

INCORPORATED COUNTY OF LOS ALAMOS ORDINANCE NO. 690

AN ORDINANCE AUTHORIZING THE GRANT OF COUNTY HOUSING ASSISTANCE FUNDING BY DONATION OF COUNTY-OWNED LAND AND INFRASTRUCTURE COSTS REIMBURSEMENT TO A HOUSING DEVELOPER FOR DEVELOPMENT OF AN AFFORDABLE HOUSING PROJECT

WHEREAS, the Incorporated County of Los Alamos (“County”), through its duly elected County Council, has adopted ordinances, policies, and regulations to support affordable housing programs such as County’s single-family housing purchase loan assistance program, County’s home rehabilitation loan program, and County’s single and multi-family housing development program; and

WHEREAS, the County Council on May 1, 2018, updated its County Code of Ordinances (“County Code”), specifically Chapter 14, Article VII, which among other things, updated County’s general Affordable Housing Program, and authorized the donation or discount of the sale of public lands to support Affordable Housing; and

WHEREAS, Bethel Development, Inc. (“Applicant”) is a private, for-profit business entity licensed to do business in New Mexico, whose primary business purpose is the development and construction of affordable housing projects in New Mexico and surrounding states; and

WHEREAS, Applicant has submitted to County an application for development of a multi-family apartment and affordable housing project under the provisions of County Code; and

WHEREAS, in part of the application, the Applicant has requested that County donate certain public land which is authorized pursuant to County Code; and

WHEREAS, as part of the application, Applicant also seeks an Infrastructure Costs Reimbursement provision in any Housing Assistance Grant, which is allowed pursuant to Article VII of Chapter 14 of the County Code; and

WHEREAS, the County Council, after review of Applicant’s application and pursuant to the recommendation of the Director of the Community Development Department, finds that the application is complete; and

WHEREAS, the Applicant is requesting that County donate Tract A-8-b, being a Part of Tract BB, Eastern Area No. 2, whose physical address is 135 DP Road, County of Los Alamos, New Mexico, (more particularly described in the Legal Description, attached hereto and incorporated herein by this reference as Attachment 2); and

WHEREAS, Division 1 of Article VII of Chapter 14 and Section 14-253(b) of the County Code provides that County may also contribute to funding for Applicant’s use in the construction and installation of public infrastructure necessary for development of the land and proposed project; and

WHEREAS, pursuant to Chapter 14, Article VII, County may also waive all or portions of County's land development fees for Affordable Housing licensing, permitting, inspections, and other fees normally imposed on a construction project within the County; and

WHEREAS, such donation is permissible with appropriate protections for County in the form of conditions and deed restrictions, all required by the County's Affordable Housing Code provisions; and

WHEREAS, County Council finds that such donation and consideration of a waiver of fees and charges will be of direct benefit to the County and its citizens, and will contribute to the overall health, safety and welfare of County and its residents.

BE IT ORDAINED BY THE GOVERNING BODY OF THE INCORPORATED COUNTY OF LOS ALAMOS, hereby finds:

Section 1.

A. County Council finds that Bethel Development, Inc., ("Applicant"), is a *Qualifying Grantee* and Recipient under the *County's Affordable Housing Program* and herein authorizes the award of a *Housing Assistance Grant* of *County Affordable Housing Funds* for the development of a *Multi-Family Affordable Housing Project*.

B. The *Housing Assistance Grant* of *County Housing Funds* only to Applicant, are contingent upon the express terms and conditions of the proposed Land Development Agreement ("LDA") between Applicant and County, attached hereto as Attachment 1. The proposed Project includes a Sixty-Four (64) Unit affordable housing rental building as described in the LDA.

C. As part of the *Housing Assistance Grant*, the County Council specifically authorizes the County Manager or designee to contribute, donate, and convey the parcel of land known as A-8-b located at 135 DP Road, Los Alamos, including existing infrastructure thereon, and as more particularly described in Attachment 2, to Applicant in accordance with County Code provisions and requirements, including contract provisions on affordability requirements during the *Affordability Period*, security and auditability provisions, *Infrastructure Reimbursement* provisions, consent to jurisdiction, Applicant certification procedures, and related terms according to the County Affordable Housing Program, the State's Affordable Housing Act (NMSA 1978, §§ 6-27-1 through 6-27-33), and related federal, state, and local laws, ordinances, and codes and as provided for in the LDA (Attachment 1).

D. The County Council also hereby authorizes a *County Permit Waiver* of any *Affordable Housing Development Project* to Applicant for all or any portion of fees and charges as may be customarily imposed on similar construction projects within the County as the County Manager or designee deems appropriate. Such authorization to the County Manager also includes the discretion and authority to deny such waivers of fees and charges, or to grant them, fully or in part.

E. The County Council hereby authorizes the County Manager to contribute to the infrastructure development needs of the approved Affordable Housing Program Project as provided in the LDA and future land conveyance agreements as is provided for in the LDA.

Section 2. The Council Chair is authorized to execute the final version of the LDA as approved by and in consultation with the County Attorney, the LDA attached hereto as Attachment 1, and as the same may subsequently be modified in minor ways to accomplish its intent and to effectuate the major conditions of said LDA.

Section 3. Severability. If any section, paragraph, clause or provision of this Ordinance shall for any reason be held to be invalid or unenforceable, the invalidity or enforceability of that section, paragraph, clause or provision shall not affect any of the remaining provisions of this Ordinance.

Section 4. Effective date. This ordinance shall become effective thirty (30) days after publication of notice of its adoption.

Section 5. Repealer. All other ordinances or resolutions, or parts thereof, inconsistent herewith are hereby repealed only to the extent of such inconsistency. This repealer shall not be construed to revive any ordinance or resolution, or part thereof, heretofore repealed.

PASSED AND ADOPTED this 18th day of December, 2018.

INCORPORATED COUNTY OF LOS ALAMOS

**David Izraelevitz,
Council Chair**

ATTEST:

**Naomi D. Maestas
Los Alamos County Clerk**

Attachments:

Attachment 1: Land Development Agreement

Attachment 2: Legal Description of the Donated Property