

1 [Multifamily Housing Revenue Notes - Balboa Park Housing Partners, L.P. - Balboa Park
2 Upper Yard - Not to Exceed \$90,000,000]

3 **Resolution authorizing the execution and delivery of multifamily housing revenue**
4 **notes in two or more series in an aggregate principal amount not to exceed \$90,000,000**
5 **for the purpose of providing financing for the construction of a 131-unit multifamily**
6 **rental housing project known as “Balboa Park Upper Yard;” approving the form of and**
7 **authorizing the execution of a funding loan agreement providing the terms and**
8 **conditions of the loan from the funding lender to the City, and the execution and**
9 **delivery of the notes; approving the form of and authorizing the execution of a project**
10 **loan agreement providing the terms and conditions of the loan from the City to the**
11 **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 notes and the project; granting general authority to City officials to take**
16 **actions necessary to implement this Resolution, as defined herein; and related matters,**
17 **as defined herein.**

18
19 WHEREAS, The Board of Supervisors (the “Board”) of the City and County of San
20 Francisco (the “City”) desires to provide for the financing of a portion of the costs of the
21 construction by Balboa Park Housing Partners, L.P., a California limited partnership (the
22 “Borrower”), of a 131-unit (including one manager’s unit) residential rental development
23 project located at 2340 San Jose Avenue, San Francisco, California 94112, known as “Balboa
24 Park Upper Yard” (the “Project”), to provide housing for persons and families of moderate, low
25 and very-low income (as such terms are defined by the City) through the execution and

1 delivery of tax-exempt and taxable multifamily housing revenue notes in two or more series
2 (respectively, the “Tax-Exempt Note” and the “Taxable Note”, and collectively, the “Notes”);
3 and

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

10 WHEREAS, The interest on the Tax-Exempt Note may qualify for tax exemption under
11 Section 103 of the Internal Revenue Code of 1986, as amended (the “Code”), only if such
12 Tax-Exempt Note is approved in accordance with Section 147(f) of the Code; and

13 WHEREAS, The Board is the elected legislative body of the City and is the applicable
14 elected representative authorized to approve the execution and delivery of the Tax-Exempt
15 Note within the meaning of Section 147(f) of the Code; and

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

17 WHEREAS, The Board on November 19, 2019, adopted Resolution No. 518-19
18 approving the execution and delivery of the Notes for the purposes of Section 147(f) of the
19 Code, in an amount not to exceed \$80,000,000; and

20 WHEREAS, On December 21, 2020, the California Debt Limit Allocation Committee
21 (“CDLAC”) in its Resolution No. 20-193, allocated \$62,500,000 in qualified private activity
22 bond allocation to the Project; and

23 WHEREAS, The Mayor’s Office of Housing and Community Development (“MOHCD”)
24 held a duly noticed public hearing on March 26, 2021, at which hearing an opportunity was
25

1 provided for persons to comment on the Project and the execution and delivery of the Tax-
2 Exempt Note; and

3 WHEREAS, There has been prepared and presented to the Board for consideration at
4 this meeting the documentation required for the execution and delivery of the Notes, and such
5 documentation is on file with the Clerk of the Board of Supervisors (the "Clerk of the Board");
6 and

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

10 WHEREAS, The Board finds that public interest and necessity require that the City at
11 this time make arrangements for the funding loans, the project loan, and the execution and
12 delivery of the Notes; and

13 WHEREAS, The Notes will be limited obligations of the City, the sole source of
14 payment of which shall be payments made by the Borrower under the Project Loan
15 Agreement (hereinafter defined), together with investment income, if any, of certain funds and
16 accounts held under the Funding Loan Agreement (hereinafter defined); and

17 WHEREAS, The City has engaged Norton Rose Fulbright US LLP and Zuber Lawler
18 LLP as co-special counsel with respect to the Notes ("Co-Special Counsel"); and

19 WHEREAS, Wells Fargo Bank, National Association (or an affiliate thereof) (the
20 "Funding Lender") has expressed its intention to make funding loans, to be evidenced by the
21 Notes, to the City; now, therefore, be it

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

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

1 Section 2. Approval of Execution and Delivery of Notes. In accordance with the Act,
2 the Funding Loan Agreement and the Project Loan Agreement, the City is hereby authorized
3 to execute and deliver notes in two series: the Tax Exempt Note will be designated as “City
4 and County of San Francisco, California Multifamily Housing Revenue Note (Balboa Park
5 Upper Yard) Series 2021C-1”, and the Taxable Note will be designated as “City and County of
6 San Francisco, California Multifamily Housing Revenue Note (Balboa Park Upper Yard)
7 Series 2021C-2 (Taxable)” or such additional or other designation as may be necessary or
8 appropriate to distinguish such series from every other series of bonds or notes. The Notes
9 shall be in an aggregate principal amount not to exceed \$90,000,000 (provided that the
10 principal amount of the Tax Exempt Note shall not exceed \$62,500,000), with interest rates
11 not to exceed twelve percent (12%) per annum for the Notes, and shall have final maturity
12 dates of not later than forty (40) years from the date of execution and delivery of the Notes.
13 The Notes shall be in the form set forth in and otherwise in accordance with the Funding Loan
14 Agreement and shall be executed by the manual or facsimile signature of the Mayor of the
15 City (the “Mayor”).

