Board Agenda Item 66

DATE: June 24, 2025

TO: Board of Supervisors

SUBMITTED BY: Steven E. White, Director
Department of Public Works and Planning

SUBJECT: Retroactive Agreement for Reaffirmation - AMCAL Cordova Fund, LP

RECOMMENDED ACTION(S):

Approve and authorize the Chairman to execute a retroactive Second Amendment to Agreement No. 08-266 in the form an Agreement for Reaffirmation from Cordova Fund L.P., to AMCAL Cordova Fund, L.P., which aligns the County's Agreement for the Cordova Apartments in the City of Selma to the current owner, and also acknowledges the proposed new Administrative General Partner and Investor Limited Partner entities with no change to Better Opportunities Builder, Inc. as the Managing General Partner, effective August 4, 2009, thru May 23, 2032, and no change to the existing loan of $1,832,500.

There is no Net County Cost associated with the recommended action. The recommended action will retroactively align the County's existing Agreement for the Cordova Apartments with the current owner, AMCAL Cordova Fund, L.P. (AMCAL Cordova), and will affirm that AMCAL Cordova shall have all of the rights, obligations and liabilities of the Cordova Fund, L.P. (Cordova) under the Agreement. Although the funds authorized by the Board in 2008 and 2009 were fully expended and the units were successfully constructed in 2011, the use of Federal funds obligates the County to monitor and enforce Federal requirements for the assisted units through 2032. Staff, who were reviewing a routine transfer within the Limited Partnership which owns the apartments, identified a discrepancy between the current owner and the entity obligated to abide by the County's Agreement, which this item seeks to correct. This matter pertains to affordable housing in District 4.

ALTERNATIVE ACTION(S):

There is no viable alternative action. An assignment of agreement is not appropriate in this situation, as the original Limited Partnership was dissolved after AMCAL Cordova was formed. Should your Board not approve the recommended action, Agreement No. 08-266, as amended by Agreement No. 08-226-1, will not reflect the correct legal entity owning the affordable housing, and could trigger an instance of default.

RETROACTIVE AGREEMENT:

The recommended amendment is retroactive to August 4, 2009, as that is the date Cordova, the entity contracted with the County for the Cordova Apartments, disincorporated as a legal entity. The discrepancy in contracted entity was identified by the Department on January 17, 2025. When addressing a request to change the Administrative General Partner and Investor Limited Partner, Department staff identified that while the executed documents dated March 2010, the Deed of Trust, Deed Restriction Agreement, Promissory Note, and Regulatory Agreement (Loan Documents), identified the current legal entity, AMCAL Cordova, the County's Agreement remained with the defunct legal entity, Cordova.

FISCAL IMPACT:

There is no Net County Cost associated with the recommended action. Costs to process this amendment are borne by the Administrative fund portion of the Federal HOME Investment Partnerships Program (HOME) allocation received by the Department. There is no change to the financial terms of the Agreement or loan, aside from the assumption by AMCAL Cordova.

DISCUSSION:

On June 3, 2008, the Board authorized Agreement No. 08-266 with Cordova Fund L.P. to provide a $1,750,000, 0% interest, HOME Program loan to assist in the construction of 10 units in an 81-unit affordable multifamily rental housing development named Cordova Apartments in the City of Selma (the Project). This Agreement was later amended on October 20, 2009, to increase funding by $82,500 to fund one additional apartment, for a total of $1,832,500 and 11 HOME-assisted apartments.

Between the approval of the initial Agreement and the first amendment, incorporation for AMCAL Cordova was filed with the California Secretary of State for the purpose of replacing Cordova. Cordova then filed for dissolution a few months later, citing the existence of AMCAL Cordova. The restructuring maintained Better Opportunities Builder, Inc. as the Managing General Partner. When the Loan Documents were executed in March 2010, AMCAL Cordova (and not the defunct Cordova) acted as the signatory, so there is no current need to amend them.

The Project completed construction in 2011, with all HOME funds fully distributed to the Project. The HOME loan maturity date is due May 2, 2031, and according to records in the Federal reporting database, the Integrated Disbursement and Information System, the period of affordability remains in effect until May 23, 2032.

On January 17, 2025, the Department was notified of a pending transfer of AMCAL Cordova's interests to a new administrative general partner and investor limited partner. It was at this time that the 2009 reorganization of AMCAL Cordova was identified by Department staff.

The recommended Agreement for Reaffirmation of County's Agreement will ensure the County's HOME Agreement is with the correct legal entity that AMCAL Cordova and its new partners formally assume all rights, responsibilities, and obligations of the former limited partnership under the Agreement, and there will be no complications or conflicts as the Department monitors and enforces the terms of the Agreement, including the loan repayment and period of affordability.

REFERENCE MATERIAL:

BAI #49, October 20, 2009
BAI #77, June 3, 2008

ATTACHMENTS INCLUDED AND/OR ON FILE:

On file with Clerk - Agreement for Reaffirmation

CAO ANALYST:

Dylan McCully