

RESOLUTION NO. 12-182

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PASO ROBLES MODIFYING ITS
PRIOR APPROVAL UNDER RESOLUTION NO. 12-031 FOR DEFERRAL OF WATER
CONNECTION, SEWER CONNECTION, DEVELOPMENT IMPACT, AND BUILDING
PERMIT FEES TO ASSIST THE REDEVELOPMENT OF OAK PARK PUBLIC
(LOW INCOME) HOUSING**

WHEREAS, at its meeting of June 1, 2010, the City Council of the City of El Paso de Robles (the “City Council”) approved Planned Development (PD) 10-001 authorizing the redevelopment of Oak Park Public Housing to include the demolition of the existing 148 residential units and construction of 302 new low income units with a public park, community center, and offices (the “Project”); and

WHEREAS, the Housing Authority of the City of Paso Robles and the Housing Authority of the County of Monterey, who are co-applicants (the “Applicants”) for the Project, obtained approvals for Federal Low Income Housing Tax Credit financing for the Project, which will require that occupancy of all 302 units be restricted to households earning 60 percent or less of the Area (County) Median Income; and

WHEREAS, the Applicants submitted a letter, dated February 21, 2012, requesting that the City of Paso Robles (the “City”) defer Water Connection, Sewer Connection, Development Impact, and Building Permit Fees (hereafter collectively referred to as “City Fees”) for “Phase One” of the Project, which includes 80 dwelling units, of which 40 will be replacement units (for existing units) and 40 will be new units; and

WHEREAS, on March 6, 2012, the City Council adopted Resolution No. 12-031 approving the deferral of City Fees, to be evidenced by a loan agreement, with a note in the principal amount of \$1,018,000 to be paid over 17 years at an average annual compounded rate of 3.75% from residual receipts from the Project, and secured by a deed of trust to be recorded against the Project; and

WHEREAS, Applicants are seeking approvals from additional sources for financing for the Project, including through the USDA housing program; and

WHEREAS, on November 20, HACM filed a letter requesting that the term of the loan for the fee deferral be extended to 33 years to accommodate underwriting requirements for the USDA Financing, with other terms and conditions for repayment of the City Fees loan to remain the same; and

WHEREAS, the Project would help the City meet its low-income housing needs, as set forth in the 2011 Housing Element of the General Plan and the City’s objective of housing its workforce as stated in the 2006 Economic Strategy; and

WHEREAS, it has been the City’s practice to require that any multi-family rental housing units for lower income households, as defined by Health and Safety Code Section 50079.5, that obtain financial assistance enter in to an affordability covenant (“Affordability Covenant”), to be recorded against the units, to ensure that the units remain available at affordable housing costs to lower income households for the longest feasible time, but not less than thirty (30) years; and

NOW, THEREFORE, BE IT RESOLVED as follows:

SECTION 1. Modification to Prior Approval for Deferral of City Fees.

1. The City Council reaffirms its prior approval for the deferral of City Fees for Phase One of the Project, as set forth in Resolution No. 12-031, and further approves an extension of the period for the repayment of the

City Fees, to be paid over a period of up to 33 years from the date of issuance of a Building Permit for construction of dwelling units in Phase One of the Project subject to the terms and conditions described below, allowing dwelling units in Phase One of the Project to be occupied prior to full payment of said fees.


2. The deferral shall be provided in the form of a loan, which shall be structured as follows:
 - a. The principal amount shall be set at the amount of City Sewer Connection Fees, Water Connection Fees, Development Impact Fees, and Building Permit Fees in effect at the time of issuance of a Building Permit for Phase One of the Project, acknowledging that certain fees are not due to be paid until the time of issuance of a Certificate of Occupancy. That amount is estimated to be, and shall not exceed, \$1.018 million.
 - b. The loan shall accrue interest at the rate of 3.75 percent compounded annually.
 - c. The term of the loan shall be 33 years, which shall commence on the date of issuance of a building permit for construction of dwelling units in Phase One of the Project; provided that if the outstanding debt from the Project is refinanced at any time, the parties will meet and confer to determine the feasibility of payoff or restructuring of the fee deferral loan to provide for repayment sooner than the 33 year repayment period.
 - d. Payments shall be made annually from residual receipts from Phase One of the Project, to the extent residual receipts are available to make such payments. The fee deferral loan will be one of three loans that is expected to be repaid using residual receipts from the Project, including seller take-back financing for the property and a HOME loan being provided through the County under the federal HOME Investment Partnerships Program. The City shall receive an annual amount equal to 77% of the residual receipts from Phase One of the Project.
 - e. Payments shall be credited first to interest, then to principal; the entire remaining unpaid balance of principal and accrued interest, if any, shall be due at the end of the 33-year term. The applicant may pre-pay the loan at any time without penalty, subject only to the amount of interest that has accrued to the date of payment.
3. Prior to issuance of a Building Permit for construction of dwelling units in Phase One of the Project, the Applicants shall enter into a Loan Agreement with the City, to be prepared by the City Attorney, which shall set forth the terms and conditions for the loan. The Loan Agreement shall include a promissory note to be executed by the Applicants, and a deed of trust and Affordability Covenant to be recorded against the Project.
4. The Loan Agreement shall provide, and the Affordability Covenant shall ensure, that the units shall be rented to “Lower Income Households”, as defined by Health and Safety Code Section 50079.5, whose incomes do not exceed sixty percent (60%) of Area Median Income, at an affordable rent, for a period of at least thirty (30) years, and shall continue thereafter for so long as any amount remains due and owing to the City under the Loan Agreement and the promissory note.
5. As a condition to the loan:
 - a. Applicants shall submit to City evidence that full financing for construction of Phase One of the Project has been approved by the appropriate authorities for each source of financing.
 - b. Applicants shall execute and deliver the note, deed of trust and Affordability Covenant; and the deed of trust and Affordability Covenant shall be recorded against the Project.

SECTION 2.

The deferral of City Fees authorized by this resolution shall expire one year from the date set forth below, unless the Loan Agreement has been executed and construction of Phase One of the Project commenced.

PASSED AND ADOPTED by the City Council of the City of Paso Robles on this 4th day of December, 2012 by the following vote:

AYES: Steinbeck, Hamon, Martin, Strong, Picanco
NOES:
ABSENT:
ABSTAIN:



Duane Picanco, Mayor

ATTEST:


Caryn Jackson, Deputy City Clerk