

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

710



FROM: Redevelopment Agency

SUBMITTAL DATE:

October 27, 2011

SUBJECT: First Amendment to Memorandum of Understanding Including Right to Negotiate with Mustang Affordable Homes LLC

RECOMMENDED MOTION: That the Board of Directors:

1. Make findings that the proposed First Amendment to Memorandum of Understanding between the Redevelopment Agency for the County of Riverside and Mustang Affordable Homes LLC is an enforceable obligation of the Agency;
2. Approve the First Amendment to Memorandum of Understanding between the Redevelopment Agency for the County of Riverside and Mustang Affordable Homes LLC;
3. Authorize the Chairman of the Board to execute the attached First Amendment; and

(Continued)

Robert Field
Executive Director

FINANCIAL DATA	Current F.Y. Total Cost:	\$ 187,624	In Current Year Budget:	Yes
	Current F.Y. Net County Cost:	\$ 0	Budget Adjustment:	No
	Annual Net County Cost:	\$ 0	For Fiscal Year:	2011/12

COMPANION ITEM ON BOARD OF SUPERVISORS AGENDA: No

SOURCE OF FUNDS: Redevelopment Low-and Moderate-Income Housing 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

County Executive Office Signature

FISCAL PROCEDURES APPROVED
 PAUL ANGULO, CPA, AUDITOR-CONTROLLER
 BY: Samuel Wong 10/26/11
 DATE: 10-27-11
 FORM APPROVED COUNTY COUNSEL
 BY: ANITA C. WILLIS
 DATE: 10-27-11
 Policy Consent
 Policy Consent
 Dept's Recomm.: Per Exec. Ofc.:

ATTACHMENTS FILED WITH THE CLERK OF THE BOARD

RECOMMENDED MOTION: (Continued)

4. Authorize the Executive Director, or his designee, to take all necessary steps to implement the First Amendment, including but not limited to, signing subsequent necessary and relevant documents.

BACKGROUND: On March 31, 2009, the Board of Directors approved a Memorandum of Understanding (MOU) and Right to Negotiate with Mustang Affordable Homes LLC (MAH) for the purpose of conducting all analysis and other activities for the process of “obtaining entitlements and preparations for financing necessary for analyzing and investigating the development of the proposed project”. The terms also included negotiating the terms and conditions of a disposition and development agreement of an affordable housing project located in the City of Jurupa Valley, Assessor Parcel Number 177-250-029. The memorandum included a predevelopment loan in an amount up to \$218,623 for expenses that would be incurred in the process of obtaining all entitlements and financing necessary for the development of the site. The initial project budget severely underestimated the architectural, engineering and County permit planning costs associated with the predevelopment of the proposed project. Additionally, other costs associated with holding the property like property taxes and maintenance were not accounted for in the original budget.

As of July 1, 2011, the project resides in the territorial jurisdiction of the City of Jurupa Valley, but remains inside the Redevelopment Agency for the County of Riverside’s Jurupa Valley Project Area. Subsequently, entitlements for the project must be approved through the City of Jurupa Valley, which will also increase the predevelopment costs.

MAH has requested an additional \$187,624 to pay for architectural, engineering and other costs necessary to hold the property. Staff recommends amending the memorandum and increasing the predevelopment loan from \$218,623 to \$406,247, and amending the predevelopment budget set forth in Exhibit A. All other terms and conditions of the Memorandum of Understanding will remain unchanged. The additional costs are in line with other similar projects, and necessitates an amendment to the scope of work of the original project.

This amendment to this agreement is considered an enforceable obligation and may be executed because the original agreement was executed on March 31, 2009, a date prior to the enactment of ABx1 26 and ABx1 27, the Assembly bills regarding redevelopment that were signed by Governor Brown on June 29, 2011. The Agency obligated itself to provide the funds for the expenses “that will be incurred in the process of obtaining all entitlements and preparations for financing....” for the predevelopment of this project. MAH has moved forward in reliance that the Agency will perform its obligation. Also, review by the City of Jurupa is mandatory. Therefore the proposed First Amendment to the MOU is required and is an enforceable obligation of the Agency.

(Continued)

First Amendment to Memorandum of Understanding Including Right to Negotiate with Mustang
Affordable Homes LLC
October 13, 2011
Page 3

FINANCIAL DATA:

All the costs related to the funding of this agreement will be fully funded with Redevelopment Housing Set Aside Funds. The Agency has budgeted this expense in the FY 2011/12 budget.

