

1 [Multifamily Housing Revenue Bonds and Notes - Amendments - Volume Cap Recycling]

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3 **Resolution authorizing participation in the California Housing Finance Agency private**
4 **activity bond volume cap recycling program; authorizing a memorandum of**
5 **understanding with California Housing Finance Agency regarding such participation;**
6 **authorizing certain amendments to legal documents relating to the City’s multifamily**
7 **housing revenue bonds and notes in order to facilitate such recycling, as defined**
8 **herein; authorizing the collection of certain fees, as defined herein; ratifying and**
9 **approving any action heretofore taken in connection with such recycling, as defined**
10 **herein; granting authority to City officials to take actions necessary to implement this**
11 **Resolution, as defined herein; and related matters, as defined herein.**

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13 WHEREAS, From time to time, the City and County of San Francisco (the “City”) has
14 issued in the past and will issue in the future its multifamily housing revenue bonds or notes
15 (each, a “Multifamily Issue”) in order to provide for the conduit financing of the acquisition,
16 development, construction, rehabilitation and/or equipping of privately owned multifamily
17 rental housing facilities in the City consisting of, in whole or in part, units which are rented to
18 households of low, very low or extremely low income (each, a “Project”); and

19 WHEREAS, Each Multifamily Issue is a limited obligation of the City, repayable only
20 from the revenues of the Project financed thereby and other collateral pledged by the owner
21 thereof (each, a “Borrower”); and

22 WHEREAS, In order for interest on any Multifamily Issue to be exempt from federal
23 income tax, Section 146 of the Internal Revenue Code requires the California Debt Limit
24 Allocation Committee to grant an allocation of private activity bond volume cap to the City in

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1 the amount of the Multifamily Issue or the portion thereof the interest on which is intended to
2 be so exempt; and

3 WHEREAS, Such private activity bond volume cap is a limited resource, and its
4 scarcity currently limits the production and preservation of affordable rental housing units in
5 the City and throughout California; and

6 WHEREAS, The California Housing Finance Agency ("CalHFA") has proposed a
7 program (the "Program") the purpose of which is to recycle private activity bond volume cap
8 previously granted to California multifamily housing revenue bond and note issuers such as
9 the City, thereby facilitating the financing of additional affordable rental housing in California
10 without obtaining new private activity bond volume cap; and

11 WHEREAS, There has been prepared and presented to this Board of Supervisors (the
12 "Board") for consideration at this meeting a form of memorandum of understanding with
13 CalHFA (the "MOU"), regarding the City's participation in the CalHFA volume cap recycling
14 program, and such document is on file with the Clerk of the Board of Supervisors (the "Clerk
15 of the Board"); and

16 WHEREAS, Such recycling would require the amendment of certain legal documents
17 associated with the applicable Multifamily Issues, including without limitation indentures,
18 funding loan agreements, master pledge and assignment agreements, governmental notes
19 and bonds; and

20 WHEREAS, There has been prepared and presented to the Board for consideration at
21 this meeting the form of Amendment to Funding Loan Agreement and Governmental Notes
22 (the "Form Amendment"), and such document is on file with the Clerk of the Board; and

23 WHEREAS, The Form Amendment is in substantially appropriate form and is an
24 appropriate instrument to be executed and delivered with respect to any Multifamily Issue of
25 the City to accomplish the purposes intended; and

1 WHEREAS, The Board finds that the public interest and necessity require that the City
2 assist in recycling private activity bond volume cap by participating in the Program, executing
3 and delivering the MOU in substantially the form presented to this meeting, and amending
4 certain legal documents associated with one or more Multifamily Issues of the City, including
5 without limitation amendments in substantially the form of the Form Amendment; and

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

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

10 Section 2. Approval of Recycling of Private Activity Bond Volume Cap. The Board
11 hereby authorizes the City, acting through the Mayor’s Office of Housing and Community
12 Development, to participate in the Program and to take such other actions and execute such
13 documents as may be necessary or desirable to recycle private activity bond volume cap
14 associated with the Multifamily Issues of the City. All actions in furtherance thereof heretofore
15 taken by the City and its officers, employees and representatives are hereby approved,
16 ratified and confirmed.

17 Section 3. Approval of MOU. The form of MOU, which has been presented to the Board
18 and a copy of which is on file with the Clerk of the Board, is hereby approved. The Board
19 hereby authorizes the execution and delivery of the MOU, in substantially such form, together
20 with such additions thereto and changes therein as the Mayor, the Director of the Mayor's
21 Office of Housing and Community Development, or the designee of either (each, an
22 “Authorized Representative”) may approve or recommend in accordance with Section 5
23 hereof, in consultation with the City Attorney of the City (the "City Attorney").

