



Meeting Date: October 3, 2006

ACTION	TYPE OF ITEM
<input type="checkbox"/> Approved Recommendation	<input checked="" type="checkbox"/> Info/Consent
<input type="checkbox"/> Ord. No(s). _____	<input type="checkbox"/> Report
<input type="checkbox"/> Res. No(s). _____	<input type="checkbox"/> Public Hearing (Info/consent)
<input type="checkbox"/> Other _____	<input type="checkbox"/> Other _____

Prepared By: Richard R. Bryan Agenda Item No. I-1  
 Reviewed By: City Manager [Signature] City Attorney [Signature] Finance [Signature] Other (Specify) \_\_\_\_\_

DATE: September 20, 2006

TO: City Council  
Community Development Commission

FROM: Curtis Cannon, Community Development Director  
Sal Gonzalez, Housing Director

*[Handwritten signature: Juan D. Rendell (for)]*

**SUBJECT: Subordination of City of Oxnard and Oxnard Community Development Commission Resale Restriction and Loan Agreements to The California Housing Finance Agency Resale Restriction Agreements in RiverPark, Heritage Walk and Sorrento Developments**

**RECOMMENDATIONS**

1. That Community Development Commission authorize the Community Development Director to execute CalHFA subordination agreements subordinating Community Development Commission Resale Restriction and Loan Agreements to The California Housing Finance Agency Resale Restriction Agreements in the RiverPark and Heritage Walk Developments.
2. That City Council authorize the Housing Director to execute CalHFA subordination agreements subordinating City of Oxnard Resale Restriction and Loan Agreements to The California Housing Finance Agency Resale Restriction Agreements in the Sorrento Development.

**DISCUSSION**

The CalHFA is a State of California agency that makes loans to low-income purchasers through the sale of tax-exempt bonds. The CalHFA program is beneficial because it makes homes more affordable by providing home loans at rates significantly lower than prevailing market rates. CalHFA is the prime lender on the property and requires all other lenders to agree that all their loans are subordinate to the CalHFA loans. CalHFA is willing to make financing available for at least a number of units of the 252 for sale units in the RiverPark project. In addition, CalHFA is willing to provide financing for 3 affordable units in the Heritage Walk project located at Seventh and A Streets. Finally, CalHFA is participating in the financing of the resale of at least 1 unit in the Sorrento project and may be willing to participate in other resale's to low-income persons at affordable prices. The City/CDC does have

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protection in its Resale Restriction Agreements for the RiverPark Project which would allow the City to pay Senior CalHFA debt and purchase the subject property at the restricted price from a defaulting borrower. The agreements pertaining to the 3-unit at Heritage Walk and the older agreement such as those in the Sorrento project do not contain explicit provisions allowing the City to purchase the defaulting borrower's interest, however, the City does have the right to cure default and to take action against the borrower to enforce its own documents.

Presently the City/CDC is processing agreements for RiverPark, Heritage Walk and Sorrento. The same form will be used for each project (Attachment #1 - CalFHA Subordination Agreement).

## **FINANCIAL IMPACT**

None.

rb602.1rp

Attachment #1 – CalHFA Subordination Agreement

**000002**



## ATTACHMENT #1 – CalFHA Subordination Agreement

### CALIFORNIA HOUSING FINANCE AGENCY SUBORDINATE LENDER/CalHFA SUBORDINATE FINANCING AND RESALE CONTROL AGREEMENT

This Subordinate Lender/CalHFA Subordinate Financing and Resale Control Agreement (the "Agreement") is made and entered into on \_\_\_\_\_, by and between the California Housing Finance Agency (the "CalHFA") a public instrumentality and a political subdivision of the State of California, and \_\_\_\_\_ (the "Subordinate Lender").

#### RECITALS

A. CalHFA intends to make a commitment to provide below-market rate mortgage financing (the "CalHFA Loan(s)") to facilitate the acquisition by low- and moderate-income borrowers (the "Borrower(s)") of single family homes located in \_\_\_\_\_, \_\_\_\_\_ County, California and more particularly described as follows (the "Home(s)"): \_\_\_\_\_

B. Subordinate Lender intends to provide additional financial assistance for such acquisition and/or to impose restrictions on the transfer of the Homes as provided in those certain documents attached hereto and incorporated herein by this reference (collectively the "Subordinate Lender Documents").

C. In order to ensure that the Subordinate Lender Documents (1) are consistent with certain federal tax law requirements relating to CalHFA's tax exempt bond financed loans, and (2) are subordinate to the CalHFA Loan(s), the parties hereto have entered into this Agreement.

NOW, THEREFORE, the parties hereto agree as follows:

1. *Subordinate Lender Documents.* The Subordinate Lender represents and warrants that all of the financing documents and transfer restrictions which will be imposed on the Borrowers or the Homes by Subordinate Lender or otherwise in connection with the provision of its financial assistance or imposition of its transfer restrictions are included in the documents described herein as the "Subordinate Lender Documents".
2. *Representations to Bond Counsel.* The Subordinate Lender represents and warrants that any factual representations made to CalHFA's bond counsel in connection with the Subordinate Lender Documents are and will be accurate and complete to the best of its knowledge.
3. *Amendment.* The Subordinate Lender Documents shall not be revised or amended without the prior written consent of CalHFA.
4. *Subordination.* The Subordinate Lender Documents shall be subordinate to the CalHFA Loan(s) and foreclosure of any CalHFA deed of trust shall extinguish the Subordinate Lender Documents as encumbrances on the Home being foreclosed. The Subordinate Lender shall take all actions and execute all documents as necessary to cause such subordination and enable CalHFA to obtain title insurance which insures the CalHFA Loans(s) as superior to the Subordinate Lender Documents.

5. *Attorney Fees, Remedies.* In any proceeding to enforce this Agreement, the prevailing party shall be entitled to receive from the other party reasonable attorneys fees and costs. In the event of the inaccuracy or breach of any of the representations, warranties or agreements of Subordinate Lender contained herein CalHFA may pursue any remedies available at law or in equity to redress any damage resulting to CalHFA.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date set forth above.

**CALIFORNIA HOUSING FINANCE AGENCY**

**SUBORDINATE LENDER**

By: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_