

**Council Meeting: May 13, 2008**

SUBJECT: Request Approval to Purchase Below Market Rate (BMR) Ownership Property at: 595 Blackwood Terrace, Sunnyvale, and Approval of Budget Modification No. 54

REPORT IN BRIEF

Approval is requested to appropriate \$166,237 from the Housing Fund/Housing Mitigation Sub-Fund Reserve to *Project 814700 - BMR Acquisition*, to allow the City to make a timely purchase of a BMR unit. The current balance in *Project 814700 - BMR Acquisition* is \$63,763. Appropriating an additional \$166,237 will increase the project's budget to \$230,000.

In 2006, without City knowledge, the homeowner refinanced their existing mortgage in excess of the amount allowable per the valuation formula outlined in the recorded restrictions. The lender also overlooked the recorded restrictions and refinanced the homeowners existing loan as if the BMR property was market rate. The homeowner is now unable to continue making the monthly payments on the loan and has agreed to sell the BMR property to the City. The seller will receive no cash proceeds from the sale of the BMR property and the lender will receive less than what was lent on the property due to the over-financed situation.

The purchase price for the BMR unit is \$168,158; rehabilitation costs, ongoing monthly costs and associated fees related to the acquisition and resale are estimated at \$61,842, for a total of \$230,000. Any unused funds and the proceeds from the sale of the property will be fully returned to the Housing Fund/Housing Mitigation Sub-Fund; any additional revenue from the sale of the unit will be deposited as BMR revenue.

Staff recommends approval of Budget Modification No. 54 to appropriate funds from the Housing Fund/Housing Mitigation Sub-Fund Reserve to *Project 814700 - BMR Acquisition* for \$166,237 for the purchase, rehabilitation costs, ongoing monthly costs and associated fees related to the acquisition and resale of 595 Blackwood Terrace, Sunnyvale. Acquisition of this property will benefit future low-income buyers by supporting the City policies of maintaining and increasing affordable housing units.

EXISTING POLICY

Housing and Community Revitalization Sub-Element (2000):

- GOAL A Foster the expansion of the Housing supply to provide greater opportunities for current and future residents given environmental, social, fiscal, and land-use constraints.
- GOAL D Maintain diversity in tenure, type, size, location and cost-of-housing to permit a range of individual choice for all current residents and those expected to become city residents.
- GOAL E Maintain and increase housing units affordable to households of all income levels and ages.

DISCUSSION

The BMR unit was purchased in September 1999 for \$131,649. At the time the unit was purchased, the homeowner was required to execute an Agreement and Deed Restrictions Regarding Resale Controls for Below Market Rate Property, which was the security instrument recorded against the property to enforce the restrictions.

In 2006, without City knowledge, the homeowner refinanced their existing mortgage in excess of the amount allowable per the valuation formula outlined in the recorded restrictions. The lender also overlooked the recorded restrictions and refinanced the homeowners existing loan as if the BMR property was market rate. As a result of the over financed situation, the homeowner is now unable to continue making the monthly payments and has agreed to sell the BMR property to the City. The restrictions recorded on the property allow the City to purchase the BMR property when the unit might be lost from the City's BMR housing stock.

To ensure program compliance for all new BMR purchases and for any existing BMR homeowner who refinance their mortgage, staff now records a Deed of Trust at the time of the purchase or refinance. Since October 2003, all newly purchased BMR units or those existing homeowners requesting to refinance their current mortgage are required to execute a Deed of Trust, which is recorded against the property. In addition, staff monitors all BMR properties purchased prior to October 2003, which do not have an executed Deed of Trust recorded on the BMR property to ensure program compliance.

The value of the property is \$168,158. The sales price is based on the original purchase price, adjusted by the percentage increase/decrease in the Consumer Price Index (CPI) for Housing from the original date of purchase. The seller will receive no cash proceeds from the sale of the BMR property and the lender will be required to issue a payoff demand not to exceed \$168,158.

