

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

640



FROM: Economic Development Agency

SUBMITTAL DATE:
July 19, 2012

SUBJECT: Termination Agreement for the Use of HOME Funds for Cimarron Heights at Dream Homes Apartments in Cathedral City

RECOMMENDED MOTION: That the Board of Supervisors:

1. Approve the attached Termination Agreement with Dream Homes Housing Partners, L.P.;
2. Authorize the Chairman of the Board to sign the attached Termination Agreement; and
3. Authorize the Assistant County Executive Officer/EDA, or designee, to take all necessary steps to implement the attached agreement including, but not limited to, signing subsequent necessary and relevant documents subject to approval as to form by County Counsel.

BACKGROUND: (Commences on Page 2)


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:	2012/13

COMPANION ITEM ON BOARD AGENDA: No

SOURCE OF FUNDS: HOME Investment Partnership Act Grant Funds	Positions To Be Deleted Per A-30	<input type="checkbox"/>
	Requires 4/5 Vote	<input type="checkbox"/>

C.E.O. RECOMMENDATION: APPROVE
BY: 
County Executive Office Signature Jennifer L. Sargent

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

Prev. Agn. Ref.: 3.18 of 2/5/08, 3.24 of 2/26/08, 3.16 of 3/18/08, 3.27 of 6/24/08, 3.14 3/23/10 | **District:** 4/4 | **Agenda Number:** 3.13

FORM APPROVED COUNTY COUNSEL
BY: ANNIE T. SAHAR
DATE: 7/19/12
Departmental Concurrence

BACKGROUND:

On June 24, 2008, the Board of Supervisors approved a Loan Agreement for the use of Home Investment Partnership Act (HOME) funds with Dream Homes Housing Partners, L.P. (DHHP), a California limited partnership, for the development and construction of an 84-unit multi-family apartment complex called Cimarron Heights at Dream Homes Apartments (Cimarron Heights) located in the City of Cathedral City. The agreement called for a loan of \$800,000 with a 1% interest payable in 55 years.

On March 23, 2010, the Board of Supervisors approved the First Amendment to Loan Agreement for the use of HOME funds decreasing the commitment from \$800,000 to \$300,000. Because DHHP was unable to obtain commitments from other funding sources despite DHHP's best efforts, DHHP opted to focus their efforts and use a portion of the HOME funding allocation on another eligible county affordable housing project that DHHP's parent company owns.

DHHP's second largest source of gap financing for Cimarron Heights was the Cathedral City Redevelopment Agency. The state's elimination of redevelopment agencies placed a significant burden on cities to meet their financial obligations. As a result of this situation and declining tax revenues, Cathedral City was unable to provide their original gap financing commitments under their existing disposition and development agreement, but instead proposed to transfer redevelopment owned assets in lieu of their cash commitment. However, the city was ultimately unable to sell the assets to help leverage the project because of ABx1 26, the constitutionality of which was recently upheld by the California Supreme Court, dissolving redevelopment agencies statewide on February 1, 2012. Consequently, in March 2012, DHHP informed the County that they are putting the project on hold indefinitely until they can find alternate financing sources in order to make the project financially feasible.

Under the terms and conditions of the HOME Loan Agreement, DHHP has not obtained the necessary financing so that the project can move forward. Pursuant to Section 51 of the HOME Loan Agreement, in the event DHHP does not perform, the County may terminate the HOME Loan Agreement and will not be obligated to make further reimbursement to DHHP. DHHP was obligated to pay back a previous reimbursement of HOME funds to the County in the amount of One Hundred Fifty Thousand nine hundred and thirty-two dollars and forty-five cents (\$150,932.45) replenishing any used HOME funds. DHHP has tendered payment in full to County.

The County and DHHP mutually agree to terminate the HOME Loan Agreement and HOME funds will be re-allocated for other eligible HOME funded projects.

County Counsel has reviewed the attached Termination Agreement and approved as to form. Staff recommends that the Board approved the attached Termination Agreement.

Attachment: Termination Agreement

1 **TERMINATION AGREEMENT**
2 **BY AND BETWEEN THE COUNTY OF RIVERSIDE**
3 **AND DREAM HOMES HOUSING PARTNERS, L.P.,**
4 **FOR THE USE OF HOME INVESTMENT PARTNERSHIP ACT GRANT FUNDS**

5 This termination agreement (the "Agreement") is made and entered into on this
6 _____ day of _____, 2012, (the "Effective Date") by and between the County of
7 Riverside ("COUNTY") and Dream Homes Housing Partners, L.P. ("OWNER"), a California
8 limited partnership.

