

**SUBMITTAL TO THE BOARD OF DIRECTORS OF THE
REDEVELOPMENT AGENCY
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

158C



FROM: Redevelopment Agency

SUBMITTAL DATE:
August 24, 2009

SUBJECT: Agreement with City of La Quinta to Amend the Desert Communities Project Area Redevelopment Plan

RECOMMENDED MOTION: That the Board approve and authorize the Chairman of the Board to execute the proposed Agreement to Amend the Redevelopment Plan for the Desert Communities Project Area

BACKGROUND: In October of 2007, the City of La Quinta ("City") annexed property located at 42-800 Washington Street (the "Property"). The property is improved with a 73 unit apartment complex occupied by very low income senior or handicapped households and is located in the Palm Desert Sub-Area of the County's Desert Communities Redevelopment Project Area ("DCPA"). In October of 2008, the City purchased the Property as well as an adjacent 5.8 acre parcel that is not within DCPA with the intent to utilize their redevelopment housing set aside funds to rehabilitate the existing units and expand the complex by 84 units.

(Continued)

Robert Field

Robert Field
Executive Director

FINANCIAL DATA	Current F.Y. Total Cost:	\$ 45,650	In Current Year Budget:	Yes
	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 SUPERVISORS AGENDA: yes

SOURCE OF FUNDS: La Quinta Redevelopment Agency Low/Moderate Housing Tax Increment Funds	Positions To Be Deleted Per A-30	<input type="checkbox"/>
	Requires 4/5 Vote	<input type="checkbox"/>

C.E.O. RECOMMENDATION:

APPROVE

BY: *Jennifer L. Sargent*
Jennifer L. Sargent

County Executive Office Signature

FORM APPROVED COUNTY COUNSEL
BY: *Michelle Clack*
DATE: 8/24/09
Departmental Concurrence

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

Prev. Agn. Ref.: na | District: | Agenda Number:

ATTACHMENTS FILED
WITH THE CLERK OF THE BOARD

4.2
RD 11 (REV 06/2005)

The La Quinta Redevelopment Agency ("City Agency") has a requirement to secure 1,994 affordable dwellings and this project was intended to help meet this requirement by providing 157 income restricted affordable units. The City also intends to amend their redevelopment plan to add these two properties which would allow them to get a one-for-one credit for each affordable unit that is secured. Redevelopment law only allows a one-for-two credit for units secured outside of their redevelopment project area; because the Property is within the DCPA, they were unable to do so.

With the purchase of the Property by the City, the Property now has a zero tax base and no longer generates any revenue for the DCPA. Given the zero tax base, the County Agency may be able to remove the Property from the DCPA if it can be determined, based on an Independent Fiscal Consultant Report, that the security of the outstanding bonds or the rights of the holders of the bonds will not be materially adversely impaired by the proposed disposition.

The proposed agreement between the City, the City Agency, the County, and the County Agency provides that the City Agency will provide funding for the full costs associated with all reports, documents, and legal review required to process a plan amendment to remove the Property from the DCPA. Pursuant to the agreement, if it is determined that the security of the outstanding bonds or the rights of the holders of the bonds will be materially adversely impaired by the proposed disposition, then the County retains the right not to approve the proposed amendment to remove the Property.

With the approval of the proposed agreement, staff will proceed with hiring the consultants needed to perform the necessary fiscal analysis and process the plan amendment. If it is determined that the removal of the Property does not have a detrimental effect on the Agency's bond holders, a plan amendment to remove the Property will be prepared for consideration by the Riverside County Planning Commission, Board of Supervisors, and the Board of Directory of the County Agency.

The proposed agreement was approved by the City of La Quinta on August 4, 2009.

