

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

354



FROM: Economic Development Agency

SUBMITTAL DATE:
April 14, 2011

SUBJECT: First Amendment to the HOME Loan Agreement for Pottery Court Apartments in the City of Lake Elsinore

RECOMMENDED MOTION: That the Board of Supervisors:

1. Approve the attached First Amendment to the HOME Loan Agreement;
2. Authorize the Chairman of the Board of Supervisors to execute the First Amendment; and
3. Authorize the Assistant County Executive Officer/EDA, or designee, to take all necessary steps to implement the attached First Amendment to the HOME Loan Agreement, but not limited to, signing subsequent necessary and relevant documents.

BACKGROUND: (Commences on Page 2)

Robert Field
Assistant County Executive Officer/EDA

FINANCIAL DATA	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:	2010/11

COMPANION ITEM ON BOARD OF DIRECTORS AGENDA: No

SOURCE OF FUNDS: HOME Investment Partnerships 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:
Jennifer L. Sargent

County Executive Office Signature

MINUTES OF THE BOARD OF SUPERVISORS

On motion of Supervisor Buster, seconded by Supervisor Benoit 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: April 26, 2011
 xc: EDA 08

Kecia Harper-Ihem
 Clerk of the Board
 By:
 Deputy

Prev. Agn. Ref.: 3.22 of 7/13/2010; 3.27 of 6/30/09; 3.30 of; 7/14/09; 3.32 of 7/14/09

District: 1

Agenda Number:

ATTACHMENTS FILED
WITH THE CLERK OF THE BOARD

3.14

FORM APPROVED COUNTY COUNSEL
BY: ANITA C. WILLIS
DATE: 4/14/11
Departmental Concurrence

Dept's Recomm.: Consent
 Per Exec. Ofc.: Consent
 Policy
 Policy

Economic Development Agency

First Amendment to the HOME Loan Agreement for Pottery Court Apartments in the City of Lake
Elsinore
April 14, 2011

Page 2

BACKGROUND:

On July 13, 2010, the Board of Supervisors approved a Loan Agreement for the use of HOME funds with Pottery Court Housing Associates, L.P., a California limited partnership (Owner), for the development and construction of a 113-unit multi-family apartment complex. The Loan Agreement called for a loan of \$440,000 with a 1% interest payable in 55 years (HOME Loan).

The project was awarded tax credits on September 22, 2010, and owner is now ready to commence construction. Owner is requesting to amend the HOME Loan because sections of the HOME Loan conflict with the terms of other funding sources. Staff has reviewed the owner's request and finds that the requested changes to the HOME Loan are non substantial.

County Counsel has reviewed and approved as to form the attached First Amendment to the HOME Loan Agreement. Staff recommends that the Board approve the attached First Amendment.

FINANCIAL DATA:

Not applicable.

Attachments:

First Amendment to HOME Loan Agreement

1 NO FEE FOR RECORDING PURSUANT
2 TO GOVERNMENT CODE 6103

3 RECORDING REQUESTED BY AND
4 WHEN RECORDED MAIL TO:

5 County of Riverside
6 Economic Development Agency
7 3403 Tenth Street, Suite 500
8 Riverside, CA 92501
9 Attn: Juan Garcia

10 SPACE ABOVE THIS LINE FOR RECORDERS USE

11 **FIRST AMENDMENT TO HOME LOAN AGREEMENT FOR THE USE OF**
12 **HOME FUNDS**

13 This First Amendment to the Loan Documents for the Use of HOME Funds (the "First
14 Amendment") is made and entered into as of the 20th day of April, 2011, by and
15 between the COUNTY OF RIVERSIDE ("COUNTY"), a political subdivision of the State of
16 California and Pottery Court Housing Associates, L.P., a California limited partnership
17 ("OWNER"), whose Managing General Partner is Pottery Court, LLC, a California limited
18 liability company, whose sole member is BRIDGE Housing Corporation-Southern California, a
19 California nonprofit public benefit corporation.

