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**City of Las Cruces**<sup>®</sup>  
 PEOPLE HELPING PEOPLE

**Council Action and Executive Summary**

Item # 6      Ordinance/Resolution# 09-297      Council District: 3

**For Meeting of June 15, 2009**  
 (Adoption Date)

**TITLE:** A RESOLUTION AUTHORIZING THE WRITE-OFF OF A HOME INVESTMENT PARTNERSHIPS (HOME) PROGRAM LOAN FROM PROGRAM YEAR 2001 WITH LAS CRUCES AFFORDABLE HOUSING INCORPORATED (LCAHI) IN THE AMOUNT OF \$8,984.42.

**PURPOSE(S) OF ACTION:** Approve Resolution to write off uncollectable HOME loan with Las Cruces Affordable Housing Incorporated.

<b>Name of Drafter:</b> Jan Lauterbach <i>JL</i>		<b>Department:</b> Community Development <i>JL</i>		<b>Phone:</b> 528-3134	
<b>Department</b>	<b>Signature</b>	<b>Phone</b>	<b>Department</b>	<b>Signature</b>	<b>Phone</b>
Community Development	<i>JL</i>	528-3060	Budget	<i>Richard Y...</i>	541-2300
			Assistant City Manager	<i>[Signature]</i>	541-2271
Legal	<i>[Signature]</i>	541-2128	City Manager	<i>[Signature]</i>	541-2073

**BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:** In 2002, Las Cruces Affordable Housing Incorporated (LCAHI) applied and received notification of an award for U.S. Department of Housing and Urban Development (HUD) Section 811 funding. The HUD funds combined with other funding sources were used to construct Casa de Corazones, a 15 unit apartment complex for the mentally ill located on Stull Drive, providing a benefit to low- and moderate-income residents with disabilities in Las Cruces.

The City of Las Cruces has supported the development of this project by its dedication of HOME Investment Program (HOME) funds. Resolution No. 02-325 authorized Amendment Four of the 2001 Action Plan providing funds in support of a request allowing LCAHI access to up to \$10,000.00, in the form of a technical assistance loan, to be utilized for pre-development project costs. Resolution No. 03-191 amended the 2002 funding agreement between the City of Las Cruces and Las Cruces Affordable Housing Inc. to determine the repayment provisions for the technical assistance loan.

The City of Las Cruces has been notified that Las Cruces Affordable Housing Incorporated is now a non-functioning organization with no staff, causing an impediment to the project. According to 24 CFR section 92.301 (a)(3), the City of Las Cruces may waive repayment of the loan, in part or in whole, if there are impediments to project development that the participating jurisdiction determines are reasonably beyond the control of the borrower.

In order to alleviate financial burden of the project with LCAHI, this resolution is necessary to waive and write-off the technical assistance loan with a current balance of \$8,984.42 as of June 15, 2009.

**SUPPORT INFORMATION:**

<b>Fund Name / Account Number</b>	<b>Amount of Expenditure</b>	<b>Budget Amount</b>
2000-165115 (HOME Casa Loan Receivable)	\$8,984.42	\$8,984.42

1. Resolution
2. Attachment "A"- Resolution 02-325
3. Attachment "B"- Resolution 03-191
4. Attachment "C"- Copy of 24 CFR §92.301 (a)(3)

**OPTIONS / ALTERNATIVES:**

1. Vote YES and approve the Resolution authorizing the write-off of the HOME Program loan funding agreement between the City of Las Cruces and Las Cruces Affordable Housing Inc. This action will alleviate the financial burden of the project to the City of Las Cruces.
2. Vote NO and deny the Resolution to write-off the HOME Program loan funding agreement between the City of Las Cruces and Las Cruces Affordable Housing Inc. This action would cause financial hardship to Las Cruces Affordable Housing Inc. and the Casa de Corazones Project.
3. Modify the Resolution and vote YES to approve the modified Resolution.
4. Table or Postpone the Resolution and direct staff accordingly.