AGREEMENT TO AMEND REDEVELOPMENT PLAN

This AGREEMENT TO AMEND REDEVELOPMENT PLAN ("Agreement") is made and entered into this ____ day of _____, 2009 ("Effective Date"), by and among the LA QUINTA REDEVELOPMENT AGENCY, a public body, corporate and politic ("City RDA"), the CITY OF LA QUINTA, a California municipal corporation and charter city organized and existing pursuant to the California Constitution ("City"), the REDEVELOPMENT AGENCY FOR THE COUNTY OF RIVERSIDE, a public body, corporate and politic ("County RDA"), and the COUNTY OF RIVERSIDE, a political subdivision of the State of California ("County"). Each of the City, City RDA, County, and County RDA are sometimes individually referred to hereinafter as a "Party," and collectively referred to hereinafter as the "Parties."

RECITALS:

A. In October of 2007, the City annexed into the territorial limits thereof (a) that certain real property located at 42-800 Washington Street (the "42-800 Property"); and (b) that certain unimproved real property located adjacent to the 42-800 Property (the "Adjacent Property"). The 42-800 Property is improved with an apartment complex commonly known as the Washington Street Apartments, which consists of 73 apartment units that are restricted to occupancy by very low income senior or handicapped households. The 42-800 Property and Adjacent Property are hereinafter collectively referred to as the "Property," and are legally described in Exhibit "A", which is incorporated herein by this reference.

B. On or about October 31, 2008, the City RDA acquired fee title to the Property.

C. The City and City RDA have recently discovered that the Property is located in the County RDA's Desert Communities Redevelopment Project Area (the "County RDA Project Area").

D. Because of the acquisition by the City RDA, the Property is no longer generating revenue to the County RDA because of the zero tax base.

E. Given the zero tax base, the County RDA may be able to remove the Property from the County RDA Project Area pursuant to existing indentures for several existing bond issues upon the certification of an Independent Fiscal Consultant concluding that the security of the outstanding bonds or the rights of the holders of the bonds will not be materially adversely impaired by said proposed disposition. If such report concludes that such security will be materially adversely impaired by the proposed disposition, the County may not approve an amendment of the Redevelopment Plan for the County RDA Project Area (the "County RDA Plan") to eliminate the Property from the County RDA Project Area (a "County RDA Plan Amendment").

D. The Parties now wish to provide for the County RDA Plan Amendment in order to allow the City RDA to implement an affordable housing project on the Property.

AGREEMENT:

NOW, THEREFORE, in consideration of the foregoing Recitals, which are incorporated herein and made a part hereof by this reference, and for other valuable consideration, the sufficiency of which is hereby acknowledged, the City, City RDA, County, and County RDA hereby covenant and agree as follows:

1. Amendment to County RDA Plan. The County shall prepare and process the County RDA Plan Amendment. To effect the County RDA Plan Amendment, the County and County RDA shall take all of the actions set forth in the schedule attached hereto and incorporated herein as Exhibit "B" (the "Schedule"), within the timeframes set forth therein, and any other actions required in order to effect the County RDA Plan Amendment in accordance with all applicable requirements of the California Community Redevelopment Law (the "CRL").

2. City RDA Reimbursement of County RDA Costs. The City RDA shall reimburse the County RDA for the following costs actually incurred by the County RDA in preparing and processing the County RDA Plan Amendment:

- Urban Futures, Inc.'s fee of Twenty-Eight Thousand Six Hundred Fifty Dollars (\$28,650) to prepare, and to assist the County RDA to process, the County RDA Plan Amendment;
- Urban Analytics fee of approximately Two Thousand Dollars (\$2,000) to conduct an independent financial review of the proposed County RDA Amendment and its impact on existing bond holders;
- Actual costs and expenses incurred by the County RDA in processing the County RDA Plan Amendment (but not including costs or expenses allocated to the County RDA's internal administrative payroll or overhead expenses), estimated to be not more than Ten Thousand Dollars (\$10,000); and
- Charges and fees incurred by the County RDA for legal services provided by County Counsel, estimated to be not more than Five Thousand Dollars (\$5,000).

