

RESOLUTION NO. 2202

A RESOLUTION OF THE CITY OF WILSONVILLE AUTHORIZING THE CITY MANAGER TO EXECUTE ON BEHALF OF THE CITY OF WILSONVILLE ADDENDUM NO. 1 TO THE DISPOSITION AND DEVELOPMENT AGREEMENT WITH THE CITY OF WILSONVILLE, THE CITY OF WILSONVILLE URBAN RENEWAL AGENCY, AND NORTHWEST HOUSING ALTERNATIVES, INC.

WHEREAS, on August 3, 2009, the City Council by motion duly approved the extension of \$287,266 to Northwest Housing Alternatives to site preparation and construction on the property to be credited against the funding set forth in Exhibit C to the Disposition and Development Agreement based upon agreement of the parties as is set forth in a copy of Addendum No. 1, marked Exhibit A, attached hereto and incorporated herein;

NOW, THEREFORE, THE CITY OF WILSONVILLE RESOLVES AS FOLLOWS:

1. Upon the City Manager obtaining a copy of the approval by reservation letter by mid-September 200k of the tax credit funding partner with a tax coverage ratio that allows the project to be funded by the Federal Housing and Urban Development (HUD) the City Manager is authorized to execute on behalf of the City of Wilsonville Addendum No. 1 to the Disposition and Development Agreement, marked Exhibit A, attached hereto and incorporated herein;
2. This Resolution is effective upon adoption.

ADOPTED by the Wilsonville City Council at a regular meeting thereof this 17 day of August, 2009, and filed with the Wilsonville City Recorder this date.


TIM KNAPP, MAYOR

ATTEST:


Sandra C. King, MMC, City Recorder

SUMMARY OF VOTES:

Mayor Knapp	Yes
Councilor Kirk	Excused
Councilor Hurst	Yes
Councilor Núñez	Yes
Councilor Ripple	Excised

Exhibit A: Addendum No. 1

**ADDENDUM NO. 1 TO DISPOSITION AND
DEVELOPMENT AGREEMENT**

This Addendum No. 1 ("Addendum") to the Disposition and Development Agreement ("DDA") is made as of August 17, 2009, by and between the City of Wilsonville, an Oregon Public Body Corporate and Politic (in such capacity, the "City"); City of Wilsonville Urban Renewal Agency, an Oregon Public Body Corporate and Politic ("Agency"); and Northwest Housing Alternatives, Inc., an Oregon nonprofit corporation ("Nonprofit Developer"). City Agency and Nonprofit Developer are jointly referred to in this Addendum as "Parties" and individually as a "Party".

RECITALS

WHEREAS, the Parties previously entered into that certain Disposition and Development Agreement (DDA) for a senior affordable housing project, also known as Creekside, made as of December 15, 2008; and

WHEREAS, in the DDA section 3) Development of the Project, paragraph c) Schedule of Compliance, the Parties provided: " * * * [to] assist Nonprofit Developer in meeting the schedule of Compliance, Agency may advance funds to Nonprofit Developer to be credited to the Enhancement Package"; and

WHEREAS, the City outlined in a letter of February 24, 2009, that the Enhancement funding was estimated to be \$1,348,700 and the City agreed to \$500,000 of this amount to provide predevelopment monies to help the project maintain a construction start date of September 1, 2009, a copy of the February 24, 2009, letter is marked "Exhibit 1", attached hereto and incorporated by reference herein; and

WHEREAS, the City arranged for the Agency to provide the aforementioned advance of \$500,000 in accordance with the provisions of a Memorandum of Understanding, that the Parties entered into dated February 25, 2009, a copy of which is marked "Exhibit 2", attached hereto and incorporated by reference herein; and

WHEREAS, the City and the Agency received a request from Nonprofit Developer, under letter of August 3, 2009, requesting a further advance of \$287,266 to be credited against the Enhancement Package in order to begin construction with site preparation prior to September 1, 2009, based upon the reasons set forth in the August 3, 2009 letter, a copy of which is marked "Exhibit 3", attached hereto and incorporated by reference herein; and

