

RESOLUTION NO. 2024-081

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF IMPERIAL BEACH, CALIFORNIA (I) APPROVING THE AFFORDABLE HOUSING AGREEMENT BY AND BETWEEN THE IMPERIAL BEACH HOUSING AUTHORITY AND WAKELAND IBNCA LP, INCLUDING ATTACHMENTS, FOR THE IMPERIAL BEACH NEIGHBORHOOD CENTER APARTMENTS LOCATED AT 455 PALM AVENUE, IMPERIAL BEACH, CALIFORNIA, (II) AUTHORIZING AND ESTABLISHING THE TERMS AND CONDITIONS FOR THE DEFERRAL OF CERTAIN CITY FEES FOR THE DEVELOPMENT OF THE IMPERIAL BEACH NEIGHBORHOOD CENTER APARTMENTS AS AN AFFORDABLE RESIDENTIAL RENTAL PROJECT FOR SENIOR LOWER INCOME HOUSEHOLDS; AND (III) APPROVING AND AUTHORIZING OTHER RELATED ACTIONS

WHEREAS, the City Council of the City of Imperial Beach (“City”) adopted its Resolution No. 2022-98 approving Design Review, Site Plan Review and Conditional Use Permit for the development of the Imperial Beach Neighborhood Center Apartments as a new 50-unit affordable senior housing development at 455 Palm Avenue in the City (“Development”); and

WHEREAS, the Development is proposed by Wakeland Housing and Development Co.; and

WHEREAS, Wakeland IBNCA LP, an affiliate of Wakeland Housing and Development Co. (“Developer”) has executed and delivered to the Imperial Beach Housing Authority (“Authority”), and the Authority is considering the approval of, a proposed Affordable Housing Agreement and its Attachments for the financing, construction, use, occupancy and operation of the Development; and

WHEREAS, in order to carry out and implement the Development, and pursuant to the terms and conditions of the proposed Affordable Housing Agreement including its Attachments (collectively, “Agreement”), it is proposed that the City authorize and approve the deferral of certain staff time based fees for the Development, excluding specific development fees and third party consultant review costs, not to exceed a total first approved in writing by the City Manager or designee (“City Fees Deferral”); and

WHEREAS, such deferral of City fees is not a waiver or forgiveness of such fees, but instead is a deferral thereof to be repaid to the City from certain residual receipts of the operation of the Development pursuant to the City Fees Deferral Note and the City Deed of Trust in accordance with the terms, conditions and requirements of the Agreement; and

WHEREAS, the City Fees Deferral Note is a promissory note payable to the City evidencing the obligation of the Developer to repay the City Fees Deferral with specified interest in a form consistent with Attachment No. 14 to the Agreement and first approved in writing by the City Manager or designee; and

WHEREAS, the City Deed of Trust is a subordinated leasehold deed of trust for the benefit of the City securing the obligation of the Developer to repay the City Fees Deferral in accordance with the City Fees Deferral Note in a form consistent with Attachment No. 15 to the Agreement and first approved in writing by the City Manager or designee; and

WHEREAS, pursuant to the Affordable Housing Incentives Programs set forth in the City's approved Housing Element, the City Council is authorized to encourage and facilitate the development of affordable housing for lower income persons within the City by, among other things, approving incentives to developers as needed to enhance project feasibility; and

WHEREAS, pursuant to applicable state statute and City ordinances, the City is authorized to cooperate with the Imperial Beach Housing Authority to facilitate the development of affordable housing for lower income persons within the City; and

WHEREAS, consistent with the provisions and authorizations of applicable provisions of the Imperial Beach Municipal Code, City ordinances, the City's Housing Element and the statutes of the State of California empowering the Authority, the City is authorized to approve and implement the City Fees Deferral in accordance with the terms, conditions and requirements of the Agreement and its Attachments; and

WHEREAS, the City Council did receive and consider a staff report on the proposed Development and Agreement and the proposed City Fees Deferral and any public comments received.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Imperial Beach as follows:

1. The City Council finds and determines that the foregoing recitals are true and correct and are incorporated herein by this reference as a substantive part of this Resolution.
2. The City Council has received and heard all oral and written objections (if any) to the proposed Agreement, to the proposed City Fees Deferral, and to other matters pertaining to this transaction, and that all such oral and written objections (if any) are hereby overruled.
3. Based on the whole record before it, the City Council finds and determines, that the City Fees Deferral as described in the proposed Agreement will achieve public purposes, including providing and assisting in the development of affordable housing for lower income persons within the City.
4. The City Council approves the terms and provisions for the City Fees Deferral and approves the proposed Agreement between the Authority and Developer for the financing, development and operation of the Development, including all exhibits and Attachments thereto, in the form as submitted by the City Manager of the City.
5. The City Council authorizes and directs the City Manager, or designee, of the City to execute all documents, instruments, and agreements required by and for the implementation of the City Fees Deferral in accordance with the Agreement including, without limitation, the City Fees Deferral Note and the City Deed of Trust, and all Attachments to the Agreement, on behalf of the City, subject to the approval as to form by the City Manager of the City and its legal counsel.
6. The City Council authorizes and directs the City Manager, or designee, of the City (i) to make such minor amendments, changes or revisions to any document, instrument, or agreement required by and for the implementation of the City Fees Deferral on behalf of the City, as approved by the City Manager of the City and its legal counsel, (ii) to execute such other documents and take such other actions as are necessary or desirable and

appropriate to carry out and implement the purposes of the Agreement and to effectuate the intent of this Resolution on behalf of the City including, without limitation, approving extensions of deadlines set forth in the Agreement (or any portion thereof) as determined necessary by the City Manager, or designee, to effectuate the purposes of the Agreement, and (iii) to administer the City's rights, obligations, responsibilities and duties to be performed in connection with the City Fees Deferral and all documents, instruments, and agreements required by and for the implementation of the City Fees Deferral on behalf of the City.

7. That Developer's obligation in condition #80 in Resolution No. 2022-98 to indemnify, defend, and hold harmless the City for Development Approvals applies to the approvals granted in this Resolution.
8. This Resolution shall take effect upon the date of its adoption.

PASSED, APPROVED AND ADOPTED the City Council of the City of Imperial Beach at its meeting held on the 6th day of November, 2024 by the following vote:

AYES:	COUNCILMEMBERS:
NOES:	COUNCILMEMBERS:
ABSENT:	COUNCILMEMBERS:

PALOMA AGUIRRE, MAYOR

ATTEST:

JACQUELINE M. KELLY, MMC
CITY CLERK