

1 [Authorizing Certificates of Participation and Assessment Notes - Moscone Expansion Project
2 - Not to Exceed \$507,880,000]

3 **Ordinance authorizing the execution and delivery of Certificates of Participation**
4 **evidencing and representing an aggregate principal amount of not to exceed**
5 **\$507,880,000 to finance the costs of additions and improvements to the George R.**
6 **Moscone Convention Center; approving the form of Trust Agreement between the City**
7 **and County of San Francisco and the Trustee (including certain indemnities contained**
8 **therein); authorizing the selection of the Trustee by the Director of Public Finance;**
9 **approving respective forms of a Property Lease and a Project Lease, each between the**
10 **City and the Trustee for the lease and lease back of all or a portion of the Moscone**
11 **Center, including the Moscone Expansion Project, to be constructed thereon;**
12 **authorizing the execution and delivery of Assessment Notes payable from Moscone**
13 **Expansion District assessments to further secure principal, premium, if any, and**
14 **interest evidenced and represented by the Certificates; granting general authority to**
15 **City officials to take necessary actions in connection with the authorization, issuance,**
16 **sale, and delivery of the Certificates and the Assessment Notes; approving**
17 **modifications to documents and agreements; and ratifying previous actions taken in**
18 **connection therewith.**

19 NOTE: Additions are *single-underline italics Times New Roman*;
20 deletions are ~~*strike-through italics Times New Roman*~~.
21 Board amendment additions are double-underlined;
22 Board amendment deletions are ~~strike-through normal~~.

23 WHEREAS, The Board of Supervisors (the "Board of Supervisors" or the "Board") of
24 the City and County of San Francisco (the "City") desires to finance the cost of the acquisition,
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1 construction and installation of certain additions and improvements (the “Moscone Expansion
2 Project”) to the George R. Moscone Convention Center (the “Moscone Center”); and

3 WHEREAS, The Moscone Expansion Project will make certain additions and
4 improvements to the current Moscone Center in order to attract more and larger conventions
5 to the City; and

6 WHEREAS, The Board desires to approve the issuance of commercial paper under the
7 City’s commercial paper program to initially fund costs of the Moscone Expansion Project; and

8 WHEREAS, The Board desires to authorize the execution and delivery of one or more
9 series of the certificates of participation (the “Certificates”) to finance the Moscone Expansion
10 Project pursuant to a trust agreement (the “Trust Agreement”) between the City and the
11 trustee named therein (the “Trustee”); and

12 WHEREAS, In connection with the execution and delivery of the Certificates, the Board
13 desires to cause the execution of a Property Lease (the “Property Lease”), pursuant to which
14 the City will lease to the Trustee one or more portions of the Moscone Center, including the
15 Moscone Expansion Project, which consists of the area from Mission Street on Third Avenue
16 to Folsom Street, then on Folsom Street to Fourth Avenue, then on Fourth Avenue to Howard
17 Street, then on Howard Street to Fifth Avenue, then on Fifth Avenue to Minna Street, then on
18 Minna Street back to Fourth Avenue, then on Fourth Avenue to Mission Street, and on
19 Mission Street back to Third Avenue, and property adjacent thereto (the “Leased Property”),
20 and a Project Lease (the “Project Lease”), pursuant to which the Trustee will lease the Leased
21 Property back to the City; and

22 WHEREAS, The Board desires to authorize the execution and delivery of Assessment
23 Notes in an amount not in excess of the principal amount evidenced by the Certificates, such
24 Assessment Notes to be payable from the assessments (the “Assessments”) to be levied by
25 the Board in the Moscone Expansion District business improvement district (the “Assessment

1 District”), which Assessment Notes will be purchased by the City to further secure the
2 payment of the principal, premium, if any, and interest evidenced by the Certificates; and

3 WHEREAS, The Assessment Notes will be issued under and pursuant to the Property
4 and Business Improvement District Law of 1994, constituting Sections 36600 and following of
5 the California Streets and Highways Code (including the Improvement Bond Act of 1915,
6 constituting Sections 8500 and following of the California Streets and Highways Code,
7 referred to in Section 36640(a) thereof), as adopted and modified by the Board pursuant to
8 Article 15 of the City’s Business and Tax Regulations Code, in each case as amended
9 (collectively, the “Business Assessment Act”); and