3. Effectiveness of Amendments. The County and County RDA each acknowledge and agree that upon the effective date of the ordinance to be adopted by the County approving the County RDA Plan Amendment, (i) the Property will cease to be located in the County RDA Project Area, (ii) the County will no longer collect any taxes from the Property pursuant to subdivision (b) of Section 33670 of the Health and Safety Code, (iii) the County RDA may no longer undertake activities to implement the County RDA Plan within the Property, and (iv) the Property shall be free from any indebtedness that the County RDA has incurred or does incur, in the future, in carrying out the County RDA Plan.

4. Hold Harmless/Indemnification. City shall indemnify and hold harmless the County RDA, the County, all the Agencies, Districts, Special Districts and Departments of the County and their respective directors, officers, Board of Supervisors, elected and appointed

officials, employees, agents and representatives ("Indemnified Parties") from any liability whatsoever, based or asserted upon any obligation of City and/or City RDA, its officers, employees, subcontractors, agents or representatives arising out of or in any way relating to this Agreement, including but not limited to property damage, bodily injury, or death or any other element of any kind or nature whatsoever arising from the performance of City and/or City RDA, its officers, agents, employees, subcontractors, agents or representatives from this Agreement. City shall defend, at its sole expense, all costs and fees including, but not limited, to attorney fees, cost of investigation, defense and settlements or awards, the Indemnified Parties in any claim or action based upon such alleged acts or omissions. Notwithstanding the foregoing, City shall not be responsible for any damages or liability to the extent caused by the negligence or willful misconduct of County or the County RDA or any of their respective officers, officials, members, employees, agents, or representative.

With respect to any action or claim subject to indemnification herein by City, City shall, at their sole cost, have the right to use counsel of their own choice and shall have the right to adjust, settle, or compromise any such action or claim without the prior consent of County RDA or County; provided, however, that any such adjustment, settlement or compromise in no manner whatsoever limits or circumscribes City's indemnification of Indemnified Parties as set forth herein.

City's obligation hereunder shall be satisfied when City has provided to County RDA the appropriate form of dismissal relieving the Indemnified Parties from any liability for the action or claim involved.

In the event there is conflict between this clause and California Civil Code Section 2782, this clause shall be interpreted to comply with Civil Code 2782. Such interpretation shall not relieve the City from indemnifying the Indemnified Parties to the fullest extent allowed by law.

5. County and County RDA Covenant not to Object or Bring Claims. The County and the County RDA hereby acknowledge that the City intends to process, concurrently with the County's processing of the County RDA Amendment, an amendment to the Redevelopment Plan for the La Quinta Redevelopment Project Area No. 2 (the "City RDA Amendment"). The County and the County RDA, for themselves and their agents, representatives, assigns, officers, and members (collectively, the "Covenanting Parties"), hereby covenant not to raise any objections or bring any claims against the City or City RDA with respect to the City RDA Amendment, unless the report described in Recital E of this Agreement concludes that the security described therein will be materially adversely impaired by the County RDA Plan Amendment.

6. Amendments. Any amendment hereto shall be in writing and shall be signed by authorized representatives of each of the Parties hereto prior to being valid.

7. Notice. Formal notices, demands, and communications between the City, City RDA, County, and County RDA shall be sufficiently given if (i) personally delivered, (ii) delivered by a reputable same-day or overnight courier services that provides a receipt showing date and time of delivery, (iii) delivered by United States mail, registered or certified, postage prepaid, return receipt requested, or (iv) delivered by facsimile transmission, provided the

original of the faxed communication is delivered within twenty-four (24) hours by one of methods described in clauses (i), (ii), or (iii) of the foregoing. Delivery shall be made to the following addresses:

