

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SUNNYVALE AUTHORIZING THE CITY MANAGER TO EXECUTE A JOINT EXERCISE OF POWERS AGREEMENT RELATING TO THE CALIFORNIA MUNICIPAL FINANCE AUTHORITY; AND THE CITY COUNCIL APPROVING THE ISSUANCE OF REVENUE BONDS BY THE AUTHORITY FOR THE PURPOSE OF FINANCING OR REFINANCING THE ACQUISITION, REHABILITATION AND IMPROVEMENT OF CERTAIN FACILITIES FOR THE BENEFIT OF SUNNYVALE LIFE, L.P.

WHEREAS, pursuant Chapter 5 of Division 7 of Title 1 of the Government Code of the State of California (the "Act"), certain public agencies ("Members") have entered into a Joint Exercise of Powers Agreement Relating to the California Municipal Finance Authority, dated as of January 1, 2004 ("Agreement") in order to form the California Municipal Finance Authority ("Authority"), for the purpose of promoting economic, cultural and community development, and in order to exercise any powers common to the Members, including the issuance of bonds, notes or other evidences of indebtedness; and

WHEREAS, the City of Sunnyvale ("City"), has determined that it is in the public interest and for the public benefit that the City become a Member of the Authority in order to facilitate the promotion of economic, cultural and community development activities in the City, including the financing of projects therefor by the Authority; and

WHEREAS, the Agreement is now before the City Council of the City of Sunnyvale ("City Council"); and

WHEREAS, the City Councilmembers, with the assistance of City staff, reviewed the Agreement; and

WHEREAS, the Authority is authorized to issue and sell revenue bonds for the purpose, among others, of financing or refinancing the construction of capital projects; and

WHEREAS, Sunnyvale Life, L.P., or another affiliate of Beacon Communities Inc. (collectively, the "Borrower") has requested that the Authority issue and sell revenue bonds in the maximum principal amount of \$45,000,000 (the "Bonds") for the purpose of making a loan to the Borrower, to enable the Borrower to finance or refinance the costs of the acquisition, construction and improvement of a 208-unit multifamily rental housing facility to be located in the City ("Project"); and

WHEREAS, in order for the interest on the Bonds to be tax-exempt, Section 147(f) of the Internal Revenue Code of 1986, as amended (the “Code”), requires that an “applicable elected representative” of the governmental unit, the geographic jurisdiction of which contains the site of facilities to be financed with the proceeds of the Bonds, hold a public hearing on the issuance of the Bonds and approve the issuance of the Bonds following such hearing; and

WHEREAS, the Authority has determined that the City Council is an “applicable elected representative” for purposes of holding such hearing; and

WHEREAS, the Authority has requested that the City Council approve the issuance of the Bonds by the Authority in order to satisfy the public approval requirement of Section 147(f) of the Code and, the requirements of Section 4 of the Agreement; and

WHEREAS, notice of such public hearing has been duly given as required by the Code, and the City Council has held such public hearing at which all interested persons were given an opportunity to be heard on all matters relative to the financing or refinancing of the Project and the Authority’s issuance of the Bonds; and

WHEREAS, it is in the public interest and for the public benefit that the City Council approve the issuance of the Bonds by the Authority for the above stated purposes;

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

SECTION 1. The foregoing recitals are true and correct.

SECTION 2. The Agreement is hereby approved and the City Manager or her designee is hereby authorized and directed to execute said document, and the City Clerk or her designee is hereby authorized and directed to attest thereto.

SECTION 3. The City Council hereby approves the issuance of the Bonds by the Authority. It is the purpose and intent of the City Council that this resolution constitute approval of the issuance of the Bonds (a) by the “applicable elected representative” of the governmental unit having jurisdiction over the area in which the Project is located in accordance with Section 147(f) of the Code and; (b) by the City Council in accordance with Section 4 of the Agreement.

SECTION 4. The issuance of the Bonds shall be subject to the approval of the Authority of all financing documents relating thereto to which the Authority is a party. The City shall have no responsibility or liability whatsoever with respect to the Bonds.

SECTION 5. The adoption of this Resolution shall not obligate the City or any department to (i) provide any financing to acquire or construct the Project or any refinancing of the Project; (ii) approve any application or request for or take any other action in connection with any planning approval, permit or other action necessary for the acquisition, rehabilitation or operation of the Project; (iii) make any contribution or advance any funds whatsoever to the Authority; or (iv) take any further action with respect to the Authority or its membership therein.

SECTION 6. The City Manager, and/ or her designee is hereby authorized and directed to execute such other agreements, documents and certificates, and to perform such other acts and deeds, as may be necessary or convenient to effect the purposes of this Resolution.

SECTION 7. The Clerk shall forward a certified copy of this Resolution and an originally executed Agreement to the Authority in care of its counsel:

Ronald E. Lee, Esq.
Jones Hall
475 Sansome Street, Suite 1700
San Francisco, CA 94111

SECTION 8. This resolution shall take effect immediately upon its passage.

Adopted by the City Council at a regular meeting held on _____, by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:
RECUSAL:

ATTEST:

APPROVED:

City Clerk
(SEAL)

Mayor

APPROVED AS TO FORM:

City Attorney