

RESOLUTION NO. 2178

A RESOLUTION OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PAYSON, ARIZONA, APPROVING AND AUTHORIZING THE MAYOR TO EXECUTE THE FIRST AMENDMENT TO THE AGREEMENT TO DEFER WATER DEVELOPMENT FEES BETWEEN GREEN VALLEY APARTMENTS AND THE TOWN OF PAYSON.

WHEREAS, on March 28, 2003, Green Valley Apartments and the Town of Payson entered into an Agreement for the Deferral of Water Development Fees ("the Agreement"); and

WHEREAS, on March 23, 2006, the Town passed Ordinance 682 making the Town's water development fee 'True Up' provision applicable to any multifamily project developed under a Federal Low Income Housing Tax Credit Program; and

WHEREAS, Green Valley Apartments Project ("the Project") is a multifamily project developed under a Federal Low Income Housing Tax Credit Program and is therefore now eligible for a True Up of its water development fees.; and

WHEREAS, the Town's Public Works Director has determined that the Project is entitled to a credit under the Town's True Up provision; and

WHEREAS, the Town and Green Valley Apartments desire to amend the Agreement to apply the True Up credit toward the principal of the deferred amount, reamortize the remaining annual payments, and shorten the length of the repayment schedule,

NOW, THEREFORE, THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PAYSON, ARIZONA, DO HEREBY RESOLVE AS FOLLOWS:

Section 1. That the First Amendment To The Agreement To Defer Water Development Fees, a true and correct copy of which is attached hereto marked Exhibit "A" and made a part hereof by this reference, as though set forth in full at this point, be and is hereby approved in substantially the form attached.

Section 2. That Barbara G. Brewer, Mayor of the Town of Payson, be and is hereby authorized to execute said Amendment in substantially the form as is attached.

Section 3. That the Town of Payson is authorized to take such other and further actions as may be necessary or appropriate to carrying out the terms and intent of said Amendment and this Resolution No. 2178.

APR 27 2006 G.14

PASSED AND ADOPTED BY THE MAYOR AND COMMON COUNCIL OF THE
TOWN OF PAYSON, ARIZONA, this _____ day of April, 2006, by the following vote:

AYES _____ NOES _____ ABSTENTIONS _____ ABSENT _____

Barbara G. Brewer, Mayor

ATTEST:

APPROVED AS TO FORM:

Silvia Smith, Town Clerk

Samuel I. Streichman, Town Attorney

**FIRST AMENDMENT TO THE AGREEMENT TO DEFER
WATER DEVELOPMENT FEES BETWEEN
GREEN VALLEY APARTMENTS AND THE TOWN OF PAYSON**

THIS FIRST AMENDMENT is made and entered into this ____ day of _____, 2006, by and between GREEN VALLEY APARTMENTS OF PAYSON, LLC, an Arizona limited liability company ("Green Valley"), and the TOWN OF PAYSON, an Arizona municipal corporation ("Town") (collectively "the Parties").

RECITALS

- A. On March 28, 2003, the Parties entered into an Agreement for the Deferral of Water Development Fees ("the Agreement") and Green Valley executed a Promissory Note and Deed of Trust to secure the deferred fees.
- B. Green Valley has made the first three annual payments contemplated under the Agreement and therefore Green Valley's outstanding balance of water development fees under the agreement as it exists is seventy thousand, seven hundred, ninety seven and 58/100 dollars (\$70,797.58).
- C. On March 23, 2006, the Town passed Ordinance 682 making the Town's water development fee 'True Up' provision applicable to any multifamily project developed under a Federal Low Income Housing Tax Credit Program.
- D. Green Valley's Project ("the Project") is a multifamily project developed under a Federal Low Income Housing Tax Credit Program and is therefore now eligible for a True Up of its water development fees.
- E. After reviewing water records for the Project, the Town's Public Works Director has determined that Green Valley is entitled to a reduction of forty thousand, seven and 40/100 dollars (\$40,007.40) in its water development fees.
- F. The parties desire to apply the True Up reduction as a credit toward the balance of deferred water development fees and to reamortize the remaining balance to be paid in 15 annual payments.

NOW, THEREFORE, the Parties, in consideration of the mutual promises and covenants herein contained, do hereby agree as follows:

- 1. All provisions and terms of the Agreement not specifically amended herein shall remain in full force and effect.
- 2. The deferred water development fees owed by Green Valley shall be reduced in the amount of forty thousand, seven and 40/100 dollars (\$40,007.40) pursuant to the Town's water development fee True Up provision.
- 3. Following the True Up reduction, and the principal paid by Green Valley in its first three annual

payments, the outstanding deferred water development fees remaining to be paid are thirty thousand, seven hundred, ninety and 18/100 dollars (\$30,790.18).

4. The outstanding balance of thirty thousand, seven hundred, ninety and 18/100 dollars (\$30,790.18) is hereby reamortized for payment over the next 15 years. Green Valley shall make the remaining 15 annual payments in the amount of two thousand, five hundred, seventy nine and 19/100 dollars (\$2,579.19) beginning on or before May 1, 2007 and on or before each May 1 thereafter until May 1, 2021
5. The Parties agree that the Annual Payment amounts and the term of such Annual Payments in the Promissory Note shall be conformed to agree with paragraph 4 above.

WHEREFORE, the parties have executed this Agreement effective the day and year first above written.

GREEN VALLEY APARTMENTS OF PAYSON,
LLC, an Arizona limited liability company

TOWN OF PAYSON,
an Arizona municipal corporation

By: PAYSON REGIONAL HOUSING
DEVELOPMENT

Its: Managing Member

By: _____
Richard Croy, President

By: _____
Barbara G. Brewer, Mayor

APPROVED AS TO FORM:

Samuel I. Streichman, Town Attorney