

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

970



FROM: Redevelopment Agency

SUBMITTAL DATE:
September 24, 2009

SUBJECT: First Amendment to the Disposition and Development Agreement, Desert Center Airport, Promissory Note and Deed of Trust Between the Redevelopment Agency and Chuckwalla Valley Associates, LLC

RECOMMENDED MOTION: That the Board of Directors:

1. Find that although the First Amendment to the Disposition and Development Agreement, Desert Center Airport ("First Amendment to DDA") and First Amendment to Promissory Note and Deed of Trust ("First Amendment to Note and Deed") could have a significant effect on the environment, nothing further is required because all potentially significant effects have been adequately analyzed in an earlier Mitigated Negative Declaration ("MND") and have been avoided or mitigated pursuant to that earlier MND;
2. Approve the attached First Amendment to DDA;
3. Approve the attached First Amendment to Note and Deed;
4. Authorize the Chairman to execute the attached First Amendment to DDA and First Amendment to Note and Deed; and
5. Authorize the Executive Director or designee to execute any subsequent relevant and necessary documents to implement the First Amendment to DDA and First Amendment to Note and Deed.

BACKGROUND: (Commences on Page 2)

Robert Field
Executive Director

FINANCIAL DATA	Current F.Y. Total Cost:	\$ 0	In Current Year Budget:	No
	Current F.Y. Net County Cost:	\$ 0	Budget Adjustment:	NA
	Annual Net County Cost:	\$ 0	For Fiscal Year:	NA

COMPANION ITEM ON BOARD OF SUPERVISORS AGENDA: No

SOURCE OF FUNDS: NA

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

County Executive Office Signature

FORM APPROVED COUNTY COUNSEL
BY:
MICHELLE CLACK
DATE: 10/22/09

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

Prev. Agn. Ref.: 2/7/06 4.1; 10.24. 2006 4.2 | District: 4th | Agenda Number: 4.2

ATTACHMENTS FILED
WITH THE CLERK OF THE BOARD

BACKGROUND:

On October 24, 2006, the Board of Directors of the Redevelopment Agency for the County of Riverside (Agency), in joint session with the Board of Supervisors for the County of Riverside, recommended that a joint public hearing be conducted regarding the sale of Desert Center Airport, Adopted RDA Resolution 2006-41 authorizing the sale of Desert Center Airport to Chuckwalla Valley Associates, LLC, (Chuckwalla) and Approved the Development and Disposition Agreement for Desert Center Airport (hereinafter DDA) Between the Redevelopment Agency for the County of Riverside and Chuckwalla Valley Associates, LLC, date October 24, 2006.

The DDA provided for the development of an aviation oriented housing development with associated recreational amenities. The purchase price for the property was \$1,437,000, with Chuckwalla paying \$800,000 down and the Agency carrying back an all inclusive note (the "Note") and deed of trust for \$637,000, all due in one year with an interest rate of seven percent.

Since that time, economic conditions have deteriorated and the demand for new housing in the area has declined to the point that development of the property for residential development is no longer feasible or financeable.

Chuckwalla has requested that the DDA be amended to allow for the development of a multi use recreational facility including an automotive race track facility with accessory buildings, dry camping and associated amenities, all of which are to be developed in phases.

The note is currently delinquent with a balance (including principal, interest and penalties), as of October 31, 2009, of \$797,916.28. Chuckwalla has requested that the terms of the note be restricted as follows: \$50,000 upon execution of the new note, the balance of \$747,913.28 payable at 5% interest only quarterly, all due in three years.

Staff prepared an Initial Study and determined that although the First Amendment to the Disposition and Development Agreement, Desert Center Airport ("First Amendment to DDA") and First Amendment to Promissory Note and Deed of Trust ("First Amendment to Note and Deed") could have a significant effect on the environment, nothing further is required because all potentially significant effects were adequately analyzed in Environmental Assessment No. 41998 and a Mitigated Negative Declaration was adopted by the Riverside County Planning Director on September 24, 2009.

