



MEMORANDUM NEIGHBORHOOD RESOURCES - COUNCIL MEMO NO. NR12-33

DATE: OCTOBER 9, 2012

TO: MAYOR AND MEMBERS OF THE CITY COUNCIL

THRU: RICH DLUGAS, CITY MANAGER *RD*
JEFF CLARK, FIRE CHIEF *JC*
JENNIFER MORRISON, NEIGHBORHOOD RESOURCES DIRECTOR *JM*

FROM: BARBARA BELLAMY, CDBG PROGRAM SUPERVISOR *BB*

RE: REQUEST FOR THE AUTHORIZATION TO SUBORDINATE THE MODERATE REHABILITATION PROGRAM LIEN ON PROJECT NUMBER RH07-0006 LOCATED AT 599 N. COMANCHE DR. IN THE AMOUNT OF \$74,670.55

RECOMMENDATION: Staff recommends that the City Council authorize the subordination of the Moderate Rehabilitation Program lien on Project Number RH07-0006, 599 N. Comanche Dr. in the amount of \$74,670.55.

BACKGROUND AND DISCUSSION: In 2007, the owner of a home at 599 N. Comanche Dr received a \$74,670.55 loan through the City's Moderate Rehabilitation Program. The City's lien against the property is for \$74,670.55. The City loan is a 15-year forgivable loan secured by a Deed of Trust recorded as a lien against the home. The balance is slated to be forgiven in 2022.

The owner is requesting a refinance of her home to lower the interest rate. The new loan for \$94,627 reduces the interest rate, lowers the mortgage payment and the owner will receive no cash out as required by the City's refinancing policy. In order to obtain the loan, a subordination of the City's lien is required by the lending institution and the City lien will remain in the same position.

FINANCIAL IMPLICATIONS: The City's lien is currently in second position and will remain in second position after the refinancing is complete. The City's lien will not be released until the term of affordability expires in 2022.

PROPOSED MOTION: Move to approve the authorization to subordinate the Moderate Rehabilitation Program lien on the property located at 599 N. Comanche Dr. in the amount of \$74,670.55

Attachment A: Subordination Agreement
Attachment B: Letter from CNN Mortgage

Recording Requested by:

When recorded mail to:

City of Chandler
Neighborhood Resources
PO Box 4008 MS 600
Chandler, AZ 85244

**ATTACHMENT A
SUBORDINATION AGREEMENT
(Existing to New)**

Escrow No. **01773131-827-JB8**

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

THIS AGREEMENT, made this August 21 day of 2012 by,

Becky J Hughes
Owner of the land hereinafter described and hereinafter referred to as "Owner", and
City of Chandler, an Arizona Municipal Corporation

present owner and holder of the Deed of Trust and Note first hereinafter described and hereinafter referred to as "Beneficiary";

WITNESSETH

THAT WHEREAS, Becky J Hughes executed a Deed of Trust dated March 26, 2007 to City of Chandler (Housing Rehab Loan), as Trustee, covering:

LOT 129, CENTRAL ESTATES UNIT 4, PARCEL #302-48-521, A SUBDIVISION RECORDED IN BOOK 160 OF MAPS, PAGE 2, RECORDS OF MARICOPA COUNTY, ARIZONA.

to secure a Note in the sum of 73,950.55, dated 3/26/2007 in favor of City of Chandler, which Deed of Trust was recorded April 9, 2007 in Docket/Book 2007, Page 0412680, or Instrument No. _____ of said County; and State.

WHEREAS, Owner has executed, or is about to execute, a Deed of Trust and Note in the sum of \$95,645 in favor of **LHM Financial Corp DBA CNN Mortgage**,

hereinafter referred to as "Lender", payable with interest and upon the terms and conditions described therein, which Deed of Trust is to be recorded concurrently herewith; and

WHEREAS, it is a condition precedent to obtaining said loan that said Deed of Trust last above mentioned shall unconditionally be and remain at all times a lien or charge upon the land hereinbefore described, prior and superior to the lien or charge of the Deed of Trust first above mentioned; and

WHEREAS, Lender is willing to make said loan provided the Deed of Trust securing the same is a lien or charge upon the above described property prior and superior to the lien or charge of the Deed of Trust first above mentioned and provided that Beneficiary will specifically and unconditionally subordinate the lien or charge of the Deed of Trust first above mentioned to the lien or charge of the Deed of Trust in favor of Lender; and

WHEREAS, it is to the mutual benefit of the parties hereto that Lender make such loan to Owner; and Beneficiary is willing that the Deed of Trust securing the same shall, when recorded, constitute a lien or charge upon said land which is unconditionally prior and superior to the lien or charge of the Deed of Trust first above mentioned.

NOW, THEREFORE, in consideration of the mutual benefits accruing to the parties hereto and other valuable consideration, the receipt and sufficiency of which consideration is hereby acknowledged, and in order to induce Lender to make the loan above referred to, it is hereby declared, understood and agreed as follows:

- (1) That said Deed of Trust securing said Note in favor of Lender, and any renewals and extensions thereof, shall unconditionally be and remain at all times a lien or charge on the property therein described, prior and superior to the lien or charge of the Deed of Trust first above mentioned.
- (2) That Lender would not make its loan above described without this subordination agreement.
- (3) That this agreement shall be the whole and only agreement with regard to the subordination of the lien or charge of the Deed of Trust first above mentioned to the lien or charge of the Deed of Trust in favor of lender above referred to and shall supersede and cancel, but only insofar as would affect the priority between the Deeds of Trust hereinbefore specifically described, any prior agreement as to such subordination including, but not limited to, those provisions, if any, contained in the Deed of Trust first above mentioned, which provides for the subordination of the lien or charge thereof to another deed or Deeds of Trust or to another mortgage or mortgages.

