

1 [Multifamily Housing Revenue Note - 491-31st Avenue - Not to Exceed \$16,227,000]

2  
3 **Resolution authorizing the execution and delivery of a multifamily housing revenue**  
4 **note in an aggregate principal amount not to exceed \$16,227,000 for the purpose of**  
5 **providing financing for the acquisition and rehabilitation of a 75-unit multifamily rental**  
6 **housing project located at 491-31st Avenue; approving the form of and authorizing the**  
7 **execution of a funding loan agreement providing the terms and conditions of the note**  
8 **and authorizing the execution and delivery thereof; approving the form of and**  
9 **authorizing the execution of a regulatory agreement and declaration of restrictive**  
10 **covenants; approving the forms of and authorizing the execution of certain loan**  
11 **documents; authorizing the collection of certain fees; ratifying and approving any**  
12 **action heretofore taken in connection with the note and the project, as defined herein;**  
13 **granting general authority to City officials to take actions necessary to implement this**  
14 **Resolution; and related matters.**

15  
16 WHEREAS, The Board of Supervisors of the City and County of San Francisco (the  
17 "Board") desires to provide for a portion of the costs of the acquisition and rehabilitation by  
18 491 31<sup>st</sup> Ave., L.P., a California limited partnership (the "Borrower"), of a 75-unit affordable  
19 multifamily housing residential rental development located at 491 31<sup>st</sup> Ave., San Francisco,  
20 California (also known as 491 31<sup>st</sup> Ave.) (the "Project"), to provide housing for persons and  
21 families of low and very low income through the issuance of multifamily housing revenue  
22 bonds or notes; and

23 WHEREAS, The City and County of San Francisco (the "City") is authorized to issue  
24 revenue bonds, notes and other obligations for such purpose pursuant to the Charter of the  
25

1 City, Article I of Chapter 43 of the Administrative Code of the City and, to the extent  
2 applicable, Chapter 7 of Part 5 of Division 31 (commencing with Section 52075) of the Health  
3 and Safety Code of the State of California ("Health and Safety Code"), as now in effect and as  
4 it may from time to time hereafter be amended or supplemented (collectively, the "Act"); and

5 WHEREAS, The interest on the Note (as hereinafter defined) may qualify for tax  
6 exemption under Section 103 of the Internal Revenue Code of 1986, as amended, (the  
7 "Code"), only if the Note is approved in accordance with Section 147(f) of the Code; and

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

11 WHEREAS, Following a public hearing on March 27, 2015, at which there was an  
12 opportunity for persons to comment on the execution and delivery of the Note, this Board, on  
13 April 14, 2015, adopted Resolution No. 133-15, approving the execution and delivery of the  
14 Note solely for the purposes of Section 147(f) of the Code in an amount not to exceed  
15 \$20,000,000; and

16 WHEREAS, An application to the California Debt Limit Allocation Committee (CDLAC)  
17 has been submitted with respect to the Project for an allocation of qualified private activity  
18 bond volume cap in the amount of \$16,227,000 pursuant to Section 146 of the Code; and

19 WHEREAS, The City expects to receive that allocation from the CDLAC at its meeting  
20 on September 16, 2015 (the "CDLAC Allocation"), the receipt of which is a condition to the  
21 City's executing the documents described in, and otherwise consummating the transactions  
22 contemplated by, this resolution; and

23 WHEREAS, There has been prepared and presented to the Board for consideration at  
24 this meeting the documentation required for the execution and delivery of the Note, and such  
25 documentation is on file with the Clerk of the Board of Supervisors, in File No. 150876; and

1           WHEREAS, It appears that each of the documents which is now before this Board is  
2 substantially in appropriate form and is an appropriate instrument to be executed and  
3 delivered for the purposes intended; and

4           WHEREAS, The Board finds that the public interest and necessity require that the City  
5 at this time make arrangements for the execution and delivery of the Note; and

6           WHEREAS, The Note is a limited obligation of the City, the sole source of repayment of  
7 which shall be payments made by the Borrower under the Project Loan Agreement  
8 (hereinafter defined), together with investment income of certain funds and accounts held  
9 under the Funding Loan Agreement (hereinafter defined); and

10          WHEREAS, The City has engaged Orrick, Herrington & Sutcliffe, LLP and Curls  
11 Bartling P.C., as co-bond counsel with respect to the Note ("Co-Bond Counsel"); and

12          WHEREAS, Bank of America, N.A. (the "Bank") has expressed its intention to enter  
13 into the Funding Loan Agreement and make the loan evidenced by the Note authorized  
14 hereby; now, therefore, be it

15          RESOLVED, By this Board of Supervisors of the City and County of San Francisco as  
16 follows:

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

19          Section 2.    Approval of Execution and Delivery of Note. In accordance with the Act  
20 and the Funding Loan Agreement (hereinafter defined), the City is hereby authorized to issue  
21 and deliver a revenue note of the City, such note to be issued in one or more series and  
22 subseries, and designated as "City and County of San Francisco Multifamily Housing  
23 Revenue Note (491 31<sup>st</sup> Ave. ), 2015 Series M," or such other designation as may be  
24 necessary or appropriate to distinguish such series from every other series of notes of the  
25 City, in an aggregate principal amount not to exceed \$16,227,000 (the "Note"), with an

1 interest rate not to exceed twelve percent (12%) per annum for the Note, and which shall have  
2 a final maturity date not later than forty (40) years from the date of issuance. The Note shall  
3 be in the form set forth in and otherwise in accordance with the Funding Loan Agreement, and  
4 shall be executed by the manual signature of the Mayor of the City (the "Mayor") and as  
5 further provided in the Funding Loan Agreement. Anything herein to the contrary  
6 notwithstanding, the execution and delivery of the Note and the City Agreements shall be  
7 subject to the receipt of the CDLAC Allocation prior thereto.