In accordance with the California Environmental Quality Act, the attached Notice of Intent to Adopt a Finding of Nothing Further is Required was posted in the Desert Sun newspaper on Sunday, October 11, 2009 for the 20 day review period.

The Redevelopment Agency for the County of Riverside recommends that the Board of Director of the Redevelopment Agency approve the First Amendment to DDA and First Amendment to Note and Deed.

County Counsel has reviewed the Amendments and approved it as to form.

NOTICE OF INTENT TO ADOPT A FINDING THAT NOTHING FURTHER IS REQUIRED

In accordance with the California Environmental Quality Act (CEQA), the Redevelopment Agency for the County of Riverside has found although the proposed project listed below could have a significant effect on the environment, nothing further is required because all potentially significant effects have been adequately analyzed in an earlier Mitigated Negative Declaration pursuant to applicable legal standards and have been avoided or mitigated pursuant to that earlier Mitigated Negative Declaration.

All potentially significant effects were adequately analyzed in Environmental Assessment No. 41998 and a Mitigated Negative Declaration was adopted on September 24, 2009. Environmental Assessment No. RDA/CEQA 2009-08, the Mitigated Negative Declaration and accompanying Environmental Assessment No. 41998 may be examined at the Riverside County Economic Development Agency, 3403 Tenth St., Ste. 300, Riverside, CA 92501. Comments regarding the determination may be directed to the Economic Development Agency, Chad Davies no later than 9 am, October 30, 2009.

The Finding will be considered by the appropriate public official or body that has the authority to approve or deny the project. Any comments received will be forwarded to the appropriate official or body and will be considered before final action is taken on the Finding and project. The official or body may take action on the project any time on or after November 3, 2009. The final decision will be mailed to anyone requesting such notification.

Project Description and Location

An Initial Study has been prepared for the project titled "First Amendment to the Development and Disposition Agreement for Desert Center Airport between the Redevelopment Agency for the County of Riverside and Chuckwalla Valley Associates, LLC".

The amendment to the Disposition and Development Agreement, amendment to the Promissory Note and Deed of Trust (the "Amendment") proposes to change the development of the property from an aviation orientated housing development with associated recreational amenities to a multi use recreational facility including an automotive race track facility with accessory buildings, dry on-site camping and associated amenities. The purpose of the Amendment is to implement the use permitted by Plot Plan 23577. Plot Plan 23577 permits the operation of a private special-use airport, previously known as Desert Center Airport, consisting of one operational runway, a taxiway, two small unmanned airport buildings, and a beacon tower, in conjunction with the construction and operation of a members-only road course racing facility to be built in multiple phases with three racetracks, club house, parking garages with view stands, administration buildings, two timing and scoring towers, pit lanes, a 170 space parking area (including ten handicap spaces), and a phased Vacation RV Park with dry camping (no hookups), to be limited to 40 spaces at full build out (the "Project").

The project is located approximately 4 miles north of Interstate 10 (near the community of Desert Center) and east of Rice Road, also known as Highway 177.

Please direct all questions regarding this notice to Chad Davies at (951) 677-1862.

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**FIRST AMENDMENT TO THE DEVELOPMENT AND DISPOSITION AGREEMENT FOR DESERT
CENTER AIRPORT BETWEEN THE REDEVELOPMENT AGENCY FOR THE COUNTY OF
RIVERSIDE AND CHUCKWALLA VALLEY ASSOCIATES, LLC**

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THIS FIRST AMENDMENT TO THE DISPOSTION AND DEVELOPMENT AGREEMENT FOR DESERT CENTER AIRPORT BETWEEN THE REDEVELOPMENT AGENCY FOR THE COUNTY OF RIVERSIDE AND CHUCKWALLA VALLEY ASSOCIATES ("First Amendment") is entered into as of _____, 2009, by and between the Redevelopment Agency for the County of Riverside, a public body, corporate and politic (the "Agency"), and Chuckwalla Valley Associates, LLC, a California limited liability company (the "Developer").

