



**NOTICE AND CALL OF SPECIAL MEETING
OF THE IRWINDALE HOUSING AUTHORITY**

TO THE MEMBERS OF THE IRWINDALE HOUSING AUTHORITY:

NOTICE IS HEREBY GIVEN that a special meeting of the Irwindale City Council is hereby called to be held on **THURSDAY, OCTOBER 22, 2020, at 5:30 P.M.** at Irwindale City Hall, 5050 N. Irwindale Avenue, Irwindale, California.

Said special meeting shall be for the purpose of conducting business in accordance with the attached Agenda.

No other business will be discussed.

Dated: October 21, 2020

**"ORIGINAL SIGNED"
Albert F. Ambriz, Mayor**

AFFIDAVIT OF POSTING

I, Laura Nieto, Chief Deputy City Clerk, certify that I caused the Notice and Call of a Special Meeting of the Irwindale Housing Authority to be held on **THURSDAY, OCTOBER 22, 2020, at 5:30 p.m.**, at the Irwindale City Council Chambers, 5050 N. Irwindale Avenue, Irwindale, California, to be hand delivered to each Council Member, posted at the City Hall, Library, and Post Office on **WEDNESDAY, October 21, 2020**, and sent by **EMAIL** to the San Gabriel Valley Tribune on the same date.

**"ORIGINAL SIGNED"
Laura M. Nieto, MMC
Chief Deputy City Clerk**

CITY OF IRWINDALE

5050 N. IRWINDALE AVE., IRWINDALE CA 91706 • PHONE: (626) 430-2200 • FACSIMILE: 962-4209



AGENDA FOR THE SPECIAL MEETING OF THE

HOUSING AUTHORITY

OCTOBER 22, 2020

5:30 P.M. - OPEN SESSION

IRWINDALE CITY COUNCIL CHAMBER

SPECIAL MEETING – CITY HALL COUNCIL CHAMBER

(Closed to the Public)

Pursuant to Executive Order N-29-20

ALBERT F. AMBRIZ
CHAIR

MARK A. BRECEDA
VICE CHAIR

LARRY G. BURROLA
BOARD MEMBER

MANUEL R. GARCIA
BOARD MEMBER

H. MANUEL ORTIZ
BOARD MEMBER

The Governor has declared a State of Emergency to exist in California as a result of the threat of COVID-19 (aka the “Coronavirus”). The Governor also issued Executive Order N-25-20, which directs Californians to follow public health directives including canceling large gatherings. The Executive Order also allows local legislative bodies to hold meetings via conference calls while still meeting state transparency requirements.

The public’s health and well-being are the top priority for the City, and you are urged to take all appropriate health safety precautions. To facilitate this process, the meeting and opportunities to participate will also be available through the following options:

Join Webinar at <https://attendee.gotowebinar.com/register/9057126289184668176>



Spontaneous Communications: The public is encouraged to address the Housing Authority Board on any matter listed on the agenda.

Pursuant to provisions of the **Brown Act**, no action may be taken on a matter unless it is listed on the agenda, or unless certain emergency or special circumstances exist. The City Council may direct staff to investigate and/or schedule certain matters for consideration at a future City Council meeting.

Americans with Disabilities Act: In compliance with the ADA, if you need special assistance to participate in a City Council meeting or other services offered by this City, please contact City Hall at (626) 430-2200. Assisted listening devices are available at this meeting. Ask the Chief Deputy City Clerk if you desire to use this device. Upon request, the agenda and documents in the agenda packet can be made available in appropriate alternative formats to persons with disabilities. Notification of at least 48 hours prior to the meeting or time when services are needed will assist the City staff in assuring that reasonable arrangements can be made to provide accessibility to the meeting or service.

Note: Staff reports are available for inspection at the office of the Chief Deputy City Clerk, City Hall, 5050 N. Irwindale Avenue, during regular business hours (8:00 a.m. to 6:00 p.m., Monday through Thursday).

Code of Ethics

As City of Irwindale Council Members, our fundamental duty is to serve the public good. We are committed to the principle of an efficient and professional local government. We will be exemplary in obeying the letter and spirit of Local, State and Federal laws and City policies affecting the operation of the government and in our private life. We will be independent and impartial in our judgment and actions.