WHEREAS, both in its work session and its public meeting of August 3, 2009, the City Council of the City of Wilsonville received information from staff and from Nonprofit Developer regarding the August 3, 2009, request for advancement of funds, and after due discussion and being apprised in the premises, upon motion duly made and seconded, unanimously approved (Councilor Kirk due to illness did not participate in the Council Meeting, but expressed his support at the work session) the additional advancement of \$287,266 to be credited against the funded enhancement items set forth in Exhibit C to the DDA on certain terms as set forth in the motion and in keeping with the terms of the previous advancement; and

WHEREAS, the Board of the City of Wilsonville's Urban Renewal Agency, likewise heard at its public meeting of August 3, 2009, the Nonprofit Developer's request of August 3, 2009, for the additional \$287,266 funding to be advanced and be credited against the enhancement items in Exhibit C of the DDA, the Board incorporated into the Board's hearing record the City Council's record of input and discussion at the Council's workshop and from the Council's public hearing as well as the Council's motion approving the request, and upon motion duly made and seconded, the Board unanimously (Board member Kirk did not participate in this vote due to illness) approved the request on the same terms and conditions as the City Council as recited above;

NOW, THEREFORE, the Parties agree to the following:

TERMS AND CONDITIONS

- 1) The above recitals are incorporated herein for the purposes of setting forth the Parties' intent in interpreting this Addendum and to establish actions taken by the Parties upon which each Party is relying upon in agreeing to this Addendum No. 1 to the DDA.
- 2) In addition to the previously advanced \$500,000 set forth in the recitals and particularly set forth in Exhibit 2, Memorandum of Understanding, the City and Agency will provide to Nonprofit Developer an additional \$287,266 to serve as an advance and be credited against the City and Agency's funded enhancement items outlined in Exhibit C to the DDA, bringing the total of funds advanced and be credited against the enhancement items of \$787,266. The Parties intend the full amount for the enhancement, less the advanced credits, will be paid in accordance with the DDA as construction of the enhancements are completed. Nonprofit Developer will provided detailed copies of constructed costs for each enhancement item listed in Exhibit C to the DDA.
- 3) The City and Agency agree to remit the agreed upon advance of \$287,266 to Nonprofit Developer upon execution of this Addendum by all Parties.
- 4) City and Agency grant to Nonprofit Developer and its contractor, Walsh Construction, the right of entry to the Property as described in the DDA to begin site preparation and construction of the Creekside senior affordable housing project

upon execution of this Addendum by all Parties. The Parties intend this right of entry to be superseded at time of closing by a Lease Agreement between the Parties as their successors and assigns.

- 5) In addition to repaying the aforementioned \$500,000 advanced funds pursuant to the February 25, 2009, Memorandum of Understanding if Nonprofit Developer does not move forward with this project with no intention of future construction, then likewise Nonprofit Developer shall repay the additional \$287,266 to the City and Agency. Upon notification by Northwest Housing Alternatives that it does not intend to move forward, the Parties shall within 30 days thereof, negotiate, in good faith, the repayment terms including such installment payments as may mutually be agreed, together with interest on the unpaid balance equal to the then government pool rate that the City receives on its funds plus 200 basis points.
- 6) Nonprofit Developer agrees to waive any and all claims it may have against the City, the Agency, and/or the Property for any and all work including, but not limited to, site preparation work on the Property for the Creekside senior affordable housing project, occurring from the date of this Addendum up to and including the date of closing or any extension thereof on the financing of the project, which is currently estimated to occur in October 2009.
- 7) Nonprofit Developer shall not allow any liens or encumbrances to be placed against the Property from the date of execution of this Addendum by all Parties until the aforementioned closing of the financing, save and except as the City and Agency may agree for advance funding from Clackamas County; Nonprofit Developer shall promptly obtain lien releases from Walsh Construction and its subcontractors for work performed during the time period from the date of execution of this Addendum until closing of the financing agreement.
- 8) Nonprofit Developer shall fully indemnify and hold the City and Agency harmless for any and all claims arising out of the City's and Agency's grant of permit of entry onto the property and the site preparation and construction work permitted under this Addendum.
- 9) This Addendum No. 1 is made a part of the DDA as an addition to and supplement of the DDA to implement the above recited DDA section 3) c) and all other terms and provisions of the DDA remain in full force and effect.

