

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, San Francisco has a housing crisis that threatens the very fabric of our
8 community, leading to evictions and displacement, making it exceedingly difficult for residents
9 to move, creating huge challenges for growing families to find adequate and affordable living
10 space, undermining economic growth and job creation, and undermining our region’s well-
11 earned reputation as a place where people can come from around the country and around the
12 world to make lives for themselves; and

13 WHEREAS, The people who suffer most from our housing crisis are low income people
14 and middle income people; and

15 WHEREAS, In an effort to address our housing crisis, the people of the City and
16 County of San Francisco have supported and continue to support a development balance of
17 both market rate housing and housing that is affordable for very low-, low-, and moderate-
18 income households (herein collectively referred to as “affordable housing”); and

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

22 WHEREAS, Housing is not the only need that must be satisfied as of result of
23 increased population growth, and new development should also support transportation and
24 neighborhood infrastructure through impact fees or other private contributions and is often a
25 critical funding stream for neighborhood amenities; and

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

3 WHEREAS, The same DOF calculation counts San Francisco among the top five
4 counties responsible for 51% of the total growth of new regional housing between 2010 and
5 the end of 2013, with San Francisco and San Jose together accounting for 37% of the total
6 regional housing growth during this same period; and

7 WHEREAS, The City and County of San Francisco has adopted rules and policies to
8 streamline the approval of affordable housing; and

9 WHEREAS, The City and County of San Francisco has developed a diverse set of
10 policy priorities and local planning requirements and housing development incentives tailored
11 to accommodate growth within San Francisco's limited geographic boundaries, while seeking
12 to protect valuable housing resources, small businesses, blue-collar light industrial and local
13 manufacturing work sites, and cultural and social institutions that shelter, sustain, and serve a
14 culturally and economically diverse population; and

15 WHEREAS, Public participation and input into the local planning process is an
16 essential part of the City and County of San Francisco's plans for accommodating local and
17 regional growth; and

18 WHEREAS, As in many other cities, San Francisco's Planning Code was not designed
19 to be a rigid formula, but rather a collection of specific and variable zoning standards to seek a
20 balance between promoting change and protecting existing uses; and

21 WHEREAS, Zoning standards cannot be intelligently or equitably applied by a flat
22 formula or an insular bureaucracy without adverse consequences, thus necessitating a vetting
23 process; and

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1 WHEREAS, San Francisco’s Planning Code provides for this approved vetting process
2 and outlines requirements for public notice, engagement, and oversight of project approvals in
3 an attempt to protect against these adverse consequences; and

4 WHEREAS, San Francisco’s history is replete with examples of the imposition of new
5 development on economically or socially disadvantaged neighborhoods and communities with
6 far-reaching and tragic consequences, including massive displacement; and

7 WHEREAS, Unregulated and poorly controlled market-driven development has
8 incentivized speculation, evictions, small business displacement and demolitions, including
9 but not limited to the International Hotel; and

10 WHEREAS, New development in San Francisco’s increasingly dense urban
11 environment has imposed less extreme but still significant negative impacts on existing
12 residents, including permanent shadows and intense wind patterns on scarce playgrounds,
13 open space and school sites; and

14 WHEREAS, When neighborhoods and communities have lacked the ability to raise
15 objections to major new projects through a public process then the dangers of such adverse
16 and disparate impacts are amplified; and

17 WHEREAS, Without a protected right for the public to participate in the implementation
18 of the San Francisco Planning Code with respect to major projects, the Planning Code would
19 lack safeguards against error, unintended outcomes, and disparate and adverse impacts
20 particularly on disadvantaged communities and the shared urban environment; and

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

1 WHEREAS, The “By-Right Housing Approvals” proposal would entitle developers to
2 approvals of major projects with limited or no public oversight or opportunity to address
3 concerns; and

4 WHEREAS, The “By-Right Housing Approvals” proposal exempts projects from a
5 historic review process, effectively ensuring that minority communities in particular are
6 stripped of the only tool they have to evaluate impacts to potential historic and cultural
7 resources; and

8 WHEREAS, The “By-Right Housing Approvals” proposal would remove the Planning
9 Commission from reviewing certain major project proposals and expand the direct role of the
10 Courts to review disputed decisions of Planning Department Staff, imposing potential liability
11 for additional costs and attorneys’ fees on the City and County of San Francisco; and

