

1 [Directing the City Attorney and City Lobbyist to Request HCD Extend the Housing Element
2 Implementation Action Plan Deadline and Revise and Correct the “Policy and Practice
3 Review” Letter]

4 **Resolution directing the City Attorney and the City Lobbyist, on behalf of the City, to**
5 **request that the State Department of Housing and Community Development (HCD)**
6 **extend the Housing Element Implementation Action Plan deadline to ensure all of San**
7 **Francisco’s extensive, collaborative work to further housing development does not 1)**
8 **lead to de-certification of San Francisco’s thorough and adopted Housing Element; 2)**
9 **to revise and correct HCD’s “Policy and Practice Review” letter to be responsive to San**
10 **Francisco’s adopted Housing Element, including its actions on affordable housing and**
11 **equity; and 3) to be responsive to the City’s legal obligations to affirmatively further**
12 **Fair Housing, San Francisco’s Chartered legislative process, and San Francisco’s**
13 **status as a Charter City imbued with the power of local action over municipal affairs.**

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15 WHEREAS, California’s Department of Housing and Community Development (HCD)
16 certified SF's Housing Element in January, 2023; and

17 WHEREAS, Since then, both the Mayor and the Board of Supervisors have introduced
18 multiple Ordinances proposing changes to this City’s land use and housing policies to
19 advance and conform to the provisions of the City’s Housing Element, including several
20 significant Ordinances that have already passed to "reduce constraints" for market rate
21 housing, specifically Board File Nos. 230026, 230374, 230764, 230769, 230855, and 230732,
22 which are hereby declared to be a part of this resolution as if set forth fully herein; and

23 WHEREAS, This San Francisco Housing Element is the first ever to center racial and
24 social equity in the formation of our housing goals and land use actions, and implementation
25 will require a coordinated, interlocking, and balanced set of interventions; and

1 WHEREAS, San Francisco exceeded its market rate housing production goals in prior
2 Regional Housing Needs Assessment (RHNA) cycles, although it failed to produce more than
3 half of its affordable housing production goals; and

4 WHEREAS, San Francisco will not be able to achieve its 2023-2031 affordable housing
5 production goals with a singular focus on private development policies and practices, and
6 without sufficient measures to address racial equity, fair housing practices, affordability, and
7 displacement, HCD's singular focus on efforts to streamline market rate development may
8 even exacerbate our affordability crisis; and

9 WHEREAS, San Francisco is a Charter City with authority over municipal affairs, with
10 the power to take local action, as long as the action is not inconsistent with the city's charter
11 or the California or United States Constitutions, and even if the subject matter may be at odds
12 with a state statute or if the subject matter is of statewide concern, in which case state law
13 must be reasonably related and narrowly tailored to address that statewide concern; and

14 WHEREAS, HCD published a document entitled "San Francisco Housing Policy and
15 Practice Review" and transmitted it to San Francisco on October 25, 2023, recommending
16 that the Housing Element be de-certified unless the City override its own local laws to further
17 deregulate market rate housing development requirements and review; and

18 WHEREAS, In its "Policy and Practice Review", HCD imposes deadlines for
19 Implementing Actions that require adoption and action within time periods that may conflict
20 with or are contrary to San Francisco's Charter and other law; and

21 WHEREAS, The deadlines imposed by the "Policy and Practice Review" do not
22 consider or accommodate the City's obligation to consider and address in the drafting and
23 implementation of new policies the potential adverse impacts its requirements would impose
24 on the urgent need to preserve and enhance existing rent-controlled housing, the retention of
25 neighborhood small businesses, job opportunities and the workforce represented by

1 organized labor, communities at greater risk and disproportionately impacted by
2 displacement, particularly Black, Indigenous and people of color, and other critical needs of
3 San Francisco's residents; and

4 WHEREAS, De-certification of a Housing Element triggers various actions including the
5 "Builders Remedy", which is recently proving to reduce the number of units developers are
6 building in San Jose and surrounding areas; and

7 WHEREAS, De-certification of San Francisco's Housing Element would diminish the
8 construction and building trades' ability and rights to negotiate project labor agreements,
9 leading to labor shortages and increasing disparities between wages and housing costs; and

10 WHEREAS, De-certification of San Francisco's Housing Element would completely
11 deregulate development of market rate housing and put the approximately 65% of San
12 Francisco's population that are renters, as well as San Francisco's historically marginalized
13 low-income communities and communities of color at heightened risk of displacement; and

14 WHEREAS, Since the certification of San Francisco's Housing Element, the State has
15 adopted SB 423, which included a late-in-the-process amendment reducing only San
16 Francisco's reporting period to one year, making San Francisco the only of one of California's
17 58 counties targeted by this amendment, which will ultimately force San Francisco out of
18 compliance; and

19 WHEREAS, De-certification of San Francisco's Housing Element will lead to the
20 displacement of low-income residents, renters, and seniors, which are protected classes the
21 City has a vested interest in protecting and advocating for, which is why San Francisco has
22 adopted as a city policy priority the need to protect San Francisco residents from
23 displacement; and

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1 WHEREAS, San Francisco has worked diligently to meet or exceed HCD’s requests,
2 despite a demonstrated pattern of an inconsistent application of state law across jurisdictions
3 and ever-changing goalposts; and

4 WHEREAS, Over 57% of the Regional Housing Needs Allocation (RHNA) plan for this
5 RHNA cycle (which has greatly inflated production mandates over prior RHNA cycles) is
6 targeted to three income categories that are "below market", but HCD has not provided any
7 new resources for assisting in accomplishing these affordable housing mandates, most
8 notably funding; and

