

RESOLUTION NO. 2637

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SOLEDAD
 AUTHORIZING THE EXECUTION OF A SUBORDINATION AGREEMENT
 AND CERTIFICATE OF ESTOPPEL WITH THE STATE OF CALIFORNIA,
 DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT, HOME
 INVESTMENT PARTNERSHIPS (HOME) PROGRAM

WHEREAS, the City of Soledad has received a 1995 Community Development Block Grant ("CDBG") for the development of fifty three (53) residential units by the Soledad Local Development Corporation ("SLDC") located on Monterey Street and designated the "Las Jicamas Development," and

WHEREAS, the City of Soledad has entered into an agreement with the California Department of Housing Community Development (CDBG G/NA Contract #95-STBG-922) for the implementation of the approved grant application for \$500,000 for the Las Jicamas Development; and

WHEREAS, City executed a "95-STBG-922 CDBG Loan Agreement and Program Implementation Agreement for Services with the SLDC" ("The Loan Agreement") on December 12, 1996, by way of Resolution No. 2554, whereby SLDC was loaned a total of \$422,500; and

WHEREAS, pursuant to Resolution No. 2617, approved on September 3, 1997, The Loan Agreement was amended dividing the loan into one \$333,500 loan to the Las Jicamas Apartments Limited Partnership ("LJALP") for the development of a 46-unit multi-family low income housing project, and a \$100,000 loan to SLDC for the development of 7 units of low-income single-family housing; and

WHEREAS, as was anticipated in the original Loan Agreement and deeds of trust involving the loan, LJALP is requesting that the City execute a subordination agreement and estoppel certificate with the State of California, Department of Housing and Community Development, through the Home Investment Partnerships (HOME) Program, whereby the City's loan to LJALP will be subordinated to a loan made by the HOME Program to LJALP.

NOW THEREFORE, BE IT RESOLVED by the Soledad City Council as follows:

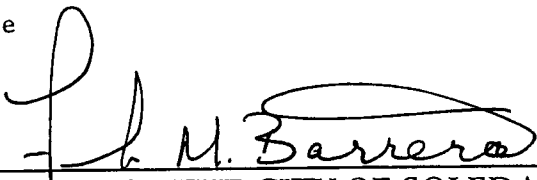
1. The City Manager is hereby authorized to execute a "Subordination Agreement and Estoppel Certificate" with the California Department of Housing and Community Development, Home Investment Partnerships (HOME) Program, in the form attached hereto as Exhibit "A."

PASSED AND ADOPTED by the City Council of the City of Soledad at a regular meeting duly held on the 1st day of October, 1997, by the following vote:

AYES, and in favor thereof, Councilmembers: Ben Jimenez, Jr., Fred Ledesma, Richard Ortiz, Mayor Pro Tem Gary Gerbrandt, Mayor Fabian Barrera

NOES, Councilmembers: None

ABSENT, Councilmembers: None


MAYOR OF THE CITY OF SOLEDAD

ATTEST:


CITY CLERK OF THE CITY OF SOLEDAD

MFR:dsp
September 25, 1997
F:\WPD\MNRSW\318\RES97\SUBAGREE.018

RECORDING REQUESTED BY:

FOR RECORDER'S USE ONLY

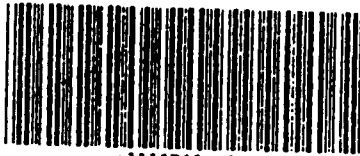
Bruce A. Reeves
Monterey County Recorder
Recorded at the request of
Stewart Title

CRNELLIE
11/17/1997
12:44:12

AND WHEN RECORDED MAIL TO:

Department of Housing and
Community Development
P.O. Box 952054, (HOME)
Sacramento, CA 94252-2054

DOCUMENT: 9768146



•0009768146•

Titles: 1 / Pages: 9

Fees	30 00
Taxes	
Other	
AMT PAID	30 00

THIS DOCUMENT IS RECORDED ON BEHALF OF THE STATE OF CALIFORNIA, DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT, AND IS EXEMPT FROM RECORDING FEES PURSUANT TO GOVERNMENT CODE SECTIONS 6103 AND 27383.

SUBORDINATION AGREEMENT AND ESTOPPEL CERTIFICATE
(BENEFICIARY DEED OF TRUST AND AFFORDABLE HOUSING COVENANTS)

NOTICE: THIS SUBORDINATION AGREEMENT RESULTS IN THE LIEN OF A DEED OF TRUST AND THE RESTRICTIVE COVENANTS ON THE PROPERTY BECOMING SUBJECT TO AND OF LOWER PRIORITY THAN THE LIEN OF SOME OTHER OR LATER SECURITY INSTRUMENT.