9 **W I T N E S S E T H**

10 WHEREAS, COUNTY and OWNER entered into a Loan Agreement for the use of
11 Home Investment Partnerships ("HOME") Program Funds (the "HOME Loan Agreement")
12 dated June 24, 2008 and recorded on July 18, 2008, as Instrument No. 2008-0393434 in the
13 Official Records of Riverside County; and

14 WHEREAS, pursuant to the terms and conditions of the HOME Loan Agreement,
15 OWNER proposed to develop eighty four (84) affordable rental housing units for low income
16 families including one (1) manager's unit (the "Project") on certain identified sites of
17 approximately 8.16 acres located east of San Antonio Drive, north of Ramon Road, northeast of
18 San Diego Drive and west of the Whitewater Wash floodway in the City of Cathedral City with
19 Assessor's Parcel Numbers of 677-410-009, 677-331-003, and 677-332-003; and

20 WHEREAS, under the terms and conditions of the original HOME Loan Agreement, the
21 COUNTY had agreed to loan OWNER HOME funds in the original principal amount of Eight
22 Hundred Thousand Dollars (\$800,000) (the "HOME Loan") for construction and permanent
23 financing. The HOME Loan is evidenced by a promissory note (the "HOME Note") and
24 secured by a Deed of Trust with assignment of rents dated June 24, 2008 and recorded on July
25 18, 2008, as Instrument No. 2008-0393433 in the Official Records of Riverside County (the
26 "HOME Deed of Trust").

27 WHEREAS, on March 23, 2010, the COUNTY approved the First Amendment to the
28 HOME Loan Agreement, which reallocated Five Hundred Thousand Dollars (\$500,000) of
the HOME Loan leaving a balance of Three Hundred Thousand Dollars (\$300,000); the
HOME Loan Agreement, the First Amendment to Loan Agreement, the HOME Note, the

1 Deed of Trust and any other documents evidencing or securing the HOME Loan shall
2 collectively be referred to herein as the “County HOME Documents”; and

3 WHEREAS, OWNER anticipated to utilize in redevelopment funds from the City of
4 Cathedral City Redevelopment Agency (the “Cathedral City RDA”); and

5 WHEREAS, on June 28, 2011, Governor Brown signed AB1X 26, the bill to dissolve
6 redevelopment agencies throughout the State of California, and AB1X 27, the companion bill
7 to allow redevelopment agencies to continue activities after making payment to the State; and

8 WHEREAS, on December 29, 2011, the California Supreme Court announced its
9 decision to uphold ABIX 26 and strike down ABIX 27, thus eliminating redevelopment
10 agencies; and

11 WHEREAS, ABIX 26 is codified in the California Health and Safety Code; and

12 WHEREAS, on February 1, 2012, California redevelopment agencies were dissolved;
13 and

14 WHEREAS, pursuant to **Section 51**, Project Financing Contingency, OWNER was not
15 able to obtain the necessary financing from the Cathedral City RDA so that the project can
16 move forward; and

17 WHEREAS, pursuant to **Section 38**, Termination, of the HOME Loan Agreement, in the
18 event that OWNER does not perform, COUNTY may terminate the HOME Loan Agreement
19 and will not be obligated to make further reimbursement to OWNER; and

20 WHEREAS, One Hundred Fifty Thousand Nine Hundred Thirty-Two Dollars and Forty-
21 Five Cents (\$150,932.45) was disbursed to OWNER, and Owner was obligated to pay the
22 disbursement back to County;

23 WHEREAS, Owner has tendered payment of One Hundred Fifty Thousand Nine
24 Hundred Thirty-Two Dollars and Forty-Five Cents (\$150,932.45) back to the COUNTY to
25 replenish the HOME Funds used for the Project; and

26 WHEREAS, OWNER is waiving its right to notice and cure set forth in **Section 31** of
27 the HOME Loan Agreement; and

28 WHEREAS, COUNTY and OWNER mutually desire to terminate the HOME Loan
Agreement and HOME Funds will be re-allocated for eligible HOME activities; and

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WHEREAS, COUNTY shall cancel the Promissory Note; and

WHEREAS, COUNTY shall, on a separate and recorded instrument, reconvey the HOME Deed of Trust releasing the OWNER of all covenants associated with the Project.

NOW, THEREFORE, in consideration of the preceding promises and the mutual covenants and agreements hereinafter contained, the parties hereto do hereby agree as follows:

SECTION 1: The HOME Loan Agreement and the First Amendment to Loan Agreement between COUNTY and OWNER are terminated as of the Effective Date of this Agreement.

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(SIGNATURES CONTINUE ON NEXT PAGE)

1 IN WITNESS WHEREOF, COUNTY and OWNER have executed this Agreement as of
2 the Effective Date of this Agreement.

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4 COUNTY OF RIVERSIDE, a political
5 Subdivision of the State of California

DREAM HOMES HOUSING PARTNERS, L.P.
a California limited partnership

6 By: Southern California Housing Development
7 Corporation of the Inland Empire,
8 a California nonprofit public benefit corporation,
9 its Managing General Partner

10 By _____
11 John F. Tavaglione, Chairman
12 Board of Supervisors

13 
14 By: _____
15 Richard J. Whittingham,
16 Chief Financial Officer

17 APPROVED AS TO FORM:
18 PAMELA J. WALLS, County Counsel

19 
20 By _____
21 Annie T. Sahhar,
22 Deputy County Counsel

23 ATTEST:
24 KECIA HARPER-IHEM
25 Clerk of the Board

26 By _____
27 Deputy
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