

RESOLUTION NO. _____

A RESOLUTION OF THE CITY OF SAN JOSE (A) AUTHORIZING THE ISSUANCE OF TAX-EXEMPT MULTIFAMILY HOUSING REVENUE BONDS TO BE DESIGNATED AS “CITY OF SAN JOSE MULTIFAMILY HOUSING MORTGAGE-BACKED BONDS (PARKMOOR) SERIES 2023F-1 (M-TEMS)(FN)” (“2023F-1 BONDS”); AND TAX-EXEMPT CASH COLLATERALIZED MULTIFAMILY HOUSING REVENUE BONDS TO BE DESIGNATED AS “CITY OF SAN JOSE MULTIFAMILY HOUSING REVENUE BONDS (PARKMOOR) SERIES 2023F-2 (CASH COLLATERALIZED)” (“2023F-2 BONDS”) (TOGETHER WITH THE 2023F-1 BONDS, THE “2023F BONDS”) IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$39,807,713; (B) APPROVING THE LOAN OF 2023F BOND PROCEEDS TO ALLIED 1510 PARKMOOR, L.P., A CALIFORNIA LIMITED PARTNERSHIP TO FINANCE THE CONSTRUCTION AND DEVELOPMENT OF AN 81-UNIT MULTIFAMILY DEVELOPMENT TO BE KNOWN AS PARKMOOR COMMUNITY APARTMENTS LOCATED AT 1510-1540 PARKMOOR AVENUE IN SAN JOSE (“DEVELOPMENT”); (C) APPROVING IN SUBSTANTIALLY FINAL FORM THE TRUST INDENTURE, THE FINANCING AGREEMENT, THE REGULATORY AGREEMENT AND DECLARATION OF RESTRICTIVE COVENANTS, THE BOND PURCHASE AGREEMENT, AND THE PRELIMINARY OFFICIAL STATEMENT (COLLECTIVELY, THE “2023F BOND DOCUMENTS”); AND (D) AUTHORIZING AND DIRECTING THE CITY MANAGER, DIRECTOR OF HOUSING, ACTING DIRECTOR HOUSING, DIRECTOR OF FINANCE, ASSISTANT DIRECTOR OF FINANCE, ASSISTANT DIRECTOR OF HOUSING, DEPUTY DIRECTOR OF DEBT & TREASURY MANAGEMENT OR THEIR DESIGNEES, TO NEGOTIATE, EXECUTE AND DELIVER THE 2023F BOND DOCUMENTS TOGETHER WITH ANY DOCUMENT ANCILLARY TO THE 2023 F BOND DOCUMENTS OR NECESSARY OR CONVENIENT FOR ISSUANCE AND SALE OF THE 2023F BONDS AND LOAN OF THE PROCEEDS THEREOF

WHEREAS, the City of San José (the “City”) is a municipal corporation and charter city duly organized and existing under a charter pursuant to which the City has the right and power to make and enforce all laws and regulations with respect to municipal affairs and certain other matters in accordance with and as more particularly provided in Sections 3, 5 and 7 of Article XI of the Constitution of the State of California and the Charter of the City (the “Charter”); and

WHEREAS, the City Charter of the City of San José (the “City”) permits the City to issue revenue bonds pursuant to California law and 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 and construction of multifamily rental housing facilities; and

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

WHEREAS, Allied 1510 Parkmoor, L.P., a California limited partnership (the “Borrower”), intends to acquire, construct and equip an 81-unit (including two manager’s units) multifamily rental housing project located at 1510 through 1540 Parkmoor Avenue in the City, known as the “Parkmoor” (the “Project”); and

WHEREAS, the Borrower has requested the City to issue its City of San Jose Multifamily Housing Mortgage-Backed Bonds (Parkmoor) Series 2023F-1 (M-TEMS)(FN) (the “Series 2023F-1 Bonds”) and its City of San Jose Multifamily Housing Revenue Bonds (Parkmoor) Series 2023F-2 (Cash Collateralized) (the “Series 2023F-2 Bonds,” and, together with the Series 2023F-1 Bonds, the “2023F Bonds”) in a collective aggregate principal amount not to exceed \$39,807,713, and to loan the

proceeds of the 2023F Bonds to the Borrower to finance the acquisition, construction and equipping of the Project; and

WHEREAS, the City will loan the proceeds of the 2023F Bonds to the Borrower and the Borrower will use the proceeds of the 2023F Bonds exclusively to finance the costs of acquisition, construction and equipping of the Project and the costs of issuing the Bonds; and