We will work for the common good of the City of Irwindale community and not for any private or personal interest. We will endeavor to treat all people with respect and civility. We will commit to observe the highest standards of morality and integrity, and to faithfully discharge the duties of our office regardless of personal consideration. We shall refrain from abusive conduct, personal charges or verbal attacks upon the character or motives of others.

We will inform ourselves on public issues, listen attentively to public discussions before the body, and focus on the business at hand. We will base our decisions on the merit and substance of that business. We will be fair and equitable in all actions, claims or transactions. We shall not use our official position to influence government decisions in which we have a financial interest or where we have a personal relationship that could present a conflict of interest, or create a perception of a conflict of interest.

We shall not take advantage of services or opportunities for personal gain by virtue of our public office that are not available to the public in general. We shall refrain from accepting gifts, favors or promises of future benefit that might compromise our independence of judgment or action or give the appearance of being compromised.

We will behave in a manner that does not bring discredit or embarrassment to the City of Irwindale. We will be honest in thought and deed in both our personal and official lives.

Ultimate responsibility for complying with this Code of Ethics rests with the individual elected official. In addition to any other penalty as provided by law, violation of this Code of Ethics may be used as a basis for disciplinary action or censure of a Council Member.

These things we hereby pledge to do in the interest and purposes for which our government has been established.

IRWINDALE CITY COUNCIL



OPEN SESSION – 5:30 P.M.

- A. CALL TO ORDER**
- B. PLEDGE OF ALLEGIANCE**
- C. INVOCATION**
- D. ROLL CALL: Authority Members: Larry G. Burrola, Manuel R. Garcia, H. Manuel Ortiz;
Vice Chair Mark A. Breceda; Chair Albert F. Ambriz**

SPONTANEOUS COMMUNICATIONS

Spontaneous communications are limited to the special meeting agenda items only.

1. CONSENT CALENDAR

A. Consideration of Approval – Subordination of Home Improvement Loan at 4647 Nora Avenue

Recommendation: Approve the request by Ms. Perrier for the Housing Authority to subordinate its loan to a new loan made in a refinancing, subject to all conditions established by the City of Irwindale / Irwindale Community Redevelopment Agency's Low and Moderate Income Home Improvement Program Guidelines; and authorize the Executive Director to execute the Subordination Agreement, subject to Board Counsel Approval as to form.

B. Consideration of Approval – Subordination of Home Improvement Loan at 16165 Progress Lane

Recommendation: Approve the request by Mr. and Mrs. Miranda for the Housing Authority to subordinate its loan to a new loan made in a refinancing, subject to all conditions established by the City of Irwindale / Irwindale Community Redevelopment Agency's Low and Moderate Income Home Improvement Program Guidelines; and authorize the Executive Director to execute the Subordination Agreement, subject to Board Counsel Approval as to form.

2. NEW BUSINESS

At this time, members of the audience may ask to be heard regarding an item on New Business.

A. Subordination Policies and Practices Under Home Improvement Program

Recommendation: Consider Irwindale Housing Authority's Current Subordination Polices and Practices under Home Improvement Program and Provide Direction to Prepare a Global Subordination Policy.

3. ADJOURN

AFFIDAVIT OF POSTING

I, Laura M. Nieto, Chief Deputy City Clerk, certify that I caused the agenda for the special meeting of the Housing Authority to be held on Thursday, October 22, 2020, be posted at the City Hall, Library, and Post Office on Wednesday, October 21, 2020.

Laura M. Nieto, MMC

Laura M. Nieto, MMC
Chief Deputy City Clerk

- City Council
- Successor Agency
- Housing Authority
- Reclamation Authority
- Joint Powers Authority

City of
IRWINDALE
AGENDA REPORT

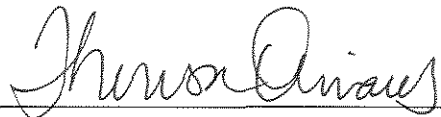
Date: October 22, 2020
 To: Honorable Chair and Members of the Housing Authority
 From: William K. Tam, Executive Director
 Issue: Consideration of Approval – Subordination of Home Improvement Loan at 4647 Nora Avenue

Executive Director’s Recommendation:

1. Approve the request by Ms. Perrier for the Housing Authority to subordinate its loan to a new loan made in a refinancing, subject to all conditions established by the City of Irwindale/Irwindale Community Redevelopment Agency’s Low and Moderate Income Home Improvement Program Guidelines; and
2. Authorize the Executive Director to Execute the Subordination Agreement, subject to Board Counsel Approval as to Form.

