

RESOLUTION NO. 74339

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN JOSE AUTHORIZING THE ISSUANCE OF MULTIFAMILY HOUSING REVENUE BONDS AND THE LOAN OF THE PROCEEDS THEREOF FOR THE FINANCING OF THE FAIR GROUNDS SENIOR HOUSING APARTMENTS AND APPROVING OTHER RELATED DOCUMENTS AND ACTIONS

WHEREAS, the City Charter of the City of San José (the "City") provides that the City is authorized to issue revenue bonds pursuant to California law; and

WHEREAS, Chapter 7 of Part 5 of Division 31 (commencing with Section 52075) of the Health and Safety Code of the State of California (the "Act") authorizes cities to incur indebtedness for the purpose of financing the acquisition, construction and equipping of multifamily rental housing facilities;

WHEREAS, the City Council hereby finds and declares that it is necessary, essential and a public purpose for the City to engage in a program (the "Program") of issuing revenue bonds of the City to finance the acquisition, construction and equipping of multifamily rental housing, and has determined to borrow money for such purpose by the issuance of revenue bonds as authorized by the Act;

WHEREAS, the City Council hereby finds and declares that this resolution is being adopted pursuant to the powers granted by the Act;

WHEREAS, Fairgrounds Senior Housing, L.P., a California limited partnership (the "Borrower"), has requested that the City issue and sell the Bonds (hereinafter defined) for the purpose of financing the construction of a multifamily rental

housing development to be known as the Fairgrounds Senior Housing Apartments (the "Project"); and

WHEREAS, all conditions, things and acts required to exist, to have happened and to have been performed precedent to and in the issuance of the Bonds and the implementation of the Program as contemplated by this resolution and the documents referred to herein exist, have happened and have been performed in due time, form and manner as required by the laws of the State of California, including the Act.

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

1. The City Council hereby finds and declares that the above recitals are true and correct.

2. Pursuant to the Act and the Indenture (hereinafter defined), revenue bonds of the City, designated as "*City of San José Multifamily Housing Revenue Bonds (Fairgrounds Senior Housing Apartments) Series 2008B*," in one or more series or sub-series and in an aggregate principal amount not to exceed \$28,000,000 (the "Bonds"), are hereby authorized to be issued. The Bonds shall be executed by the manual or facsimile signature of the City Manager, the Director of Housing, the Director of Finance or the Deputy Director of Finance, Treasury Division or the designee of any of them (each, an "Authorized Officer") and attested by the manual or facsimile signature of the City Clerk, in the form set forth in and otherwise in accordance with the Indenture (as hereinafter defined).

3. The following documents with respect to the Bonds (collectively, the "Bond Documents") between and/or among the City and the institutions named therein, in the forms on file with the City Clerk, are hereby approved:

- (a) the Indenture (the "Indenture") between the City and Wells Fargo Bank, National Association, as trustee (the "Trustee");
- (b) the Loan Agreement (the "Loan Agreement") between the City and the Borrower;
- (c) the Regulatory Agreement and Declaration of Restrictive Covenants (the "Regulatory Agreement") among the City, the Trustee and the Borrower;
- (d) the Assignment of Deed of Trust and other loan documents (the "Assignment") between the City and the Trustee; and
- (e) the Bond Purchase Agreement (the "Bond Purchase Agreement") among the City, the Borrower and Citicorp Municipal Mortgage Inc., as purchaser of the Bonds.

Each of the Authorized Officers, acting alone, is hereby authorized and directed, for and in the name and on behalf of the City, to execute and deliver the Bond Documents in said forms, with such additions thereto or changes therein as are recommended or approved by any Authorized Officer upon consultation with bond counsel and the City Attorney, the approval of such additions or changes to be conclusively evidenced by the execution and delivery by the City of the Bond Documents.

4. The Bonds, when executed, shall be delivered to the Trustee for authentication. The Trustee is hereby requested and directed to authenticate the Bonds by executing the Trustee's certificate of authentication and registration appearing thereon, and to deliver the Bonds, when duly executed and authenticated, to the purchaser(s) thereof in accordance with written instructions executed on behalf of the City by any Authorized Officer, which instructions such officer (or such officer's designee) is hereby authorized and directed, for and in the name and on behalf of the City, to execute and deliver to the Trustee. Such instructions shall provide for the delivery of the Bonds in accordance with the Indenture upon payment of the applicable purchase price therefore.

5. All actions heretofore taken by the officers and agents of the City with respect to the establishment of the Program and the sale and issuance of the Bonds are hereby approved, confirmed and ratified, and the proper officers of the City, including but not limited to the Authorized Officers, and their designees, are hereby authorized and directed, for and in the name and on behalf of the City, to do any and all things and take any and all actions and execute and deliver any and all certificates, agreements and other documents which they, or any of them, may deem necessary or advisable in order to consummate the lawful issuance and delivery of the Bonds in accordance with this Resolution and resolutions heretofore adopted by the City in order to carry out the Program, including but not limited to those certificates, agreements and other documents described in the Indenture, the Loan Agreement, the Regulatory Agreement, the Assignment, the Bond Purchase Agreement and the other documents herein approved and any certificates, agreements or documents as may be necessary

to further the purpose hereof, but which shall not create any obligation or liability of the City other than with respect to the revenues and assets derived from the proceeds of the Bonds.

6. This Resolution shall take effect immediately upon its adoption.

ADOPTED this 29TH day of APRIL, 2008, by the following vote:

AYES: CAMPOS, CHIRCO, CHU, CONSTANT, CORTESE,
LICCARDO, NGUYEN, OLIVERIO, PYLE, WILLIAMS;
REED.

NOES: NONE.

ABSENT: NONE.

DISQUALIFIED: NONE.

CHUCK REED
Mayor

ATTEST:

LEE PRICE, MMC
City Clerk