If to City/Agency: City of La Quinta
La Quinta Redevelopment Agency
78-495 Calle Tampico
La Quinta, CA 92253
Attn: City Manager/Executive Director
Fax: (760) 777-7101

with a copy to: Rutan & Tucker, LLP
611 Anton Boulevard, Suite 1400
Costa Mesa, CA 92626
Attn: M. Katherine Jensen, Esq.
Fax: (714) 546-9035

If to County/County RDA: County of Riverside
Redevelopment Agency for the County of Riverside
P.O. Box 1180
Riverside, CA 92502
Attn: Executive Director
Fax: 951-955-6686

Notices that are personally delivered, delivered by messenger/courier, or by fax (provided there is compliance with the terms of clause (iv) above) shall be deemed effective upon receipt. Notices delivered by mail shall be deemed effective upon the earlier of actual receipt by the addressee thereof or the expiration of forty-eight (48) hours after depositing in the United States Postal System in the manner described in this Section. Such written notices, demands, and communications may be sent in the same manner to such other addresses as a party may from time to time designate by mail.

Written notices, demands and communications between the City, City RDA, County, and County RDA shall be sufficiently given if (i) delivered by hand, (ii) delivered by reputable same-day or overnight messenger service that provides a receipt showing date and time of delivery, or (iii) dispatched by registered or certified mail, postage prepaid, return receipt requested, to the principal offices of the applicable Party(ies) at the addresses set forth above. Such written notices, demands and communications may be sent in the same manner to such other addresses as any Party may from time to time designate by mail as provided above. A notice signed by legal counsel for a Party and delivered to another Party in accordance with this Section shall be deemed notice delivered by the Party on whose behalf such legal counsel is acting.

Any written notice, demand, or communication shall be deemed received immediately if delivered by hand or delivered by messenger in accordance with the preceding paragraph, and

shall be deemed received on the third (3rd) day from the date it is postmarked if delivered by registered or certified mail in accordance with the preceding paragraph.

8. Severability/Waiver/Integration/Interpretation; Entire Agreement.

8.1 Severability. If any provision of this Agreement shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining portions hereof shall not in any way be affected or impaired thereby.

8.2 Waiver. All waivers of the provisions of this Agreement, unless specified otherwise herein, must be in writing and signed by the appropriate authorities of the Party granting the waiver. No delay or omission by any Party hereto in exercising any right or power accruing upon the compliance or failure of performance by any other Party hereto under the provisions of this Agreement shall impair any such right or power or be construed to be a waiver thereof. A waiver by any Party hereto of a breach of any of the covenants, conditions or agreements hereof to be performed by another Party shall not invalidate this Agreement nor shall it be construed as a waiver of any succeeding breach of the same or other covenants, agreements, restrictions or conditions hereof.

8.3 Integration. This Agreement contains the entire Agreement between the Parties concerning the subject matter hereof and none of the Parties rely on any warranty or representation not contained in this Agreement.

8.4 Interpretation. The terms of this Agreement shall be construed in accordance with the meaning of the language used and shall not be construed for or against any Party by reason of the authorship of this Agreement or any other rule of construction that might otherwise apply.

8.5 Entire Agreement. This Agreement integrates all of the terms and conditions mentioned herein or incidental hereto, and supersedes all negotiations or previous agreements between the parties or their predecessors-in-interest with respect to all or any part of the subject matter hereof.

9. Governing Law. This Agreement shall be governed by the internal laws of the State of California without regard to conflicts of law.

10. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall constitute one original and all of which shall be one and the same instrument.

[End - Signature Page Follows]

IN WITNESS WHEREOF, the City, City RDA, County, and County RDA have executed this Agreement by duly authorized representatives on the date first written hereinabove.

