

1 [Transfer Agreement, Option to Ground Lease, and Ground Lease - 1500 Page Street
2 LLC and Mercy Housing California 57 - 1500 Page Street]

3 **Resolution authorizing the execution and performance of a Transfer Agreement**
4 **between the City and County of San Francisco and 1500 Page Street, LLC, a**
5 **California limited liability company, for the transfer of real property and**
6 **improvements located at 1500 Page Street, for the development of 16 units of**
7 **affordable housing for persons with developmental disabilities and one**
8 **manager's unit; authorizing the execution and performance of an Option to**
9 **Ground Lease and a Ground Lease between the City and County of San**
10 **Francisco and Mercy Housing California 57, a California limited partnership;**
11 **adopting findings under the California Environmental Quality Act; and adopting**
12 **findings that the conveyance is consistent with the General Plan, and the eight**
13 **priority policies of Planning Code, Section 101.1.**

14
15 WHEREAS, In April 2006, the Mayor's Office of Housing and Community
16 Development (MOHCD) issued a Notice of Funding Availability (NOFA) to provide
17 acquisition and predevelopment financing for the development of supportive housing
18 for chronically homeless persons; and

19 WHEREAS, Pacific Institute/Age Song submitted an application in response to the
20 NOFA and was selected to be the developer for the development of a 46-bed
21 residential care facility for chronically homeless persons (the "Original Project") to be
22 located at 1500 Page Street (Assessor's Block 1223, Lot 004) (the "Property"); and

1 WHEREAS, Pacific Institute/Age Song established a separate entity named
2 1500 Page Street LLC, a California limited liability company (“Transferor”) under which
3 to acquire the Property and develop the Original Project; and

4 WHEREAS, In March 2007, Transferor acquired the Property for \$2,850,000
5 using a \$1,000,000 acquisition loan from East West Investment, Inc., a California
6 corporation (the “Senior Bank Loan”), and a \$2,080,950 acquisition and
7 predevelopment loan from MOHCD (the “MOHCD Acquisition Loan”); and

8 WHEREAS, After acquiring the Property, the Transferor engaged in
9 predevelopment activities for the Original Project, which activities were funded by a
10 \$1,057,400 loan from MOHCD (the “Predevelopment Loan” and together with the
11 MOHCD Acquisition Loan, the “City Debt”); and

12 WHEREAS, Due to economic and real estate market conditions, the Transferor
13 was unable to obtain financing for the Original Project, and as a result the Transferor
14 and MOHCD determined that the Original Project was not feasible; and

15 WHEREAS, Transferor no longer has the funds necessary to maintain the
16 Property or pay the debt service required under the Senior Bank Loan, and is therefore
17 in severe and imminent risk of defaulting under the Senior Bank Loan; and

18 WHEREAS, In order to protect its interest in the Property and further the City’s
19 general plan priority of preserving and enhancing the supply of affordable housing,
20 MOHCD and Transferor worked together to determine an alternate plan to develop the
21 Property; and

22 WHEREAS, The Transferor’s organizational mission is to operate residential
23 care facilities and not other types of affordable rental housing projects; and

24 WHEREAS, On June 17, 2011, the Citywide Affordable Housing Loan
25 Committee approved MOHCD’s selection of Mercy Housing California (“Sponsor”) to

1 develop the Property into 16 units of affordable housing for low- and very-low income
2 persons with developmental disabilities and 1 manager’s unit (the “Current Project”);
3 and

4 WHEREAS, On February 21, 2012, Sponsor obtained an award of \$2,347,800 in
5 HUD 811 financing to develop the Current Project; and

6 WHEREAS, An appraisal dated February 13, 2014 valued the Property now at
7 \$1,500,000; and

8 WHEREAS, according to the appraisal report, the significant decrease in the
9 value of the Property is due to: (1) the cost to renovate the building exceeds the value
10 of the improvements leaving value only in the land, and (2) the 38 units in the existing
11 building are registered as Single Room Occupancy units, and thus under
12 Administrative Code Chapter 41 must be replaced one for one, which significantly
13 diminishes the development potential for the Property; and