10 WHEREAS, The Board has been presented with the form of certain documents and
11 agreements referred to herein relating to the Certificates, and the Board has examined and is
12 approving each such document and agreement and desires to authorize the execution of such
13 documents and agreements and the consummation of such financing; and

14 WHEREAS, The adoption of this Ordinance shall constitute authorization of the
15 Certificates and the Assessment Notes within the meaning of Sections 860 and following of
16 the California Code of Civil Procedure (the “Validation Act”) and any applicable validating
17 statute heretofore or hereafter adopted; and

18 WHEREAS, Upon the effectiveness of this Ordinance, all conditions, things and acts
19 required by law to exist, to happen and to be performed precedent to and as a condition of the
20 execution and delivery of Property Lease, the Project Lease, the Trust Agreement, the
21 Certificates and the Assessment Notes will exist, have happened and have been performed in
22 due time, form and manner in accordance with applicable law, and the City shall be
23 authorized pursuant to its Charter, the Business Assessment Act and other applicable law to
24 execute and deliver the Property Lease, the Project Lease and the Trust Agreement and to
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1 issue and cause the issuance and delivery of the Certificates and the Assessment Notes in
2 the manner and form provided in this Ordinance;

3 NOW THEREFORE,

4 Be it ordained by the People of the City and County of San Francisco, as follows:

5 Section 1. Findings. The Board hereby finds and determines that the recitals set
6 forth above are true and correct.

7 Section 2. File Documents. The documents presented to the Board and on file with
8 the Clerk of the Board or her designee (collectively, the "Clerk") are contained in File No.
9 130016.

10 Section 3. Authorization of the Certificates. The Board hereby authorizes and
11 approves the execution and delivery of the Certificates in accordance with the Project Lease
12 and the Trust Agreement. The Board hereby approves the issuance of commercial paper
13 from time to time to fund costs of the Moscone Expansion Project. The proceeds of the
14 Certificates will be used to fund (i) costs of the Moscone Expansion Project, including
15 repayment of commercial paper and interest thereon issued for such purpose; (ii) a debt
16 service or other similar reserve, as appropriate; (iii) capitalized interest, if any; and (iv) costs of
17 issuance (including the costs of prosecuting any validation action authorized herein) of the
18 Certificates and the Assessment Notes. The Certificates shall be designated as "Certificates
19 of Participation (Moscone Expansion Project)," with such other or additional designation,
20 including the year of execution and delivery, as determined by the Director of Public Finance
21 of the City or her designee, acting for and on behalf of the City Controller (collectively, the
22 "Director of Public Finance").

23 The Certificates shall evidence an aggregate principal amount of not to exceed Five
24 Hundred and Seven Million Eight Hundred and Eighty Thousand Dollars (\$507,880,000), and
25 shall evidence interest at a true interest cost of not to exceed twelve percent (12%) per

1 annum. The Certificates shall be subject to prepayment as set forth in the Project Lease and
2 Trust Agreement. The Director of Public Finance is hereby authorized, to the extent such
3 officer deems it necessary or advisable and in the interests of the City, to procure credit
4 enhancement for the Certificates, including but not limited to municipal bond insurance or a
5 debt service reserve fund policy.

6 The Director of Public Finance is hereby authorized, to the extent such officer deems it
7 necessary or advisable and in the interests of the City, to cause the execution and delivery of
8 the Certificates (i) with interest with respect thereto exempt or not from federal income tax,
9 and (ii) under any federal tax law provisions which provide for federal grants or credits to the
10 City or to investors in lieu of the exemption of interest from federal income tax.

11 Section 4. Approval of the Trust Agreement; Authorization of the Selection of the
12 Trustee. The form of the Trust Agreement between the City and the Trustee, as presented to
13 the Board, a copy of which is on file with the Clerk, is hereby approved. The Mayor of the City
14 or his designee (collectively, the "Mayor") is hereby authorized to execute and deliver the
15 Trust Agreement, and the Clerk is hereby authorized to attest to and affix the seal of the City
16 on the Trust Agreement, with such changes, additions and modifications as the Mayor may
17 make or approve in accordance with Section 19 hereof.

18 The Director of Public Finance is hereby authorized to select the Trustee in accordance
19 with City policies and procedures, including but not limited to the City's policy to provide
20 locally disadvantaged business enterprises an equal opportunity to participate in the
21 performance of all City contracts.