16 Section 3. Approval of Funding Loan Agreement. The Funding Loan Agreement (the
17 “Funding Loan Agreement”) in the form presented to the Board, a copy of which is on file with
18 the Clerk of the Board, is hereby approved. The Funding Loan Agreement shall be entered
19 into by and among the City, the Funding Lender, and U.S Bank National Association as the
20 fiscal agent (the “Fiscal Agent”). Each of the Mayor, the Director (the “Director”) of MOHCD,
21 the Deputy Director of Housing at MOHCD, and any other Authorized Officer (as such term is
22 defined in the Funding Loan Agreement), acting individually or collectively (each, an
23 “Authorized City Representative”) is hereby authorized to execute the Funding Loan
24 Agreement, approved as to form by the City Attorney of the City (the “City Attorney”), in
25 substantially said form, together with such additions thereto and changes therein as the City

1 Attorney and Co-Special Counsel may approve or recommend in accordance with Section 7
2 hereof.

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

10 Section 5. Approval of Regulatory Agreement and Declaration of Restrictive
11 Covenants. The Regulatory Agreement and Declaration of Restrictive Covenants (the
12 “Regulatory Agreement” and, together with the Funding Loan Agreement and the Project Loan
13 Agreement, the “City Documents”), between the City and the Borrower, in the form presented
14 to the Board, a copy of which is on file with the Clerk of the Board, is hereby approved. Each
15 Authorized City Representative is hereby authorized to execute the Regulatory Agreement,
16 approved as to form by the City Attorney, in substantially said form, together with such
17 additions thereto and changes therein as the City Attorney and Co-Special Counsel may
18 approve or recommend in accordance with Section 7 hereof.

19 Section 6. Issuer Fees. The City, acting through MOHCD, shall charge an annual
20 issuer fee for monitoring the restricted units in the Project up to an amount provided for under
21 its standard issuer fee policies, or at some lesser amount if required by federal tax law
22 applicable to the Notes. A portion of the annual monitoring fee due during the construction
23 period shall be payable at funding loan closing. The Board hereby authorizes MOHCD to
24 charge and collect the fees described in this section.

1 Section 7. Modifications, Changes, and Additions. Any Authorized City
2 Representative executing the City Documents, in consultation with the City Attorney and Co-
3 Special Counsel, is hereby authorized to approve and make such modifications, amendments,
4 changes or additions to the City Documents as may be necessary or advisable, provided that
5 such modification does not: (i) authorize an aggregate principal amount of the Notes in excess
6 of \$90,000,000 (or of the Tax Exempt Note in excess of \$62,500,000); (ii) provide for a final
7 maturity of the Notes later than forty (40) years from the date of execution and delivery
8 thereof; or (iii) provide for the Notes to bear interest at rates in excess of twelve percent (12%)
9 per annum. The approval of any modification, addition or change to any of the aforementioned
10 documents shall be evidenced conclusively by the execution and delivery of the document in
11 question by an Authorized City Representative or a designee thereof.

12 Section 8. Ratification. All actions heretofore taken by the officers and agents of the
13 City with respect to the funding loans and the execution and delivery of the Notes consistent
14 with the purposes of this Resolution and the City Documents are hereby approved, confirmed,
15 and ratified.

16 Section 9. General Authority. The proper officers of the City (including the
17 Authorized City Representatives or designees thereof) are hereby authorized and directed, for
18 and in the name and on behalf of the City, to do any and all things and take any and all
19 actions and execute and deliver any and all certificates (including, but not limited to, tax
20 certificates), agreements (including agreements to provide adequate or additional security or
21 indemnities as required by lenders to consummate the financing), and other documents and
22 amendments, including but not limited to those documents described in the City Documents,
23 which they, or any of them, may deem necessary or advisable in order to consummate the
24 lawful execution and delivery of the Notes and to effectuate the purposes thereof and of the
25 City Documents in consultation with the City Attorney. Any such actions are solely intended to

1 further the purposes of this Resolution, and are subject in all respects to the terms of this
2 Resolution. No such actions shall increase the risk to the City or require the City to spend any
3 resources not otherwise contemplated herein. Final versions of such documents (showing
4 marked changes, if any) shall be provided to the Clerk of the Board for inclusion in the official
5 file within thirty (30) days of execution by all parties.

6 Section 10. File. All documents referenced herein as being on file with the Clerk of
7 the Board are located in File No. 210502, which is hereby declared to be a part of this
8 Resolution as if set forth fully herein.

9 Section 11. Effectiveness. This Resolution shall take effect from and after its adoption
10 by the Board and approval by the Mayor.

11 APPROVED AS TO FORM:

12 DENNIS J. HERRERA
13 City Attorney

14 By: /s/ Heidi J. Gewertz
15 Heidi J. Gewertz
16 Deputy City Attorney

17 n:\financ\as2021\2000210\01529437.docx

18
19
20
21
22
23
24
25