

File No. 091338

Committee Item No. _____
Board Item No. 37

COMMITTEE/BOARD OF SUPERVISORS
AGENDA PACKET CONTENTS LIST

Board of Supervisors Meeting

Date November 24, 2009

Cmte Board

- Motion
- Resolution
- Ordinance
- Legislative Digest
- Budget Analyst Report
- Legislative Analyst Report
- Youth Commission Report
- Introduction Form (for hearings)
- Department/Agency Cover Letter and/or Report
- MOU
- Grant Information Form
- Grant Budget
- Subcontract Budget
- Contract/Agreement
- Award Letter
- Application
- Public Correspondence

OTHER (Use back side if additional space is needed)

<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/>	<input type="checkbox"/>	_____

Completed by: Annette Lonich Date November 19, 2009
 Completed by: _____ Date _____

An asterisked item represents the cover sheet to a document that exceeds 25 pages.
The complete document is in the file.

78

INTRODUCTION FORM

By a member of the Board of Supervisors or the Mayor

RECEIVED
BOARD OF SUPERVISORS
SAN FRANCISCO

2009 NOV 17 PM 4:47

Time Stamp or
Meeting Date

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I hereby submit the following item for introduction:

- _____ 1. For reference to Committee:
 An ordinance, resolution, motion, or charter amendment.
- ___X___ 2. Request for next printed agenda without reference to Committee
- _____ 3. Request for Committee hearing on a subject matter.
- _____ 4. Request for letter beginning "Supervisor _____ inquires...".
- _____ 5. City Attorney request.
- _____ 6. Call file from Committee.
- _____ 7. Budget Analyst request (attach written motion).
- _____ 8. Substitute Legislation File Nos.
- _____ 9. Request for Closed Session
- _____ 10. Board to Sit as A Committee of the Whole

Please check the appropriate boxes. The proposed legislation should be forwarded to the following:

- Small Business Commission
- Youth Commission
- Ethics Commission
- Planning Commission
- Building Inspection Commission

Note: For the Imperative Agenda (a resolution not on the printed agenda), use a different form.]

Sponsor(s): Supervisor

Maxwell

SUBJECT: _____ Issuance and Sale of Revenue Bonds – 2235 Third Street
Apartments _____

The text is listed below or attached:

Signature of Sponsoring Supervisor: *Sophenia Maxwell*

For Clerk's Use Only:

791338

FILE NO. 091338

RESOLUTION NO.

1 [Issuance and Sale of Revenue Bonds – 2235 Third Street Apartments.]

2
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 \$55,000,000 for financing the**
6 **acquisition, construction and rehabilitation of 2235 Third Street Apartments, subject to**
7 **the policies for such approvals adopted by the Board of Supervisors in Ordinance**
8 **No. 36-07.**

9
10 WHEREAS, On June 9, 2009, this Board of Supervisors adopted Resolution No. 233-
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 \$50,000,000 for financing the acquisition, construction and rehabilitation of 2235 Third Street
14 Apartments (the "Project") by Martin Mc Nerney Properties, LLC (the "Borrower"); and,

15 WHEREAS, The Borrower has indicated that due to the loss of a tax credit equity
16 contribution an additional \$5,000,000 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 \$5,000,000; 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 \$55,000,000 and to lend the proceeds thereof to the Borrower or any successor
24 thereto (the "Borrower"), to be used for the acquisition, construction and rehabilitation by
25 Borrower of an up to 200-unit apartment project to be known as 2235 Third Street Apartments

1 (referred to herein as the "Project") to be located at 2235 Third Street in the City and County
2 of San Francisco, California (the "City"), all to be owned and operated by the Borrower or an
3 entity related thereto or a partner thereof; and,

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

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

10 WHEREAS, The Project is located wholly within the City and County of San Francisco;
11 and,

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

15 WHEREAS, The Board of Supervisors of the City (the "Board") is the elected legislative
16 body of the City and is the applicable elected representative required to approve the issue
17 within the meaning of Section 147(f) of the Code; and,

