

1 [Settlement of Lawsuit - 1049 Market Street, LLC - \$2,400,000 Loan - Tenderloin Housing
2 Clinic]

3 **Ordinance authorizing settlement of multiple lawsuits filed by 1049 Market Street, LLC,**
4 **against the City and County of San Francisco, including 1049 Market Street, LLC v. City**
5 **and County of San Francisco, et al. (U.S. District Court, Northern District of California,**
6 **Case No. 4:15-cv-02075 filed on May 8, 2015), 1049 Market Street, LLC v. Miller, et al.**
7 **(San Francisco Superior Court, Case No. CGC-15-545950 filed on May 21, 2015; 1st**
8 **Circuit Court of Appeal No. A148716), 1049 Market Street, LLC v. City and County of**
9 **San Francisco (San Francisco Superior Court, Case No. CPF-16-515046 filed on**
10 **May 23, 2016), 1049 Market Street, LLC v. City and County of San Francisco (San**
11 **Francisco Superior Court, Case No. CGC-15-547161 filed on August 3, 2015), 1049**
12 **Market Street, LLC v. City and County of San Francisco (San Francisco Superior Court,**
13 **Case No. CPF-17-515754 filed on June 30, 2017), and 1049 Market Street, LLC v. City**
14 **and County of San Francisco (San Francisco Superior Court, Case No. CGC-17-559890**
15 **filed on June 30, 2017); the lawsuits challenge the City's enforcement of the Planning**
16 **Code's requirements for a Conditional Use Authorization for elimination of residential**
17 **uses and the City's enforcement of Planning and Building Code violations against the**
18 **property owners of 1049 Market Street; upon the grant of additional discretionary City**
19 **approvals, the settlement would legalize commercial use of portions of the building**
20 **and provide fifteen units of affordable housing, with priority for artists, at 1049 Market**
21 **Street through the purchase and retrofit of the second floor of the building by**
22 **Tenderloin Housing Clinic ("THC"); the settlement would provide for a loan in the**
23 **amount of \$2,400,000 by the City to THC to permanently finance THC's purchase of an**
24 **interest in the building for the purpose of affordable housing and additional funds to**
25 **retrofit residential units.**

1 Be it ordained by the People of the City and County of San Francisco:

2 Section 1. Pursuant to Charter Section 6.102(5), the Board of Supervisors hereby
3 authorizes the City Attorney to settle the actions entitled *1049 Market Street, LLC v. City and*
4 *County of San Francisco, et al.* (U.S. District Court, Northern District of California, Case No.
5 4:15-cv-02075); *1049 Market Street, LLC v. Miller, et al.* (San Francisco Superior Court, Case
6 No. CGC-15-545950; 1st Circuit Court of Appeal No. A148716); *1049 Market Street, LLC v.*
7 *City and County of San Francisco* (San Francisco Superior Court, Case No. CGC-15-547161);
8 *1049 Market Street, LLC v. City and County of San Francisco* (San Francisco Superior Court,
9 Case No. CPF-16-515046); *1049 Market Street, LLC v. City and County of San Francisco*
10 (San Francisco Superior Court, Case No. CPF-17-515754); *1049 Market Street, LLC v. City*
11 *and County of San Francisco* (San Francisco Superior Court, Case No. CGC-17-559890).

12 Under the terms of the settlement agreement, 1049 Market Street, LLC will seek approval of a
13 project that will include subdividing the property known as 1049 Market Street (“Property”) into
14 discrete legal interests; creating a single floor containing 15 residential units to be purchased
15 and managed by THC with funding from the City, to be occupied as principal residences first
16 by the tenants, and then as permanently affordable residential units with priority to other
17 artists pursuant to Planning Code section 204.4(b); returning the remaining floors of the
18 Property to commercial use; and releasing all remaining claims between the Parties that were
19 raised in the litigation described above and additional lawsuits between 1049 Market Street,
20 LLC and additional third party tenants. Following subdivision of the Property, THC would
21 purchase a discrete legal interest in the residential units (“Residential Lot”) with permanent
22 loan financing in the amount of \$2,400,000 from the City for affordable housing, as well as
23 additional funding as necessary to improve the Residential Lot for residential habitation. 1049
24 Market Street, LLC, would undertake certain improvements to the building for the benefit of
25 the Residential Lot, and would obtain approval for the subdivision of the Property, and

1 Conditional Use Authorization for the proposed commercial uses. All necessary permits and
2 approvals will be subject to future discretionary actions by the Board of Supervisors, the
3 Planning Department, the Planning Commission, the Department of Building Inspection, San
4 Francisco Public Works, and other City departments, boards, and commissions as applicable,
5 as further outlined in the Settlement Agreement and Mutual General Release contained in
6 Board File No. 190163, and will be reviewed for compliance with the California Environmental
7 Quality Act, Public Resources Code Sections 21000, et seq.

8 Section 2. The above-named actions were filed in the Northern District of California
9 and the San Francisco Superior Court on the dates set forth above, and the following parties
10 were named in the lawsuits: Plaintiff/Petitioner 1049 Market Street, LLC;
11 Defendant/Respondent the City and County of San Francisco; Defendants/Real Parties in
12 Interest Aaron Miller, Mark Tse, Steban Guevara, Andrew Greenlees, Clarence Wilson, IV,
13 Ron Rosen, Jason Grohman, Michael Mason, Michael Greenlees; Ben Cady, Chandra
14 Redack, Peter Taylor, Brad K. Alder, Chad Benjamin Potter, Manuel Rodriguez, Ann Cooper,
15 Melissa Bracero, Adam Wojewidka, Chris Baker, Brendan Barthel, Carina C. Zona, Karl Hass,
16 Juan P. Escobedo, Darren Brown, Bogdan Marcol, Christopher Figueroa, Anthony Breaux,
17 Veronica Johnson aka Ronnie Johnson.

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1 APPROVED AS TO FORM AND
2 RECOMMENDED:

RECOMMENDED:

3 DENNIS J. HERRERA
4 City Attorney

Kate Hartley
Director
Mayor's Office of Housing and
Community Development

5 _____
6 KATE HERRMANN STACY
7 Deputy City Attorney

8 FUNDS AVAILABLE:

RECOMMENDED:

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10 _____
11 BEN ROSENFELD
12 Controller

John Rahaim
Director
Planning Department

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