

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

**A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE APPROVING THE PAYMENT OF THE ANNUAL BOND MONITORING FEE, APPROVING AN INCREASE IN AFFORDABILITY FOR 14 UNITS, AND APPROVING THE CAPITALIZATION OF INTEREST ON THE CITY LOAN**

**WHEREAS**, on September 30, 2008, the Council of the City of San José (“City”) approved a funding commitment for a land acquisition/construction/permanent loan of up to \$7,900,000 from 20% housing set-aside funds for the development of a 93 unit rental Mayfair Court Apartments project located at 65 McCreery Avenue in San José (the “Project”); and

**WHEREAS**, on November 10, 2008, the City funded the acquisition loan, in the amount of \$6,750,000 (“City Loan”), to enable Pacific West Communities, Inc. and USA Multifamily Development, Inc. (collectively, the “Developer”) to acquire the Project site; and

**WHEREAS**, the City now manages the City Loan as a housing asset and pursuant to AB1X 26, the redevelopment dissolution legislation, the management of housing assets of the former Redevelopment Agency by the City is not in its capacity as Successor Agency and is not subject to review by the Oversight Board created to oversee the dissolution of the former Redevelopment Agency; and

**WHEREAS**, the City will convert the City Loan to a construction/permanent loan in connection with the closing of the “City of San José Multifamily Housing Revenue Bond (Mayfair Court Apartments), Series 2012B-1 and Series 2012B-2” in the aggregate amount not to exceed \$22,000,000 (collectively, the “Bonds”) anticipated in mid-April; and

**WHEREAS**, due to funding delays, approximately \$926,000 of acquisition loan period interest on the City Loan will have accrued and will need to be capitalized into the City Loan balance at conversion to the construction loan and the interest that will accrue on the City Loan during the construction and lease-up period, estimated at up to \$626,362, will also need to be capitalized into the City Loan when the construction loan is converted into the permanent loan; and

**WHEREAS**, as consideration for capitalizing the accrued interest on the City Loan for the acquisition period, San José Pacific Associates, L.P. (“Borrower”) has agreed to increase the affordability for 14 units from households with incomes not to exceed 50% of Area Median Income (“AMI”), the 14 units will be restricted to households with incomes not to exceed 40% AMI; and

**WHEREAS**, under City policy for the Issuance of Multifamily Housing Revenue Bonds, the annual City Bond Monitoring Fee (“Fee”) is paid by the Borrower on parity with Bond debt service, City staff is recommending, however, that the Fee of \$27,500 be bifurcated into two parts: (1) \$7,500 paid on parity with debt service on the Bonds (“Bond debt service”) and (2) \$20,000 paid after the Bond debt service; and

**WHEREAS**, the City desires to approve bifurcating the Fee, the increase in affordability targeting for 14 units, and the capitalization of up to \$926,000 in acquisition loan interest on the City Loan and up to \$626,362 in anticipated construction period interest;

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

1. The payment of the annual City Bond Monitoring fee of approximately \$27,500 in two parts: (1) \$7,500 to be paid on par with the bond debt service and (2) the remaining amount of the fee, \$20,000, to be paid as a permitted expense after debt service on the Bonds, as more specifically set forth in the Director of Housing's memorandum dated March 5, 2012, is hereby approved.
  
2. An increase in affordability targeting for 14 units in the Mayfair Court Apartments project currently restricted to household with incomes not to exceed 50% of Area Median Income ("AMI") to households with incomes not to exceed 40% AMI, as more specifically set forth in the Director of Housing's memorandum dated March 5, 2012, is hereby approved.
  
3. The capitalization of up to \$926,000 in acquisition interest accrued on the \$6,750,000 acquisition loan ("City Loan") and up to \$626,362 in anticipated construction period interest, as more specifically set forth in the Director of Housing's memorandum dated March 5, 2012, is hereby approved.

ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2012, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

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CHUCK REED  
Mayor

ATTEST:

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DENNIS D. HAWKINS, CMC  
City Clerk