

#35
AUG 14 2008



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MEMORANDUM

Neighborhood Resources - Council Memo No. NR08-22

DATE: August 5, 2008

TO: MAYOR AND COUNCIL

THRU: W. MARK PENTZ, CITY MANAGER
JUDITH REGISTER, NEIGHBORHOOD RESOURCES DIRECTOR

FROM: PAM LARGE, ASSISTANT COMMUNITY DEV COORDINATOR

SUBJECT: REQUEST FOR THE AUTHORIZATION TO SUBORDINATE THE HOUSING REHABILITATION LIEN ON PROJECT # RH02-0002 LOCATED AT 805 EAST CARLA VISTA DRIVE.

RECOMMENDATION: Staff recommends that the City Council authorize the subordination of the Housing Rehabilitation lien on the property located at 805 East Carla Vista Drive.

BACKGROUND: The single family, owner-occupied home located at 805 East Carla Vista Drive was rehabilitated under the City of Chandler's Housing Rehabilitation Program in 2002. A lien has been placed against the property by the City for \$40,510.00. This lien is in the form of a 12 year repayable loan, whereby the owner repays 25% of the total and the balance is forgiven at the end of the term of the loan. The owners' balance is currently at \$35,906.10 and the forgivable amount is \$30,382.50.

DISCUSSION: The owners have applied for a loan to refinance their current first mortgage in order to reduce their monthly payments. There will be no cash out to the owners. The approximate total amount of the new loan would be \$53,000.00. In order to obtain the loan, a subordination of the City's lien is required by the lending institution.

FINANCIAL IMPLICATIONS: The City's lien is currently in second position and would remain in second position after the new loan. The property is currently valued at approximately \$141,000, which is more than the combined encumbrances of the City's lien and the new first mortgage.

PROPOSED MOTION: Move to approve the authorization to subordinate the Housing Rehabilitation lien on Project RH02-0002, located at 805 East Carla Vista Drive.

Rose Lissy/COC
07/09/2008 10:12 AM

To Pam Large/COC,
cc Glenn Brockman/COC, Mary Wade/COC,
bcc
Subject Req for Services

Mary Wade has assigned your request for services regarding the Subordination Agreement for Montes to Glenn Brockman who is out of the office until 7/21/08. I hope this will not cause any problems for you.

 **Think Environment Before Printing** 



First American

First American Title Insurance Company

Lenders Advantage
7227 N. 16th St. #110
Phoenix, AZ 85020
Phn - (602)943-0517
Fax - (877)595-1270

City of Chandler
Neighborhood Resources
Attention: Pam Large
Assistant Community Development Coordinator
P.O. Box 4008
Mail Stop 600
Chandler, AZ 85244

Manuel S. Montes and Bertha A. Montes
697 East Oakland Street
Chandler, AZ 85225

June 30, 2008
Escrow No: 1920-3579529a (tg)

Regarding the City of Chandler Subordination Agreement this letter is to confirm that a refinance loan had been initiated by Desert Schools Federal Credit Union to the above referenced borrower. They have confirmed that the customer current mortgage has an interest rate of 7.5% and they are currently locked into a new loan at the interest rate of 6.125% with Desert Schools. They are processing a no cash out refinance, straight refinance.

Please feel free to contact myself or Tracy with any questions or concerns.

Tina Gipson,
Escrow Officer

RECORDING REQUESTED BY
First American Title Insurance Company
Lenders Advantage

**AND WHEN RECORDED MAIL DOCUMENT
AND TAX STATEMENT TO:**
City of Chandler (Housing Rehabilitation
Program)
55 N. Arizona Place, Suite 310
Chandler, AZ 85225

Space Above This Line for Recorder's Use Only

A.P.N.: 302-69-059 9

File No.: 1920-3579529a (tg)

**SUBORDINATION AGREEMENT
(EXISTING TO NEW)**

**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 Twenty-fourth day of June, 2008, by

Manuel S. Montes and Bertha A. Montes, husband and wife aka Alicia R. Montes, as community property with
right of survivorship

Owner of the land hereinafter described and hereinafter referred to as "Owner", and

City of Chandler (Housing Rehabilitation Program)

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

WITNESSETH

THAT WHEREAS, Owner has executed a Deed of Trust dated January 11, 2001 to Glenn A. Brockman, Assistant
Chandler City Attorney and a member of the State Bar of Arizona, as Trustee, covering:

LOT TEN (10), WILSHIRE PARK UNIT ONE, ACCORDING TO THE PLAT OF RECORD IN THE OFFICE OF THE
COUNTY RECORDER OF MARICOPA COUNTY, ARIZONA, IN BOOK 124 OF MAPS, PAGE 8.

to secure a Note in the sum of \$41,010.00, dated January 11, 2001, in favor of City of Chandler (Housing
Rehabilitation Program), which Deed of Trust was recorded March 12, 2001 in Book [?], Page [?], or Instrument
No. 2001-188874, of said County; and

WHEREAS, Owner has executed, or is about to execute, a Deed of Trust and Note in the sum of \$53,000.00, dated _____, in favor of Desert Schools Federal Credit Union, 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 or 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 provide 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 approves (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 in 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;

- (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 in 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 and subordination; and
- (d) An endorsement has been placed upon the Note secured by 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 THE IMPROVEMENT OF THE LAND.**

(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.
(CLTA SUBORDINATION FORM "A")*

OWNER:

Manuel S. Montes

Bertha A. Montes

STATE OF **AZ**)
)ss.
County of _____)

On _____, before me, the undersigned Notary Public, personally appeared **Manuel S. Montes and Bertha A. Montes**, 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 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

BENEFICIARY:

City of Chandler (Housing Rehabilitation Program)

By: _____

STATE OF AZ)
)ss.
County of _____)

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 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

APPROVED AS TO FORM

CITY ATTORNEY GAB

SUBORDINATION AUTHORIZATION

File No. **1920-3579529a (tg)**

The undersigned does hereby authorize and instruct **First American Title Insurance Company Lenders Advantage** to record the attached Subordination Agreement prepared and dated **June 24, 2008** and in signing, hereby accepts and approves all terms and conditions as stated herein and as stated in the Subordination Agreement.

City of Chandler (Housing Rehabilitation Program) is subordinating to a Deed of Trust in favor of **Desert Schools Federal Credit Union**, which Deed of Trust shall have an approximate loan amount of **\$ 53,000.00**, plus costs. **Desert Schools Federal Credit Union** shall have a first lien position and **City of Chandler (Housing Rehabilitation Program)** shall have a second lien position.

It is understood and agreed that the Subordination Agreement is being executed concurrently herewith and Escrow Agent is hereby authorized and instructed to insert the actual amount of the new Deed of Trust, forthwith upon determination of same.

The undersigned will indemnify and save harmless Escrow Agent against all costs, damages, attorney's fees, expenses and liabilities, which it may incur or sustain in connection with this Authorization or the Escrow or any court action arising therefrom and will pay same upon demand, including but not limited to any interpleader action.

DATED: June 24, 2008

City of Chandler (Housing Rehabilitation Program)
