

RESOLUTION NO. HA ____

A RESOLUTION OF THE CITY OF MILPITAS HOUSING AUTHORITY COMMISSION APPROVING THE SUBORDINATION OF EXISTING REGULATORY AGREEMENT TO DEEDS OF TRUST FOR REFINANCING OF THE CROSSING AT MONTAGUE APARTMENTS AND CERTAIN OTHER MATTERS RELATING THERETO

WHEREAS, Montague Parkway Associates, LP, a California limited partnership (the "Borrower"), and the Milpitas Redevelopment Agency (the "Former RDA") entered into that certain Regulatory Agreement with respect to the multifamily housing rental development known generally as the Crossing at Montague Apartments located in the City of Milpitas, Santa Clara County, California (the "Project") dated March 1, 2001 (the "Regulatory Agreement"), recorded on July 17, 2001 as Instrument No. 15776339 in the Official Records of Santa Clara County, California; and

WHEREAS, the City of Milpitas Housing Authority (the "Housing Authority") is the successor to the housing functions and housing assets of the Former RDA, pursuant to Resolution No. HA 3/8151/RA 428, adopted on January 4, 2012; and

WHEREAS, the Borrower is refinancing the Project with approximately \$74,775,000 in taxable bonds to be issued by the Borrower and approximately \$45,000,000 in tax-exempt bonds to be issued by the California Municipal Finance Authority; and

WHEREAS, the proceeds of each bond issuance will be loaned to the Borrower and secured by a deed of trust on the Project (the "Bond Deeds of Trust"); and

WHEREAS, the Borrower will also enter into a master financing agreement regarding swap arrangements for both bond issuances and loans which will in turn be secured by a deed of trust on the Project (the "Swap Deed of Trust"); and

WHEREAS, the lenders and swap facilitator have requested that the Housing Authority subordinate the Regulatory Agreement to the Bond Deeds of Trust and the Swap Deed of Trust (collectively, the "Deeds of Trust") pursuant to the subordination agreement in the form substantially on file with the Housing Authority Secretary (the "Subordination Agreement"); and

WHEREAS, Health and Safety Code Section 33334.14(a) requires certain findings to be made by the Housing Authority Commission prior to subordination of the Regulatory Agreement; and

WHEREAS, the Housing Authority Commission has been provided with additional information in staff presentations upon which the findings and actions set forth in this Resolution are based.

NOW, THEREFORE, the City of Milpitas Housing Authority Commission hereby finds, determines, and resolves as follows:

1. The Housing Authority Commission has considered the full record before it, which may include but is not limited to such things as testimony by staff and the public, and other materials and evidence submitted or provided to it. Furthermore, the recitals set forth above are found to be true and correct and are incorporated herein by reference.
2. That based on the information and analysis in the record before the Housing Authority Commission, the Housing Authority Commission hereby approves the subordination of the Regulatory Agreement to the Deeds of Trust and finds that an economically feasible alternative method of refinancing of the Project on substantially comparable terms and conditions, but without subordination, is not reasonably available.
3. The officers of the Housing Authority, including without limitation the Executive Director, are hereby

authorized and directed, jointly and severally, to do any and all things and to execute and deliver any and all documents which they deem necessary or advisable in order to carry out, give effect to and comply with the terms and intent of this resolution, including without limitation, execution, delivery and recordation of the Subordination Agreement. The officers of the Housing Authority, including without limitation the Executive Director, are hereby authorized to modify the Subordination Agreement on file with the Housing Authority Secretary, subject to Housing Authority Counsel review and approval, provided such modifications do not materially alter the business terms set forth in the Subordination Agreement.

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

PASSED AND ADOPTED this 1st day of July, 2015, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

Mary Lavelle, Housing Authority Secretary

Jose S. Esteves, Chair

APPROVED AS TO FORM:

Michael J. Ogaz, Housing Authority Counsel