

177

**SUBMITTAL TO THE BOARD OF COMMISSIONERS OF THE
HOUSING AUTHORITY
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**



FROM: Housing Authority

SUBMITTAL DATE:

September 13, 2012

SUBJECT: Subordination Agreements for Mountain View Estates in the Community of Oasis

RECOMMENDED MOTION: That the Board of Commissioners

1. Approve the two attached Subordination Agreements with American AgCredit;
2. Authorize the Executive Director/Housing Authority to execute the Subordination Agreements with American AgCredit (AgCredit) in connection with the Mountain View Estates Loan in an amount up to \$700,000, subject to approval by County Counsel; and

(Continued)

Robert Field

Robert Field
Executive Director

**FINANCIAL
DATA**

Current F.Y. Total Cost: \$ 0
Current F.Y. Net County Cost: \$ 0
Annual Net County Cost: \$ 0

In Current Year Budget: Yes
Budget Adjustment: No
For Fiscal Year: 2012/13

COMPANION ITEM ON BOARD OF SUPERVISORS AGENDA: No

SOURCE OF FUNDS: N/A

Positions To Be Deleted Per A-30 ☐

Requires 4/5 Vote ☐

C.E.O. RECOMMENDATION:

APPROVE

BY:

Jennifer L. Sargent
Jennifer L. Sargent

County Executive Office Signature

MINUTES OF THE HOUSING AUTHORITY BOARD OF COMMISSIONERS

On motion of Commissioner Tavaglione, seconded by Commissioner Ashley and duly carried by unanimous vote, IT WAS ORDERED that the above matter is approved as recommended.

Ayes: Buster, Tavaglione, Stone, Benoit, and Ashley
Nays: None
Absent: None
Date: September 25, 2012
xc: Housing Authority

Kecia Harper-Ihem
Clerk of the Board

By: *[Signature]*
Deputy

Prev. Agn. Ref.: 4.1 of 4/8/08; 4.6 of 1/26/10; 4.6 of 1/24/12

District: 4/4

Agenda Number:

10.1

ATTACHMENTS FILED
WITH THE CLERK OF THE BOARD

RECOMMENDED MOTION: (Continued)

3. Authorize the Executive Director/Housing Authority, or designee, to take all necessary steps to implement the Subordination Agreements with AgCredit to include signing subsequent essential and relevant documents.

BACKGROUND:

Pursuant to Assembly Bill x1 26, the redevelopment dissolution bill, the Riverside County Board of Supervisors adopted Resolution No. 2012-035 on January 10, 2012, which designated the Housing Authority of the County of Riverside as the successor agency for the redevelopment housing function. On the same date, the Housing Authority of the County of Riverside Board of Commissioners accepted, via adoption of Resolution No. 2012-001, the responsibility for performing all activities as the successor to the redevelopment housing function. On February 1, 2012, all California redevelopment agencies were eliminated and the Housing Authority of the County of Riverside assumed the redevelopment housing functions of the former Redevelopment Agency for the County of Riverside (Former RDA).

Desert Empire Homes, a California corporation (Owner), is developing Mountain View Estates, a 398 space mobile home park in the community of Oasis, in the unincorporated area of the County of Riverside, to be constructed in two phases. The first phase will include 181 spaces for rent including one manager's unit. On April 8, 2008, the Board of Directors of the Former RDA approved a grant agreement in the amount of \$5,000,000 for the development of the first phase of Mountain View Estates. Subsequently, on January 26, 2010, the Board of Directors approved an amendment to the agreement to increase the agency's contribution to \$6,500,000 for unanticipated improvements required during the entitlement stage of the project. The Former RDA recorded a deed of trust recorded on October 22, 2009, against the property to secure the investment. The first phase of Mountain View Estates is nearly complete with the exception of offsite wastewater improvements to be completed by the Coachella Valley Water District.

