ITEM 9.J.

MOORPARK CITY COUNCIL
AGENDA REPORT

TO: Honorable City Council

FROM: David C. Moe, II Redevelopment Manager

DATE: December 12, 2012 (CC Mtg. December 19, 2012)

SUBJECT: Consider Authorization of Changes to Language in the First Time Home Buyer Program Resale and Refinance Restriction Agreement and Option to Purchase Property

BACKGROUND

In June 2004, the City Council approved general program guidelines for the first seven units in the City's First Time Home Buyer Program (FTHB), with the intent for staff to bring back a formal guideline document sometime in the future. In November 2004, the City Council approved the purchase documents including the FTHB Program agreement templates. One of the guidelines pertained to equity sharing with the City at the time of resale. As the Council will recall, the methodology for accounting for the Affordable Sales Price of the unit is set by Section 50052.5 (b) of the Health and Safety Code and is based on current median income. Currently at resale, when there is an increase in the affordable sales price due to an increase in median income, the owner is entitled to any equity in the property generated as a result of paying down principal on the first mortgage, the amount of the original downpayment, plus up to $50,000 in net proceeds. Any funds available after the deduction of these amounts will be shared by the owner and City, one-third to owner, two-thirds to City. The Resale Refinance Restriction Agreement and Option to Purchase Property ("Resale Refinance Agreement") contains the language that affects the equity sharing requirement of the program.

As discussed below, the Federal Home Loan Mortgage Corporation ("Freddie Mac") changed their underwriting requirements. This requires the City to modify its guidelines if we want to use a lending institution that resells the mortgage to Freddie Mac. In addition, the City has a few requests to refinance existing FTHBs which cannot be accommodated without this change to the City's guidelines. These requests have been made in hopes of taking advantage of lower interest rates. No cash out will be allowed on refinancing.

DISCUSSION

To date, Wells Fargo Home Loans has provided most of the First Trust Deed mortgages for the FTHB units. In 2011, staff received communication from Wells Fargo's underwriting department indicating that the Freddie Mac guidelines they use to underwrite the FTHB loans had changed. The change only allows additional financing instruments (such as the City's silent second) to contain provisions for equity sharing, provided that the amount of equity share does not exceed, as a percentage, the amount of the Silent Second Deed of Trust divided by the appraisal value (market value). In order for Wells Fargo and any other lender using Freddie Mac underwriting guidelines to lend to the City's program, the language in the City's Resale Refinance Agreement must be modified. The new language will be as underlined below:

VI. DETERMINATION OF APPROVED RESALE PRICE

(b) In the event of a re-sale of the subject Property for the Approved Resale Price, where as a result of an increase in the Area Median Income and there is a net amount of sale proceeds remaining after the payment of the Seller's original downpayment, ~~First Mortgage, and City approved loans junior to the City's Second Mortgage and closing costs,~~ such net proceeds shall be distributed as follows: Seller will receive the first $50,000, inclusive of the paying down of the principal on the First Mortgage loan. ~~an amount equal to any equity in the property generated as a result of paying down principal on the First Mortgage Loan, as well as the amount of the Seller's original downpayment plus up to $50,000 in net proceeds less any proceeds retained by Seller from any Additional Financing and any amounts used to pay liens junior to the City's Second Mortgage shall first be provided to the Seller (the "Seller's Share") and then any proceeds above such Seller's Sharet~~The remaining equity shall be split among Seller and City as follows: one-third to Seller and two-thirds to the City provided that the City's share of appreciation will not as a percentage exceed the principal amount of the second loan amount divided by the appraisal value of the property at time of initial origination.

This will also apply to refinancing requests. As stated previously, no cash out will be allowed on refinancings.

FISCAL IMPACT

The modified language in the Resale Restriction Agreement puts a cap on the amount of total equity the City can receive from the equity share formula. For example if the fair market value of the property is $314,000 and the amount of the affordable second is $153,000 the total amount of equity the City can receive from the equity share language is 49%. This percentage will not change until the property is resold. In a hypothetical equity situation with the following paramters:

Buyer has paid down $30,000 of their first mortgage
Amount of original downpayment is $8,000.
And the increase in median income allows for an additional $50,000 in equity

Current Language		Proposed Language	
$88,000	Total Equity	$88,000	Total Equity
$88,000	Owner gets $8,000,$30,000 paid down on mortgage and first $50,000	$58,000	Downpayment of $8,000 plus first $50,000 to the owner
$0	equity left to share	$30,000	equity left to share
$0	1/3 to Owner	$10,000	1/3 to Owner
$0	2/3 to City (percentage of equity does not matter)	$20,000	2/3 to City (percentage of total City equity is 67% and cannot exceed 49%)

It is important to remember that equity is generated for the program when the affordable sales price increases and the affordble sales price is based on median income (Fair market value has no bearing on the affordable sales price or equity share). Below is an example of increases in median income and corresponding increases in affordable sales price for a three bedroom affordable unit at Pardee's Waverly Place development:

	2008	2009	2010	2011	2012
Median Income	$83,900	$86,100	$86,700	$88,100	$89,300
Affordable Sales Price	$147,000	$152,000	$154,000	$157,500	$161,000

The new language would begin to effect the equity share to the City when the City's portion of the equity sharing reaches above the 49%. Staff's analysis revealed that in this scenario it would take approximately 50 years for the City's equity share to raise high enough to reach the 49% cap. Different units will have different scenarios based on when they are bought or refinanced, but they will always have a cap based on dividing the affordable second by the fair market value of the property at the time of the initial transaction.

STAFF RECOMMENDATION

1. Approve the changes to the Resale and Refinance Restriction Agreement and Option to Purchase document as outlined in the staff report with authority granted to City Manager for final language approval.

2. Authorize City Manager to approve First Time Home Buyer refinancings with no cash out.