22 Section 5. Approval of the Property Lease. The form of the Property Lease between
23 the City and the Trustee, as presented to the Board, a copy of which is on file with the Clerk,
24 is hereby approved. The Mayor is hereby authorized to execute and deliver the Property
25 Lease, and the Clerk is hereby authorized to attest to and affix the seal of the City on the

1 Property Lease, with such changes, additions and modifications as the Mayor may make or
2 approve in accordance with Section 19 hereof.

3 Section 6. Approval of the Project Lease. The form of the Project Lease between
4 the City and the Trustee, as presented to the Board, a copy of which is on file with the Clerk,
5 is hereby approved. The Mayor is hereby authorized to execute and deliver the Project
6 Lease, and the Clerk is hereby authorized to attest and to affix the seal of the City on the
7 Project Lease with such changes, additions and modifications as the Mayor may make or
8 approve in accordance with Section 19 hereof; provided, however, that the maximum Base
9 Rental (as defined in the Project Lease) scheduled to be paid under the Project Lease in any
10 fiscal year shall not exceed Thirty-Nine Million Four Hundred Thousand Dollars (\$39,400,000)
11 and the initial stated term of the Project Lease shall not extend beyond the 35th year following
12 its date of execution, as such initial term may be extended in accordance with the Project
13 Lease.

14 Section 7. Approval of the Leased Property and the Base Rental Payments. The
15 Board hereby approves the leasing, pursuant to the Property Lease and the Project Lease, of
16 all or a portion of the Leased Property. The Board also hereby approves the payment by the
17 City of the Base Rental with respect thereto.

18 Section 8. Sale of the Certificates. The Director of Public Finance is hereby
19 authorized to sell the Certificates by competitive or negotiated sale. If sold by competitive
20 sale, the Director of Public Finance is hereby authorized to award the Certificates to the
21 bidder whose bid represents the lowest true interest cost to the City. In the event the Director
22 of Public Finance determines to sell the Certificates by negotiated sale, the Director of Public
23 Finance is hereby authorized to sell the Certificates by negotiated sale pursuant to one or
24 more purchase contracts (each, a "Purchase Contract") by and between the City and the
25 underwriter named therein; provided, however, that the underwriters' discount under any such

1 Purchase Contract shall not exceed one percent (2%) of the principal amount of the
2 Certificates.

3 In order to accomplish the sale of the Certificates by negotiated sale, the Director of
4 Public Finance is hereby authorized to appoint one or more financial institutions to act as
5 underwriter for the Certificates in accordance with City policies and procedures, including but
6 not limited to the City's policy to provide locally disadvantaged business enterprises an equal
7 opportunity to participate in the performance of all City contracts.

8 Notwithstanding anything herein to the contrary, the Director of Public Finance shall not
9 be authorized to cause the delivery of any Certificates, whether by competitive or negotiated
10 sale, until the Board shall have approved the form of Official Statement prepared in
11 connection with such Certificates.

12 Section 9. Authorization of the Assessment Notes. The Director of Finance is
13 hereby authorized to issue, execute and deliver the "City and County of San Francisco
14 Moscone Expansion District Assessment Notes" under and subject to the terms of this
15 Ordinance, the Business Assessment Act, the Charter and other applicable laws of the State
16 of California. The Assessment Notes shall be executed and delivered in one or more series in
17 an aggregate principal amount of not to exceed the authorized aggregate principal amount
18 evidenced by the Certificates.

19 Section 10. Terms of the Assessment Notes.

20 (a) Registration. The Assessment Notes shall be executed and delivered in fully
21 registered form, may be executed and delivered in one or more series from time to time, and
22 shall be numbered as determined by the Director of Public Finance. The Assessment Notes
23 shall be dated the date of delivery thereof. The Assessment Notes shall be executed and
24 delivered in denominations of \$5,000 or any integral multiple thereof.

1 (b) Maturity Dates and Interest Rates. The Assessment Notes shall mature on the
2 date or dates and in the amount or amounts as shall be provided in a Certificate to be
3 executed and delivered by the Director of Public Finance on or prior to the issuance and
4 delivery thereof (the "Delivery Certificate"). The Assessment Notes shall bear interest at the
5 rates provided in the Delivery Certificate; provided, that the true interest cost of the
6 Assessment Notes shall not exceed twelve percent (12%) per annum. Interest on the
7 Assessment Notes shall be calculated on the basis of a 360-day year composed of twelve 30-
8 day months and shall be payable on the dates set forth in the Delivery Certificate. The
9 principal of, premium, if any, and interest on the Assessment Notes shall be payable in lawful
10 money of the United States of America.

