

RESOLUTION NO. _____
(HOUSING AUTHORITY RESOLUTION NO. _____)

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CHULA VISTA AND THE CHULA VISTA HOUSING AUTHORITY (IN ITS CAPACITY AS THE SUCCESSOR HOUSING ENTITY) (1) APPROVING A LOAN OF UP TO \$1,036,425 FOR CONSTRUCTION-RELATED COSTS USING THE CITY'S LOW AND MODERATE INCOME HOUSING ASSET FUND ("LMIHAF") 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; (2) AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO NEGOTIATE AN AMENDMENT(S) TO THE EXISTING LOAN DOCUMENTS FOR 748, 750-752 AND 754-760 ANITA STREET TO INCORPORATE THE ADDITIONAL LMIHAF TO THE PROJECT; (3) AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO EXECUTE ALL AMENDED LOAN AND RELATED DOCUMENTS TO THE LMIHAF LOAN

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 96-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 ("Sites") in the southwestern area of Chula Vista (the "Project"); and

WHEREAS, in accordance with Chula Vista Municipal Code ("CVMC") section 19.90.050, the Developer requested assistance to reduce the development costs for the construction of the Project for its financial feasibility and, after the City's evaluation of the development budget, operating pro forma, and source and uses for the Project determined that additional financing was appropriate and necessary in order to make the Project feasible, the City/Housing Authority granted, via Resolution Nos. 2017-188 and 2018-076, financing in the amount of five million one hundred ninety-five thousand one hundred sixty-five dollars (\$5,195,165), including one million thirty-five thousand four hundred twenty-five dollars (\$1,035,425) for constructed related costs using HOME funds from HUD; and

WHEREAS, since approval of the above stated resolutions, , the Developer has successfully received a commitment for the use of the State of California's No Place Like Home ("NPLH") funding. The Developer is also pursuing additional funding from the State Department of Housing and Community Development's ("HCD") Multi-Family Housing Program ("MHP") (collectively "State Funding Sources") ; and

WHEREAS, the above stated State Funding Sources have state requirements and regulations, but the previously approved City financing using HOME funds from HCD has federal requirements and regulations and, as a result, Developer is seeking to streamline its requirements and wishes to have only state requirements and regulations and, to do so, the Developer seeks to withdraw its application to the City to provide one million thirty-five thousand four hundred twenty-five dollars (\$1,035,425) for constructed related costs using HOME funds from HUD- thereby making the financing subject only to state requirements and regulations; and

WHEREAS, to meet the gap caused by the withdrawal of its request of HUD funds noted above, Developer is requesting Low and Moderate Income Housing Asset Fund ("LMIHAF") funds from the City's Housing authority in the amount of one million thirty-five thousand four hundred twenty-five dollars (\$1,035,425) for constructed related costs; and

WHEREAS, pursuant to Health and Safety Code section 34176(d) the Housing Authority has established a LMIHAF; and

WHEREAS, California Health and Safety Code section 34176.1 authorizes and directs 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 LMIHAF 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-- which this Project furthers; and

WHEREAS, the City/Housing Authority and the Developer will enter into various Agreements or amendments to prior Agreements, as the case may be, 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 loan in an amount of one million thirty-five thousand four hundred twenty-five dollars (\$1,035,425) 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 additional LMIHAF 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)-the amount previously approved by City Council; 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 34176.1 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 entity and Housing Authority Declarations, restricting occupancy of 96 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 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 “4% Tax Credits” to be generated by the Project and other financing programs; and

WHEREAS, Article XXXIV of the California Constitution (Article 34) requires that voter approval be obtained before any “state public body” develops, constructs or acquires a “low rent housing project.” The City obtained voter approval on April 11, 1978 and subsequently on November 6, 2006 with the passage of Proposition C, which authorized the development, construction, and acquisition of housing for persons of low-income. With 96 total units in the proposed Project, there remains a balance of 871 units under the City’s current authority to facilitate these activities; and

WHEREAS, in accordance with the requirements of CEQA, the Environmental Review Coordinator has determined that the proposed project qualifies for an categorical exemption as a Supportive Housing Project pursuant to Government Code 65651 and Public Resource Code Section 21080(b)(1) and state legislation AB-2162, 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 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 96 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) one million thirty five thousand four hundred twenty five dollars (\$1,035,425) in LMIHAF 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 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. Developer shall secure all other financing necessary for the acquisition and development of the Project. If Developer is unable to receive commitment of financing within two years, the Housing Authority Loan shall become due and payable in full or Sites shall be transferred to the Housing Authority.
3. 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 Sites and include 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.
4. The loan repayment of the LMIHAF 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).
5. The term of the Housing Authority loan covenant and loan term shall be fifty-five (55) years.
6. The outstanding balances shall all accrue simple interest at 3 percent (3%) per annum. However, interest shall not accrue during the predevelopment time period.
7. 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.

8. 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.
9. 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.
10. That it authorizes a budget amendment to the 2019/2020 Housing Authority's LMIHAF.

Presented by

Approved as to form by

Kelly G. Broughton, FASLA
Director of Development Services

Glen R. Googins
City Attorney