



Meeting Date: 07 / 20 / 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: William Wilkins & Kymberly Horner *KH* Agenda Item No. I-2
 Reviewed By: City Manager *[Signature]* City Attorney Holmberg *pm* Finance *[Signature]* Other (Specify) _____

DATE: May 10, 2010

TO: Community Development Commission

FROM: Curtis P. Cannon, Community Development Director *Kymberly Horner (for)*
 William E. Wilkins, Housing Director *[Signature] for WEW*

SUBJECT: RiverPark Affordable Housing Mortgage Payment Assistance

RECOMMENDATION

That the Community Development Commission (“CDC”) approve the appropriation of funds in the amount of \$364,000 from the Housing-Set-Aside Fund Balance for the purpose of offering mortgage payment assistance to low and moderate-income homebuyers who purchased homes in the RiverPark development.

DISCUSSION

During 2006-2007, twenty-nine (29) homes in the Shea Homes “Destination” tract in RiverPark were purchased at the following prices: \$235,000 for low-income restricted homebuyers and \$360,000 for moderate-income restricted homebuyers. The sales prices are restricted, which means that for 45 years the homes must be sold at prices affordable to low and moderate-income homebuyers (based on formulas set forth in California redevelopment law). These sales prices have been challenged as not being properly calculated within the statutory guidelines by a representative acting on behalf of several of the homeowners.

The City of Oxnard (“City”) and the CDC participated with Shea Homes in determining the sales prices of the homes. The City and CDC approved the sales price of \$235,000 for low-income restricted homebuyers based upon financing assumptions provided by Shea Homes, such as the availability of down payment assistance from parties other than the CDC and forgivable loans. These financing assumptions would have potentially reduced the sales price from \$235,000 to \$199,000. The financing assumptions did not materialize. The sales price of \$360,000 for moderate-income restricted homebuyers was based upon the developer’s marketing analysis and experience, which indicated that the homes could not sell for more than \$360,000. Financing assumptions similar to those employed in determining the low-income price of \$235,000 would have allowed a moderate income price

significantly higher than \$360,000. Without such financing, the allowable moderate income sales price would have been \$352,000. All the owners financed the homes.

CDC staff and the above-referenced homeowners' representative have discussed the issues raised in connection with the price differentials. They have agreed that an assistance plan which allows the homeowners to be financially assisted based upon the difference between monthly payments on a loan for a \$199,000 purchase and a \$235,000 purchase is appropriate. It has also been agreed that the assistance would continue for such period of time as it would take for a typical low-income buyer to be able to increase his or her income to an amount sufficient to afford (based on accepted formulas) a \$235,000 purchase, assuming a 3% per annum increase in income.

CDC staff calculated this difference in financing cost based upon a range of interest rates available at the time the owners purchased their home and down payment assumptions typical at the time of purchase. For a typical loan, with average down payment and terms, CDC staff calculated the mortgage payment required for a \$235,000 purchase to be approximately \$200 per month greater than the mortgage payment for a \$199,000 purchase.

CDC staff also determined that it would take approximately six and one-half years for the price of a home, based on affordability levels to a low-income family, to increase from \$199,000 to \$235,000. In other words, if a low-income family was able to purchase a home at \$199,000 based on an income of approximately \$65,000 per year, the CDC projected that the same family would be able, in six and one-half years, given an inflation rate of 3% per annum, to reach an income of approximately \$76,500, which income would support a purchase price of \$235,000.

With respect to moderate-income owners, the same methodology was used. Since, however, the purchase price difference was less, leading to less time for the above described income level adjustments to occur and a reduced monthly assistance amount, the parties negotiated one lump sum payment, rather than payments over what would have been a three-year period.

The CDC will offer mortgage payment assistance to each of the 22 low-income homebuyers in the sum of \$200 per month for a period of six and one-half years. Monthly payments will cease if the property is sold within this period. The total amount of assistance provided to low-income homebuyers, collectively, is \$343,200. The CDC will also offer one lump sum payment in the sum of \$1,872 to each of the seven moderate-income homebuyers, totaling \$13,104. If approved by the CDC, the assistance will be offered to all 29 homeowners for a period of six months from the date of approval. CDC staff does not know if all owners will accept the offer.

The total amount of mortgage payment assistance that will be provided by the CDC is \$356,304. Shea Homes and its successors have not agreed to contribute to this settlement. Staff will continue to pursue negotiations with the Shea Home entities.

FINANCIAL IMPACT

There are sufficient funds in the Housing Set-Aside Fund Balance (441) to finance the mortgage assistance payments. Staff is recommending a special budget appropriation in the amount of \$364,000

Subject/RiverPark Affordable Housing Mortgage Payment Assistance

June 8, 2010

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to cover the cost of the payment assistance. Approving this recommendation will have no impact on the City's General Fund.

