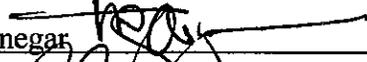
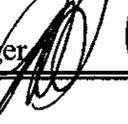
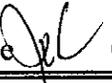


Meeting Date: April 6, 2010



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: Mathew Winegar  Agenda Item No. I-2

Reviewed By: City Manager  City Attorney  Finance  Other (Specify) _____

DATE: March 25, 2010

TO: City Council

FROM: Matthew Winegar, Development Services Director 

SUBJECT: Assignment and Assumption Agreement of Development Agreement (DA) as to Lot 18 of the RiverPark Project Located Adjacent to and North of the Highway 101 Freeway, and East of the Santa Clara River, and West of Vineyard Avenue

RECOMMENDATION

That City Council:

1. Approve the form of the Assignment and Assumption Agreement for the Development Agreement from RIVERPARK A, L.L.C. to ALDERSGATE INVESTMENT, LLC (A-7275).
2. Authorize the Mayor to execute the Assignment and Assumption for the Development Agreement (A-6128).

DISCUSSION

RiverPark is a 700-acre mixed use community located in the northwest portion of the City. A portion of the Specific Plan area is located within the Historic Enhancement and Revitalization of Oxnard (HERO) Redevelopment Area.

RiverPark is the subject of that certain Development Agreement dated as of August 27, 2002 and recorded on September 10, 2002 as Instrument No. 2002-02164590 in the Ventura County Recorder's Office, as amended from time to time (collectively, the "DA") and that certain Owner Participation Agreement dated as of June 12, 2001, as amended from time to time (collectively, the "OPA").

RIVERPARK A, L.L.C. is requesting City Council approval of an assignment to ALDERSGATE INVESTMENT, LLC of a portion of the property which is subject to the DA, more specifically Lot 18 of Tract 5352-1. It is intended that 156 affordable for-sale units required by the DA would be built on Lot 18. The product mix will include 69 units affordable to low income households and 87 units affordable to moderate income households. The assignment requires City Council consideration and approval of an Assumption and Assignment Agreement for the DA (Attachment No. 1). There would also be a concurrent assignment of the OPA. The assignment under the OPA does not require Oxnard Community Development Commission consideration and approval. Under the terms of the OPA, an assignment under the OPA may be approved administratively.

Lot 18 is within the Specific Plan Planning Area F, High Density Residential Area. On behalf of RIVERPARK A, RIVERPARK LEGACY, L.L.C. filed an application for Tentative Tract Map 5781 which the City Council approved by Resolution Number 13,409 on April 22, 2008. The related planning and zoning permits included conceptual architectural designs. RIVERPARK A, L.L.C., as the master developer, now wants to sell the property to a merchant builder in the development community who builds and markets affordable housing units.

The managing member of Aldersgate Investment, LLC is Ernest T. Mansi. Mr. Mansi and the various development entities that he has owned and managed have successfully developed over 1,300 residential units with 147 of those units being affordable to moderate income families.

FINANCIAL IMPACT

Approving the recommendation will not create a financial impact.

rb1055rp

Attachment #1 - Development Agreement Assumption and Assignment Agreement

Recording Requested by and
When Recorded Return to:

City of Oxnard
City Clerk's Office
305 West Third Street
Oxnard, CA 93030

APN: 132-0-110-245

SPACE ABOVE THIS LINE FOR RECORDER'S USE

ASSIGNMENT AND ASSUMPTION AGREEMENT
(Development Agreement)

THIS ASSIGNMENT AND ASSUMPTION AGREEMENT ("**Agreement**") is made and entered into as of April 6, 2010, by and between RIVERPARK A, L.L.C., a Delaware limited liability company ("**Assignor**"), and ALDERSGATE INVESTMENT, LLC, a Delaware limited liability company ("**Assignee**").

RECITALS

A. Assignor owns that real property located in the City of Oxnard ("**City**"), County of Ventura, State of California ("**Property**").

B. Assignee is acquiring a portion of the Property more particularly described in Exhibit A attached hereto and incorporated herein by reference (the "**Lot 18 Property**").