THIS SUBORDINATION AGREEMENT AND ESTOPPEL CERTIFICATE (the "Agreement") is dated as of October 31, 1997 and is entered into by and among the CITY OF SOLEDAD, a political subdivision of the State of California (the "Beneficiary"), LAS JICAMAS APARTMENTS, L.P., a California limited partnership (the "Borrower") and the STATE OF CALIFORNIA, Department of Housing and Community Development through its Home Investment Partnerships (HOME) Program, a public agency of the State of California (the "Department").

RECITALS

A. Borrower is the owner of a fee interest in that real property described in Exhibit A hereto (the "Property") upon which Property Borrower intends to construct a 46-unit multifamily rental housing development using funds from the Department's HOME program (the "Improvements"). The Property and the Improvements are sometimes referred to collectively as the "Project".

B. The Beneficiary has heretofore loaned to the Borrower the principal sum of Three Hundred Twenty Two Thousand Five Hundred Dollars (\$322,500.00) (the "Beneficiary Loan") pursuant to the terms and conditions of a 95-STBG-922 CDBG Loan Agreement and Program Implementation Agreement

for Services with the Soledad Local Development Corporation dated December 12, 1996, by and among Soledad Local Development Corporation, a California nonprofit corporation ("SLDC"), Beneficiary, and Borrower (the "Original Loan Agreement") as amended by that First Amendment to 95-STBG-922 CDBG Loan Agreement and Program Implementation Agreement for Services with the Soledad Local Development Corporation dated 11/21/97 (the "First Amendment", hereinafter, the Original Loan Agreement and First Amendment are collectively referred to as the "Beneficiary Loan Agreement") and a Promissory Note dated of even date as the First Amendment (the "Beneficiary Note") and secured by that certain Deed of Trust and Security Agreement dated of even date as the First Amendment and recorded 11/17, 1997 as Instrument No. 971221351, at page _____, in book _____, in the Official Records of Monterey County, California (the "Beneficiary Deed of Trust").

C. In conjunction with making the Beneficiary Loan, the Beneficiary required that Borrower enter into a Low Income Housing Covenant containing covenants governing, among other things, the occupancy of certain units on the Improvements at affordable rents for low and very low-income households. This regulatory agreement has been entered into by and between the Beneficiary and the Borrower, dated of even date as the First Amendment, and recorded as an encumbrance on the Property on 11/17/97 as Instrument No. 971221351, at page _____, in book _____, in the Official Records of Monterey County, California (the "Beneficiary Agreement").

D. In order to provide additional financing for the Project, the Department has agreed to loan the Borrower a sum not to exceed Five Hundred Twenty Nine Thousand Two Hundred Fifty Dollars (\$529,250.00) (the "HOME Loan"), subject to the terms and conditions of: (i) a regulatory agreement restricting the use and occupancy of the Project and the income derived therefrom which shall be dated of even date herewith and recorded as an encumbrance on the Project (the "HOME Regulatory Agreement"); and (ii) other loan documents. The HOME Loan will be evidenced by a promissory note dated of even date herewith (the "HOME Note"), the repayment of which will be secured by, among other things, a deed of trust by Borrower as trustor, to Department as beneficiary to be dated of even date herewith and recorded in third lien position on the Project (the "HOME Deed of Trust").

E. The Department is willing to make the HOME Loan provided the HOME Deed of Trust and the HOME Regulatory Agreement are liens, claims or charges upon the Project prior and superior to the Beneficiary Deed of Trust and Beneficiary Covenants and the rights of the Beneficiary to enforce the Beneficiary Deed of Trust and Beneficiary Covenants, and provided that the Beneficiary specifically and unconditionally subordinate and subject the Beneficiary Deed of Trust and Beneficiary Covenants to the liens, claims or charges of the HOME Deed of Trust and the HOME Regulatory Agreement.