The Former RDA previously provided two loans, each in the amount of \$67,500, to Oasis Gardens, LLC, an affiliate of Desert Empire Homes and mobile home dealer for the purchase of two model homes. The model homes are in place at Mountain View Estates and are being utilized as marketing tools. Subsequently, on January 24, 2012, the Board of Directors of the Former RDA approved a loan for the purchase of 179 mobile homes for a total of \$12,085,500, to be installed at Mountain View Estates. That loan is secured by a deed of trust in the amount of \$6,750,000 on the mobile home park property recorded February 7, 2012.

Currently, the Owner has an outstanding line of credit in the amount of \$1,501,000, with American AgCredit secured by a First Deed of Trust on the property, senior to the two aforementioned deeds of trust. The Owner would like to refinance the line of credit with a new line of credit in the amount of \$700,000 and a lower interest rate. American AgCredit is willing to provide the new line of credit and interest rate provided the Housing Authority as Successor in interest to the Former RDA agrees to subordinate its two deeds of trust to the new AgCredit loan. As such, the Owner has asked the Housing Authority to subordinate both deeds of trust, to the new loan from American AgCredit. As a result of this action, the Housing Authority's interest in the development will remain in the same position.

(Continued)

BACKGROUND: (Continued)

County Counsel has reviewed and approved the attached subordination agreements as to form.

FINANCIAL DATA:

N/A

Attachments:

Subordination Agreements

CLERK'S COPY

to Riverside County Clerk of the Board, Stop 1010
Post Office Box 1147, Riverside, Ca 92502-1147
Thank you.

Recording Requested By:

And When Recorded Return To:

American AgCredit, PCA
83-057 Requa Avenue
Indio, California 92201

The undersigned hereby affirm that there is no Social
Security number contained in this document.

SUBORDINATION

NOTICE: THIS SUBORDINATION RESULTS IN YOUR SECURITY INTEREST IN THE PROPERTY BECOMING SUBJECT TO AND OF LOWER PRIORITY THAN THE LIEN OF SOME LATER SECURITY INSTRUMENT.

THIS SUBORDINATION ("Subordination") is executed and made effective this _____ day of _____, 2012, by Housing Authority of the County of Riverside, successor in interest to the Redevelopment Agency of the County of Riverside, a public body, corporate and politic, present beneficiary of the deed of trust first hereinafter described ("Beneficiary"), in favor of American AgCredit, PCA ("Lender").

RECITALS

- (1) On or about April 8, 2008, Desert Empire Homes, a California corporation, did execute a deed of trust, dated April 8, 2008, to County of Riverside, as trustee, covering the following property ("Property"):

Refer to Exhibit "A" attached hereto and incorporated herein by reference thereto

to secure certain obligations in favor of Redevelopment Agency of the County of Riverside, a public body, corporate and politic, which deed of trust was recorded on October 22, 2009, as Document No. 2009-0546734, official records of Riverside County, State of California (the "Beneficiary's Deed of Trust").

- (2) Desert Empire Homes, a California corporation ("Owner") is seeking a loan and/or other financial accommodations ("financial accommodations") from Lender and has executed a deed of trust dated August 2, 2002, recorded August 26, 2002, as Document No. 2002-472734 official records of Riverside County, State of California (the "Lender's Deed of Trust"). The Lender's Deed of Trust also secures loans made prior to this Subordination. The aggregate outstanding balance of such loans is \$700,000.00 as of the date of this Subordination. Lender's Deed of Trust provides Lender with a lien on the Property.
- (3) Lender is willing to extend said credit provided the Lender's Deed of Trust securing the same is a lien or charge upon the Property prior and superior to the estate, lien, charge or encumbrance of the Beneficiary's Deed of Trust and provided that Beneficiary will specifically and unconditionally subordinate the estate, lien, charge, or encumbrance of the Beneficiary's Deed of Trust to the lien or charge of the Lender's Deed of Trust.

