

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) APPROVING A LOAN OF UP TO \$858,740 FOR LAND ACQUISITION AND PREDEVELOPMENT EXPENSES AND \$1,036,425 FOR CONSTRUCTION RELATED COSTS USING HOME INVESTMENT PARTNERSHIP ACT FUNDS FOR THE US DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT TO WAKELAND HOUSING AND DEVELOPMENT CORPORATION OR AN AFFILIATED DEVELOPMENT ENTITY (“DEVELOPER”) FOR A NEW DEVELOPMENT TO BE LOCATED AT 748, 750-752 AND 754-760 ANITA STREET (“SITES”) AND RELATED COVENANTS TO OFFER RENT- AND INCOME RESTRICTED APARTMENTS FOR LOWER-INCOME HOUSEHOLDS (“PROJECT”); (2) AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO NEGOTIATE A FIRST AMENDMENT TO THE EXSITING LOAN AND RELATED DOCUMENTS FOR 750-752 AND 754-760 ANITA STREET TO INCORPORATE 748 ANITA STEEET, AND EXECUTE ALL DOCUMENTS RELATED TO THE LOAN AND THE ACQUISITION AND DEVELOPMENT OF THE ADDITIONAL SITE; (3) AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO NEGOTIATE AND EXECUTE ALL HOME INVESTMENT PARTNERSHIP ACT (HOME) DOCUMENTS RELATED TO THE HOME LOAN; AND (4) APPROPRIATING FUNDS IN THE 2017/2018 BUDGET THEREFOR

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 72-unit family multifamily rental development, with units affordable to extremely low, very low and low income households to be located at 748, 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 section 34176(d) 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 ("LMIHAF") 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 LMIHAF; and

WHEREAS, pursuant to Health and Safety Code section 34171(d), 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 City is an entitlement community under the United States Department of Housing and Urban Development's ("HUD") HOME Investment Partnership Act program ("HOME") and receives an annual entitlement funding for the provision of housing for lower income households; and

WHEREAS, the City/Housing Authority and the Developer entered into various Agreements to secure the City/Housing Authority financial interest, including but not limited to, Declaration of Covenants, Conditions, and Restrictions (2), Deed of Trust (2), a Promissory Note, a Land Acquisition and Pre-Development Loan Agreement, Notice of Affordability Covenants and an Option of First Right of Refusal (Loan Agreements and Related Covenants); and

WHEREAS, the Housing Authority wishes to provide Developer with an additional pre-development and land acquisition loan in an amount of eight hundred fifty-eight thousand seven hundred and forty dollars (\$858,740) from its LMIHAF to assist with the financing gap for the construction of the Project with the loan to be secured against the Sites; and

WHEREAS, the City wishes to provide the Developer, a Community Housing Development Organization, with one million thirty-five thousand four hundred twenty-five dollars (\$1,035,425) for constructed related costs using HOME funds from HUD; and

WHEREAS, the additional funds will bring the total amount of City and Housing Authority assistance in an amount not to exceed five million one hundred ninety-five thousand one hundred sixty-five dollars (\$5,195,165); and

WHEREAS, the City/Housing Authority and the Developer will enter into an Amendment(s) of the existing Loan Agreements and Related Covenants. In addition, City will execute HOME Investment Partnership Act Agreements including but not limited to a Promissory Note, Deed of Trust, and HOME Regulatory Agreement; 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 section 34176(d) 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 72 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 and City HOME Loan Agreement will leverage the investment of the Housing Authority and City 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.

NOW, THEREFORE, BE IT RESOLVED 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 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, as a HOME entitlement community, and 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 the City and 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 loans from its Housing Funds to Developer for a new development to offer approximately 72 rent-and income-restricted residential units for extremely low, very-low and low-income households to be located at 748, 750-752 and 754-760 Anita Street in the southwestern area of Chula Vista in an amount up to (or not to exceed) exceed eight hundred fifty eight thousand seven hundred and forty dollars (\$858,740) from its LMIHAF for predevelopment and land acquisition costs and one million thirty five thousand four hundred twenty five dollars (\$1,035,425) in HOME Funds for constructions costs to be secured against the Sites and repaid from cash surplus (residual receipts, if any) in annual installments; and

BE IT FURTHER RESOLVED by the City 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 California Health and Safety Code section 34176(d) to commit the Housing Funds, and authorizing the City Manager, or his designee to negotiate and execute an Amendment(s) to the executed City/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 execute the HOME Investment Partnership Act Loan (HOME) Documents and other necessary actions for financing of the Project, and, at minimum, subject to the following terms and conditions:

1. Certification of the appropriate CEQA documentation is one file prior to any Housing Authority Loan disbursements for any portion of the Project.
2. Certification of the appropriate NEPA documentation prior to any City loan commitment and loan disbursements for any portion of the Project, including a Request for Release of Funds approved by the HUD.
3. 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 and the City's HOME funds shall be reallocated to a new project to avoid a recapture of these HUD funds.

4. The loan repayment of the LMIHAF will be secured by an Amendment(s) to the existing Deeds of Trust and Promissory Notes for the properties in favor of the Housing Authority and recorded against the Project property to add 748 Anita Site C and the additional investment of said funds. The Housing Authority's loan will be junior to the Permanent Financing and the deferred developer fees on the Project.
5. The loan repayment of the HOME funds will be secured by a Deed of Trust, Promissory Note, and Regulatory Agreement in favor of the City and recorded against the Project property (748, 750-752 and 754-760 Anita Street).
6. The term of the Housing Authority loan covenant and loan term shall be fifty-five (55) years.
7. The HOME Investment Partnership Act (HOME) loan term shall be fifty-five (55) years, with a 20-year affordability covenant.
8. The outstanding balances shall all accrue simple interest at 3 percent (3%) per annum. However, interest shall not accrue during the predevelopment time period.
9. Payment of principal and interest on the Housing Authority loan and City HOME 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.
10. 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/City's financing, the covenants imposed by these Agreements, and any other project requirements.
11. The Housing Authority and City 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/City assistance.
12. That it authorizes a budget amendment to the 2017/2018 Housing Authority's Low and Mod Income Housing and an appropriation of five hundred thousand dollars (\$500,000).

Presented by

Approved as to form by

Kelly G. Broughton, FASLA
Director of Development Services

Glen R. Googins
City Attorney