

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

940



FROM: Redevelopment Agency

SUBMITTAL DATE:
May 12, 2011

SUBJECT: Assignment, Assumption, Amendment and Consent Agreement for Desert Meadows Apartments

RECOMMENDED MOTION: That the Board of Directors:

1. Approve the attached Assignment, Assumption, Amendment and Consent Agreement (Assignment Agreement) by and among National Community Renaissance of California, Desert Meadows Housing Partners, L.P., and the Redevelopment Agency for the County of Riverside;
2. Authorize the Chairman of the Board of Directors to execute the attached Assignment Agreement; and

(Continued)

Robert Field
Executive Director

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 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

County Executive Office Signature BY: Elizabeth J. Olson

MINUTES OF THE BOARD OF DIRECTORS OF THE REDEVELOPMENT AGENCY

On motion of Supervisor Benoit, seconded by Supervisor Stone 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: May 24, 2011

Kecia Harper-Ihem
Clerk of the Board
By: Deputy

FORM APPROVED COUNTY COUNSEL
BY: ANITA C. WILLIS
DATE: 5-11-11
Departmental Concurrence

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

RECOMMENDED MOTION: (Continued)

3. Authorize the Executive Director, or designee, to take all necessary steps to implement the attached Assignment Agreement, including, but not limited to, signing subsequent necessary and relevant documents.

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 (Developer), for the development and construction of an 80 unit multifamily affordable apartment complex in the unincorporated area of the County of Riverside (Desert Meadows Apartments). Funding sources include a loan from the Redevelopment Agency for the County of Riverside (Agency) in the amount of \$7,900,000, a loan from State of California Department of Housing and Community Development in the amount of \$6,112,655 under the Multifamily Housing Program, a loan from the Federal Home Loan Bank Affordable Housing Program for \$1,000,001, a permanent loan for \$236,000, solar credits in the amount of \$150,000, a deferred developer Fee of \$160,000, and a Limited Partner Tax Credit Equity contribution of \$6,797,000. The total Project budget is \$22,355,656.

In connection with the Limited Partner Tax Credit Equity contribution, the Developer has formed Desert Meadows Housing Partners, L.P., a California limited partnership, for the purpose of constructing the Project, with the general partner as Southern California Housing Development Corporation of the Inland Empire, which is an entity related to National Community Renaissance of California. The Developer is requesting the Agency's approval to assign the Developer's rights and obligations under the DDA, Deed of Trust, Promissory Note, and Covenant Agreement (Agency Loan Documents) to Desert Meadows Housing Partners, L.P. The attached Assignment Agreement assigns all the rights and obligations of the Developer under the Agency Loan Documents to Desert Meadows Housing Partners, L.P.

Agency Counsel has reviewed and approved the attached Assignment Agreement. Staff recommends approval of Assignment Agreement.

FINANCIAL DATA:

Not applicable.

Attachments:

Assignment, Assumption, Amendment and Consent Agreement

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2 **ASSIGNMENT, ASSUMPTION, AMENDMENT AND CONSENT**
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4 THIS ASSIGNMENT, ASSUMPTION, AMENDMENT AND CONSENT (this
5 "Assignment") is dated for identification as of *May 24*, 2011 and is by and among
6 NATIONAL COMMUNITY RENAISSANCE OF CALIFORNIA, a California nonprofit public
7 benefit corporation ("NCRC"), DESERT MEADOWS HOUSING PARTNERS, LP, a
8 California limited partnership (the "Limited Partnership") and the REDEVELOPMENT
9 AGENCY FOR THE COUNTY OF RIVERSIDE, a public body, corporate and politic
10 ("Agency"), with reference to the following matters.
11

12 **RECITALS**

13 A. Agency and NCRC entered into that certain Disposition and Development
14 Agreement dated as of June 29, 2010 (the "DDA") relating to a parcel of real property located at
15 44071 Clinton Street, Indio (the "Site"), in the unincorporated area of Riverside County
16 (Assessor Parcel No. 608-340-031), more particularly described in the DDA.
17

18 B. Prior to execution of the DDA, NCRC and the Agency entered into a
19 Memorandum of Understanding Including Right to Negotiate dated December 16, 2008 (the
20 "MOU") which included provisions for a predevelopment loan. The MOU and the
21 predevelopment loan were merged into the DDA, as described therein.
22

23 C. Pursuant to applicable provisions of the DDA, a conveyance of the Site and of
24 NCRC's interest under the DDA are deemed "Permitted Transfers" if such conveyance is made
25 to a limited partnership in which the general partner is NCRC or a permitted assignee or
26 affiliated entity of NCRC.
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28 D. The general partner of the Limited Partnership is Southern California Housing
Development Corporation of the Inland Empire, which is an entity related to NCRC.

