

1 [Acquisition of Real Property - 5th and Howard Associates, L.P. - 921 Howard Street - 100%
2 Affordable Housing - \$13,765,670 - Ground Lease with Base Rent of \$15,000 - Loan Not to
3 Exceed \$39,148,960]

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4 **Resolution 1) approving and authorizing the Director of Property, on behalf of the San**
5 **Francisco Mayor’s Office of Housing and Community Development (“MOHCD”), to**
6 **acquire real property located at 921 Howard Street (“Property”) from 5th and Howard**
7 **Associates, L.P. (“Developer”) for \$13,765,670; 2) placing the Property under the**
8 **jurisdiction of MOHCD for use in constructing affordable housing for San Franciscans;**
9 **3) approving and authorizing a Loan Agreement in an amount not to exceed**
10 **\$39,148,960 for a minimum loan term of 57 years (“Loan Agreement”) to finance the**
11 **construction of a 100% affordable, 203-unit multifamily rental housing development**
12 **(plus one staff unit) on the Property for low income households with ancillary**
13 **commercial space for public benefit or community-serving purposes (“Project”); 4)**
14 **approving and authorizing an Agreement for Purchase and Sale for acquisition of the**
15 **Property (“Purchase Agreement”) and a Ground Lease back to the Developer for a**
16 **lease term of 75 years and one 24-year option to extend and an annual base rent of**
17 **\$15,000 in order to construct the Project (“Ground Lease”) to commence after approval**
18 **by the Board of Supervisors and Mayor; 5) adopting findings that the Purchase**
19 **Agreement, Loan Agreement and Ground Lease are consistent with the General Plan,**
20 **and the eight priority policies of Planning Code, Section 101.1; and 6) authorizing the**
21 **Director of Property and the Director of MOHCD to execute the Purchase Agreement,**
22 **Ground Lease, and Loan Agreement, make certain modifications to such agreements,**
23 **and take certain actions in furtherance of this Resolution, as defined herein.**

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1 WHEREAS, The City and County of San Francisco (the “City”), acting through the
2 Mayor’s Office of Housing and Community Development (“MOHCD”), administers a variety of
3 housing programs that provide financing for the development of new affordable housing and
4 the rehabilitation of single- and multi-family housing for low- and moderate-income
5 households and resources for homeowners in San Francisco; and

6 WHEREAS, MOHCD enters into loan agreements with affordable housing developers
7 and operators, administers loan agreements; reviews annual audits and monitoring reports;
8 monitors compliance with affordable housing requirements in accordance with capital funding
9 regulatory agreements; and if necessary, takes appropriate action to enforce compliance; and

10 WHEREAS, On October 19, 2007, MOHCD issued the Acquisition and
11 Predevelopment Financing for Affordable Rental Housing for Families Notice of Funding
12 Availability (“NOFA”), for the acquisition and predevelopment financing for affordable
13 multifamily rental housing; and

14 WHEREAS, The Tenderloin Neighborhood Development Corporation, California
15 nonprofit public benefit corporation, responded to the NOFA, and the Project was selected for
16 development funding; and

17 WHEREAS, Tenderloin Neighborhood Development Corporation established 5th
18 and Howard Associates, L.P., a California limited partnership (“Developer”), as a
19 separate entity under which to develop the Project; and

20 WHEREAS, The Developer acquired the Property for the purpose of developing
21 the Project using a commercial loan from a private lender and an acquisition loan from
22 MOHCD in the original principal amount of \$4,729,783; and

23 WHEREAS, MOHCD has evaluated the Property and confirmed that it can utilize the
24 Property for development of permanently affordable housing, and the City desires to acquire
25

1 the Property, under the jurisdiction of MOHCD, from Developer for the purpose of constructing
2 affordable housing; and

3 WHEREAS, The Planning Department, through a General Plan Referral letter dated
4 January 13, 2021 (“General Plan Referral”), determined that the Project was approved under
5 California Government Code, Section 65913.4 (SB 35), and is not subject to review under the
6 California Environmental Quality Act, and approved an affordable housing project
7 authorization for the Project, and deeming the Project consistent with the General Plan, and
8 the eight priority policies of Planning Code, Section 101.1, which letter is on file with the Clerk
9 of the Board of Supervisors in File No. 210143, and incorporated herein by this reference; and

