

1 [Multifamily Housing Revenue Bonds - Central Freeway Parcel O - 455 Fell Street - Not to  
2 Exceed \$50,000,000]

3 **Resolution declaring the intent of the City and County of San Francisco (the “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 **(the “Director”) to submit an application and related documents to the California Debt**  
7 **Limit Allocation Committee (“CDLAC”) to permit the issuance of residential mortgage**  
8 **revenue bonds in an aggregate principal amount not to exceed \$50,000,000 for 455 Fell**  
9 **Street; authorizing and directing the Director to direct the Controller’s Office to hold in**  
10 **trust an amount not to exceed \$100,000 in accordance with CDLAC procedures;**  
11 **authorizing the Director to certify to CDLAC that the City has on deposit the required**  
12 **amount; authorizing the Director to pay an amount equal to such deposit to the State of**  
13 **California if the City fails to issue the residential mortgage revenue bonds; approving,**  
14 **for purposes of the Internal Revenue Code of 1986, as amended, the issuance and sale**  
15 **of residential mortgage revenue bonds by the City in an aggregate principal amount**  
16 **not to exceed \$50,000,000; authorizing and directing the execution of any documents**  
17 **necessary to implement this Resolution; and ratifying and approving any action**  
18 **heretofore taken in connection with the Project as defined herein, and the Application**  
19 **as defined herein.**

20  
21 WHEREAS, The Board of Supervisors of the City and County of San Francisco (the  
22 “Board of Supervisors”), after careful study and consideration, has determined that there is a  
23 shortage of safe and sanitary housing within the City and County of San Francisco (the “City”),  
24 particularly for low and moderate income persons, and that it is in the best interest of the  
25

1 residents of the City and in furtherance of the health, safety, and welfare of the public for the  
2 City to assist in the financing of multi-family rental housing units; and

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

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

19 WHEREAS, 455 Fell, L.P., a California limited partnership (or any successor thereto  
20 including any successor owner of the Project, the “Developer”), desires to construct a 108-unit  
21 affordable residential rental housing development located at 455 Fell Street, San Francisco,  
22 California 94102 (Block 0831, Lot 024 in the records of the City’s Assessor-Recorder) (the  
23 “Project”); and

1           WHEREAS, The Developer has requested that the City assist in the financing of the  
2 Project through the issuance of one or more series of tax-exempt mortgage revenue bonds  
3 (the “Bonds”); and

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

6           WHEREAS, The City intends to issue the Bonds in an amount not to exceed  
7 \$50,000,000 and to loan the proceeds of the Bonds to the Developer (the “Loan”) to finance  
8 the costs of the Project; and

9           WHEREAS, The Bonds will be limited obligations, payable solely from pledged  
10 security, including Project revenues, and will not constitute a debt of the City; and

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

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

18           WHEREAS, The interest on the Bonds may qualify for tax exemption under Section  
19 103 of the Internal Revenue Code of 1986, as amended (the “Code”), only if the Bonds are  
20 approved in accordance with Section 147(f) of the Code; and

21           WHEREAS, The City now wishes to approve the issuance of the Bonds in order to  
22 satisfy the public approval requirements of Section 147(f) of the Code; and

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

24           WHEREAS, On April 14, 2016 the City caused a notice stating that a public hearing  
25 with respect to the issuance of the Bonds would be held by the Mayor’s Office of Housing and

1 Community Development and Community Development on April 29, 2016, to appear in The  
2 San Francisco Chronicle which is a newspaper of general circulation in the City; and

3 WHEREAS, The Mayor’s Office of Housing and Community Development held the  
4 public hearing described above on April 29, 2016 and an opportunity was provided for  
5 persons to comment on the issuance of the Bonds and the Project; and the minutes of such  
6 hearing were provided to this Board of Supervisors prior to this meeting; and

7 WHEREAS, This Board of Supervisors is the elected legislative body of the City and is  
8 the applicable elected representative authorized to approve the issuance of the Bonds within  
9 the meaning of Section 147(f) of the Code; and

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

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

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

22 WHEREAS, CDLAC procedures require an applicant for a portion of the state ceiling to  
23 certify to CDLAC that applicant has on deposit an amount equal to one-half of one percent  
24 (1/2%) of the amount of allocation requested not to exceed \$100,000.00; now, therefore, be it  
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1 RESOLVED, By the Board of Supervisors of the City and County of San Francisco, as  
2 follows:

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

5 Section 2. The Board of Supervisors adopts this Resolution for purposes of  
6 establishing compliance with the requirements of Section 1.150-2 of the United States  
7 Treasury Regulations. This Resolution does not bind the Board of Supervisors to issue the  
8 Bonds, approve the Loan or to make any expenditure, incur any indebtedness or proceed with  
9 the Project.

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

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

18 Section 5. The maximum principal amount of debt expected to be issued for the Project  
19 is \$50,000,000.

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

23 Section 7. This approval of the issuance of the Bonds by the City is neither an approval  
24 of the underlying credit issues of the proposed Project nor an approval of the financial  
25 structure of the Bonds.

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 (the “Director”), on behalf of the  
3 City, to submit an application (the “Application”), and such other documents as may be  
4 required, to CDLAC pursuant to Government Code Section 8869.85 for an allocation for the  
5 Project of a portion of the state ceiling for private activity bonds in a principal amount not to  
6 exceed \$50,000,000.

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.

10          Section 10. If the City receives a CDLAC allocation and the applicable issuance  
11 requirements are not met, the Mayor’s Office of Housing and Community Development is  
12 hereby authorized to cause an amount equal to the Deposit to be paid to the State of  
13 California.

14          Section 11. The officers and employees of the City and the Director are hereby  
15 authorized and directed, jointly and severally, to do any and all things necessary or advisable  
16 to consummate the receipt of an allocation from CDLAC and otherwise effectuate the  
17 purposes of this Resolution, consistent with the documents cited herein and this Resolution,  
18 and all actions previously taken by such officers and employees with respect to the Project,  
19 consistent with the documents cited herein and this Resolution, including but not limited to the  
20 submission of the application to CDLAC, are hereby ratified and approved.

21          Section 12. This Resolution shall take effect from and after its adoption by the Board  
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1 and approval by the Mayor.

2 APPROVED AS TO FORM:  
3 DENNIS J. HERRERA  
4 City Attorney

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7 By: \_\_\_\_\_

8 Kenneth David Roux  
9 Deputy City Attorney

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