24 Section 4. Approval of Amendments. The indentures, funding loan agreements, master
25 pledge agreements, bonds, governmental notes and other legal documents relating to any

1 and all Multifamily Issues of the City, past, present and future, are hereby authorized to be
2 amended (each, an "Amendment") in such manner as may be deemed necessary or desirable
3 by any Authorized Representative, in consultation with the City Attorney, to accomplish the
4 recycling of the private activity bond volume cap associated with such Multifamily Issues,
5 provided that such Amendment does not increase the liability or risk to the City, require the
6 City to spend any resources beyond the reasonable cost of any outside advisors and that
7 which is provided for in the MOU, or otherwise harm the interests of the City. Without implied
8 limitation of the foregoing, the Form Amendment, which has been presented to the Board and
9 a copy of which is on file with the Clerk of the Board, is hereby approved. The Mayor, the
10 Director of the Mayor's Office of Housing and Community Development, or the designee of
11 either (each, an "Authorized Representative"), is hereby authorized to execute any
12 Amendment approved as to form by the City Attorney if it is (i) in substantially the form of the
13 Form Amendment, together with such additions thereto and changes therein as the
14 Authorized Representative may approve or recommend in accordance with Section 5 hereof,
15 or (ii) in any other form meeting the requirements of the first sentence of this Section.

16 Section 5. Issuer Fees. In addition to any other fees permitted to be charged with
17 respect to the Bonds or the Project, the City, acting through the Mayor's Office of Housing and
18 Community Development, is authorized to charge fees provided for in the MOU or otherwise
19 reasonably calculated to recover the internal and third-party administrative costs associated
20 with negotiating the MOU, entering into an Amendment and assisting with the recycling of
21 private activity bond volume cap associated therewith. The Board hereby authorizes the
22 Mayor's Office of Housing and Community Development to charge and collect the fees
23 described in this section.

24 Section 5. Modifications, Changes, Additions. Any Authorized Representative
25 executing the MOU or an Amendment, in consultation with the City Attorney, is hereby

1 authorized to approve and make such additional modifications, changes or additions to the
2 MOU or such Amendment as may be necessary or advisable, provided that such modification,
3 change or addition does not increase the liability or risk to the City, require the City to spend
4 any resources beyond the reasonable cost of any outside advisors and that which is provided
5 for in the MOU, or otherwise harm the interests of the City. The approval of any modification,
6 addition or change to any of the aforementioned documents shall be evidenced conclusively
7 by the execution and delivery of the document in question. Within 90 days of the documents
8 approved by this Resolution being executed by all parties, such final documents (showing
9 marked changes, if any) shall be provided to the Clerk of the Board, for inclusion in the official
10 file, together with a brief explanation of any changes from the date of the adoption of this
11 Resolution.

12 Section 6. Ratification. All actions heretofore taken by the officers and agents of the
13 City with respect to the MOU, any Amendments and the recycling of private activity bond
14 volume cap, as consistent with the documents authorized herein and this Resolution, are
15 hereby approved, confirmed and ratified.

16 Section 7. General Authority. The proper officers of the City are hereby authorized and
17 directed, for and in the name and on behalf of the City, to do any and all things and take any
18 and all actions and approve, and execute and deliver any and all certificates, agreements and
19 other documents, including but not limited to estoppels, tax documents, releases,
20 terminations, consents, assignments, replacement Bonds, acknowledgments, recognitions,
21 notices and those documents described in the MOU or any Amendment, which they, or any of
22 them, may deem necessary or advisable in order to effectuate the purposes of this Resolution
23 in consultation with the City Attorney. Any such actions shall not increase the liability or risk to
24 the City, require the City to spend any resources beyond the reasonable cost of any outside
25 advisors and that which is provided for in the MOU, or otherwise harm the interests of the

1 City, and any such officer shall consult with the City Attorney prior to taking any such action or
2 executing any such document.

3 Section 8. File. All documents referenced herein as being on file with the Clerk of the
4 Board are located in File No. 210939, which is hereby declared to be a part of this Resolution
5 as if set forth fully herein.

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10 APPROVED AS TO FORM:
11 DENNIS J. HERRERA
City Attorney

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13 By: /s/
14 KENNETH D. ROUX
Deputy City Attorney

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