20 WITNESSETH:

21 **WHEREAS**, COUNTY and OWNER entered into a HOME Loan Agreement for the use
22 of HOME funds dated July 13, 2010 (the "HOME Loan Agreement"); and

23 **WHEREAS**, pursuant to the HOME Loan Agreement, OWNER proposed to develop a
24 one hundred thirteen (113)-unit multi-family housing complex ("Project") identified as Pottery
25 Court Apartments on an identified site situated to the east of Langstaff Street, South of West
26 Pottery Street, west of North Spring, and north of Sumner Avenue in the City of Lake Elsinore
27 in Riverside County as more particularly described in the attached Exhibit "A"; and

28 **WHEREAS**, on July 13, 2010, COUNTY agreed to loan OWNER HOME funds in the
original principal amount of Four Hundred Forty Thousand Dollars (\$440,000) (the "HOME
Loan") for construction and permanent financing. The HOME Loan is evidenced by a
promissory note (the "HOME Note") and secured by a deed of trust with assignment of rents

1 dated July 13, 2010 (the "Home Deed of Trust"); and

2 **WHEREAS**, certain sections of the HOME Loan conflict with the terms of other funding
3 sources; and

4 **WHEREAS**, the OWNER has requested to amend the sections of the HOME Loan that
5 conflict with the terms of other funding sources;

6 **WHEREAS**, by amending the HOME Loan, the Project can move forward and the
7 COUNTY's supply of affordable housing shall increase;

8 **WHEREAS**, the proposed changes to the HOME Loan are considered non substantial.

9 **NOW, THEREFORE**, in consideration of the foregoing, and the promises and mutual
10 covenants and conditions hereinafter set forth, COUNTY and OWNER do hereby agree as
11 follows:

- 12 1. Section 4(d)(2) of the HOME Loan Agreement is deleted and replaced in its entirety
13 with the following:

14 "The Note shall be paid according to the following:

15 i) Sixty-seven and fifty hundredths percent (67.5%) of the Project's Residual
16 Receipts shall be used towards the payment of the RDA loan and the HUD HOPE VI
17 Main Street Loan;

18 iii) Seven and fifty hundredths percent (7.5%) of the Project's Residual Receipts
19 shall be used towards payment of the HOME Loan; and

20 iv) Twenty-five percent (25%) of the Project's Residual Receipts will be paid to the
21 OWNER."

- 22 2. Section 23 of the HOME Loan Agreement is hereby amended by deleting the last full
23 paragraph and substituting therefore following:

24 "The COUNTY's approval of the transfers in Section 23(b) shall not be
25 unreasonably withheld and COUNTY's Assistant County Executive Officer/Economic
26 Development Agency or designee(s) are authorized to execute such written instrument
27 necessary or appropriate to evidence approval of transfers in Section 23(b).
28 Notwithstanding anything to the contrary herein, any transfer described in subsection

1 (vi), or the withdrawal, removal or replacement of a limited partner of Owner shall not
2 require the COUNTY's prior approval, and any transfer described in subsection (i)
3 above shall not require COUNTY's prior approval as long as the lease complies with
4 Section 20 of this Agreement."

- 5 3. Exhibit "A" of the COUNTY HOME Loan Agreement is hereby replaced with the revised
6 Exhibit "A" of this First Amendment, which is attached hereto and by this reference
7 incorporated herein.
- 8 4. This First Amendment and the HOME Loan Documents contain the entire understanding
9 and agreement of the parties hereto. There are no oral or written representations,
10 understandings, or ancillary covenants, undertakings or agreements, which are not
11 contained or expressly referred to within this First Amendment and the HOME Loan
12 Documents.
- 13 5. Each exhibit attached hereto is incorporated herein by this reference.
- 14 6. Except as modified and amended by this First Amendment, all other terms and conditions
15 of the HOME Loan Agreement and Deed of Trust with Assignment of Rents remain
16 unmodified and in full force and effect.
- 17 7. This First Amendment may be signed by the different parties hereto in counterparts, each
18 of which shall be an original but all of which together shall constitute one and the same
19 agreement.
- 20 8. The effective date of this First Amendment is the date the parties execute the First
21 Amendment. If the parties execute the First Amendment on more than one date, then the
22 last date the First Amendment is executed by a party shall be the effective date.
- 23 9. This First Amendment is not binding until approved by the Board of Supervisors.

24
25 (SIGNATURES ON NEXT PAGE)

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1 IN WITNESS WHEREOF, COUNTY and OWNER have executed this First
2 Amendment as of the date first above written.