Prepared and Submitted by:

Theresa Olivares, Assistant Executive Director
 (626) 430-2294




Reviewed by:

Adrian Guerra, Board Counsel


Electronically Approved

Eva Carreon, Finance Director / City Treasurer



Approved by:

William Tam, Executive Director



Analysis:

1. As part of the City of Irwindale/Irwindale Community Redevelopment Agency Low and Moderate Home Improvement Program (HIP), on September 23, 2020, the Irwindale Housing Authority received a written request from Ms. Maria Perrier (Owner) for the Authority to subordinate its loan (Authority Loan) made to Owner in connection with a proposed refinance of their existing mortgage for the property located at 4647 Nora Avenue (Property) and take cash out for home improvement purposes. The balance on the existing loan is \$46,558.08, the new loan including cash out would be for the amount of \$165,000, and the current balance of the Authority Loan is \$44,921.42.
2. Any subordination of the Authority Loan for the proposed refinance will require the Authority lien to be ranked behind the first lien for purposes of collecting repayment from a debtor, and this would be effectuated via a subordination agreement. The priority of debts is significant when the property owner defaults on payments or declares bankruptcy, as the Authority's debt will be collected when and if the first lien has been fully satisfied in the event of foreclosure and liquidation and only if there are monies left over. Therefore, when an affordable homeowner seeks to refinance its existing loan obtained from a private lender and asks the Authority to subordinate its loan to that new loan, the Authority, if it agrees to subordinate, will be assuming the risk of not being repaid either partly or in full.
3. Currently, the HIP Guidelines (Guidelines) provide that grants or loans given by the Authority to an affordable housing property owner will be secured by a trust deed and shall not be subordinated to any loan due to refinancing, except that the Authority may consider subordinating its position under the following conditions:
 - A Fair Market appraisal of the property is obtained by the lender, the cost of which will be paid by the Property Owner;
 - A copy of the appraisal is submitted to the Agency for its review;
 - All debt on the property does not exceed 80% of the property value; and
 - The Property Owner does not receive cash out of the new loan unless the owner can prove that the cash will be used only to cure an emergency situation pertaining to the condition of the property or will be used for medical reasons, which is verified by the Agency. The cash out of the refinancing may not be used to consolidate existing household or credit card bills.
 - If the property owner has sufficient equity in the property to provide a total loan-to-value ratio on the property that is less than 60%, the Agency will subordinate to a new loan that will allow the owner to access his/her equity in an amount that will maintain the 60% loan-to-value ratio. In this scenario, the borrower receives a new loan in an amount exceeding the pay-off balance due under the current balance of the loan being refinanced plus customary and reasonable loan closing costs and

expenses such as lender points and fees, title, escrow and recording charges. In fact, under these circumstances, it appears the Guidelines actually require the Authority to subordinate to a new loan that will allow the Owners to access their equity in an amount that will maintain the 60% loan-to-value ratio (the Guidelines state "Agency will subordinate to a new loan that will allow the owner to access his/her equity in an amount that will maintain the 60% loan-to-value ratio").

4. The Owner has provided the required documentation to staff demonstrating compliance with each of these criteria, including that the new loan-to-value ratio will be 38%, which is under the limit established by the Guidelines.
5. Approval of this request would permit the Owner to close escrow on the new loan before the rate lock-in expires.
6. If subordination is acceptable to the Board, Agency's Counsel will prepare a Subordination Agreement for the Executive Director to execute.

FISCAL IMPACT:

In approving this Subordination Agreement, the Board agrees to the subordination of its loan to the Owner's new loan, thereby assuming the risk of not being repaid either partly or in full, should the Owner default in payment of their debt in the future.