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

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

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

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1 WHEREAS, The “By-Right Housing Approvals” trailer bill is intended to incentivize
2 housing development in local jurisdictions that are underperforming with respect to regional
3 housing goals; and

4 WHEREAS, The implications of the Governor’s Trailer Bill are not uniformly applicable
5 throughout the 482 cities and 58 counties of the State of California; and

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

10 WHEREAS, The ability for local cities to establish Inclusionary Housing requirements to
11 increase affordable housing in private developments has continued to be hampered by the
12 2011 “Palmer” case, and

13 WHEREAS, Repeated attempts at state law reforms to re-establish local authority to
14 impose inclusionary standards has been contested in the legislature and in 2014 was vetoed
15 by the Governor; and

16 WHEREAS, Displacement of San Francisco residents through real estate speculation
17 continues to be a crisis, with over 800 housing units removed from affordability protections
18 through Ellis Act evictions since 2012, and

19 WHEREAS, Attempted state law reform in 2014 to prevent abuse of the Ellis Act was
20 spearheaded by State Senator Mark Leno and then thwarted by the state legislature; and

21 WHEREAS, Efforts to secure a permanent state funding source for affordable housing
22 production since the 2011 dissolution of the California Redevelopment Agency’s critical tax
23 increment financing continue to be frustrated, including the legislature’s repeated failure to
24 pass a modest document recording fee on real estate transactions as a source for affordable
25 housing; and

1 WHEREAS, The “By-Right Housing Approvals” trailer bill may now be re-titled and
2 considered by and voted on by the Senate and Assembly at any time; now, therefore, be it

3 RESOLVED, That the Board of Supervisors recognizes the impressive legislative
4 records and ongoing and effective work of Assembly Members Chiu and Ting, as well as
5 State Senator Leno (the “San Francisco Legislative Delegation”), in representing the best
6 interests of San Francisco constituents; and, be it

7 FURTHER RESOLVED, That the Board of Supervisors of the City and County of San
8 Francisco does hereby urge the San Francisco Legislative Delegation to oppose the Trailer
9 Bill in its present form or as otherwise entitled, unless it is amended to address the stated
10 concerns of this resolution; and, be it

11 FURTHER RESOLVED, That the Board of Supervisors of the City and County of San
12 Francisco does hereby urge the San Francisco Legislative Delegation to offer amendments to
13 the “By-Right Housing Approvals” Trailer Bill including:

- 14 1) a prohibition on the demolition of existing housing; and
- 15 2) a minimum baseline for as-of-right approval consisting of a set local Inclusionary
16 Housing standard plus a premium increase, as determined by technical analysis;
17 and
- 18 3) a requirement that approved development projects begin construction within
19 twelve months of their approval, which is twice the duration allowed in the Trailer
20 Bill for project review; and
- 21 4) that the approval of major developments continue to allow for public review and
22 local discretionary approval as is currently provided by local laws; and, be it

23 FURTHER RESOLVED, That San Francisco is committed to utilizing all affordable
24 housing policy tools to achieve local Housing Balance goals for all income levels and
25 recognizes that a uniform statewide “By-Right Housing Approvals” pre-emption devoid of such

1 amendments would significantly hamper the City’s ability to achieve those Housing Balance
2 goals; and, be it

3 FURTHER RESOLVED, That the Board of Supervisors of the City and County of San
4 Francisco also urges the state legislature and the Governor to recommit to adopting reforms
5 that prevent abuse of the state Ellis Act, clarifying the authority of local governments to
6 establish Inclusionary Housing requirements, and adopting a permanent source of state
7 financing for affordable housing; and, be it

8 FURTHER RESOLVED, That since housing development is also a workforce issue, the
9 Trailer Bill should support competitive wages for construction workers, as well as provide
10 apprenticeship opportunities for disadvantaged San Francisco residents; and, be it

11 FURTHER RESOLVED, That the Board of Supervisors of the City and County of San
12 Francisco does hereby urge the San Francisco Legislative Delegation to pursue measures to
13 increase state support for public transportation investments, so that as our region and state
14 continue to grow, our increased population and housing stock is supported by equitable and
15 accessible public transit services and can truly be transit-oriented; and, be it

16 FURTHER RESOLVED, That the Board of Supervisors of the City and County of San
17 Francisco directs the Clerk of the Board to transmit this resolution to the respective offices of
18 the City Lobbyist and the San Francisco Legislative Delegation upon final passage.

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