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 incurring indebtedness to finance the acquisition, construction, rehabilitation, refinancing or development of multifamily rental housing facilities, and has determined to borrow money for the purposes of financing the acquisition, construction and equipping of the Project by the issuance of the 2023F Bonds, the sole source of payment for which shall be two promissory notes to be executed and delivered by the Borrower pursuant to the Financing Agreement (as defined below), all as authorized by the Act; and

WHEREAS, the 2023F Bonds will not be paid from or secured by the general taxing power of the City nor any other asset; and

WHEREAS, the issuance, sale and delivery of the 2023F Bonds will be conducted in accordance with the City's policies related thereto, and the City Council finds that the public interest and necessity require that the City at this time make arrangements for the sale of the Bonds; and

WHEREAS, the Bonds shall be issued pursuant to an Indenture of Trust (the "Indenture"), by and between the City ("Issuer") and U.S. Bank Global Corporate Trust, as trustee (the "Trustee"), and the proceeds of the 2023F Bonds shall be loaned to the

Borrower pursuant to a Financing Agreement, by an among the City, the Borrower and the Trustee (the “Financing Agreement”); and

WHEREAS, the Indenture will be executed by the Director of Finance , or another authorized officer, on behalf of the Issuer pursuant to the Indenture, the Trustee is authorized to receive, hold, invest and disburse 2023F Bond proceeds and other funds established thereunder; to authenticate the 2023F Bonds; to apply and disburse payments to the bondholder(s); and pursue remedies on behalf of the bondholder(s); and

WHEREAS, Capital One, N.A. shall act as Construction Lender and Permanent Lender under the Construction Loan Documents and Permanent Loan Documents, as such terms are defined in the Indenture; and

WHEREAS, the Series 2023F-1 Bonds shall be credit enhanced by a certificate issued by Fannie Mae pursuant to the terms of the Indenture and the Series 2023F-2 Bonds shall be secured by cash on deposit in the Bond Proceeds Fund and the Collateral Fund pursuant to the terms of the Indenture; and

WHEREAS, the City has determined it is in its best interests to issue the 2023F Bonds through a negotiated public sale with Stifel, Nicolaus & Company, Incorporated as underwriter for the Bonds (the “Underwriter”); and

WHEREAS, Government Code Section 8869.85 requires a local agency to file an application with the California Debt Limit Allocation Committee (“Committee”) prior to the issuance of tax-exempt multifamily housing revenue obligations and the City and Borrower have previously filed such an application; and

WHEREAS, the Committee has allocated to the Project \$39,807,713 of the State of California 2023 State ceiling for private activity bonds under Section 146 of the Internal Revenue Code of 1986; and

WHEREAS, it is the intent of the City to enter into bond documentation to govern the 2023F Bonds being issued (collectively, the “2023 Bond Documents”), including: (1) the Indenture; (2) the Financing Agreement; (3) a regulatory agreement and declaration of restrictive covenants, by and between the City and the Borrower (the “Regulatory Agreement”); (4) a Bond Purchase Agreement, by and between the City and the Underwriter (the “Bond Purchase Agreement”), (5) a Preliminary Official Statement and Official Statement with respect to the 2023F Bonds; and

WHEREAS, the Preliminary Official Statement, an informational disclosure document will be released prior to the sale of the 2023F Bonds and will be followed by the final Official Statement after pricing of the 2023F Bonds; and

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

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of San José that:

1. The City Council hereby finds and declares that the above recitals are true and correct.
2. In accordance with the Act and pursuant to the Indenture, City authorizes the issuance and sale of tax-exempt bonds to be designated as the “City of San Jose Multifamily Housing Mortgage-Backed Bonds (Parkmoor) Series 2023F-1 (M-TEMS)(FN)” (the “Series 2023F-1 Bonds”) and the “City of San Jose Multifamily Housing Revenue Bonds (Parkmoor) Series 2023F-2 (Cash

Collateralized)” (the “Series 2023F-2 Bonds,” and, together with the Series 2023F-1 Bonds, the “2023F Bonds”) in a collective aggregate principal amount not to exceed \$39,807,713 with interest rates, maturity dates and other terms as provided in the finally executed Indenture. The Bonds shall be in substantially the forms set forth in and otherwise in accordance with the Indenture, and shall be executed and delivered on behalf of City by the manual or facsimile signature of the City Manager, the Director of Housing, the Director of Finance or the Assistant Director of Finance, the Deputy Director, Debt & Management or the designee of any of them (each, an “Authorized Officer”), in the form set forth in and otherwise in accordance with the Indenture. The Program for the loan of the proceeds of the Bonds to the Borrower is also authorized.

