

1 [Certificates of Participation for Street Improvements]

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3 **Ordinance authorizing the execution and delivery of Certificates of Participation in an**  
4 **aggregate principal amount not to exceed \$42,000,000 to finance the acquisition,**  
5 **construction, improvement and installation of certain street improvements; approving**  
6 **the form of a First Supplement to Trust Agreement between the City and County of San**  
7 **Francisco and the Trustee named therein (including certain indemnities contained**  
8 **therein); approving the form of a First Supplement to Project Lease between the City**  
9 **and the Trustee relating to the real property and improvements located at 375 Laguna**  
10 **Honda Boulevard; approving the form of an Official Notice of Sale and Notice of**  
11 **Intention to Sell for the Certificates of Participation, if sold by competitive sale;**  
12 **authorizing certain actions relating to the Certificates of Participation, if sold by**  
13 **negotiated sale; approving the form of an official statement in preliminary and final**  
14 **form; approving the form of a Continuing Disclosure Certificate; granting general**  
15 **authority to City officials to take necessary actions in connection with the**  
16 **authorization, issuance, sale and delivery of the Certificates of Participation; approving**  
17 **modifications to documents; and ratifying previous actions taken in connection**  
18 **therewith.**

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20 WHEREAS, The Board of Supervisors of the City and County of San Francisco (the  
21 "Board of Supervisors" or the "Board") desires to finance the acquisition, construction,  
22 improvement and installation of certain street improvements (the "Project"); and,

23 WHEREAS, The Board has previously authorized the execution and delivery of  
24 certificates of participation to finance the demolition, improvement, installation, equipping,  
25 rehabilitation, construction and/on reconstruction of a health care, assisted living and/or other

1 type of continuing care facility or facilities and related improvements (the "Leased Property")  
2 located at 375 Laguna Honda Boulevard (the "Site") with proceeds from the sale of City and  
3 County of San Francisco Certificates of Participation, Series 2009A (Multiple Capital  
4 Improvement Projects) (the "Series 2009A Certificates") pursuant to a trust agreement (the  
5 "Trust Agreement"), between the City and the trustee named therein (the "Trustee"); and,

6 WHEREAS, In connection with the execution and delivery of the Series 2009A  
7 Certificates, the City executed a Property Lease (the "Property Lease"), pursuant to which the  
8 City leased the Site and the Leased Property to the Trustee and a Project Lease (the "Project  
9 Lease"), pursuant to which the Trustee leased the Site and the Leased Property back to the  
10 City; and,

11 WHEREAS, The Trust Agreement provides for the issuance of Additional Certificates to  
12 provide funds for additional capital projects of the City; and,

13 WHEREAS, The City desires to cause the execution and delivery of a series of  
14 Additional Certificates (as further defined herein, the "Certificates") to provide funds for the  
15 Project; and,

16 WHEREAS, This Board has been presented with the form of certain documents  
17 referred to herein relating to the Certificates, and the Board has examined and is approving  
18 each document and desires to authorize and direct the execution of such documents and the  
19 consummation of such financing; and,

20 WHEREAS, The adoption of this Ordinance shall constitute authorization of the  
21 Certificates within the meaning of Section 864 of the California Code of Civil Procedure and  
22 any Validation Act that is effective after this Ordinance takes effect; and,

23 WHEREAS, The Certificates may be sold by competitive sale pursuant to an official  
24 notice of sale and a notice of intention to sell or, in accordance with certain procedures, by  
25 negotiated sale; and,

1 Be it ordained by the People of the City and County of San Francisco, as follows:

2 Section 1. Recitals. All of the recitals herein are true and correct.

3 Section 2. Conditions Precedent. All conditions, things and acts required by law to  
4 exist, to happen and to be performed precedent to and in the execution and delivery of the  
5 Certificates exist, have happened and have been performed in due time, form and manner in  
6 accordance with applicable law, and the City is now authorized pursuant to its Charter and  
7 applicable law to incur indebtedness in the manner and form provided in this Ordinance.

8 Section 3. File Documents. The documents presented to this Board and on file with  
9 the Clerk of the Board or her designee (the "Clerk") are contained in File  
10 No. \_\_\_\_\_.

