

1 [Multifamily Housing Revenue Note - 455 Fell Street (“455 Fell Street Apartments”) - Not to
2 Exceed \$43,000,000]

3 **Resolution authorizing the execution and delivery of a multifamily housing revenue**
4 **note in one or more series in an aggregate principal amount not to exceed \$43,000,000**
5 **for the purpose of providing financing for the acquisition and construction of a 108-unit**
6 **multifamily rental housing project known as “455 Fell Street Apartments;” approving**
7 **the form of and authorizing the execution of a funding loan agreement providing the**
8 **terms and conditions of the loan from the funding lender to the City and the execution**
9 **and delivery of the note; approving the form of and authorizing the execution of a**
10 **borrower loan agreement providing the terms and conditions of the loan from the City**
11 **to the borrower; approving the form of and authorizing the execution of a regulatory**
12 **agreement and declaration of restrictive covenants; authorizing the collection of**
13 **certain fees; approving modifications, changes and additions to the documents;**
14 **ratifying and approving any action heretofore taken in connection with the back-to-**
15 **back loans, the note and the project; granting general authority to City officials to take**
16 **actions necessary to implement this Resolution; and related matters, as defined herein.**

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18 WHEREAS, The Board of Supervisors of the City and County of San Francisco (the
19 “Board”) desires to provide for a portion of the costs of the acquisition and construction by 455
20 Fell, L.P., a California limited partnership (the “Borrower”), of a 108-unit residential rental
21 development, with 1,500 square feet of commercial space, located at 455 Fell Street, in San
22 Francisco, California, known as “455 Fell Street Apartments” (the “Project”), to provide
23 housing for persons and families of low income and very low income through the issuance of
24 multifamily housing revenue bonds or notes; and

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1 WHEREAS, The City and County of San Francisco (the “City”) is authorized to issue
2 revenue notes for such purpose pursuant to the Charter of the City, Article I of Chapter 43 of
3 the Administrative Code of the City and, to the extent applicable, Chapter 7 of Part 5 of
4 Division 31 (commencing with Section 52075) of the Health and Safety Code of the State of
5 California (“Health and Safety Code”), as now in effect and as it may from time to time
6 hereafter be amended or supplemented (collectively, the “Act”); and

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

10 WHEREAS, The Mayor’s Office of Housing and Community Development held a duly
11 noticed public hearing on August 7, 2017 at which hearing an opportunity was provided for
12 persons to comment on the issuance of the Note; and

13 WHEREAS, The City now wishes to approve the execution and delivery of the Note in
14 order to satisfy the public approval requirements of Section 147(f) of the Code; and

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

16 WHEREAS, On May 17, 2017, the California Debt Limit Allocation Committee (CDLAC)
17 in its Resolution Number 17-54 allocated \$43,000,000 in qualified private activity obligations
18 to the Project; and

19 WHEREAS, There has been prepared and presented to the Board for consideration at
20 this meeting the documentation required for the execution and delivery of the Note, and such
21 documentation is on file with the Clerk of the Board of Supervisors (the “Clerk of the Board”);
22 and

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

1 WHEREAS, The Board finds that the public interest and necessity require that the City
2 at this time make arrangements for the funding loan, the borrower loan and the execution and
3 delivery of the Note; and

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

8 WHEREAS, The City has engaged Squire Patton Boggs (US) LLP and Amira Jackmon
9 Attorney at Law, as co-special counsel with respect to the Note (“Co-Special Counsel”); and

10 WHEREAS, Bank of America, N.A. (or an affiliate thereof) (the “Funding Lender”) has
11 expressed its intention to lend the City and County of San Francisco the funding loan in
12 exchange for the Note authorized hereby; now, therefore, be it

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

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

17 Section 2. Approval of Execution and Delivery of Note. In accordance with the Act, the
18 Funding Loan Agreement (hereinafter defined) and the Borrower Loan Agreement (hereinafter
19 defined), the City is hereby authorized to execute and deliver notes in one or more series and
20 subseries, and designated as “City and County of San Francisco Multifamily Housing
21 Revenue Note (455 Fell Street Apartments), Series “2017D,” or such other designation as
22 may be necessary or appropriate to distinguish such series from every other series of bonds
23 or notes, in an aggregate principal amount not to exceed \$43,000,000 (the “Note”), with an
24 interest rate not to exceed twelve percent (12%) per annum for the Note, and which shall have
25 a final maturity date not later than forty (40) years from the date of execution and delivery of

1 the Note. The Note shall be in the form set forth in and otherwise in accordance with the
2 Funding Loan Agreement (hereinafter defined) and shall be executed by the manual or
3 facsimile signature of the Mayor of the City (the "Mayor").

