

RESOLUTION #R-19-2015

A RESOLUTION GRANTING AN EXEMPTION FROM CERTAIN CAPITAL EXPANSION FEES AND OTHER DEVELOPMENT FEES FOR QUALIFIED AFFORDABLE HOUSING TO BE CONSTRUCTED BY THE LOVELAND HOUSING AUTHORITY

WHEREAS, the Loveland Housing Authority (“LHA”), is a political subdivision of the state acting in its governmental capacity to, among other things, develop and construct affordable housing; and

WHEREAS, in 2013, LHA filed, and the City Council approved by Resolution #R-69-2013, an application to designate Lot 1, Block 1, Waterfall Sixth Subdivision (the “Edge”) encompassing approximately 4.4 acres as an “affordable housing development” pursuant to City Code (“Designation”); and

WHEREAS, following approval of the application, and in accordance with Section 16.38.085 of the Loveland Municipal Code as it then existed, the capital expansion fees (“CEFs”) and other development fees, including utility fees (collectively, “Development Fees”), and water rights requirements imposed on the Edge were locked at the 2013 rate (the “Rate Lock”); and

WHEREAS, the Edge is planned as three story walk-up buildings with a total of seventy units of for-rent housing comprised of twenty 1-bedroom units, forty-one 2-bedroom units and nine 3-bedroom units, all of which are targeted at households earning at or below sixty percent of the area median income; and

WHEREAS, ten of the seventy units will be reserved as permanent housing for formerly homeless veterans who are transitioning out of a shelter or other temporary housing, and LHA intends to provide a variety of support services for said veterans; and

WHEREAS, the Edge will have a separate, central club house accessible to all residents (“Club House”), a designated meeting room with a kitchen area for resident veterans (“Meeting Room”), and a private office for outside professionals offering counseling and other support services (“Office”); and

WHEREAS, the City Manager has determined, in consultation with the City Attorney, that because the seventy units qualify for Designation and the Club House, Meeting Room and Office are accessory uses to such units, pursuant to City Code Section 18.48.010, the Club House, Meeting Room and Office all qualify for the Rate Lock; and

WHEREAS, the City Manager has also determined, in consultation with the City Attorney, that the Edge, including the Club House, Meeting Room and Office, is “qualified affordable housing” for purposes of City Code Section 16.38.085, and therefore residential Development Fees should apply; and

WHEREAS, LHA has further requested, in accordance with City Code Section 16.38.080, that the City Council waive all of the Development Fees, including CEFs, building permit fees, plan review fees, enterprise (utility) fees, and all other fees due and payable for construction of the Edge between permit application and final certificate of occupancy; and

WHEREAS, City Code Section 16.38.080 provides that the City Council may by resolution grant an exemption from all or part of the capital expansion fees or any other fees imposed by the City upon new development, whether for capital or other purposes, upon a finding set forth in a development agreement, that the project for which the fees would otherwise be imposed is a qualified affordable housing development; and

WHEREAS, City Code Section 16.38.080 sets forth the percentage of Development Fees to be waived for qualified affordable housing, which percentage may be increased upon a finding by the City Council, set forth in a resolution, that such increase will serve a public purpose; and

WHEREAS, pursuant to City Code Section 3.16.590 LHA has further requested a use tax credit in the amount of the use tax that would otherwise be assessed by the City against LHA in connection with the construction of the Edge (currently estimated at \$201,299.46); and

WHEREAS, City believes that the requested waiver of City fees and credit of the construction use tax by LHA will serve public purposes including significant social, economic and cultural benefits as set forth below.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LOVELAND, COLORADO:

Section 1. That the City Council hereby finds that the Edge is a qualified affordable housing development for purposes of City Code Section 16.38.080.

Section 2. That the City Council hereby finds that construction of the Edge will serve the public purpose of providing affordable housing for residents, in particular veterans transitioning from shelters or other temporary housing, and therefore the percentage of fees to be waived for the Edge shall be increased above those stated in City Code Section 16.38.080.

Section 3. That the CEFs due and payable for construction of the Edge, including the Club House, Meeting Room and Office, are hereby waived for the purpose described above in a total amount not to exceed \$516,461.65.

Section 4. That the Development Fees, including, without limitation, all building permit fees, plan review fees, and any and all other fees due and payable for construction of the Edge, including the Club House, Meeting Room and Office, between permit application and final certificate of occupancy (but not including CEFs or enterprise fees), are hereby waived for the purpose described above in a total amount not to exceed \$127,310.19.

Section 5. That as provided in City Code Section 16.38.080, there shall be no reimbursement to the capital expansion fund by the City's general fund or any other City fund, for fees

waived under Section 3 and 4 above as such fees are capital-related fees that are not utility fees or charges.

Section 6. That the enterprise (utility) fees, including system impact fees, raw water fees, tap fees or any other enterprise fees, payable for construction of the Edge, including the Club House, Meeting Room and Office, are hereby waived for the purpose described above in a total amount not to exceed \$402,099.00, and that as provided in City Code Section 16.38.080, the City's general fund shall reimburse the affected enterprise (utility) fund for fees waived herein as such fees are capital-related fees for a utility fee or charge.

Section 7. That the waiver of fees described in Section 6 hereof shall be expressly conditioned upon appropriation by City Council of funds necessary to fully reimburse the affected enterprise (utility) fund.

Section 8. That the construction use tax due and payable pursuant to City Code Section 3.16.040 to develop and construct the Edge, including the Club House, Meeting Room and Office, is hereby credited pursuant to City Code Section 3.16.590 in the amount of the use tax that would be assessed by the City against LHA in connection with such construction.

Section 9. That the waiver of the fees described in Sections 3, 4, and 6 hereof and the credit of construction use tax described in Section 8 hereof shall be conditioned upon the City, through its City Manager, and LHA entering into a development agreement, which development agreement shall provide for the waiver of said fees and credit of said tax in exchange for the construction of the Edge, compliance with the Loveland Municipal Code, including restrictions on conveyance of the units, appropriations required under Section 7 hereof, and such other conditions as the City Manager shall deem necessary.

Section 10. That this Resolution shall be effective as of the date of its adoption.

ADOPTED this 17th day of February, 2015.

Cecil Gutierrez, Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:



Assistant City Attorney

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