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Chandler • Arizona
Where Values Make The Difference

MEMORANDUM

NEIGHBORHOOD RESOURCES DIVISION - Council Memo No. NR09-041

DATE: OCTOBER 30, 2009

TO: MAYOR AND COUNCIL

THRU: W. MARK PENTZ, CITY MANAGER *MP*
RICH DLUGAS, ASSISTANT CITY MANAGER *RD*

FROM: PAM LARGE, COMMUNITY DEVELOPMENT ASSISTANT *PL*

SUBJECT: REQUEST FOR THE AUTHORIZATION TO SUBORDINATE THE HOUSING REHABILITATION LIEN ON PROJECT #RH08-0010 LOCATED AT 1351 N PLEASANT DRIVE IN THE AMOUNT OF \$7,644.00

RECOMMENDATION: Staff recommends City Council authorize the subordination of the Housing Rehabilitation lien on the property located at 1351 N. Pleasant Drive.

BACKGROUND AND DISCUSSION: The single-family, owner-occupied home located at 1351 N. Pleasant Drive was a recipient of the City of Chandler's Housing Rehabilitation Program in 2008. The City has placed a lien against the property for \$7,644.00. This lien is in the form of a 5-year forgivable loan, whereby the balance is forgiven at the end of the term of the loan. The balance of \$7,644.00 will be forgiven in 2013, per the original loan agreement.

The owner is now requesting a refinance in order to lower their interest rate; the owner is receiving no cash out for escrow purposes. The new loan is for \$52,650.00. 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 will remain in second position after the new loan. The City's lien will not be released until the term of affordability expires in 2013. The property is currently valued at approximately \$105,000.00, which is more than the combined encumbrances of the City's lien and the new mortgage.

PROPOSED MOTION: Move to approve the authorization to subordinate the Housing Rehabilitation lien on Project RH08-0010, located at 1351 N. Pleasant Drive.

Attachments: Subordination Agreement

Re: Carole Morris-Turner
1351 N. Pleasant Drive #1011
Chandler, AZ 85225
Loan # 40045404

To Whom it May Concern:

This letter is to explain the reason for Carole's refinance. Carole is refinancing to a lower interest rate and a lower monthly payment. She is not receiving any cash out from the refinance, this just a rate and term refinance. Please contact me at 602-606-6758 if you have any questions. Or you can contact Carole Turner-Morris at 480-332-0901.

Sincerely,


Mateo Garcia
Loan Officer

Recording Requested By:
Grand Canyon Title Agency, Inc.

And When Recorded Mail To:

CITY OF CHANDLER
P.O. Box 4008
Mail Stop 600
Chandler, AZ 85244-4008

ESCROW NO.: 42011603-042-DME

SPACE ABOVE THIS LINE FOR RECORDER'S USE

SUBORDINATION AGREEMENT

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 October 8, 2009 BY: CAROLE L. MORRIS-TURNER OWNER OF THE LAND HEREINAFTER DESCRIBED AND REFERRED TO AS "OWNER", AND CITY OF CHANDLER, PRESENT OWNER AND HOLDER OF THE DEED OF TRUST AND FIRST NOTE HEREINAFTER DESCRIBED AND REFERRED TO AS "BENEFICIARY";

WITNESSETH:

THAT WHEREAS, CAROLE L. MORRIS- TURNER DID EXECUTE A DEED OF TRUST DATED MAY 16, 2008 , TO: GLENN A. BROCKMAN, ASSISTANT CHANDLER CITY ATTORNEY AND A MEMBER OF THE STATE BAR OF ARIZONA, AS TRUSTEE, COVERING THE FOLLOWING DESCRIBED PROPERTY:

See Exhibit A attached hereto and made a part hereof.

TO SECURE A NOTE IN THE SUM OF \$7,644.00 DATED MAY 16, 2008 ,
IN FAVOR OF CITY OF CHANDLER WHICH DEED
OF TRUST WAS RECORDED JUNE 26, 2008 , INSTRUMENT NO.
2008-0566081, OF OFFICIAL RECORDS OF MARICOPA COUNTY, ARIZONA: AND

WHEREAS, OWNER HAS EXECUTED, OR IS ABOUT TO EXECUTE A DEED OF TRUST AND NOTE IN THE SUM OF \$52,650.00, DATED _____ IN FAVOR OF SUBURBAN MORTGAGE, INC. 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 SHALL HAVE THE FOLLOWING TERMS AND CONDITIONS: PAYABLE IN INSTALLMENTS OF \$282.64, (MONTHLY) FOR A TERM OF YEARS WITH INTEREST AT THE RATE OF 5% PER ANNUM AND SHALL BECOME ALL DUE AND PAYABLE ON OR BEFORE NOVEMBER 1, 2039 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 PROVIDED THAT THE 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 OF EXTENSIONS THEREOF, SHALL UNCONDITIONALLY BE AND REMAIN AT ALL TIMES A LIEN OR CHARGE OF 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; AND

(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 AGREEMENTS 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 THE 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, ANY APPLICATION OR USE OF SUCH PROCEEDS FOR PURPOSE 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 THE DEED OF TRUST 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.

BENEFICIARY
ITS: _____

CAROLE L. MORRIS-TURNER OWNER

BENEFICIARY

APPROVED AS TO FORM

CITY ATTORNEY *GAB*

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

STATE OF ARIZONA
County of MARICOPA

} ss

This instrument was acknowledged before me
this _____ by

ITS: _____

Notary Public
My commission will expire _____

STATE OF ARIZONA
County of MARICOPA

} ss

This instrument was acknowledged before me
this _____ by

Notary Public
My commission will expire _____

Exhibit A

Unit 1011, Building 3, Phase 2 of THE BOARDWALK AT THE VILLAGE OF CHANDLER, according to Declaration of Horizontal Property Regime recorded in Instrument No. 84-023786; and Declarations of Annexation recorded in Instrument No. 84-023787 and in Instrument No. 84-153610; First Amendment to Declaration of Horizontal Property Regime recorded in Instrument No. 84-123416, and per map recorded in Book 255 of Maps, page 39 and in Book 264 of Maps, page 33, in the Office of the County Recorder of Maricopa County, Arizona.

TOGETHER WITH an undivided interest in and to the general common elements as set forth in said Declaration and on Plat of said Subdivision.