- City Council
- Successor Agency
- Housing Authority
- Reclamation Authority
- Joint Powers Authority

City of
IRWINDALE
AGENDA REPORT

Date: October 22, 2020
 To: Honorable Chair and Members of the Housing Authority
 From: William K. Tam, Executive Director
 Issue: Consideration of Approval – Subordination of Home Improvement Loan at 16165 Progress Lane

Executive Director’s Recommendation:

1. Approve the request by Mr. and Mrs. Miranda for the Housing Authority to subordinate its loan to a new loan made in a refinancing, subject to all conditions established by the City of Irwindale/Irwindale Community Redevelopment Agency’s Low and Moderate Income Home Improvement Program Guidelines; and
2. Authorize the Executive Director to Execute the Subordination Agreement, subject to Board Counsel Approval as to Form.

Prepared and Submitted by:

Theresa Olivares, Assistant Executive Director
 (626) 430-2294

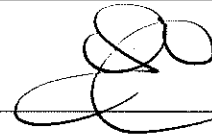


Reviewed by:

Adrian Guerra, Board Counsel

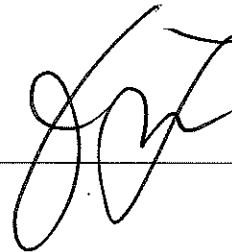
Electronically Approved

Eva Carreon, Finance Director / City Treasurer



Approved by:

William Tam, Executive Director



Analysis:

1. As part of the City of Irwindale/Irwindale Community Redevelopment Agency Low and Moderate Home Improvement Program (HIP), on September 17, 2020, the Irwindale Housing Authority received a written request from Mr. Ignacio Miranda and Mrs. Arline Miranda (Owners) for the Authority to subordinate its loan (Authority Loan) made to Owners in connection with a proposed refinance of their existing mortgage for the property located at 16165 Progress Lane (Property) and take cash out for medical purposes and payment of existing debt. The balance on the existing loan is \$212,446.36, the new loan including cash out would be for the amount of \$290,000, and the current balance of the Authority Loan is \$24,950.48.
2. Any subordination of the Authority Loan for the proposed refinance will require the Authority lien to be ranked behind the first lien for purposes of collecting repayment from a debtor, and this would be effectuated via a subordination agreement. The priority of debts is significant when the property owner defaults on payments or declares bankruptcy, as the Authority's debt will be collected when and if the first lien has been fully satisfied in the event of foreclosure and liquidation and only if there are monies left over. Therefore, when an affordable homeowner seeks to refinance its existing loan obtained from a private lender and asks the Authority to subordinate its loan to that new loan, the Authority, if it agrees to subordinate, will be assuming the risk of not being repaid either partly or in full.
3. Currently, the HIP Guidelines (Guidelines) provide that grants or loans given by the Authority to an affordable housing property owner will be secured by a trust deed and shall not be subordinated to any loan due to refinancing, except that the Authority may consider subordinating its position under the following conditions:
 - A Fair Market appraisal of the property is obtained by the lender, the cost of which will be paid by the Property Owner;
 - A copy of the appraisal is submitted to the Agency for its review;
 - All debt on the property does not exceed 80% of the property value; and
 - The Property Owner does not receive cash out of the new loan unless the owner can prove that the cash will be used only to cure an emergency situation pertaining to the condition of the property or will be used for medical reasons, which is verified by the Agency. The cash out of the refinancing may not be used to consolidate existing household or credit card bills.
 - If the property owner has sufficient equity in the property to provide a total loan-to-value ratio on the property that is less than 60%, the Agency will subordinate to a new loan that will allow the owner to access his/her equity in an amount that will maintain the 60% loan-to-value ratio. In this scenario, the borrower receives a new loan in an amount exceeding the pay-off balance due under the current balance of

the loan being refinanced plus customary and reasonable loan closing costs and expenses such as lender points and fees, title, escrow and recording charges. In fact, under these circumstances, it appears the Guidelines actually require the Authority to subordinate to a new loan that will allow the Owners to access their equity in an amount that will maintain the 60% loan-to-value ratio (the Guidelines state "Agency will subordinate to a new loan that will allow the owner to access his/her equity in an amount that will maintain the 60% loan-to-value ratio").

