

ATTACHMENT B

NAPA COUNTY

PROXIMITY HOUSING ASSISTANCE GUIDELINES

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I. GENERAL

Section 101. Purpose

A. The purpose of the Proximity Workforce Housing Assistance Program (the "Proximity Housing Program") is to assist low and moderate income households to purchase a home close to their place of work. The Proximity Housing Program is an effort to increase housing opportunities affordable to members of the Proximity Workforce and to stimulate responsible development strategies aimed at reducing greenhouse gas emissions and vehicle miles traveled, by strongly encouraging the creation of a jobs-to-housing nexus for members of the Proximity Workforce.

Concern: Our review of 35 applicant files from the period of December 7, 2010 through December 31, 2013 indicated that more than half of applicants moved further from their places of work as a result of their relocations using Proximity loans. While the proximity funding may have assisted people to purchase homes in Napa County ("the County") instead of moving to lower-priced neighboring counties; overall, only 83 miles of net greenhouse gas emissions were saved during the period reviewed. We further noted that 91% of recipients moved from residences already located within the proximity workforce area. Only two applicants purchased homes in Napa County who had previously been commuting from out of the County. Therefore, it appears this program primarily helps resist

displacement of those who may choose to locate outside of the County due to more affordable housing opportunities rather than reduce current greenhouse gas emissions and vehicle miles traveled.

Recommendation: We recommend the following revision to Section 101 of the Guidelines: *The purpose of the Proximity Workforce Housing Assistance Program (the “Proximity Housing Program”) is to assist low and moderate income households to purchase a home close to their place of work. The Proximity Housing Program is an effort to increase housing opportunities affordable to members of the Proximity Workforce and to reduce displacement of those members who may otherwise choose to purchase homes outside of the County due to lower housing prices, by strongly encouraging the creation of a jobs-to-housing nexus for members of the Proximity Workforce.*

Section 102. Definitions

1. “Affordable Housing Ordinance” means Chapter 18.107 (Affordable Housing and Incentives) of the Napa County Code.
2. “Affordable Housing Trust Fund” means the affordable housing fund for the County established pursuant to Section 18.107.020 of the Napa County Code. Monies from the Affordable Housing Trust Fund may be used to provide Proximity Housing Assistance only for borrowers that meet the affordability and occupancy requirements set forth in the Affordable Housing Ordinance.
3. “County” means the County of Napa, a subdivision of the State of California.
4. "Eligible Proximity Workforce Household" means a household that has been certified by the County as eligible to participate in the Proximity Housing Program by qualifying as a Proximity Workforce Member and having a gross household income which does not exceed one hundred twenty percent (120%) of the Area Median Income.
5. “Employer” means a business whose business address is located within Napa County. If an Employer is not physically based in the Proximity Housing Market Area, an employee must be able to verify that they work in the Proximity Housing Market Area, such as working from home or route driving, for the minimum number of hours to qualify as a member of the Proximity Workforce.

Concern: Gross household income for the purpose of this program is not currently defined in the Guidelines.

Recommendation: Define “gross household income” to be total income for all household members (including those with their name on the deed, their spouse, and all dependents over the age of 25). Gross household income should be calculated by summing line 22 of the Internal Revenue Service’s Form 1040 U.S. Individual Income Tax Return for each member. If any household member does not file a Form 1040 it is recommended the County obtain a certification that the member did not earn any income and did not file a Form 1040.

6. "Net Proceeds" means the amount determined by subtracting the Original Base Price from one of the following amounts, as applicable: (i) the Resale Price of the Home,; or (ii) in the event a creditor acquires title to the Home through a deed in lieu of foreclosure, a trustee's deed upon sale, or

otherwise, the amount paid for the Home at a creditor's sale of the Home. Net Proceeds cannot be less than zero.

7. "Original Base Price" means the original purchase price of the home paid by the Owner.

8. "Owner" shall mean a person or persons who owns a Proximity Housing Unit who receives Proximity Housing Assistance.

9. "Primary Residence" means the principal place of residence of a person/household. The Owner shall be deemed to have ceased to use the Home as the Owner's Primary Residences by residing in the Home fewer than nine (9) months, or approximately seventy-five percent (75%) of any consecutive twelve (12) month period.

Concern: We noted instances where the Proximity Workforce member had co-signers on the mortgage and whose names were included on the deed. These co-signers became partial legal owners of the home, yet did not appear to occupy it as their primary residence or have their income considered in the calculation of gross household income.