AGREEMENT

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

1. The HOME Regulatory Agreement and the HOME Deed of Trust securing the HOME Note in favor of the Department, and any and all renewals, modifications, extensions or advances thereunder or secured thereby (including interest thereon) shall unconditionally be and remain at all times liens, claims, or charges on the Project prior and superior to the Beneficiary Deed of Trust and Beneficiary Covenants, the rights of the Beneficiary to enforce said documents, and any and all other rights and

privileges of the Beneficiary thereunder; and the Beneficiary Deed of Trust and Beneficiary Covenants, the rights of the Beneficiary to enforce such documents and all other rights and privileges of the Beneficiary thereunder are hereby irrevocably and unconditionally subject and made subordinate to the liens, claims or charges of the HOME Deed of Trust and the HOME Regulatory Agreement.

2. This Agreement shall be the whole and only agreement with regard to the subordination of the Beneficiary Deed of Trust and Beneficiary Covenants, together with all rights and privileges of the Beneficiary thereunder, to the liens, claims or charges of the HOME Deed of Trust and the HOME Regulatory Agreement, and this Agreement shall supersede and cancel any prior agreements to subordinate the claims, liens or charges of, but only insofar as would affect the priority between the claims, liens or charges of the Beneficiary Deed of Trust and Beneficiary Covenants to the HOME Deed of Trust and the HOME Regulatory Agreement including, but not limited to, those provisions, if any, contained in the Beneficiary Deed of Trust or Beneficiary Covenants which provide for the subordination of the lien or charge thereof to another lien or charge on the Property or the Improvements.

3. The Beneficiary declares, agrees and acknowledges that:

(a) The Beneficiary consents and approves all provisions of the HOME Note, the HOME Deed of Trust and the HOME Regulatory Agreement;

(b) The Department, in making disbursements of the HOME Loan pursuant to the HOME Note or any other agreement, is under no obligation or duty to, nor has the Department represented that it will, see to the application of such proceeds by the person or persons to whom the Department 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) The Beneficiary Deed of Trust and Beneficiary Covenants are in full force and effect, and have not been amended, and there is no breach, event of default or default existing under the Beneficiary Deed of Trust or Beneficiary Covenants, or event, omission or failure of condition which would constitute such a breach, default or event of default after notice or lapse of time, or both;

(d) None of the execution, delivery or recordation of any of the HOME Note, HOME Deed of Trust, or HOME Regulatory Agreement, or the performance of any provision, condition, covenant or other term thereof, will conflict with or result in a breach of the Beneficiary Deed of Trust or the Beneficiary Covenants; and

(e) The Beneficiary intentionally and unconditionally waives, relinquishes, subjects and subordinates the claims, liens or charges upon the Project of the Beneficiary Deed of Trust and Beneficiary Covenants, all present and future indebtedness and obligations secured thereby, in favor of the claims, liens or charges upon the Project of the HOME Deed of Trust and the HOME Regulatory Agreement, and understands that in reliance upon, and in consideration of, this waiver, relinquishment, subjection, and subordination, the HOME Loan and advances thereof 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, subjection and subordination.

4. The Department would not make the HOME Loan without this Subordination Agreement.

5. This Agreement shall be binding on and inure to the benefit of the legal representatives, heirs, successors and assigns of the parties.

6. This Agreement shall be governed by and construed in accordance with the laws of the State of California.

7. In the event that any party to this Agreement brings an action to interpret or enforce its rights under this Agreement, the prevailing party in such action shall be entitled to recover its costs and reasonable attorneys' fees as awarded by the court in such action.

8. This Agreement may be signed by different parties hereto in counterparts with the same effect as if the signatures to each counterpart were upon a single instrument. All counterparts shall be deemed an original of this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the 31st day of October 1997.

"BENEFICIARY"

By: Belinda B. Espinosa
Belinda B. Espinosa
Its: City Manager

Approved as to Form:

[Signature]
City Attorney

"BORROWER"

Las Jicamas L.P.,
a California limited partnership

By: Soledad Local Development
Corporation, a California
nonprofit public benefit
corporation

Its: General Partner

By: Juan Saavedra
Juan Saavedra
Its: President

"DEPARTMENT"

Department of Housing and Community
Development
Home Investment Partnerships Program
P.O. Box 952054
Sacramento, CA 94252-2054

By: [Signature]
Its: Program Manager

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

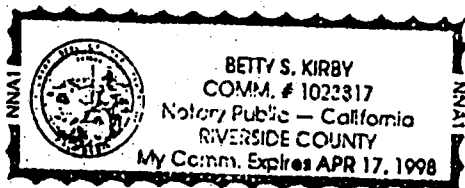
State of CALIFORNIA

County of MONTEREY

On NOVEMBER 7, 1997 before me, Betty S Kirby
Date

personally appeared JUAN SAAVEDRA*****
Name and Title of Officer (e.g., "Jane Doe, Notary Public")
Name(s) of Signer(s)

- personally known to me
- 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.