10 WHEREAS, City, through MOHCD and the Real Estate Division, in consultation with
11 the Office of the City Attorney, has negotiated the Purchase Agreement to acquire the
12 Property from Developer for Thirteen Million Seven Hundred Sixty Five Thousand Six
13 Hundred Seventy Dollars (\$13,765,670), substantially in the form approved by the Director of
14 Property and the Director of MOHCD and on file with the Clerk of the Board of Supervisors in
15 File No. 210143, incorporated herein by reference; and

16 WHEREAS, The Director of Property determines the Property to be at or below fair
17 market value; and

18 WHEREAS, The Property will be delivered vacant at close of sale; and

19 WHEREAS, In consideration of the Developer’s agreement to convey the Property to
20 the City, MOHCD will apply a credit of \$6,330,334 to the outstanding balance and accrued
21 interest under the original acquisition loan from MOHCD as partial payment for the Property,
22 subject to the conditions described in the Purchase Agreement; and

23 WHEREAS, MOHCD and the Director of Property have approved the form of the
24 Ground Lease between City and the Developer, pursuant to which the City will lease the
25 Property back to the Developer for a term of 75 years and one 24-year option to extend and a

1 base rent of fifteen thousand dollar (\$15,000) per year, in exchange for the Developer's
2 agreement, among other things, to construct and operate the Project with rent levels
3 affordable to households up to 75% to 120% of unadjusted San Francisco Area Median
4 Income (AMI), and a copy of the Ground Lease in a form substantially approved is on file with
5 the Clerk of the Board of Supervisors in File No. 210143, and is incorporated herein by
6 reference; and,

7 WHEREAS, The proposed rent of the Ground Lease is less than Market Rent (as
8 defined in Administrative Code, Section 23.2), but the lower rent will serve a public purpose by
9 providing affordable housing for low- and moderate-income households in need; and

10 WHEREAS, MOHCD is also providing the Developer with new financial assistance to
11 leverage equity from an allocation of low-income housing tax credits, bond funds from the
12 California Housing Finance Agency, and other funding sources in order for Developer to
13 construct the Project; and

14 WHEREAS, On February 4, 2021, the Citywide Affordable Housing Loan Committee,
15 consisting of MOHCD, Department of Homeless and Supportive Housing, the Office of
16 Community Investment and Infrastructure, and Office of the Controller, recommended
17 approval to the Mayor of a loan for the Project in an amount not to exceed \$39,148,960 in
18 local funds for a total loan of up to \$39,148,960 under the following material terms: (i) a
19 minimum term of 57 years, (ii) an interest rate of three percent (3%); (iii) annual repayment of
20 the loan through residual receipts from the Project, (iv) a one-time payment at completion of
21 construction of the Project; (v) the Project shall be restricted for life of the Project as
22 affordable housing to low- and moderate-income households with annual maximum rent and
23 income established by MOHCD, and (vi) the loan shall be secured by a deed of trust recorded
24 against the Developer's leasehold interest in the Property;
25 now, therefore, be it

1 RESOLVED, That the Board of Supervisors affirms the CEQA determination and
2 hereby finds that the Project is consistent with the General Plan, and with the eight priority
3 policies of Planning Code, Section 101.1, for the same reasons as set forth in the General
4 Plan Referral, and hereby incorporates such findings by reference as though fully set forth in
5 this Resolution; and, be it

6 FURTHER RESOLVED, That in accordance with the recommendation of the Director
7 of MOHCD and the Director of Property, the Board of Supervisors approves the Purchase
8 Agreement and the Ground Lease, each in substantially the form presented to the Board, and
9 authorizes the Director of MOHCD and the Director of Property to execute and deliver the
10 Purchase Agreement and the Ground Lease, each in substantially the form presented to the
11 Board, and any such other documents that are necessary or advisable to complete the
12 transaction contemplated by the Purchase Agreement and the Ground Lease, and to
13 effectuate the purpose and intent of this Resolution; and, be it