(AH/kh)

Attachment #1- Mortgage Assistance Analysis

Attachment #2- Special Budget Appropriation

Attachment #3- Sample of Low-Income Homeowners Agreement

Attachment #4- Sample of Moderate-Income Homeowners Agreement

RiverPark Affordable Housing Mortgage Assistance Analysis

To determine the proposed monthly financial assistance of \$200 per household an analysis was conducted to evaluate the difference in monthly mortgage payments based on the purchase price difference, prevalent mortgage interest rates at the time, and 5% down payment. Below is the analysis used to determine the financial assistance per household.

- Purchase prices of \$235,000 vs. \$199,000 with 5% down payments and an interest rate of 5 1/2 % result in mortgage payments of \$1,267.59 vs. \$1,073.41 respectively. The difference between the two is 194.18.
- Purchase prices of \$235,000 vs. \$199,000 with 5% down payments and an interest rate of 6 ½ % result in mortgage payments of \$1,411.09 vs. \$1,194.92 respectively. The difference between the two is \$216.17.
- The average was 205.17, rounded to \$200.
- The time period was determined by evaluating when the homeowner could sell the home for \$235,000 based on a purchase price of \$199,000. The difference between the two prices is approximately 18%. Therefore median household incomes would need to rise 18% to reach the price differential. Based on an average annual CPI of 3% multiplied by 6 years or 72 months the 18% increase from \$199,000 to \$235,000 would occur.
- An additional 6 months has been added to the 72 months to a new 78 month period to account for the potential slower CPI increase of less than 3% per year in the early phase of payments.
- If the owner wishes to sell the house any time prior to the 78 months, they will be able to sell the house for no less than \$235,000 as stated above.

Attachment #1

CITY OF OXNARD
REQUEST FOR SPECIAL BUDGET APPROPRIATION

To the City Manager:

June 8, 2010

Request is hereby made for an appropriation of total.....\$364,000

Reason for appropriation:

<u>FUND</u>	<u>ACCOUNT/DESCRIPTION</u>	<u>AMOUNT</u>
CDC Housing Set-Aside 441	CDC-Housing Set-Aside Riverpark Mortgage Asst. (Project 10LOXX) 441-998X-827-8363	364,000
	Net Estimated Change to Housing Set-Aside Fund	(364,000) =====

Lauren Hooper (for)

 Department Director

Bob Ad *Jim Carson*

 DIRECTOR OF FINANCE

Disposition _____ Transfer by Journal Voucher _____	Approved _____ Rejected _____ _____ City Manager
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AGREEMENT CONCERNING AFFORDABLE HOUSING
LOW INCOME HOME BUYERS

1. The date of this Agreement is _____. The parties to this agreement are _____ and _____ (“Owners”) on the one hand and the City of Oxnard Community Development Commission (“CDC”) on the other hand. On or about _____, 200__, Owners purchased a home from Shea RiverPark Developers, LLC, a Delaware Limited Liability Company (“Shea”) in the “Destination” tract of the RiverPark Development in the City of Oxnard. Owners paid the sum of \$235,000 for the home.

2. Owners paid a price for their home which at the time was less than market value. They purchased the home through a program of the CDC implemented by agreements between the CDC and Shea providing for affordable housing to lower income families in the Oxnard area. In connection with the purchase of the home, Owners executed a Resale Restriction Agreement in favor of the CDC restricting transfer of the home for a period of 45 years from the date of purchase to low income purchasers at a price affordable to such purchasers. Owners have claimed that the purchase price of the home, pursuant to applicable program restrictions and calculations, should have been \$199,000.00.

3. The City participated with Shea in determining the purchase price of the home and approved the purchase price based upon financing assumptions which did not materialize, in particular, the availability of down payment assistance and forgivable loans which would have reduced the effective purchase price to Owners from \$235,000 to \$199,000. Owners financed the home. On typical terms, financing a purchase in the sum of \$235,000 is more costly to Owners than financing a purchase in the sum of \$199,000. The CDC has calculated the difference in financing cost based upon a range of interest rates available at the time Owners

purchased their home and loan amount assumptions typical at the time for purchases of homes for the prices indicated.

4. Based upon the CDC's calculations concerning the monthly cost of a loan for a \$235,000 purchase and a loan for a \$199,000 purchase the CDC will pay to Owners the sum of \$200 per month for a period of up to 78 months, in order to compensate Owners for any and all losses which Owners may have suffered as a result of purchasing a home for a price of \$235,000 rather than \$199,000.

5. Payments will be made for the lesser of a period of 78 months from the date of this Agreement, or until the home is sold. In other words, if Owners sell their property prior to the expiration of 78 months, CDC's obligations under this agreement will cease. If Owners sell their property, they must do so in accordance with terms and conditions of the Resale Restriction Agreement, however, in no event may Owners be required by CDC to sell their property for less than the sum of \$235,000.

6. This Agreement is a complete resolution of the issues described herein. This Agreement is not intended to modify and does not modify any contracts, documents, obligations or relationships relating to the home other than as specifically set forth herein.