IN WITNESS WHEREOF, the Parties have hereunto set their signatures and seals to this Addendum No. 1 as of the date first above written.

AGENCY:
CITY OF WILSONVILLE URBAN
RENEWAL AGENCY

NONPROFIT DEVELOPER:
NORTHWEST HOUSING
ALTERNATIVES, INC.

By: _____

By: _____

Print name: _____

Print name: _____

Title: _____

Title: _____

CITY:

CITY OF WILSONVILLE

By: _____

Name: _____

Title: _____

APPROVED AS TO FORM

This _____ day of _____, 200__.

Michael E. Kohlhoff, City Attorney
City of Wilsonville, Oregon

EXHIBIT

1. City's Letter of February 24, 2009
2. MOU dated February 25, 2009
3. Nonprofit Developer's Letter of August 3, 2009



29799 SW Town Center Loop E
Wilsonville, Oregon 97070
(503) 682-1011
(503) 682-1015 Fax Administration
(503) 682-7025 Fax Community Development

February 24, 2009

EXHIBIT 1

Ms Martha McLennan
Executive Director
Northwest Housing Alternatives
2316 SE Willard
Milwaukie, Oregon 97222

RE: Creekside Woods

Dear Ms McLennan,

The City of Wilsonville is pleased to be working with Northwest Housing Alternatives in the development of Creekside Woods—an 84 unit senior community to be located in our Town Center and adjacent to our Community Center. The City and NHA have been working together closely to bring this important affordable housing project to fruition.

This letter describes the financial commitments that the City and its Urban Renewal Agency are making to the development of this project. Our partnership with Northwest Housing Alternatives includes a number of different components:

- Ground lease: The site for the project is owned by the City's Urban Renewal Agency. The Agency will enter into a 75-year ground lease for a nominal rent of \$100 per year for this multi-acre parcel.
- Building, Planning and Engineering Permit Fee Waivers: The City will waive these fees estimated at \$79,752.80.
- Street and Park System Development Charges: The total SDCs are estimated at \$906,470.12. NHA will pay \$550,000 of the fees with the balance forgiven by the City.
- Property Tax Exemption: It is anticipated that a property tax exemption under ORS 307.540 will be requested an approved with an estimated value of \$50,000 per year.
- Project Enhancements: The City has agreed to provide capital funds to accomplish four primary purposes: 1) preparing the site for construction; 2) ensuring optimal connectivity to the Community Center next door; 3) enhancing livability of units and common areas; and 4) increasing sustainability features. The estimated amount of funding provided for these project components is \$1,348,700. The City has agreed to advance \$500,000 of this amount to provide pre-development monies to help the project maintain a construction start date of September 1, 2009.

The City of Wilsonville is committed to our partnership Northwest Housing Alternatives for the creation of Creekside Woods—providing high quality affordable housing—a resource that will serve our community for years to come.

Sincerely,

A handwritten signature in black ink, appearing to read "Arlene Loble".

Arlene Loble
City Manager

"Serving The Community With Pride"

Memorandum of Understanding

EXHIBIT 2

**City of Wilsonville
And
Northwest Housing Alternatives, Inc.**

This memorandum of understanding (MOU) is between the City of Wilsonville, City's Urban Renewal Agency, and Northwest Housing Alternatives, Inc. All parties have entered into a Disposition Development Agreement (DDA) on December 15, 2008 for the development of an affordable senior housing project on property behind the City's Community Center. The property is owned by the City's Urban Renewal Agency and will be leased to Northwest Housing Alternatives through a Master Ground Lease Agreement.