Attachments:

First Amendment to Memorandum of Understanding Including Right to Negotiate

**FIRST AMENDMENT TO MEMORANDUM OF UNDERSTANDING
INCLUDING RIGHT TO NEGOTIATE**

This First Amendment to Memorandum of Understanding Including Right to Negotiate (“First Amendment”) is made and entered into as of the ____ day of _____, 2011, by and between the REDEVELOPMENT AGENCY FOR THE COUNTY OF RIVERSIDE, a public body, corporate and politic (hereinafter referred to as the “AGENCY”) and Mustang Affordable Homes, LLC (“DEVELOPER”), a California Limited Liability Company.

WITNESSETH:

WHEREAS, AGENCY and DEVELOPER entered into a Memorandum of Understanding Including Right to Negotiate (“AGENCY MOU”) on March 31, 2009; and

WHEREAS, under the terms and conditions of the AGENCY MOU, AGENCY agreed to lend up to Two Hundred Eighteen Thousand Six Hundred Twenty Three Dollars (\$218,623) of AGENCY funds (“Pre- Development Loan”) to DEVELOPER for expenses that would be incurred in analyzing and investigating the development of an affordable housing project (“Proposed Project”) located in the Project Site; and

WHEREAS, DEVELOPER will be incurring additional unforeseen costs to finalize entitlements, initiate construction drawings, erecting temporary fencing, weed abatement of Project Site, and payment of property taxes; and

WHEREAS, as of July 1, 2011, the project is in the territorial jurisdiction of the City of Jurupa Valley, but remains inside AGENCY’s Jurupa Valley Project Area; and

WHEREAS, DEVELOPER has requested an additional \$187,624 to pay for architectural, engineering construction documents, holding costs, and other costs associated with the predevelopment pursuant to the schedule set forth in Exhibit B of the MOU, and as shown, in Exhibit A which is attached hereto and by this reference incorporated herein; and

WHEREAS, AGENCY and DEVELOPER desire to amend the MOU and increase the predevelopment loan from \$218,623 to \$406,247; and

1 WHEREAS, amending the MOU will assist AGENCY in fulfilling its affordable
2 housing objectives.

3 NOW, THEREFORE, in consideration of the foregoing, and the promises and mutual
4 covenants and conditions hereinafter set forth, AGENCY and DEVELOPER do hereby agree
5 as follows:

- 6 1. Section 1 of the MOU is hereby modified to: The Term of this MEMORANDUM shall
7 be for twenty-four (24) months from the date of execution of this First Amendment to
8 the Memorandum of Understanding including Right to Negotiate.
- 9 2. Section 3 of the MOU shall be amended to increase the amount of the predevelopment
10 loan from \$218,623 to \$406,247 in Redevelopment Low- and Moderate-Income
11 Housing funds.
- 12 3. The Predevelopment Budget in Exhibit A of the Memorandum of Understanding is
13 amended by deleting it in its entirety and replacing it with by the Predevelopment
14 Budget which is attached hereto and by this reference incorporated herein as Exhibit A.
- 15 4. The Schedule of Performance in Exhibit B of the Memorandum of Understanding is
16 amended by deleting it in its entirety and replacing it with by the Schedule of
17 Performance which is attached hereto and by this reference incorporated herein as
18 Exhibit B.
- 19 5. This First Amendment and AGENCY MOU set forth and contain the entire
20 understanding and agreement of the parties hereto. There are no oral or written
21 representations, understandings, or ancillary covenants, undertakings or agreements,
22 which are not contained or expressly referred to within this First Amendment and
23 AGENCY MOU.
- 24 6. Each of the attachments and exhibits attached hereto are incorporated herein by this
25 reference
- 26 7. All other terms and conditions of the AGENCY MOU remain unmodified and in full
27 force and effect.

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- 8. This First Amendment may be signed by the different parties hereto in counterparts, each of which shall be an original but all of which together shall constitute one and the same agreement.
- 9. The effective date of this First Amendment is the date the parties execute the First Amendment. If the parties execute the First Amendment on more than one date, then the last date the First Amendment is executed by a party shall be the effective date.

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1 IN WITNESS WHEREOF, the AGENCY and DEVELOPER have executed this Agreement as
2 of the date first above written.

