

1 [Ground Lease - Mercy Housing California 109, L.P. - 1939 Market Street - 100% Affordable
2 Housing - \$15,000 Annual Base Rent]

3 **Resolution approving and authorizing the Director of Property and Director of the**
4 **Mayor’s Office of Housing and Community Development (“MOHCD”) to enter into a**
5 **Ground Lease for real property owned by the City located at 1939 Market Street**
6 **(“Property”) with Mercy Housing California 109, L.P. for a lease term of 75 years and**
7 **one 24-year option to extend and an annual base rent of \$15,000 (“Ground Lease”) in**
8 **order to construct a 187-unit (including two managers’ units) multifamily rental housing**
9 **development affordable to low-income households (the “Project”); adopting findings**
10 **that the Project and proposed transactions are consistent with the General Plan, and**
11 **the eight priority policies of Planning Code, Section 101.1; determining that the less**
12 **than market rent payable under the Ground Lease will serve a public purpose by**
13 **providing affordable housing for low-income households in need, in accordance with**
14 **Administrative Code Section 23.30; and authorizing the Director of Property and the**
15 **Director of MOHCD to execute the Ground Lease, and make certain modifications and**
16 **take certain actions in furtherance of this Resolution, as defined herein.**

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18 WHEREAS, The City and County of San Francisco (“City”) owns certain real property
19 located at 1939 Market Street in San Francisco, California, which is comprised of
20 approximately 0.28 acres and known as Assessor's Parcel Block No. 3501, Lot No. 015 (the
21 “Property”); and

22 WHEREAS, Under Resolution No. 068-20, the City acquired the Property for the
23 purpose of developing affordable housing on the Property; and

24 WHEREAS, The City, acting through the Mayor’s Office of Housing and Community
25 Development (“MOHCD”), administers a variety of housing programs that provide financing for

1 the development of new affordable housing and the rehabilitation of single- and multi-family
2 housing for low- and moderate-income households and resources for homeowners in San
3 Francisco; and

4 WHEREAS, MOHCD provides loans to affordable housing developers and operators,
5 administers loan agreements, reviews annual audits and monitoring reports, monitors
6 compliance with affordable housing requirements in accordance with capital funding
7 regulatory agreements, and if necessary, takes appropriate action to enforce compliance; and

8 WHEREAS, Under Resolution No. 436-23, the Board of Supervisors declared the
9 Property as Exempt Surplus Land under California Government Code, Sections 25539.4 and
10 54221(f)(1)(A), and affirmed the use of the Property by MOHCD for development as 100%
11 affordable housing; and

12 WHEREAS, On November 30, 2020, MOHCD issued a Request for Qualifications
13 (“RFQ”) for a developer to work with the City to develop affordable housing on the Property;
14 and

15 WHEREAS, Mercy Housing California, a California nonprofit public benefit corporation
16 (“Mercy”) responded to the RFQ and was selected as the developer, and Mercy has
17 established Mercy Housing 109, L.P., a California limited partnership (the “Developer”), for the
18 purpose of developing the Property as 100% affordable housing; and

19 WHEREAS, Developer has proposed the construction on the Property of a 187-
20 unit (including two managers’ units) multifamily rental housing development affordable
21 to low-income households (the “Project”); and

22 WHEREAS, The Planning Department issued a Notice of Final Approval of an
23 SB 35 Project dated May 31, 2023 (the “Planning Notice”), under case No. 2022-
24 009171PRJ, which determined that the Project met all the standards of the Planning
25 Code and would be eligible for ministerial approval under California Government Code,

1 Section 65913.4 (Senate Bill 35), and would therefore not be subject to the California
2 Environmental Quality Act (“CEQA”), and the Project is consistent with the General
3 Plan, and eight priority policies of Planning Code, Section 101.1; a copy of the Planning
4 Notice is on file with the Clerk of the Board of Supervisors in File No. _____, and
5 is incorporated herein by reference; and

6 WHEREAS, MOHCD and the Director of Property have approved the form of the
7 Ground Lease between the City and the Developer, pursuant to which the City will lease the
8 Property to the Developer for a term of 75 years and one 24-year option to extend and a base
9 rent of \$15,000 per year, in exchange for the Developer’s agreement, among other things, to
10 construct and operate the Project with rent levels affordable to households up to 80% of area
11 median income (AMI) published by MOHCD; a copy of the substantially final form of Ground
12 Lease is on file with the Clerk of the Board of Supervisors in File No. _____, and is
13 incorporated herein by reference; and

