

RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE (1) APPROVING A TOTAL CONSTRUCTION-PERMANENT LOAN COMMITMENT OF UP TO \$21,350,000 AND A LAND ACQUISITION LOAN OR ACQUISITION FUNDING COMMITMENT OF UP TO \$3,590,000 FROM MEASURE E REAL PROPERTY TRANSFER TAX ALLOCATIONS FOR RESOURCES FOR COMMUNITY DEVELOPMENT AND ALMADEN AFFORDABLE HOUSING, L.P. OR ANOTHER AFFILIATE FOR THE 797 ALMADEN NEW AFFORDABLE HOUSING DEVELOPMENT TO BE LOCATED AT 771, 777, 787 AND 797 SOUTH ALMADEN AVENUE, WHICH IS BEING DEVELOPED TO OFFER 98 RENT-AND-INCOME-RESTRICTED APARTMENTS FOR EXTREMELY LOW INCOME, VERY LOW INCOME, AND LOW INCOME HOUSEHOLDS; (2) AUTHORIZING A LOAN-TO-VALUE RATIO GREATER THAN 100% FOR THE DEVELOPMENT; (3) AUTHORIZING THE DIRECTOR OF HOUSING TO ACQUIRE THE SITE FROM THE DEVELOPER FOR A PRICE NOT TO EXCEED \$3,590,000 AT THE TIME OF TRANSFER, TO ACCEPT THE GRANT DEED, AND TO ENTER INTO A LONG-TERM GROUND LEASE OF THE SITE TO THE DEVELOPER FOR THE DEVELOPMENT; (4) AUTHORIZING THE DIRECTOR OF HOUSING OR THE DIRECTOR'S DESIGNEE TO NEGOTIATE DOCUMENTS AND DOCUMENT AMENDMENTS RELATED TO THE ACQUISITION AND DEVELOPMENT OF THE SITE, THE GROUND LEASING OF THE SITE AND ANY RIDERS TO THE GROUND LEASES REQUIRED BY GOVERNMENT ENTITIES; (5) AUTHORIZING THE LOAN TERMS TO ALLOW AN INCREASE IN THE RENTS AND INCOME RESTRICTIONS UP TO 60% OF AREA MEDIAN INCOME FOR NEW TENANTS IN PROJECT-BASED VOUCHER SUBSIDIZED APARTMENTS IN THE EVENT OF EXPIRATION OR TERMINATION OF PROJECT-BASED VOUCHERS AND FOR ALL TENANTS IN THE EVENT OF FORECLOSURE, TO THE EXTENT THE CITY HAS DETERMINED SUCH INCREASE IS NEEDED FOR THE FEASIBILITY OF THE DEVELOPMENT AND ALLOWED BY OTHER FUNDS; (6) AUTHORIZING THE DIRECTOR OF HOUSING OR THE DIRECTOR'S DESIGNEE TO NEGOTIATE AND EXECUTE LOAN DOCUMENTS AND**

**ALL OTHER DOCUMENTS, INCLUDING ANY AMENDMENTS THERETO, RELATED TO CITY FINANCING FOR THE DEVELOPMENT; (7) AUTHORIZING THE MAYOR TO EXECUTE ON BEHALF OF THE COUNCIL THOSE LETTERS OF SUPPORT AS MAY BE REQUIRED BY THE CALIFORNIA HOUSING AND COMMUNITY DEVELOPMENT DEPARTMENT IN CONNECTION WITH THE DEVELOPER'S APPLICATIONS FOR INFILL INFRASTRUCTURE GRANTS OR OTHER GRANTS THAT REQUIRE NO GRANT PARTICIPATION OR COMMITMENT BY THE CITY; AND (8) DETERMINING THAT, CONSISTENT WITH GOVERNMENT CODE SECTION 37364, AFTER ACQUISITION, THE SITE IS TO BE LEASED BY THE CITY TO THE DEVELOPER WITHOUT FIRST OFFERING THE SITE TO THE PUBLIC FOR ANY OTHER USE, SINCE THE SITE WILL BE RESTRICTED SO AS TO PROVIDE HOUSING AFFORDABLE TO PERSONS AND FAMILIES OF LOW OR MODERATE INCOME, AS DEFINED BY SECTION 50093 OF THE HEALTH AND SAFETY CODE OR AS DEFINED BY THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT OR ITS SUCCESSORS, AND THAT THIS USE IS IN THE CITY'S BEST INTEREST**

**WHEREAS,** San Jose lacks a sufficient quantity of affordable housing to meet residents' needs, with a severe shortage of adequate, affordable housing for extremely-low, very-low, low- and moderate-income households; and

**WHEREAS,** Staff continues to work to find solutions for affordable housing developments to move forward to meet the City's official Regional Housing Needs Allocation goal for the need to produce 34,486 affordable homes across these income levels between 2023 and 2031 and the needs of our community; and

**WHEREAS,** on December 20, 2021 the City Notice of Funding Availability ("NOFA") to announce the availability of approximately \$150 million of City loan funding; and

**WHEREAS**, on February 8, 2022 Resources for Community Development (“RCD”) submitted an amended development proposal requesting a City funding commitment in the amount of up to \$24,940,000 in City acquisition financing and Construction-Permanent financing to provide a total of 99 apartments, 98 affordable plus one manager’s apartment; and

**WHEREAS**, the requested funding commitment includes an increase in the initial funding amount of \$12,250,000, by \$9,100,000 in additional Construction-Permanent funding for a total of \$21,350,000 in Construction-Permanent funding and the addition of \$3,590,000 in acquisition funding for the City to purchase the Site due to a funding gap created by lower than anticipated funding from the County of Santa Clara, and an increase in construction costs and interest rates; and