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COUNTY OF RIVERSIDE

OWNER

Pottery Court Housing Associates, L.P., a
California limited partnership

By: Pottery Court, LLC, a California limited
liability company

By: Bob Buster
Bob Buster
Chairman, Board of Supervisors

By: BRIDGE Housing Corporation –
Southern California

By: Kimberly McKay
Kimberly McKay, Vice President

APPROVED AS TO FORM:

PAMELA J. WALLS, County Counsel

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

ATTEST:
KECIA HARPER-IHEM
Clerk of the Board

By: Margaret Canova
Deputy

(Signatures on this page need to be notarized)

CALIFORNIA ALL-PURPOSE ACKNOWLEDGEMENT

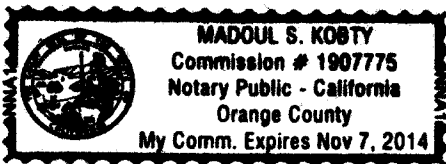
STATE OF CALIFORNIA }
COUNTY OF ~~RIVERSIDE~~ Orange }

On 4/8/2011, before me, Madoul S. Kobty a notary public
Date Here Insert Name and Title of the Officer

personally appeared Kimberly McKay
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 _____

Signature of Notary Public

Place Notary Seal Above

STATE OF CALIFORNIA

COUNTY OF RIVERSIDE

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On April 26, 2011, before me, Lorraine Canova, Board Assistant, personally appeared Bob Buster, Chairman of the Board of Supervisors, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument; and that a copy of this paper, document or instrument has been delivered to the chairperson.

I certify under the 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

Kecia Harper-Ihem
Clerk of the Board of Supervisors

By: Lorraine Canova
Deputy Clerk

(SEAL)

REVISED EXHIBIT "A"

OWNER: Pottery Court Housing Associates, L.P.
Address: 2202 30th Street
San Diego, CA 92104
Project Title: Pottery Court Apartments

Location: The project site is approximately 4.33 acres and is situated to the east of Langstaff Street, south of West Pottery Street, west of North Spring, and north of Sumner Avenue in the City of Lake Elsinore.

The Assessors Parcel Numbers (APNs): 374-071-003 through 014; 374-071-026 and 027; 374-072- 018, 020, 022, 026, 028, 030, 032, 034, 036.

Description:

OWNER will utilize \$440,000 in HOME funds for the development and construction of a 113-unit multifamily housing complex in the City of Lake Elsinore in Riverside County. The Project consists of 20 one-bedroom units, 48 two-bedroom units, and 43 three-bedroom units. Two additional three-bedroom units will be set-aside as onsite manager's units. The units will be located in 8 one- two - and three-story, wood frame, stucco buildings. The one-bedroom units are approximately 690 square feet, the two-bedroom units are approximately 875 square feet, and the three-bedroom units are approximately 1,060 square feet. All units will be equipped with a refrigerator, dishwasher, combination range/oven, garbage disposal, and central heating/cooling. The residents of Pottery Court Apartments will have access to a sports court, tot lots, swimming pool, open space play areas, and BBQ picnic area.

The Project will include a community building of approximately 2,344 square feet with a kitchen, restrooms, laundry facilities, a computer lab room, and a manager's office.

A total of eleven units shall be designated as floating HOME assisted units. Eleven units (1 – 1 Bedroom, 5 – 2 Bedroom, and 5 – 3 Bedroom) shall be limited to households whose incomes do not exceed thirty percent (30%) of Riverside County median family income. The HOME units shall be restricted for a period of at least 55 years from conversion to permanent financing.

EXHIBIT A

LEGAL DESCRIPTION

The land referred to herein is situated in the County of Riverside, City of Lake Elsinore, State of California, and is described as follows:

