in connection with**
18 **the Project (as defined herein) and the Application (as defined herein).**

19

20 WHEREAS, The Board of Supervisors of the City and County of San Francisco (the
21 “Board of Supervisors”), after careful study and consideration, has determined that there is a
22 shortage of safe and sanitary housing within the City and County of San Francisco (the “City”),
23 particularly for low and moderate income persons, and that it is in the best interest of the
24 residents of the City and in furtherance of the health, safety, and welfare of the public for the
25 City to assist in the financing of multi-family rental housing units; and,

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, the City has enacted the City and County of San Francisco
4 Residential Mortgage Revenue Bond Law (the "City Law"), constituting Article I of Chapter 43
5 of the San Francisco Administrative Code, in order to establish a procedure for the
6 authorization, issuance and sale of residential mortgage revenue bonds by the City for the
7 purpose of providing funds to encourage the availability of adequate housing and home
8 finance for persons and families of low or moderate income, and to develop viable
9 communities by providing decent housing, enhanced living environments, and increased
10 economic opportunities for persons and families of low or moderate income; and,

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

16 WHEREAS, Mercy Housing XL, a California limited partnership (the "Developer"),
17 desires to rehabilitate a 153-unit residential rental housing development for very low income
18 households at 472-480 Ellis Street to be known as the Arlington Residence (the "Project");
19 and,

20 WHEREAS, The Developer has requested that the City assist in the financing of the
21 Project through the issuance of one or more series of tax-exempt mortgage revenue bonds
22 (the "Bonds"); and,

23 WHEREAS, pursuant to Resolution No. 174-09, adopted by the Board of Supervisors
24 on May 5, 2009, and signed by the Mayor of the City on May 14, 2009, the City initially
25

1 approved the issuance of the Bonds in an aggregate principal amount of not to exceed
2 \$12,000,000; and,

3 WHEREAS, the Developer has returned to this Board to request that the City approve
4 the issuance of the Bonds in an aggregate principal amount of not to exceed \$22,000,000 due
5 to increased costs associated with the Project; and

6 WHEREAS, The City expects that proceeds of the Bonds will be used to pay certain
7 costs incurred on and after the date hereof in connection with the Project; and,

8 WHEREAS, The City intends to issue the Bonds in an amount not to exceed
9 \$22,000,000 to finance the costs of the Project and to loan the proceeds thereof to the
10 Developer (the "Loan"); 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 all such expenditures made on and after
14 the date hereof with respect to the Project from the proceeds of the Bonds; and,

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

18 WHEREAS, The interest on the Bonds may qualify for tax exemption under Section
19 103 of the Internal Revenue Code of 1986, as amended (the "Code"), only if the Bonds are
20 approved in accordance with Section 147(f) of the Code; and,

21 WHEREAS, The City now wishes to approve the issuance of the Bonds in order to
22 satisfy the public approval requirements of Section 147(f) of the Code; and,

23 WHEREAS, The Project is located wholly within the City; and,

24 WHEREAS, On August 19, 2009, the City caused a notice stating that a public hearing
25 with respect to the issuance of the Bonds would be held by the Mayor's Office of Housing on

1 September 2, 2009, to appear in *The San Francisco Examiner*, which is a newspaper of
2 general circulation in the City; and,

3 WHEREAS, The Mayor's Office of Housing has held the public hearing described
4 above on September 2, 2009 and an opportunity was provided for persons to comment on the
5 issuance of the Bonds and the Project; and,

6 WHEREAS, This Board of Supervisors is the elected legislative body of the City and is
7 the applicable elected representative required to approve the issuance of the Bonds within the
8 meaning of Section 147(f) of the Code; and,

9 WHEREAS, Section 146 of the Code limits the amount of qualified mortgage revenue
10 bonds that may be issued in any calendar year by entities within a state and authorizes the
11 legislature of such state to provide the method of allocating authority to issue qualified
12 mortgage revenue bonds within such state; and,