RECITALS

WHEREAS, the Agency and Developer entered into that certain Development and Disposition Agreement for Desert Center Airport on October 24, 2006. ("DDA"); and

WHEREAS, pursuant to the DDA, Developer agreed to develop an aviation oriented housing development with associated recreational amenities on the subject property; and

WHEREAS, section 2(b)(i) of the DDA provides that the Developer shall deliver to Escrow Company an all-inclusive promissory note in the amount of Six Hundred Thirty Seven Thousand Dollars ("Note") with a maturity date of one year from the Close of Escrow, unless the Note it is extended by mutual agreement of the Parties; and

WHEREAS, the Close of Escrow was December 13, 2006, and the Note was delivered to the Escrow Company; and

WHEREAS, the balance of the Note as of October 31, 2009, is \$797, 913.28, which includes the Note balance of \$637,000, accrued simple interest of \$129, 063.28 and a late fee of \$31,850; and

WHEREAS, the Agency and Developer have determined that it is necessary to restructure the terms of the Note and modify the subject property's planned development and use; and

WHEREAS, the objective of the Redevelopment Plan for Redevelopment Project Airports – 1988, is to eliminate blight by providing needed public improvements, encouraging rehabilitation and repair of deteriorated structures, by facilitating commercial and industrial development which will result in employment opportunities and by promoting development in accordance with the Riverside County Comprehensive General Plan and Airport Land Use plans; and

WHEREAS, section 34 of the DDA provides that the DDA may be changed or modified only upon written consent of the Agency and Developer.

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

3 **Section 1.** The following is added to Section 2 of the DDA:

4 (c) Developer hereby agrees to pay the sum of \$797, 913.28 in accordance with the
5 terms set forth in the First Amendment to Promissory Note Secured by All Inclusive Deed of
6 Trust and All Inclusive Purchase Money Deed of Trust with Assignment of Rents, which is
7 attached hereto as Exhibit A and incorporated herein by reference.

8 **Section 2.** Section 17(a) of the DDA is hereby amended in its entirety and replaced with
9 the following:

10 17. **DEVELOPMENT OF THE PROPERTY:**

11 (a) Subject to the County of Riverside's land use approvals, Developer agrees to
12 develop on the Property a multi use recreational facility including an
13 automotive race track facility with accessory buildings, dry on-site camping
14 and associated amenities to be constructed in phases (the "Project").
15 Developer is solely responsible for securing and funding all costs associated
16 with obtaining the appropriate land use and permit approvals necessary to
17 develop the Project. Developer agrees to endeavor to design and construct
18 the Project within a timely fashion in order to effectuate the Redevelopment
19 Plan. Developer shall:

- 20 (i) Prepare a site development plan within two years after the close of
21 escrow;
- 22 (ii) Submit plans to the County of Riverside for land use approvals
23 within five years after the close of escrow;
- 24 (iii) Obtain land use approvals within eight years after the close of
25 escrow;
- 26 (iv) Initiate construction of the first phase of development within fifteen
27 years after the close of escrow.

28 **Section 3.** Section 18(a) of the DDA is hereby amended in its entirety and replaced with
the following:

1 18. **USE OF THE PROPERTY**

2 (a) Developer shall develop the Project on the Property. Developer covenants
3 and agrees for itself and its successors and assigns and every successor in
4 interest to the Property, or any portion thereof, that during construction and
5 thereafter, Developer and such successors and assigns shall use the Property
6 exclusively for the purposes herein stated and shall not devote the Property to
7 any uses which are inconsistent with this Agreement and applicable County land
8 use entitlements.

9 **Section 4.** This First Amendment shall be governed by the laws of the State of
10 California.

1 **Section 5.** This First Amendment may be signed in counterparts, with all such
2 counterparts taken together constituting a single original.