Beneficiary declares, agrees and acknowledges that

- (a) He consents to and approved (i) all provisions of the Note and Deed of Trust in favor of Lender above referred to, and (ii) all agreements, including but not limited to any loan or escrow agreements, between Owner and Lender for the disbursement of the proceeds of Lender's Loan;
- (b) Lender is making disbursements pursuant to any such agreement 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 herein made in whole or in part; and
- (c) He intentionally and unconditionally waives, relinquishes, and subordinates the lien or charge of the Deed of Trust first above mentioned in favor of the lien or charge upon said land of the Deed of Trust in favor of Lender above referred to and understands that in reliance upon, and on consideration of, this waiver, relinquishment and subordination specific loans and advances are being 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 reliance upon this waiver, relinquishment, subordination; and
- (d) An endorsement has been placed upon the Note secured by the Deed of Trust first above mentioned that said Deed of Trust has by this instrument been subordinated to the lien or charge of the Deed of Trust in favor of Lender above referred to.

NOTICE: THIS SUBORDINATION AGREEMENT CONTAINS A PROVISION WHICH ALLOWS THE PERSON OBLIGATED ON YOUR REAL PROPERTY SECURITY TO OBTAIN A LOAN A PORTION OF WHICH MAY BE EXPENDED FOR OTHER PURPOSES THAN IMPROVEMENT OF THE LAND.

BENEFICIARY:

OWNER:

City of Chandler

Becky Hughes

City of Chandler

(ALL SIGNATURES MUST BE ACKNOWLEDGED)

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

STATE OF ARIZONA)
) ss.
County of Maricopa)

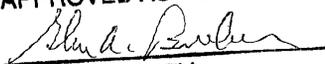
On _____, before me, the undersigned Notary Public, personally appeared _____, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their 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.
WITNESS my hand and official seal.

My Commission Expires: _____ Notary Public

STATE OF ARIZONA)
) ss.
County of Maricopa)

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APPROVED AS TO FORM

CITY ATTORNEY

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to secure a Note in the sum of \$720.00, dated 4/18/2007 in favor of City of Chandler, which Deed of Trust was recorded May 18, 2007 in Docket/Book 2007, Page 0581544, or Instrument No. _____ of said County; and State.

WHEREAS, Owner has executed, or is about to execute, a Deed of Trust and Note in the sum of \$95,645 in favor of **LHM Financial Corp DBA CNN Mortgage**,

hereinafter referred to as "Lender", payable with interest and upon the terms and conditions described therein, which Deed of Trust is to be recorded concurrently herewith; and

WHEREAS, it is a condition precedent to obtaining said loan that said Deed of Trust last above mentioned shall unconditionally be and remain at all times a lien or charge upon the land hereinbefore described, prior and superior to the lien or charge of the Deed of Trust first above mentioned; and

WHEREAS, Lender is willing to make said loan provided the Deed of Trust securing the same is a lien or charge upon the above described property prior and superior to the lien or charge of the Deed of Trust first above mentioned and provided that Beneficiary will specifically and unconditionally subordinate the lien or charge of the Deed of Trust first above mentioned to the lien or charge of the Deed of Trust in favor of Lender; and

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- (a) He consents to and approved (i) all provisions of the Note and Deed of Trust in favor of Lender above referred to, and (ii) all agreements, including but not limited to any loan or escrow agreements, between Owner and Lender for the disbursement of the proceeds of Lender's Loan;
- (b) Lender is making disbursements pursuant to any such agreement 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 herein made in whole or in part; and
- (c) He intentionally and unconditionally waives, relinquishes, and subordinates the lien or charge of the Deed of Trust first above mentioned in favor of the lien or charge upon said land of the Deed of Trust in favor of Lender above referred to and understands that in reliance upon, and on consideration of, this waiver, relinquishment and subordination specific loans and advances are being 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 reliance upon this waiver, relinquishment, subordination; and
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STATE OF ARIZONA)
) ss.
County of Maricopa)

On _____, before me, the undersigned Notary Public, personally appeared _____, personally known to me (or 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.
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WITNESS my hand and official seal.
My Commission Expires: _____ Notary Public

APPROVED AS TO FORM
[Signature]
CITY ATTORNEY



August 22, 2012

Re: Hughes 599 North Comanche Drive

Becky Hughes is refinancing her mortgage on the property located at 599 North Comanche Drive in Chandler. The refinance would drop her interest rate from 8.5% to 3.75% and drop her PITI payment from \$897 to \$657.04. If the City of Chandler will subordinate to this new mortgage, the City would remain in second position.

The way we have this transaction structured, Becky Hughes will not be getting any cash out. If you have any further questions regarding this matter, please feel free to contact me at any time.

Thank you,




Travis Schmidt

Mortgage Originator

Direct: (480) 281-8362

Mobile: (602) 312-4032

Fax: (480) 907-2037

Email: TravisS@cnnmortgage.com