The parties have worked cooperatively to ensure the success of the project which includes the City paying for enhancements that will benefit the tenants and community. The Urban Renewal Agency will fund the list of enhancements outlined in Exhibit C of the DDA. During recent discussions about the project, Northwest Housing Alternatives requested an advance of \$500,000 from the City's Urban Renewal Agency to allow them to continue to with architectural design to ensure that the project starts construction by September 1, 2009. Northwest Housing Alternatives has received notice from HUD that they will be awarded HUD financing for the project but these funds are not available at this time for continued predevelopment costs. As a result, Northwest Housing Alternatives' requested an advancement of funds from the City's Urban Renewal Agency to assist with cash-flow and to ensure the project remains on schedule.

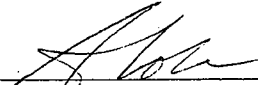
The parties agree that the \$500,000 will serve as an advance and be credited against the City's funded enhancement items outlined in Exhibit C of the DDA. The full amount of enhancements will be paid pro-rata with the completion of construction. Northwest Housing Alternatives will provide detailed copies of cost of construction for each item listed in Exhibit C. In recognition of this advance, the City will make no further payments until the pro-rata completion for enhancements has equaled \$500,000.

The City agrees to remit the agreed upon advance to Northwest Housing Alternatives as soon as this MOU is signed by all parties. If Northwest Housing Alternatives does not move forward with this project with no intention of future construction, then Northwest Housing Alternatives is responsible for repaying the \$500,000 advancement to the City of Wilsonville. Upon notification by Northwest Housing Alternatives that it does not intend to move forward, the parties shall within 30 days thereof, negotiate, in good faith, the repayment terms including such installment payments as may mutually be agreed, together with interest on the unpaid balance equal to the then government pool rate that the City receives on its funds plus 200 basis points.

This Memorandum of Understanding is effective this 25 day of Feb, 2009.

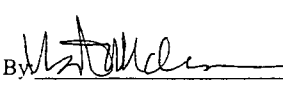
URBAN RENEWAL AGENCY
OF THE CITY OF WILSONVILLE

By:


Arlene Loble
Executive Director

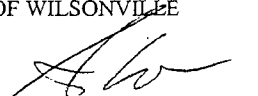
NORTHWEST HOUSING
ALTERNATIVES

By:


Martha McLennan
Executive Director

CITY OF WILSONVILLE

By:


Arlene Loble
City Manager



2316 SE Willard Street
Milwaukie, Oregon 97222-7740
phone: 503-654-1007

web: www.nwhousing.org
email: info@nwhousing.org
fax: 503-654-1319

August 3, 2009

City of Wilsonville
ATTN: Arlene Loble
29799 SW Town Center Loop E
Wilsonville, OR 97070

EXHIBIT 3

Dear Arlene:

I am writing to request that the City of Wilsonville approve funding an "early start" for the Creekside Woods senior housing project.

We currently anticipate being able to close on our construction financing and start on the full scope of work in mid to late October. To avoid the additional cost of having to conduct the site work in the wet season, our early start proposal would prepare the site for winter construction by clearing and grading the site, installing the new retaining wall and completing limited stormwater improvements starting September 1. This could potentially save the project as much as \$200,000 in wet weather costs not currently included in the project budget.

As outlined in the sources and uses budget below, we propose to fund this work by drawing on Clackamas County HOME funds and City of Wilsonville's capital contribution in equal parts. As such, this letter is our formal request for City Council to approve use of the funds committed to this project in the amount of \$287,266 for site work to begin September 1, 2009.

Creekside Early Start Budget	
Construction Cost Estimate	452,110.00
Wet weather contingency	32,000.00
Construction contingency	67,816.50
Estimating contingency	22,605.50
Total early start budget	574,532.00
City of Wilsonville funding request	287,266.00
Clackamas County funding request	287,266.00
Total early start funds	574,532.00

It has been a trying couple of months and I want to thank you and your colleagues for your patience and flexibility through this process. This early start will help keep Creekside Woods on track to becoming an asset to the Wilsonville senior community.

Sincerely,

Martha McLennan
Executive Director