

RESOLUTION NO. 2024-__

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MERCED, CALIFORNIA, APPROVING VARIOUS FINANCING TRANSACTIONS AND DOCUMENTS FOR AFFORDABLE HOUSING ON BEHALF OF DEVONWOOD APARTMENTS, L.P. IN THE TOTAL APPROXIMATE AMOUNT OF \$10,171,476.06 CONSISTING OF LOAN AGREEMENTS, REGULATORY AGREEMENTS, SUBORDINATION AGREEMENTS AND RELATED LOAN DOCUMENTS, AND AUTHORIZING CERTAIN OTHER ACTIONS IN CONNECTION THEREWITH.

WHEREAS, pursuant to City Council action on June 21, 2022, the City of Merced (the “City”), approved the commitment of \$6,500,000 with The Richman Group of California Development Company (“TRGCDC”), and Central Valley Coalition for Affordable Housing (“Sponsor”); and

WHEREAS, a commitment letter dated June 28, 2022 (“Commitment”) provided for \$6,500,000 in financial assistance in the form of \$2,309,538 in a grant and \$4,190,462 in loans from the City to the Project (as defined below) through loans and or grants to Sponsor, the managing member of the managing general partner of Devonwood Apartments, LP, a Delaware limited partnership (the “Developer”) which loans and/grants will be loaned by Sponsor to the Developer to assist with the acquisition and construction of that certain project to be known as Devonwood Apartments, which will consist of one hundred fifty-four (154) affordable rental housing units set aside as affordable to households with incomes up to 70% of the Area Median Income (“AMI”) for Merced County (“County”) as determined by the California Tax Credit Allocation Committee plus two (2) manager units (the “Project”) and which will be located on that certain real property located at 1535 Devonwood Drive, Merced, California 95348 (APNs 058-220-048) (the “Site”); and

WHEREAS, since the time the City approved the Commitment for the Project, the increased construction costs coupled with rising interest rates caused funding gap for the Project; and

WHEREAS, in order to carry out the Commitment and address the additional financial impacts, the City will provide an additional Two Million, Three Hundred Seventy-Five Thousand, Three Hundred Fourteen Dollars (\$2,375,314) in Community Development Block Grant Program (“CDBG”) funds (the “CDBG

Loan”) to the Sponsor, which is the managing member of the Managing General Partner of Developer, to finance the acquisition of the Site; and

WHEREAS, in consideration for the various City funding sources, seventeen (17) of the Project’s one hundred fifty-four (154) affordable units shall be restricted for occupancy by households with incomes at or below thirty percent (30%) of the AMI for the County as determined by the United States Department of Housing and Urban Development (“HUD”) for the CDBG Program for a period of fifty-five (55) years. Should the Developer have multiple restrictions on unit affordability required by multiple funding sources, the Developer shall adhere to the more restrictive (lower) income limits; and

WHEREAS, the Grantee has applied for and received funds from the United States Government under Title I of the Housing and Community Development Act of 1974, as amended (HCD Act), Public Law 93-383 (B-23-MC-06-0044) under the CDBG Program administered by HUD (14.218-Entitlement Grant) with a Federal Award Date of August 28, 2023; and,

WHEREAS, the City has previously received a grant from HUD made to the City pursuant to the Home Investment Partnership (HOME) Program pursuant to and in accordance with a Funding Approval and Community Housing Development Organization (CHODO) HOME Agreement under Title II of the Cranston-Gonzalez National Affordable Housing Act, as amended, from which funds the City intends to make the CHDO HOME Loan to the Sponsor; and

WHEREAS, the City is providing additional assistance to the Project in the form of: (a) a \$1,309,538 grant in Coronavirus Local Fiscal Recovery Funds as established under the American Rescue Plan Act (“ARPA”) pursuant to 31 CFR Part 35 (the “ARPA Grant”) to the Sponsor; (b) \$1,329,318.15 impact fee reduction assessed through the Public Facilities Financing Program (“PFFP”); (c) \$1,311,571.91 loan for water and sewer connection fees to the Developer (“Water/Sewer Connection Fee Loan”); and (d) a \$3,845,734 CHDO HOME Loan to Sponsor. In total, the City is providing \$10,171,476.06 in financial assistance for the construction of the Project through the CDBG Loan, ARPA Grant, PFFP Fee reduction program, Water/Sewer Connection Fee Loan and CHDO HOME Loan (collectively, the “Financing”).

WHEREAS, in addition, the Project has been awarded additional assistance for unit construction in the form of: (a) a \$6,578,807 Infill Infrastructure Grant from the California Department of Housing and Community Development (“HCD”); (b)

a \$4,000,000 Mixed-Income Program Subsidy Loan from the California Housing Finance Agency; and (c) approximately \$35,814,917 in Federal 4% Tax Credit Equity and approximately \$9,200,000 in State Tax Credit Equity.

