

RESOLUTION NO. 2018-142

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BRIGHTON, COLORADO, APPROVING AN AGREEMENT FOR AFFORDABLE HOUSING FOR THE LIBRETTO APARTMENTS PHASE II PROJECT BETWEEN THE CITY OF BRIGHTON AND HC BRIGHTON LIBRETTO 2011 L.P.; MAKING CERTAIN FINDINGS PURSUANT TO SECTION 3-5-50 OF THE BRIGHTON MUNICIPAL CODE IN SUPPORT OF CERTAIN FEE REDUCTIONS AND WAIVERS; AND AUTHORIZING THE MAYOR TO EXECUTE SAID AGREEMENT ON BEHALF OF THE CITY

WHEREAS, HC Brighton Libretto 2011, LP, is the owner of Lot 2 of the Campbell Park Subdivision First Amendment (the “Property”); and

WHEREAS, HC Brighton Libretto 2011, LP, and Hendricks Communities, LLC (collectively hereinafter, “Developer”), desire and intend to construct upon the Property the second phase of that certain mixed-income, multi-family, senior residential development generally known as “Libretto Apartments” (the “Project”); 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 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 Phase II of the Project and for the benefit of Developer; and

WHEREAS, in response to the Application for Affordable Housing Assistance submitted by the Developer on November 8, 2018, 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 II 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 also requires that any such Fee reduction(s), reimbursement(s), or other subsidy for Phase II of the Project shall be reduced to a written agreement (“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 II 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 Brighton 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:

Section 1. The Agreement for Affordable Rental Housing for Libretto Apartments Phase II is hereby approved.

Section 2. The Mayor and the City Clerk are hereby authorized to execute and deliver such Agreement on behalf of the City in substantially the form presented at this meeting, with such technical additions, deletions, and variations as the City Attorney may deem necessary or appropriate and not inconsistent with this Resolution.

Section 3. 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.

Section 4. All resolutions or parts of resolutions of the City in direct conflict herewith are hereby rescinded.

RESOLVED THIS 18th DAY OF DECEMBER 2018.

CITY OF BRIGHTON, COLORADO

KENNETH J. KREUTZER, Mayor

ATTEST:

NATALIE HOEL, City Clerk

APPROVED AS TO FORM:

JACK D. BAJOREK, City Attorney