

File No. 120244

Committee Item No. 1

Board Item No. \_\_\_\_\_

## COMMITTEE/BOARD OF SUPERVISORS

### AGENDA PACKET CONTENTS LIST

Committee: Land Use and Economic Development Date March 26, 2012

Board of Supervisors Meeting

Date \_\_\_\_\_

#### Cmte Board

- |                                     |                          |  |
|-------------------------------------|--------------------------|--|
| <input type="checkbox"/>            | <input type="checkbox"/> | Motion                                       |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Resolution                                   |
| <input type="checkbox"/>            | <input type="checkbox"/> | Ordinance                                    |
| <input type="checkbox"/>            | <input type="checkbox"/> | Legislative Digest                           |
| <input type="checkbox"/>            | <input type="checkbox"/> | Budget and Legislative Analyst Report        |
| <input type="checkbox"/>            | <input type="checkbox"/> | Legislative Analyst Report                   |
| <input type="checkbox"/>            | <input type="checkbox"/> | Youth Commission Report                      |
| <input type="checkbox"/>            | <input type="checkbox"/> | Introduction Form (for hearings)             |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Department/Agency Cover Letter and/or Report |
| <input type="checkbox"/>            | <input type="checkbox"/> | MOU  |
| <input type="checkbox"/>            | <input type="checkbox"/> | Grant Information Form                       |
| <input type="checkbox"/>            | <input type="checkbox"/> | Grant Budget                                 |
| <input type="checkbox"/>            | <input type="checkbox"/> | Subcontract Budget                           |
| <input type="checkbox"/>            | <input type="checkbox"/> | Contract/Agreement                           |
| <input type="checkbox"/>            | <input type="checkbox"/> | Form 126 – Ethics Commission                 |
| <input type="checkbox"/>            | <input type="checkbox"/> | Award Letter                                 |
| <input type="checkbox"/>            | <input type="checkbox"/> | Application                                  |
| <input type="checkbox"/>            | <input type="checkbox"/> | Public Correspondence                        |

#### OTHER

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|---------------------------------------|--------------------------|---|
| * <input checked="" type="checkbox"/> | <input type="checkbox"/> | Trust Indenture   |
| * <input checked="" type="checkbox"/> | <input type="checkbox"/> | Regulatory Agreement and Declaration of Restrictive Covenants |
| * <input checked="" type="checkbox"/> | <input type="checkbox"/> | Loan Agreement  |
| <input type="checkbox"/>              | <input type="checkbox"/> | _____   |
| <input type="checkbox"/>              | <input type="checkbox"/> | _____   |
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Completed by: Alisa Miller Date March 23, 2012

Completed by: \_\_\_\_\_ Date \_\_\_\_\_

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

1 [Multifamily Housing Revenue Bonds - 1180 Fourth Street Family Housing]

2  
3 **Resolution authorizing the issuance and delivery of multifamily housing revenue**  
4 **bonds in an aggregate principal amount not to exceed \$48,155,000 for the purpose of**  
5 **providing financing for the acquisition and construction of a 150-unit multifamily**  
6 **rental housing project known as 1180 Fourth Street Family Housing; approving the**  
7 **form of and authorizing the execution of a trust indenture providing the terms and**  
8 **conditions of the bonds; approving the form of and authorizing the execution of a**  
9 **regulatory agreement and declaration of restrictive covenants; approving the form of**  
10 **and authorizing the execution of a loan agreement; authorizing the collection of**  
11 **certain fees; ratifying and approving any action heretofore taken in connection with**  
12 **the bonds and the project; granting general authority to City officials to take actions**  
13 **necessary to implement this Resolution; and related matters.**

14  
15 WHEREAS, The Board of Supervisors of the City and County of San Francisco (the  
16 "Board") desires to provide for a portion of the costs of the acquisition and construction by  
17 Mercy Housing California XLIV, A California limited partnership (the "Borrower"), of a 150-  
18 unit residential rental development located at 1180 Fourth Street, San Francisco, California,  
19 known as "1180 Fourth Street Family Housing" (the "Project"), to provide housing for  
20 persons and families of low income through the issuance of revenue bonds; and