11 (c) Form. The Assessment Notes shall be in such form as the Director of Public
12 Finance shall determine. The Assessment Notes may be printed, lithographed, photocopied
13 or typewritten.

14 (d) Execution. The Assessment Notes shall be executed by and in the name of the
15 City by the manual signature of the Mayor.

16 (e) Transfer and Exchange. The Assessment Notes shall be registered in the name
17 of the City and shall be non-transferable. Any Note may be exchanged for a new Note or
18 Assessment Notes, in authorized denominations, of the same aggregate principal amount and
19 interest rate.

20 (f) Redemption. The Assessment Notes may be subject to optional and mandatory
21 redemption prior to their maturity dates as provided in the Delivery Certificate.

22 Section 11. Application of Proceeds of the Assessment Notes. Upon the issuance
23 and delivery of the Assessment Notes to and payment therefor by the City, the proceeds
24 thereof shall be deposited in the Project Fund, the Debt Service Fund and/or the Reserve
25 Fund as provided in the Delivery Certificate.

1 Section 12. Note Funds.

2 (a) Assessment Fund. There is hereby established a special fund designated as
3 the "Assessment Fund," which fund shall be held by the City Treasurer or by a trustee
4 designated by the City (respectively, a "Fiscal Agent"). There shall be deposited in the
5 Assessment Fund that portion of the Assessments necessary from time to time to pay debt
6 service on the Assessment Notes and to replenish the Reserve Fund. Assessments received
7 by the City from time to time in excess of the amounts required to be deposited in the
8 Assessment Fund may be applied to any lawful purpose for such Assessments.

9 (b) Project Fund. There is hereby established a special fund designated as the
10 "Project Fund," which fund shall be held by a Fiscal Agent, and which may be the Project
11 Fund for the Certificates. The Fiscal Agent shall, from time to time, disburse money from the
12 Project Fund to pay costs of the Moscone Expansion Project.

13 (c) Debt Service Fund. There is hereby established a special fund designated as
14 the "Debt Service Fund," which shall be held by a Fiscal Agent. There shall be deposited in
15 the Debt Service Fund from time to time an amount from the Assessment Fund as shall be
16 necessary to pay the principal of, premium, if any, and interest on the Assessment Notes as
17 the same shall become due.

18 (d) Reserve Fund. There is hereby established a special fund designated as the
19 "Reserve Fund," which shall be held by a Fiscal Agent. The Reserve Fund shall be
20 maintained until the principal of, premium, if any and interest on the Assessment Notes is paid
21 in full or until there are no longer any Assessment Notes outstanding. If on any date the
22 amounts on deposit in the Debt Service Fund are less than the principal, premium, or interest
23 payments then due with respect to the Assessment Notes on such date, there shall be
24 transferred from the Reserve Fund for credit to the Debt Service Fund an amount sufficient to
25 make up such deficiency. If on any date the amounts on deposit in the Reserve Fund are less

1 than the Reserve Requirement, there shall be transferred from the Assessment Fund for
2 credit to the Reserve Fund an amount sufficient to make up such deficiency. The Reserve
3 Fund may secure additional Assessment Notes issued on a parity with the Assessment Notes.
4 Any excess amount on deposit in the Reserve Fund may be withdrawn by the Fiscal Agent for
5 deposit in the Assessment Fund.

6 Section 13. Pledge of the Assessments and the Assessment Notes. Subject only to
7 the provisions of this Ordinance permitting the application thereof for the purposes and on the
8 terms and conditions set forth herein, all of the Assessments (including redemptions thereof),
9 together with interest and any penalties thereon, and any other amounts (including proceeds
10 of the sale of the Assessment Notes) held in any fund or account established pursuant to this
11 Ordinance are hereby pledged to secure the payment of the principal of, premium, if any, and
12 interest on the Assessment Notes in accordance with their terms, the provisions of this
13 Ordinance and the Business Assessment Act. Such pledge shall constitute a first lien on and
14 security interest in such amounts. No other funds of the City are pledged to secure the
15 payment of the principal of, premium, if any, or interest on the Assessment Notes.