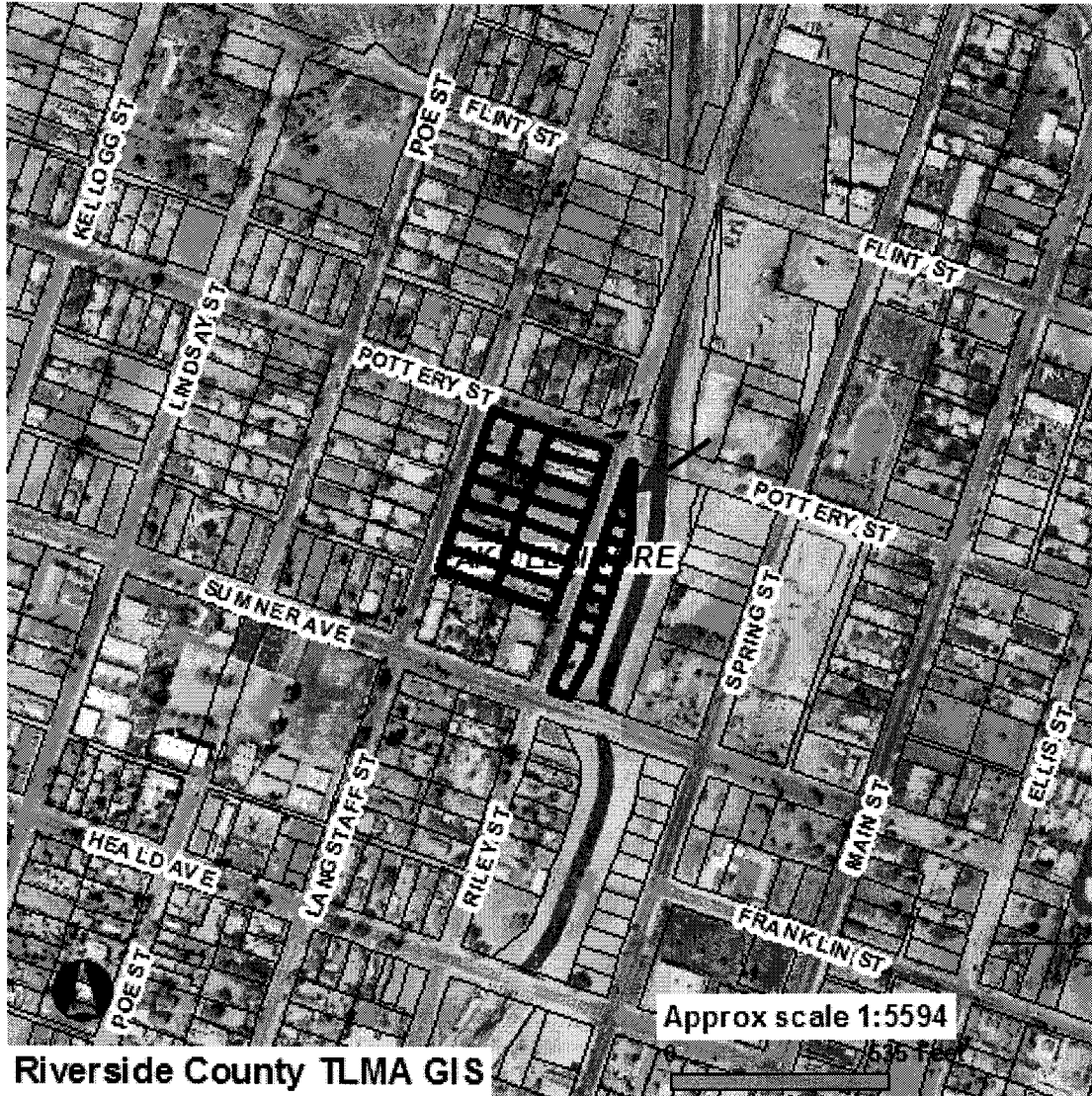
Parcel "A"

Parcel One, as shown on Parcel Map No. 36193, filed March 17, 2011, in Book 232 of Parcel Maps, Pages 45 through 47, inclusive, in Official Records County of Riverside, California.
APN: 374-071-003 through 014; 374-071-026 and 027; 374-072- 018, 020, 022, 026, 028, 030, 032, 034, 036.

Parcel "B"

All that portion of Riley Street as Vacated per instrument Recorded March 9, 2011, as Instrument No. 2011- 108836, bounded northerly and easterly by Parcel Map No. 36193, Recorded March 17, 2011 in Book 232 of Parcel Maps, Pages 45 through 47, inclusive, in Official Records, County of Riverside, State of California and lying northerly of the northerly line of Sumner Avenue.

APN: 374-071-003 through 014; 374-071-026 and 027; 374-072- 018, 020, 022, 026, 028, 030, 032, 034, 036.