21 WHEREAS, The City and County of San Francisco (the "City") is authorized to issue  
22 revenue bonds for such purpose pursuant to the Charter of the City, Article I of Chapter 43  
23 of the Administrative Code of the City and, to the extent applicable, Chapter 7 of Part 5 of  
24 Division 31 (commencing with Section 52075) of the Health and Safety Code of the State of  
25

1 California ("Health and Safety Code"), as now in effect and as it may from time to time  
2 hereafter be amended or supplemented (collectively, the "Act"); and

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

6 WHEREAS, This Board is the elected legislative body of the City and is the  
7 applicable elected representative required to approve the issuance of the Bonds within the  
8 meaning of Section 147(f) of the Code; and

9 WHEREAS, On September 13, 2011, this Board, in Resolution No. 366-11, approved  
10 the issuance of the Bonds for the purposes of Section 147(f) of the Code; and

11 WHEREAS, There has been prepared and presented to the Board for consideration  
12 at this meeting the documentation required for the issuance of the Bonds, and such  
13 documentation is on file with the Clerk of the Board of Supervisors (the "Clerk of the  
14 Board"); and

15 WHEREAS, It appears that each of the documents which is now before this Board is  
16 substantially in appropriate form and is an appropriate instrument to be executed and  
17 delivered for the purposes intended; and

18 WHEREAS, The Board finds that the public interest and necessity require that the  
19 City at this time make arrangements for the sale of the Bonds; and

20 WHEREAS, The City has engaged Schiff Hardin LLP and Lofton & Jennings, as co-  
21 bond counsel with respect to the Bonds ("Co-Bond Counsel"); and

22 WHEREAS, Bank of America, N.A., a national banking association, and Silicon Valley  
23 Bank, have each expressed its intention to purchase, or cause an affiliate to purchase, the  
24 Bonds authorized hereby; now, therefore, be it  
25

1           RESOLVED, by this Board of Supervisors of the City and County of San Francisco as  
2 follows:

3           Section 1. Approval of Recitals. The Board hereby finds and declares that the above  
4 recitals are true and correct.

5           Section 2. Approval of Issuance of Bonds. In accordance with the Act and the  
6 Indenture (hereinafter defined), the City is hereby authorized to issue and deliver revenue  
7 bonds of the City, such bonds to be issued in one series, which may have two or more  
8 subseries, and designated as "City and County of San Francisco, California Multifamily  
9 Housing Revenue Bonds (1180 Fourth Street), Series 2012A," or such other designation as  
10 may be necessary or appropriate to distinguish such series from every other series of  
11 bonds, in an aggregate principal amount not to exceed \$48,155,000 (the "Bonds"), with an  
12 interest rate not to exceed twelve percent (12%) per annum for the Bonds, and which shall  
13 have a final maturity date not later than March 1, 2037. The Bonds shall be in the form set  
14 forth in and otherwise in accordance with the Indenture, and shall be executed by the  
15 manual or facsimile signature of the Mayor of the City (the "Mayor") and attested by the  
16 manual or facsimile signature of the Clerk of the Board.

17           Section 3. Indenture. The Trust Indenture (the "Indenture"), by and between the City  
18 and [Trustee], as Trustee, in the form presented to the Board, a copy of which is on file with  
19 the Clerk of the Board, is hereby approved. The Mayor, the Housing Development Director  
20 of the Mayor's Office of Housing (the "Director") or any Authorized Representative of the  
21 City (as such term is defined in the Indenture) is hereby authorized to execute the Indenture,  
22 approved as to form by the City Attorney of the City (the "City Attorney"), in substantially  
23 said form, together with such additions thereto and changes therein as the City Attorney and  
24 Bond Counsel may approve or recommend in accordance with Section 7 hereof.

1           Section 4. Regulatory Agreement and Declaration of Restrictive Covenants. The  
2 Regulatory Agreement and Declaration of Restrictive Covenants (the "Regulatory  
3 Agreement"), between the City and the Borrower, in the form presented to the Board, a copy  
4 of which is on file with the Clerk of the Board, is hereby approved. The Mayor, the Director  
5 or any Authorized Representative is hereby authorized to execute the Regulatory  
6 Agreement, approved as to form by the City Attorney, in substantially said form, together  
7 with such additions thereto and changes therein as the City Attorney and Co-Bond Counsel  
8 may approve or recommend in accordance with Section 7 hereof.

