

RESOLUTION NO. _____

A RESOLUTION OF THE COUNCIL OF THE CITY OF
FRESNO, CALIFORNIA, TERMINATING COVENANTS
IMPOSING "COMMUNITY BENEFIT FEES" ON HOME
TRANSFERS

WHEREAS, pursuant to the Fresno City Charter Section 500, City powers are vested in the Council unless otherwise provided; and

WHEREAS, the City has collected a so-called "Community Benefit Fee" ("CB Fee") of 1/10 of 1% of the purchase price of homes transferred in certain subdivisions; and

WHEREAS, the homes in these subdivisions were originally subject to a covenant requiring them to pay the CB Fee to an entity known as Generation Homes Foundation, a California non-profit public benefit corporation, which was formed by the homebuilder; and

WHEREAS, Generation Homes Foundation and the homebuilder originally caused covenants to be recorded imposing the CB Fee on home transfers in at least three subdivisions during the years 2004 to 2006 (the "CBF Covenants"); and

WHEREAS, the CB Fee monies collected were earmarked for charitable spending by Generation Homes Foundation on improvements to housing and health care facilities; and

WHEREAS, the subdivisions subject to the CBF Covenants were originally held in the entities known as Sunnyside Ridge Partners II, LLC, a California limited liability company, River Ridge Partners II, LLC, a California limited liability company, and Grove

Partners III LLC, a California limited liability company (collectively, the “Generation Homes Entities”); and

WHEREAS, Generation Homes Foundation dissolved on March 30, 2009, and the Generation Homes Entities dissolved in the years 2008 to 2009; and

WHEREAS, the upon the dissolution of Generation Homes Foundation, the CBF Covenants purport to transfer all rights and responsibilities, including collection of the CB Fee, to the City; and

WHEREAS, the City did not intend to legally accept the rights and responsibilities of the CBF Covenants, but the Housing and Community Development Division of the Development and Resource Management Department nonetheless did, in fact, collect the CB Fee for at least home transfers in the subdivisions originally owned by the Generation Homes Entities; and

WHEREAS, each CB Fee collected ranged from approximately \$150 to \$300; and

WHEREAS, the CBF Covenants have caused difficulties in transfers of homes developed by the Generation Homes Entities (beyond payment of the CB Fee) because certain loans (including Veterans Administration (VA) backed loans) will not close unless the CBF Covenant is waived or terminated; and

WHEREAS, the VA and other lending-related entities consider the CBF Covenant and the CB Fee to be invalid because it provides no benefit to the homeowner; and

WHEREAS, the City has waived the CBF Covenant (and the CB Fee) for a limited number of transactions to allow closings for veteran homebuyers or others in circumstances where the loan would not otherwise close; and

WHEREAS, the City desires to terminate the CBF Covenants so that they no longer impose burdens on home transactions; and

WHEREAS, the City desires to hereafter cease all collection of the CB Fee, or similar community benefit fees; and

WHEREAS, the City desires to hereafter avoid any purported transfer of rights and responsibilities from any entity like the Generation Homes Foundation which imposes a transfer fee on home sales similar to the CB Fee; and

WHEREAS, the City desires to refund all CB Fees collected, as is reasonably practical, and as can be documented by those who paid CB Fees; and

WHEREAS, the Director of Development and Resource Management, the Director of Finance and other appropriate City staff shall be empowered to take all actions, and sign all documents, necessary to effectuate this resolution.

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

1. The City shall cease collection of the CB Fee, and shall avoid future collection of any similar fee.
2. The City shall refund all CB Fees collected as is reasonably practical, and where sufficient documentation is provided by those who have paid CB Fees.

3. The City shall execute all necessary documents to terminate the CBF Covenants, or any similar covenants which purport to impose a fee on home transfers to fund charitable activities that were previously administered by another entity.

4. The City shall not enter into or accede to responsibility for any covenant (or other agreement or mechanism) which purports to impose a fee (such as the CB Fee) on home transfers for the purposes of funding charitable activities, and this prohibition shall apply whether or not the City is named as the purported successor in any such covenant or other agreement or mechanism.

5. The Council ratifies prior waivers of the CBF Covenants and CB Fee by the City.

6. The Director of Development and Resource Management, the Director of Finance and other appropriate City staff shall be empowered to take all actions, and sign all documents, necessary to effectuate this resolution.

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

I, YVONNE SPENCE, 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 _____ day of _____, 2018.

AYES :
NOES :
ABSENT :
ABSTAIN :

Mayor Approval: _____, 2018
Mayor Approval/No Return: _____, 2018
Mayor Veto: _____, 2018
Council Override Vote: _____, 2018

YVONNE SPENCE, CMC
City Clerk

By: _____
Deputy

APPROVED AS TO FORM:
DOUGLAS T. SLOAN
City Attorney

By: _____
John Hastrup [Date]
Deputy City Attorney