

463-09

FILE NO. 091339

RESOLUTION NO.

1 [Issuance and Sale of Revenue Bonds – 178 Townsend Street Housing Project.]

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3 **Resolution approving the issuance and sale of tax-exempt bonds by the Association of**
4 **Bay Area Governments (ABAG) Finance Authority For Nonprofit Corporations in a**
5 **revised aggregate principal amount not to exceed \$33,000,000 for financing the**
6 **rehabilitation of a housing project located at 178 Townsend Street, subject to the**
7 **policies for such approvals adopted by the Board of Supervisors in Ordinance No. 36-**
8 **07.**

9
10 WHEREAS, On May 12, 2009, this Board of Supervisors adopted Resolution No. 192-
11 09 to approve the issuance and sale of tax-exempt bonds by the Association of Bay Area
12 Governments for Nonprofit Corporations in an aggregate principal amount not to exceed
13 \$30,000,000 for financing the costs of the rehabilitation of a housing project located at 178
14 Townsend (the "Project") by 178 Townsend Properties, LLC (the "Borrower"); and,

15 WHEREAS, The Borrower has indicated that due to the loss of a tax equity
16 contribution, an additional \$3,000,000 will be required to fully fund the Project and that
17 additional bond allocation will be required; and,

18 WHEREAS, The California Debt Limit Allocation Committee requires that Borrower
19 obtain approval from this Board of Supervisors for the additional bond allocation amount of
20 \$33,000,000; and,

21 WHEREAS, ABAG Finance Authority For Nonprofit Corporations (the "Authority"),
22 proposes to issue multifamily housing revenue bonds (the "Bonds") in the revised amount not
23 to exceed \$33,000,000 and to lend the proceeds thereof to the Borrower, to be used for the
24 costs of the rehabilitation by the Borrower of a 94-unit apartment project known as the 178
25 Townsend (referred to herein as the "Project") located at 178 Townsend Street in the City and

1 County of San Francisco, California (the "City"), all to be owned and operated by the Borrower
2 or an entity related thereto or a partner thereof; and,

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

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

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

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

14 WHEREAS, The Board of Supervisors of the City (the "Board") or the Mayor of the City
15 is required to approve the issue within the meaning of Section 147(f) of the Code; and,

16 WHEREAS, On November 10, 2009, the Borrower caused a notice to appear in the
17 *San Francisco Chronicle*, which is a newspaper of general circulation in the City, stating that a
18 public hearing with respect to the issuance of the Bonds would be held by the Mayor's Office
19 of Housing on November 24, 2009; and,

20 WHEREAS, The Mayor's Office of Housing will hold the public hearing described
21 above on November 24, 2009, and an opportunity will be provided for citizens to comment on
22 the issuance and sale of the Bonds and the plan of financing for the Project; and,

23 WHEREAS, The Authority requires that the City adopt a resolution approving the
24 issuance and sale of the Bonds; and,

1 WHEREAS, In Ordinance No. 36-07 (the "TEFRA Policy Ordinance"), the Board
2 adopted a set of policies relating to the approval of bonds under Section 147(f) of the Code,
3 also known as a "TEFRA Approval"; and,

4 WHEREAS, City staff has engaged the Issuer and the Borrower in negotiations
5 regarding the satisfaction of the requirements of the TEFRA Policy Ordinance for purposes of
6 this resolution; and,

7 WHEREAS, If and when the Bonds are issued, the Issuer and the Borrower have
8 agreed that the Bond documents will require the Project to meet certain affordability
9 requirements for at least 55 years, irrespective of the final maturity date of the Bonds,
10 including (i) a provision that annual rent increases for affordable units will be limited to the
11 percentage change in area median income for such years as such amount is determined by
12 HUD. In the event that HUD does not make such a determination such amount shall be
13 determined by the Mayor's Office of Housing; and,

14 WHEREAS, As required by the TEFRA Policy Ordinance, if and when the Bonds are
15 issued, the Bond regulatory agreement will require the Borrower to comply with the following
16 City policies: Local Disadvantaged Business Enterprise Subcontracting and Jobs Program;
17 Non-Discrimination in Contracts and Equal Benefits Policy; Minimum Compensation Policy;
18 Health Care Accountability Policy; and Prevailing Wage Policy (collectively, the "City
19 Contracting Requirements"); and,

20 WHEREAS, The City is charged with monitoring compliance with and enforcing such
21 City Contracting Requirements, and is aware of its responsibility in this regard; and,

22 WHEREAS, A description of the expected ownership and management structure of the
23 Project after issuance in the form required by the TEFRA Policy Ordinance is on file with the
24 Clerk of the Board of Supervisors in File No. 091339, which is hereby declared to
25 be a part of this resolution as if set forth fully herein; and,

1 WHEREAS, The Borrower has agreed to reimburse the City for staff time relating to
2 this Resolution and the satisfaction of the agreements set forth in this Resolution; and,

3 WHEREAS, As reflected in the letter on file with the Clerk of the Board of Supervisors
4 in File No. 091339, which is hereby declared to be a part of this resolution as if set
5 forth fully herein, the Director of the Mayor's Office of Housing recommends passage of this
6 Resolution; and, now, therefore be it

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

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

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

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

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

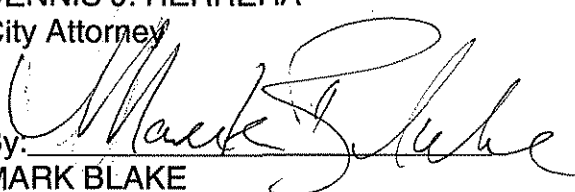
23 FURTHER RESOLVED, That in accordance with the TEFRA Policy Ordinance this
24 approval is conditioned on the incorporation of the agreements by the Borrower referenced in
25

1 the recitals of this resolution, including but not limited to the satisfaction of the City Contracting
2 Policies, in the Bond regulatory agreement recorded against the property; and, be it

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

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6 APPROVED AS TO FORM:

7 DENNIS J. HERRERA
8 City Attorney

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10 By: 
11 MARK BLAKE
12 Deputy City Attorney
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City and County of San Francisco
Tails
Resolution

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

File Number: 091339

Date Passed: November 24, 2009

Resolution approving the issuance and sale of tax-exempt bonds by the Association of Bay Area Governments (ABAG) Finance Authority For Nonprofit Corporations in a revised aggregate principal amount not to exceed \$33,000,000 for financing the rehabilitation of a housing project located at 178 Townsend Street, subject to the policies for such approvals adopted by the Board of Supervisors in Ordinance No. 36-07.

November 24, 2009 Board of Supervisors - ADOPTED

Ayes: 11 - Alioto-Pier, Avalos, Campos, Chiu, Chu, Daly, Dufty, Elsbernd, Mar, Maxwell and Mirkarimi

I hereby certify that the foregoing Resolution was ADOPTED on 11/24/2009 by the Board of Supervisors of the City and County of San Francisco.

Angela Calvillo
Clerk of the Board

Mayor Gavin Newsom

Date

11-27-09