9           Section 5. Loan Agreement. The Loan Agreement (the "Loan Agreement") by and  
10 between the City and the Borrower, in the form presented to the Board, a copy of which is  
11 on file with the Clerk of the Board, is hereby approved. The Mayor, the Director or any  
12 Authorized Representative is hereby authorized to execute the Loan Agreement in  
13 substantially said form, together with such additions thereto and changes therein as the City  
14 Attorney and Co-Bond Counsel may approve or recommend in accordance with Section 7  
15 hereof.

16           Section 6. Issuer Fees. The City, acting through the Mayor's Office of Housing, shall  
17 charge a fee for the administrative costs associated with issuing the Bonds in an amount not  
18 to exceed 0.25% of the aggregate principal amount of the Bonds. Such fee shall be payable  
19 at bond closing and may be contingent on the bond sale. The City shall also charge an  
20 annual fee for monitoring the restricted units in an amount not to exceed 0.125% of the  
21 outstanding aggregate principal amount of the Bonds, but no less than \$2,500 annually, for  
22 the term of the Regulatory Agreement. The initial monitoring fee shall be payable at bond  
23 closing. The Board hereby authorizes the Mayor's Office of Housing to charge and collect  
24 the fees described in this section.  
25

1           Section 7. Modifications, Changes, Additions. Any Authorized Representative  
2           executing the Indenture, the Regulatory Agreement or the Loan Agreement (collectively, the  
3           "City Agreements"), in consultation with the City Attorney and Co-Bond Counsel, is hereby  
4           authorized to approve and make such modifications, changes or additions to the City  
5           Agreements as may be necessary or advisable, provided that such modification does not  
6           authorize an aggregate principal amount of Bonds in excess of \$48,155,000, provide for a  
7           final maturity on the Bonds later than March 1, 2037, or provide for the Bonds to bear  
8           interest at a rate in excess of twelve percent (12%) per annum. The approval of any  
9           modification, addition or change to any of the aforementioned documents shall be evidenced  
10          conclusively by the execution and delivery of the document in question.

11          Section 8. Ratification. All actions heretofore taken by the officers and agents of the  
12          City with respect to the sale and issuance of the Bonds are hereby approved, confirmed and  
13          ratified.

14          Section 9. General Authority. The proper officers of the City are hereby authorized  
15          and directed, for and in the name and on behalf of the City, to do any and all things and take  
16          any and all actions and execute and deliver any and all certificates, agreements and other  
17          documents, including but not limited to those documents described in the Indenture, the  
18          Loan Agreement, and the Regulatory Agreement, which they, or any of them, may deem  
19          necessary or advisable in order to consummate the lawful issuance and delivery of the  
20          Bonds and to effectuate the purposes thereof and of the documents herein approved in  
21          accordance with this Resolution.

22          ///

23          ///

24          ///

1           Section 10. File. All documents referenced herein as being on file with the Clerk of the  
2 Board are located in File No. 120244, which is hereby declared to be a part of this  
3 Resolution as if set forth fully herein.  
4  
5  
6

7 APPROVED AS TO FORM:

8 DENNIS J. HERRERA  
9 City Attorney

10 By: Kenneth David Roux  
11 KENNETH DAVID ROUX  
12 Deputy City Attorney  
13  
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**MAYOR'S OFFICE OF HOUSING  
CITY AND COUNTY OF SAN FRANCISCO**



**EDWIN M. LEE**  
MAYOR

**OLSON LEE**  
DIRECTOR

March 13, 2012

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

**RE:** Resolution Authorizing Issuance and Delivery of up to \$48,155,000 in Multifamily Housing Revenue Indebtedness for 1180 4<sup>th</sup> Street.

