

1 [Joint Powers Agreement - Establishing a Homeownership Stabilization Authority]

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3 **Resolution authorizing negotiation of a Joint Powers Agreement with the City of**
4 **Richmond to establish a Homeownership Stabilization Authority to assist homeowners**
5 **with troubled mortgages.**

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7 WHEREAS, Since the beginning of the housing crisis in 2007, more than four million
8 families lost their homes to foreclosure leading to state and local governments facing crippling
9 budget crises; and

10 WHEREAS, Hundreds of San Francisco homeowners whose loans were sold into
11 private-label securitization trusts (“PLS loans”), which pooled these loans into trusts with many
12 investors, are unable to access many of the foreclosure prevention programs available to
13 other struggling homeowners; and

14 WHEREAS, PLS loans tend to be predatory loans, and an examination of these loans
15 in San Francisco shows that 94 percent of the underwater PLS loans located in the City have
16 some predatory feature in the terms of the original loan, such as adjustable rate mortgages,
17 balloon mortgages, interest-only mortgages and negative amortizations; and

18 WHEREAS, PLS loans tend to be subject to pooling and servicing agreements that
19 would require collective action by a large majority of security holders before the PLS loans
20 may be modified or sold out of trusts; and

21 WHEREAS, Conducting such a collective action across most holders of the PLS loans
22 historically has been difficult; and

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1 WHEREAS, Approximately three hundred (300) underwater PLS loans were made on
2 homes located in San Francisco, and these homes are particularly concentrated in San
3 Francisco’s historically Black, Latino, and Asian working class communities; and

4 WHEREAS, The foreclosure prevention efforts that have been implemented thus far at
5 the local, state, or federal levels are unable to help these homeowners with underwater PLS
6 loans obtain loan modifications; and

7 WHEREAS, The City has an interest in reducing the number of foreclosures within the
8 City to keep families in their homes and preserve the community and the City’s property tax
9 base; and

10 WHEREAS, The City of Richmond, California is developing a program called Richmond
11 CARES (“Community Action to Restore Equity and Stability”) to acquire troubled mortgage
12 loans in order to restructure the loans to the benefit of the homeowner, thereby preventing
13 foreclosures and their attendant problems for communities and municipalities; and

14 WHEREAS, A number of cities across the country are considering similar programs;
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16 WHEREAS, The City of Richmond, California, is seeking other cities to enter into an
17 agreement to establish a Homeownership Stabilization joint powers authority to carry out a
18 mutually-agreed-upon Homeownership Stabilization program; and

19 WHEREAS, The purpose of the Homeownership Stabilization authority and program
20 would be to preserve home ownership and occupancy for homeowners with troubled
21 mortgages (mortgages with negative equity, predatory terms, and/or other factors that put
22 them at risk of foreclosure) who are located within the members’ jurisdictions, and to promote
23 the economic vitality and health of the member communities; and

1 WHEREAS, The Board of Supervisors wishes to have the Controller, in consultation
2 with the City Attorney's Office, the Director of the Mayor's Office of Housing, and the Director
3 of Real Estate, negotiate an acceptable joint powers agreement with Richmond in order for
4 the City to join the Homeownership Stabilization authority, which agreement must be
5 submitted for review and approval by the Board of Supervisors; and

6 WHEREAS, The Planning Department has determined that the actions contemplated in
7 this Resolution comply with the California Environmental Quality Act (California Public
8 Resources Code Sections 21000, et seq.); said determination is on file with the Clerk of the
9 Board of Supervisors in File No. ____ and is incorporated herein by reference; now, therefore,
10 be it

11 RESOLVED, That the Board of Supervisors of the City and County of San Francisco
12 hereby directs the Controller, in consultation with the City Attorney's Office, the Director of the
13 Mayor's Office of Housing, and the Director of Real Estate, to negotiate a joint exercise of
14 powers agreement with the City of Richmond and possibly other public agencies containing
15 the following provisions:

16 (1) The purpose of the joint powers authority shall be to study and implement, if
17 appropriate, the acquisition through voluntary sale or eminent domain as permitted by law, of
18 troubled residential mortgages meeting certain criteria to be established by the authority;

19 (2) The joint powers authority shall not have the power to condemn homes or
20 other real property, but only residential mortgages which are not: (i) owned by Fannie Mae,
21 Freddie Mac, a Federal Home Loan Bank, or any other federal government agency or entity;
22 (ii) guaranteed by the Federal Housing Administration, the Veteran's Administration, or other
23 federal governmental agency or entity; and/or (iii) held in or originated for inclusion in a Fannie
24 Mae, Freddie Mac, Ginnie Mae or other federal securitization trust;

1 (3) The joint powers authority shall work with an independent appraiser to
2 determine the fair market value of any residential mortgages to be acquired;

3 (4) The joint powers authority shall not condemn individual mortgages without
4 the consent of the homeowner;

5 (5) The joint power agreement shall not bind or otherwise commit the City to
6 proceed with the Homeownership Stabilization program unless and until the authority
7 completes its study, determines that the program is in the best interests of the community,
8 and approves the terms of the program;

9 (6) The debts, liabilities, and obligations of the authority shall not be debts,
10 liabilities, or obligations of the City or any member of the authority;

11 (7) The authority or its private partner(s) shall be required to obtain and carry
12 insurance, and to defend and indemnify the City against all liability arising from the formation
13 of the joint powers authority, the conduct of the joint powers authority, or its implementation of
14 the Homeownership Stabilization program(s); and,

15 (8) The City shall have the right to terminate its membership in the authority at
16 any time by adopting a resolution to that effect and giving the authority 90 days written notice;
17 and, be it

18 FURTHER RESOLVED, That, following negotiation of the proposed joint powers
19 agreement by the Controller and its approval as to form by the City Attorney's Office, the
20 Controller shall present the proposed joint powers agreement to the Board of Supervisors for
21 consideration and the agreement shall not be binding on the City unless and until it is finally
22 approved by the Board; and, be it

23 FURTHER RESOLVED, That if the negotiated joint powers agreement is approved by
24 the Board of Supervisors, the Controller, or his designee, shall be further authorized to
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1 execute the agreement and any and all other agreements or other documents and take any
2 other steps necessary to effectuate the City's membership in the authority; and, be it

3 FURTHER RESOLVED, That the Board of Supervisors hereby directs the Director of
4 the Mayor's Office of Housing to contact homeowners with troubled PLS loans to assess the
5 their interest in participating in the Homeownership Stabilization program, their ability to
6 qualify for a modified or refinanced mortgage, and to explore possible alternative financing
7 models for homeowners who may not qualify for a modified or refinanced mortgage.

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