



Memo

To: Breckenridge Housing Authority

From: Melanie Leas, Housing Project Manager

Date: 6/8/2022 for 6/14/2022 Council Meeting

Subject: A Resolution Authorizing the Issuance of the Town of Breckenridge Housing Authority's Multifamily Taxable Mortgage-Backed Bonds (M-TMBS) (Alta Verde Workforce Housing) Series 2022 (FN); Providing for Other Matters Related to Such Bonds and the Security Therefor; and Approving the Execution and Delivery of Certain Documents in Connection Therewith

The purpose of this Resolution (Exhibit A) is to authorize the execution of [several documents](#) which are required for the Alta Verde 2 financial closing, which is scheduled for July 19, 2022. The Council previously approved a Development Management Agreement which outlines the process for Gorman and Company LLC. (Gorman) to construct and operate 150-200 apartments on Town-owned land (Lot 2 McCain Subdivision). Pursuant to that agreement the Town agreed to secure mortgage backed bonds (M-TMBS) for the purpose of financing the construction and development. In return Gorman agreed to finance, construct, and operate the apartments pursuant to a restrictive covenant. Since the execution of the Development Management Agreement, Gorman has worked thru predevelopment and entitlements, and is ready to move into construction this summer. Prior to launching construction Gorman must finalize their financing which includes the Town loans as well as conventional construction financing and bonds. The following documents will need to be executed by the Town as part of that financial closing.

1. Authorizing Resolution:

Pursuant to the Act and the Supplemental Act and for the purpose of providing financing for the costs of the Project, the Authority shall issue and sell the Bonds up to the principal amount of \$55,000,000. The use of the proceeds of the Bonds to finance the costs of the Project are in furtherance of the public purposes set forth in the Act. The Commissioners find that it is in the best interest of the Authority to issue the Bonds for the purposes set forth in this Resolution.

- The final maturity of the Bonds shall be no later than February 1, 2041
- The interest rate on the bonds shall not exceed 8%
- The net purchase price of the Bonds shall not be less than 100% of the original principal amount of the Bonds.
- The Resolution approves the forms of the Bond Purchase Agreement, Financing Agreement, Indenture and Official Statement as described below.

2. Bond Purchase Agreement

The Town of Breckenridge Housing Authority (“Issuer”) and Alta Verde Workforce, LLC (“Borrower”) will engage in a bond purchase agreement for the sale and delivery of the Bonds, which are being issued by the Issuer to provide financing for the Project. The purpose of this agreement is to secure more viable interest rate options through the Issuer.

3. Financing Agreement

This is an agreement between the Issuer, Zions Bancorporation (Trustee) and Alta Verde Workforce LLC (Borrower). The purpose of this agreement is to facilitate the lending of the proceeds of the Bonds to the Borrower to finance the acquisition, construction and equipping of multifamily rental housing at Alta Verde 2. Under this document, the Issuer assigns its rights, title and interest under the Financing Agreement to the Trustee. The Borrower agrees to execute a promissory note to the Issuer to cover the principal and interest payments on the Bonds.

- The Borrower (Alta Verde Workforce LLC) has a leasehold interest to the land improvements comprising the Project
- The Borrower will be the sole borrower under the permanent loan

4. Preliminary Official Statement

This is a document prepared by the Town of Breckenridge Housing Authority which will be utilized by Stifel, Nicolaus & Company, Inc., as underwriter, to sell the Bonds to the public. The Official Statement is required by the Securities and Exchange Commission and is used to disclose to prospective investors certain financial information that enables investors to make an informed investment decision when purchasing the Bonds. It describes the Project, the Bonds, the Issuer, and the sources of repayment of the Bonds

5. Indenture of Trust

This document dictates the terms of the Bonds and is required by lenders.

6. Addendum to Operating Agreement

This document adds the Housing Authority as an owner (.01%) of the project.

Staff Recommendation:

The documents referenced above are all requirements of the upcoming financial closing for Alta Verde 2. The Town Attorney has reviewed these documents. Staff recommends the approval of the Resolution as presented. We look forward to discussing this with the Council during the June 14th work session.

RESOLUTION NO. _____

SERIES 2022

RESOLUTION AUTHORIZING THE ISSUANCE OF THE TOWN OF BRECKENRIDGE HOUSING AUTHORITY'S MULTIFAMILY TAXABLE MORTGAGE-BACKED BONDS (M-TMBS) (ALTA VERDE WORKFORCE HOUSING), SERIES 2022(FN); PROVIDING FOR OTHER MATTERS RELATED TO SUCH BONDS AND THE SECURITY THEREFOR; AND APPROVING THE EXECUTION AND DELIVERY OF CERTAIN DOCUMENTS IN CONNECTION THEREWITH.

