

ITEM #:	<u>29</u>
DATE:	<u>04-14-26</u>
DEPT:	<u>P&H</u>

COUNCIL ACTION FORM

SUBJECT: TOWNHOMES AT CREEKSIDE HOME AGREEMENT AMENDMENT REQUEST

BACKGROUND:

The Townhomes at Creekside is a 38-unit affordable housing project located within the Baker Subdivision along Tripp Street. The project used a variety of funding sources that included federal Low Income Housing Tax Credits (LIHTC), State HOME funds, City of Ames HOME Funds, developer equity, and the dedication of land by the City of Ames. **The City entered into multiple agreements for the development of the site as affordable housing with a commitment of keeping the development affordable to qualified low and moderate income households for a period of 30 years.**

The affordability requirements are incorporated into the Development Agreement for the project with specific reference to provisions for eight of the 38 units funded with HOME funds. These HOME units have specific limitations for housing of lower income households at or below 50% and limited to family households within defined leasing periods.

The City provided \$2.1 million of HOME funds as a deferred 30-year loan to financially assist with the eight units. The \$2.1 million dollars of HOME funds have a separate agreement that requires the units to be compliant with federal HOME program requirements and the City must verify annually compliance of the Townhomes at Creekside with the HOME requirements.

If the eight City HOME units were ever found to be in default of the HOME Agreement requirement, the City would be responsible for ensuring the federal government is repaid the \$2.1 million of HOME funds. The City could repay HUD in variety of ways, including an option to recapture the funds from the developer.

Staff recently became aware this past winter that the HOME agreement was not required to be for a full 30 years, including the repayment provision. The HOME Agreement could be for a shorter duration of only 20 years, meaning if default occurred after 20 years no repayment to HUD would be required. Now that staff is aware of this option, staff wanted to present the option to the City Council to amend the agreement from 30 years to 20 years for the eight HOME units in order to eliminate the potential of having to repay HUD during years 21-30 of the project agreements.

The overall affordability requirement tied to the project through LIHTC and the City's development agreement would continue, even if the HOME agreement is changed. In essence, if the change is approved, the 50% AMI limitation and restrictions related to family household preferences would end at 20 years for the eight HOME units and they would be affordable LIHTC units like the rest of the units. The City would retain the 30-year deferred loan and repayment requirement as-is.

The developers have indicated they are willing to agree to the changes if it only impacts the HOME Agreement affordability period.

If City Council does not believe the potential for default in years 21-30 are a significant issue, and, therefore, wants to retain the 50% AMI requirement for the eight units, then no action is needed.

However, if City Council concurs with staff that limiting the potential for payback in the event of default is in the interest of the City, Council would direct the City Attorney to prepare appropriate amendments to the HOME Agreement changing its duration 20 years.

ALTERNATIVES:

1. Direct the City Attorney to prepare appropriate amendments to the relevant HOME agreement to change the duration the affordability and compliance period from 30 years to 20 years consistent with the example language of Attachment 1 and authorize the Mayor to approve the final amended agreements.

It should be noted that all 38 units will still be required to meet the LIHTC affordability requirements for 30 years.

2. Direct the City Attorney to prepare amendments and return with final amendments for City Council approval.
3. Take no action and maintain the 30-year HOME Agreement as-is.

CITY MANAGER'S RECOMMENDED ACTION:

Staff believes the change to the duration of the HOME agreement could be in the City's interest to avoid potential future complications with ensuring HOME compliance and the potential to have to repay HUD if there is default in the future. The developer has experience in other communities with only the 20-year HOME Agreement limitation and is amenable to the change in relation to the HOME Agreements.

Although staff has initiated the proposed change, the developer has requested that the issue be resolved as expeditiously as possible in order to allow for them to receive their final HOME payment. Alternative 1 would authorize the Mayor to sign the agreements as soon as they are completed by the City Attorney versus Alternative 2, the final language would return for full Council review on April 28th.

The type of change is very limited and specific about the duration of the agreement affordability period as shown in the example language that is attached. Therefore, it is the recommendation of the City Manager that the City Council approve Alternative #1, as described above.

ATTACHMENT(S):

[Att. 1 Home Agreement Strike Out Language Draft.pdf](#)