

[Golden Gate Park Music Concourse Garage Refinance]

Resolution concurring in the recommendation of the Controller and the Director of the Office of Public Finance that the issuance of not to exceed \$30,000,000 Tax Exempt Bank Qualified Bonds ("Bonds") with First Republic Bank for and on behalf of the Music Concourse Community Partnership, a California nonprofit public benefit corporation, is reasonably prudent; directing the Controller and the Director of the Office of Public Finance to do everything necessary and desirable to provide for the issuance of such Bonds; and providing public approval for the Bonds and the project financed and refinanced thereby for the purposes of Section 147(f) of the internal Revenue Code.

WHEREAS, At the June 2, 1998, special election the voters of the City and County of San Francisco (the "City") approved Proposition J, now codified in Appendix 41 of the City's Administrative Code ("Proposition J"); and

WHEREAS, Proposition J is an initiative measure which, among other things, authorized the creation of the Golden Gate Park Concourse Authority (the "Authority") and the construction, by or on behalf of the Authority, of an underground parking facility (the "Facility") in Golden Gate Park located between the M.H. de Young Museum and the California of Academy of Sciences in the City containing approximately 800 parking spaces (the "Project"); and

WHEREAS, Proposition J also authorized the City's Board of Supervisors (the "Board of Supervisors") to grant administrative jurisdiction over certain lands in or near the area of the Golden Gate Park Music Concourse (the "Concourse") to the Authority to facilitate the Project; and

1 WHEREAS, Music Concourse Community Partnership ("MCCP"), is a nonprofit public
2 benefit corporation organized and existing under the laws of the State of California, formed
3 and existing for the primary purpose of funding, designing, constructing and operating the
4 Facility; and

5 WHEREAS, By Resolution No. 737-03, the Board of Supervisors approved a ground
6 lease (the "Lease") between MCCP, as tenant, and the City, acting through the Authority and
7 the Recreation and Park Commission (the "Commission"), as landlord, which governs the
8 relationship between the parties with respect to the construction and operation of the Facility;
9 and

10 WHEREAS, Under the terms of the Lease, MCCP was granted a long-term leasehold
11 interest in lands beneath the Concourse and the right to construct the Facility at its own
12 expense, and as such shall be deemed the owner of the physical improvements constituting
13 the Facility until expiration or termination of the Lease, at which time title to such
14 improvements shall be transferred to the City at no cost; and

15 WHEREAS, Under the terms of the Lease, MCCP is permitted to apply the revenues of
16 the Facility to help finance the costs of constructing the Facility; and

17 WHEREAS, In June 2005, California Statewide Communities Development Authority
18 (the "CSCDA") issued \$26,500,000 in Revenue Bond Anticipation Notes (the "Notes") on
19 behalf of the MCCP to finance a portion of the costs of construction of the Project; and

20 WHEREAS, The Notes have a final maturity of December 1, 2011; and

21 WHEREAS, MCCP expected on or prior to the maturity of the Notes to secure long-
22 term financing for the Project, including the retirement of the Notes, from the sale of refunding
23 revenue bonds or other evidences of indebtedness as permitted by law; and

24 WHEREAS, The Project was partially completed in October 2005, and finally
25 completed in 2007; and

1 WHEREAS, Approximately \$1,540,000 of the cost of the Project is still owing to
2 Swinerton Builders and that amount has been accruing interest at 3% per annum from
3 September 1, 2006 (the "Contract Amount"); and

4 WHEREAS, In December 2007 and June 2008 M CCP borrowed \$1,450,000 from First
5 Republic Bank in order to make interest payments on the Notes (the "Loan") due to cash flow
6 deficits; and

7 WHEREAS, The Loan and the Contract Amount, together with the principal amount of
8 the Notes, did not exceed the amount reasonably necessary to facilitate the Project; and