- (4) It is to the benefit of the undersigned hereto that Lender extend said credit to the Owner; and Beneficiary is willing that the Lender's Deed of Trust shall constitute a lien or charge upon said land which is unconditionally prior and superior to the estate, lien, charge, or encumbrance of the Beneficiary's Deed of Trust.

NOW, THEREFORE, in consideration of the benefits accruing to the undersigned hereto and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and in order to induce Lender to extend such credit, the undersigned hereto declares, acknowledges and agrees as follows:

- (a) That Lender's Deed of Trust shall unconditionally be and at all times remain a lien or charge on the Property described therein, prior and superior to the estate, lien, charge, or encumbrance of the Beneficiary's Deed of Trust.
- (b) That the purpose of this Subordination is to establish a lien priority for Lender which will allow it to provide the financial accommodations evidenced by the note described in paragraph 2 above, and that this Subordination is to continue in effect as to all credit extended to Owner, whether resulting from loans or advances hereto or hereafter made. Said aggregate amount shall include all sums resulting from any extensions or renewals of such credit, and all costs, and attorney's fees incurred in connection with such credit.
- (c) That Lender is providing and will in the future provide financial accommodations to Owner in reliance upon, and in consideration of this waiver, relinquishment and subordination. Specific loans and advances are being made and will be made and, as part and parcel thereof, specific monetary and other obligations are being and will be entered into which would not be made or entered into but for said Lender's reliance upon this waiver, relinquishment and subordination.
- (d) Beneficiary consents to and approves: (i) all provisions of the note and Lender's Deed of Trust, and (ii) all agreements, including but not limited to, any loan or escrow agreements between the Owner and the Lender regarding disbursement of the proceeds of the loan.
- (e) Lender, in making disbursements pursuant to any note, loan agreement or similar document, is under no obligation or duty to, nor has Lender represented that it will, see to the application of such proceeds by the person or persons to whom Lender disburses such proceeds, and any application or use of such proceeds for purposes other than those provided for in such agreement or agreements shall not defeat the subordination made herein in whole or in part.
- (f) That this Subordination shall be the sole document establishing the lien priorities regarding the subordination of the Beneficiary's Deed of Trust to the lien or charge of the Lender's Deed of Trust and shall supersede or cancel, but only in so far as would effect the priority between the deeds of trust hereinbefore specifically mentioned, any prior agreements as to such subordination, including but not limited to, those provisions, if any, contained in the Beneficiary's Deed of Trust, which provide for the subordination, including but not limited to, those provisions, if any, contained in another deed or deeds of trust or to another mortgage or mortgages.
- (g) This Subordination, without further reference, shall pass to and may be relied upon and enforced by any transferee or subsequent holder of the Beneficiary's or Lender's Deed of Trust.
- (h) This Subordination may not be amended or modified orally but may be modified only in writing, signed by Lender and all parties hereto. No waiver of any term or provision of this Subordination shall be effective unless it is in writing, making specific reference to this Subordination and signed by the party against whom such waiver is sought to be enforced. This Subordination shall be binding upon the parties hereto and their respective heirs, legal representatives, successors and

assigns. This Subordination shall be governed by and construed in accordance with the laws of the State of California.

- (i) This Subordination may be executed in two or more counterparts, each of which shall be deemed an original and all of which together shall constitute and be construed as one and the same instrument.

NOTICE: THIS SUBORDINATION CONTAINS A PROVISION WHICH ALLOWS THE OWNER TO OBTAIN A LOAN, A PORTION OF WHICH MAY BE EXPENDED FOR OTHER PURPOSES THAN THE IMPROVEMENT OF THE LAND.

IT IS RECOMMENDED THAT, PRIOR TO THE EXECUTION OF THIS SUBORDINATION, THE PARTIES CONSULT WITH THEIR ATTORNEYS WITH RESPECT HERETO.