In addition to the purchase price of \$168,158, staff is requesting \$61,842 for rehabilitation costs and associated fees related to the acquisition and resale of the BMR property. Staff is estimating \$35,000 for potential rehabilitation costs (e.g. paint, carpet, kitchen/bath updates), \$5,000 for escrow fees, \$5,000 for HOA transfer fees, HOA dues during the holding period, property taxes, inspection reports and utilities. Staff has budgeted the remaining \$16,842 for miscellaneous expenses associated with either the purchase or resale of the BMR unit. Unused funds will be returned to the fund balance to fund future projects.

Staff has conducted a visual inspection of the unit, which appears to be in good condition. However, staff is unable to determine the true extent of the rehabilitation that may be needed until escrow has closed and the homeowner has vacated the property. Upon completion of the rehabilitation, the resale process to a new BMR owner will begin and escrow is anticipated to close within 30-45 days.

FISCAL IMPACT

The current budget for *Project 814700-BMR Acquisition* is \$400,000. Of that amount, \$200,000 is associated with the probate proceedings on the unit located at 601-203 Arcadia Terrace and \$136,237 is associated with the forced sale of the unit located at 609-305 Arcadia Terrace, leaving a remaining available budget of \$63,763. However, \$230,000 is needed to acquire the BMR unit at 595 Blackwood Terrace, thus an additional \$166,237 is needed.

Approval of Budget Modification No. 54 would appropriate \$166,237 from the Housing Fund/Housing Mitigation Sub-Fund Reserve to *Project 814700 - BMR Acquisition*. Approval allows for the acquisition of the BMR unit and funds for rehabilitation costs, ongoing monthly, costs and associated fees related to the acquisition and resale of the BMR unit. Proceeds from the sale of the property will fully refund the appropriation from the Housing Fund/Housing Mitigation Sub-Fund; any additional revenue from the sale of the unit shall be deposited as BMR Revenue.

**BUDGET MODIFICATION NO. 54
 FISCAL YEAR 2007/2008**

	Current	Increase (Decrease)	Revised
Housing Fund/Housing Mitigation Sub-Fund			
<u>Expenditures:</u>			
Project 814700 — BMR Acquisition	\$400,000	\$166,237	\$566,237
 <u>Reserves:</u>			
Housing Fund/Housing Mitigation Sub-Fund	\$8,604,198	(\$166,237)	\$8,437,967

PUBLIC CONTACT

Public contact was made through the posting of the Council agenda on the City’s official notice bulletin board, posting of the agenda and report on the City web page, and the availability of the report in the Library and the City Clerk’s Office.

ALTERNATIVES

1. Approve Budget Modification No. 54 to appropriate \$166,237 from the Housing Fund/Housing Mitigation Sub-Fund Reserve to *Project 814700 - BMR Acquisition* for the purchase, rehabilitation costs, ongoing monthly costs, and associated fees related to the acquisition and resale of 595 Blackwood Terrace, Sunnyvale.
2. Do not approve Budget Modification No. 54 to appropriate funds from the Housing Fund/Housing Mitigation Sub-Fund Reserve to *Project 814700 - BMR Acquisition* for \$166,237 and do not repurchase the BMR unit.

RECOMMENDATION

Staff recommends Alternative 1, Approve Budget Modification No. 54 to appropriate \$166,237 from the Housing Fund/Housing Mitigation Sub-fund Reserve to *Project 814700 - BMR Acquisition* for the purchase, rehabilitation costs, ongoing monthly costs, and associated fees related to the acquisition and resale of 595 Blackwood Terrace, Sunnyvale.

City acquisition of this property will benefit low-income buyers and support the Council policy of maintaining and increasing affordable housing units.

Reviewed by:

Hanson Hom, Director, Community Development
Prepared by: Ernie DeFrenchi, Affordable Housing Manager

Reviewed by:

Mary J. Bradley, Finance Director

Approved by:

Amy Chan
City Manager