**RESOLUTION NO. 09-297****A RESOLUTION AUTHORIZING THE WRITE-OFF OF A HOME INVESTMENT PARTNERSHIPS (HOME) PROGRAM LOAN FROM PROJECT YEAR 2001 WITH LAS CRUCES AFFORDABLE HOUSING INCORPORATED (LCAHI) IN THE AMOUNT OF \$8,984.42.**

The City Council is hereby informed that:

**WHEREAS**, the City of Las Cruces Resolution No. 02-325 authorized Amendment Four of the 2001 Action Plan providing funds in support of a request allowing LCAHI access to up to \$10,000.00, in the form of a technical assistance loan, to be utilized for pre-development project costs in a HUD Section 811 grant application for construction of a fifteen unit housing development for mentally disabled persons known as Casa de Corazones; and

**WHEREAS**, the City of Las Cruces agreed, by Resolution 03-191, to amend the 2002 Funding Agreement between the City of Las Cruces and Las Cruces Affordable Housing Inc. to determine the repayment provisions for the technical assistance loan; and

**WHEREAS**, the original loan balance of \$9,988.20 has been paid down to a current principal balance of \$8,984.42 by Casa de Corazones, whom is not obligated by the funding agreement; and

**WHEREAS**, the City of Las Cruces has been notified that Las Cruces Affordable Housing Incorporated is now a non-functioning organization with no staff.

**NOW, THEREFORE**, Be it resolved by the governing body of the City of Las Cruces:

**(I)**

**THAT** the City of Las Cruces in accordance with 24 CFR §92.301(a)(3) may waive repayment of a HOME technical assistance loan, in part or in whole, if there are impediments to project development that the participating jurisdiction determines are reasonably beyond the control of the borrower.

(II)

THAT the City of Las Cruces has made the determination that have a non-functioning organization with no staff is indeed an impediment to the project.

(III)

THAT the Funding Agreement as approved under Resolution 02-325 and amended under Resolution 03-191, including all attachments and amendments thereto, between the City of Las Cruces and Las Cruces Affordable Housing Incorporated with a current balance of \$8,984.42, is hereby waived and written off through this Resolution, effective on June 15, 2009.

(IV)

THAT City staff is hereby authorized to do all deeds necessary in the accomplishment of the herein above.

DONE AND APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 2009.

APPROVED:

(SEAL)

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

VOTE:

Mayor Miyagishima: \_\_\_\_\_  
Councillor Silva: \_\_\_\_\_  
Councillor Connor: \_\_\_\_\_  
Councillor Archuleta: \_\_\_\_\_  
Councillor Small: \_\_\_\_\_  
Councillor Jones: \_\_\_\_\_  
Councillor Thomas: \_\_\_\_\_

Moved by: \_\_\_\_\_

Seconded by: \_\_\_\_\_

APPROVED AS TO FORM:

  
\_\_\_\_\_  
City Attorney

RESOLUTION NO. 02-325

**A RESOLUTION AUTHORIZING AMENDMENT FOUR OF THE 2001 ACTION PLAN, WHICH IS PART OF THE CONSOLIDATED PLAN OF THE CITY OF LAS CRUCES. THIS AMENDMENT PROVIDES FUNDING IN SUPPORT OF A HUD SECTION 811 HOUSING PROJECT (SUPPORTIVE HOUSING FOR THE DISABLED) BY LAS CRUCES AFFORDABLE HOUSING INCORPORATED.**

The City Council is informed that:

**WHEREAS**, the City of Las Cruces is required to carry out procedures as defined by the U.S. Department of Housing and Urban Development (HUD) regulations 24 CFR 92, et. al., for the determination of how HUD Block Grant funding, specifically HOME funds, will be allocated; and

**WHEREAS**, the 2001 HOME – Downpayment Assistance, Project Seven was programmed with \$25,000,00 that has been determined to be an ineligible project and is available for reallocation; and

**WHEREAS**, the City of Las Cruces desires to support the efforts by Las Cruces Affordable Housing Inc. (LCAHI) to pursue a Section 811 grant from HUD for the development of a housing project for the disabled of Las Cruces; and

**WHEREAS**, the additional funds are available through the reprogramming of the above mentioned item and is sufficient in amount to provide a technical assistance and site control loan equal to 10% of our total CHDO set-aside funds (\$10,345), with the remaining available to LCAHI in the form of a construction gap funding should the Section 811 grant be awarded to LCAHI; and

**WHEREAS**, LCAHI must be designated as a CHDO by the City Council by separate resolution in order to be eligible for these funds and the 811 project, if developed, would provide a benefit to low- and moderate-income residents with disabilities of Las Cruces.

**NOW, THEREFORE**, Be it resolved by the governing body of the City of Las Cruces:

(I)

THAT the 2001 Action Plan, part of the Consolidated Plan, for the City of Las Cruces, be amended and the corresponding entitlement funds be allocated, distributed, and used as provided for in Exhibit "A" (2001 Action Plan Amendment #4), attached hereto and made part of this Resolution.