3. The form of each of the 2023 Bond Documents, in substantially the form posted on the Agenda webpage for the City Council meeting, is hereby approved. The Authorized Officers are authorized to execute each of the 2023 Bond Documents in substantially said form, with such additions thereto and changes therein as the Authorized Officer may approve or recommend in accordance with Section 5 hereof. The date, maturity date or dates, interest rate or rates, interest payment dates, series designations, denominations, form, registration privileges, manner of execution, place of payment, terms of prepayment, and other terms of the 2023F Bonds shall be as provided in the Indenture as finally executed, and the date, maturity date or dates, interest rate or rates, interest payment dates, denominations, form, registration privileges, manner of execution, place of payment, terms of prepayment, and other terms of the 2023F Bonds shall be as provided in the Indenture as finally executed. This resolution hereby authorizes the 2023F Bonds to be sold to the Underwriter pursuant to the terms of the Bond Purchase Agreement and hereby authorizes, requests and directs the Trustee to authenticate the 2023F Bonds by executing the certificate of authentication attached to the 2023F Bonds and to deliver the

2023F Bonds to the Underwriter pursuant to the terms of the Bond Purchase Agreement, when duly executed and authenticated, on behalf of the City, when directed by an Authorized Officer to do so.

4. The form of the Preliminary Official Statement posted on the Agenda webpage for the City Council meeting is hereby approved and the Underwriter is hereby authorized to distribute the Preliminary Official Statement to prospective purchasers of the Bonds in the form hereby approved, together with such additions thereto and changes therein as are determined necessary by the Director of Finance of the City, or their written designee, to make such Preliminary Official Statement final as of its date for purposes of Rule 15c2-12 of the Securities and Exchange Commission, including, but not limited to, such additions and changes as are necessary to reflect the terms imposed by any rating agency or Fannie Mae or to make the information therein accurate and not misleading. Each Authorized Officer is hereby authorized to execute a final Official Statement in the form of the Preliminary Official Statement, together with such changes as are determined necessary by the Authorized Officer to make such Official Statement complete and accurate as of its date. The Underwriter is further authorized to distribute the final Official Statement for the 2023F Bonds and any supplement thereto to the purchasers thereof upon its execution on behalf of the City as described above.
5. Any Authorized Officer executing a document approved herein, in consultation with bond counsel and the City Attorney, is authorized to approve and make such modifications, changes or additions to 2023 Bond Documents or any other ancillary documents and certificates related to the issuance of the 2023F Bonds as may be necessary or advisable, and the approval of any modification, change or addition to any of the aforementioned agreements, documents and certificates shall be evidenced conclusively by the execution and delivery thereof by such

Authorized Officer upon consultation with bond counsel and the City Attorney. Further, without limiting the foregoing, any Authorized Officer, acting alone, is authorized to execute any assignment agreement related to any allonge, mortgage note, mortgage, deed of trust or other document related to the loans made to the Borrower from the proceeds of the 2023FBonds.

6. All actions heretofore taken by the officers, employees and agents of City with respect to the issuance of the 2023F Bonds and the execution and delivery of the 2023 Bond Documents are approved, confirmed and ratified, and the officers, employees and agents of City are authorized and directed, for and in the name and on behalf of 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, including, but not limited to, those documents described in the 2023 Bond Documents and the other documents herein approved, which they, or any of them, may deem necessary or advisable in order to consummate the lawful execution, issuance and delivery of the 2023F Bonds and to effectuate the purposes thereof and of the documents herein approved in accordance with this resolution and resolutions heretofore adopted by the City Council. If any Authorized Officer is unavailable to execute the documents hereinabove mentioned, a designee or authorized deputy thereof shall be entitled to sign in the place of such Authorized Officer.
7. All consents, approvals, notices, orders, requests and other actions permitted or required by any of the documents authorized by this resolution or otherwise appropriate in the administration of the 2023F Bonds and the Program financed thereby, including without limitation any of the foregoing that may be necessary or desirable in connection with any amendment of such documents, any transfer of the Project, any substitution of security for the Bonds, or any prepayment of the 2023 Bonds may be taken or given by the Authorized Officers, and the City

Manager, the Director of Housing or the Director of Finance are hereby authorized and directed to give any such consent, approval, notice, order or request and to take any such action which such officer may deem necessary or desirable to further the purposes of this resolution; provided such action shall not create any obligation or liability of the City other than as provided in the 2023 Bond Documents and other documents approved herein.

8. If any section, paragraph or provision of this resolution shall be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such section, paragraph or provision shall not affect any remaining sections, paragraphs or provisions of this resolution.
9. This resolution shall take effect upon its adoption.

ADOPTED this 3rd day of October, 2023 by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

MATT MAHAN
Mayor

ATTEST:

TONI J. TABER, CMC,
City Clerk