

**SUBMITTAL TO THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

892
A



FROM: Economic Development Agency

SUBMITTAL DATE:
August 17, 2009

SUBJECT: Vail Ranch Historic Site Lease

RECOMMENDED MOTION: That the Board of Supervisors approve and authorize the Chairman to execute the attached Third Amendment to the Offer to Dedicate and Lease between the County of Riverside and Vail Headquarters, LLC ("VHQ").

BACKGROUND: On January 23, 2007, the Board approved a first amendment to the agreement with Redhawk Towncenter, LLC, to allow the project to be completed by Arteco Partners, through their corporation, Vail Headquarters, LLC ("VHQ"). A second amendment was approved on September 2, 2008, to incorporate lender protection provisions. Due to the economic climate, VHQ was unable to secure construction financing. Recently, VHQ has been in discussion with a lender to provide the financing for the construction of the project. Since funding has not been secured as of date, VHQ's obligations as developer and schedule of completion must be revised.

County Counsel has approved the documents as to form, and staff recommends approval.

Robert Field
Assistant County Executive Officer/EDA

FINANCIAL DATA	Current F.Y. Total Cost:	\$ 0	In Current Year Budget:	N/A
	Current F.Y. Net County Cost:	\$ 0	Budget Adjustment:	No
	Annual Net County Cost:	\$ 0	For Fiscal Year:	09-10

COMPANION ITEM ON BOARD OF DIRECTORS AGENDA: No

SOURCE OF FUNDS: N/A	Positions To Be Deleted Per A-30	<input type="checkbox"/>
	Requires 4/5 Vote	<input type="checkbox"/>

C.E.O. RECOMMENDATION: APPROVE

BY: Jennifer V. Sargent

County Executive Office Signature

FORM APPROVED COUNTY COUNSEL
BY: MICHELLE CLACK
DATE: 8/18/09
Departmental Concurrence

- Dep't Recomm.: Consent Policy
- Per Exec. Ofc.: Consent Policy

Prev. Agn. Ref.: 3.51, 09/02/08; 3.12, 05/15/07; 3.14, 01/23/07; 3.16, 05/13/03 | **District:** 3 | **Agenda Number:**

RF:DM:SH:JT:NB 9534
S:\Shared\RDACOM\DIS3\Vail Ranch\Form 11's\Third Amendment.docx

**ATTACHMENTS FILED
WITH THE CLERK OF THE BOARD**

3.44
EDA-001a-F11
Form 11 (Rev 06/2003)

1
2 **THIRD AMENDMENT TO OFFER TO DEDICATE AND LEASE**

3
4 This Third Amendment to Offer to Dedicate and Lease ("Third Amendment") is entered into
5 this _____ day of _____ 2009, by and between the County of Riverside ("County") a
6 political subdivision of the State of California, and Vail Headquarters, LLC, a California limited
7 liability company ("VHQ" or "Developer") with reference to the following:

8 **RECITALS**

9 **WHEREAS**, on or about May 13, 2003, the County and Redhawk Towne Center, LLC, a
10 Delaware limited liability Company entered into that certain Offer to Dedicate and Lease Agreement,
11 as amended by that certain letter agreement dated November 14, 2003, that certain Amendment to
12 Offer to Dedicate and Lease dated January 23, 2007 by and among the County, Redhawk and VHQ
13 ("First Amendment"), that certain Second Amendment to Offer to Dedicate and Lease dated
14 September 2, 2008 by and among the County and VHQ ("Second Amendment")(as so amended to
15 date, the "Agreement"); and

16 **WHEREAS**, the First Amendment provides, among other things, that VHQ has succeeded
17 Redhawk as the "Developer" under the Agreement, and, in connection therewith and pursuant to
18 that certain Purchase and Sale Agreement and Joint Escrow Instructions dates as of January 8,
19 2007, and

20 **WHEREAS**, under the Agreement, the Developer is to construct certain improvements
21 ("Restoration Improvements") on the subject property within the specified schedule set forth in the
22 Agreement's Exhibit "B"; and

23 **WHEREAS**, the current economy has made it difficult for the Developer to obtain
24 construction financing or tenant commitments; and

25 **WHEREAS**, the Developer has requested that the Agreement's Exhibit "B" be amended to
26 allow the Developer sufficient time to obtain construction financing for the Restoration
27 Improvements; and

28 **WHEREAS**, any amendment to the Agreement shall be consented to in writing by each
29 mortgage holder prior to any action by County or VHQ; and

WHEREAS, if a mortgage holder is in place prior to this Third Amendment being approved
by the County and VHQ, said mortgage holder's consent shall be obtained prior to approval of the
Third Amendment.

1 **NOW, THEREFORE**, in consideration of the mutual understanding provided herein, the
2 parties hereto do hereby agree to the following:

- 3 1. The Exhibit "B" referenced in Section 7(a) of the Agreement is hereby replaced with the
4 attached Amended Exhibit "B", which is incorporated herein by this reference.
5 2. This Third Amendment shall be governed by the laws of the State of California.
6 3. This Third Amendment may be signed in counterparts, with all such counterpart taken
7 together constituting a single original.
8 4. Except to the extent modified by this Third Amendment, the Agreement remains in full
9 force an effect as originally written. All defined terms used herein shall have the same
10 meaning as in the Agreement, as originally written.
11 5. This Third Amendment shall not be binding or consummated until its approval by the
12 County's Board of Supervisors.

13 **IN WITNESS WHEREOF, COUNTY AND VHQ have executed this Third Amendment on**
14 **the date written below.**

15 Dated: 8/12/09

16 VHQ: _____
17 Gerald V. Tessier, Manager
18 Vail Headquarters, LLC

19 Dated: _____

20 COUNTY: _____
21 Jeff Stone, Chairman
22 Board of Supervisors

23 If applicable, Consent of Mortgage Holder:

24 Dated: _____

25 MORTGAGE HOLDER: _____
26 Name:
27 Title:

28 ATTEST:
29 Kecia Harper-Ihem
30 Clerk of the Board

31 By: _____
32 Deputy

[SEAL]

33 APPROVED AS TO FORM:
34 PAMELA J. WALLS
35 County Counsel

36 By: Michelle Clark 8/18/09
37 Deputy Michelle Clark

1
2 **AMENDED EXHIBIT "B"**

3 **SCHEDULE**

4 **[Amended September 1, 2009]**

5

6 <u>TASK</u>	7 <u>TIME FOR COMPLETION</u>
8 Offer of dedication to the County for 9 Historic Site	10 Upon Amendment execution
11 Site Plan Study and completion of 12 conceptual design	13 Jan 10, 2007- Feb 28, 2007
14 Submit conceptual design and draft plot 15 plan to County	16 March 1, 2007
17 Community, City & County Meetings to 18 present Conceptual site and floor plans	19 March 1 – March 31, 2007
20 County Approval of Plot Plan and 21 conceptual designs	22 May 31, 2007
23 Development Review Application 24 submitted to City	25 June 30, 2007
26	
27 Submit Construction Documents to City 28 for 1st plan check	29 Dec 1, 2007
30 Start of Construction of Restoration 31 Improvements	September 1, 2010
32 Complete Construction (Certificate of 33 Occupancy) for All Restoration 34 Improvements	September 1, 2011