9 WHEREAS, HCD’s “Policy and Practice Review” letter ignores Section 65584(d)(1) of
10 the Government Code that specifically says the RHNA plan shall further the objective of
11 increasing the housing supply and mix of housing types, tenure, and affordability in all cities
12 and counties within the region in an equitable manner, which shall result in each jurisdiction
13 receiving an allocation of units for low- and very low-income households, and de-certification
14 of San Francisco’s Housing Element and imposition of the “Builder's Remedy” will box San
15 Francisco into only prioritizing the lucrative development of market-rate housing, which is in
16 contravention of the mandate for equitable distribution in the region; and

17 WHEREAS, HCD's "Policy and Practice Review" letter fails to acknowledge the legal
18 requirements of AB 686 to “Affirmatively Further Fair Housing”, and is ignoring Section
19 65584(d)((5) of the Government Code that specifically says the RHNA plan shall further clear
20 objectives, including affirmatively furthering fair housing, which does not address the
21 displacement of low-income, BIPOC, Seniors, and disabled San Franciscans in its current
22 Review letter; and

23 WHEREAS, San Francisco's Housing Element has several priority Implementing
24 Actions that are specifically intending to Affirmatively Further Fair Housing, such as Actions
25 1.1.2, 1.1.3, 1.1.14, 1.1.15, 1.2.2, 1.2.3, 1.2.4, 1.2.5, 1.2.8, 1.4.6, 1.4.7, 1.5.2, 1.5.4, 1.5.5,

1 1.7.1, 1.7.4, 1.7.5, 1.7.7, 1.7.8, 1.7.9, 1.7.11, 2.1.1, 2.1.2, 2.1.4, 2.1.5, 2.1.7, 2.2.1, 2.2.2,
2 2.2.4, 2.2.8, 2.2.9, 2.3.1, 2.3.3, 2.3.4, 2.4.1, 2.4.2, 2.4.3, 2.4.4, 4.1.1,4.1.2, 4.1.3, 4.1.4, 4.1.5,
3 4.1.9, 4.2.1, 4.2.5, 4.4.2, 4.5.1, 4.5.5, 4.5.12, 5.2.1, 5.2.2, 5.2.3, 5.2.4, 5.2.6, 5.3.2, 5.3.3,
4 5.4.1, 5.4.7, 5.4.8, 5.4.9, 6.1.2, 6.2.1, 6.3.1, 6.3.3, 6.3.6, 6.3.9, 7.4.3, 8.4.21, 8.6.2, 8.6.7,
5 8.6.10; and

6 WHEREAS, HCD's "Policy and Practice Review" letter appears to blame the slow rate
7 of development permit applications in 2023 entirely on San Francisco's review and approval
8 process, which analysis is grossly incomplete, as it ignores the market realities of declining
9 market rate demand, high interest rates, lack of financing, and other labor and development
10 costs that are completely independent of San Francisco's approval processes; and

11 WHEREAS, It is a City priority to retain union workforce members to live and work in
12 San Francisco, and HCD's "Policy and Practice Review" letter ignores Section 65584(d)(3) of
13 the Government Code that specifically says the RHNA plan shall promote an improved
14 intraregional relationship between jobs and housing, including an improved balance between
15 the number of low-wage jobs and the number of housing units affordable to low-wage workers
16 in each jurisdiction, which de-certification would undermine; and

17 WHEREAS, HCD's "Policy and Practice Review" letter fails to acknowledge that more
18 than 60,000 housing units have been documented by the City as sitting vacant in San
19 Francisco, and while more than 50,000 housing units have been entitled, these projects have
20 not moved into construction because of a lack of financing and equity lending, not due to any
21 City zoning or local discretionary review process; and

22 WHEREAS, In its "Policy and Practice Review", HCD creates deadlines for
23 Implementing Actions and creates new Implementing Actions, including those with deadlines
24 which appear to require action within 30 days while some actions require more than 30 days
25 to adopt and implement; and

1 WHEREAS, The City Attorney of the City and County of San Francisco is reviewing the
2 “Policy and Practice Review” recommendations and requirements within the context of
3 recently adopted state legislation and members of the Board of Supervisors are awaiting
4 advice from the City Attorney to consider appropriate action and amendments to pending
5 legislation to conform with those policies and existing law, including but not limited to the
6 City’s Charter and state obligations to Affirmatively Further Fair Housing; now, therefore, be it

7 RESOLVED, That the Board of Supervisors of the City and County of San Francisco
8 directs the City Attorney and the City Lobbyist, on behalf of the City, to request that the State
9 Department of Housing and Community Development (HCD) extend the Housing Element
10 Implementation Action Plan deadline to ensure all of San Francisco’s extensive, collaborative
11 work to further housing development does not lead to de-certification of San Francisco’s
12 thorough and adopted Housing Element; and, be it

13 FURTHER RESOLVED, That the Board of Supervisors of the City and County of San
14 Francisco direct the City Attorney and the City Lobbyist, on behalf of the City, to revise and
15 correct the “Policy and Practice Review” letter so it is responsive to the thorough and adopted
16 San Francisco Housing Element, including its actions on affordable housing and equity, as
17 well as responsive to the City’s legal obligations to affirmatively further Fair Housing, San
18 Francisco’s Chartered legislative process, and San Francisco’s status as a Charter City
19 imbued with the power of local action over municipal affairs; and, be it

20 FURTHER RESOLVED, That the Board of Supervisors of the City and County of San
21 Francisco request that HCD step forward as a state partner to draft a review of joint local -
22 state actions to advance policies, tools, and financial and resource investments to achieve the
23 affordable housing goals in the 2023-2031 RHNA cycle; and, be it

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1 FURTHER RESOLVED, That the Board of Supervisors of the City and County of San
2 Francisco direct the Clerk of the Board to transmit this Resolution to the City Attorney, the City
3 Lobbyist and the State Legislative Delegation upon final passage.

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