

RESOLUTION NO. _____

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE ACCEPTING THE SUMMARY REPORT AND MAKING FINDINGS PURSUANT TO CALIFORNIA HEALTH AND SAFETY CODE SECTION 33433 FOR THE DISPOSITION OF CITY PROPERTY LOCATED AT 500 ALMADEN BOULEVARD (FORMERLY 226 BALBACH STREET) AND MAKING FINDINGS, AUTHORIZING GROUND LEASING FOR 65-YEARS TO SATELLITE AFFORDABLE HOUSING ASSOCIATES OR AFFILIATE FOR THE ARYA AFFORDABLE HOUSING PROJECT UNDER THE TERMS AND CONDITIONS OF THE PROPOSED LEASEHOLD RESTRICTIONS, OPTION AND GROUND LEASE; AUTHORIZING THE DIRECTOR OF HOUSING TO NEGOTIATE AND EXECUTE THE OPTION, THE 65-YEAR GROUND LEASE AND RELATED DOCUMENTS IN CONNECTION WITH THE DEVELOPMENT AND FINANCING OF THE ARYA PROJECT, INCLUDING LEASE AMENDMENTS AND LEASE RIDERS WHICH MAY BE REQUIRED BY THE CALIFORNIA TAX CREDIT ALLOCATION COMMITTEE; AND AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO SUBMIT A JOINT APPLICATION FOR THE ARYA PROJECT UNDER THE INFILL INFRASTRUCTURE GRANT PROGRAM FOR NEW CONSTRUCTION CAPITAL IMPROVEMENT PROJECTS IN SUPPORT OF QUALIFYING INFILL PROJECTS OR QUALIFYING INFILL AREAS

WHEREAS, in November 2014, the Housing Department initiated a competitive process to identify potential operators and developers with demonstrated experience in creating affordable housing in urban areas, and Satellite Affordable Housing Associates (“SAHA”) was chosen to develop the site located at 226 Balbach Street (“Site”); and

WHEREAS, on September 22, 2015, the City Council authorized the Director of Housing to use Low and Moderate Income Housing Asset funds to acquire the Site from the Successor Agency to the San José Redevelopment Agency for a future affordable housing development; and

WHEREAS, on October 22, 2015, sale of the property was unanimously approved by the Oversight Board - Successor Agency to the San José Redevelopment Agency for the appraised value of \$2,400,000, and the Housing Department completed the acquisition in August of 2016; and

WHEREAS, on June 2, 2017, the City Council authorized the Director of Housing to negotiate and execute an Exclusive Negotiation Agreement (“ENA”) with SAHA and provide a predevelopment loan in the amount of \$200,000 for the potential development of the Site; and

WHEREAS, on September 27, 2017, the Director of Housing executed the ENA and predevelopment loan documents; and

WHEREAS, in October 2018, the Housing Department issued a \$100,000,000 Notice of Funding Availability (“NOFA”) for the funding of affordable housing, and in response to the NOFA, SAHA submitted a proposal for \$10,875,000 in funding for the construction of an 87-unit affordable housing project on the Site; and

WHEREAS, on February 5, 2019, the City Council authorized the City to act as co-applicant for the Affordable Housing and Sustainable Communities grant and loan program and a funding commitment of up to \$11,623,320 in Low and Moderate Income Housing Asset Funds for a Construction-Permanent Loan to Satellite Affordable Housing Associates, or an affiliated development entity, including the capitalization of up to \$533,320 in construction period interest, for a new affordable housing which will provide 86 affordable apartments for 18 extremely low income (30% of Area Median Income (“AMI”), 38 very low income (50% of AMI), and 30 low income (60% of AMI) households, one unrestricted manager’s unit, and related improvements (the “Project”); and

WHEREAS, SAHA was successful in securing \$18,908,818 in funding for housing and transportation related improvement through the Affordable Housing and Sustainable Communities grant in July of 2019; and

WHEREAS, in November 2019, SAHA requested \$400,000 in additional predevelopment funding which will be granted under the Directory's delegation of authority (Municipal Code Section 5.06.340) resulting in increase to the total funding commitment from \$11,623,320 to \$12,023,320; and

WHEREAS, Community Redevelopment Law provides in California Health and Safety Code Section 33433 that 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 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 California Health and Safety Code Section 33433, containing a summary of the key terms of the Project, costs, and other information required by Section 33433 ("Summary Report"), and said report and copies of the proposed Ground Lease, Option Agreement, 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 Summary Report finds that the City intends to ground lease the Site for the Project for the amount of \$1 (one dollar) per year and that the Site will be used to provide restricted affordable housing for the term of the Ground Lease; and

WHEREAS, the 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 accept the Summary Report for the ground leasing and development of the Site; and

WHEREAS, the City desires to make the findings required under California Health and Safety Code Section 33433 for this transaction, to authorize the Director of Housing to any negotiate and execute documents and amendments necessary for the 65-year ground lease (and extension) and any other related documents in connection with the development and financing of the Project; and

WHEREAS, the City also 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 authorize the City Manager or his designee to submit a joint application for the Project under the Infill Infrastructure Grant Program ("IIG") for new construction capital improvement projects in support of Qualifying Infill Projects or Qualifying Infill Areas;

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 the City Council finds that 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
2. The Director of Housing is authorized to negotiate and execute the option, the 65-year ground lease and extension option and related documents in connection with the development and financing of the Arya project, including lease amendments and lease riders which may be required by the California Tax Credit Allocation Committee; and
3. The City Manager or his designee is authorized to submit a joint application for the Arya project under the Infill Infrastructure Grant Program for new construction capital improvement projects in support of Qualifying Infill Projects or Qualifying Infill Areas.

ADOPTED this _____ day of _____, 2020, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

SAM LICCARDO
Mayor

ATTEST:

TONI J. TABER, CMC
City Clerk