REVISED PROJECT PERMANENT SOURCES AND USES OF FUNDS

Sources:

The Redevelopment Agency of the City of Lake Elsinore Loan 55 Yrs @ 3.00%	\$ 4,061,000
The Redevelopment Agency of the City of Lake Elsinore Loan 55 Yrs @ 3.00%	\$ 5,676,000
HUD Main Street HOPE Program	\$ 1,000,000
General Partner Contribution	\$ 1,132
Conventional Bank Loan	\$ 2,060,000
Limited Partner Tax Credit Equity	\$ 11,316,679
County of Riverside HOME Loan 55 Yrs @ 1%	\$ <u>440,000</u>
Total Sources	\$ 24,554,811

Uses:

Acquisition and Demolition Costs	\$ 3,353,032
New construction (includes site work, common area bldgs and structures)	\$ 10,784,105
Contractor's Overhead & Profit & Gen'l Req.	\$ 1,032,387
General Liability Insurance	\$ 287,648
Architectural & Engineering Cost	\$ 1,950,067
Construction Interest & Fees	\$ 870,397
Construction Contingency (Hard and Soft)	\$ 879,432
Permanent Financing costs	\$ 40,600
Legal Fees	\$ 132,500
Reserves	\$ 380,891
Land Development Impact and Permit Processing Fees	\$ 2,152,731
TCAC Fees	\$ 91,253
Relocation Expenses	\$ 303,152
Other Fees, Marketing & Furnishings	\$ 896,116
Developer's Overhead & Profit	\$ <u>1,400,000</u>
Total Uses	\$ 24,554,811

The OWNER will obtain a reservation of Federal/State tax credit award from the California Tax Credit Allocation Committee.

HOME Match:

Matching funds in a minimum amount of twenty-five percent (25%) of the total HOME allocation (\$440,000) are required. The HOME match in the amount of \$110,000 will be satisfied from the below-market interest loan from the Redevelopment Agency of the City of Lake Elsinore Set-Aside Funds.

OWNER shall submit to the COUNTY copies of the final funding commitment, copies of all executed agreements, final Certified Public Accountant's construction cost certification, and proof that the funds were disbursed for this project.

IMPLEMENTATION SCHEDULE

Milestone	Completion Date
1. TCAC Award	June 30, 2011
2. Permanent Financing Commitment	March 30, 2011
3. Building Permit	March 30, 2011
4. Begin Construction	April 1, 2011
5. Marketing & Affirmative Action	September 1, 2012
6. Lease Agreement, Proposed Rents, and Utilities	December 1, 2012
7. Certificate of Occupancy	March 1, 2013
8. Occupancy of HOME units	June 1, 2013
9. Submission of Final actual project costs and Sources and Uses of Funds	December 1, 2013
10. Submission of income & ethnic characteristics report	December 1, 2013

DOCUMENT SUBMISSION SCHEDULE

Documents	Due Date
1. Construction Activities Reporting	Monthly, due by the 15 th of each month
2. Liability and Certificate of Workers' Compensation Insurance for RHDC and General Contractor (GC)	OWNER – At the execution of this Agreement. GC – Before start of construction. Copies of Certificates must be filed and up-to-date throughout the course of the Project with the COUNTY additionally insured.
3. Minority & Women Business Enterprise Report – HUD form 2516, and Section 3 Reporting	Semi-Annually–Sept 30th & March 31st
4. Section 504 Architect Certification	Beginning of Construction – initial letter End of Construction – final letter
5. HOME Match Contribution	Beginning of Construction
6. Project Site Photos	Monthly, due by the 15 th of each month
7. Notice of Completion	End of Construction
8. Certificate of Occupancy	End of Construction
9. Tenant Checklist Reporting	Close of Project; and Semi-Annually–Sept 30th & March 31st
10. Conditional/Unconditional Release for Final from GC, and if applicable, Sub-contractors	Close of Project
11. Project Completion Report	Close of Project
12. Final Development Cost - Sources and Uses	Close of Project
13. Final Cost Certification by CPA	Close of Project and Audits Completed
14. Final 15/30 Year Cash Flow Projection	Close of Project
15. Affirmative Fair Housing Marketing Plan, HUD form 935.2A	Marketing Stage
16. Management Plan	Marketing Stage
17. Tenant Selection Policy	Marketing Stage
18. Copy of Lease Agreement	Marketing Stage
19. Flyers, Community Contacts, Outreach, Press Releases, Grand Opening info	Marketing Stage
20. Project Operating Budget	Annual submission
21. Audited Yearly Income Expense Report for the Project	Annual submission