Atascadero City Council
Staff Report – City Manager

Inclusionary Policy Equity Sharing Program
Release of Moderate Income Housing Developer Agreement

RECOMMENDATIONS:

Council:

1. Approve the attached Release of Moderate Income Housing Agreement; and,
2. Adopt the Draft Resolution authorizing the City Manager, or his designee, to execute the Release of Moderate Income Housing Agreement

DISCUSSION:

For many years the City has had an inclusionary housing program requiring that a percentage of homes built in the City be affordable to moderate income homebuyers. When housing projects were approved, the City entered into agreements with developers, requiring them to provide affordable housing. These agreements were recorded against the properties and restrict the sales price of the home for 30 years to an amount that is affordable to moderate-income household.

Later, the City Council approved an equity-sharing program for the moderate-income homes. The terms were somewhat different than those included in the agreement with the developer. Rather than restricting the resale price of the homes, the City receives an equity share (equal to the difference between the fair market value and the affordable price) in the home when it is purchased from the developer. A promissory note, a resale agreement, a deed of trust, a buyer disclosure statement and other documents are executed securing the City’s interest in the property. The equity-sharing program calls for the home to eventually be re-sold at the fair market value, with the City receiving its share of the sales proceeds to re-invest in affordable housing. Since the program calls for an unrestricted sales price, and the City’s interest in the property is secured, the original 30 year restriction of the sales price should be released at the time of the original sale.
One of the original homeowners now desires to sell her property, and in reviewing the title report, the staff realized that the original agreement with the developer is still recorded against the property. Its terms conflict with those later approved by the Council and disclosed to the homeowner. To remove the cloud against the title, a release of the original agreement needs to be recorded on the property. This is true of all homes in the moderate equity-sharing program.

**Conclusion:** By taking this action, the Council will authorize the City Manager or his designee, to sign a release terminating the original developer agreement in this particular case, other similar cases that currently exist, or in future cases where the City and the homebuyer have later entered into alternate affordable housing agreements.

**FISCAL IMPACT:** None

**ALTERNATIVES:**

1. Take no action.
2. Direct Staff to investigate other alternatives as identified by the City Council.
3. The Council may choose to refer the item back to staff for additional analysis.

**ATTACHMENTS:**

1. Copy of proposed Release of Moderate Income Housing Agreement
2. Draft Resolution