11 Section 4. Approval of the Certificates. The Board hereby approves the execution and  
12 delivery of the Certificates, which shall be executed and delivered in accordance with the first  
13 supplement to trust agreement referred to in Section 5 below (the "First Supplement to Trust  
14 Agreement"), as the same is finally executed and delivered. The proceeds of the Certificates  
15 will be used to (i) fund the Project; (ii) fund a reserve fund or the costs of a reserve surety  
16 policy, as the Controller or his designee shall determine; (iii) fund capitalized interest; and (iv)  
17 pay costs of issuance of the Certificates. The Certificates shall be designated as "City and  
18 County of San Francisco Certificates of Participation, Series 2009B (Multiple Capital  
19 Improvement Projects)," with such other designation as deemed appropriate by the Director of  
20 Public Finance of the City or her designee (collectively, the "Director of Public Finance"). The  
21 Trustee shall not be authorized to cause the execution and delivery of Certificates in an  
22 aggregate principal amount greater than \$42,000,000, with an interest rate not to exceed  
23 12 percent per annum. The Certificates shall be subject to prepayment as set forth in the First  
24 Supplement to Trust Agreement. To the extent deemed necessary by the Director of Public  
25 Finance, this Board authorizes the procurement of credit enhancement for the Certificates,

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1 including, but not limited to, municipal bond insurance or a debt service reserve fund surety  
2 policy. Notwithstanding Section 14 hereof, the documents authorized herein may be modified  
3 or amended to permit the procurement of credit enhancement for the Certificates, to the  
4 extent deemed necessary by the Director of Public Finance, upon consultation with the City  
5 Attorney.

6 Section 5. Approval of the First Supplement to Trust Agreement. The form of a first  
7 supplement to trust agreement (the "First Supplement to Trust Agreement") between the City  
8 and the Trustee, as presented to this Board, a copy of which is on file with the Clerk of the  
9 Board, is hereby approved. The Mayor of the City or his designee (collectively, the "Mayor")  
10 is hereby authorized to execute the First Supplement to Trust Agreement, and the Clerk of the  
11 Board or her designee (collectively, the "Clerk of the Board"), is hereby authorized to attest to  
12 and affix the seal of the City on the First Supplement to Trust Agreement, with such changes,  
13 additions and modifications as the Mayor may make or approve in accordance with Section 14  
14 hereof.

15 Section 6. Approval of the First Supplement to Project Lease. The form of a first  
16 supplement to project lease between the City and the Trustee (the "First Supplement to  
17 Project Lease"), providing for the financing of the Project, as presented to this Board, a copy  
18 of which is on file with the Clerk of the Board, is hereby approved. The Mayor is hereby  
19 authorized to execute the First Supplement to Project Lease, and the Clerk of the Board is  
20 hereby authorized to attest and to affix the seal of the City on the First Supplement to Project  
21 Lease with such changes, additions and modifications as the Mayor may make or approve in  
22 accordance with Section 14 hereof, provided however, that the maximum Base Rental (as  
23 defined in the Project Lease) relating to the Project scheduled to be paid under the Project  
24 Lease, as supplemented by the First Supplement to Project Lease in any fiscal year shall not  
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1 exceed \$3,700,000 and the term of the First Supplement to Project Lease shall not extend  
2 beyond 2053.

3 Section 7. Sale and Award of Certificates by Competitive Sale. In the event the  
4 Director of Public Finance determines to sell the Certificates by competitive sale, the Director  
5 of Public Finance, on behalf of the Controller, is hereby authorized and directed to receive  
6 bids for the purchase of the Certificates, and the Controller is hereby authorized and directed  
7 to award the Certificates to the bidder whose bid represents the lowest true interest cost to the  
8 City, all in accordance with the procedures described in the Notice of Sale (as defined herein).

9 Section 8. Approval of Form of Official Notice of Sale. The form of an official notice of  
10 sale relating to the Certificates (the "Official Notice of Sale"), as presented to this Board, a  
11 copy of which is on file with the Clerk of the Board, is hereby approved. The Director of Public  
12 Finance is hereby authorized to approve the distribution of an Official Notice of Sale for the  
13 Certificates, with such changes, additions modifications or deletions as the Director of Public  
14 Finance may approve upon consultation with the City Attorney; such approval to be  
15 conclusively evidenced by the distribution of the Official Notice of Sale to potential purchasers  
16 of the Certificates.

17 Section 9. Approval of Notice of Intention to Sell Relating to the Certificates. The form  
18 of a notice of intention to sell relating to the Certificates (the "Notice of intention to Sell"), as  
19 presented to this Board, a copy of which is on file with the Clerk of the Board, is hereby  
20 approved. The Director of Public Finance is hereby authorized to approve the publication of  
21 the Notice of Intention to Sell relating to the Certificates, with such changes, additions,  
22 modifications or deletions as the Director of Public Finance may approve upon consultation  
23 with the City Attorney; such approval to be conclusively evidenced by the publication of the  
24 Notice of Intention to Sell relating to the Certificates.

