



FRUITA
COLORADO

AGENDA ITEM COVER SHEET

TO: FRUITA CITY COUNCIL & HOUSING AUTHORITY BOARD OF COMMISSIONERS

FROM: DAN CARIS, ASSISTANT CITY MANAGER

DATE: MAY 16, 2025

AGENDA TEXT: RESOLUTION FHA 2025-03 - A Resolution of the Board of Commissioners of the Fruita Housing Authority approving the Redevelopment, Financing and AMI Restriction Agreement, Restrictive Covenant Agreement And Loan Default Agreement and Assignment of Rights Under Redevelopment Agreement for The Oaks Project - *Dalton Kelley, Special Counsel to the Housing Authority*

BACKGROUND

The Resolution before the Board of Commissioners of the Housing Authority would approve the form of three agreements related to the Oaks Project and authorize the Authority to enter into those agreements. The first agreement (which is approved by both Resolutions) is the Redevelopment, Financing and AMI Restriction Agreement (the “Redevelopment Agreement”). The Redevelopment Agreement is the document where the terms of the term sheet with Headwaters Housing Partners (“HHP”) are memorialized and formalized. In the Redevelopment Agreement, 805 Ottley Avenue LLC (an LLC set up by HHP for the Oaks Project) agrees to redevelop the former Family Health West property into 62 multifamily housing units with related amenities. In accordance with the term sheet, all 62 units will be restricted to occupancy by households with at least one person who is earning 100% of AMI or less. To keep all 62 units restricted to 100% AMI, the City or the Authority will be asked to make three more contributions to the Oaks Project—totaling \$400,000 (as contemplated in the term sheet). If those contributions are not made, then a predetermined number of units can be rented at market rate until the City, or the Authority, makes the requisite financial contribution. Once all contributions are made, or upon direction from the City and the Authority that no additional contributions will be made, the Authority and 805 Ottley Avenue LLC will execute and record the Restrictive Covenant Agreement (described below). As contemplated by the term sheet, the City has the ability to buy down the AMIs below 100% in the future and to establish master lease agreements. The parties also agree to negotiate the right of first refusal or purchase option for the City to be able to purchase the Oaks Project in the future if it so desires.

The Restrictive Covenant Agreement is the second agreement to be approved by the Housing Authority resolution. The Restrictive Covenant Agreement will be recorded after the City or Authority makes all of the contributions pursuant to the Redevelopment Agreement. The Restrictive Covenant Agreement restricts occupancy of all 62 units (unless the City or the Authority does not make all the required contributions) to households with at least one person who is earning 100% of AMI or less. The Restricted Covenant Agreement also establishes a preference for occupants who are working within the City for at least 30 hours per week.

The Loan Default Agreement and Assignment of Rights Under Redevelopment Agreement (the “Default Agreement”) is the third agreement approved by the Housing Authority resolution and the second agreement approved by the City resolution. The Default Agreement is required by 805 Ottley Avenue LLC’s lender, and it assigns all of 805 Ottley Avenue LLC’s rights under the Redevelopment Agreement to the Lender. Additionally, the Default Agreement gives the City the right (but does not require the City) to cure any payment defaults by 805 Ottley Avenue LLC on its loan with the third party lender. The City would have the right to cure a payment default as it occurs or by purchasing the loan so that the property does not go into foreclosure. If the City pays purchases the loan, then 805 Ottley Avenue LLC will make payments to the City on a going forward basis.

APPLICABILITY TO CITY GOALS AND OBJECTIVES

The City’s long-range planning aims to promote housing affordability across all income levels while aligning with the City’s housing goals outlined in the Comprehensive Plan and Land Use Code. Below are relevant sections from the City’s Comprehensive Plan that emphasize the importance of supporting housing-related goals.

With regard to the Master Plan, Fruita is an exceptional community. Throughout the comprehensive plan process, residents brought up how much they love living in Fruita, its small-town character, and their desire to preserve the community’s most desirable qualities into the future. The plan starts by declaring what makes Fruita special. In turn, these community values are the foundation of the plan—shaping the plan vision, goals, policies, and actions. Two community values represented include:

- Fruita is a place where you run into neighbors, friends, and acquaintances at local stores and restaurants, parks, and the community center. (Community Values, Page 2, Comprehensive Plan)
- Fruita is a community where people are invested and constantly work to make the community better. (Community Values, Page 2, Comprehensive Plan)
- Fruita is committed to a land use pattern and supporting policies that promote access to housing across the income spectrum of its residents. (Community Values, Page 2, Comprehensive Plan)

Influenced by the community values expressed on page 2 of the Comprehensive Plan, the Plan Vision states, “The City of Fruita values quality of place. It’s an inclusive city, with a small-town feel and vibrant downtown, surrounded by public lands. People love to live, work, and play in Fruita because the City facilitates community, safe neighborhoods, family-friendly events, and walking and biking. The City governs in a way that’s responsive to its citizens and prioritizes high-impact services and projects. Fruita fosters a fun and funky ambiance around the arts, agriculture, and recreation.”

OPTIONS AVAILABLE TO THE BOARD

- APPROVE FHA RESOLUTION 2025-03 A RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE FRUITA HOUSING AUTHORITY APPROVING THE REDEVELOPMENT, FINANCING AND AMI RESTRICTION AGREEMENT, RESTRICTIVE COVENANT AGREEMENT AND LOAN DEFAULT AGREEMENT AND ASSIGNMENT OF RIGHTS UNDER REDEVELOPMENT AGREEMENT FOR THE OAKS PROJECT
- DENY FHA RESOLUTION 2025-03 A RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE FRUITA HOUSING AUTHORITY APPROVING THE

REDEVELOPMENT, FINANCING AND AMI RESTRICTION AGREEMENT,
RESTRICTIVE COVENANT AGREEMENT AND LOAN DEFAULT AGREEMENT AND
ASSIGNMENT OF RIGHTS UNDER REDEVELOPMENT AGREEMENT FOR THE
OAKS PROJECT

RECOMMENDATION TO FHA BOARD OF COMMISSIONERS

**APPROVE FHA RESOLUTION 2025-03: A RESOLUTION OF THE BOARD OF
COMMISSIONERS OF THE FRUITA HOUSING AUTHORITY APPROVING THE
REDEVELOPMENT, FINANCING AND AMI RESTRICTION AGREEMENT,
RESTRICTIVE COVENANT AGREEMENT AND LOAN DEFAULT AGREEMENT
AND ASSIGNMENT OF RIGHTS UNDER REDEVELOPMENT AGREEMENT FOR
THE OAKS PROJECT**