

RESOLUTION NO. \_\_\_\_\_  
(HOUSING AUTHORITY RESOLUTION NO. \_\_\_\_\_)

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CHULA VISTA AND THE HOUSING AUTHORITY, IN ITS CAPACITY AS THE SUCCESSOR HOUSING ENTITY WITHIN THE MEANING OF HEALTH AND SAFETY CODE SECTION 34176, (1) APPROVING A LOAN OF UP TO \$3,300,000 FOR LAND ACQUISITION AND PREDEVELOPMENT EXPENSES TO WAKELAND HOUSING AND DEVELOPMENT CORPORATION OR AN AFFILIATED DEVELOPMENT ENTITY (“DEVELOPER”) FOR A NEW DEVELOPMENT TO BE LOCATED AT 750 AND 754-760 ANITA STREET (“SITES”) AND RELATED COVENANTS TO OFFER RENT- AND INCOME-RESTRICTED APARTMENTS FOR LOWER-INCOME HOUSEHOLDS (“PROJECT”); AND (2) AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO NEGOTIATE AND EXECUTE ALL DOCUMENTS RELATED TO THE LOAN AND THE ACQUISITION AND DEVELOPMENT OF THE SITES IN A FORM APPROVED BY THE CITY ATTORNEY’S OFFICE

WHEREAS, to facilitate and materially assist the housing industry in providing adequate and affordable shelter for all economic segments of the community and to provide a balance of housing opportunities for very low income, low income and senior households, the City of Chula Vista (“City”) has adopted Chula Vista Municipal Code (“CVMC”) Chapter 19.90 [Affordable Housing Incentives], consistent with Sections 65915 and 65917 of the California Government Code; and

WHEREAS, Wakeland Housing and Development Corporation, utilizing a to-be-formed limited partnership of which Wakeland Housing and Development Corporation will be a partner, the “Developer,” proposes to construct a 47 unit family multifamily rental development, with units affordable to extremely low, very low and low income households to be located at 750-752 and 754-760 Anita Street in the southwestern area of Chula Vista (the “Project”); and

WHEREAS, Developer is applying for nine percent (9%) tax credits from the Tax Credit Allocation Committee (TCAC); and

WHEREAS, in accordance with CVMC section 19.90.050, the Developer has requested assistance to reduce the development costs for the construction of the Project for its financial feasibility; and

WHEREAS, the City’s evaluation of the development budget, operating pro forma, and source and uses for the Project determined that additional financing is appropriate and necessary in order to make the Project feasible; and

WHEREAS, California Health and Safety Code sections 33334.2, 33334.6, and 34176.1 authorize and direct the Housing Authority (in its capacity as the Successor Housing Entity with the meaning of Health and Safety Code section 34176; "Housing Authority") to expend Low and Moderate Income Housing Asset Funds for the purposes of increasing, improving and preserving the community's supply of low and moderate income housing available at affordable housing cost to persons and families of low- and moderate-income, lower income, and very low income; and

WHEREAS, pursuant to Health and Safety Code section 34176(d) the Housing Authority has established a Low and Moderate Income Housing Asset Fund (the "Housing Fund"); and

WHEREAS, pursuant to Health and Safety Code sections 33334.2(e) and 34176.1, in carrying out its affordable housing activities, the Housing Authority is authorized to provide subsidies to or for the benefit of very low income and lower income households, or persons and families of low or moderate income, to the extent those households cannot obtain housing at affordable costs on the open market, and to provide financial assistance for the construction and rehabilitation of housing which will be made available at an affordable housing cost to such persons; and

WHEREAS, the Housing Authority wishes to provide Developer with a pre-development and land acquisition loan in an amount not to exceed three million three hundred thousand dollars (\$3,300,000) from its Housing Fund to assist with the financing gap for the construction of the Project with the loan to be secured against the Sites; and

WHEREAS, the Project furthers the goals of the City and the Housing Authority as it will facilitate the creation of new affordable rental housing which will serve the needs and desires of various age, income, and ethnic groups of the neighborhood and the City; and

WHEREAS, in order to carry out and implement California Health and Safety Code sections 33334.2, 33334.6, and 34176.1 and the City's Housing Element of the General Plan and the affordable housing requirements and goals thereof, the City and Housing Authority propose to enter into a Housing Authority Loan Agreement and Related Restricted Covenants (the "Housing Authority Loan Agreement") and City and Housing Authority Declarations of Covenants, Conditions and Restrictions (the "Declarations"), respectively, with the Developer, to be recorded as encumbrances to the Project, pursuant to which the Housing Authority would make the loan to the Developer, and the Developer would agree to develop and operate the Project in accordance with the requirements of the Housing Authority Loan Agreement and the associated City and Housing Authority Declarations, restricting occupancy of approximately 47 of the apartment units in the Project to extremely low, very-low and low-income households and rent those units at an affordable housing cost, plus 1 unrestricted apartment units which will be the managers' units; and