1           Section 10. Sale of Certificates by Negotiated Sale. In the event the Director of Public  
2 Finance determines to sell the Certificates by negotiated sale, such sale shall occur (i) in  
3 accordance with a resolution adopted by this Board approving the form of one or more bond  
4 purchase contracts submitted to this Board, (ii) by, one or more investment banking firms  
5 named in such resolution to act as underwriters for the Certificates in accordance with City  
6 policies and procedures, including, but not limited to, the City's policy to provide locally  
7 disadvantaged minority business enterprises and women enterprises an equal opportunity to  
8 participate in the performance of all City contracts and (iii) otherwise in accordance with the  
9 terms of such resolution.

10           Section 11. Approval of the Official Statement in Preliminary and Final Form. The form  
11 of an official statement relating to the Certificates (the "Official Statement"), as presented to  
12 this Board, a copy of which is on file in preliminary form with the Clerk, is hereby approved.  
13 The Director of Public Finance is hereby authorized to approve the distribution of the  
14 preliminary Official Statement in substantially said form, with such changes, additions,  
15 modifications or deletions as the Director of Public Finance may approve upon consultation  
16 with the City Attorney; such approval to be conclusively evidenced by the distribution of the  
17 preliminary Official Statement to potential purchasers of the Certificates. The Controller of the  
18 City or his designee (collectively, the "Controller") is hereby authorized to cause the  
19 distribution of the Preliminary Official Statement, deemed final for purposes of Rule 15c2-12 of  
20 the Securities and Exchange Act of 1934, as amended, and to execute a certificate to that  
21 effect. The Controller is hereby further authorized and directed to sign the Official Statement  
22 in final form. The Controller or the Director of Public Finance are hereby authorized to direct  
23 the Co-Financial Advisors to cause to be printed and mailed, or distributed electronically, to  
24 prospective bidders, copies of the Preliminary Official Statement and the final Official  
25 Statement.

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1           Section 12. Approval of the Continuing Disclosure Certificate. The form of a  
2 Continuing Disclosure Certificate of the City, as presented to this Board, a copy of which is on  
3 file with the Clerk of the Board, is hereby approved. The Controller is hereby authorized to  
4 execute the Continuing Disclosure Certificate, with such changes, additions, modifications or  
5 deletions as the Controller may approve upon consultation with the City Attorney; such  
6 approval to be conclusively evidenced by the execution and delivery of the Continuing  
7 Disclosure Certificate.

8           Section 13. General Authority. The Mayor, the City Attorney, the Controller, the City  
9 Administrator, the Director of Public Finance, the Clerk of the Board and other officers of the  
10 City and their duly authorized deputies and agents are hereby authorized and directed, jointly  
11 and severally, to take such actions and to execute and deliver such certificates, agreements,  
12 requests or other documents as they may deem necessary or desirable to accomplish the  
13 proposed financing through the execution and delivery of the Certificates, to enter into the  
14 First Supplement to Trust Agreement and the First Supplement to Project Lease, to facilitate  
15 the execution and delivery of the Certificates, to obtain bond insurance or other credit  
16 enhancements with respect to the financing of the Project, to obtain title insurance, clear any  
17 encumbrances to title, survey property and carry out other title work and otherwise to carry out  
18 the provisions of this Ordinance.

19           Section 14. Modifications, Changes and Additions. The Mayor is hereby authorized to  
20 approve and make such modifications, changes or additions to the First Supplement to Trust  
21 Agreement or the First Supplement to Project Lease, upon consultation with the City Attorney,  
22 as may be necessary or desirable in the interests of the City, and which changes do not  
23 materially increase the obligations of the City under the First Supplement to Trust Agreement  
24 or the First Supplement to Project Lease. The Mayor's approval of such modifications,  
25 changes or additions shall be conclusively evidenced by the execution and delivery by the

1 Mayor and the Clerk of the Board of the First Supplement to Trust Agreement and the First  
2 Supplement to Project Lease.

3 Section 15. Ratification of Prior Actions. All actions authorized and directed by this  
4 Ordinance and heretofore taken are hereby ratified, approved and confirmed by this Board.

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

8 By: \_\_\_\_\_  
9 MARK BLAKE  
Deputy City Attorney

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