



RESOLUTION NO. 2011-147

A RESOLUTION OF THE COUNCIL OF THE CITY OF FRESNO, CALIFORNIA, ESTABLISHING A LOAN PROGRAM FOR ABANDONMENT OF SINGLE FAMILY RESIDENTIAL SEPTIC TANK AND CESSPOOL SYSTEMS AND SEWER LINE INSTALLATION AND CONNECTION TO THE CITY SEWER SYSTEM

WHEREAS, the Fresno City Charter recognizes the Council as the legislative body for the City of Fresno and delegates all authority necessary for the Council to legislate on behalf of the residents of Fresno; and

WHEREAS, the City regulates direct and indirect contributions into the City of Fresno publicly owned treatment works, in order to comply with all applicable State and federal laws required by the Clean Water Act of 1977, the General Pretreatment Regulations (40 C.F.R., Part 403) and the Construction Grants Regulations (40 C.F.R., Part 35), and to prevent entry of pollutants into the system, to recycle and reclaim wastewater and sludge from the system, and to provide for equitable distribution of the cost of the system; and

WHEREAS, the City has a general policy of transitioning every building or structure containing plumbing fixtures and piping conveying sewage or other liquid waste on premises within the City to the City sewer system if such system is available, in order to avoid adverse environmental and public health and safety impacts secondary to leaching septic systems; and

WHEREAS, the Director has the authority to require premises containing a septic tank or cesspool to connect to the City sewer system, within the time specified by the Director, in the event of an immediate health menace; and

Adopted 7-21-11  
Approved 8-1-11  
Effective 8-1-11



WHEREAS, the Council finds that a program to loan annually allocated and available wastewater capital funds, as more specifically provided hereunder, to owner(s) of premises for the cost to abandon existing single family residential septic tanks and cesspools, and install and connect a privately owned sewer line/house branch from the single family residence to the City sewer ("Program"), is in the public interest; and

WHEREAS, this Resolution is adopted pursuant to Fresno Municipal Code Section 6-305(f).

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Fresno that:

1. The above recitals are true and correct and are incorporated herein.
2. A loan Program for abandonment of single family residential septic tank and cesspool systems and installation and connection to the City sewer system, on the Program terms and conditions in Exhibit "A" attached hereto and incorporated herein, is hereby approved.
3. All persons participating in the Program and using the regional sewer system shall comply with all governmental and regulatory requirements, and pay at the rates, at the times, and under the conditions set forth herein and in the Master Fee Schedule as such may be amended from time to time.

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4. The City Manager/designee(s) thereof shall administer and implement this Program, and execute necessary documents and instruments, subject to City Attorney approval to form.

\* \* \* \* \*

STATE OF CALIFORNIA )  
COUNTY OF FRESNO ) ss.  
CITY OF FRESNO )

I, REBECCA E. KLISCH, City Clerk of the City of Fresno, certify that the foregoing resolution was adopted by the Council of the City of Fresno, at a regular meeting held on the 21st day of July, 2011.

AYES : Baines, Borgeas, Olivier, Quintero, Xiong, Brand  
NOES : None  
ABSENT : Westerlund  
ABSTAIN : None

Mayor Approval: August 1, 2011.  
Mayor Approval/No Return: N/A, 2011.  
Mayor Veto: N/A, 2011.  
Council Override Vote: N/A, 2011.

