

RESOLUTION NO.

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CAPITOLA
AUTHORIZING A PREDEVELOPMENT LOAN AGREEMENT WITH MP RAIL TRAIL
ASSOCIATES, LP, A CALIFORNIA LIMITED PARTNESHIP, FOR AN AFFORDABLE
HOUSING DEVELOPMENT AT 1098 38th AVENUE, CAPITOLA, CA, 95010**

WHEREAS, MP Rail Trail Associates, LP, a California limited partnership (“Borrower”), an entity controlled by Mid-Peninsula San Carlos Corporation, a California nonprofit public benefit corporation, is the owner of approximately 1.97 acres of real property located at 1098 38th Avenue, Capitola, California (“Property”); and

WHEREAS, the Borrower desires to construct and operate a multi-family residential housing development on the Property affordable to households earning 30% to 80% of Area Median Income (“AMI”) for Santa Cruz County (“Project”). The City desires that the Property be developed to create affordable housing to help provide units affordable to low, very-low and extremely-low income households, consistent with the City’s adopted Housing Element; and

WHEREAS, the Borrower will incur several predevelopment expenses (“Predevelopment Costs”) in connection with assessing the Project’s feasibility, designing the Project, and applying for governmental approvals necessary to construct the Project; and

WHEREAS, the Borrower has requested funding from the City to pay for a portion of the Predevelopment Costs, and upon satisfaction of the conditions precedent set forth in the Predevelopment Loan Agreement, attached to this resolution as Exhibit A, and evidenced by a predevelopment note and predevelopment deed of trust (as defined in the Predevelopment Loan Agreement), the City has agreed to use funds in its Low and Moderate Income Housing Asset Fund established pursuant to Health and Safety Code § 34176 (d), and provide a loan to Borrower with a total principal amount not to exceed TWO HUNDRED FIFTY THOUSAND AND 00/100 DOLLARS (\$250,000.00) (the “Predevelopment Loan”); and

WHEREAS, until such time as the Borrower has submitted formal applications to City for all required land use entitlements to develop and construct the Project on the Property (e.g. design review, density bonus, etc.), and received City approval for such land use entitlements and associated environmental review as may be required by the California Environmental Quality Act (“CEQA”) and the National Environmental Policy Act (“NEPA”), which project approvals may be granted or denied in the City’s discretion, the City will not be committed to approving the Project.

WHEREAS, the Predevelopment Loan Agreement addresses funding to pay for predevelopment due diligence, surveys, geotechnical investigation, civil, architectural and design services, and other predevelopment work, and is one of the types of early-stage agreements often entered into before a lead agency decides on the specifics of a project; and

NOW, THEREFORE, BE IT HEREBY RESOLVED, that the City Council of the City of Capitola finds that the approval of the Predevelopment Loan Agreement shall not and does not, as a practical matter, commit the City of Capitola to the proposed Project and, consistent with Section 15004 (b)(4) of the State CEQA Guidelines, affirms as follows: (1) considering all the surrounding circumstances, the preliminary nature of the Predevelopment Loan Agreement does not commit the

City as a practical matter to approve the land use entitlements for the proposed Project; (2) the specific parameters of the proposed Project are unknown at this stage, and therefore, it is premature to conduct a meaningful analysis and environmental review of the proposed Project under CEQA and/or NEPA, if applicable; (3) once Borrower submits formal applications to City for the necessary land use entitlements required for the proposed Project, the environmental review required under CEQA, and NEPA if applicable, will be performed; (4) the Predevelopment Loan Agreement does not bind or commit the City to any definite course of action related to the proposed Project prior to compliance with CEQA; (5) the Predevelopment Loan Agreement does not restrict the City from considering any feasible mitigation measures and alternatives, including the “no project” alternative, if relevant as part of the review of the proposed Project under CEQA; and (6) the Predevelopment Loan Agreement does not restrict the City from denying the proposed Project; and

BE IT FURTHER RESOLVED, by the City Council of the City of Capitola that the Predevelopment Loan Agreement, in the form attached hereto as Exhibit A, between the City of Capitola and MP Rail Trail Associates, LP, a California limited partnership, for an affordable housing development at 1098 38th Avenue, Capitola, CA, is hereby approved; and

BE IT FURTHER RESOLVED, by the City Council of the City of Capitola that (i) the City Manager and City Attorney are authorized to make and agree to such changes and modifications to the Predevelopment Loan Agreement which do not significantly increase the obligations or decrease the benefits of the City thereunder, and (ii) the City Manager is authorized to execute and enter into the Predevelopment Loan Agreement on behalf of the City of Capitola with MP Rail Trail Associates, LP, a California limited partnership, and to take all such actions as are necessary to implement the Predevelopment Loan Agreement.

I HEREBY CERTIFY that the foregoing Resolution was passed and adopted by the City Council of the City of Capitola on the 9th day of November 2023, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

Margaux Keiser, Mayor

ATTEST:

Julia Gautho, City Clerk