14 WHEREAS, because the Senior Bank Loan is senior to the City Debt, if
15 Transferor defaults under the Senior Bank Loan, East West Investment Inc. would
16 likely foreclose on its Property lien, which would result in the loss of the Property as an
17 affordable housing asset and the loss of the City’s investment in the Property; and

18 WHEREAS, MOHCD’s mission is to preserve and facilitate development of
19 affordable housing for residents of San Francisco and, therefore, proposes to retain the
20 Property rather than lose it and its secured loans to a foreclosure sale; and

21 WHEREAS, MOHCD approached East West Investment, Inc. regarding the
22 Senior Bank Loan in an attempt to negotiate a reduction in the Senior Bank Loan
23 balance in connection with the reduction in the Property’s appraised value; and

24 WHEREAS, East West Investment, Inc. is currently considering MOHCD’s
25 request but unlikely to negotiate a reduction in the balance of its loan given its senior

1 loan status, and therefore MOHCD must arrange for the repayment of the full amount
2 of the Senior Bank Loan in connection with the proposed Property transfer; and

3 WHEREAS, In the event that East West Investment, Inc. responds affirmatively
4 and is willing to reduce a portion of its loan balance, MOHCD's repayment amount will
5 decrease, accordingly; and

6 WHEREAS, MOHCD and the Sponsor determined that the amount of existing
7 City Debt secured by the Property would not be supportable by the Current Project,
8 and thus transferring that debt over to the Current Project in connection with the
9 proposed Property transfer would make the project financially infeasible; and

10 WHEREAS, MOHCD has negotiated a transfer agreement with Transferor (the
11 "Transfer Agreement") to receive title to the Property in consideration for the
12 outstanding balance as of the closing date under the Senior Bank Loan in an amount
13 not to exceed \$836,706 and the cancellation of the City Debt (the "Transfer Price"),
14 subject to the conditions described in the Transfer Agreement, a copy of which is on file
15 with the Clerk of the Board of Supervisors in File No. _____ and incorporated
16 herein by reference; and

17 WHEREAS, The Director of Property and the Director of MOHCD have
18 determined that the Transfer Price exceeding the fair market value of the Property is
19 justified in order to both prevent the foreclosure and loss of the Property as an
20 affordable housing resource and to make the development of new affordable housing
21 on the Property financially feasible; and

22 WHEREAS, MOHCD has negotiated an option to ground lease with Mercy
23 Housing California 57, a limited partnership formed by the Sponsor (the "Option"), a
24 copy of which is on file with the Clerk of the Board of Supervisors in File No. _____
25 and incorporated herein by reference, pursuant to which Mercy Housing California 57

1 has a right to enter into a ground lease for the Property in order to develop the Current
2 Project (the "Ground Lease"), subject to certain terms and conditions set forth in the
3 Option; and

4 WHEREAS, The Sponsor was awarded the Option without a competitive bidding
5 process based on the determination by the Director of Property and the Director of
6 MOHCD that it would be impractical or impossible to obtain competitive bids because
7 the Sponsor is the selected developer of the Current Project and has already obtained
8 a HUD financing award for the Current Project, and because of the financial and
9 development restrictions related to the Property, as described above; and

10 WHEREAS, The Option expires on June 30, 2015 with an extension option for 1
11 additional 6-month period, and sets forth the material terms of the Ground Lease as
12 follows: (i) a term of 75 years with an extension option for 24 additional years; (ii)
13 tenant shall be responsible for all property taxes and assessments levied against the
14 Property; (iii) the Property shall be used during the term of the ground lease only for
15 affordable housing with maximum rent and income levels set at no greater than 50%
16 area median income; (iv) the annual base rent shall be \$1; (v) tenant shall be
17 responsible for construction, operation and maintenance of the Property; (vi) the City
18 will own fee title to the land and the tenant will own fee title to all improvements; (vii) at
19 the end of the term, fee title to all the improvements shall vest in the City; (viii) the
20 ground lease shall include standard mortgagee protection provisions; (ix) the City will
21 provide any notice of and defaults to the tenant and the tenant's limited partners and
22 lenders and allow any such parties the right to cure such default; (x) the tenant can
23 encumber its leasehold interest to secure loans, as approved by MOHCD; and

