[Authorizing the Acquisition and Conveyance of a Below Market Rate Unit under Foreclosure - 1160 Mission Street, Unit 812]

Resolution approving and authorizing the acquisition of a below market rate condominium located at 1160 Mission Street, Unit 812, San Francisco ("the Property") for up to \$300,000 to hold the Property for resale under the City's Below Market Rate Inclusionary Housing Program ("Program"); adopting findings that the conveyance is consistent with the General Plan, and the eight priority policies of Planning Code, Section 101.1; and authorizing and directing the execution of any documents necessary to implement this Resolution, as defined herein.

WHEREAS, Pursuant to San Francisco Planning Code, Section 415, the City's Below Market Rate Inclusionary Housing Program ("Program") creates housing more affordable to low and middle income residents by requiring housing developers to set aside a certain percentage of units in new buildings to be rented or sold at a below market rate ("BMR"); and

WHEREAS, The Mayor's Office of Housing and Community Development ("MOHCD") administers the Program by facilitating the purchase of BMR units by low to middle income buyers at an affordable price if they meet the Program requirements and agree to abide by the restrictions and conditions of the Program; and

WHEREAS, The Property was designated as a BMR unit by the San Francisco Planning Commission on December 4, 2003, in Planning Commission Motion No. 16692, and a "Notice of Special Restrictions under the Planning Code" ("NSR") was recorded against title of the Property on August 21, 2006, which is on file with the Clerk of the Board in File No. 180525; and

WHEREAS, Gregory Garver ("Owner") purchased the Property directly from the Soma Grand developer in December 2008 at a BMR price through the Program and received a

down payment assistance loan in the principal amount of \$33,255, with share of appreciation of \$10,587, from MOHCD ("DALP Loan"), which is on file with the Clerk of the Board in File No. 180525; and

WHEREAS, Owner has used the Property as a rental income property in violation of the NSR, the Program requirements, and the San Francisco Planning Code, and has committed unlawful and unfair business practice, within the meaning of Business and Professional Code, Sections 17200-17209; and

WHEREAS, On August 23, 2017, the City, filed a Complaint against Owner alleging causes of action for violations of the San Francisco Planning Code and the NSR, violations of the Unfair Competition Law (Business and Professions Code, Section 17200, et al.), and for public nuisance; and

WHEREAS, A Notice of Trustee's Sale was recorded by the first mortgage lender, Selene Finance (the "Bank"), as Doc#2018-K574186-00 on January 31, 2018 in the Official Records of San Francisco County to sell the Property at public auction, which is on file with the Clerk of the Board in File No. 180525, and the trustee sale is scheduled for June 25, 2018; and

WHEREAS, The DALP Loan is in a junior lien position and the entire outstanding DALP Loan could be eliminated if the Property is acquired by the Bank; and

WHEREAS, On April 12, 2018, the City Attorney's Office obtained a Default Judgment of \$209,104.30 against Owner for civil penalties, attorneys' fees, and costs related to Owner's violations of the Planning Code and unfair business practices, which is on file with the Clerk of the Board in File No. 180525; and

WHEREAS, Pursuant to the California Civil Code, the Property must be sold at a public auction when there is a non-judicial foreclosure, and MOHCD cannot facilitate the transfer of the Property to a qualified homebuyer at the public auction; and

WHEREAS, MOHCD estimates that the current maximum BMR price for the Property is Three Hundred Thousand Dollars and No/100 (\$300,000.00), which is based on MOHCD's formula of an affordable price for a low income household (the "Current BMR Price"); and

WHEREAS, The Board declares that preserving the City's affordable housing stock is a high priority during the current housing crisis for maintaining opportunities for low and moderate income households to live in the City; and

WHEREAS, MOHCD desires to acquire the Property at the Trustee sale, up to the Current BMR Price, to preserve the Property as affordable housing under the Program and convey the Property to a new qualified household approved by MOHCD; and

WHEREAS, The Board determines that an appraisal of the Property is not required based on the NSR restricting the BMR price below the estimated market value, and MOHCD's desire to only hold the Property for resale to a qualified household; and