WHEREAS, the Town of Breckenridge Housing Authority (the "Authority"), is a public body corporate and politic duly organized and validly existing under and by virtue of the laws of the State of Colorado (the "State"), is authorized and empowered by the provisions of Part 2, Article 4, Title 29, Colorado Revised Statutes (the "Act") and the Supplemental Public Securities Act, Part 2, Article 57, Title 11, Colorado Revised Statutes (the "Supplemental Act") to finance the cost of development and construction of residential housing that substantially benefits persons of low income in the Town of Breckenridge, Colorado (the "Town"), to lend moneys or otherwise provide financing to any person for any such residential housing project or any part thereof, and to issue its revenue bonds for such purpose; and

WHEREAS, the Town owns the real property located at 50 Drift Road, Breckenridge, Colorado ("Property") and will lease the Property to Alta Verde Workforce, LLC, a Wisconsin limited liability company (the "Borrower"); and

WHEREAS, the Borrower intends to construct on the Property a 172-unit housing development specifically intended to provide housing for the local workforce with rents (excluding utilities) largely tied to 80% and 120% of the Area Median Income (the "Project"); and

WHEREAS, all members of the Town Council of the Town of Breckenridge (including the Mayor) constitute the lawful Commissioners of the Authority (the "Commissioners"); and

WHEREAS, the Commissioners have determined that the Project will substantially benefit persons of low income within the meaning of the Act and that the financing thereof will meet the public purposes of the Act; and

WHEREAS, the Borrower has applied to the Authority for financial assistance for the purpose of providing a portion of the funds with which to construct and equip the Project; and

WHEREAS, the Commissioners have determined that it is necessary and advisable and in the best interest of the Authority and the Authority has determined, after investigation, that the financial assistance to be provided to the Borrower is needed and is economically feasible, and has deemed that the purpose of the Act in providing housing for low-income persons will be realized by the issuance of the Authority's Multifamily Taxable Sustainable Mortgage-backed Bonds (M-TMBS—Fannie Mae Designated Sustainable MBS) (Alta Verde Workforce Housing), Series 2022

(FN), in the aggregate principal amount of not to exceed \$55,000,000 (the “Bonds”), and the Authority’s use of the proceeds of the Bonds for the Authority to make a loan to the Borrower pursuant to a Financing Agreement dated as of July 1, 2022 (the “Financing Agreement”) among the Issuer, the Borrower, and Zions Bancorporation, National Association, as trustee (the “Trustee”); and

WHEREAS, the Bonds will be issued pursuant to the Trust Indenture dated as of July 1, 2022 (the “Indenture”) between the Authority and Zions Bancorporation, National Association, as trustee (the “Trustee”); and

WHEREAS, the Financing Agreement requires the Borrower to make payments in amounts and at times sufficient to pay the principal of and premium, if any, and interest on the of the Bonds when due as provided in the Financing Agreement; and

WHEREAS, there have been filed with the Executive Director/Secretary of the Authority (the “Executive Director”) forms of the following documents: (i) the Indenture; (ii) the Financing Agreement; (iii) the Bond Purchase Agreement (the “Purchase Agreement”) between the Authority and Stifel, Nicolaus & Company, Incorporated, the underwriter of the Bonds; and (iv) a Preliminary Official Statement relating to the Bonds (the “Preliminary Official Statement”).

WHEREAS, all acts, conditions and things required by law to exist, happen and be performed precedent to and in connection with the authorization of the Bonds exist, have happened and have been performed in regular and due time, form and manner as required by law, and it is appropriate for the Commissioners to adopt this resolution at this time.

NOW, THEREFORE, BE IT RESOLVED by the Commissioners of the Authority as follows:

SECTION 1. Pursuant to the Act and the Supplemental Act and for the purpose of providing financing for the costs of the Project, the Authority shall issue and sell the Bonds up to the principal amount of \$55,000,000. Such Bond financing is declared and determined to be important to the feasibility of the Project. The use of the proceeds of the Bonds to finance the costs of the Project are in furtherance of the public purposes set forth in the Act. The Commissioners find that it is in the best interest of the Authority to issue the Bonds for the purposes set forth in this Resolution.

SECTION 2. The Commissioners hereby elect to apply the Supplemental Act to the Bonds. Pursuant to the Supplemental Act and this Resolution, the Bonds shall recite that they are issued under the authority of this Resolution and the Supplemental Act. It is the intention of the Authority that such recital shall conclusively impart full compliance with the provisions of this Resolution and shall be conclusive evidence of the validity and the regularity of the issuance of the Bonds after delivery for value and that all Bonds issued containing such recital shall be incontestable for any cause whatsoever after their delivery for value.

