

1 [Multifamily Housing Revenue Bonds - 227 Bay Street - Not to Exceed \$21,000,000]

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3 **Resolution declaring the intent of the City and County of San Francisco (City) to**  
4 **reimburse certain expenditures from proceeds of future bonded indebtedness;**  
5 **authorizing the Director of the Mayor’s Office of Housing and Community Development**  
6 **(Director) to submit an application and related documents to the California Debt Limit**  
7 **Allocation Committee (CDLAC) to permit the issuance of residential mortgage revenue**  
8 **bonds in an aggregate principal amount not to exceed \$21,000,000 for 227 Bay Street;**  
9 **authorizing and directing the Controller’s Office to hold in trust an amount not to**  
10 **exceed \$100,000 in accordance with CDLAC procedures; authorizing the Director to**  
11 **certify to the CDLAC that the City has on deposit the required amount; authorizing the**  
12 **Director to pay an amount equal to such deposit to the State of California if the City**  
13 **fails to issue the residential mortgage revenue bonds; approving, solely for purposes**  
14 **of the Internal Revenue Code of 1986, as amended, the issuance and sale of residential**  
15 **mortgage revenue bonds by the City in an aggregate principal amount not to exceed**  
16 **\$21,000,000; and authorizing and directing the execution of any documents necessary**  
17 **to implement this Resolution, as defined herein.**

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19 WHEREAS, The Board of Supervisors of the City and County of San Francisco (the  
20 “Board of Supervisors”), after careful study and consideration, has determined that there is a  
21 shortage of safe and sanitary housing within the City and County of San Francisco (City),  
22 particularly for low and moderate income persons, and that it is in the best interest of the  
23 residents of the City and in furtherance of the health, safety, and welfare of the public for the  
24 City to assist in the financing of multi-family rental housing units; and

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1           WHEREAS, Acting under and pursuant to the powers reserved to the City under  
2 Sections 3, 5, and 7 of Article XI of the Constitution of the State of California and Sections  
3 1.101 and 9.107 of the Charter, the City has enacted the City and County of San Francisco  
4 Residential Mortgage Revenue Bond Law (City Law), constituting Article I of Chapter 43 of the  
5 San Francisco Administrative Code, in order to establish a procedure for the authorization,  
6 issuance, and sale of residential mortgage revenue bonds by the City for the purpose of  
7 providing funds to encourage the availability of adequate housing and home finance for  
8 persons and families of low or moderate income, and to develop viable communities by  
9 providing decent housing, enhanced living environments, and increased economic  
10 opportunities for persons and families of low or moderate income; and

11           WHEREAS, In addition, pursuant to Division 31 of the Health and Safety Code of the  
12 State of California, and particularly Chapter 7 of Part 5 thereof (State Law), the City is  
13 empowered to issue and sell bonds for the purpose of making mortgage loans or otherwise  
14 providing funds to finance the development of multi-family rental housing including units for  
15 lower income households and very low income households; and

16           WHEREAS, Bay Street, L.P., a California limited partnership (or any successor thereto  
17 including any successor owner of the Project) (Borrower), desires to rehabilitate 50 units of  
18 residential rental housing located at 227 Bay Street (Project); and

19           WHEREAS, The Developer has requested that the City assist in the financing of the  
20 Project through the issuance of one or more series of tax-exempt mortgage revenue bonds  
21 (Bonds); and

22           WHEREAS, The City expects that proceeds of the Bonds will be used to pay certain  
23 costs incurred in connection with the Project prior to the date of issuance of the Bonds; and

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1           WHEREAS, The City intends to issue the Bonds in an amount not to exceed  
2 \$21,000,000 and to loan the proceeds of the Bonds to the Developer (Loan) to finance the  
3 costs of the Project; and

4           WHEREAS, The Board of Supervisors has determined that the moneys advanced and  
5 to be advanced to pay certain expenditures of the Project are or will be available only for a  
6 temporary period and it is necessary to reimburse such expenditures with respect to the  
7 Project from the proceeds of the Bonds; and

8           WHEREAS, Section 1.150-2 of the United States Treasury Regulations requires that  
9 the Board of Supervisors declare its reasonable official intent to reimburse prior expenditures  
10 for the Project with proceeds of the Bonds; and

11           WHEREAS, The interest on the Bonds may qualify for tax exemption under Section  
12 103 of the Internal Revenue Code of 1986, as amended (Code), only if the Bonds are  
13 approved in accordance with Section 147(f) of the Code; and

14           WHEREAS, The City now wishes to approve the issuance of the Bonds solely to satisfy  
15 the public approval requirements of Section 147(f) of the Code; and

16           WHEREAS, The Project must complete environmental review under the California  
17 Environmental Quality Act, and is subject to the City's discretion to modify, approve or  
18 disapprove the land use entitlements for the Project; and

19           WHEREAS, The Project is located wholly within the City; and

20           WHEREAS, On March 13, 2015, the City caused a notice stating that a public hearing  
21 with respect to the issuance of the Bonds would be held by the Mayor's Office of Housing and  
22 Community Development and Community Development on March 27, 2015, to appear in The  
23 San Francisco Examiner, which is a newspaper of general circulation in the City; and