9 WHEREAS, M CCP now proposes to secure long-term private placement financing with
10 First Republic Bank through the issuance of bonds by the California Enterprise Development
11 Authority ("CEDA") in an amount not to exceed \$30,000,000 (the "Bonds") to refund or
12 refinance the Notes and the Loan and to pay the Contract Amount, under provisions of the
13 American Recovery and Reinvestment Act of 2009 (ARRA), specifically, Section 265(b)(3)(G)
14 of the Code (hereinafter, the "ARRA Bank Qualified Tax Exempt Bond Program"); and,

15 WHEREAS, The ARRA Bank Qualified Tax Exempt Bond Program, which expires
16 December 31, 2010, offers advantageous terms including but not limited attractive interest
17 rates and lower costs of issuance; and,

18 WHEREAS, pursuant to Section 147(f) of the Internal Revenue Code, as amended (the
19 "Code"), CEDA approval must come from approval of a governmental unit on behalf of which
20 CEDA issues its obligations, and CEDA has thus requested that the City provide its approval
21 of the Bonds and the financing/refinancing of the Project with the proceeds thereof; and

22 WHEREAS, pursuant to Section 147(f) of the Code, the issuance of the Bonds by
23 CEDA and the financing and refinancing of the Project with the proceeds thereof must be
24 approved by the City because the Project is located within the territorial limits of the City; and
25

1 WHEREAS, the Board of Supervisors of the City is the elected legislative body of the
2 City and is therefore an applicable elected representative eligible to approve the issuance of
3 the Bonds and the financing and refinancing of the Project with the proceeds thereof pursuant
4 to Section 147(f) of the Code; and

5 WHEREAS, pursuant to Section 147(f) of the Code, the Board of Supervisors has,
6 following notice duly given, held a public hearing regarding the issuance of the Bonds and the
7 financing/refinancing of the Project with the proceeds thereof, and now desires to approve the
8 issuance of the Bonds and the financing/refinancing of the Project with the proceeds thereof;

9 WHEREAS, In accordance with the Ground Lease and the First Amendment to the
10 Ground Lease, MCCP is not required to obtain approval by the Board of Supervisors for a
11 refunding of the Notes and the Loan and the payment of the Contract Amount, if such a
12 refunding is reasonably prudent in the light of MCCP's financial situation; and,

13 WHEREAS, notwithstanding that MCCP is not required to obtain approval by the Board
14 of Supervisors for a refunding of the Notes and the Loan and the payment of the Contract
15 Amount, approval of the Bonds and the Project is required for purposes of Section 147(f) of
16 the Code; and

17 WHEREAS, The Controller and the Director of the Office of Public Finance have
18 determined to proceed with a refunding of the Notes and the Loan, and the payment of the
19 Contract Amount through the issuance and placement of the Bonds with First Republic Bank,
20 and believes such financing is reasonably prudent; now, therefore, be it

21 RESOLVED, The Board of Supervisors hereby approves the issuance of the Bonds,
22 and the financing and refinancing of the Project (through the refunding of the Notes and the
23 Loan and the payment of the Contract Amount) with the proceeds thereof, by CEDA. It is the
24 purpose and intent of the Board of Supervisors that this Resolution constitute approval of the
25 issuance of the Bonds for the purposes of (a) Section 147(f) of the Code by the applicable

1 elected representative of the governmental unit on behalf of which CEDA issues its
2 obligations and having jurisdiction over the area in which the Project is located, in accordance
3 with said Section 147(f).

4 RESOLVED, That the Board of Supervisors hereby concurs with the Controller and the
5 Director of the Office of Public Finance that such financing is reasonably prudent, and directs
6 the Controller and the Director of the Office Public Finance, and all other appropriate officers,
7 employees, representatives and agents of the City, to do everything necessary and desirable
8 to provide for the issuance of not more than \$30,000,000 of Tax Exempt Bank Qualified
9 Bonds on a private placement basis with First Republic Bank on such terms and conditions as
10 the Controller and the Director of the Office Public Finance, in consultation with MCCP and
11 the City Attorney, believe are reasonably prudent and in accordance with the provisions of this
12 Resolution. Provided, however, that no funds of the City shall be made available or shall
13 otherwise secure repayment of the Bonds.