SECTION 3. The Commissioners hereby approve the issuance of the Bonds in the aggregate principal amount of not to exceed \$55,000,000. The Bonds shall be executed in the name of the Authority with the manual or facsimile signature of the Authority’s Chairperson (the

“Chairperson”) and the manual or facsimile signature of its Executive Director and the seal of the Authority shall be impressed or reproduced thereon. Pursuant to the Supplemental Act, the Commissioners hereby delegate to the Authority’s Executive Director or the Chairperson the independent authority to determine, without any requirement that the Commissioners approve such determination, the principal amount, the interest rate and the maturity date of the Bonds, subject to the limitations provided in this Section, and to accept and sign the Purchase Agreement, to make determinations in relation to the Bonds, and, if necessary, to execute a sale certificate (the “Sale Certificate”) setting forth such determinations, without any requirement that the Commissioners approve such determinations, including without limitation, the date that the Bonds will be issued and delivered to the underwriters, subject to the following parameters and restrictions:

- a. The final maturity of the Bonds shall be no later than February 1, 2041;
- b. The interest rate on the Bonds shall not exceed 8%;
- c. The aggregate principal amount of the Bonds shall not exceed \$55,000,000; and
- d. The net purchase price of the Bonds shall not be less than 100% of the original principal amount of the Bonds.

The delegation set forth in this Section 3 shall be effective for one year following the date hereof.

SECTION 4. The Indenture, the Purchase Agreement, the Preliminary Official Statement, and the Financing Agreement in substantially the forms thereof presented to the Commissioners and filed with the Authority (the “Transaction Documents”) are in all respects approved, authorized and confirmed, but such Transaction Documents may be completed, corrected or revised as deemed necessary by the parties thereto in order to carry out the purposes of this Resolution and as the Chairperson or the Executive Director shall approve, the execution thereof being deemed conclusive approval of any such changes by the Authority. The Chairperson is hereby authorized and directed to execute and deliver the Indenture and the Financing Agreement, and in the event that the Chairperson is not available to execute such documents, the Vice Chairperson (the “Vice Chairperson”) is hereby authorized and directed to execute and deliver such documents for and on behalf of the Authority. The Sale Certificate and the Purchase Agreement shall be executed by the Chairperson or the Executive Director.

SECTION 5. The Preliminary Official Statement is in all respects approved, authorized and confirmed, but with such amendments, additions and deletions as are in accordance with the facts and not inconsistent herewith. The final Official Statement (the “Official Statement”) in substantially the form of the Preliminary Official Statement is in all respects approved, authorized and confirmed, but with such amendments, additions and deletions as are in accordance with the facts and not inconsistent herewith. The Chairperson is hereby authorized and directed to execute the Official Statement for and on behalf of the Authority, and in the event that the Chairperson is not available to execute the Official Statement, the Vice Chairperson is hereby authorized and directed to execute the Official Statement for and on behalf of the Authority. The execution of an Official Statement by the Chairperson or the Vice Chairperson, shall be conclusively deemed to evidence the approval of the form and contents thereof by the Authority. The distribution by the underwriter of the Preliminary Official Statement and the Official Statement to interested persons

in connection with the sale of the Bonds is hereby authorized, approved and confirmed. The designation of the Preliminary Official Statement by the Executive Director as “final” for purposes of Rule 15c2-12 (the “Rule”) of the Securities and Exchange Commission, except for omissions permitted by the Rule, is hereby authorized, approved and confirmed.

SECTION 6. The Bonds shall be special obligations of the Authority and be payable solely from the revenues and receipts and other amounts received by or on behalf of the Authority pursuant to the Indenture and the Financing Agreement. The Bonds shall not be a debt or indebtedness of the Town or the State or any political subdivision thereof (except the Authority), and neither the Town, the State nor any political subdivision thereof (except the Authority) shall be liable thereon, nor in any event shall the Bonds be payable out of any funds or properties other than those of the Authority pledged under the Indenture. The Bonds shall not constitute an indebtedness or a multiple fiscal-year financial obligation within the meaning of any constitutional or statutory debt limitation or restriction. Neither the Town, the State nor any political subdivision thereof (except the Authority from the sources identified in the Indenture) shall be liable for payment of the Bond or in any event shall principal of and interest on the Bond be payable out of any funds or assets other than those pledged to that purpose by the Authority in the Indenture. No taxing powers, if any, of the State or any political subdivision thereof are available to pay the Bonds or interest thereon. The form, terms and provisions of the Transaction Documents are hereby in each and every respect approved, ratified and confirmed, and each and every transaction effected or to be effected pursuant to, and in substantial accordance with, the terms of the Transaction Documents, and such other documents in connection with the financing of the Project and related documents, all on such terms as may be agreed upon by the Executive Director.

