

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

**A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE ACCEPTING THE SUMMARY REPORT PURSUANT TO CALIFORNIA HEALTH AND SAFETY CODE SECTION 33433 FOR THE GROUND LEASING OF FUTURE CITY-OWNED PROPERTY TO AFFIRMED/PATH VENTURES AND RELATED ACTIONS FOR THE VILLAS ON THE PARK AFFORDABLE APARTMENTS IN DOWNTOWN SAN JOSE**

**WHEREAS**, on January 10, 2017, and January 31, 2017, City Council approved a funding commitment of up to \$16,600,000 for a project to be located on a parcel of land located at 278 N. Second Street in the City of San José (“Site”) providing affordable housing for 78 Very Low-Income (“VLI”) formerly-homeless households earning no more than 35% Area Median Income (“AMI”), with additional space for 10 to 20 interim housing beds serving formerly homeless individuals (“Project”) and authorized of the Director of Housing to acquire the Site from the Developer; and

**WHEREAS**, the funding commitment included a loan for the acquisition of the Site, demolition costs, and for the predevelopment costs of the Project on the Site; which loan has been provided, subject to an option for the City of San José (“City”) to purchase the Site; and

**WHEREAS**, the acquisition of the Site by the City’s Housing Department will be paid for with low and moderate housing asset funds consistent with prior approvals; and

**WHEREAS**, Community Redevelopment Law provides in Section 33433 of the California Health and Safety Code that (1) before any property acquired with low and moderate income housing asset funds is sold or leased for development, such sale or lease shall first be approved by the City Council, after a duly noticed public hearing of

the City Council, and (2) that a copy of the proposed sale or lease and a summary which describes the financial aspects of the transaction shall be made available for public inspection; and

**WHEREAS**, a Summary Report has been prepared pursuant to Health and Safety Code Section 33433, containing a summary of the key terms of the Project, costs, and other information required by Section 33433, and said report and copies of the proposed Ground Lease and Leasehold Affordability Restrictions in substantially final form were made available to the public for inspection prior to the hearing, as required by Community Redevelopment Law; and

**WHEREAS**, the Section 33433 Summary Report finds that the City intends to Ground Lease the Site for the Project for the amount of \$1 (one dollar) per year Property and that the Site will be used to provide restricted affordable housing for the term of the Ground Lease; and

**WHEREAS**, the Section 33433 Summary Report concludes that the Property has a nominal reuse value until expiration of its recorded affordability restrictions and thus that the consideration to the City is not less than the fair reuse value of the land based on the current use and with the affordability and other covenants provided under the Ground Lease; and

**WHEREAS**, a notice of public hearing on the proposed ground lease has been duly published in accordance with the Community Redevelopment Law; and

**WHEREAS**, the City desires to approve the Summary 33433 Report for the groundleasing and development of the Site; and

**WHEREAS**, the City desires to authorize the Director of Housing to any negotiate and execute documents and document amendments related to a lease rider required by the California Tax Credit Allocation Committee and subject to satisfaction of certain conditions described in the report of the Director of Housing and authorize the Director of Housing to execute a lender's consent to the California Tax Credit Allocation Committee lease rider; and

**WHEREAS**, the City desires to approve a change the Project to 84 studio units and a change in the affordability mix to: 42 studio units restricted at 30% of Area Median Income; 41 studio units will be restricted to 50% of Area Median Income; and one unit will be an unrestricted manager's unit; and to allow the restrictions to float up to 60% of Area Median Income for new residents after 55 years.

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

1. The summary of costs and the findings of the Summary Report pursuant to California Health and Safety Code Section 33433 are accepted; and
2. The consideration that the City will receive for lease of the Site is not less than the fair reuse value for the proposed use, with the covenants and conditions in the Ground Lease and Leasehold Affordability Restrictions; and
3. The Project will provide affordable housing for low income households and is consistent with the 2010-2015 Implementation Plan previously adopted by the City's former Redevelopment Agency; and
4. The change in the Project affordability mix to 42 studio units restricted to 30% of Area Median Income; 41 studio units will be restricted to 50% of Area Median

Income; with one unit will be an unrestricted manager's unit; which restrictions may float up to 60% of Area Median Income for new residents after 55 years is hereby approved; and

5. The Director of Housing is authorized to any negotiate and execute documents and document amendments related to a lease rider required by the California Tax Credit Allocation Committee and subject to satisfaction of certain conditions all as described in the report of the Director of Housing dated November 13, 2017.

ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2017, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

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SAM LICCARDO  
Mayor

ATTEST:

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TONI J. TABER, CMC  
City Clerk