4. The Owners have provided the required documentation to staff demonstrating compliance with each of these criteria, including that the new loan-to-value ratio will be 59%, which is under the limit established by the Guidelines.
5. The Guidelines do not require the affordable housing cost to be evaluated as part of subordination request, however this is an item that is reviewed by staff. Based on the information provided, the housing cost under the new loan will be slightly higher than HCD's affordable housing cost limit. Staff has been advised that there are two additional people residing in the home, one of which is an income-earning adult, who will assist with the housing cost difference.
6. Approval of this request would permit the Owners to close escrow on the new loan before the rate lock-in expires.
7. If subordination is acceptable to the Board, Agency's Counsel will prepare a Subordination Agreement for the Executive Director to execute.

FISCAL IMPACT:

In approving this Subordination Agreement, the Board agrees to the subordination of its loan to the Owner's new loan, thereby assuming the risk of not being repaid either partly or in full, should the Owner default in payment of their debt in the future.

- City Council
- Successor Agency
- Housing Authority
- Reclamation Authority
- Joint Powers Authority

City of
IRWINDALE
AGENDA REPORT

Date: October 22, 2020
 To: Honorable Chair and Members of the Housing Authority Board
 From: Adrian R. Guerra, Board Counsel
 Issue: Subordination Policies and Practices Under Home Improvement Program

Executive Director's Recommendation:

Consider Irwindale Housing Authority's Current Subordination Policies and Practices Under Home Improvement Program and Provide Direction to Prepare a Global Subordination Policy.

Administrative Action:

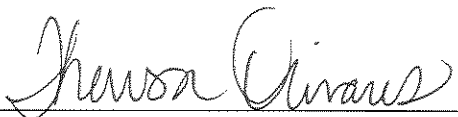
Prepared and Submitted by:

Adrian Guerra, Board Counsel

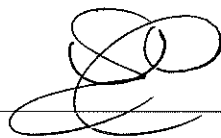
Electronically Approved

Reviewed by:

Theresa Olivares Assistant Executive Director
 (626) 430-2294



Eva Carreon, Finance Director / City Treasurer
 (626) 430-2221



Approved by:

William Tam, Executive Director



BACKGROUND AND ANALYSIS:

Currently, while there is no existing subordination policy that has been adopted by the Irwindale Housing Authority ("Authority") Board with regards to the Authority's various housing programs, two of the Authority's housing programs, including the Home Improvement Program ("HIP") which is largely the subject of this staff report, utilize program guidelines previously adopted by the Board and administered by staff whenever a property owner requests the Authority to subordinate its loan to another loan made through a refinance. Now, staff is requesting that the Board provide direction on a global subordination policy to be adopted at a future meeting, including who will be authorized to approve such subordinations and under what parameters.

Effects of Subordination:

Subordination occurs where one creditor voluntarily agrees to become ranked behind another creditor in priority for purposes of collecting repayment from a debtor, and it is effectuated via a subordination agreement. The priority of debts is significant when a debtor defaults on payments or declares bankruptcy, as the party subordinating its debt will only collect on a debt owed when and if the obligation to the primary (or first lien) lender has been fully satisfied in the event of foreclosure and liquidation and only then to the extent there are monies left over. Therefore, when an affordable housing property owner seeks a refinance of its existing loan obtained from a private lender and asks the Authority to subordinate its loan to that new loan, the Authority, if it agrees to subordinate, will be assuming the risk of not being repaid either partly or in full.

Current Home Improvement Program Guidelines on Subordinations to Refinances:

Currently, the HIP Guidelines provide that grants or loans given by the Authority to an affordable housing property owner will be secured by a trust deed and shall not be subordinated to any loan due to refinancing, except that the Authority may consider subordinating its position under the following conditions:

- A Fair Market appraisal of the property is obtained by the lender, the cost of which will be paid by the Property Owner;
- A copy of the appraisal is submitted to the Agency for its review;
- All debt on the property does not exceed 80% of the property value; and
- The Property Owner does not receive cash out of the new loan unless the owner can prove that the cash will be used only to cure an emergency situation pertaining to the condition of the property or will be used for medical reasons, which is verified by the Agency. The cash out of the refinancing may not be used to consolidate existing household or credit card bills.
- If the property owner has sufficient equity in the property to provide a total loan-to-value ratio on the property that is less than 60%, the Agency will subordinate to a

new loan that will allow the owner to access his/her equity in an amount that will maintain the 60% loan-to-value ratio.