3 **Section 6.** Except to the extent modified by this First Amendment, the DDA remains
4 in full force and effect as originally written. All defined terms used herein shall have the same
5 meaning as in the DDA, as originally written.

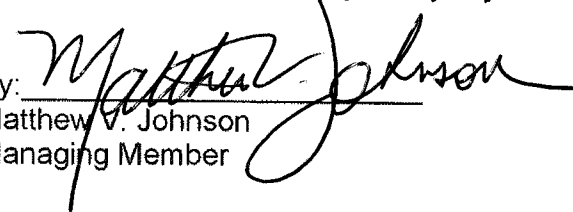
6 **Section 7.** This First Amendment shall not be binding until its approval by the
7 Agency's Board of Directors.

8 **IN WITNESS WHEREOF**, Agency and Developer have executed this First Amendment
9 on the date first above written.

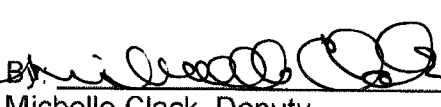
10 **Agency:**
11 **Redevelopment Agency for the
12 County of Riverside**

13 By: _____
14 Jeff Stone, Chairman

15 **Developer:**
16 **Chuckwalla Valley Associates
17 a California limited liability company**

18 By: 
19 Matthew V. Johnson
20 Managing Member

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23 APPROVED AS TO FORM
24 PAMELA J. WALLS
25 Agency Counsel

26  10/22/09
27 Michelle Clack, Deputy

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2 **FIRST AMENDMENT TO THE PROMISSORY NOTE**
3 **SECURED BY ALL-INCLUSIVE DEED OF TRUST AND ALL INCLUSIVE PURCHASE MONEY**
4 **DEED OF TRUST WITH ASSIGNMENT OF RENTS**

5 THIS FIRST AMENDMENT TO THE Promissory Note Secured by All Inclusive Deed of
6 Trust and All Inclusive Purchase Money Deed of Trust with Assignment of Rents ("First
7 Amendment") is entered into as of _____, 2009, by and between the
8 Redevelopment Agency for the County of Riverside, a public body, corporate and politic (the
9 "Agency"), and Chuckwalla Valley Associates, LLC, a California limited liability company (the
10 "Developer").

11 **RECITALS**

12 **WHEREAS**, the Agency and Developer entered into that promissory note dated as of
13 June 30, 2006, in the amount of Six Hundred Thirty-Seven Thousand Dollars (\$637,000)
14 ("Note"), which is secured by an All Inclusive Purchase Money Deed of Trust with Assignment
15 of Rents dated June 30, 2006 ("Deed of Trust") recorded in the Office of the Recorder of the
16 County of Riverside as Document No. 2006-0913983 on December 13, 2006; and

17 **WHEREAS**, the Agency and Developer entered into that certain Development and
18 Disposition Agreement for Desert Center Airport on October 24, 2006. ("DDA"); and

19 **WHEREAS**, section 2(b)(i) of the DDA provided that the Developer shall deliver to
20 Escrow Company the Note with a maturity date of one year from the Close of Escrow, unless
21 the Note it is extended by mutual agreement of the Parties; and

22 **WHEREAS**, the balance of the Note as of October 31, 2009, is \$797,913.28, which
23 includes the Note balance of \$637,000, accrued simple interest of \$129,063.28 and a late fee
24 of \$31,850; and

25 **WHEREAS**, the Note was subordinate to a deed of trust securing a promissory note
26 dated February 2, 2006, given by the Agency in favor of the County of Riverside in the
27 principal sum of One Million Seventy Seven Thousand Seven Hundred Fifty Dollars
28 (\$1,077,750) ("County Note"); and

WHEREAS, the County Note has been paid in full; and

WHEREAS, the Developer has requested modifications to the Note; and

WHEREAS, the Agency and Developer have determined that it is necessary to
restructure the terms of the Note; and

WHEREAS, the Note was incorporated into the DDA; and

WHEREAS, section 34 of the DDA provides that the DDA may be changed or modified
only upon written consent of the Agency and Developer.

