

1 [Multifamily Housing Revenue Bonds - 78 Haight Street - Not to Exceed \$40,000,000]

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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**
8 **revenue bonds in an aggregate principal amount not to exceed \$40,000,000 for 78**
9 **Haight Street; authorizing and directing the Director to direct the Controller’s Office to**
10 **hold in 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 \$40,000,000; authorizing and directing the execution of any documents**
17 **necessary to implement this Resolution, as defined herein; and ratifying and approving**
18 **any action heretofore taken in connection with the Project, as defined herein, and the**
19 **Application, as defined herein.**

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21 WHEREAS, The Board of Supervisors of the City and County of San Francisco (“Board
22 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 (“City”),
24 particularly for low and moderate income persons, and that it is in the best interest of the
25 residents of the City and in furtherance of the health, safety, and welfare of the public for the

1 City to assist in the financing of multi-family rental housing units; and

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

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

17 WHEREAS, Octavia RSU Associates, L.P., a California limited partnership (or an
18 affiliate thereof or successor thereto) (the “Borrower”) desires to construct a 63-unit affordable
19 residential rental housing development located at 78 Haight Street, San Francisco, California
20 94102 (“Project”); and

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

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

1 WHEREAS, The City intends to issue the Bonds in an amount not to exceed
2 \$40,000,000 and to loan the proceeds of the Bonds to the Borrower (“Loan”) to finance the
3 costs of the Project; and

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

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

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

13 WHEREAS, The interest on the Bonds may qualify for tax exemption under Section
14 103 of the Internal Revenue Code of 1986, as amended (“Code”), only if the Bonds are
15 approved in accordance with Section 147(f) of the Code; and

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

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

19 WHEREAS, On November 24, 2020, the City caused a notice stating that a public
20 hearing with respect to the issuance of the Bonds would be held by the Mayor’s Office of
21 Housing and Community Development on December 7, 2020, published in the Notices section
22 of the Mayor’s Office of Housing and Community Development website (at
23 <https://sfmohcd.org/notices-0>); and

24 WHEREAS, The Mayor’s Office of Housing and Community Development held the
25 public hearing described above on December 7, 2020, and an opportunity was provided for

1 persons to comment on the issuance of the Bonds and the Project; and

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

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

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

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

17 WHEREAS, CDLAC procedures require an applicant for a portion of the state ceiling to
18 certify to CDLAC that applicant has on deposit an amount equal to one-half of one percent
19 (0.5%) of the amount of allocation requested not to exceed \$100,000; now, therefore, be it

20 RESOLVED, By the Board of Supervisors of the City and County of San Francisco, as
21 follows:

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

24 Section 2. The Board of Supervisors adopts this Resolution for purposes of
25 establishing compliance with the requirements of Section 1.150-2 of the United States

1 Treasury Regulations. This Resolution does not bind the Board of Supervisors to issue the
2 Bonds, approve the Loan or to make any expenditure, incur any indebtedness or proceed with
3 the Project.

4 Section 3. The Board of Supervisors hereby declares its official intent under United
5 States Treasury Regulations Section 1.150-2 to use proceeds of the Bonds to reimburse
6 expenditures incurred in connection with the Project. The Board of Supervisors hereby further
7 declares its intent to use such proceeds to reimburse the Borrower for actual expenditures
8 made by the Borrower on the Project.

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

12 Section 5. The maximum principal amount of debt expected to be issued for the Project
13 is \$40,000,000.

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

17 Section 7. This approval of the issuance of the Bonds by the City is neither an approval
18 of the underlying credit issues of the proposed Project nor an approval of the financial
19 structure of the Bonds.

20 Section 8. The Board of Supervisors hereby authorizes the Director of the Mayor's
21 Office of Housing and Community Development, including any acting or interim director, or
22 such person's designee ("Director"), on behalf of the City, to submit an application
23 ("Application"), and such other documents as may be required, to CDLAC pursuant to
24 Government Code, Section 8869.85 for an allocation for the Project of a portion of the state
25 ceiling for private activity bonds in a principal amount not to exceed \$40,000,000.

1 Section 9. An amount equal to one-half of one percent (0.5%) of the amount of the
2 CDLAC allocation requested for the Project, not to exceed \$100,000 (“Deposit”), is hereby
3 authorized to be held on deposit in connection with the Application and the applicable CDLAC
4 procedures, and the Director is authorized to certify to CDLAC that such funds are available.

5 Section 10. If the City receives a CDLAC allocation for the Project and the Bonds are
6 not issued, the Mayor’s Office of Housing and Community Development is hereby authorized
7 to cause an amount equal to the Deposit to be paid to the State of California, if and to the
8 extent required by CDLAC.

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

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

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

21 By: /s/ HEIDI J. GEWERTZ
22 HEIDI J. GEWERTZ
23 Deputy City Attorney
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