

RESOLUTION NO.

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
SAN JOSE APPROVING THE ISSUANCE OF TAX-
EXEMPT MULTIFAMILY HOUSING REVENUE BONDS BY
THE CALIFORNIA MUNICIPAL FINANCE AUTHORITY IN
AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED
\$65,000,000 FOR THE PURPOSE OF FINANCING AND
REFINANCING THE ACQUISITION, CONSTRUCTION,
IMPROVEMENT AND EQUIPPING OF A 123 UNIT
MULTIFAMILY RENTAL HOUSING FACILITY AT 2350
SOUTH BASCOM AVENUE AND TO PAY CERTAIN
EXPENSES INCURRED IN CONNECTION
WITH THE ISSUANCE OF THE BONDS**

WHEREAS, Pacific West Communities, Inc. (the "Sponsor") on behalf of San Jose Bascom Associates, a California limited partnership, a partnership of which Pacific West Communities, Inc. or another entity to be created by the Sponsor, a related person to the Sponsor is the general partner, or an affiliate of the Sponsor (such limited partnership or other entity being referred to herein as the "Borrower"), has requested that the California Municipal Finance Authority a joint powers agency established pursuant to the laws of the State of California (the "Authority") adopt a plan of financing providing for the issuance of exempt facility bonds for a qualified residential rental project pursuant to Section 142(a)(7) of the Internal Revenue Code of 1986 (the "Code") in one or more series issued from time to time, including bonds issued to refund such exempt facility bonds in one or more series from time to time, and at no time to exceed \$65,000,000 in aggregate principal amount (the "Bonds"), to finance or refinance the acquisition, construction, improvement and equipping of a 123 unit senior multifamily rental housing project located at 2350 South Bascom Avenue, San José, California (the "Project"); and

WHEREAS, the Authority is authorized pursuant to the provisions of California Government Code Section 6500 et seq. and the terms of a Joint Exercise of Powers Agreement Relating to the California Municipal Finance Authority, dated as of January

1, 2004 (the "Agreement"), among certain local agencies throughout the State of California, including the City of San José (the "City"), to issue revenue bonds in accordance with Chapter 7 of Part 5 of Division 31 of the California Health and Safety Code for the purpose of financing multifamily rental housing projects; and

WHEREAS, the issuance of the Bonds must be approved by the applicable elected representative of the governmental unit having jurisdiction over the territorial limits in which the Project is located after a public hearing held following reasonable public notice pursuant to the public approval requirement of Section 147(f) of the Code; and

WHEREAS, pursuant to Section 147(f) of the Code, the issuance of the Bonds by the Authority must be approved by the City of San José (the "City") because the Project is located within the territorial limits of the City; and

WHEREAS, the City Council of the City (the "City Council") is the elected legislative body of the City and is one of the "applicable elected representatives" required to approve the issuance of the Bonds under Section 147(f) of the Code; and

WHEREAS, the Authority has requested that the City Council approve the issuance of the Bonds by the Authority in order to satisfy the public approval requirement of Section 147(f) of the Code and the requirements of Section 4 of the Joint Exercise of Powers Agreement Relating to the California Municipal Finance Authority, dated as of January 1, 2004 (the "Agreement"), among certain local agencies, including the City; and

WHEREAS, pursuant to Section 147(f) of the Code, the City Council has, following notice duly given, held a public hearing regarding the issuance of the Bonds, and now desires to approve the issuance of the Bonds by the Authority;

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

Section 1. The City Council hereby finds and determines that all of the foregoing recitals are true and correct.

Section 2. The City Council as the “applicable elected representative” of the governmental unit on behalf of which the Bonds will be issued and having jurisdiction over the area in which the Project is located, hereby approves the issuance of the Bonds by the Authority. It is the purpose and intent of the City Council that this resolution constitute approval of the issuance of the Bonds by the Authority, for the purposes of (a) Section 147(f) of the Code by the applicable elected representative of the governmental unit having jurisdiction over the area in which the Project is located, in accordance with said Section 147(f) and (b) Section 4 of the Agreement.

Section 3. The issuance of the Bonds shall be subject to the approval of the Authority of all financing documents relating thereto to which the Authority is a party. The City shall have no responsibility or liability whatsoever with respect to the Bonds.

Section 4. The adoption of this Resolution shall not obligate the City or any department thereof to (i) provide any financing to acquire or construct the Project or any refinancing of the Project; (ii) approve any application or request for or take any other action in connection with any planning approval, permit or other action necessary for the acquisition, construction, rehabilitation, installation or operation of the Project; (iii) make any contribution or advance any funds whatsoever to the Authority; or (iv) take any further action with respect to the Authority or its membership therein.

Section 5. The officers of the City are hereby authorized and directed, jointly and severally, to do any and all things and to execute and deliver any and all documents which they deem necessary or advisable in order to carry out, give effect to and comply with the terms and intent of this resolution and the financing transaction approved hereby.

Section 6. This resolution shall take effect immediately upon its adoption.

NVF:SSG
9/19/2022

ADOPTED this _____ day of _____, 2022, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

SAM LICCARDO
Mayor

ATTEST:

TONI J. TABER, CMC
City Clerk