Cashing out on a refinance means borrower receiving a new loan in an amount exceeding the pay-off balance due under the current balance of the loan being refinanced plus customary and reasonable loan closing costs and expenses such as lender points and fees, title, escrow and recording charges. Any cash out prohibition or limitation in connection with any subordination to refinancing helps ensure sufficient equity is maintained in the home in the event of foreclosure of the new loan where the Authority is left to seek repayment of its loan only once the prior lien is satisfied.

Depending on the amount of the cash out, the funds cashed out may result in the reduction of the Authority's portion of equity in the home. If those funds are then used for purposes other than improving the affordable home (which would serve a public benefit), an argument can be made that this may create a gift of public funds issue. For this reason among others, Board Counsel is recommending that the Board consider changes to the cash out policy.

Direction on Future Policy:

The Board could elect to continue the current HIP subordination practice described above; however, careful review of the current guidelines reveals a couple of issues. First, it requires a fair market appraisal of the property; while this requirement under normal circumstances is appropriate, there are times when an appraisal may not be needed. For example, for certain Fannie Mae loans, Fannie Mae does not require appraisals and instead relies on comparable sales data in connection with refinance approvals. Accordingly, it would be beneficial if some flexibility were built into the policy to accommodate such situations. Also, in the event there is sufficient equity in the property to provide a total loan-to-value ratio on the property that is less than 60%, it appears the Authority is required to subordinate to a new loan that will allow the owners to access their equity in an amount that will maintain the 60% loan-to-value ratio ("Agency will subordinate to a new loan..."). Needless to say, to be locked into such a requirement without the ability to exercise discretion is not beneficial to the Authority. Finally, the current guidelines do not specify who possesses the authority to approve subordinations.

As a result, staff is seeking the Board's direction on adoption of a global policy with parameters that will supplement the existing guidelines (applying to all Authority's affordable housing programs) concerning when and how the Authority may approve subordinations to refinances, and who possesses the authority to approve subordinations. By way of example only, for the HIP where the home is usually already encumbered by a privately funded purchase money mortgage by the time the Authority is approached by the property owner for additional loans under the program, one option could be that when the Authority is asked to subordinate its loan to the new loan in a refinance, whatever loan-to-value ratio that existed at the point in time the Authority approved the loan be maintained as part of the Authority's approval of the refinance and consent to subordinate. So, if the total loan-to-value ratio was 80% when Authority approved the loan, any approval to subordinate to a new loan in a refinancing would mean that even in the event

cash out were to be permitted by the Authority, the total loan-to-value ratio after the refinance would remain at 80% or less. This way, the equity in the property would be preserved and the Authority would not take on the burden of additional risk from a decrease in equity, and possibly also mitigate against any gift of public funds argument. Having said this, it would be staff's recommendation that cash outs not be permitted at all in order to maximize the Authority's position to get repaid in full.

As a summary, below is a list of the possible options the Board may consider for a global subordination policy:

1. Maintain the equity that existed when the Authority first approved the loan;
2. No cash outs; and
3. No changes to the existing Guidelines.

Additionally, as part of any new policy (or if the Board elects not to adopt a global policy then perhaps as part of modified Guidelines), staff recommends inclusion of a requirement that any refinances where the Authority will approve subordinations will result in borrower's monthly financial housing obligations being decreased. For example, a requirement that the refinance must involve a lower interest rate or must involve a conversion from an adjustable or short-term fixed rate loan to a fully-fixed rate loan, netting a lower monthly mortgage payment, could be added. Another recommendation for a newly adopted policy is for staff to request and obtain from borrower copies of the existing and proposed promissory notes, estimated borrower's settlement charges and title report to verify compliance with all Authority requirements. Other staff recommendations would be provided at a later time.

FISCAL IMPACT:

No fiscal impact.