7. Owners release and forever discharge City, CDC, Shea and their respective shareholders, owners, partners, affiliates, subsidiaries, members, successors, predecessors, assigns, councilmembers, commissioners, directors, officers, representatives, agents, employees, insurers, and sureties from any and all actions, causes of action, suits, debts, liens, liabilities, demands, damages, liquidated damages, losses, costs or expenses, matters described in this Agreement arising from and/or related to the claims and allegations that were made or could have been made in connection with the matters described in this Agreement. With respect to such

matters, Owners waive and release all claims unknown and known and waive all rights under Civil Code §1542, which reads:

“A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor.”

8. The parties each represent and warrant that the execution, delivery and performance by each of them of this Agreement has been duly authorized to the extent such authorization is required, and requires no further approval from any third party or any other party that has not already given such approval.

9. Any person executing this Agreement on behalf of any party hereto hereby personally represents and warrants to all other parties that he/she has the authority to execute this Agreement on behalf of, and to fully bind such party.

10. This Agreement contains the sole and entire agreement and understanding of the parties with respect to the entire subject matter hereof, and any and all prior discussions, negotiations, commitments or understandings related hereto, if any, are hereby merged herein. No representations, oral or otherwise, express or implied, other than those specifically referred to in this Agreement have been made by any party hereto.

11. This Agreement shall in all respects be interpreted, enforced and governed by and under the laws of the State of California.

12. This Agreement has been jointly negotiated and drafted. The language of this Agreement shall be construed as a whole according to its fair meaning, and not strictly for or against any of the parties hereto.

13. This Agreement may be executed in counterparts and by facsimile signatures, and all taken together shall become effective and binding upon the parties at such time as the signatories hereto have affixed their signatures. All counterparts so executed shall constitute one agreement, binding upon all Parties, notwithstanding that all the parties are not signatories to the original or the same counterpart.

14. The parties agree to execute such other documents and to take such other action as may be reasonably necessary to carry out the terms and purposes of this Agreement.

15. It is agreed that this Agreement, together with the releases, shall be binding upon and inure to the benefit of the heirs, executors, administrators, personal representatives, successors in interest and assigns of the respective parties hereto.

16. Each party shall bear its own costs and attorneys' fees incurred as a result of or in connection with the matters presented at mediation. However, the prevailing party in any action to enforce this Agreement shall be awarded costs and attorneys' fees.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first above written.

CITY OF OXNARD

OWNERS

Community Development Community

Name

APPROVED AS TO FORM:

Alan Holmberg, City Attorney

AGREEMENT CONCERNING AFFORDABLE HOUSING
MODERATE INCOME HOME BUYERS

1. The date of this Agreement is _____. The parties to this agreement are _____ and _____ ("Owners") on the one hand and the City of Oxnard Community Development Commission ("CDC") on the other hand. On or about _____, 200__, Owners purchased a home from Shea RiverPark Developers, LLC, a Delaware Limited Liability Company ("Shea") in the "Destination" tract of the RiverPark Development in the City of Oxnard. Owners paid the sum of \$360,000 for the home.

2. Owners paid a price for their home which at the time was less than market value. They purchased the home through a program of the CDC implemented by agreements between the CDC and Shea providing for affordable housing to moderate income families in the Oxnard area. In connection with the purchase of the home, Owners executed a Resale Restriction Agreement in favor of the CDC restricting transfer of the home for a period of 45 years from date of purchase to moderate income purchasers at a price affordable to such purchasers. Owners have claimed that the purchase price of the home, pursuant to applicable program restrictions and calculations, should have been \$352,000.00.

3. The City participated with Shea in determining the purchase price of the home. The City approved the purchase price based upon financing assumptions which did not materialize. In particular, the availability of down payment assistance and forgivable loans which reduced the effective purchase price to Owners from \$360,000 to \$352,000. Owners claim that the City should have compensated Owners for the difference between the purchase price and the effective purchase price of the home.

4. CDC will pay to Owners the sum of \$1872 in order to compensate Owners for all losses which Owners may have suffered as a result of purchasing a home.

\$360,000 rather than \$352,000. This sum has been negotiated based upon additional costs associated with financing a purchase in the amount of \$360,00 over the cost of financing a \$352,000 purchase over a period of approximately 3 years. All parties agree that the amount has been fairly negotiated and accept it as the appropriate settlement.

5. This Agreement is a complete resolution of the issues described herein. This Agreement is not intended to modify and does not modify any contracts, documents, obligations or relationships relating to the home other than as specifically set forth herein.

6. Owners release and forever discharge City, CDC, Shea and their respective shareholders, owners, partners, affiliates, subsidiaries, members, successors, predecessors, assigns, councilmembers, commissioners, directors, officers, representatives, agents, employees, insurers, and sureties from any and all actions, causes of action, suits, debts, liens, liabilities, demands, damages, liquidated damages, losses, costs or expenses, matters described in this Agreement arising from and/or related to the claims and allegations that were made or could have been made in connection with the matters described in this Agreement. With respect to such matters, Owners waive and release all claims unknown and known and waive all rights under Civil Code §1542, which reads:

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CITY OF OXNARD

OWNERS

Community Development Community

Name

APPROVED AS TO FORM:

Alan Holmberg, City Attorney

