

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BRIGHTON, COLORADO, APPROVING AN AGREEMENT FOR AFFORDABLE HOUSING FOR THE WINDMILL RANCH APARTMENTS PROJECT BETWEEN THE CITY OF BRIGHTON AND THE BRIGHTON HOUSING AUTHORITY; MAKING CERTAIN FINDINGS PURSUANT TO SECTION 3-5-50 OF THE BRIGHTON MUNICIPAL CODE IN SUPPORT OF CERTAIN FEE REDUCTIONS AND WAIVERS; AUTHORIZING THE MAYOR TO EXECUTE SAID AGREEMENT ON BEHALF OF THE CITY; AND SETTING FORTH OTHER DETAILS RELATED THERETO.

RESOLUTION NO. _____

WHEREAS, the current property owner, Brighton Housing Authority (the “Owner”), intends to develop Windmill Ranch Apartments, a 96-unit affordable housing project more particularly described in Exhibit A, attached hereto and incorporated herein by this reference (the “Property”) to Brighton Housing Authority (hereinafter the “Developer”); and

WHEREAS, the Developer acknowledges and represents that the Project has been reviewed by and is subject to the rules, regulations, restrictions, conditions and oversight of the Colorado Housing and Finance Authority (“CHFA”); and

WHEREAS, the Developer warrants and represents the Project will consist of ninety-six (96) housing units, (“Project Unit(s)” or “Unit(s)”), which shall be affordable to income qualifying residents of Brighton who earn 30% to 60% or less of the Denver metropolitan area median household income; and

WHEREAS, the Developer is requesting that the City reduce, reimburse, or otherwise subsidize the City’s customary Development Impact Fees and Use Taxes on construction materials (collectively hereinafter, “Fees”) in connection with the Windmill Ranch Apartments Project and for the benefit of Developer; and

WHEREAS, on or about March 21, 2017, and pursuant to the requirements of Section 3-5-50 of the *Brighton Municipal Code* (the “Code”), the Developer submitted to the City that certain *Application for Affordable Assistance*, requesting a reduction, reimbursement or other subsidy of such Fees for the benefit of Developer in connection with Phase One of the Project (the “Application”); and

WHEREAS, in response to the Application for Affordable Housing Assistance, the City Council has adopted Resolution No. _____ (the “Fee Resolution”), which provides that certain Fees are thereby made eligible for reduction, reimbursement or subsidy for the benefit of the Developer in connection with Phase One of the Project, and which sets forth particular percentages of such Fees that are payable by Developer in connection therewith; and

WHEREAS, the Fee Resolution requires that any such Fee reduction(s), reimbursement(s), or other subsidy for the Project shall be reduced to a written agreement (this “Agreement”) by and between all Owners and Developers of the Property or Project and the City, and that the terms and provisions of such Agreement shall run with the land and be binding upon the Property and Project for so long as such Agreement remains in effect; and

WHEREAS, the Agreement provides, in pertinent part, that if the Developer or its heirs, successors or assigns do not faithfully perform or satisfy any term or condition of the Agreement, then City Council may summarily revoke the Fee Resolution and the grant(s) and benefits contained therein and in the Agreement, and Developer will thereupon be required to repay the full amount of Fees which customarily would have applied to the Project or would otherwise have been imposed and collected by the City, but for the reductions or subsidies granted herein and in the Fee Resolution; and

WHEREAS, further, the Agreement provides that in consideration of the City’s reduction in Fees for Phase One of the Project, the Developer shall provide affordable rental housing Units within the Project, pursuant to and in accordance with the terms and provisions of the Fee Resolution and Article 3-5 of the Municipal Code; and

WHEREAS, the City Council has determined that the public interest and convenience require the execution of the Agreement in order to obtain the Developer’s commitment to construct and maintain the affordable housing described herein.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BRIGHTON, COLORADO AS FOLLOWS:

- 1. That the Agreement for Affordable Housing Windmill Ranch Apartments is hereby approved.**
- 2. That the Mayor is authorized to sign the Agreement on behalf of the City and the City Clerk to attest thereto.**
- 3. That the City Manager is authorized to undertake such actions and execute such documents as may be required to otherwise implement the Agreement on behalf of the City.**

RESOLVED THIS 2nd DAY OF MAY, 2017.

CITY OF BRIGHTON, COLORADO

Richard N. McLean, Mayor

ATTEST:

Natalie Hoel, City Clerk

APPROVED AS TO FORM:

Margaret R. Brubaker, City Attorney

Exhibit A

Legal Description

Lot 1, Sorrento Subdivision, 2nd Amendment