C. The City of Oxnard ("**City**"), Assignor and RiverPark B, LLC, a Delaware limited liability company, entered into that certain Development Agreement dated as of August 27, 2002 and recorded on September 10, 2002 as Instrument No. 2002-02164590 in the Ventura County Recorder's Office, as amended by that certain First Amendment to Development Agreement dated as of December 14, 2004 and recorded on December 23, 2004 as Instrument No. 2004-1223-0339920 in the Ventura County Recorder's Office, as amended by that certain Second Amendment to Development Agreement dated as of July 24, 2007 and recorded on August 21, 2007 as Instrument No. 20070821-00163617-0 in the Ventura County Recorder's Office, and as may be further amended from time to time (collectively, the "**Development Agreement**").

D. The Oxnard Community Development Commission ("**Commission**") and Assignor entered into that certain Owner Participation Agreement dated as of June 12, 2001, as amended by that certain First Amendment to Owner Participation Agreement dated as of November 19, 2002, as amended by that certain Second Amendment to Owner Participation

Agreement dated as of December 14, 2004, as amended by that certain Third Amendment to Owner Participation Agreement dated on or about August 7, 2007, as amended by that certain Fourth Amendment to Owner Participation Agreement dated on or about November 20, 2007, and as may be further amended from time to time (collectively, the "OPA").

E. Contemporaneous with the conveyance of the Lot 18 Property, Assignor desires to assign to Assignee all of Assignor's rights, duties, liabilities and obligations under the Development Agreement with respect to the Lot 18 Property only (excluding, however, Assignor's obligations with respect to the construction of and/or payment for the infrastructure specified in Sections 5.1 and 5.2 of the Development Agreement ("**Infrastructure Obligations**"), for which Assignor shall remain responsible) (the "**Assigned Rights and Obligations**"), and Assignee desires to accept and assume Assignor's rights, duties, liabilities and obligations under the Development Agreement with respect to the Lot 18 Property only (excluding, however, the Infrastructure Obligations, for which Assignor shall remain responsible) (the "**Assumed Rights and Obligations**"), such assignment and assumption to be effective on the Effective Date (as defined in Section 1.3 below). The Assigned Rights and Obligations and the Assumed Rights and Obligations are referred to collectively herein as the "**Lot 18 Property Rights and Obligations**".

NOW THEREFORE, in consideration of these promises, and of the agreements, covenants and conditions contained in this Agreement and other good and valuable consideration, the parties agree as follows:

1.1 Assignment. Assignor assigns to Assignee, as of the Effective Date (as defined in Section 1.3 below), all of Assignor's rights, title and interest in and to the Lot 18 Property Rights and Obligations.

1.2 Assumption. As of the Effective Date, Assignee accepts Assignor's assignment of the Assigned Rights and Obligations and assumes the Assumed Rights and Obligations. From and after the Effective Date, Assignee shall keep and perform all of the agreements, undertakings, and covenants of the Development Agreement, including any and all Development Agreement attachments, undertakings, covenants, and documents entered into pursuant to the Development Agreement, relating to the Lot 18 Property, excluding the Infrastructure Obligations.

Pursuant to and in accordance with all of the provisions of the OPA and Development Agreement, Assignee shall develop, construct, and sell on the Lot 18 Property sixty-nine (69) for-sale affordable units made available to and occupied by Low Income Households (as defined in the OPA) and eighty-seven (87) for-sale affordable units made available to and occupied by Moderate Income Households (as defined in the OPA).

Assignee's address for purpose of the Development Agreement shall be as follows:

Aldersgate Investment, LLC
300 Esplanade Drive
Suite 430
Oxnard, California 93036
Attention: Ernie Mansi
Telephone No. (805) 988-4114
Facsimile No. (805) 988-4116

1.3 Effective Date. For purposes of this Agreement, the "Effective Date" shall be the later to occur of (1) the date on which the deed from Assignor to Assignee for the Lot 18 Property is recorded in the Office of the Recorder of the County of Ventura; or (2) the date of the execution of the written approval of this Agreement by the City, as evidenced by the full execution of the City's representative in the form entitled City of Oxnard's Consent, attached hereto and incorporated herein by reference as Exhibit B.

1.4 Authority. Each person executing this Agreement represents and warrants that he or she has the authority to bind his or her respective party to the performance of its obligations hereunder and that all necessary board of directors', shareholders', partners' and other approvals have been obtained.

1.5 Third Party Beneficiaries. Assignor and Assignee acknowledge that the City is a third party beneficiary of the terms and conditions of this Agreement.