14 WHEREAS, The proposed rent of the Ground Lease is less than Market Rent (as
15 defined in Administrative Code, Section 23.2), but the less than Market Rent will serve a
16 public purpose by providing affordable housing for low-income households in need; and

17 WHEREAS, The Developer will require future funding approval from the Board of
18 Supervisors in order to construct the Project, and the early approval of the Ground Lease
19 pursuant to this Resolution will allow the Developer to begin early demolition of the existing
20 two-story office building, thereby reducing the construction timeline and associated
21 construction financing costs;

22 WHEREAS, The Developer’s third-party lender, investor, and the California
23 Department of Housing and Community Development (“HCD”) will require industry standard
24 projections of their security interest in the Ground Lease; now, therefore be it
25

1 RESOLVED, That the Board of Supervisors hereby finds that the Project (and
2 associated actions necessary to effectuate the Project) is consistent with the General Plan,
3 and with the eight priority policies of Planning Code, Section 101.1, for the same reasons as
4 set forth in the Planning Notice, and hereby incorporates such findings by reference as though
5 fully set forth in this Resolution; and, be it

6 FURTHER RESOLVED, That the Board of Supervisors hereby finds, in consideration
7 of the foregoing, the less than Market Rent payable under the Ground Lease will serve a
8 public purpose by providing affordable housing for very low and low-income households in
9 need; and, be it

10 FURTHER RESOLVED, That in accordance with the recommendation of the Director
11 of MOHCD and the Director of Property, the Board of Supervisors approves the Ground
12 Lease in substantially the form presented to the Board, and authorizes the Director of
13 Property (or the Director’s designee, as used throughout) and Director of MOHCD (or the
14 Director’s designee, as used throughout), to execute and deliver the Ground Lease, in
15 substantially the form presented to the Board, and any such other documents or agreements
16 (including such agreements to provide adequate or additional security or indemnities as
17 required by lenders to consummate the financing of the Project or lease of the Property) that
18 are necessary or advisable, in consultation with the City Attorney, to complete the transaction
19 contemplated by the Ground Lease and to effectuate the purpose and intent of this
20 Resolution; and, be it

21 FURTHER RESOLVED, That the Board of Supervisors authorizes the Director of
22 Property and/or Director of MOHCD, in consultation with the City Attorney, to enter into any
23 additions, amendments, or other modifications to the Ground Lease, and any other
24 documents or instruments necessary in connection therewith (including, without limitation, any
25 notice of special restrictions required by the Planning Department and preparation and

1 attachment or, or changes to, any of all of the exhibits and ancillary agreements), that the
2 Director of Property and/or Director of MOHCD determine are in the best interests of the City,
3 do not materially decrease the benefits to the City with respect to the Property, do not
4 materially increase the obligations or liabilities of the City, and are necessary or advisable to
5 complete the transaction contemplated in the Ground Lease, and that effectuate the purpose
6 and intent of this Resolution, such determination to be conclusively evidenced by the
7 execution and delivery by the Director of Property and/or the Director of MOHCD of any such
8 additions, amendments, or other modifications; and, be it

9 FURTHER RESOLVED, That the Board of Supervisors hereby authorizes and
10 delegates to the Director of MOHCD and/or the Director of Property, in consultation with the
11 City Attorney, the authority to amend the Ground Lease to include third party lender, investor,
12 and HCD protections consistent with industry standard, such determination to be conclusively
13 evidenced by the execution and delivery by the Director of Property and/or the Director of
14 MOHCD of any such additions, amendments, or other modifications; and, be it

15 FURTHER RESOLVED, That the Board of Supervisors hereby authorizes and
16 delegates to the Director of MOHCD and/or the Director of Property, the authority to
17 undertake any actions necessary to protect the City's financial security in the Property and
18 enforce the affordable housing restrictions, which may include, without limitation, acquisition
19 of the Property upon foreclosure and sale at a trustee sale, acceptance of a deed in lieu of
20 foreclosure, or curing the default under a senior loan; and, be it

21 FURTHER RESOLVED, That all actions authorized and directed by this Resolution and
22 heretofore taken are hereby ratified, approved and confirmed by this Board of Supervisors;
23 and, be it

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