16 In addition, the Assessment Notes are in turn pledged to pay and secure the payment
17 of the principal, premium, if any, and interest evidenced by the Certificates. Such pledge shall
18 constitute a first lien on and security interest in the Assessment Notes.

19 Section 14. Additional Assessment Notes. The City may, from time to time, by a
20 supplement or amendment to this Ordinance, authorize one or more series of additional
21 Assessment Notes, secured by the Assessments on a parity with the outstanding Assessment
22 Notes.

23 Section 15. Undertakings of the City Regarding the Assessment Notes.

24 (a) Punctual Payment. The City shall punctually pay or cause to be paid the
25 principal of, premium, if any, and interest on the Assessment Notes when due, in conformity

1 with the terms of the Assessment Notes and this Ordinance, but only out of Assessments and
2 other amounts provided for such payment pursuant to this Ordinance.

3 (b) Collection and Application of the Assessments. The City shall comply with all
4 requirements of the Business Assessment Act and this Ordinance to assure the timely
5 collection of the Assessments and interest thereon, including, without limitation, the
6 enforcement of delinquent Assessments and remedies available with respect thereto. Any
7 funds received by the City in and from the Assessment District, including but not limited to
8 collections of Assessments and interest thereon, and delinquent Assessments and interest
9 and penalties thereon, necessary for the payment of the Assessment Notes or to replenish the
10 Reserve Fund shall be deposited in the Assessment Fund.

11 Section 16. Assessment Notes Limited Obligations. The Assessment Notes shall not
12 constitute general obligations of the City, but shall be limited obligations of the City, payable
13 solely from the Assessments and the other amounts provided therefor under this Ordinance.
14 Neither the faith and credit nor the taxing power of the City or the State of California, or any
15 political subdivision thereof, is pledged to the payment of the principal of, premium, if any, or
16 interest on the Assessment Notes.

17 Section 17. Validation Action. The City Attorney is hereby authorized to bring an
18 action or actions pursuant to the Validation Act to confirm the validity of Property Lease, the
19 Project Lease, the Trust Agreement, the Certificates and/or the Assessment Notes, and such
20 other matters as may be necessary to ensure repayment of the Certificates and/or the
21 Assessment Notes.

22 Section 18. General Authority. The Mayor, the City Treasurer, the City Attorney, the
23 City Controller, the City Administrator, the Director of Public Finance, the Clerk and other
24 officers of the City and their duly authorized deputies, designees and agents are hereby
25 authorized and directed, jointly and severally, to take such actions and to execute and deliver

1 such certificates, agreements, requests or other documents as they may deem necessary or
2 desirable to accomplish the purposes of this Ordinance, including but not limited to the
3 execution and delivery of the Property Lease, the Project Lease, the Trust Agreement, the
4 Certificates and the Assessment Notes, to obtain bond insurance or other credit
5 enhancements with respect to the Certificates, to obtain title insurance, to clear any
6 encumbrances to title and to carry out other title work; provided, however, that the Director of
7 Public Finance shall not be authorized to cause the delivery of any Certificates until the Board
8 shall have approved the form of Official Statement prepared in connection with such
9 Certificates.

10 Section 19. Modifications, Changes and Additions. The Mayor, the City Treasurer,
11 the City Controller and the Director of Public Finance each are hereby authorized to make
12 such modifications, changes and additions to the documents and agreements approved
13 hereby, upon consultation with the City Attorney, as may be necessary or desirable and in the
14 interests of the City, and which changes do not materially increase the City's obligations or
15 reduce its rights thereunder or hereunder. The respective official's approval of such
16 modifications, changes and additions shall be conclusively evidenced by the execution and
17 delivery thereof by such official.

18 Section 20. Partial Invalidity. Any provision of this Ordinance found to be prohibited
19 by law shall be ineffective only to the extent of such prohibition, and shall not invalidate the
20 remainder of this Ordinance.

21 Section 21. Effective Date. This Ordinance shall take effect immediately.

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1 Section 22. Ratification of Prior Actions. All actions authorized and approved by this
2 Ordinance but heretofore taken are hereby ratified, approved and confirmed by the Board,
3 subject to the consideration and final approval by this Board of the resolution of formation of
4 the Moscone Expansion District located in Board of Supervisor’s File No. 130043.

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6 APPROVED AS TO FORM:
7 DENNIS J. HERRERA, City Attorney

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9 By: _____
10 Mark D. Blake
11 Deputy City Attorney