

511-06

FILE NO. 060906

RESOLUTION NO.

1 [Issuance and Sale of Revenue Bonds – Bayview Apartments.]

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3 **Resolution approving the issuance and sale of tax-exempt bonds by the California**
4 **Statewide Communities Development Authority in an aggregate principal amount not to**
5 **exceed \$21,000,000 for the financing of the acquisition and rehabilitation of the**
6 **Bayview Apartments.**

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8 WHEREAS, The California Statewide Communities Development Authority (the
9 "Authority"), proposes to issue multifamily housing revenue bonds (the "Bonds") in an amount
10 not to exceed \$21,000,000 and to lend the proceeds thereof to Bayview Preservation, L.P., a
11 California limited partnership (the "Borrower"), to be used for the acquisition and rehabilitation
12 by the Borrower of a 146-unit apartment project known as the Bayview Apartments (the
13 "Project") located at 5 Commer Court in the City and County of San Francisco, California (the
14 "City"), all to be owned and operated by the Borrower or an entity related thereto or a partner
15 thereof; and,

16 WHEREAS, The issuance and delivery of the Bonds shall be subject to the approval of
17 and execution by the Authority of all financing documents relating thereto to which the
18 Authority is a party and subject to the sale of the Bonds by the Authority; and,

19 WHEREAS, The issuance and delivery of the Bonds as tax-exempt obligations shall
20 also be subject to the approval of the California Debt Limit Allocation Committee ("CDLAC");
21 and,

22 WHEREAS, If and when the Bonds are issued, the Bond documents will require the
23 Project to meet certain affordability requirements for 30 55 years, including (i) a provision that
24 90%100% of the units upon turnover shall be restricted to tenants with incomes at or below
25 60% of area median income and 40% of the units be restricted to tenants with incomes at or

1 below 50% of area median income (ii) a provision, consistent with applicable HUD regulations
2 and CDLAC requirements, that any rent increase in any one year for an existing tenant not
3 assisted by the federal Section 8 program shall not exceed such tenant's prior rent adjusted
4 by the total annual percentage increase in median income for each year between Bond
5 issuance and such year, subject to CDLAC-approved income and rent limitations;

6 WHEREAS, For purposes of clause (ii) of the preceding sentence, a tenant's prior rent
7 is equal to such tenant's rent during the year immediately preceding the issuance of the
8 Bonds; and,

9 WHEREAS, If and when the Bonds are issued, the Bond regulatory agreement will
10 include a covenant by the Borrower that it will continue to seek to renew its federal project-
11 based Section 8 rental assistance contract, which establishes rents at 30% of tenant incomes,
12 for so long as, and up to the full extent that, such program is available for the Project; and,

13 WHEREAS, If and when the Bonds are issued, the Bond regulatory agreement will
14 include a further covenant, consistent with applicable HUD regulations and CDLAC
15 requirements, that no existing tenant whose income would exceed the proposed standard of
16 60% of area median income at the time of the closing of the Bonds will be evicted in
17 connection with the closing or any subsequent annual income recertification solely because of
18 any change in the applicable income standard; and,

19 WHEREAS, If and when the Bonds are issued, the Bond regulatory agreement will
20 reflect the following agreements by the Borrower with respect to the Project:

21 (a) The Borrower shall be bound by the nondiscrimination provisions of San
22 Francisco Administrative Code Section 12B.2(a), shall include such provisions in all of the
23 Borrower's contracts and shall require its contractors to include such provisions in all
24 subcontracts; and

1 (b) The Borrower shall obtain certification from the City's Human Rights
2 Commission that it does not engage in discrimination in the provision of benefits described in
3 San Francisco Administrative Code Section 12.B.2(b), and the Borrower shall use good faith
4 efforts to obtain such a commitment from its prime construction contractor; and

5 (c) The Borrower shall require the payment of prevailing wages for construction
6 work, as that term is defined in Section 6.1(H) of the San Francisco Administrative Code and
7 as such payments are confirmed by the City's Office of Labor Standards Enforcement, and
8 shall notify all unions with whom its prime contractor has agreements of the Borrower 's and
9 the prime contractor's commitments with respect to prevailing wage, non-discrimination, equal
10 benefits, minimum compensation, first source hiring and job-training; and

