

HOUSING AUTHORITY OF

THE CITY OF SAN DIEGO

RESOLUTION NO. 1001

ADOPTED ON MAY 25, 1999

A RESOLUTION AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF MULTIFAMILY HOUSING REVENUE BONDS IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$6,000,000 FOR THE PURPOSE OF REFINANCING PRIOR MULTIFAMILY MORTGAGE REVENUE BONDS IN THE AMOUNT OF \$6,000,000, DETERMINING AND PRESCRIBING CERTAIN MATTERS RELATED THERETO, AND AUTHORIZING AND APPROVING THE EXECUTION AND DELIVERY OF RELATED DOCUMENTS AND RELATED AGREEMENTS AND ACTIONS.

WHEREAS, pursuant to Chapter 1 of Part 2 of Division 24 of the Health and Safety Code of the State of California, as amended [the "Act"], the Housing Authority of the City of San Diego [the "Authority"] is authorized to issue revenue bonds for the purpose of financing the acquisition, construction, rehabilitation, refinancing, or development of multifamily rental housing and for the provision of capital improvements in connection with and determined necessary to the multifamily rental housing; and

WHEREAS, the Authority has previously issued its Multifamily Mortgage Revenue Bonds, 1989 Issue B (Creekside Village Apartments) [the "Prior Bonds"]; and WHEREAS, the "Prior Bonds" in the aggregate principal amount of \$6,000,000 remain outstanding; and

WHEREAS, the proceeds of the Prior Bonds were used by the Authority to fund a loan ["the Prior Loan"] to WKB Partnership [the "Original Borrower"] in order to provide financing with respect to a multifamily rental housing development owned at the time of the Prior Loan by the Original Borrower and now owned by Creekside Holdings, Ltd., L.P., a Utah

limited partnership [the "Borrower"]; and

WHEREAS, in connection with the provision of the Prior Loan, the Original Borrower executed that certain First Deed of Trust and Assignment of Rents dated as of November 1, 1989 [as amended, supplemented and otherwise modified to the date hereof, the "Prior Mortgage"]; and

WHEREAS, Sections 53580 through 53589.5 of the Government Code of the State of California provides a complete, additional and alternative method for the issuance of refunding bonds by local agencies, including the Authority, for the purposes described therein; and

WHEREAS, the Borrower has requested the Authority to issue revenue bonds to refinance the multifamily rental housing Project [the "Project"] financed with the Prior Bonds; and

WHEREAS, the Authority will loan the proceeds of the Bonds to the Borrower [the "Mortgage Loan"] to be used by the Borrower to prepay the Prior Loan and discharge the Prior Mortgage and in that way will be used to refinance the Project; and

WHEREAS, the Board of Commissioners of the Authority [the "Board"] has determined to approve the issuance by the Authority of up to \$6,000,000 principal amount of the Housing Authority of the City of San Diego Variable Rate Demand Multifamily Housing Revenue Refunding Bond (Creekside Villa Apartments) Issue 1999 [the "Bonds"] and the financing of a mortgage loan to be made to the Borrower for the purpose of prepaying the Prior Loan, discharging the Prior Mortgage and refunding the Prior Bonds; and

WHEREAS, said \$6,000,000 principal amount is expected to be within the amount to be approved by the City Council of the City of San Diego on \_\_\_\_\_, 1999 after publication of the "TEFRA" notice and the holding of the "TEFRA" hearing as required by the Treasury Regulations; and

WHEREAS, Banc One Capital Markets, Inc. [the "Underwriter"] has expressed its intention to purchase the bonds authorized, and the Board finds that the public interest and necessity require that the Authority at this time make arrangements for the sale of such bonds; and

WHEREAS, there have been prepared and presented to the Board for consideration at this meeting the following documents:

(1) The form of Indenture of Trust [the "Indenture"], by and between the Authority and U.S. Bank Trust National Association, as trustee [the "Trustee"], including the form of Bond;

(2) The form of Financing Agreement [the "Financing Agreement"], by and between the Authority, Banc One Capital Funding Corporation [the "Lender"], the Borrower and the Trustee;

(3) The form of Amended and Restated Regulatory Agreement [the "Regulatory Agreement"], by and among the Authority, the Trustee and the Borrower, to be entered into with respect to each Project;

(4) The form of Preliminary Official Statement relating to the Bonds [the "Preliminary Official Statement"]; and

(5) The form of Bond Purchase Agreement [the "Bond Purchase Agreement"], by and between the Authority, the Borrower and the Underwriter; and

WHEREAS, it appears that each of the documents and instruments above referred to which is now before this meeting is in appropriate form and is an appropriate instrument to be executed and delivered for the purposes intended; NOW, THEREFORE,

BE IT RESOLVED, by the Board of Commissioners of the Housing Authority of The City of San Diego, as follows:

Section 1. Finding and Determination. It is found and determined that it is

necessary and desirable for the Authority to provide for the financing of the acquisition and rehabilitation of the Projects through the issuance and sale of the Bonds in order to assist persons of low or moderate income within The City of San Diego in obtaining decent, safe and sanitary housing and to achieve certain other public purposes.

Section 2. Authorization of Bonds. For the purpose of financing the acquisition and rehabilitation of the Projects, the Authority determines to issue the Bonds in an aggregate principal amount not to exceed \$6,000,000. The Bonds shall bear such rate(s) of interest and shall mature on such date(s) as provided in the Indenture. The Bonds shall be in substantially the form set forth in the Indenture, with such appropriate variations, omissions, insertions and provisions as are required or permitted by the Indenture. The Bonds shall be special, limited obligations of the Authority and shall be payable as to principal and interest, and the obligations of the Authority under the Indenture shall be paid and satisfied, solely from the revenues, receipts and other moneys and assets pledged therefor under the Indenture.

