

1 [Option to Ground Lease - 455 Fell, L.P. - For No Cost]

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3 **Resolution authorizing the execution and performance of an Option to Ground Lease in**
4 **connection with the parcel located at 455 Fell Street (Assessor's Parcel Block No. 831,**
5 **Lot No. 24) (the "Property") for no cost, and which expires on June 30, 2017, with an**
6 **extension option of six months until December 31, 2017, between the City and County**
7 **of San Francisco and 455 Fell, L.P., a California limited partnership; adopting findings**
8 **that the conveyance is consistent with the General Plan, and the eight priority policies**
9 **of Planning Code, Section 101.1; and authorizing and directing the execution of any**
10 **documents necessary to implement this Resolution, as defined herein.**

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12 WHEREAS, In September 2014, the Mayor's Office of Housing and Community
13 Development ("MOHCD") issued a Notice of Funding Availability ("NOFA") to provide
14 predevelopment financing for the development of an affordable family rental housing,
15 including units serving formerly homeless families and ground floor commercial space (the
16 "Project"); and

17 WHEREAS, Mercy Housing California submitted an application in response to the
18 NOFA and was selected to be the developer for the development of the Project; and

19 WHEREAS, Mercy Housing California established a separate entity named 455 Fell
20 Street, L.P., a California limited partnership ("Optionee") under which to lease the Property
21 and develop the Project; and

22 WHEREAS, The Option expires on June 30, 2017, with an extension option for one
23 additional 6-month period, and sets forth the material terms of the Ground Lease as follows:
24 (i) a term of 75 years with an extension option for 24 additional years; (ii) tenant shall be
25 responsible for all property taxes and assessments levied against the Property; (iii) the

1 Property shall be used during the term of the ground lease only for affordable housing with
2 maximum rent and income levels set at no greater than 60% area median, (“AMI”); (iv) the
3 annual rent shall be set at 10% of fair market value of the land as determined by an MAI
4 appraiser prior to execution of the Ground Lease (the “Rent”); (v) Rent shall consist of an
5 annual base rent of Fifteen Thousand Dollars (\$15,000) (the “Base Rent”) and the remainder
6 in residual rent, which shall be payable only to the extent proceeds are available from the
7 Project at all times thereafter; (vi) the annual rent shall be adjusted on the fifteenth (15th)
8 anniversary of the expiration of the first full calendar lease year and every fifteenth (15) year
9 thereafter, and shall be equal to ten percent (10%) of then appraised value of the land as
10 determined by a MAI appraiser selected by, and at the sole cost of, the tenant; any such
11 adjustment shall be made to the residual rent and not the base rent; (vii) tenant shall be
12 responsible for construction, operation and maintenance of the Property; (viii) the City will own
13 fee title to the land and the tenant will own fee title to all improvements; (ix) at the end of the
14 term, fee title to all the improvements shall vest in the City; (x) the Ground Lease shall include
15 standard mortgagee protection provisions; (xi) the City will provide any notice of and defaults
16 to the tenant and the tenant’s limited partners and lenders and allow any such parties the right
17 to cure such default; (xii) the tenant can encumber its leasehold interest to secure loans, as
18 approved by MOHCD; and

19 WHEREAS, In order to consummate the transfer and ground lease of the Property, the
20 Board of Supervisors desires to authorize the execution, delivery and performance of the
21 Option and, if the Sponsor exercises the Option, the Ground Lease (collectively, the
22 “Transaction Documents”); and

23 WHEREAS, By Planning Commission Motion 19544, dated January 7, 2016, the
24 Department of City Planning adopted and issued a General Plan Consistency Finding, a copy
25 of which is on file with the Clerk of the Board, wherein the Department of City Planning found

1 that the acquisition and ground lease of the Property are consistent with the City's General
2 Plan, and with the eight priority policies under Planning Code, Section 101.1; now, therefore,
3 be it

4 RESOLVED, That the Board of Supervisors hereby finds that the ground lease terms
5 contained in the Option of the Property are consistent with the General Plan, and with the
6 eight priority policies of Planning Code, Section 101.1 for the same reasons as set forth in the
7 Planning Commission Motion 19544, dated January 7, 2016, and hereby incorporates such
8 findings by reference as though fully set forth in this Resolution; and, be it

9 FURTHER RESOLVED, That in accordance with the recommendation of the Director
10 of Property and the Director of MOHCD, the Board of Supervisors approves the Transaction
11 Documents, and authorizes the Director of Property (or his designee) and the Director of
12 MOHCD (or his designee) to execute and deliver the Transaction Documents and any such
13 other documents that are necessary or advisable to complete the transaction contemplated by
14 the Transaction Documents, including the Ground Lease (if the Sponsor exercises the
15 Option); and, be it

16 FURTHER RESOLVED, That the Board of Supervisors authorizes the Director of
17 Property (or his designee) and the Director of MOHCD (or his designee), in consultation with
18 the City Attorney, to enter into any additions, amendments or other modifications to the Option
19 and, if the Option is exercised, the Ground Lease, and any other documents or instruments
20 necessary in connection therewith, that the Director of Property and the Director of MOHCD
21 determine are in the best interests of the City, do not materially decrease the benefits to the
22 City with respect to the Property, do not materially increase the obligations or liabilities of the
23 City, and are necessary or advisable to complete the transaction contemplated therein and
24 that effectuate the purpose and intent of this Resolution, such determination to be
25 conclusively evidenced by the execution and delivery by the Director of Property (or his

1 designee) and the Director of MOHCD (or his designee) of any such additions, amendments,
2 or other modifications; and, be it

3 FURTHER RESOLVED, That all actions authorized and directed by this Resolution and
4 heretofore taken are hereby ratified, approved and confirmed by this Board of Supervisors.

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RECOMMENDED:

John Updike, Director of Property

Olson Lee, Director, Mayor's Office of Housing and Community Development