11 (d) In addition to the provisions of paragraph (c) above, the Borrower shall require in
12 its contracts, and that its contractors include in their subcontracts, a requirement that all
13 employees shall receive (i) minimum gross compensation of \$10.77 per hour, with an annual
14 raise of 2.5%, (ii) compensated and uncompensated time off as described in and consistent
15 with San Francisco Administrative Code Section 12P.3(b) and (c), and (iii) health plan benefits
16 substantially consistent with the City's Health Care Accountability Ordinance; and

17 (e) Consistent with the City's Disadvantaged Business Enterprise Ordinance, the
18 Borrower shall use its good faith efforts to have 50% of its contractors (other than its contract
19 with its prime construction contractor) be disadvantaged business enterprises as that term is
20 defined in San Francisco Administrative Code Section 14A.4 ("DBEs"), with a first preference
21 for DBEs located in the Bayview Hunters Point Project Area, and shall also require its prime
22 construction contractor to use good faith efforts to have 50% of its subcontractors be DBEs,
23 with a first preference for DBEs located in the Bayview Hunters Point Project Area; and
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1 (f) The Borrower shall require that its prime contractor participate in, and include in
2 subcontracts a provision that all of its subcontractors participate in, the City's First Source
3 hiring and training program with a goal that 50% of the individuals hired be residents of San
4 Francisco, and with a first preference for residents of the Bayview Hunters Point Project Area,
5 all pursuant to agreements that are consistent with the requirements of Chapter 83 of the San
6 Francisco Administrative Code; and

7 (g) The Borrower shall comply with all federal, state and local laws and regulations
8 applicable to the Project; and,

9 WHEREAS, The Bond Documents shall provide that the agreements by the Borrower,
10 on behalf of itself and its contractors and subcontractors, as described in the foregoing
11 WHEREAS clause, shall not apply to any contracts the Borrower has for the Project as of the
12 date this Resolution is adopted by the Board of Supervisors; and,

13 WHEREAS, Such pre-existing agreements consist of an agreement for architectural
14 services with Gelfand Partners and other agreements, a list of which shall be provided to the
15 City prior to the adoption of this Resolution by the Board of Supervisors; and

16 WHEREAS, The Borrower has agreed to establish a residents' community advisory
17 committee on or before 30 days after the effective date of this Resolution to facilitate
18 communication with the Project tenants and other community members regarding the
19 Borrower's rehabilitation and administration of the Project and has agreed further to maintain
20 such committee until construction of the Project is complete; and,

21 WHEREAS, Section 9 of the Authority's Joint Exercise of Powers Agreement (the
22 "Agreement") requires that any project proposed to be financed with Authority bonds that is
23 located within the jurisdiction of one of the Authority's members must receive the prior
24 approval of the governing body of such member or such body's duly authorized
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1 representative, after the submission of the project sponsor's application for Authority financing
2 to such governing body; and,

3 WHEREAS, Such application for Authority financing is on file with the Clerk of the
4 Board of Supervisors in File No. *060906*, which is hereby declared to be a part of this
5 resolution as if set forth fully herein; and,

6 WHEREAS, The Project is located wholly within the City and County of San Francisco
7 (the "City"); and,

8 WHEREAS, The interest on the Bonds may qualify for tax exemption under Section
9 103 of the Internal Revenue Code of 1986, as amended (the "Code") only if the Bonds are
10 approved in accordance with Section 147(f) of the Code; and,

11 WHEREAS, The Board of Supervisors of the City (the "Board") is the elected legislative
12 body of the City and is one of the applicable elected representatives required to approve the
13 issue within the meaning of Section 147(f) of the Code; and,

14 WHEREAS, The Authority has requested the Board to approve the issuance and sale
15 of the Bonds in order to satisfy the public approval requirements of Section 147(f) of the Code;
16 and,

17 WHEREAS, On May 26, 2006, the City caused a notice to appear in the *San Francisco*
18 *Examiner*, which is a newspaper of general circulation in the City, stating that a public hearing
19 with respect to the issuance of the Bonds would be held by the City's Office of Public Finance
20 on June 9, 2006; and

21 WHEREAS, ~~the~~ The Office of Public Finance held the public hearing described above on
22 June 9, 2006, and an opportunity was provided for persons to comment on the issuance and
23 sale of the Bonds and the plan of financing for the Project;

