

1 [Studying a Homeownership Stabilization Authority and Other Approaches to Assist  
2 Homeowners with Troubled Mortgages]

3 **Resolution urging that a study of a potential Joint Powers Agreement with the City of**  
4 **Richmond to establish a Homeownership Stabilization Authority as well as other**  
5 **possible approaches to assist homeowners with troubled mortgages.**

6  
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

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

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

4           WHEREAS, The City has an interest in reducing the number of foreclosures within the  
5 City to keep families in their homes and preserve the community and the City's property tax  
6 base; and

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

11           WHEREAS, A number of cities across the country are considering similar programs;  
12 and

13           WHEREAS, The City of Richmond, California, is seeking other cities to enter into an  
14 agreement to establish a Homeownership Stabilization joint powers authority to carry out a  
15 mutually-agreed-upon Homeownership Stabilization program; and

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

21           WHEREAS, The Planning Department has determined that the actions contemplated in  
22 this Resolution comply with the California Environmental Quality Act (California Public  
23 Resources Code Sections 21000, et seq.); said determination is on file with the Clerk of the  
24 Board of Supervisors in File No. 140709 and is incorporated herein by reference; now,  
25 therefore, be it

1           RESOLVED, That the Board of Supervisors of the City and County of San Francisco is  
2 committed to assisting homeowners with troubled PLS mortgages and hereby directs the  
3 Controller, in consultation with the City Attorney's Office, the Director of the Mayor's Office of  
4 Housing, and the Director of Real Estate, to study a potential joint exercise of powers  
5 agreement with the City of Richmond and possibly other public agencies that could contain  
6 the following provisions:

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

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

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

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

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

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

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

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

8 FURTHER RESOLVED, That the Controller, in consultation with the City Attorney's  
9 Office, the Director of the Mayor's Office of Housing, and the Director of Real Estate, shall  
10 also report on other possible approaches help homeowners with troubled PLS mortgages;  
11 and, be it

12 FURTHER RESOLVED, That the Board of Supervisors urges the Controller to provide  
13 the study of the proposed joint powers agreement and other possible approaches to assist  
14 homeowners with troubled PLS mortgages to the Board of Supervisors within 75 days of the  
15 approval by the Board of Supervisors of this resolution; and, be it

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

20 FURTHER RESOLVED, That the Board of Supervisors hereby directs the Director of  
21 the Mayor's Office of Housing to contact homeowners with troubled PLS loans to assess their  
22 interest in participating in a program to assist them, their ability to qualify for a modified or  
23 refinanced mortgage, and to explore possible alternative financing models for homeowners  
24 who may not qualify for a modified or refinanced mortgage.

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