WHEREAS, The Planning Department, by letter dated June 1, 2018, found that the acquisition of the Property is not considered a project under the California Environmental Quality Act ("CEQA", Pub. Resources Code, Section 21000 et seq.) pursuant to CEQA Guidelines, Section 15060 and Chapter 31 of the City's Administrative Code, and is consistent with the General Plan, and the eight priority policies of Planning Code, Section 101.1, which letter is on file with the Clerk of the Board of Supervisors in File No. 180525, and incorporated herein by this reference; now, therefore, be it

RESOLVED, That the Board of Supervisors hereby finds that the acquisition of the Property is consistent with the City's General Plan, and with the eight priority

Policies under Planning Code, Section 101.1, for the same reasons set forth in the letter of the Department of City Planning dated June 4, 2018, and hereby incorporates such findings by reference as though fully set forth in this Resolution; and, be it

FURTHER RESOLVED, That in accordance with the recommendations of the Director of Property and the Director of MOHCD, the Board of Supervisors hereby approves the acquisition of the Property for up to Three Hundred Thousand Dollars (\$300,000), under the jurisdiction of MOHCD, and authorizes the Director of Property (or designee) and the Director of MOHCD (or designee) to execute any documents that are necessary or advisable to complete the acquisition of the Property, and to effectuate the purpose and intent of this Resolution; and, be it

FURTHER RESOLVED, That the Director of Property is hereby authorized, in the name and on behalf of the City and County of San Francisco, to accept the deed to the Property from the trustee upon a successful bid by MOHCD, to place the Property under the jurisdiction of MOHCD, and to take any and all steps as the Director of Property deems necessary or appropriate in order to consummate the conveyance of the Property, or to otherwise effectuate the purpose and intent of this Resolution, such determination to be conclusively evidenced by the execution and delivery by the Director of Property of any such documents; and, be it

FURTHER RESOLVED, That the Director of Property (or designee) and the Director of MOHCD (or designee) is hereby authorized to convey the Property to a qualified buyer approved by MOHCD and pursuant to the requirements of the Program; and, be it

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

FURTHER RESOLVED, That within thirty (30) days of MOHCD acquiring the Property at the trustee sale, MOHCD shall provide the final documents of such acquisition to the Clerk of the Board for inclusion into the official file.

1	\$300,000 available
2	Fund: <u>10580</u>
3	Project: <u>/0023908</u>
4	Approximate Amount: \$300,000
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7	Ben Rosenfield
8	Controller
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10	RECOMMENDED:
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13	John Updike, Director of Property
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15	400000
16	Kate Hartley, Director, Mayor's Office of Housing and Community Developmen
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City and County of San Francisco Tails

City Hall 1 Dr. Carlton B. Goodlett Place San Francisco, CA 94102-4689

Resolution

File Number:

180525

Date Passed: June 19, 2018

Resolution approving and authorizing the acquisition of a below market rate condominium located at 1160 Mission Street, Unit 812, San Francisco ("the Property") for up to \$300,000 to hold the Property for resale under the City's Below Market Rate Inclusionary Housing Program ("Program"); adopting findings that the conveyance is consistent with the General Plan, and the eight priority policies of Planning Code, Section 101.1; and authorizing and directing the execution of any documents necessary to implement this Resolution, as defined herein.

June 11, 2018 Government Audit and Oversight Committee - RECOMMENDED

June 19, 2018 Board of Supervisors - AMENDED, AN AMENDMENT OF THE WHOLE BEARING SAME TITLE

> Ayes: 11 - Breed, Cohen, Fewer, Kim, Peskin, Ronen, Safai, Sheehy, Stefani, Tang and Yee

June 19, 2018 Board of Supervisors - ADOPTED AS AMENDED

Ayes: 11 - Breed, Cohen, Fewer, Kim, Peskin, Ronen, Safai, Sheehy, Stefani, Tang and Yee

File No. 180525

I hereby certify that the foregoing **Resolution was ADOPTED AS AMENDED** on 6/19/2018 by the Board of Supervisors of the City and County of San Francisco.

> Angela Calvillo Clerk of the Board

Mark E. Farrell Mayor