WHEREAS, the Housing Authority Loan Agreement will leverage the investment of the Housing Authority by requiring the Developer to obtain additional financing for the construction and operation of the Project through a combination of a loan obtained from the proceeds of an equity contribution by a limited partner investor in consideration for the "9% Tax Credits" to be generated by the Project and other financing programs; and

WHEREAS, in accordance with the requirements of CEQA, the Environmental Review Coordinator has determined that the proposed project qualifies for a Class 32 infill development categorical exemption (15332) for new residential units on residential property consistent with the

Residential Apartment (R-3) zoning designation, therefore no further environmental review or documentation is required; and,

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Chula Vista, ~~that it by the City Council of the City Chula Vista~~ and the Housing Authority, in its capacity as the Successor Housing Entity within the meaning of Health and Safety Code section 34176, that it finds the Project is consistent with the provisions of Chula Vista Municipal Code Chapter 19.90, wherein Developer will construct housing units to be restricted for occupancy by very-low and low-income households as set forth in CVMC section 19.90.040; and

BE IT FURTHER RESOLVED by the City Council of the City of Chula Vista and by Housing Authority, in its capacity as the Successor Housing Entity within the meaning of Health and Safety Code section 34176, that the financial assistance requested by Developer, in accordance with CVMC section 19.90.050, is necessary to provide for affordable rents and to lower development costs. The Project cannot be built without such assistance; and

BE IT FURTHER RESOLVED by Housing Authority, in its capacity as the Successor Housing Entity within the meaning of Health and Safety Code section 34176, that it does hereby approve a loan from its Housing Fund to Developer for predevelopment and land acquisition costs for a new development to offer approximately 47 rent-and income-restricted residential units for extremely low, very-low and low-income households to be located at 750-752 and 754-760 Anita Street in the southwestern area of Chula Vista in an amount up to (or not to exceed) three million three hundred thousand dollars (\$3,300,000) and to be secured against the Sites and repaid from cash surplus in annual installments; and

BE IT FURTHER RESOLVED by the City Council of the City of Chula Vista and Housing Authority, in its capacity as the Successor Housing Entity with the meaning of Health and Safety Code section 34176, that it directs staff to prepare all necessary documents and any actions, as required by Chula Vista Municipal Code Chapter 19.90 and California Health and Safety Code sections 33334.2, 33334.6, and 34176.1 to commit the Housing Funds, and authorizing the City Manager, or his designee to negotiate and execute a Housing Authority Predevelopment and Land Acquisition Loan Agreement and all associated loan documents, and regulatory agreements and other actions necessary for the financing, acquisition and development of the Sites and Project, consistent with the City's standard documents as reviewed and approved in form by the City Attorney's office, and, at minimum, subject to the following terms and conditions:

1. Certification of the appropriate CEQA documentation prior to any Housing Authority Loan disbursements for any portion of the Project.
2. Developer shall secure all other financing necessary for the acquisition and development of the Project within two years of acquisition of the Sites. If Developer is unable to receive commitment of financing within such period, the Housing Authority Loan shall become due and payable in full or Sites shall be transferred to the Housing Authority.
3. The loan repayment will be secured by Deeds of Trust and Promissory Notes for the properties in favor of the Housing Authority and recorded against the Project property.

The Housing Authority's loan will be junior to the Permanent Financing and the deferred developer fees on the Project.

4. The term of the Agency loan shall be fifty-five (55) years.
5. The outstanding balances shall all accrue simple interest at 3 percent (3%) per annum.
6. Payment of principal and interest on the Housing Authority loan shall be made out of a fund equal to fifty percent (50%) of the "residual Receipts", defined as the income which remains after the payment of the debt service on the permanent loan, deferred developer fee and reasonable operating expenses.
7. Developer will be required to operate the Project consistent with the Regulatory Agreement required by the Project's tax credit financing, the City's Affordable Housing Program, and the Housing Authority's financing, the covenants imposed by these Agreements, and any other project requirements that may be imposed by other financing to be secured by Developer, to include at a minimum:
  - a. Tenancy preference for a minimum of 10 percent of the available units for those persons who are former members of the armed forces of the United States of America.
  - b. A minimum of 10 percent of the available units for occupancy by and affordable to extremely low income households (less than 30 percent of the AMI).
  - c. To the extent restrictions of the financing and housing programs that are applicable to the Property limit the rent and/or occupancy of the Property, the most restrictive of these restrictions shall apply.
8. The Housing Authority assistance is based upon the assumptions presented within the sources and uses of funds, development budget, development proforma and other information filed with the Affordable Housing Review Application for the project as submitted and reviewed by the City's Development Services Housing Division. The assistance is a maximum level of participation. It is expected that any substantive revisions in such financing assumptions which would lead to an increase in other resources available, would therefore reduce the level of Housing Authority assistance.

Presented by

Approved as to form by

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Kelly G. Broughton, FASLA  
Director of Development Services

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Glen R. Googins  
City Attorney/Legal Counsel