1           WHEREAS, The Mayor’s Office of Housing and Community Development held the  
2 public hearing described above on March 27, 2015, and an opportunity was provided for  
3 persons to comment on the issuance of the Bonds and the Project; and

4           WHEREAS, This Board of Supervisors is the elected legislative body of the City and is  
5 the applicable elected representative required to approve the issuance of the Bonds within the  
6 meaning of Section 147(f) of the Code; and

7           WHEREAS, Section 146 of the Code limits the amount of tax-exempt private activity  
8 bonds, which include qualified mortgage bonds, that may be issued in any calendar year by  
9 entities within a state and authorizes the legislature of each state to provide the method of  
10 allocating authority to issue tax-exempt private activity bonds within the respective state; and

11           WHEREAS, Chapter 11.8 of Division 1 of Title 2 of the Government Code of the State  
12 of California governs the allocation in the State of California of the state ceiling established by  
13 Section 146 of the Code among governmental units in the State having the authority to issue  
14 tax-exempt private activity bonds; and

15           WHEREAS, Section 8869.85(b) of the Government Code requires that a local agency  
16 file an application for a portion of the state ceiling with or upon the direction of the California  
17 Debt Allocation Committee (CDLAC) prior to the issuance of tax-exempt private activity  
18 bonds, including qualified mortgage bonds; and

19           WHEREAS, CDLAC procedures require an applicant for a portion of the state ceiling to  
20 certify to CDLAC that applicant has on deposit an amount equal to one-half of one percent  
21 (1/2%) of the amount of allocation requested not to exceed \$100,000.00; now, therefore, be it

22           RESOLVED, By the Board of Supervisors of the City and County of San Francisco, as  
23 follows:

24           Section 1. The Board of Supervisors finds and determines that the foregoing recitals  
25 are true and correct.

1           Section 2. The Board of Supervisors adopts this Resolution solely for purposes of  
2 establishing compliance with the requirements of Section 1.150-2 of the United States  
3 Treasury Regulations and Section 147(f) of the Code. This Resolution does not bind the  
4 Board of Supervisors to issue the Bonds, approve the Loan or to make any expenditure, incur  
5 any indebtedness or proceed with the Project. The Project is subject to the City's normal  
6 project review procedures, including environmental review under the California Environmental  
7 Quality Act, and is subject to the City's discretion to modify, approve or disapprove the Project  
8 following completion of environmental review.

9           Section 3. The Board of Supervisors hereby declares its official intent under United  
10 States Treasury Regulations Section 1.150-2 to use proceeds of the Bonds to reimburse  
11 expenditures incurred in connection with the Project. The Board of Supervisors hereby further  
12 declares its intent to use such proceeds to reimburse the Developer for actual expenditures  
13 made by the Developer on the Project.

14           Section 4. On the date of the expenditure to be reimbursed, all reimbursable costs of  
15 the Project will be of a type properly chargeable to a capital account under general federal  
16 income tax principles.

17           Section 5. The maximum principal amount of the Bonds expected to be issued for the  
18 Project is \$21,000,000.

19           Section 6. This Board of Supervisors, as the applicable elected representative of the  
20 governmental unit having jurisdiction over the area in which the Project is located, hereby  
21 approves the issuance of the Bonds solely for purposes of Section 147(f) of the Code.

22           Section 7. This approval of the issuance of the Bonds by the City is neither an approval  
23 of the underlying credit issues of the proposed Project nor an approval of the financial  
24 structure of the Bonds, the terms of which shall be subject to a future resolution of this Board.  
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1           Section 8. The Board of Supervisors hereby authorizes the Director, or his designee of  
2 the Mayor’s Office of Housing and Community Development (Director), on behalf of the City,  
3 to submit an application (Application), and such other documents as may be required, to  
4 CDLAC pursuant to Government Code Section 8869.85 for an allocation for the Project of a  
5 portion of the state ceiling for private activity bonds in a principal amount not to exceed  
6 \$21,000,000.

7           Section 9. An amount equal to \$100,000 (Deposit) is hereby authorized to be held on  
8 deposit in connection with the Application and the applicable CDLAC procedures, and the  
9 Director is authorized to certify to CDLAC that such funds are available; which Deposit shall  
10 consist of a restriction on cash on the Low-Mod Income Housing Asset Fund.

11           Section 10. If the City receives a CDLAC allocation and the applicable issuance  
12 requirements are not met, the Mayor’s Office of Housing and Community Development is  
13 hereby authorized to cause an amount equal to the Deposit to be paid to the State of  
14 California from the Low-Mod Income Housing Asset Fund, if required by CDLAC.

15           Section 11. This Resolution shall take effect from and after its adoption by the Board  
16 and approval by the Mayor.

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18 APPROVED AS TO FORM:  
19 DENNIS J. HERRERA  
20 City Attorney

21 By: \_\_\_\_\_  
22           KENNETH DAVID ROUX  
23           Deputy City Attorney

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