

229



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

**FROM:** Housing Authority

**SUBMITTAL DATE:**

September 20, 2012

**SUBJECT:** Second Amendment to the Disposition and Development Agreement for the Desert Meadows Apartments

**RECOMMENDED MOTION:** That the Board of Commissioners:

1. Approve the attached Second Amendment to the Disposition and Development Agreement for the Desert Meadows Apartments;
2. Authorize the Chairman of the Board to execute the attached second amendment; and
3. Authorize the Executive Director or designee to take all necessary steps to implement the second amendment, including, but not limited to, signing subsequent necessary and relevant documents.

**BACKGROUND:** (Commences on Page 2)

  
 Robert Field  
 Executive Director

<b>FINANCIAL DATA</b>	Current F.Y. Total Cost:	\$ 0	In Current Year Budget:	Yes
	Current F.Y. Net County Cost:	\$ 0	Budget Adjustment:	No
	Annual Net County Cost:	\$ 0	For Fiscal Year:	2012/13

**COMPANION ITEM ON BOARD OF SUPERVISORS AGENDA:** No


**SOURCE OF FUNDS:** Successor Agency Housing Bond Proceeds

Positions To Be Deleted Per A-30	<input type="checkbox"/>
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Requires 4/5 Vote	<input type="checkbox"/>
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**C.E.O. RECOMMENDATION:**

APPROVE

BY:   
 Jennifer L. Sargent

**County Executive Office Signature**

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

Prev. Agn. Ref.: 4.3 of 8/16/11; 4.6 of 5/24/11; 9.10 of 4/5/11; 4.1 of 6/29/10

District: 4/4

Agenda Number:

10.2

ATTACHMENTS FILED WITH THE CLERK OF THE BOARD

FORM APPROVED COUNTY COUNSEL  
 BY:   
 ANITA C. WILLIS  
 DATE: 9/21/12  
 Final Concurrence

**BACKGROUND:**

On June 29, 2010, the Board of Directors (Board) approved a Disposition and Development Agreement (DDA) for the use of Redevelopment Low- and Moderate-Income Housing Funds with National Community Renaissance of California, a California nonprofit public benefit corporation, for the development and construction of an 80-unit multi-family affordable apartment complex in the unincorporated area of the County of Riverside (project).

On May 24, 2011, the Board approved an Assignment, Assumption, Amendment and Consent agreement, by which all right, title and interest of National Community Renaissance of California in the DDA was assigned to Desert Meadows Housing Partners, L.P. (Developer).

Subsequent to that, on August 16, 2011, the Board approved a first amendment to the DDA in which the interest rate payable under the agency note was reduced from one percent to one quarter of one percent and the agency's loan retention was increased from 5% to 15%. Reducing the interest rate on the agency note was done so that the project can remain sustainable.

The Developer has since discovered that one of the amended changes to the DDA is inconsistent with the original construction bank loan agreement because the bank underwrote the loan assuming the original 5% retention amount in the DDA. The Developer is requesting amending the retention requirement under the amended DDA and reducing it back to a 5% retention so that the DDA is in agreement with the construction bank loan agreement.

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 successor agency (Housing Successor Agency). The loan for this project is included in the Recognized Obligation Payment Schedule (ROPS) under the line item Date Palm Mobile Home Park, which has been approved by the Oversight Board and the California Department of Finance.

The project started construction in October 2011 and is anticipated to be completed by March 2013.

County Counsel has reviewed and approved as to form the attached second amendment. Staff recommends that the Board approve the attached second amendment.

**FINANCIAL DATA:**

Successor Agency Housing Bond Proceeds

Attachments:

Second Amendment

1 NO FEE FOR RECORDING PURSUANT  
TO GOVERNMENT CODE 6103

2 RECORDING REQUESTED BY AND  
3 WHEN RECORDED MAIL TO:

4 Housing Authority of the County of Riverside,  
5 successor in interest to the  
6 Redevelopment Agency  
7 for the County of Riverside  
3403 10th Street, Suite 500  
Riverside, CA 92501  
Attn: Juan Garcia

8 SPACE ABOVE THIS LINE FOR RECORDERS USE

9 **SECOND AMENDMENT TO DISPOSITION AND DEVELOPMENT AGREEMENT**

10  
11 This Second Amendment to Disposition and Development Agreement (the "Second  
12 Amendment") is made and entered into as of the \_\_\_\_ day of \_\_\_\_\_, 2012, by  
13 and between the HOUSING AUTHORITY OF THE COUNTY OF RIVERSIDE  
14 ("AUTHORITY"), a public body, corporate and politic of the State of California and  
15 successor in interest to the Redevelopment Agency for the County of Riverside ("RDA"), and  
16 DESERT MEADOWS HOUSING PARTNERS, LP, a California limited partnership  
17 ("DEVELOPER").

18 WITNESSETH:

19 WHEREAS, the RDA and National Community Renaissance of California, a California  
20 nonprofit public benefit corporation ("NCRC") entered into that certain Disposition and  
21 Development Agreement dated as of June 29, 2010 ("DDA") concerning, in part, a parcel of  
22 real property owned by RDA located at 44071 Clinton Street, Indio ("Site") in the  
23 unincorporated area of Riverside County, California (Assessor's Parcel No. 608-340-031)  
24 more particularly described in the DDA; and

25 WHEREAS, NCRC, the DEVELOPER and the RDA entered into that certain  
26 Assignment, Assumption, Amendment and Consent dated for identification as of May 24,  
27 2011 ("Assignment"), by which all right, title and interest of NCRC in the DDA was assigned  
28 to the DEVELOPER with consent of the RDA; and

1 WHEREAS, on August 16, 2011, RDA and DEVELOPER agreed to amend the  
2 Disposition and Development Agreement (“First Amendment”) to modify the interest rate  
3 from one percent (1%) to one quarter of one percent (.25%) and increase the RDA’s loan  
4 retention from 5% to 15%.