24 WHEREAS, In order to consummate the transfer and ground lease of the
25 Property, the Board of Supervisors desires to authorize the execution, delivery and

1 performance of the Transfer Agreement, the Option and, if the Sponsor exercises the
2 Option, the Ground Lease (collectively, the “Transaction Documents”); and

3 WHEREAS, By letter dated April 29, 2013, the Department of City Planning
4 adopted and issued a General Plan Consistency Finding, a copy of which is on file with
5 the Clerk of the Board, wherein the Department of City Planning found that the
6 acquisition and ground lease of the Property are consistent with the City's General Plan
7 and with the Eight Priority Policies under Planning Code Section 101.1; and on
8 December 12, 2013, the Department of City Planning also found that acquisition,
9 ground lease and substantial rehabilitation of the Property are categorically exempt
10 from Environmental Review; now, therefore, be it

11 RESOLVED, That the Board of Supervisors hereby adopts the findings
12 contained in the document dated December 12, 2013, from the Department of City
13 Planning regarding the California Environmental Quality Act, and hereby incorporates
14 such findings by reference as though fully set forth in this Resolution; and, be it

15 FURTHER RESOLVED, That the Board of Supervisors hereby finds that the
16 acquisition and ground lease of the Property are consistent with the General Plan, and
17 with the eight Priority Policies of Planning Code Section 101.1 for the same reasons as
18 set forth in the letter of the Department of City Planning, dated April 26, 2013, and
19 hereby incorporates such findings by reference as though fully set forth in this
20 Resolution; and, be it

21 FURTHER RESOLVED, That the Board of Supervisors hereby finds that, in
22 accordance with Administrative Code Section 23.30, the award of the Transaction
23 Documents to Sponsor without a competitive bidding process is authorized because it
24 would have been impractical or impossible to obtain competitive bids, for the reasons
25 set forth by the Director of Property and Director of MOHCD, and because it was done

1 in furtherance of the proper public purpose of preserving the potential development of
2 new affordable housing; and, be it

3 FURTHER RESOLVED, That in accordance with the recommendation of the
4 Director of Property and the Director of MOHCD, the Board of Supervisors approves
5 the Transaction Documents, and authorizes the Director of Property (or his designee)
6 and the Director of MOHCD (or his designee) to execute and deliver the Transaction
7 Documents and any such other documents that are necessary or advisable to complete
8 the transaction contemplated by the Transaction Documents, including the Ground
9 Lease (if the Sponsor exercises the Option); and, be it

10 FURTHER RESOLVED, That the Board of Supervisors authorizes the Director
11 of Property (or his designee) and the Director of MOHCD (or his designee), in
12 consultation with the City Attorney, to enter into any additions, amendments or other
13 modifications to the Transfer Agreement, the Option and, if the Option is exercised, the
14 Ground Lease, and any other documents or instruments necessary in connection
15 therewith, that the Director of Property and the Director of MOHCD determine are in the
16 best interests of the City, do not materially decrease the benefits to the City with
17 respect to the Property, do not materially increase the obligations or liabilities of the
18 City, and are necessary or advisable to complete the transaction contemplated therein
19 and that effectuate the purpose and intent of this Resolution, such determination to be
20 conclusively evidenced by the execution and delivery by the Director of Property (or his
21 designee) and the Director of MOHCD (or his designee) of any such additions,
22 amendments, or other modifications; and, be it

23 FURTHER RESOLVED, That all actions authorized and directed by this
24 Resolution and heretofore taken are hereby ratified, approved and confirmed by this
25 Board of Supervisors.

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RECOMMENDED:

John Updike, Director of Property

Olson Lee, Director, Mayor's Office of Housing and Community Development