SECTION 7. The form, terms and provisions of the Bonds, in the form contained in the Indenture and upon the terms to be set forth in the Sale Certificate, are hereby approved, with such changes therein as are approved by the Chairperson or the Executive Director; and the manual or facsimile signature of the Chairperson is hereby authorized and directed to be placed on the Bonds, the seal of the Authority, or a facsimile thereof, is hereby authorized and directed to be affixed to the Bonds, and the Executive Director is hereby authorized and directed to attest the Bonds by manual or facsimile signature, in accordance with the Indenture. In the event that the Chairperson is not available, the manual or facsimile signature of the Vice Chairperson is hereby authorized and directed to be placed on the Bonds. The execution of the Bonds by the Chairperson, or the Vice Chairperson shall be conclusively deemed to evidence the approval of the form, terms and provisions thereof by the Authority.

SECTION 8. The Commissioners hereby authorize and direct the Chairperson, the Vice-Chairperson, the Executive Director, or other officers or employees of the Authority to take all actions and do all things necessary in connection with the issuance, execution and delivery of the Bonds and the Transaction Documents.

SECTION 9. The Authority is authorized to become a member of the Borrower for the limited purpose of providing for exemption of the Project from property taxes and, during construction, sales and use taxes pursuant to C.R.S. § 29-4-227.

SECTION 10. The Executive Director is hereby authorized and directed to attest all signatures and acts of any officer of the Authority in connection with the matters authorized by

this Resolution and to place the seal of the Authority on any document authorized and approved by this Resolution. The Chairperson, Vice Chairperson, the Executive Director, and other officers and employees of the Authority are hereby authorized and directed to execute and deliver for and on behalf of the Authority any and all additional certificates, documents and other papers, and to perform all other acts and to take all other action that they may deem necessary or appropriate in order to implement and carry out the transactions and other matters authorized by this Resolution. The approval hereby given to the various documents referred to above includes an approval of such additional details therein as may be necessary and appropriate for their completion, deletions therefrom and additions thereto as may be approved by the Chairperson or the Executive Director, prior to the execution of the documents. The execution of any instrument by the appropriate officers and employees of the Authority herein authorized shall be conclusive evidence of the approval by the Authority of such instrument in accordance with the terms hereof.

SECTION 11. Pursuant to the Act, neither the Commissioners nor any person executing the Bonds shall be liable personally on the Bonds or be subject to any personal liability or accountability by reason of the issuance thereof. Pursuant to Section 11-57-209 of the Supplemental Act, if a member of the Commissioners, or any officer or agent of the Authority acts in good faith, no civil recourse shall be available against such member, officer, or agent for payment of the principal, interest or prior redemption premiums on the Bonds. Such recourse shall not be available either directly or indirectly through the Commissioners or the Authority, or otherwise, whether by virtue of any constitution, statute, rule of law, enforcement of penalty, or otherwise. By the acceptance of the Bonds and as a part of the consideration of their sale or purchase, any person purchasing or selling such Bonds specifically waives any such recourse.

SECTION 12. After the Bonds are issued, this Resolution shall be and remain irrevocable, and may not be amended except in accordance with the Indenture, until the Bonds and the interest thereon shall have been fully paid, canceled and discharged in accordance with the Indenture.

SECTION 13. All bylaws, orders and resolutions of the Authority, or parts thereof, inconsistent with this Resolution or with any of the documents hereby approved, are hereby repealed only to the extent of such inconsistency. This repealer shall not be construed as reviving any bylaw, order or resolution of the Authority, or part thereof.

SECTION 14. If any section, paragraph, clause or provision of this Resolution or the documents hereby authorized and approved shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Resolution or such documents.

SECTION 15. All acts of the officers, employees and agents of the Authority which are in conformity with the purposes and intent of this Resolution and in furtherance of the issuance and sale of the Bonds and the funding of the Project taken prior to the date hereof be, and the same hereby are, in all respects, ratified, approved and confirmed.

SECTION 16. All resolutions and orders, or parts thereof, in conflict herewith are hereby superseded to the extent of such conflict.

SECTION 17. This Resolution shall be in full force and effect immediately upon its passage, as by law provided.

ADOPTED by the Commissioners of the Town of Breckenridge Housing Authority at a regular open public meeting thereof held on June 14, 2022.

**TOWN OF BRECKENRIDGE HOUSING
AUTHORITY**

By: _____
Chairperson

ATTEST:

Executive Director of the Authority