With this memo, I am submitting to you for introduction at the Board of Supervisors meeting on Tuesday, March 13, 2012, a resolution regarding qualified mortgage revenue indebtedness for 1180 4<sup>th</sup> Street (the "Project"). The Project comprises the new construction of 150 units of family affordable residential housing at 1180 4<sup>th</sup> Street. The resolution would approve the form of documents and authorize me to execute: an indenture of trust which provides the terms and conditions of the bonds; a regulatory agreement and declaration of restrictive covenants and loan agreement. Funds generated from the execution and delivery of the Bonds would be used to pay certain costs incurred in connection with the Project.

The Project will consist of two connected buildings comprised of 1, 2, and 3 bedroom units, residential common areas, 2 designated family day-care units, a community room and several open spaces. Family incomes and rents at the Project will serve families with incomes at or below 50% Area Median Income (AMI), with 25 units set aside for formerly homeless families.

The Mayor's Office of Housing has previously issued bonds for both rental housing and for first time homeownership. These financings are conduit financings, which do not require the City to pledge City funds as repayment of the bonds. Rather, the bondholders' only recourse for payment are the project revenues themselves and any credit enhancement provided by lenders. This is the typical conduit financing structure where the City acts as the issuer of the bonds but is not at risk for the repayment of the bonds.

In order to meet the deadline of issuing the bonds, the resolution must be introduced at the Board no later than **March 13, 2012**, and be considered by the full Board by **March 27, 2012**. We




would appreciate any assistance you can provide to help meet this schedule so that the City is able to meet the issuance deadline of issuing the week of **April 9, 2012**.

The attached resolution and substantially final form of documents have been approved as-to-form by Deputy City Attorney Kenneth Roux.

If you have any questions about the resolution or the project, please call me at 701-5515 or the project manager, Joan McNamara at 701-5532. Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read "Teresa Yanga", with a long horizontal flourish extending to the right.

Teresa Yanga  
Director of Housing Development



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**CITY AND COUNTY OF SAN FRANCISCO, CALIFORNIA,**

**as Issuer**

**and**

**WELLS FARGO BANK, NATIONAL ASSOCIATION,**

**as Trustee**

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**TRUST INDENTURE**

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**Dated as of March 1, 2012**

**Relating to**

**\$45,000,000**

**City and County of San Francisco, California  
Multifamily Housing Revenue Bonds  
(1180 Fourth Street),  
Series 2012A**

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**RECORDING REQUESTED BY AND  
WHEN RECORDED MAIL TO:**

Schiff Hardin LLP  
One Market Street, Suite 3600  
Spear Street Tower, Thirty-Second Floor  
San Francisco, California 94105-2874  
Attention: Bruce P. Weisenthal, Esq.

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**REGULATORY AGREEMENT  
AND DECLARATION OF RESTRICTIVE COVENANTS**

by and between the

**CITY AND COUNTY OF SAN FRANCISCO, CALIFORNIA**

and

**MERCY HOUSING CALIFORNIA XLIV,  
A California Limited Partnership**

dated as of \_\_\_\_\_, 2012

relating to:  
\$45,000,000

**City and County of San Francisco, California  
Multifamily Housing Revenue Bonds (1180 Fourth Street)  
Series 2012A**

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**CITY AND COUNTY OF SAN FRANCISCO, CALIFORNIA,  
as Issuer**

**WELLS FARGO BANK, NATIONAL ASSOCIATION,  
as Trustee**

**And**

**MERCY HOUSING CALIFORNIA XLIV,  
A CALIFORNIA LIMITED PARTNERSHIP**

**as Borrower**

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**LOAN AGREEMENT**

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**Dated as of March 1, 2012**

**Relating to**

**\$45,000,000**

**City and County of San Francisco, California  
Multifamily Housing Revenue Bonds  
(1180 Fourth Street),  
Series 2012A**

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The interest of the City and County of San Francisco, California (the "Issuer") in this Loan Agreement has been assigned (except for certain "Reserved Rights" as defined in this Loan Agreement) pursuant to the Trust Indenture dated as of the date hereof from the Issuer to Wells Fargo Bank, National Association, as trustee (the "Trustee"), and is subject to the security interest of the Trustee thereunder.