

RESOLUTION NO. _____

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE (1) AUTHORIZING AN INCREASE TO RENTS AND INCOME UP TO 60% AREA MEDIAN INCOME (LOW INCOME) FOR NEW TENANTS IN THE EVENT OF FORECLOSURE OR EXPIRATION OF SUBSIDY CONTRACTS FOR THE SECOND STREET STUDIOS DEVELOPMENT, PROVIDED THE CITY HAS DETERMINED THE INCREASE IS NEEDED FOR FEASIBILITY OF THE DEVELOPMENT AND ALLOWED BY OTHER FUNDS AND AUTHORIZING THE DIRECTOR OF HOUSING TO NEGOTIATE AND EXECUTE LOAN DOCUMENTS, AMENDMENTS, AND ALL OTHER DOCUMENTS RELATED TO THESE CHANGES; AND (2) AUTHORIZING THE DIRECTOR OF HOUSING TO NEGOTIATE AND EXECUTE AMENDMENTS TO THE SECOND STREET STUDIOS DEVELOPMENT HOME AFFORDABILITY RESTRICTION AND HOME AGREEMENT, AS NEEDED, TO ENSURE COMPLIANCE WITH US DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT HOME INVESTMENT PARTNERSHIPS PROGRAM REGULATIONS AND GUIDANCE

WHEREAS, First Community Housing (“FCH”), a nonprofit affordable housing developer based in the City of San José (“City”) since 1986, has been working on the Second Street Apartments Development (“Project”) since 2006; and

WHEREAS, the Project is an affordable multifamily rental development located at 1140 South Second Street and Keyes Street that recently completed construction, being a 135-unit permanent supportive housing project with resident supportive services provided by Abode Services; and

WHEREAS, on June 17, 2014, the City Council approved a City construction and permanent loan (Loan) of up to \$8,000,000 from the Low and Moderate Income

Housing Asset Fund (LMIHAF), which amount included a predevelopment loan of \$500,000, to FCH or its legal affiliate for development of the Project. This amount was subsequently substituted with federal HOME Investment Partnerships Program (HOME) funds by City Council in June 2016;

WHEREAS, on September 15, 2015, City Council approved a \$6,452,000 increase in LMIHAF funds to the Loan for a total of up to \$14,452,000, and the early disbursement of \$5,000,000 to refinance an existing acquisition loan;

WHEREAS, in December 2016 as part of the Loan closing, the Director of the Housing Department under the Director's delegation of authority, authorized an additional \$2,500,000 loan increase from the LMIHAF in order to accommodate an equity shortfall, and the Project began construction in January of 2017; and

WHEREAS, soon after construction closing, the Project began to incur unanticipated expenses with costs related to the redesign of the site as requested by the City's Housing Department, which resulted in additional planning, architectural and engineering costs; and

WHEREAS, these additional expenses caused the developer to reallocate the existing budget to meet the demands of the additional costs, and as a result of the shortfall in budget, on June 12, 2018, City Council approved an additional \$1,500,000 in HOME funds for the development; and

WHEREAS, the Project is due to convert their current construction financing into the permanent loan phase of the Project in October of 2019, and the development's current permanent lender, California Community Reinvestment Corporation (CCRC), will be exiting as the permanent lender and a new permanent lender, Boston Private Bank, has agreed to replace CCRC as the permanent lender for the Project; and

WHEREAS, as the new senior permanent lender, Boston Private is requesting that the City amend the language of the current recorded Affordability Restriction in order to allow the Area Median Income (“AMI”) levels for non-HOME units to increase up to 60% AMI, in the event of foreclosure or the expiration of the Project’s subsidy contract(s) with the US Department of Housing and Urban Development (HUD), and the Housing Authority of Santa Clara County, and provided the City has determined that any increase of up to 60% AMI in income and/or rents is needed to maintain the feasibility of the development ; this change being referred to as a “float up” provision; and

WHEREAS, Housing Department has determined that updates need to be made to the HOME Affordability Restriction and possibly the HOME Agreement, in order to meet the applicable HUD requirements; and

WHEREAS, staff recommended approval of an increase in the income and rent limits in the event of a foreclosure or expiration of subsidy contract and additional amendments for Second Street Studios, described in the memorandum to Council from the Director of Housing and the Director of Finance dated September 11, 2019.

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

1. An increase to rents and income of up to or less than 60% Area Median Income (low income) for new tenants in the event of foreclosure or expiration of subsidy contracts for the Second Street Studios development, provided the City has determined that the increase of rents and/or income up to or less than 60% Area Median Income is needed for feasibility of the development and is allowed by other funds is hereby authorized, and the Director of Housing is hereby

authorized to negotiate and execute loan documents, amendments, and all other documents related to these changes; and

2. The Director of Housing is hereby authorized to negotiate and execute amendments to the Second Street Studios development HOME affordability restriction and HOME Agreement, as needed, to ensure compliance with US Department of Housing and Urban Development HOME Investment Partnerships Program regulations and guidance;

ADOPTED this _____ day of _____, 2019, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

SAM LICCARDO
Mayor

ATTEST:

TONI J. TABER, CMC
City Clerk