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2 E. This assignment is being made pursuant to applicable provisions of the DDA, for
3 the purpose of assigning to the Limited Partnership all of NCRC's right, title and interest in and
4 to the following (collectively, the "Assigned Matters"):

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6 (i) All project entitlements developed and to be developed for use in
7 connection with construction and operation of the Project, all conceptual and other plans and
8 specifications prepared for the construction of any offsite and/or onsite improvements on or to
9 the Site, all conceptual and other site plans, all studies, filings, submissions for entitlement,
10 tentative or conceptual approvals of entitlements, all agreements, applications, processing
11 material and contracts with any individual, entity, government or quasi-governmental entity or
12 utility provider with respect to development of the Project, including, without limitation, all
13 architectural, civil engineering and similar contracts, and all other matters and things previously
14 developed by or for NCRC relating to the Site or the Project to be constructed thereon; and

15
16 (ii) The DDA, and all rights and interests appurtenant thereto.

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18 F. NCRC desires to assign the Assigned Matters to the Limited Partnership upon the
19 terms and conditions contained herein and the Limited Partnership desires to acquire NCRC's
20 interest in the Assigned Matters upon such terms and conditions including, but not limited to,
21 assumption by the Limited Partnership of all of the duties and obligations of the NCRC arising
22 from or relating to the DDA, from and after the date of execution hereof.

23
24 G. Assignment by NCRC of its rights under the DDA requires the approval and
25 written consent of the Agency.

26
27 H. Unless otherwise defined herein, all capitalized terms used herein shall have the
28 meanings ascribed thereto in the DDA.

1 OPERATIVE PROVISIONS
2

3 NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of
4 which is hereby acknowledged, NCRC and the Limited Partnership hereby agree as follows, and
5 such agreement is approved and consented to, as required, by the Agency, as follows:
6

7 1. Assignment by NCRC.
8

9 1.1 Assigned Matters. Subject to the provisions of paragraph 1.2 below, NCRC
10 hereby assigns, conveys and transfers to the Limited Partnership all of the Assigned Matters.
11

12 1.2 Retained Rights. NCRC retains any and all warranty rights, indemnity
13 rights (including defense and other related rights) and any and all other rights and claims against
14 any person relating to any event with respect to which any claim (whether valid or invalid) is at
15 any time made against NCRC under and/or related to any of the Assigned Matters; provided,
16 however that the Limited Partnership shall have the primary/leading role in enforcing any such
17 rights and/or claims.
18

19 2. Acceptance and Assumption. The Limited Partnership hereby accepts the
20 assignment of the Assigned Matters as provided in Section 1 above, and assumes the
21 responsibility of performing, and shall perform, any and all of the duties and obligations of
22 NCRC under and/or relating to any of the Assigned Matters, and shall execute all documents
23 and instruments which NCRC was, is or will be obligated to execute under the provisions of the
24 DDA.
25

26 3. Representations and Warranties of NCRC. NCRC represents and warrants to the
27 Limited Partnership and the Agency as follows:

28 (a) NCRC has not heretofore transferred, assigned, pledged or encumbered
the Assigned Matters.

1 (b) To the knowledge of NCRC and except as otherwise disclosed to the
2 Limited Partnership and the Agency, (i) NCRC has in all material respects complied with its
3 obligations under the DDA, required of it to be performed as of the date hereof, and (ii) no
4 material default by NCRC exists thereunder.

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6 4. Indemnification.

7
8 (a) The Limited Partnership's Indemnification by NCRC. NCRC shall, to the
9 fullest extent permitted by law, indemnify, defend (with legal counsel reasonably acceptable to
10 the Limited Partnership), protect and hold harmless the Limited Partnership and the Limited
11 Partnership's partners, members, directors, officers, employees, agents, successors and assigns
12 from and against any and all claims, actions, causes of action, rights, defenses, demands,
13 allegations, damages, fines, penalties, liabilities, losses, liens, obligations, judgments, awards,
14 appeals, costs and expenses (including, but not limited to, fees and costs of attorneys, expert
15 witnesses and other consultants) of any kind or character at law, in equity or otherwise,
16 regarding, arising out of or in connection with, or in any manner related to (i) any of the
17 Assigned Matters prior to the date hereof, and/or (ii) any breach or default by NCRC under this
18 Assignment.

19
20 (b) NCRC's Indemnification by the Limited Partnership. The Limited
21 Partnership shall, to the fullest extent permitted by law, indemnify, defend (with legal counsel
22 reasonably acceptable to NCRC), protect and hold harmless NCRC and NCRC's members,
23 directors, officers, employees, agents, successors and assigns from and against any and all
24 claims, actions, causes of action, rights, defenses, demands, allegations, damages, fines,
25 penalties, liabilities, losses, liens, obligations, judgments, awards, appeals, costs and expenses
26 (including, but not limited to, fees and costs of attorneys, expert witnesses and other
27 consultants) of any kind or character at law, in equity or otherwise, regarding, arising out of or
28 in connection with, or in any manner related to (i) any of the Assigned Matters from and after
the date hereof, and/or (ii) any breach or default by the Limited Partnership under this

1 Assignment.

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3 5. Indemnification of the Agency by NCRC and the Limited Partnership. The
4 Limited Partnership and NCRC shall, to the fullest extent permitted by law, indemnify, defend
5 (with legal counsel acceptable to the Agency), protect and hold harmless the Agency and the
6 Agency's members, officers, employees, agents, successors and assigns from and against any
7 and all claims, actions, causes of action, rights, defenses, demands, allegations, damages, fines,
8 penalties, liabilities, losses, liens, obligations, judgments, awards, appeals, costs and expenses
9 (including, but not limited to, fees and costs of attorneys, expert witnesses and other
10 consultants) of any kind or character at law, in equity or otherwise, regarding, arising out of or
11 in connection with, or in any manner related to (i) any of the Assigned Matters and/or (ii) any
12 breach or default by either or both of NCRC and the Limited Partnership under this Assignment.

