

MOTION SHEET

Suggested Script:

I move to amend the ordinance in back up to allow up to 0.8% of the required affordable housing to be met with a fee in lieu as follows:

- Amend Section A and B of Part 8 to reference Section C;
- Add a new Section C of Part 8 and renumber the remaining Sections accordingly;
- Amend Recital B (a), Recital B (b), and Restriction 2 of Exhibit N (Blanket Restrictive Covenant); and
- Amend Exhibit O (Affordable Housing Agreement) as follows:
 - amend Section II A,
 - add a new Section II C, and
 - add a new Section III B , and renumber the remaining sections accordingly.

Language:

PART 8. Affordable Housing Program.

A. Multifamily Rental Housing

Except as otherwise provided in Section C, a[A]t least 10.8% of the total number of multifamily rental housing units located within the Austin Oaks PUD will be set aside for occupancy by households with incomes at 60% of or below the MFI for a rental affordability period of forty years from the date the unit is leased to an eligible household, so long as the unit remains in compliance with the terms of the affordable housing program. The 10.8% set aside under this section constitutes the "Affordable Rental Units." In addition the Landowner agrees to comply with the following:

/ B. Owner-occupied Housing

Except as otherwise provided in Section C, a[A]t least 10.8% of the total number of units sold as owner-occupied residential housing units located within the Austin Oaks PUD will be set aside for occupancy by households with incomes at 80% of or below MFI for an affordability period of (1) ninety-nine years for fee-simple ownership units governed by a condominium declaration and community land trust units or (2) forty years for fee-simple units not governed by a condominium declaration. The 10.8% set aside under this section constitutes the Affordable Ownership Units. In addition the Landowner agrees to comply with the following:

J C. Up to 0.8% of the Affordable Rental Units and Affordable Ownership Units described in Section A and B may be satisfied by payment into the Housing Trust Fund of an amount of \$215,000 per one bedroom unit and \$355,000 per two bedroom unit; provided that:

1. The on-site Affordable Rental Units and Affordable Ownership Units may not be less than 10.0% of the total number of units rented or sold;
2. Acceptance of this payment in lieu of on-site affordable units is within the sole discretion of the Director of NHCD; and
3. The funds are used in a high opportunity area, as determined by NHCD, in the vicinity of Austin Oaks PUD.

Exhibit N (Blanket Restrictive Covenant)

I. RECITALS

B. Definitions:

Affordable Housing Requirements. The Term “Affordable Housing Requirements” means restricting the Property as follows:

(a) Except as provided in section 2, [A]at least 10.8% of the total number of housing units constructed on a portion of the Property on which residential is a permitted use as designated on the Land Use Plan for the Austin Oaks PUD is primarily occupied by a rental household (the “rental units”) whose adjusted gross income for the year immediately preceding the date of occupancy of the dwelling housing unit is at or below 60% of the then current median family income for the Austin-Round Rock metropolitan statistical area as determined annually by the United States Department of Housing and Urban Development (“MFI”) and is verified in writing as acceptable by the Neighborhood Housing and Community Development Office of the City of Austin (the “City”);

(b) Except as provided in section 2, [A]at least 10.8% of the total number of housing units constructed on a portion of the Property on which residential is a permitted use as designated on the Land Use Plan for the Austin Oaks PUD is primarily occupied by a homeowner household (the “ownership units”) whose adjusted gross income for the year immediately preceding the date of occupancy of the dwelling housing unit which is at or below 80% of the then current MFI and is verified in writing as acceptable by the City;

SPECIFIC AGREEMENTS AND RESTRICTIONS:

2. Compliance with Affordable Housing Requirements. Until such time as the Release (hereafter defined) is filed in the real property records of Travis County, Texas, all occupancy of the improvements to or modifications to improvements on the Property shall be in full compliance with the Affordable Housing Requirements.

IT IS THE EXPRESS INTENT OF DECLARANT THAT ONLY CERTAIN HOUSING UNITS CONSTRUCTED ON THE PROPERTY BE ENCUMBERED BY THE AFFORDABLE HOUSING REQUIREMENTS.

At such time as the Owner of a portion of the Property on which residential is a permitted use as designated on the Land Use Plan for the Austin Oaks PUD designates an affordable unit, such housing unit shall be encumbered (a “designated unit”) by a restrictive covenant, recorded in the real property records of Travis County, Texas, to remain so encumbered for the period of time set forth in Section 5.B of this Restrictive Covenant.

The Declarant may request a partial release of units not to be designated as affordable, to be granted at the sole discretion of the City, to allow for sale of housing units not to be designated as affordable. The Declarant may also request the partial release of a portion of the Property not to contain housing from this Restrictive Covenant, subject to the following:

Declarant may request release of a parcel or multiple parcels, with all released property containing no more than a total of 500,000 leasable square feet of commercial space, which the City shall promptly execute. No additional releases shall be provided for property containing commercial or office space until such time as the certificates of occupancy have been issued for all Designated Units required to meet the Affordable Housing Requirements.

Prior to requesting a release for the first parcel containing housing units, the Owner shall provide 90 days' notice to the City. During the 90 days, the City, in its sole discretion, shall have the option to elect to modify the Affordable Housing Requirements to reduce the percentage of ownership units to 10% and the rental units to 10% in exchange for the Owner making a payment into the Housing Trust Fund. The amount of the payment shall be \$215,000 for a one bedroom unit and \$355,000 for a two bedroom unit. In the event that the City does not provide notice of its election to reduce the percentage of affordable units within the 90 days, the Owner shall record restrictive covenants on housing units at the percentages required under the Affordable Housing Requirements.

At such time as the Affordable Housing Requirements for the Property as designated on the Land Use Plan for the Austin Oaks PUD have been met, certificates of occupancy have been issued for all affordable units, and replacement restrictive covenants recorded encumbering all affordable units, the City shall execute a release ("Release") of this Restrictive Covenant for property other than the Designated Units.

Exhibit O (Affordable Housing Agreement)

II.

FINDINGS

- A. The affordable units required in this Agreement shall be secured by the execution of a blanket restrictive covenant on the Property, attached as **Exhibit B**, which provides that a unit is considered affordable only if the owner or tenant is required to spend no more than 30% of gross monthly income on mortgage and condo association fees or rental and utility payments, and requires provision on the Property of Affordable Units meeting the following levels of affordability, except as modified under Section II, Paragraph C and Section III, Paragraph B of this Agreement:
- C. Up to 0.8% of the Affordable Rental Units and Affordable Ownership Units described in Section A and B may be satisfied by payment into the Housing Trust Fund of an amount of \$215,000 per one bedroom unit and \$355,000 per two bedroom unit; provided that:
 - 1. The on-site Affordable Rental Units and Affordable Ownership Units may not be less than 10.0% of the total number of units rented or sold;
 - 2. Acceptance of this payment in lieu of on-site affordable units is within the sole discretion of the Director of NHCD; and
 - 3. The funds are used in a high opportunity area, as determined by NHCD, in the vicinity of Austin Oaks PUD.

III.

REQUIRED DOCUMENTATION

- B. Notice to City Regarding Release Request. Prior to requesting a release for the first parcel containing housing units, the Owner shall provide 90 days' notice to the City. During the 90

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days, the City, in its sole discretion, shall have the option to elect to modify the Affordable Housing Requirements as detailed in Section II, Paragraph C of this Agreement. In the event that the City does not provide notice of its election to reduce the percentage of affordable units within the 90 days, the Owner shall record restrictive covenants on housing units at the percentages required under the Affordable Housing Requirements