(II)

THAT the Mayor, as the official representative of the City of Las Cruces, is hereby authorized to execute and transmit the 2001 Amended Action Plan to the U.S. Department of Housing and Urban Development.

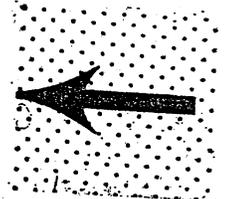
(III)

THAT City staff is hereby authorized to do all deeds necessary in the accomplishment of the herein above.

DONE AND APPROVED this 20th day of May, 2002.

APPROVED:

[Signature]  
Mayor Ruben A. Smith



[Signature]  
Mayor Pro Tem

ATTEST:

[Signature]  
Deputy City Clerk  
(SEAL)

VOTE:

Mayor Smith:            Aye  
Councillor Fietze            Aye  
Councillor Mattiace:            Aye  
Councillor Archuleta:            Aye  
Councillor Trowbridge:            Aye  
Councillor Strain:            Aye  
Councillor Miyagashima:            Aye

Moved by: Archuleta

Seconded by: Trowbridge

APPROVED AS TO FORM:

[Signature]  
City Attorney

RESOLUTION NO. 03-191**A RESOLUTION APPROVING AN AMENDMENT TO THE 2002 FUNDING AGREEMENT BETWEEN THE CITY OF LAS CRUCES AND LAS CRUCES AFFORDABLE HOUSING, INC.**

The City Council is hereby informed that:

**WHEREAS**, the City of Las Cruces is authorized by the U.S. Department of Housing and Urban Development (HUD) to determine how the City's Entitlement of HUD HOME Partnership Investment Program funding will be allocated; and

**WHEREAS**, the City has determined that affordable housing and home ownership opportunities for low- and moderate-income persons is a priority as outlined with the Consolidated Plan; and

**WHEREAS**, the City entered into an agreement with Las Cruces Affordable Housing, Inc. in June 2002 to provide project-specific technical assistance loan of up to \$10,000.00 for a HUD Section 811 housing development project for mentally ill persons; and

**WHEREAS**, the agreement needs to be amended to determine the repayment provisions for the technical assistance loan.

**NOW, THEREFORE**, be is resolved by the governing body of the City of Las Cruces, New Mexico:

**(I)**

**THAT** the Amendment to the Agreement between the City of Las Cruces and Las Cruces Affordable Housing, Inc., as shown in Exhibit "A" attached hereto and made part of this resolution, is hereby approved.

**(II)**

**THAT** the Mayor, as the official representative of the City, is hereby authorized to sign the said Amendment on the City's behalf.

(III)

THAT City Staff are hereby authorized to accomplish the herein above.

DONE and APPROVED this 6th day of January, 2003.

APPROVED:

Steve C. Trowbridge  
Mayor ~~Rubén A. Smith~~ *pro term*

ATTEST:

Shirley Clark  
City Clerk  
(SEAL)

VOTE:

Mayor Smith:	<u>aye</u>
Councillor Fietze:	<u>absent</u>
Councillor Mattiace:	<u>aye</u>
Councillor Archuleta:	<u>aye</u>
Councillor Trowbridge:	<u>aye</u>
Councillor Strain:	<u>aye</u>
Councillor Miyagishima:	<u>aye</u>

Moved by: Trowbridge

Seconded by: Miyagishima

APPROVED AS TO FORM:

By [Signature]  
Deputy City Attorney

### § 92.301 Project-specific Assistance to Community Housing Development Organizations

a. *Project-specific technical assistance and site control loans.*

1. *General.* Within the percentage specified in § 92.300(c), HOME funds may be used by a participating jurisdiction to provide technical assistance and site control loans

to community housing development organizations in the early stages of site development for an eligible project. These loans may not exceed amounts that the participating jurisdiction determines to be customary and reasonable project preparation costs allowable under paragraph (a)(2) of this section. All costs must be related to a specific eligible project or projects.

2. *Allowable costs.* A loan may be provided to cover project costs necessary to determine project feasibility (including costs of an initial feasibility study), consulting fees, costs of preliminary financial applications, legal fees, architectural fees, engineering fees, engagement of a development team, option to acquire property, site control and title clearance. General operational expenses of the community housing development organization are not allowable costs.
3. *Repayment.* The community housing development organization must repay the loan to the participating jurisdiction from construction loan proceeds or other project income. The participating jurisdiction may waive repayment of the loan, in part or in whole, if there are impediments to project development that the participating jurisdiction determines are reasonably beyond the control of the borrower.