

1 [Multifamily Housing Revenue Bonds - 1100 Ocean Avenue]

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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 Allocation Committee**

7 **(“CDLAC”) to permit the issuance of residential mortgage revenue bonds in an**

8 **aggregate principal amount not to exceed \$20,000,000 for 1100 Ocean Avenue,**

9 **(Assessor’s Parcel Number 3180- (portion of) Lot 1, San Francisco, California 94112);**

10 **authorizing and directing the Director to direct the Controller’s Office to hold in trust an**

11 **amount not to exceed \$100,000 in accordance with CDLAC procedures; authorizing the**

12 **Director to certify to CDLAC that the City has on deposit the required amount;**

13 **authorizing the Director to pay an amount equal to such deposit to the State of**

14 **California if the City fails to issue the residential mortgage revenue bonds; approving,**

15 **for purposes of the Internal Revenue Code of 1986, as amended, the issuance and sale**

16 **of residential mortgage revenue bonds by the City in an aggregate principal amount**

17 **not to exceed \$20,000,000; authorizing and directing the execution of any documents**

18 **necessary to implement this Resolution; and ratifying and approving any action**

19 **heretofore taken in connection with the Project (as defined herein) and the Application**

20 **(as, defined herein).**

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22 WHEREAS, The Board of Supervisors of the City and County of San Francisco (the

23 “Board of Supervisors”), after careful study and consideration, has determined that there

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1 is a shortage of safe and sanitary housing within the City and County of San Francisco (the
2 “City”), particularly for low and moderate income persons, and that it is in the best interest of
3 the residents of the City and in furtherance of the health, safety, and welfare of the public for
4 the City to assist in the financing of multi-family rental housing units; and,

5 WHEREAS, Acting under and pursuant to the powers reserved to the City under
6 Sections 3, 5, and 7 of Article XI of the Constitution of the State of California and Sections
7 1.101 and 9.107 of the Charter, the City has enacted the City and County of San Francisco
8 Residential Mortgage Revenue Bond Law (the “City Law”), constituting Article I of Chapter 43
9 of the San Francisco Administrative Code, in order to establish a procedure for the
10 authorization, issuance and sale of residential mortgage revenue bonds by the City for the
11 purpose of providing funds to encourage the availability of adequate housing and home
12 finance for persons and families of low or moderate income, and to develop viable
13 communities by providing decent housing, enhanced living environments, and increased
14 economic opportunities for persons and families of low or moderate income; and,

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

20 WHEREAS, 1100 Ocean Avenue LP, limited California liability partnership (or any
21 successor thereto including any successor owner of the Project, the “Developer”), desires to
22 construct a 71-unit affordable residential rental housing development located at 1100 Ocean
23 Avenue, (portion of) Lot 1 (Assessor’s Parcel Number 3180 – (portion of) Lot 1) San
24 Francisco, California 94112 (the “Project”); and,

1 WHEREAS, the Developer has requested that the City assist in the financing of the
2 Project through the issuance of one or more series of tax-exempt mortgage revenue bonds
3 (the “Bonds”); and,

4 WHEREAS, The City expects that proceeds of the Bonds will be used to pay certain
5 costs incurred in connection with the Project prior to the date of issuance of the Bonds; and,

6 WHEREAS, The City intends to issue the Bonds in an amount not to exceed
7 \$20,000,000 and to loan the proceeds of the Bonds to the Developer (the “Loan”) to finance
8 the costs of the Project; and,

9 WHEREAS, The Board of Supervisors has determined that the moneys advanced and
10 to be advanced to pay certain expenditures of the Project are or will be available only for a
11 temporary period and it is necessary to reimburse such expenditures with respect to the
12 Project from the proceeds of the Bonds; and,

13 WHEREAS, Section 1.150-2 of the United States Treasury Regulations requires that
14 the Board of Supervisors declare its reasonable official intent to reimburse prior expenditures
15 for the Project with proceeds of the Bonds; and,

16 WHEREAS, The interest on the Bonds may qualify for tax exemption under Section
17 103 of the Internal Revenue Code of 1986, as amended (the “Code”), only if the Bonds are
18 approved in accordance with Section 147(f) of the Code; and,

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

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

22 WHEREAS, On November 16, 2012, the City caused a notice stating that a public
23 hearing with respect to the issuance of the Bonds would be held by the Mayor’s Office of
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1 Housing on December 3, 2012, to appear in The San Francisco Examiner, which is a
2 newspaper of general circulation in the City; and,

3 WHEREAS, The Mayor’s Office of Housing held the public hearing described above on
4 December 3, 2012 and an opportunity was provided for persons to comment on the issuance
5 of the Bonds and the Project; and the minutes of such hearing were provided to this Board of
6 Supervisors prior to this meeting; and,

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

10 WHEREAS, Section 146 of the Code limits the amount of tax-exempt private activity
11 bonds, which include qualified mortgage bonds, that may be issued in any calendar year by
12 entities within a state and authorizes the legislature of each state to provide the method of
13 allocating authority to issue tax-exempt private activity bonds within the respective state; and,

14 WHEREAS, Chapter 11.8 of Division 1 of Title 2 of the Government Code of the State
15 of California governs the allocation in the State of California of the state ceiling established by
16 Section 146 of the Code among governmental units in the State having the authority to issue
17 tax-exempt private activity bonds; and,

18 WHEREAS, Section 8869.85(b) of the Government Code requires that a local agency
19 file an application for a portion of the state ceiling with or upon the direction of the California
20 Debt Allocation Committee (“CDLAC”) prior to the issuance of tax-exempt private activity
21 bonds, including qualified mortgage bonds; and,

22 WHEREAS, CDLAC procedures require an applicant for a portion of the state ceiling to
23 certify to CDLAC that applicant has on deposit an amount equal to one-half of one percent
24 (1/2%) of the amount of allocation requested not to exceed \$100,000.00; now, therefore be it
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1 RESOLVED, by the Board of Supervisors of the City and County of San Francisco, as
2 follows:

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

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

10 Section 3. The Board of Supervisors hereby declares its official intent under United
11 States Treasury Regulations Section 1.150-2 to use proceeds of the Bonds to reimburse
12 expenditures incurred in connection with the Project. The Board of Supervisors hereby further
13 declares its intent to use such proceeds to reimburse the Developer for actual expenditures
14 made by the Developer on the Project.

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

18 Section 5. The maximum principal amount of debt expected to be issued for the Project
19 is \$26,000,000.

20 Section 6. This Board of Supervisors, as the applicable elected representative of the
21 governmental unit having jurisdiction over the area in which the Project is located, hereby
22 approves the issuance of the Bonds for purposes of Section 147(f) of the Code.
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1 Section 7. This approval of the issuance of the Bonds by the City is neither an approval
2 of the underlying credit issues of the proposed Project nor an approval of the financial
3 structure of the Bonds.

4 Section 8. The Board of Supervisors hereby authorizes the Director, or his designee of
5 the Mayor’s Office of Housing (the “Director”), on behalf of the City, to submit an application
6 (the “Application”), and such other documents as may be required, to CDLAC pursuant to
7 Government Code Section 8869.85 for an allocation for the Project of a portion of the state
8 ceiling for private activity bonds in a principal amount not to exceed \$20,000,000.

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

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

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

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

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4 APPROVED AS TO FORM:

5 DENNIS J. HERRERA
6 City Attorney

7 By: _____
8 HEIDI J. GEWERTZ
9 Deputy City Attorney

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