5 WHEREAS, on June 28, 2011, Governor Brown signed ABX1 26, the bill to dissolve  
6 redevelopment agencies throughout the State of California, and ABX1 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 ABX1 26 and strike down ABX1 27, thus eliminating redevelopment  
10 agencies; and

11 WHEREAS, ABX1 26 is codified in the California Health and Safety Code; and

12 WHEREAS, Resolution No. 2012-035, adopted by the County of Riverside Board of  
13 Supervisors on January 10, 2012 and Resolution No. 2012-001, adopted by the County of  
14 Riverside Board of Commissioners on January 10, 2012, provides that AUTHORITY has the  
15 responsibility of performing housing functions previously performed by RDA including all  
16 rights, powers, assets, liabilities, duties and obligations associated with the housing activities of  
17 the RDA; and

18 WHEREAS, on February 1, 2012, California redevelopment agencies were dissolved  
19 including RDA; and

20 WHEREAS, AUTHORITY has resumed the housing activities of RDA; and

21 WHEREAS, AB 1484, an act amending ABx1 26, was enacted by the legislature and  
22 signed by the governor on June 27, 2012; and

23 WHEREAS, the DEVELOPER is requesting to amend the retention requirement from  
24 15% to 5%; and

25 WHEREAS, by providing the modification and change to the DDA as provided herein,  
26 the Project can move forward and the supply of affordable housing in Riverside County shall  
27 increase.

28 NOW, THEREFORE, in consideration of the foregoing, and the promises and mutual

1 covenants and conditions hereinafter set forth, AUTHORITY and DEVELOPER do hereby agree  
2 as follows:

3 1. Section 4.15.3 of the DDA is deleted and replaced in its entirety with the following:

4 “4.15.3 **Distribution of Funds**. AUTHORITY shall pay and disburse to DEVELOPER  
5 the sum specified in Section 4.17 below on a ‘cost-as-incurred’ basis for all eligible  
6 development costs up to ninety-five percent (95%) of the principal amount of the  
7 AUTHORITY Loan. As a consequence, the AUTHORITY shall disburse to  
8 DEVELOPER a sum not to exceed Seven Million Five Hundred Five Thousand Dollars  
9 (\$7,505,000) of the AUTHORITY Loan, with credit as set forth in Section 4.17 below,  
10 in payment of the first Construction Costs incurred by DEVELOPER associated with  
11 construction of the Housing Project. A sum of Three Hundred Ninety-Five Thousand  
12 Dollars (\$395,000) (i.e., 5% of the AUTHORITY Loan) shall be retained by  
13 AUTHORITY until the Housing Project receives its Certificate of Completion.  
14 Disbursement of funds provided in this Section shall occur upon the presentation to  
15 AUTHORITY of invoices and conditional (upon receipt of payment) lien releases in  
16 draw/disbursement requests for Construction Costs to be paid from the proceeds of the  
17 AUTHORITY Loan. Disbursement of funds shall be in accordance with the  
18 construction schedule which shall be certified and documented by the project architect.  
19 With each next successive draw/disbursement request made by DEVELOPER to  
20 AUTHORITY, DEVELOPER shall provide AUTHORITY with copies of executed  
21 unconditional lien releases relating to the previous progress draw evidencing payment of  
22 amounts for which conditional lien releases had been presented to the AUTHORITY to  
23 evidence payment of eligible development cost amounts.”

24 2. This Second Amendment, First Amendment and the DDA set forth and contain the  
25 entire understanding and agreement of the parties hereto. There are no oral or written  
26 representations, understanding or ancillary covenants, undertakings or agreements which  
27 are not contained or expressly referred to within this Second Amendment, First  
28 Amendment and/or the DDA.

1 3. Except as modified and amended by this Second Amendment all other terms and  
2 conditions of the First Amendment and DDA remain unmodified and in full force and  
3 effect.

4 4. This Second Amendment may be signed by the different parties hereto in counterparts,  
5 each of which shall be an original but all of which together shall constitute one and the  
6 same agreement.

7 5. The effective date of this Second Amendment is the date the parties execute this Second  
8 Amendment. If the parties execute the Second Amendment on more than one date, then  
9 the last date the Second Amendment is executed by a party shall be the effective date.

10 (SIGNATURES ON NEXT PAGE)

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1 IN WITNESS WHEREOF, the AUTHORITY and DEVELOPER have executed this Second  
2 Amendment as of the date first above written.

3  
4 AUTHORITY:

5 HOUSING AUTHORITY  
6 OF THE COUNTY OF RIVERSIDE

OWNER:

Desert Meadows Housing Partners, LP,  
a California limited partnership

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

10 By: \_\_\_\_\_  
11 John Tavaglione, Chairman  
12 Board of Commissioners

10   
11 By: \_\_\_\_\_  
12 Richard J. Whittingham, CFO

13  
14 APPROVED AS TO FORM:

15 PAMELA J. WALLS  
16 COUNTY COUNSEL

17 By:   
18 Anita C. Willis, Deputy

19  
20 ATTEST:

21 KECIA HARPER-IHEM  
22 Clerk of the Board

23  
24 By: \_\_\_\_\_  
25 Deputy

26 (Signatures on this page need to be notarized)

**CALIFORNIA ALL-PURPOSE ACKNOWLEDGEMENT**

STATE OF CALIFORNIA }

COUNTY OF San Bernardino }

On 8/20/12, before me, Monica Rodriguez, Notary Public  
Date Here Insert Name and Title of the Officer

personally appeared Richard J. Whittingham  
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 [Handwritten Signature]  
Signature of Notary Public

Place Notary Seal Above