

RESOLUTION NO.

A RESOLUTION OF THE CITY OF SAN JOSE AUTHORIZING THE HOUSING DIRECTOR, OR THEIR DESIGNEE, TO ALLOW, **ON A CASE-BY-CASE BASIS FOR ANY CITY FUNDED AFFORDABLE HOUSING DEVELOPMENT**, RENT AND INCOME RESTRICTIONS TO INCREASE UP TO 60% OF THE AREA MEDIAN INCOME FOR UNITS FUNDED FROM THE LOW AND MODERATE INCOME HOUSING ASSET FUND AND, FOR UNITS FUNDED BY OTHER FUNDING SOURCES, AN INCREASE UP TO THE MAXIMUM AREA MEDIAN INCOME PERMITTED UNDER THE CITY OF SAN JOSE'S AFFORDABILITY RESTRICTIONS FOR THE PROJECT, BUT NOT TO EXCEED AREA MEDIAN INCOME CAPS, **BASED ON FUNDING SOURCE** IN THE FOLLOWING CIRCUMSTANCES: (A) FOR NEW TENANTS IN PROJECT-BASED VOUCHER-SUBSIDIZED UNITS UPON EXPIRATION OR TERMINATION OF THE APPLICABLE PROJECT-BASED VOUCHERS; AND (B) FOR ALL TENANTS IN THE EVENT OF FORECLOSURE, **IF THE CITY OF SAN JOSE HAS DETERMINED THAT SUCH APPROVAL IS NEEDED IF, AND ONLY TO THE EXTENT, AND ONLY FOR THE PERIOD OF TIME NECESSARY FOR THE FINANCIAL FEASIBILITY OF THE AFFORDABLE HOUSING DEVELOPMENT**, PROVIDED THE CITY HAS DETERMINED SUCH INCREASE IS NECESSARY FOR THE FINANCIAL FEASIBILITY OF THE AFFORDABLE HOUSING DEVELOPMENT AND THE INCREASE IS PERMITTED UNDER ALL OTHER APPLICABLE FUNDING SOURCES

WHEREAS, currently, an affordable housing development seeking City funding must include a resolution to City Council approving loan terms to allow an increase of the Area Median Income rents and income restrictions within the City's affordability restrictions; and

WHEREAS, a potential future request by the developer for an increase in maximum rents or maximum income levels (i.e. "float up") in the event of loss of subsidy or foreclosure would require the City to execute an amendment to the loan documents as governed under City of San José Municipal Code Section 5.06.340(A)(2); and

WHEREAS, the current ordinance language requires City Council approval when the request is to change more than 10% of units approved in the affordability mix authorized in the adopted Council resolution setting forth general parameters for the development under Section 5.06.215, exceeding the Director of Housing's delegation of authority under Sections 5.06.335 and 5.06.340(A)(2); and

WHEREAS, this recommendation would grant the Housing Director, or their designee, authority to approve the inclusion of float-up language for a future increase of maximum rents and maximum income levels **permitted under the City's affordability restrictions, but not to exceed Area Median Income caps, based on funding source**, on a case-by-case basis for any City funded affordable housing development if it is determined that such approval is needed if, and only to the extent, and only for the period of time, necessary for project feasibility;

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF SAN JOSE THAT:

1. The housing director, or their designee, is hereby authorized **on a case-by-case basis for any City funded affordable housing development** to allow rent and income restrictions to increase to up to 60% of area median income **for units funded from the Low and Moderate Income Housing Asset Fund and, for units funded from other funding sources, an increase up to the maximum Area Median Income permitted under the City's affordability restrictions for the project, but not to exceed Area Median Income caps, based on funding source**, if the City has determined that such approval is needed if, and only to the extent, and only for the period of time, necessary for project feasibility for new tenants in project-based voucher-subsidized units upon expiration or termination of the applicable project-based vouchers, provided the City of San José has determined such increase is necessary for the financial feasibility of the affordable housing development and the increase is permitted under all other applicable funding sources.

2. The housing director, or their designee, is hereby authorized **on a case-by-case basis for any City funded affordable housing development** to allow rent and income restrictions to increase up to 60% of area median income **for units funded from the Low and Moderate Income Housing Asset Fund and, for units funded from other funding sources, an increase up to the maximum Area Median Income permitted under the City's affordability restrictions for the project, but not to exceed Area Median Income caps, based on funding source,** if **the City has** determined that such approval is needed if, and only to the extent, and only for the period of time, necessary for project feasibility for all tenants in the event of foreclosure, provided the City of San José has determined such increase is necessary for the financial feasibility of the affordable housing development and the increase is permitted under all other applicable funding sources.

ADOPTED this _____ day of _____, 2026, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

MATT MAHAN
Mayor

ATTEST:

TONI J. TABER, MMC
City Clerk