Recommendation: We recommend the definition of primary residence be expanded to address cosigners and whether they are allowable on mortgages that are partially funded by Proximity loans. If they are allowable, we recommend that the cosigner certify that they do not intend to occupy the Proximity Housing Unit and that his/her name is not included on the deed.

10. "Proximity Housing Assistance" means monetary assistance in the form of a loan from the County to Eligible Proximity Workforce Households to increase the affordability of purchasing a property within the Proximity Housing Market Area. The Proximity Housing Assistance will be evidenced by the Proximity Housing Promissory Note and deed of trust.

11. "Proximity Housing Guidelines" means these guidelines, including any attachments or exhibits hereto.

12. "Proximity Housing Loan" means the monetary assistance from the County to the Owner to make the Proximity Housing Unit affordable to the Owner. The purpose of the Proximity Housing Loan is to increase housing affordability to members of the Proximity Workforce.

13. "Proximity Housing Market Area" means the area within the County that is within a fifteen (15) mile radius "as the crow flies" of the proposed property to be purchased with Proximity Housing Assistance.

Concern: Because the purpose of the Program is to, in part, "reduce greenhouse gas emissions and vehicle miles traveled", using a measurement of "as the crow flies" to define the "Proximity Housing Market Area" does not seem to be consistent with the goals of the Program.

Recommendation: We recommend the current 15 mile radius be reevaluated to determine if it is still appropriate given the current goals of the Program.

14. "Proximity Housing Promissory Note" means the promissory note evidencing the terms of the Proximity Housing Loan, which note shall be in a form approved by the County Staff consistent with these Proximity Housing Guidelines.

15. "Proximity Housing Share of Appreciation" shall be equal to the Shared Appreciation Percentage of the Net Proceeds. In the event that Net Proceeds is equal to zero no Proximity Housing Share of Appreciation shall be due.

Concern: We noted one instance where another first time home buyer program utilized by the applicant limited the amount of equity appreciation allowed in the event the home was sold. This limitation inevitably lessens the amount of investment appreciation available to Napa County.

Recommendation: We recommend that the Guidelines address whether other first time homebuyer programs are acceptable to be used in addition to the Napa County Proximity Housing Assistance Program. If so, we recommend the Guidelines require that Napa County maintain the second lien on the property and is not subordinate to another program.

16. "Proximity Housing Trust Fund" means the special fund, the proceeds of which shall be used to partially fund Proximity Housing Assistance and to pay for administrative costs associated with receipt of Proximity Housing Assistance.

17. "Proximity Housing Unit" means a home purchased by an Owner with Proximity Housing Assistance.

Concern: Type of residence eligible for a Proximity Housing Loan is not addressed currently. One file we reviewed was for the purchase of a property with two homes.

Recommendation: We recommend the Guidelines specify only single unit residences (i.e., condos, townhomes, single family homes, etc.) are eligible for Proximity loans.

18. "Proximity Workforce" means a person who at the time of execution of a purchase agreement (or other transfer agreement) for a Proximity Housing Unit is: (i) employed and currently working at least 30 hours per week or working a minimum of 1,200 hours per year, at a site or sites located within the Proximity Housing Market Area; (ii) or a disabled person who is employed at a job site located within the Proximity Housing Market Area, regardless of hours worked or who is unable to work because of the disabling condition, illness, or injury. For purposes of these guidelines, "disabled" means a person who has a disability as defined in subdivision (b) of Section 54 of the California Civil Code. Under certain proximity programs developed pursuant to these Proximity Housing Guidelines, only members of the Proximity Workforce whose gross household income does not exceed one hundred twenty percent (120%) of area median income shall be considered eligible to participate.

19. "Shared Appreciation Percentage" is the amount which represents the percentage obtained by dividing the principal amount of the Proximity Housing Loan by the Original Base Price of the Home.

20. "Transfer" means any sale, assignment or transfer, voluntary or involuntary, that would trigger a reassessment of value.

II. PROGRAM ELEMENTS

Section 201. Proximity Housing Assistance.

The County may elect to offer Proximity Housing Assistance to homebuyers to assist with the purchase of a home located closer to the household member's place of work. Proximity Housing Assistance offered to homebuyers will be subject to the following conditions:

1. The total amount of Proximity Housing Assistance offered will not exceed ten percent (10%) of the purchase price of the home.

Concern: The Guidelines do not address a limitation on maximum purchase price of an eligible property.

Recommendation: We recommend the Guidelines be revised to place a cap on the maximum purchase price of an eligible property.