REBECCA E. KLISCH  
City Clerk

BY: Rebecca Klisch  
Deputy

APPROVED AS TO FORM:  
CITY ATTORNEY'S OFFICE

BY: R Conje 7-12-11

Attachment: Exhibit "A" Loan Program Terms and Conditions





## EXHIBIT "A"

### LOAN PROGRAM TERMS AND CONDITIONS

- A. The maximum loan assistance per residence is \$5000, not to exceed \$3000 for septic/cesspool abandonment, and not to exceed \$2000 for house branch costs; there is no minimum Loan amount and Loan proceeds may be combined with other sources of funds, provided all Loan proceeds must be used for Program purposes and the entire project must be fully funded prior to any advance of City Loan funds.
- B. The Loan shall have substantially equal monthly installments amortized over a period of not more than fifteen years, at a rate of interest as periodically established by the Controller and adopted by the Council in the Master Fee Resolution.
- C. The Loan Documents shall be signed by all persons having a fee ownership interest of record in the Property, and shall include the legal description of the property.
- D. The Loan or any portion thereof may be accelerated and paid at any time, at the option of the Property Owner, without penalty.
- E. The Loan shall be by deed trust note establishing a lien against the property in favor of the City, and shall be recorded in the office of the Fresno County Recorder.
- F. The Loan and deed trust note shall be a lien on the Property enforceable by the City in any manner available at law or in equity, including but not limited to private foreclosure and sale of the property in the manner provided by Section 2924 of the California Civil Code.
- G. The Loan in its entirety is due and payable upon the earlier of: (i) the specified maturity date not to exceed 15 years, (ii) sale or other transfer of the Property.
- H. Property Owner agrees to maintain the Property in accordance with applicable standards and the codes, and agrees not to accumulate debris, inoperable or abandoned vehicles on site, or have any other unsightly or dangerous conditions on site.
- I. To the furthest extent allowed by law, the Property owner shall indemnify, hold harmless and defend City and its officers, officials, employees, agents and authorized volunteers from any and all loss, liability, fines, penalties, forfeitures, costs and damages (whether in contract, tort or strict liability, including but not limited to personal injury, death at any time and property damage) incurred by City, the Property owner, or any other person, and from any and all claims, demands and actions in law or equity (including attorney's fees and litigation expenses), arising or alleged to have arisen out of: (i) this Program, the Loan, and performance or lack of performance thereof; and/or (ii) the work





funded hereunder. Property owner's obligations under the preceding sentence shall apply regardless of whether City, or any of its officers, officials, employees, agents or authorized volunteers is negligent, but shall not apply to any loss, liability, fines, penalties, forfeitures, costs or damages caused solely by the gross negligence, or by the willful misconduct, of City, or any of its officers, officials, employees agents or authorized volunteers.

J. Property owner shall obtain bid(s) from (a) licensed plumbing contractor(s) to complete all work. Once the bid(s) are received, staff will begin the necessary documents to secure the up to \$5,000.00 loan. The documents necessary include:

- a. Deed of Trust
- b. Promissory Note
- c. Truth in Lending Disclosure Statement

K. Property Owner(s) shall bring the plumber bid selected along with their last property tax bill and pro forma budget to City Department of Public Utilities, Utility Planning and Engineering. The Property Owner(s) will sign the necessary documents including the notarization of the Deed of Trust. City staff will give Property Owner(s) a letter detailing the reimbursement procedure for the Plumbing Contractor.

L. Property Owner will engage the Plumbing Contractor to proceed with the work. The work shall include obtaining a Plumbing Permit from the City of Fresno Development Department. If the total bid exceeds the \$5,000.00, the Property Owner shall make other arrangements to pay the difference. After the work is completed and inspected by the City and permit finalized, the Plumbing Contractor shall return the finalized permit to the City Department of Public Utilities.

M. City staff shall take the finalized permit and all signed paperwork to the Finance Department to begin the monthly billing for the loan. Finance Department staff will take the Deed of Trust to the County Hall of Records to be recorded prior to disbursement of any loan proceeds. Public Utilities staff will take the finalized bill and permit to have a check prepared for the Plumbing Contractor. The check shall be mailed or the Plumbing Contractor can pick up in person.

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July 22, 2011

RECEIVED

Council Adoption: 07/21/11

TO: MAYOR ASHLEY SWEARENGIN <sup>Aug 1</sup>  
FROM: REBECCA E. KLISCH, CMG <sup>REK JUL 32 AM 9:04</sup>  
City Clerk CITY CLERK, FRESNO CA

Mayor Approval:  
Mayor Veto:  
Override Request:

SUBJECT: TRANSMITTAL OF COUNCIL ACTION FOR APPROVAL OR VETO

At the Council meeting of 07/21/11, Council adopted the attached Resolution No. 2011-147 entitled **Establishing a loan program for abandonment of single family residential septic tank/cesspool systems**, Item No. 1F, by the following vote:

|         |   |  |
|---------|---|--|
| Ayes    | : | Baines, Borgeas, Olivier, Quintero, Xiong, Brand |
| Noes    | : | None   |
| Absent  | : | Westerlund                                       |
| Abstain | : | None   |

Please indicate either your formal approval or veto by completing the following sections and executing and dating your action. Please file the completed memo with the Clerk's office on or before August 1, 2011. In computing the ten day period required by Charter, the first day has been excluded and the tenth day has been included unless the 10<sup>th</sup> day is a Saturday, Sunday, or holiday, in which case it has also been excluded. Failure to file this memo with the Clerk's office within the required time limit shall constitute approval of the ordinance, resolution or action, and it shall take effect without the Mayor's signed approval.

Thank you.

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**APPROVED:**

**VETOED** for the following reasons: (Written objections are required by Charter; attach additional sheets if necessary.)

  
Ashley Swearengin, Mayor

Date: 7/29/11

**COUNCIL OVERRIDE ACTION:**

Date: \_\_\_\_\_

|         |   |
|---------|---|
| Ayes    | : |
| Noes    | : |
| Absent  | : |
| Abstain | : |