Section 3. Execution and Delivery of the Bonds. The Bonds shall be executed on behalf of the Authority by the manual or facsimile signature of the Chairman or Vice Chairman, and the official seal of the Authority, or a facsimile thereof, shall be impressed or imprinted thereon and attested with the manual or facsimile signature of the Secretary or a deputy Secretary.

Section 4. Approval of Indenture. To provide for the terms of the Bonds, and to prescribe the terms and conditions upon which they are to be issued, secured, executed, authenticated and held and upon which the Loan is to be made, the Chairman, the Vice Chairman, the Chief Executive Officer and the Secretary or a deputy Secretary, or the designee of any such officer [such officer and any of his or her respective designees are hereinafter referred to as the "Designated Officers"] are each authorized to execute and deliver the Indenture (a copy of the form of which is on file in the Housing Commission offices as

Document No. \_\_\_\_\_), in substantially the form presented to this meeting and with such changes as may be approved by the Designated Officers executing the same, upon consultation with the General Counsel to the Authority, their execution thereof to constitute conclusive evidence of their approval of all changes from the form of Indenture presented to this meeting, which form of Indenture is in all respects approved and incorporated by reference and made a part hereof.

Section 5. Approval of Financing Agreement. To provide for the funding of the Mortgage Loan, and the duties and obligations of the Borrower, the Mortgage Lender, the Trustee and the Authority relating to the Mortgage Loan, the Designated Officers are each authorized to execute and deliver the Financing Agreement (a copy of the form of which is on file in Housing Commission offices as Document No. \_\_\_\_\_), in substantially the form presented to this meeting and with such changes as may be approved by the Designated Officers executing the same, upon consultation with the General Counsel to the Authority, their execution thereof to constitute conclusive evidence of their approval of all changes from the form of Financing Agreement presented to this meeting, which form of Financing Agreement is in all respects approved.

Section 6. Approval of Regulatory Agreement. To evidence the requirements of the Act and the Internal Revenue Code with respect to the Bonds and the Projects, the Designated Officers are each authorized to execute and deliver with respect to the Project a Regulatory Agreement (a copy of the form of which is on file in the Housing Commission offices as Document No. \_\_\_\_\_), in substantially the form presented to this meeting and with such changes as may be approved by the Designated Officers executing the same, upon consultation with the General Counsel to the Authority, their execution thereof to constitute conclusive evidence of their approval of all changes from the form of Regulatory Agreement presented to this meeting, which form of Regulatory Agreement is in all respects approved.

Section 7. Approval of Preliminary Official Statement. The form of preliminary official statement relating to the Bonds, to be used in connection with the offer and sale of the Bonds, in substantially the form presented to the Board (a copy of which is on file in the Housing Commission offices as Document No. \_\_\_\_\_), is approved, and the Board ratifies and approves distribution of the Preliminary Official Statement to prospective purchasers of the Bonds. Any Designated Officer is authorized to execute, at the time of sale of the Bonds, said form of Preliminary Official Statement as the final Official Statement [the "Official Statement"], with such additions thereto or changes therein as such Designated Officer may approve or recommend.

Section 8. Approval of Bond Purchase Agreement. The Authority is authorized to sell the Bonds to the Underwriter pursuant to the terms and conditions of the Bond Purchase Agreement, between the Authority, the Borrower and the Underwriter, in substantially the form presented to the Board (a copy of which is on file in the Housing Commission offices as Document No. \_\_\_\_\_), and such Bond Purchase Agreement is approved. Any Designated Officer is authorized to execute the Bond Purchase Agreement, in substantially said form, with such additions thereto and changes therein as such Designated Officer may approve or recommend.

Section 9. Actions Ratified and Authorized. All actions heretofore taken by the officers and agents of the Authority with respect to the issuance and sale of the Bonds are approved, confirmed and ratified, and the Designated Officers are each authorized, for and in the name and on behalf of the Authority, to do any and all things and take any and all actions and execute and deliver any and all certificates, agreements (including one or more investment agreements) and other documents, including but not limited to those described in any of the documents approved, which they, or any of them, may deem necessary or advisable in order to consummate the lawful issuance and delivery of the Bonds, and the making of the Mortgage

Loan in accordance with the Act and this resolution.

Section 10. Further Consents, Approvals and Other Actions. 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 Bonds and the lending program financed thereby, including without limitation any of the foregoing which may be necessary or desirable in connection with any amendment of such documents, any transfer of any Project, any substitution of security for the Bonds or any redemption of the Bonds, may be taken or given by the Chairman, the Vice Chairman or the Chief Executive Officer of the Authority without further authorization by the Board of Commissioners, and the Chairman, the Vice Chairman and the Chief Executive Officer are 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.

Section 11. Conflicting Resolutions Repealed. All resolutions or parts thereto in conflict herewith are, to the extent of such conflict, repealed.

Section 12. Severability. 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 provisions of this resolution. Section 13.

Effective Date. This resolution shall take effect immediately upon its adoption.

APPROVED: CASEY GWINN, General Counsel

By \_\_\_\_\_  
Prescilla Dugard  
Deputy Counsel

PD:cdk  
05/07/99  
Or.Dept:Hsg.Comm.  
HA-99-35