13 WHEREAS, Chapter 11.8 of Division 1 of Title 2 of the Government Code of the State
14 of California governs the allocation in the State of California of the state ceiling established by
15 Section 146 of the Code among governmental units in the State having the authority to issue
16 qualified mortgage revenue bonds; and,

17 WHEREAS, Section 8869.85 of the Government Code requires a local agency to file
18 an application for a portion of the state ceiling with or upon the direction of the California Debt
19 Allocation Committee ("CDLAC") prior to the issuance of qualified mortgage revenue bonds;
20 and,

21 WHEREAS, CDLAC procedures require an applicant for a portion of the state ceiling to
22 certify to CDLAC that applicant has on deposit an amount equal to one-half of one percent
23 (1/2%) of the amount of allocation requested and not to exceed \$100,000; now, therefore be it

24 RESOLVED, by the Board of Supervisors of the City and County of San Francisco, as
25 follows:

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

3 Section 2. The Board of Supervisors adopts this Resolution for purposes of
4 establishing compliance with the requirements of Section 1.150-2 of the Treasury
5 Regulations. This Resolution does not bind the Board of Supervisors to approve the Loan or
6 to make any expenditure, incur any indebtedness or proceed with the Project.

7 Section 3. The Board of Supervisors hereby declares its official intent under Treasury
8 Regulations Section 1.150-2 and declares its intent to use proceeds of indebtedness to
9 reimburse all future expenditures incurred in connection with the Project. The Board of
10 Supervisors hereby further declares its intent to use such proceeds to reimburse the
11 Developer for actual expenditures made by the Developer on the Project.

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

15 Section 5. The maximum principal amount of debt expected to be issued for the
16 Project is \$22,000,000.

17 Section 6. This Board of Supervisors, as the applicable elected representative of the
18 governmental unit having jurisdiction over the area in which the Project is located, hereby
19 approves the issuance of the Bonds for purposes of Section 147(f) of the Code.

20 Section 7. This approval of the issuance of the Bonds by the City is neither an
21 approval of the underlying credit issues of the proposed Project nor an approval of the
22 financial structure of the Bonds.

23 Section 8. The Board of Supervisors hereby authorizes the Director of the Mayor's
24 Office of Housing (the "Director"), on behalf of the City, to submit an application (the
25 "Application"), and such other documents as may be required, to CDLAC pursuant to

1 Government Code Section 8869.85 for an allocation of a portion of the state ceiling for private
2 activity bonds in a principal amount not to exceed \$22,000,000 for qualified mortgage revenue
3 bonds.

4 Section 9. An amount equal to \$100,000 ("Deposit") is hereby authorized to be held on
5 deposit in connection with the Application and the applicable CDLAC procedures, and the
6 Director is authorized to certify to CDLAC that such funds are available; which Deposit shall
7 consist of a restriction on cash in the Hotel Tax Fund established pursuant to Section 515.01
8 of Article 7 of the San Francisco Business and Tax Regulations Code (the "Hotel Tax Fund").

9 Section 10. If the City receives a CDLAC allocation and the applicable issuance requirements
10 are not met, the Mayor's Office of Housing is hereby authorized to cause an amount equal to
11 the Deposit to be paid to the State of California from the Hotel Tax Fund, if required.

12 Section 11. The officers and employees of the City and the Director are hereby
13 authorized and directed, jointly and severally, to do any and all things necessary or advisable
14 to consummate the receipt of an allocation from CDLAC and otherwise effectuate the
15 purposes of this Resolution, and all actions previously taken by such officers and employees
16 with respect to the Project, including but not limited to the submission of the application to
17 CDLAC, are hereby ratified and approved.

18 Section 12. This Resolution shall take effect from and after its adoption by the Board
19 and approval by the Mayor.

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21 APPROVED AS TO FORM:
22 DENNIS J. HERRERA
23 City Attorney

24 By: _____
25 Kenneth David Roux
Deputy City Attorney