1.6 Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Signature pages may be detached from the counterparts and attached to a single copy of this Agreement to physically form one document.

[remainder of page left intentionally blank – signature pages follow]

IN WITNESS WHEREOF, Assignor and Assignee have executed this Agreement by proper persons thereunto duly authorized, to be effective as of the Effective Date.

“Assignor”

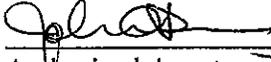
RIVERPARK A, L.L.C.,
a Delaware limited liability company

By: RiverPark Development, LLC,
a Delaware limited liability company
its sole member

By: Riverpark Legacy, LLC,
a Delaware limited liability company
its Sole Member

By: Shea Riverpark Developers, LLC,
a Delaware limited liability company,
its Manager

By: Shea Homes Limited Partnership,
a California limited partnership,
its Managing Member

By: 
Authorized Agent John Danvers

By: 
Authorized Agent Brooke Thomas

ATTACHMENT #1

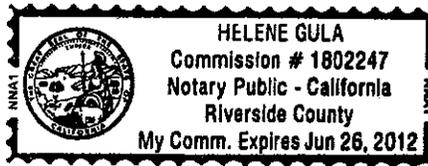
PAGE 4 OF 9

State of California }
County of Riverside } S.S.

On March 23, 2010, before me, Helene Gula, Notary Public, personally appeared John Danvers and Brooke Thomas, who proved to me on the basis of satisfactory evidence to be the persons whose names are subscribed to the within instrument and acknowledged to me that they executed the same in their authorized capacities, and that by their signatures on the instrument the persons, or the entity upon behalf of which the persons acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Helene Gula

Helene Gula, Notary Public

Name of County: Riverside
Commission Expires: 6/26/2012
Commission Number: 1802247

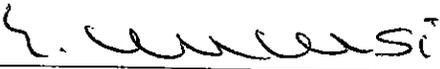
This certificate is attached to:
Assignment and Assumption Agreement (Development Agreement)

ATTACHMENT # 1

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“Assignee”

ALDERSGATE INVESTMENT, LLC,
a Delaware limited liability company

By 
Ernest T. Mansi, Manager

ATTACHMENT #1

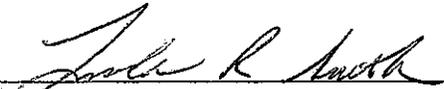
PAGE 6 OF 9

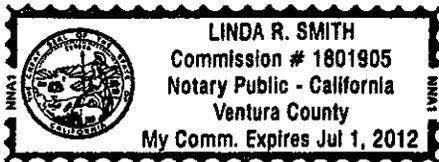
STATE OF CALIFORNIA)
) ss.
COUNTY OF VENTURA)

On March 24, 2010 before me, LINDA R. SMITH, notary public, personally appeared ERNEST T. MANSI, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.


Notary Public



ATTACHMENT #1

PAGE 7 OF 9

EXHIBIT A

LEGAL DESCRIPTION OF LOT 18 PROPERTY

Real property in the City of Oxnard, County of Ventura, State of California, described as follows:

Lot 18 of Tract No. 5352-1, in the City of Oxnard, County of Ventura, State of California, as per map recorded in Book 150, Pages 76 through 92 of Maps, in the office of the County Recorder of said County.

Except therefrom all oils, gas, minerals and other hydrocarbon substances in and under said land, without, however, the right of surface entry to a depth of 500 feet below the surface and subsurface as reserved in deeds recorded June 16, 1954 in Book 1209, Page 182; December 21, 1954 in Book 1252, Page 429; Book 4723, Page 472 and Dec 8, 1986 as Instrument Nos. 86-175822, 86-175823, 86-175824, 86-175827 and 86-175828 all of Official Records.

APN: 132-0-110-245

ATTACHMENT #1

PAGE 8 OF 9

EXHIBIT B

CITY OF OXNARD'S CONSENT

The City of Oxnard hereby consents to the assignment and assumption of the Lot 18 Property Rights and Obligations as set forth in this Agreement.

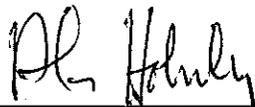
CITY OF OXNARD

By: _____
Dr. Thomas E. Holden, Mayor

ATTEST:

Daniel Martinez, City Clerk

APPROVED AS TO FORM:



Alan Holmberg, City Attorney

ATTACHMENT #1

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