4 Section 3. Approval of Funding Loan Agreement. The Funding Loan Agreement (the
5 "Funding Loan Agreement") in the form presented to the Board, a copy of which is on file with
6 the Clerk of the Board, is hereby approved. The Funding Loan Agreement shall be entered
7 into by and among the City, the Funding Lender and a trust company, a state banking
8 corporation or a national banking association with the authority to accept trusts in the State of
9 California selected by the Director of the Mayor's Office of Housing and Community
10 Development (the "Director") and otherwise meeting the requirements of the Funding Loan
11 Agreement (the "Fiscal Agent"). Each of the Mayor, the Director, the Housing Development
12 Director of the Mayor's Office of Housing and Community Development or any other
13 Authorized Governmental Lender Representative (as such term is defined in the Funding
14 Loan Agreement) is hereby authorized to execute the Funding Loan Agreement, approved as
15 to form by the City Attorney of the City (the "City Attorney"), in substantially said form, together
16 with such additions thereto and changes therein as the City Attorney and Co-Special Counsel
17 may approve or recommend in accordance with Section 7 hereof.

18 Section 4. Approval of Borrower Loan Agreement. The Borrower Loan Agreement (the
19 "Borrower Loan Agreement") by and among the City, the Fiscal Agent and the Borrower, in
20 the form presented to the Board, a copy of which is on file with the Clerk of the Board, is
21 hereby approved. Each Authorized Governmental Lender Representative is hereby
22 authorized to execute the Borrower Loan Agreement in substantially said form, together with
23 such additions thereto and changes therein as the City Attorney and Co-Special Counsel may
24 approve or recommend in accordance with Section 7 hereof.

1 Section 5. Approval of Regulatory Agreement and Declaration of Restrictive
2 Covenants. The Regulatory Agreement and Declaration of Restrictive Covenants (the
3 “Regulatory Agreement” and, together with the Funding Loan Agreement and the Borrower
4 Loan Agreement, the “City Documents”), between the City, the Fiscal Agent and the Borrower,
5 in the form presented to the Board, a copy of which is on file with the Clerk of the Board, is
6 hereby approved. Each Authorized Governmental Lender Representative is hereby
7 authorized to execute the Regulatory Agreement, approved as to form by the City Attorney, in
8 substantially said form, together with such additions thereto and changes therein as the City
9 Attorney and Co-Special Counsel may approve or recommend in accordance with Section 7
10 hereof.

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

21 Section 7. Modifications, Changes, Additions. Any Authorized Governmental Lender
22 Representative executing the City Agreements, in consultation with the City Attorney and Co-
23 Special 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 \$43,000,000, provide for a final maturity of the Note later than forty (40) years, or provide for
2 the Note to bear interest at a rate in excess of twelve percent (12%) per annum. The approval
3 of any modification, addition or change to any of the aforementioned documents shall be
4 evidenced conclusively by the execution and delivery of the document in question.

5 Section 8. Ratification. All actions heretofore taken by the officers and agents of the
6 City with respect to the funding loan and the execution and delivery of the Note as consistent
7 with the City Documents are hereby approved, confirmed and ratified.

8 Section 9. General Authority. The proper officers of the City are hereby authorized
9 and directed, for and in the name and on behalf of the City, to do any and all things and take
10 any and all actions and execute and deliver any and all certificates, agreements (including
11 such agreements to provide adequate or additional security or indemnities as required by
12 lenders to consummate the financing) and other documents, including but not limited to those
13 documents described in the City Documents, 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 and to effectuate the purposes thereof and of the City Documents. Any such actions are
16 solely intended to further the purposes of this Resolution, and are subject in all respects to the
17 terms of the Resolution. No such actions shall increase the risk to the City or require the City
18 to spend any resources not otherwise granted herein. Final versions of such documents shall
19 be provided to the Clerk of the Board for inclusion in the official file within 30 days of execution
20 by all parties.

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

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5 APPROVED AS TO FORM:
6 DENNIS J. HERRERA
7 City Attorney

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10 By: _____
11 HEIDI J. GEWERTZ
12 Deputy City Attorney
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