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14 6. Additional Indemnity Obligations of Limited Partnership. As a consequence of
15 the assignment provided herein, Limited Partnership hereby agrees to assume and perform the
16 indemnity obligations of NCRC under the DDA. Specifically, the Limited Partnership shall
17 indemnify and hold harmless the Agency, the County of Riverside, its agencies, districts, special
18 districts and departments and their respective directors, officers, Board of Supervisors, elected
19 and appointed officials, employees, agents and representatives (collectively, "Indemnified
20 Parties") from any liability whatsoever, based upon or asserted upon any services of the Limited
21 Partnership in its capacity as the "Developer" under the DDA, or of its officers, employees,
22 subcontractors, agents or representatives arising out of or in any way relating to the DDA,
23 including, but not limited to, property damage, bodily injury or death, or any other element of
24 any kind or nature whatsoever arising from the performance of the Limited Partnership as the
25 "Developer" thereunder, or of its officers, agents, employees, subcontractors or representatives
26 of its obligations under the DDA. The Limited Partnership shall defend, at its sole expense, and
27 pay all costs and fees including, but not limited to, attorneys' fees, costs of investigation,
28 defense and settlement or awards, of the Indemnified Parties in any claim or action based upon
such alleged acts or omissions.

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2 With respect to any action or claim subject to indemnification hereunder by and from the
3 Limited Partnership, the Limited Partnership shall, at its sole cost, have the right to use counsel
4 of its own choice and shall have the right to adjust, settle or compromise any such action or
5 claim without the prior consent of the Agency; provided, however, that any such adjustment,
6 settlement, or compromise in no manner whatsoever limits or circumscribes the Limited
7 Partnership's indemnification of Agency as set forth herein.

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9 The Limited Partnership's obligation hereunder shall be satisfied when the Limited
10 Partnership has provided to Agency the appropriate form of dismissal or other resolution of the
11 applicable dispute or action relieving the Indemnified Parties from any liability for the action or
12 claim involved.

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14 The specified insurance limits required in the DDA shall in no way limit or circumscribe
15 the Limited Partnership's obligations to indemnify and hold harmless the Indemnified Parties
16 herein from and against third party claims.

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18 7. Further Assurances. Each of the parties to this Assignment shall execute and
19 deliver any and all additional papers, documents and other assurances and shall do any and all
20 acts and things reasonably necessary in connection with the performance of their obligations
21 under this Assignment and to carry out the intent and agreement of the parties to this
22 Assignment.

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24 8. Successors and Assigns. This Assignment shall be binding upon and inure to the
25 benefit of the permitted successors and assigns of the parties hereto.

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27 9. Incorporation of Recitals. The Recitals set forth at the beginning of this
28 Assignment are incorporated into this Assignment as though set forth in full herein.

1 10. Authority. Each person signing this Assignment represents and warrants that he
2 or she has the proper authority to bind the party on whose behalf he or she signs this
3 Assignment.
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5 11. Counterparts. This Assignment may be executed in counterparts, each of which
6 shall be deemed an original but all of which shall together constitute one and the same
7 instrument.


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2 IN WITNESS WHEREOF, the parties have executed this Assignment as of the date first
3 above written.

4 "NCRC"

5 National Community Renaissance of California,
6 a California nonprofit public benefit corporation

7 Date: 4/25, 2011


8 By: 
9 Richard J. Whittingham, CFO

10 "Limited Partnership"

11 Desert Meadows Housing Partners, LP,
12 a California limited partnership

13 By its Managing General Partner
14 Southern California Housing Development
15 Corporation of the Inland Empire,
16 a California nonprofit public benefit corporation

17 Date: 4/25, 2011

18 By: 
19 Richard J. Whittingham, CFO
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1 For the sole purpose of providing written consent to the assignment of the DDA, as
2 contemplated by this Assignment, Assumption, Amendment and Consent.

3 "AGENCY"

4 Redevelopment Agency of the County of Riverside,
5 a public body, corporate and politic

6 By: Bob Buster
7 BOB BUSTER
8 Chairman, Board of Directors

Date: May 24, 2011

9 APPROVED AS TO FORM AND LEGAL CONTENT:
10 PAMELA J. WALLS,
11 Agency Counsel

12 By: Anita C. Willis
13 Deputy, Anita C. Willis
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15 ATTEST:
16 KECIA HARPER-IHEM
17 Clerk of the Board

18 By: Kecia Harper-Ihem
19 Deputy
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