IN WITNESS WHEREOF, the parties have executed this Subordination as of the date hereof.

This document must be acknowledged before a Notary Public.

Beneficiary

Housing Authority of the County of Riverside, successor in interest to the Redevelopment Agency for the County of Riverside

By: _____

Title: _____

FORM APPROVED COUNTY COUNSEL
BY: Anita C. Willis DATE 7-13-12

EXHIBIT "A"

PARCEL 1:

THAT PORTION OF THE NORTH HALF OF SECTION 21, TOWNSHIP 7 SOUTH, RANGE 8 EAST, SAN BERNARDINO BASE AND MERIDIAN, DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID SECTION 21; THENCE SOUTH, ALONG THE EASTERLY LINE OF THE NORTH HALF OF SAID SECTION, 1333.65 FEET, TO THE 16TH SECTION CORNER, WHICH CORNER IS THE TRUE POINT OF BEGINNING; THENCE CONTINUING SOUTH, ALONG THE EASTERLY LINE OF THE NORTH HALF OF SAID SECTION, 685 FEET, TO A POINT DESIGNATED HEREIN AS POINT 'A'; THENCE NORTH 88 DEGREES 32'40" WEST, 618.45 FEET; THENCE SOUTH 88 DEGREES 59' WEST 395.32 FEET, TO A POINT DESIGNATED HEREIN AS POINT 'B'; THENCE SOUTH 31 DEGREES 47' EAST 754 FEET TO A POINT DESIGNATED AS POINT 'C'; THENCE SOUTH 89 DEGREES 32'40" WEST 704.44 FEET, TO A POINT DESIGNATED HEREIN AS POINT D; THENCE SOUTH 00 DEGREES 06'30" EAST 15 FEET, TO A POINT DESIGNATED HEREIN AS POINT 'E'; THENCE SOUTH 89 DEGREES 29'30" WEST 1248 FEET, MORE OR LESS, TO A POINT ON THE NORTHEASTERLY LINE OF STATE HIGHWAY NO. 99, SAID POINT DESIGNATED HEREIN AS POINT 'F'; THENCE NORTH 44 DEGREES 52'30" WEST 1136.22 FEET; THENCE NORTH 48 DEGREES 38'30" EAST, ALONG THE CENTER LINE OF A CERTAIN STORM DRAIN CHANNEL, 802.47 FEET, TO THE NORTHERLY LINE OF THE SOUTH HALF OF THE NORTH HALF OF SAID SECTION; THENCE NORTH 89 DEGREES 30' EAST, ALONG THE NORTHERLY LINE OF THE SOUTH HALF OF THE NORTH HALF OF SAID SECTION, 2758.98 FEET, MORE OR LESS, TO THE TRUE POINT OF BEGINNING;

EXCEPTING THEREFROM THAT PORTION THEREOF CONVEYED TO THE COACHELLA VALLEY COUNTY WATER DISTRICT BY DEED RECORDED DECEMBER 18, 1950 AS INSTRUMENT NO. 2158 IN BOOK 1228 PAGE 492 OF OFFICIAL RECORDS OF RIVERSIDE COUNTY, CALIFORNIA.

NOTE: SAID LEGAL DESCRIPTION WAS APPROVED BY CERTIFICATE OF COMPLIANCE NO. 5097 RECORDED JANUARY 3, 2002 AS INSTRUMENT NO. 02-003344 OF OFFICIAL

RECORDS. PARCEL2:

A ROAD EASEMENT 10 FEET IN WIDTH LOCATED ON THE NORTH HALF OF SECTION 21, TOWNSHIP 7 SOUTH, RANGE 8 EAST, SAN BERNARDINO BASE AND MERIDIAN, LYING SOUTHERLY AND EASTERLY OF AND ADJACENT TO THE LINES DESCRIBED IN PARCEL 1 WHICH LIE BETWEEN POINTS A AND B, B AND C, C AND D, D AND E.