“City RDA”

LA QUINTA REDEVELOPMENT AGENCY, a public body, corporate and politic

By: _____

Thomas Genovese
Executive Director

Date: _____

ATTEST:

By: _____

Secretary

APPROVED AS TO FORM:
RUTAN & TUCKER, LLP

By: _____

Attorneys for the La Quinta
Redevelopment Agency

“City”

CITY OF LA QUINTA, a California municipal corporation and charter city organized and existing under the California constitution

By: _____

Thomas Genovese
City Manager

ATTEST:

By: _____

City Clerk

APPROVED AS TO FORM:
RUTAN & TUCKER, LLP

By: _____

City Attorney

"County RDA"

REDEVELOPMENT AGENCY FOR THE
COUNTY OF RIVERSIDE, a public body,
corporate and politic

Date: _____

By: _____


Jeff Stone, Chairman
Board of Directors

ATTEST:

By: _____

Secretary

APPROVED AS TO FORM:

By:  8/24/09
Agency Counsel Michelle Clark, Deputy

"County"

COUNTY OF RIVERSIDE, a political subdivision
of the State of California

By: _____

Jeff Stone, Chairman
Board of Supervisors

ATTEST:

By: _____

Clerk of the Board

APPROVED AS TO FORM:


By:  8/24/09
County Counsel Michelle Clark, Deputy

EXHIBIT "A"

LEGAL DESCRIPTION OF PROPERTY

All of that certain real property in the City of La Quinta, County of Riverside, State of California, described as follows:

PARCEL A (42-800 Property):

A portion of the South half of the South half of the Northwest quarter (S 1/2 NW 1/4) of Section 18, Township 5 South, Range 7 East of the San Bernardino Meridian, and that portion of Parcels 1 and 2 of Parcel Map 12323 as per map recorded in Book 56 page 27, County of Riverside, State of California, being more particularly described as follows:

Commencing at the West one-quarter (W 1/4) corner of Section 18, Township 5 South, Range 7 East of the San Bernardino Meridian, County of Riverside, State of California, said point being on the centerline of Washington Street; thence North 89° 39' 27" East along the East-West one-quarter (E-W 1/4) Section line of said Section 18, a distance of 40.00 feet to the Easterly line of said Washington Street, said point being 40.00 feet Easterly of the centerline of said Washington Street, as measured at right angles thereto, and being also the true point of beginning;

Thence North 00° 08' 34" East along the Easterly line of said Washington Street, a distance of 664.07 feet to the centerline of Hidden River Road;

Thence North 89° 34' 27" East along the centerline of said Hidden River Road, a distance of 435.29 feet;

Thence South 00° 08' 34" West, a distance of 400.32 feet to the Southerly line of Parcel 2 of Parcel Map No. 12323, filed in Parcel Map Book 56, Page(s) 27 and 28, of Official Records (O.R.) County of Riverside, State of California;

Thence North 89° 34' 27" East, along the Southerly line of Parcel 2 and continuing along the Southerly line of Parcel 3, both of said Parcel Map No. 12323, a distance of 849.27 feet;

Thence South 00° 20' 33" East, a distance of 265.62 feet to the East-West one-quarter (E-W 1/4) Section line of said Section 18;

Thence South 89° 39' 27" West along the East-West one-quarter (E-W 1/4) Section line of said Section 18, a distance of 1286.80 feet to the point of beginning.

Said description is pursuant to that certain Notice of Lot Line Adjustment No. 5167, recorded October 15, 2007 as Instrument No. 2007-636486, Official Records.

Excepting therefrom that portion as conveyed to the La Quinta Redevelopment Agency by that certain Grant Deed recorded October 15, 2007 as Instrument No. 2007-0636489.

