

1 [Urging the San Francisco Legislative Delegation to Amend or Oppose the Proposed “By
2 Right Housing Approvals” Budget Trailer Bill]

3 **Resolution urging the San Francisco Legislative Delegation to amend or oppose the**
4 **“By Right Housing Approvals” proposed Trailer Bill in recognition of San Francisco’s**
5 **local planning tools and significant contributions to regional housing development.**

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7 WHEREAS, The California Department of Finance (DOF) estimates the Bay Area
8 added 38,300 housing units between April 2010 and January 2014; and

9 WHEREAS, The same DOF calculation counts San Francisco among the top five
10 counties responsible for 51% of the total growth of new regional housing between 2010 and
11 the end of 2013, with San Francisco and San Jose counties alone accounting for 37% of the
12 total regional housing growth during this same period; and

13 WHEREAS, The last Regional Housing Needs Assessment (RHNA) documented San
14 Francisco’s significant contributions to the regional housing supply, including the creation of
15 7,064 permanently affordable low- and moderate-income housing units and 13,391 above
16 moderate-income housing units; and

17 WHEREAS, Based on the same Regional Housing Needs Assessment, San Francisco
18 produced a housing balance of 35% permanently affordable units relative to total housing
19 production; and

20 WHEREAS, There are more than 11,000 fully-entitled housing units awaiting
21 construction, and the latest Pipeline Report from the City’s Planning Department shows that
22 there are an additional nearly 20,000 units being reviewed for approval; and

23 WHEREAS, The City and County of San Francisco has developed a diverse toolkit of
24 local planning requirements and housing development incentives tailored to address the
25 unique pressures of the Bay Area housing market and maximize San Francisco’s limited land

1 assets, including an Inclusionary Housing policy currently requiring 12% low-income
2 affordable units and a proposal before San Francisco voters on June 7, 2016, to increase that
3 requirement to 25% low-income and moderate/middle-income affordable units, and an
4 ordinance pending Board of Supervisors adoption for an Affordable Housing Bonus Program;
5 and

6 WHEREAS, On May 16, 2016, the California Governor introduced a Budget Trailer Bill
7 proposal for “By-Right Housing Approvals” which pre-empts local land use policies and
8 housing development requirements to allow multi-unit development approvals as-of-right if a
9 proposed development includes 10% affordable units, which effectively means all
10 development projects of 10 units or larger in the City and County of San Francisco; and

11 WHEREAS, A state pre-emption to establish statewide minimum affordable housing
12 standards should recognize and respect established local Inclusionary Housing requirements
13 that meet or exceed the state standard, and moreover the value of any as-of-right
14 development approval pre-emption over local permitting discretion should be recaptured by an
15 increased “premium” above that local Inclusionary Housing standard, subject to technical
16 analysis to determine that conveyed value to developers under local real estate market
17 conditions; and

18 WHEREAS, The presumed objective of a “approvals streamlining” bill is that
19 development projects are actually constructed as quickly as possible once approved in order
20 to provide housing units “on the ground,” not just as-of-right paper entitlements; and

21 WHEREAS, Any policy to incentivize development should include protection of existing
22 housing from demolition; and

23 WHEREAS, The By-Right Housing Approvals trailer bill is intended to incentivize
24 housing development in local jurisdictions that are underperforming with respect to regional
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1 housing goals and is not uniformly applicable throughout the 482 cities and 58 counties of the
2 State of California; and

3 WHEREAS, By-Right Development pre-emptions would restrict the future potential to
4 use development incentives to further increase affordability beyond the existing requirements,
5 and likely undermine the 35% balance of affordable and market-rate housing that San
6 Francisco has been able to achieve; and

7 WHEREAS, The ability for local cities to establish Inclusionary Housing requirements to
8 increase affordable housing in private developments has continued to be hampered by the
9 “Palmer” case in 2011, and repeated attempts at state law reform to re-establish local
10 authority to impose inclusionary standards has been contested in the legislature and in 2014
11 was vetoed by the Governor; and

12 WHEREAS, Displacement of residents from San Francisco through real estate
13 speculation is a continuing crisis, with over 800 housing units removed from affordability
14 protections through Ellis evictions since 2012, and attempted state law reform in 2014 to
15 prevent abuse of the Ellis Act was thwarted in the legislature; and

16 WHEREAS, Efforts to secure a state permanent source for affordable housing
17 production since the 2011 dissolution of Redevelopment tax increment financing continue to
18 be frustrated, with repeated attempts proposing a modest document recording fee on real
19 estate transactions as a source for affordable housing having been prevented in the
20 legislature; and

21 WHEREAS, The Governor’s trailer bill is scheduled to be heard in both the Senate and
22 Assembly during May and early June as part of the State Budget process; now, therefore, be
23 it

24 RESOLVED, That the Board of Supervisors recognizes the impressive legislative
25 records and ongoing and effective work of Assembly Members Chiu and Ting, as well as

1 State Senator Leno (the “San Francisco Legislative Delegation”), in representing the best
2 interests of San Francisco constituents; and, be it

3 FURTHER RESOLVED, That the Board of Supervisors of the City and County of San
4 Francisco does hereby urge the San Francisco Legislative Delegation to offer amendments to
5 the By-Right Housing Approvals Trailer Bill and an amendment that states the By-Right
6 Approvals pre-emption shall not apply to jurisdictions whose “performance” of housing
7 production for very low, low and moderate-income residents constitutes at least 25% of its
8 total housing production, as documented in the most recent completed Residential Housing
9 Needs Assessment (RHNA) cycle and as documented in a current annual Housing Element
10 Progress Report, and additional amendments to the Trailer Bill that prohibit demolition of
11 existing housing, that set local Inclusionary Housing standard plus a premium increase, as
12 determined by technical analysis, as the minimum baseline, and that require approved
13 development projects to begin construction within 180 days, which is twice the duration
14 allowed in the Trailer Bill for project review, or otherwise without these amendments the Board
15 of Supervisors of the City and County of San Francisco does hereby urge the San Francisco
16 Legislative Delegation to oppose the Trailer Bill, as it would restrict critical local jurisdiction
17 discretion regarding multi-family housing development, and, be it

18 FURTHER RESOLVED, That San Francisco is committed to utilizing all affordable
19 housing policy tools to achieve local housing balance goals for all income levels and
20 recognizes that a uniform statewide By-Right Housing Approvals pre-emption without such
21 amendments would hamper the City’s ability to achieve those Housing Balance goals; and, be
22 it

23 FURTHER RESOLVED, That the Board of Supervisors of the City and County of San
24 Francisco also urges the state legislature and the Governor to recommit to adopting reforms
25 that prevent abuse of the state Ellis Act, to recommit to clarifying the authority of local

1 governments to establish Inclusionary Housing requirements, and to recommit to adopting a
2 state permanent source of financing for affordable housing; and, be it

3 FURTHER RESOLVED, That the Board of Supervisors of the City and County of San
4 Francisco directs the Clerk of the Board to transmit this resolution to the respective offices of
5 the San Francisco Legislative Delegation upon final passage.

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