8 Section 3. Approval of Funding Loan Agreement. The Funding Loan Agreement (the  
9 "Funding Loan Agreement"), by and between the Bank, the City, and U.S. Bank National  
10 Association (the "Fiscal Agent"), in the form presented to the Board, a copy of which is on file  
11 with the Clerk of the Board of Supervisors, in File No. 150876, is hereby approved. The  
12 Mayor, the Director of the Mayor's Office of Housing and Community Development (the  
13 "Director"), or any Authorized Officer of the City (as such term is defined in the Funding Loan  
14 Agreement) is hereby authorized to execute the Funding Loan Agreement (collectively,  
15 "Authorized Representatives" and each, an "Authorized Representative"), approved as to form  
16 by the City Attorney of the City (the "City Attorney"), in substantially said form, together with  
17 such additions thereto and changes therein as the City Attorney and Co-Bond Counsel may  
18 approve or recommend in accordance with Section 7 hereof.

19 Section 4. Approval of Regulatory Agreement and Declaration of Restrictive  
20 Covenants. The Regulatory Agreement and Declaration of Restrictive Covenants (the  
21 "Regulatory Agreement"), by and among the City, the Borrower, and the Fiscal Agent, in the  
22 form presented to the Board, a copy of which is on file with the Clerk of the Board of  
23 Supervisors, in File No. 150876, is hereby approved. Each Authorized Representative is  
24 hereby authorized to execute the Regulatory Agreement, approved as to form by the City  
25 Attorney, in substantially said form, together with such additions thereto and changes therein

1 as the City Attorney and Co-Bond Counsel may approve or recommend in accordance with  
2 Section 7 hereof.

3 Section 5. Approval of City Loan Documents. The Project Loan Agreement by and  
4 among the City, the Borrower, and the Fiscal Agent (the "Project Loan Agreement"), in the  
5 form presented to the Board, a copy of which is on file with the Clerk of the Board of  
6 Supervisors, in File No. 150876, is hereby approved. Each Authorized Representative is  
7 hereby authorized to execute the Project Loan Agreement in substantially said form, together  
8 with such additions thereto and changes therein as the City Attorney and Co-Bond Counsel  
9 may approve or recommend in accordance with Section 7 hereof.

10 Section 6. Issuer Fees. The City, acting through the Mayor's Office of Housing and  
11 Community Development, shall charge a fee for the administrative costs associated with  
12 issuing the Note in an amount not to exceed 0.25% of the maximum aggregate principal  
13 amount of the Note. Such fee shall be payable at closing and may be contingent on the  
14 delivery of the Note. The City shall also charge an annual fee for monitoring compliance with  
15 the provisions of the Regulatory Agreement in an amount not to exceed 0.125% of the  
16 outstanding aggregate principal amount of the Note, but no less than \$2,500 annually, for the  
17 term of the Regulatory Agreement. The initial monitoring fee shall be payable at Note closing.  
18 The Board hereby authorizes the Mayor's Office of Housing and Community Development to  
19 charge and collect the fees described in this section.

20 Section 7. Modifications, Changes, Additions. Any Authorized Representative  
21 executing the Funding Loan Agreement, the Regulatory Agreement or the Project Loan  
22 Agreement (collectively, the "City Agreements"), in consultation with the City Attorney and Co-  
23 Bond Counsel, is hereby authorized to approve and make such modifications, changes or  
24 additions to the City Agreements as may be necessary or advisable, provided that such  
25 modification does not authorize an aggregate principal amount of the Note in excess of

1 \$16,227,000, provide for a final maturity on the Note later than forty (40) years from the date  
2 of issuance thereof, or provide for the Note to bear interest at a rate in excess of twelve  
3 percent (12%) per annum. The approval of any modification, addition or change to any of the  
4 aforementioned documents shall be evidenced conclusively by the execution and delivery of  
5 the document in question.

6 Section 8. Ratification. All actions heretofore taken by the officers and agents of the  
7 City with respect to the execution and delivery of the Note, as consistent with the documents  
8 herein and this Resolution, are hereby approved, confirmed and ratified.

9 Section 9. General Authority. The proper officers of the City are hereby authorized  
10 and directed, for and in the name and on behalf of the City, to do any and all things and take  
11 any and all actions and execute and deliver any and all certificates, agreements and other  
12 documents, including but not limited to assignments, subordinations, tax documents and  
13 those documents described in the City Agreements, which they, or any of them, may deem  
14 necessary or advisable in order to consummate the lawful execution and delivery of the Note.  
15 Any such actions are solely intended to further the purposes of this Resolution, and are  
16 subject in all respects to the terms of the Resolution. No such actions shall increase the risk  
17 to the City or require the City to spend any resources not otherwise granted herein. Final  
18 versions of any such documents shall be provided to the Clerk of the Board of Supervisors for  
19 inclusion in the official file within 30 days of execution by all parties.

20 Section 10. File. All documents referenced herein as being on file with the Clerk of  
21 the Board of Supervisors are located in File No. 150308, which is hereby declared to be a part  
22 of this Resolution as if set forth fully herein.

23  
24  
25

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

APPROVED AS TO FORM:  
DENNIS J. HERRERA  
City Attorney

By: \_\_\_\_\_  
KENNETH DAVID ROUX  
Deputy City Attorney  
n:\financlas2015\1500691\01033717.docx