**WHEREAS**, this Development also anticipates receiving funding through Multifamily Housing Revenue Bonds issued by the City, County Measure A funds, County No Place Like Home (“NPLH”) funds, California Department of Housing and Community Development (“HCD”), Affordable Housing and Sustainable Communities (“AHSC”) funding, HCD Infrastructure Infill Grant funding and federal tax credit equity; and

**WHEREAS**, as part of the consideration for the City’s funding, the Developer will record an affordability restriction on the site; and

**WHEREAS**, the proposed affordability restrictions are as follows: 48 of the apartments (49%) will be available at affordable rent to households at up to 30% AMI levels, 41 of the apartments (42%) will be available at affordable rent to households at up to 50% AMI levels, and 9 of the apartments (9%) will be available at affordable rent to households at up to 60% AMI levels, with one apartment serving as the unrestricted manager’s apartment; and

**WHEREAS**, 25 apartments are proposed as permanent supportive housing (“PSH”) for chronically homeless households; and

**WHEREAS**, 15 of the PSH homes will be specifically reserved for chronically homeless individuals and their families in need of mental health services and the remaining 10 PSH homes will be provided to chronically homeless households; and

**WHEREAS**, Staff has also requested authorization for loan terms that would allow an increase in rents and income restrictions up to 60% Area Median Income (“AMI”) for new tenants in Project-Based Voucher apartments in the event of expiration or termination for the Project-Based Vouchers and for all tenants in the event of foreclosure, to the extent the City has determined such increase is needed for the feasibility of the above Development and allowed by other funds; and

**WHEREAS**, approval of the recommended actions will enable the Developer to assemble financing and build a new affordable development at the site located at 771, 777, 787, and 797 S. Almaden Avenue and allow Almaden Affordable Housing, L.P. or another affiliate formed by RCD (“Developer”) to move forward with an HCD AHSC funding application by March 2023 and an application to the California Debt Limit Allocation Committee (“CDLAC”) in early 2024; and

**WHEREAS**, if the anticipated funding sources are secured, the construction start date is projected for December 2024; and

**WHEREAS**, the City will hold the fee interest in the Site and the ground lease will ensure long term affordability; and

**WHEREAS**, the City's acquisition funding will allow the City to obtain the fee interest in the Site and provide the Developer with a ground lease having a 60 to 65 year term in accordance with City's underwriting guidelines; and

**WHEREAS**, the City's Loan to Value ("LTV") policy requires that the combined LTV ratio, figured by all the loans divided by the appraised value of the property to not exceed 100%; and

**WHEREAS**, while the appraised value of the property is not known at this time, it is expected to result in an LTV that significantly exceeds 100%; and

**WHEREAS**, City Staff considers developments with high LTV acceptable if the development's projected operating income is expected to be at least 1.15 times the required permanent mortgage payment (the "debt service coverage ratio") as a common standard for assessing the financial feasibility of affordable housing developments; and

**WHEREAS**, this development is projected to have 55-year cash flow projections resulting in a debt service coverage ratio of 1.15 and over at year one and onwards and thus staff has requested that the Council waive the LTV policy for this Development; and

**WHEREAS**, RCD has also requested that the Council authorize the execution of a support letter for the RCD application for Infill Infrastructure Grant funds, as such a letter is required by HCD and other such support letters for grants that require no grant participation or commitment by the City; and

**WHEREAS**, in order to facilitate the ground leasing of the Site to the Developer for the Development, a finding must be made by the Council that the Site will be restricted so

as to provide housing affordable to persons and families of low or moderate income, and that this use is in the City's best interests.

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

- a. A commitment of a not to exceed total of \$24,940,000 to fund the 797 South Almaden, a new affordable housing development to be located at 771, 777, 787, 797 South Almaden Avenue ("Site"), which commitment includes an amount not to exceed \$21,350,000 in a Construction-Permanent Loan commitment and an amount not to exceed \$3,590,000 for a land acquisition loan or to finance the City purchase of the Site, as set forth in the Memorandum from the Housing and Budget Departments, dated as of February 21, 2023 is hereby authorized;
- b. A loan-to-value ratio of greater than 100% for this development is hereby authorized;
- c. The Director of Housing is hereby authorized to acquire the site from the Developer for a price not to exceed \$3,590,000 and accept the grant deed and to enter into a long term ground lease of the Site with the Developer for the Development;
- d. The Director of Housing, or the Director's designee is hereby authorized to negotiate and execute documents and document amendments related to the acquisition, ground lease and development of the Site;
- e. The loan terms are hereby authorized to allow an increase in the rents and income restrictions up to 60% of AMI for new tenants in Project-Based Voucher apartments in the event of expiration or termination for the Project-Based Vouchers and for all tenants in the event of foreclosure, to the extent the City has determined such increase is needed for the feasibility of the Development and allowed by other funds;

- f. The Director of Housing or the Director's designee is hereby authorized to negotiate and execute loan documents and all other documents, including any amendments thereto, related to City financing for the Development;
- g. The Mayor is hereby authorized to execute on behalf of the Council those letters of support as may be required by the California Housing and Community Development Department in connection with the Developer's applications for Infill Infrastructure Grants or other grants that require no grant participation or commitment by the City; and
- h. A determination that, consistent with Government Code Section 37364, after acquisition the Site can be leased by the City to the Developer without first offering the site to the public for any other use, since the Site will be restricted so as to provide housing affordable to persons and families of low or moderate income as defined by Section 50093 of the Health and Safety Code or as defined by the United States Department of Housing and Urban Development or its successors is hereby made.

ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2023, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

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MATT MAHAN  
Mayor

ATTEST:

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TONI J. TABER, CMC  
City Clerk