2. Only households with at least one member who is a member of the Proximity Workforce will be eligible for the Proximity Housing Assistance. The County may include additional eligibility requirements, including income qualifications. Additionally, when issuing Notices of Funding Availability, the County may determine additional preferences or priorities for obtaining assistance.

Concern: Although one household member may qualify alone as a member of the Proximity Workforce, we noticed throughout our review of the applicant files that on occasion other household members' income was not verified and therefore the total gross income limitation of 120% area median income could not be confirmed.

Recommendation: We recommend the Guidelines be revised to read, "*Only households with at least one member who is a member of the Proximity Workforce will be eligible for the Proximity Housing Assistance. In order to be certified as a member of the Proximity Workforce, total gross household income must be verified to be less than 120% of area median income. Refer to income verification requirements at §302 of these Guidelines. The County may include additional eligibility requirements, including income qualifications.*"

We further recommend that reference to "Notices of Funding Availability" be removed from the Guidelines as they are no longer used and loans are given on a first-come, first-served basis.

3. The property purchased with the Proximity Housing Assistance must be located in the County of Napa and must be within a fifteen (15) mile radius of the place of employment of the member of the household who qualifies as a Proximity Workforce member. The Owner must intend to occupy the home as his or her Primary Residence.

4. The Proximity Housing Assistance will be evidenced by a promissory note and secured by a deed of trust recorded on the purchased home second only to a first mortgage that cannot exceed eighty-six and one-half percent (86.5%) of the value of the purchased home. The County may require additional documentation with regards to the Proximity Housing Assistance.

Concern: During our review of the files, we noted 11 files where the first mortgage exceeded 86.5% of the value of the purchased home.

Recommendation: We recommend the Guidelines be revised to specify that the 86.5% limitation on the first mortgage excludes closing costs and mortgage insurance added at the end of the loan process.

5. The Owner shall not rent or otherwise lease the Home to another party, unless approved by the County under hardship conditions.

III. Program Administration

Section 301. Qualification to Receive Proximity Housing Assistance

To be eligible to receive Proximity Housing Assistance, a person shall be required to:

1. have at least one member of the household certified as a member of the Proximity Workforce at the time of execution of a purchase and sale agreement for a Proximity Housing Unit;
2. certify that the Owner's gross household income does not exceed one hundred twenty percent (120%) of the Area Median Income; and
3. occupy the unit as that Owner's Primary Residence;

Section 302. Employment/Income Verification Procedures

In order to determine that a person requesting Proximity Housing Assistance meets all of the criteria set forth in Section 301, prior to occupancy, the County should review and keep on file specific documentation which provides proof of employment and income, if applicable. The County may request any or all of the following documentation (with all such information and documentation to remain confidential):

1. All W-2 forms from the current or previous year;
2. Wage stubs;
3. Executed Employment Verification Form (signed by Employer(s));
4. Employer(s) name, address, telephone and dates of employment;
5. A valid form of picture identification.

If any of the above required information is not available, the applicant shall provide other documentation as requested by the County. The sufficiency of any such alternative documentation will be determined by the County at its sole discretion.

Concern: The documentation above, alone or taken together, cannot be relied upon to understand the complete financial position of the applicant's household.

Recommendation: The most recent tax return of all household members (as defined in §102) should be required in all instances. We also recommend verifying recent paystubs to understand any changes in gross income subsequent to the prior year tax return. Employment verification forms are still recommended to verify physical work location in those instances when a PO Box is given, to verify number of hours worked for part time positions, and any other unusual circumstances.

When a person is self-employed, the County may request any or all of the following documentation (with all such information and documentation to remain confidential):

1. A complete copy of the applicant's most recent tax returns, including Federal and State tax returns;
2. Copies of all W-2s, Form 1099s, or K-1s received, if any;
3. Copies of any paycheck stubs, or an up-to-date profit and loss statement; and
4. A copy of a current business license, if applicable.

All Owners shall verify on their application that all information provided is true and accurate. If any of the information is determined by the County to be inaccurate or non-verifiable, the applicant may be subject to disqualification by the County from the application and/or approval process. The County may, if it chooses, designate a "Qualification Specialist," who reviews all application materials. An application fee covering the County's costs associated with verification is required at the time the proximity workforce verification form is submitted to the County for processing.