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4 AGENCY
5 REDEVELOPMENT AGENCY
6 FOR THE COUNTY OF RIVERSIDE

DEVELOPER
Mustang Affordable Homes, LLC
a California Limited Liability Company

7
8 By: _____
9 Bob Buster
10 Chairman, Board of Directors

By: Susan McDevitt
Susan McDevitt, Managing Member

11 By: Brenda Rodriguez
12 Brenda Rodriguez, Managing Member

13 APPROVED AS TO FORM
14 PAMELA J. WALLS
15 Agency Counsel

16 By: Anita C. Willis
17 Anita C. Willis, Deputy

18 ATTEST:
19 KECIA HARPER-IHEM
20 Clerk of the Board

21 By: _____
22 Deputy

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24
25 **(All signatures on this page need to be notarized)**
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27
28

CALIFORNIA ALL-PURPOSE ACKNOWLEDGEMENT

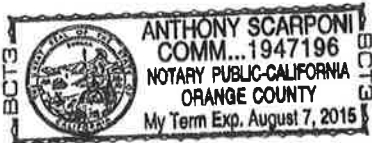
STATE OF CALIFORNIA }

COUNTY OF ORANGE }

On 5th OF OCTOBER, 2011, before me, ANTHONY SCARPONI, NOTARY
Date Here Insert Name and Title of the Officer

personally appeared SUSAN EILEEN McDEVITT
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) ~~is~~ are subscribed to the within instrument and acknowledged to me that he/~~she~~ they executed the same in his/~~her~~ their authorized capacity ~~(ies)~~, and that by his/~~her~~ their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature *AS*
Signature of Notary Public

Place Notary Seal Above

CALIFORNIA ALL-PURPOSE ACKNOWLEDGEMENT

STATE OF CALIFORNIA }

COUNTY OF Orange }

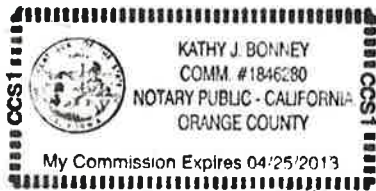
On October 10, 2011, before me, Kathy J Bonney, notary public
Date Here Insert Name and Title of the Officer

personally appeared Brenda J Rodriguez
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) ~~is/are~~ subscribed to the within instrument and acknowledged to me that ~~he/she/they~~ executed the same in ~~his/her/their~~ authorized capacity (ies), and that by ~~his/her/their~~ signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Place Notary Seal Above

Signature Kathy J Bonney
Signature of Notary Public

CALIFORNIA ALL-PURPOSE ACKNOWLEDGEMENT

STATE OF CALIFORNIA }

COUNTY OF _____ }

On _____, before me, _____
Date Here Insert Name and Title of the Officer

personally appeared _____
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity (ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Place Notary Seal Above

Signature _____
Signature of Notary Public

CALIFORNIA ALL-PURPOSE ACKNOWLEDGEMENT

STATE OF CALIFORNIA }

COUNTY OF _____ }

On _____, before me, _____
Date Here Insert Name and Title of the Officer

personally appeared _____
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity (ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Place Notary Seal Above

Signature _____
Signature of Notary Public

EXHIBIT “A”

Pre-Development Budget

Single Family Development – 7 units Outside Scope of this Pre- Development Loan

<u>Description</u>	<u>Amount</u>
Holding Costs (civil engineering, taxes, etc.)	\$ 74,126
Developer Fee (10%)	\$ 75,513
Total	\$ 149,639

Multi-family Development

Engineering	\$ 54,224
Architect	\$ 110,287
Plan Check Fees	\$ 77,373
Admin/Taxes	\$ 10,224
Holding Costs	\$ 4,500
Contingency	\$ 0
Subtotal Multifamily Pre-Development Loan	\$ 256,608
Total Loan	\$ 406,247

EXHIBIT “B”

Schedule of Performance

	Fast Track/ Expedited Timeline
Agency Approvals: Board approval of MOU/Pre-Development Agreement Board approval of First Amendment to MOU Board approval of DDA	March 31, 2009 October – 2011 TBD
Planning Schedule Submit to Planning (Zone Change, Parcel Map, and GPA) Complete review and resubmittal of any changes Land use committee approval NEPA Environmental Assessment Initiated NEPA Environmental Review Completed CEQA Environmental approval Planning Commission approval Board of Supervisors approval-zoning/Plot Plan Board of Supervisors-General Plan Amendment	August , 2011 September 29, 2011 November-2011 December-2011 January-2012 January-2012 November-2011 January-2012 January-2012
Financing Construction and Perm Loan Commitments	April-2012
Construction Start construction drawings 50% completion construction drawings Complete construction drawings Submit construction drawings - Plan check (4 months) Secure building permits Construction Start Construction Completion (months) Placed In Service/Lease up/stabilization (3 months)	November 14, 2011 December 12, 2011 January 16, 2012 January 18, 2012 May 15, 2012 June 1, 2012 February 28, 2013 June 1, 2013