Betty S. Kirby

 BETTY S. KIRBY Signature of Notary Public

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: _____

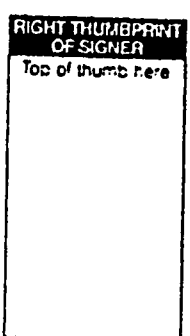
Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____

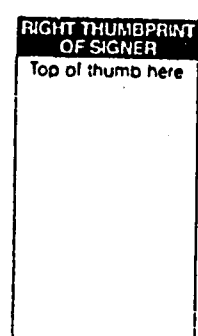
- Individual
- Corporate Officer
Title(s): _____
- Partner — Limited General
- Attorney-in-Fact
- Trustee
- Guardian or Conservator
- Other: _____



Signer Is Representing:

Signer's Name: _____

- Individual
- Corporate Officer
Title(s): _____
- Partner — Limited General
- Attorney-in-Fact
- Trustee
- Guardian or Conservator
- Other: _____



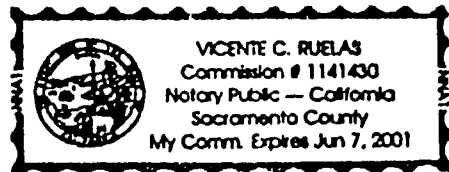
Signer Is Representing:

STATE OF CALIFORNIA
COUNTY OF SACRAMENTO, ss.

On November 5, 1997 before me, Vicente C. Ruelas, a Notary Public, personally appeared DENISE BOSWELL, 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, 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.

Signature Vicente C. Ruelas



(Official Notarial Seal)

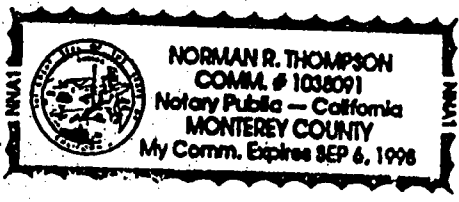
County of MONTEREY

On 11-14-97 before me, NORMAN R. THOMPSON Notary Public

personally appeared BLLINDA BESPINOSA

personally known to me
 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.

Norman R. Thompson
Signature of Notary Public

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: _____

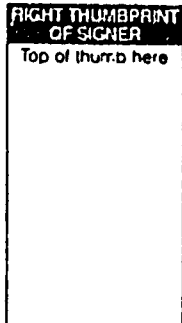
Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____

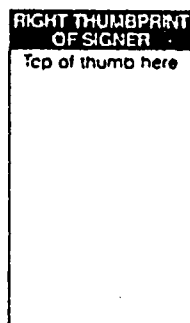
- Individual
- Corporate Officer
Title(s): _____
- Partner — Limited General
- Attorney-in-Fact
- Trustee
- Guardian or Conservator
- Other: _____



Signer Is Representing: _____

Signer's Name: _____

- Individual
- Corporate Officer
Title(s): _____
- Partner — Limited General
- Attorney-in-Fact
- Trustee
- Guardian or Conservator
- Other: _____



Signer Is Representing: _____

Exhibit A

Legal Description

All that real property situated in the City of Soledad, County of Monterey, State of California, describes as follows:

PARCEL ONE:

LOT 8, AS THE SAME IS SHOWN UPON THAT CERTAIN MAP ENTITLED:
 "TRACT NO. 1288 MP 95-01, LAS JICAMAS SUBD.",
 FILED IN THE OFFICE OF THE COUNTY RECORDER OF MONTEREY
 COUNTY, CALIFORNIA, ON NOV 17, 1997, IN
 VOLUME 19, OF CITIES AND TOWNS,
 PAGES 52.

PARCEL TWO:

A NON-EXCLUSIVE EASEMENT FOR INGRESS AND EGRESS, USE AND
 ENJOYMENT, OVER ALL PRIVATE ROADS OWNED OR CONTROLLED
 BY LAS JICAMAS SUBDIVISION OWNER'S ASSOCIATION, AS SET
 FORTH IN THE DECLARATION OF COVENANTS, CONDITIONS AND
 RESTRICTIONS RECORDED NOV 17, 1997, AS
 RECORDER'S SERIAL NO. 9468132, OFFICIAL
 RECORDS.

END OF DOCUMENT