IV. OTHER PROGRAM CONDITIONS

Section 401. Payments Due to County Upon Transfer of Home

The terms for the Proximity Housing Loan will be as follows and will be more specifically set forth in the Proximity Housing Promissory Note:

(a) Required Payment. The Owner, upon Transfer, is required to pay all sums due and owing under Proximity Housing Promissory Note. The amounts due under the Proximity Housing Promissory Note will be the repayment of the Proximity Housing Assistance plus the Proximity Housing Share of Appreciation. The County will not release the deed of trust on the Proximity Housing Unit without full repayment of the amounts owed under the Proximity Housing Promissory Note.

(b) Proximity Housing Share of Appreciation. The Proximity Housing Share of Appreciation shall be equal to the Shared Appreciation Percentage of the Net Proceeds. In the event that Net Proceeds is equal to zero no Proximity Housing Share of Appreciation shall be due. By way of example, if an Eligible Proximity Workforce Household receives a Proximity Housing Loan from the County in the amount of \$10,000 and purchases a home with an Original Base Price of \$100,000, the County's Shared Appreciation Percentage would be 10% based on the Proximity Housing Loan being 10% of the total purchase price. If that same household sells the home at a later date for \$150,000, the County would be

repaid the original \$10,000 Proximity Housing Loan amount plus \$5,000 representing 10% of the Net Proceeds (\$50,000) from the sale of the home.

(c) Prepayment. Owner will be allowed to prepay the Proximity Housing Loan. At the time of prepayment, the Owner will be obligated to obtain a fair market value appraisal for the Proximity Housing Unit. The Proximity Housing Share of Appreciation at the time of any prepayment will be determined based on the fair market value appraisal, provided, that at the time of prepayment, the Proximity Housing Share of Appreciation shall be at least one-half of one percent of the fair market value of the Proximity Housing Unit. The Proximity Housing Promissory Note will include provisions regarding determination of fair market value and appraisal standards.

Section 402. Defaults

(a) Events of Default. The Proximity Housing Assistance and the Proximity Housing Share of Appreciation shall be due in the event of a default under the Proximity Housing Promissory Note. Defaults will include any failure to comply with the terms of the Proximity Housing Promissory Note, any default on a first mortgage on the home, a declaration of bankruptcy by the Owner and such other defaults as are included in the Proximity Housing Promissory Note, deed of trust or other documents evidencing the Proximity Housing Loan.

Section 403. Term of Loan

The Proximity Housing Promissory Note shall have a term of fifty-five (55) years from the date of the signed promissory note, unless earlier terminated under the terms of the Proximity Housing Note.

Section 404. Other Terms

The Proximity Housing Promissory Note shall include such other terms as deemed reasonable by County consistent with these Proximity Housing Assistance Guidelines, including the following:

(a) Maintenance. The Proximity Housing Promissory Note shall require the Owner to maintain the Home, including landscaping, in good repair and in a neat, clean and orderly condition (and, as to landscaping, in a healthy condition) and in accordance with all applicable laws, rules, ordinances, orders and regulations of all federal, state, County, municipal, and other governmental agencies and bodies having or claiming jurisdiction and all their respective departments, bureaus, and officials, The Owner will be required to make all repairs and replacements necessary to keep the Home in good condition and repair.

(b) Insurance. The Proximity Housing Promissory Note shall require the Owner to maintain a standard all risk property insurance policy equal to the replacement value of the Proximity Housing Unit, naming the County as an additional insured.

(c) Refinancing. The Proximity Housing Promissory Note will allow the Owner to refinance the first mortgage loan under conditions which will ensure that the County's Proximity Housing Loan and Proximity Housing Share of Appreciation is protected and no such refinancing amount exceeds eighty six and one half percent (86.5%) of the fair market value of the home.

Concern: As the promissory notes included in the files were written, the terms above were not included. However, the “Second Mortgage Agreement” signed by the applicants did include these terms.

Recommendation: We recommend the Guidelines be revised to require the Second Mortgage Agreement to include these provisions rather than the Promissory Note.

V. PROGRAM OVERSIGHT

Section 501. Special Review

A special review for a variance from the strict application of these guidelines may be granted if an unusual hardship can be established and the County finds, at its sole discretion, that the granting of such variance is consistent with the County’s proximity housing goals and objectives. A person requesting a special review shall do so in writing and provide documentation regarding the unusual hardship. The applicant shall also be required to submit any additional information reasonably requested by the County in a timely manner.

The special review committee may grant, conditionally grant, or reject any such request at its sole discretion.

Section 502. Grievance Procedures

A proximity housing program adopted in accordance with these guidelines may, if appropriate, provide any person the right to appeal determinations made by County staff directly to the Board of Supervisors in the manner set forth in Chapter 2.88 of the Napa County Code.