1 **NOW, THEREFORE**, in consideration of the mutual understanding provided herein, and
2 for other good and valuable consideration, the receipt and sufficiency of which are hereby
acknowledged, the parties hereto agree as follows:

3 **Section 1.** The introductory paragraph of the Note is hereby amended in its entirety
4 and replaced with the following:

5 FOR VALUE RECEIVED, the undersigned, Chuckwalla Valley Associates, LLC,
6 a California limited liability company, ("Chuckwalla") as a principal and not as an
7 accommodating party, hereby promises to pay to the order of the Redevelopment Agency for
8 the County of Riverside ("RDA") at such place as designated from time to time by the holder or
9 holders of this note, the principal sum of Seven Hundred Ninety-Seven Thousand Nine
Hundred Thirteen and Twenty Eight cents (\$797,913.28), with interest thereon at the rate of
10 five percent (5%) per annum from the date hereof until paid in full. Interest shall be computed
11 on a per annum basis of a year of Three Hundred Sixty (360) days and for the actual number
12 of days elapsed.

13 **Section 2.** Section 1.1 of the Note is hereby amended in its entirety and replaced with
14 the following:

15 1.1 Fifty Thousand Dollars (\$50,000) shall be due and payable upon
16 execution of this First Amendment by Agency and Developer.

17 1.2 Interest only shall be paid quarterly beginning on January 31, 2010.

18 1.3 All unpaid principal and interest shall be due and payable in full on
19 October 31, 2012.

20 **Section 3.** Existing Section 1.2 of the Note shall be renumbered as Section 1.4.

21 **Section 4.** Existing Section 1.3 of the Note shall be renumbered as Section 1.5.

22 **Section 5.** Section 2 of the Note is hereby amended in its entirety and replaced with
23 the following:

24 **Security.** This note is secured by an All-Inclusive Deed of Trust ("Deed of
25 Trust"), executed by Chuckwalla, as Trustor, in favor of RDA as Beneficiary, which is a lien on
26 that certain real property described therein (the "Property") located in Riverside County,
California.

27 **Section 6.** All references to the principal sum or principal amount of Six Hundred
28 Thirty Seven Thousand (\$637,000.00) in the Deed of Trust are hereby replaced with the
principal sum of Seven Hundred Ninety-Seven Thousand Nine Hundred Thirteen and Twenty
Eight cents (\$797,913.28).

Section 7. This First Amendment may be signed in counterparts, with all such
counterparts taken together constituting a single original.

1 **Section 8.** Except to the extent modified by this First Amendment, the Note and Deed
2 of Trust remain in full force and effect as originally written. All defined terms used herein shall
3 have the same meaning as in the Note and Deed of Trust, as originally written.

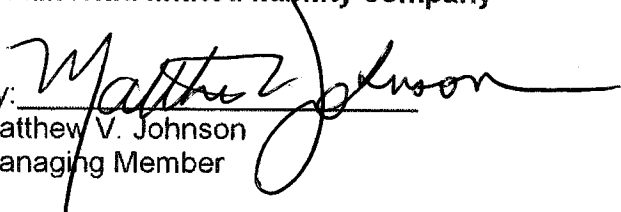
4 **Section 9.** This First Amendment shall not be binding until its approval by the
5 Agency's Board of Directors.

6 **IN WITNESS WHEREOF,** Agency and Developer have executed this First Amendment
7 on the date first above written.

8 **Agency:**
9 **Redevelopment Agency for the**
10 **County of Riverside**

11 By: _____
12 Jeff Stone, Chairman

13 **Developer:**
14 **Chuckwalla Valley Associates**
15 **a California limited liability company**

16 By: 
17 Matthew V. Johnson
18 Managing Member

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24 Agency Counsel

25 By:  10/22/09
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