WHEREAS, additionally, the Housing Authority of the County of Merced has awarded 39 Project Based Vouchers for a 20-year term.

WHEREAS, the City Council of the City, with the aid of its staff, has reviewed the documentation related to the Financing Documents, which documentation is on file with City Clerk of the City.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MERCED DOES HEREBY RESOLVE, DETERMINE, FIND, AND ORDER AS FOLLOWS:

SECTION 1. That the City hereby approves and authorizes all of the loans referenced in Section 2 to Sponsor and/or Developer, as applicable, all in accordance with the terms and conditions of the loan agreements, notes and security agreements. The CDBG Loan is also subject to terms and provisions of the Law, the Standard Agreement and all applicable rules and regulations applicable to the CDBG Program.

SECTION 2. That the City hereby approves and authorizes the execution of the following Financing Documents, substantially in the form presented at this meeting and on file with the City Clerk of the City, with such revisions, amendments and completions as shall be approved by either the Mayor, the City Manager, the Finance Director or the City Clerk of the City, and each of them, and any designee of any of them (each, an "Authorized Officer") with the advice of the City Attorney, such approval to be conclusively evidenced by the execution and delivery thereof by an Authorized Officer:

a. CDBG Documents consisting of:

- (i) CDBG Note (the "CDBG Note") executed by the Sponsor in favor of the City;
- (ii) CDBG Loan Agreement;
- (iii) Deed of Trust and Security Agreement (the "CDBG Trust Deed");
- (iv) Regulatory Agreement and Declaration of Restrictive Covenants (the "CDBG Regulatory Agreement");
- (v) Agreement Containing Covenants Affecting Real Property (the "CDBG Covenant Agreement"); and

- (vi) Notice of Affordability Restrictions on Transfer of Property (the “CDBG Notice”).
- b. CHDO HOME Documents consisting of:
 - (i) CHDO HOME Note (the “CHDO Note”) executed by the Sponsor in favor of the City;
 - (ii) CHDO HOME Loan Agreement;
 - (iii) Deed of Trust and Security Agreement (the “CHDO HOME Trust Deed”);
 - (iv) Regulatory Agreement and Declaration of Restrictive Covenants (the “CHDO HOME Regulatory Agreement”);
 - (v) Agreement Containing Covenants Affecting Real Property (the “CHDO HOME Covenant Agreement”); and
 - (vi) Notice of Affordability Restrictions on Transfer of Property (the “CHDO HOME Notice”).
- c. ARPA Documents consisting of:
 - (i) ARPA Grant – Deed Restriction Covenant and Grant Agreement;
 - (ii) Regulatory Agreement and Declaration of Restrictive Covenants (the “ARPA Regulatory Agreement”);
 - (iii) Agreement Containing Covenants Affecting Real Property (the “ARPA Covenant Agreement”); and
 - (iv) Notice of Affordability Restrictions on Transfer of Property (the “ARPA Notice”).
- d. Water and Sewer Connection Fee Loan Documents consisting of:
 - (i) Agreement and Lien Affecting Real Property – Loan of Water and Sewer Connection Fees.
- e. Subordination Agreement(s) as required by the senior lenders of the Project.

SECTION 3. That any one of the Authorized Officers, and each of them, is hereby authorized and directed, jointly and severally, to do any and all things and to execute and deliver any and all documents which they deem necessary or advisable, in order to consummate the Financing, including to make minor adjustments to dollar amounts in the documents based upon recalculations necessitated by minor changes to the Project through the approval process, to make minor revisions to the

Financing Documents as necessary in connection with the closing of the overall transaction as approved by the City Manager with the advice of the City Attorney, and otherwise to effectuate the purposes of this Resolution and the transactions contemplated hereby. The City Clerk shall deliver the appropriate Financing Documents to escrow for recordation.

SECTION 4. That the City Clerk shall certify as to the adoption of this Resolution, which shall be in full force and effect immediately upon its adoption.

PASSED AND ADOPTED by the City Council of the City of Merced, at a regular meeting held on the sixteenth day of January 2024, by following called vote:

AYES Council Members:

NOES: Council Members:

ABSTAIN: Council Members:

ABSENT: Council Members:

APPROVED:
MATTHEW SERRATTO, MAYOR

BY _____
Mayor

ATTEST:
D. SCOTT MCBRIDE, CITY CLERK

BY: _____
Assistant/Deputy City Clerk

(SEAL)

APPROVED AS TO FORM:
CRAIG J. CORNWELL, CITY ATTORNEY

BY: Craig Cornwell 1/4/24
City Attorney Date