Assessor's Parcel Number: 609-040-007-0 and 609-040-023-4

PARCEL B (Adjacent Property):

A portion of the South half of the South half of the Northwest quarter (S 1/2 S 1/2 NW 1/4) of Section 18, Township 5 South, Range 7 East of the San Bernardino Meridian, County of Riverside, State of California, being more particularly described as follows:

Commencing at the West one-quarter (W 1/4) corner of Section 18, Township 5 South, Range 7 East of the San Bernardino Meridian, County of Riverside, State of California, said point being on the centerline of Washington Street; thence N89°39'27"E along the East-West one-quarter (E-W 1/4) section line of said Section 18, a distance of 40.00 feet to the Easterly line of said Washington Street, said point being 40.00 feet Easterly of the centerline of said Washington Street, as measured at right angles thereto, and being also the true point of beginning;

Thence N00°08'34"E along the Easterly line of said Washington Street, a distance of 133.75 feet;

Thence N89°34'27"E along the Easterly line of said Washington Street and continuing along the Southerly line of Parcel 1 of Parcel Map No. 12323, filed in Parcel Map Book 56, Pages 27 and 28, of Official Records (O.R.) County of Riverside, State of California, a distance of 330.03 feet;

Thence N00°08'34"E along the easterly line of said Parcel 1, a distance of 130.01 feet;

Thence N89°34'27"E along the Southerly line of Parcel 1 and continuing along the Southerly lines of Parcel 2 and Parcel 3, all of said Parcel Map No. 12323, a distance of 954.54 feet;

Thence S00°20'33"E, a distance of 265.62 feet to the East-West one-quarter (E-W 1/4) section line of said Section 18;

Thence S89°39'27"W along said East-West one-quarter (E-W 1/4) section line, a distance of 1286.80 feet to the point of beginning.

Said parcel contains 6.83 acres (297,393 square feet), more or less.

EXHIBIT "B"

SCHEDULE OF PERFORMANCE

	Performance Task	Time for Completion
1.	County prepares and circulates to City and City RDA Draft Amended Preliminary Plan for County RDA Project Area.	Within thirty (30) days after Effective Date.
2.	City provides comments on Draft Amended Preliminary Plan for County RDA Project Area.	Within fourteen (14) days after City receives from County.
3.	County Planning Commission amends County RDA Project Area boundaries to eliminate the Property, amends the existing Project Area Preliminary Plan and forwards to the County RDA. (H&S Code § 33322-33324.)	Within fourteen (14) days after County receives City comments.
4.	County RDA accepts Preliminary Plan amendments, directs preparation of the County RDA Plan Amendment and authorizes transmittal of Statement of Preparation. (H&S Code § 33322-33324.)	Within fourteen (14) days after County Planning Commission actions pursuant to Task No. 3.
5.	County prepares Initial Study and conducts necessary CEQA analysis.	Within sixty (60) days after Effective Date.
6.	County Planning Commission adopts resolution submitting report and recommendation concerning conformity of County RDA Plan Amendment to the County General Plan. (H&S Code §§ 33347 and 33453.)	Within sixty (60) days after County RDA actions in Task No. 4.
7.	County and County RDA adopt resolutions consenting to a joint public hearing on the County RDA Plan Amendment; County RDA adopts resolution authorizing circulation of draft County RDA Plan Amendment and adopting and transmitting the County RDA's report to the County; County adopts resolution receiving and adopting the County RDA's Report to the County. (H&S Code §§ 33351, 33352, 33355, 33451.5, and 33458.)	Within fourteen (14) days after County Planning Commission actions in Task No. 7-6.
8.	County and County RDA hold joint public hearing on County RDA Plan Amendment. (H&S Code § 33451.)	Within sixty (60) days after County and County RDA actions in Task No. 9-7.
9.	County adopts resolution approving written responses to written objections to County RDA Plan Amendment (if necessary), and conducts first reading of ordinance adopting County RDA Plan Amendment. (H&S Code §§ 33359, 33363, 33364.)	Within fourteen (14) days after County and County RDA joint public hearing

10.	County conducts second reading of ordinance adopting County RDA Plan Amendment.	Within fourteen (14) days after County conducts first reading
11.	County RDA transmits copies of ordinance to affected taxing and other entities pursuant to CRL 33457 and records County RDA Plan Amendment.	One (1) day after County conducts second reading