14 FURTHER RESOLVED, That MOHCD has legal authority, is willing, and is in a position
15 financially and otherwise to assume immediate care and maintenance of the Property, and
16 that the Director of Property, is hereby authorized to accept the deed to the Property from the
17 Developer upon the closing in accordance with the terms and conditions of the Purchase
18 Agreement, to place the Property under the jurisdiction of MOHCD, and to take any and all
19 steps (including, but not limited to, the execution and delivery of any and all certificates,
20 agreements, notices, consents, escrow instructions, closing documents and other instruments
21 or documents) as the Director of Property deems necessary or appropriate in order to acquire
22 the Property pursuant to the Purchase Agreement, or to otherwise effectuate the purpose and
23 intent of this Resolution, such determination to be conclusively evidenced by the execution
24 and delivery by the Director of Property of any such documents; and, be it

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1 FURTHER RESOLVED, That the Board of Supervisors hereby approves the Loan
2 Agreement in substantially the form presented to the Board, and authorizes the Mayor and the
3 Director of MOHCD (or his designee) to execute and deliver the Loan Agreement substantially
4 in the form presented to the Board and any such other documents that are necessary or
5 advisable to complete the transaction contemplated by the Loan Agreement and to effectuate
6 the purpose and intent of this Resolution; and, be it

7 FURTHER RESOLVED, That the Board of Supervisors authorizes the Director of
8 Property (or his designee) and Director of MOHCD (or his designee), in consultation with the
9 City Attorney, to enter into any additions, amendments, or other modifications to the Purchase
10 Agreement, Ground Lease, Loan Agreement, and any other documents or instruments
11 necessary in connection therewith (including, without limitation, preparation and attachment
12 or, or changes to, any of all of the exhibits and ancillary agreements), that the Director of
13 Property and Director of MOHCD determines are in the best interests of the City, do not
14 materially decrease the benefits to the City with respect to the Property, do not materially
15 increase the obligations or liabilities of the City, and are necessary or advisable to complete
16 the transaction contemplated in the Purchase Agreement, Ground Lease, and Loan
17 Agreement, and that effectuate the purpose and intent of this Resolution, such determination
18 to be conclusively evidenced by the execution and delivery by the Director of Property (or his
19 designee) and Director of MOHCD (or his designee) of any such additions, amendments, or
20 other modifications; and, be it

21 FURTHER RESOLVED, That the Board of Supervisors hereby authorizes and
22 delegates to the Director of MOHCD and/or the Director of Property, and their designees, the
23 authority to undertake any actions necessary to protect the City's financial security in the
24 Property and enforce the affordable housing restrictions, which may include, without limitation,
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1 acquisition of the Property upon foreclosure and sale at a trustee sale, acceptance of a deed
2 in lieu of foreclosure, or curing the default under a senior loan; and, be it

3 FURTHER RESOLVED, That all actions authorized and directed by this Resolution and
4 heretofore taken are hereby ratified, approved and confirmed by this Board of Supervisors;
5 and be it

6 FURTHER RESOLVED, That within thirty (30) days of the Purchase Agreement, the
7 Ground Lease, and Loan Agreement being fully executed by all parties, MOHCD shall provide
8 the final agreements to the Clerk of the Board for inclusion into the official file.

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\$7,435,336_Available

Fund ID: 10581	Fund title: SR OCOH Nov18 PropC GF Advance
Department ID: 232065	Department title: MYR Housing & Community Dev
Project ID: 10035001	Project title: FY20 ERAF - Housing
Authority ID: 20943	Authority title: ERAF MOH AffordableHouseAcqDev
Account ID: 506070	Account title: Programmatic Projects-Budget
Activity ID: 0001	Activity title: FY20 Housing Acquisition & Dev

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16 /s/
Ben Rosenfield
Controller

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18 RECOMMENDED:

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21 /s/
Andrico Q. Penick, Director of Property

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24 /s/
Eric D. Shaw, Director
Mayor's Office of Housing and Community Development