1 WHEREAS, The Borrower represents that (i) it will pursue additional financing for the
2 Project in the form of an allocation of 4% tax credits from the California Tax Credit Allocation
3 Committee ("CTCAC"), and (ii) if this Resolution and similar resolutions for properties
4 commonly known as Shoreview, All Hallows Gardens and LaSalle Apartments (the "Related
5 Projects") are adopted by the Board of Supervisors no later than August 15, 2006 and
6 continue in effect thereafter, Borrower will withdraw its application for an allocation of 9% tax
7 credits from CTCAC; now, therefore be it

8 RESOLVED, That this Board hereby finds and declares the above recitals are true and
9 correct; and, be it

10 FURTHER RESOLVED, That this Board hereby approves the issuance and sale of the
11 Bonds with respect to the Project by the Authority; and, be it

12 FURTHER RESOLVED, That it is the purpose and intent of this Board that this
13 Resolution constitute approval of the issuance of the Bonds by the applicable elected
14 representative of the governmental unit having jurisdiction over the area in which the Project
15 is located for the purposes of and in accordance with Section 147(f) of the Code and Section
16 9 of the Agreement; and, be it

17 FURTHER RESOLVED, That the approval of the issuance and sale of the Bonds by
18 the Authority is neither an approval of the underlying credit issues of the proposed Project nor
19 an approval of the financial structure of the Bonds; and, be it

20 FURTHER RESOLVED, That the Bonds shall not constitute a debt or obligation of the
21 City and the payment of the principal, prepayment premium, if any, and purchase price of and
22 interest on the Bonds shall be solely the responsibility of Borrower; and, be it

23 FURTHER RESOLVED, The adoption of this Resolution shall not obligate (i) the City to
24 provide financing to the Borrower for the acquisition, rehabilitation and development of the
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1 Project or to issue the Bonds for purposes of such financing; or (ii) the City, or any department
2 of the City, to approve any application or request for, or take any other action in connection
3 with, any environmental, General Plan, zoning or any other permit or other action necessary
4 for the acquisition, rehabilitation, development or operation of the Project; and, be it

5 FURTHER RESOLVED, That the regulatory agreement for the Bonds shall incorporate
6 provisions that address (i) the affordability requirements referenced above, (ii) the agreements
7 by the Borrower referenced above in (a) through (f) inclusive under the fourth WHEREAS
8 clause, regarding non-discrimination, prevailing wages, contracting and subcontracting, job-
9 training, and employment, and (iii) the manner in which the City shall have the right to enforce
10 those agreements consistent with its rights of enforcement under applicable provisions of the
11 Administrative Code; and, be it

12 FURTHER RESOLVED, That this Board supports the Borrower's related application to
13 CTCAC for the allocation of 4% tax credits to the Project and urges the Mayor's Office of
14 Housing to support such application in its role as Local Reviewing Agency, and, be it

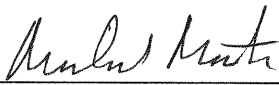
15 FURTHER RESOLVED, That this approval, as well as the approval of similar
16 resolutions for the Related Projects, is conditioned upon Borrower's withdrawal of its
17 application for an allocation of 9% tax credits from CTCAC as described in the final
18 WHEREAS clause above; and, be it

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FURTHER RESOLVED, That this Resolution shall take effect immediately upon its adoption.

APPROVED AS TO FORM:

DENNIS J. HERRERA
City Attorney

By: 
MICHAEL J. MARTIN
Deputy City Attorney



City and County of San Francisco

City Hall
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

Tails

Resolution

File Number: 060906

Date Passed:

Resolution approving the issuance and sale of tax-exempt bonds by the California Statewide Communities Development Authority in an aggregate principal amount not to exceed \$21,000,000 for the financing of the acquisition and rehabilitation of the Bayview Apartments.

June 27, 2006 Board of Supervisors — REFERRED: Land Use and Economic Development Committee

August 15, 2006 Board of Supervisors — ADOPTED

Ayes: 10 - Ammiano, Daly, Dufty, Elsbernd, Ma, Maxwell, McGoldrick, Mirkarimi, Peskin, Sandoval

Excused: 1 - Alioto-Pier

File No. 060906

I hereby certify that the foregoing Resolution was ADOPTED on August 15, 2006 by the Board of Supervisors of the City and County of San Francisco.

8/17/2006

Date Approved

Kay Gulbenyan

for Gloria L. Young
Clerk of the Board

Gavin Newsom

Mayor Gavin Newsom