18 WHEREAS, The Authority has requested the Board to approve the issuance and sale
19 of the Bonds in order to satisfy the public approval requirements of Section 147(f) of the Code;
20 and,

21 WHEREAS, On November 10, 2009, the Borrower caused a notice to appear in the
22 *San Francisco Chronicle*, which is a newspaper of general circulation in the City, stating that a
23 public hearing with respect to the issuance of the Bonds would be held by the Mayor's Office
24 of Housing on November 24, 2009; and,
25

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

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

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

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

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

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

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

3 WHEREAS, A description of the expected ownership and management structure of the
4 Project after issuance in the form required by the TEFRA Policy Ordinance is on file with the
5 Clerk of the Board of Supervisors in File No. 091338, which is hereby declared to
6 be a part of this resolution as if set forth fully herein; and,

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

9 WHEREAS, As reflected in the letter on file with the Clerk of the Board of Supervisors
10 in File No. 091338, which is hereby declared to be a part of this resolution as if set
11 forth fully herein, the Director of the Mayor's Office of Housing recommends passage of this
12 Resolution; now, therefore, be it

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

15 FURTHER RESOLVED, This Board of Supervisors, as the applicable elected
16 representative of the governmental unit having jurisdiction over the area in which the Project
17 is located, hereby approves the issuance of the Bonds for purposes of Section 147(f) of the
18 Code; and, be it

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

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

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

7 FURTHER RESOLVED, That in accordance with the TEFRA Policy Ordinance this
8 approval is conditioned on the incorporation of the agreements by the Borrower referenced in
9 the recitals of this resolution, including but not limited to the satisfaction of the City Contracting
10 Policies, in the Bond regulatory agreement recorded against the property; and, be it

11 FURTHER RESOLVED, That this Resolution shall take effect immediately upon its
12 adoption.

13
14 APPROVED AS TO FORM:

15 DENNIS J. HERRERA
16 City Attorney

17 By: 

18 MARK D. BLAKE
19 Deputy City Attorney

MAYOR'S OFFICE OF HOUSING
CITY AND COUNTY OF SAN FRANCISCO



GAVIN NEWSOM
MAYOR

DOUGLAS SHOEMAKER
DIRECTOR

November 16, 2009

Honorable Sophie Maxwell
City and County of San Francisco
Board of Supervisors
City Hall
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102

SUBJ: Resolution approving the issuance and sale of tax-exempt bonds by the ABAG Finance Authority in the amount of \$55,000,000 to finance the construction of a residential development at 2235 Third Street.

With this letter, I am submitting to you for introduction at the Board of Supervisors meeting on, Tuesday, November 17, 2009, a resolution I recommend for passage regarding qualified mortgage revenue bonds for the proposed residential development located at 2235 Third Street. The Project is sponsored by Martin McNerney Properties, LLC, ("Sponsor"), a single asset corporation with Patrick McNerney as president of the corporation. The Sponsor is proposing to build three new mixed-use buildings and preserve and renovate two former warehouse buildings into up to 200 residential units along with 17,000 square feet of retail space including a grocery store and on-site day care. Eighty percent of the units will be market-rate rentals and 20% of the units at affordable rents of 50% area median.

On June 9, 2009, the BOS approved the issuance and sale of \$50 million in tax-exempt bond financing by ABAG to fund the construction of the buildings, which when completed will consist of a variety of multi-bedroom units including one, two and three bedroom apartments. Current estimates of the total development costs reveal that additional bond allocation will be required in order to fully fund the project. This request before you is to secure approval of a total bond allocation amount of \$55 million.

In order to meet the deadline for submitting the Issuance resolution to the California Debt Limit Allocation Committee (CDLAC) and close the bonds, the Board of Supervisors must *finally pass* the resolution by **November 24, 2009**.

The attached resolution has been approved as-to-form by Deputy City Attorney Mark Blake. I am enclosing a brief description of the project for your review.

If you have any questions about the resolution or the project, please contact Joan McNamara at 701-5532.

Sincerely,

A handwritten signature in black ink, appearing to read "Craig Adelman".

Craig Adelman
Deputy Director

