

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE: (1) ALLOWING AN EXCEPTION TO THE CITY'S POLICY FOR THE ISSUANCE OF MULTIFAMILY HOUSING REVENUE BONDS TO PERMIT THE CALIFORNIA HOUSING FINANCE AGENCY TO ISSUE BONDS FOR THE LEIGH AVENUE SENIOR APARTMENTS AFFORDABLE PROJECT AND (2) AUTHORIZING THE DIRECTOR OF HOUSING TO TAKE SUCH ACTIONS AS ARE NECESSARY TO FACILITATE FIRST COMMUNITY HOUSING'S LIMITED TERM OPPORTUNITY TO OBTAIN TAX CREDITS FOR THE PROJECT

WHEREAS, on June 20, 2017, the City Council approved up to \$9,000,000, including a construction-permanent loan of up to \$8,000,000 in Low and Moderate Income Housing Asset Funds ("LMIHAF"), to First Community Housing or an affiliated development entity ("FCH" or "Developer") for the Leigh Avenue Senior Apartments, a new, senior affordable development to be located at 1030 Leigh Avenue ("Site") in order to offer rent- and income-restricted apartments for 63 extremely low-income ("ELI") and very low-income ("VLI") households ("Project"); and

WHEREAS, when the City Council initially approved funds for the Project, the Developer anticipated applying for 4% Low Income Housing Tax Credits in March 2018. Leigh Avenue Senior Apartments was underwritten and approved, with the assumption that development would receive tax-exempt bond financing and 4% LIHTC funding; and

WHEREAS, the City Council's Bonds Policy requires that the City be the issuer of tax-exempt private-activity bonds for housing developments located within the City. When the City is not the issuer, the Bonds Policy allows the City to authorize another conduit bond issuer ("Issuer") to issue bonds if the City is not making a loan or grant to the Project; and

WHEREAS, on November 16, 2017, the U. S. House of Representatives (“House”) passed Bill H.R. 1., which eliminates tax exempt private activity bonds (“PABs”) including multifamily housing bonds, thereby eliminating the ability to use 4% LIHTCs; and

WHEREAS, on December 1, 2017, the U. S. Senate (“Senate”) introduced the Senate Tax Cuts and Jobs Act bill which retains the tax-exempt PABs program and the two bills will have to be reconciled in conference committee; and

WHEREAS, there is a risk that a bill eliminating tax-exempt PABs will pass out of conference committee, be approved by both houses of congress and signed by the President; and

WHEREAS, FCH has asked the City to allow California Housing Finance Agency (“CalHFA”) to be the proposed Issuer for the Project, since CalHFA can hold the required TEFRA public hearing before the end of the year and CalHFA can complete the issuance in time to avoid the risk of loss of funding posed by the congressional actions described above; and

WHEREAS, staff recommends an exemption to the City’s Bonds Policy to allow CalHFA to act as the Issuer for the Project due to the facts described above and in the staff report; and

WHEREAS, there may be other actions that need to be completed by the Director of Housing on an expedited timeline in order to ensure that the Project gets the LIHTC’s in time to avoid the risk of loss of funding posed by the congressional actions described above;

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

- (1) An exception to the City's Policy for the Issuance of Multifamily Housing Revenue Bonds is allowed to permit the California Housing Finance Agency to issue private-activity bonds for the Leigh Avenue Senior Apartments Affordable Project.
- (2) The Director of Housing is authorized to negotiate and execute any necessary documents, and to take the other necessary actions to facilitate First Community Housing's participation in a limited-time opportunity to obtain tax credit financing for the Leigh Avenue Senior Apartments Project.

ADOPTED this _____ day of _____, 2017, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

SAM LICCARDO
Mayor

ATTEST:

TONI J. TABER, CMC
City Clerk