

FORM APPROVED COUNTY COUNSEL 8/28/14
BY: GREGORY P. PRIAMOS
Department of Finance

**SUBMITTAL TO THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

440



FROM: Successor Agency to the Redevelopment Agency

SUBMITTAL DATE:
August 27, 2014

SUBJECT: Request by AMA Plastics to Approve a Subordination Agreement with Wells Fargo Bank, district 1/District 1, [\$0]

RECOMMENDED MOTION: That the Board of Supervisors:

1. Approve the Subordination Agreement as requested by AMA Plastics;
2. Authorize the Chairman of the Board of Supervisors to execute the attached Subordination Agreement; and
3. Authorize the Executive Director, or designee, to execute and take all necessary steps to administer the Subordination Agreement, including signing subsequent, necessary related documents to complete this transaction.

BACKGROUND:

Summary

(Commences on Page 2)

Alex Gann

Alex Gann
Deputy County Executive Officer

FINANCIAL DATA	Current Fiscal Year:	Next Fiscal Year:	Total Cost:	Ongoing Cost:	POLICY/CONSENT (per Exec. Office)
COST	\$ 0	\$ 0	\$ 0	\$ 0	Consent ☐ Policy ☐
NET COUNTY COST	\$ 0	\$ 0	\$ 0	\$ 0	

SOURCE OF FUNDS: N/A

Budget Adjustment: No

For Fiscal Year: 2014/15

C.E.O. RECOMMENDATION:

APPROVE

BY: *George A. Johnson*
George A. Johnson

County Executive Office Signature

MINUTES OF THE BOARD OF SUPERVISORS

Prev. Agn. Ref.: 4.5 of 9/14/10,

District: 1/1

Agenda Number:

4-6

SUBMITTAL TO THE BOARD OF SUPERVISORS, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA

Successor Agency to the Redevelopment Agency

FORM 11: Request by AMA Plastics to Approve a Subordination Agreement with Wells Fargo Bank,
District 1/District 1, [\$0]

DATE: August 27, 2014

Page 2 of 2

BACKGROUND:

Summary

In 2010, the Redevelopment Agency instituted an industrial loan program and the program's first loan was made to AMA Plastics (AMA) in the amount of \$2 million to facilitate the purchase of an industrial building in the Hunter Park industrial area of Riverside. The Redevelopment Agency loan was only a portion of the financing that AMA Plastics secured for the acquisition of their building. The security for the Redevelopment Agency loan includes a lien on the industrial building they purchased in Riverside and a lien on the principal residence of AMA's Chief Executive Officer. In addition to the Redevelopment Agency loan, AMA secured financing from Comerica Bank (First Deed of Trust) and the Small Business Administration (Second Deed of Trust) to complete the transaction. The Redevelopment Agency loan is in Third position. The total project cost was approximately \$11-12 million including building acquisition and tenant improvement costs.

AMA has made a change in their banking relationship and wishes to refinance their \$4.3 million in debt from Comerica Bank with Wells Fargo Bank. This refinancing opportunity will allow AMA to take advantage of more favorable interest rates, thus, reducing their debt payments. AMA is only refinancing the existing debt and is not taking any cash out of the transaction.

Since Redevelopment Agencies no longer exist, the Successor Agency to the Redevelopment Agency is servicing the existing loan. The terms provide for one-half of the loan (\$1 million) to have a ten-year repayment schedule at 4% interest. The current balance on this portion of the loan is approximately \$717,000 and AMA is current on its payments to the Successor Agency. The second half of the loan is forgivable over a five-year period, in \$200,000 increments, provided they maintain an employment level of 150 full-time employees. AMA has consistently exceeded this requirement and currently employs over 200 full-time employees and nearly another 200 composite full-time employees. Thus far, as of the conclusion of the first three-years of the loan schedule, \$600,000 of the loan amount has been forgiven. If AMA continues to meet the requirement, it is expected the remaining \$400k will be forgiven over the next two years.

To complete the refinancing with Wells Fargo Bank, AMA and Wells Fargo are requesting that the Successor Agency formally subordinate its lien on the property to maintain a junior lien position to the proposed first deed of trust position Wells Fargo will have upon refinancing the loan currently with Comerica Bank. This action does not change the Successor Agency's position on the debt; it is simply a formal action to facilitate the refinancing. County Counsel has reviewed the attached Subordination Agreement and has approved as to form.

Impact on Residents and Businesses

The approval of this agreement will allow AMA Plastics to refinance their debt to more favorable terms which will assist them in reducing their debt payments, allowing greater cash flow to maintain its existing workforce.

SUPPLEMENTAL:

Additional Fiscal Information

Not applicable

Contract History and Price Reasonableness

Not applicable

ATTACHMENTS:

Attachment: Subordination Agreement

Recording Requested By,
And After Recording, Return To:
WELLS FARGO BANK,
NATIONAL ASSOCIATION
1700 Lincoln Street, 3rd Floor
MAC C7300-033
Denver, CO 80203
Attn: Loan Documentation

SUBORDINATION AGREEMENT
(DEED OF TRUST)

NOTICE: THIS SUBORDINATION AGREEMENT RESULTS IN YOUR SECURITY INTEREST IN THE REAL PROPERTY DESCRIBED HEREIN BECOMING SUBJECT TO AND OF LOWER PRIORITY THAN THE LIEN OF SOME OTHER OR LATER SECURITY INSTRUMENT.

THIS SUBORDINATION AGREEMENT (this "Agreement") is entered into as of _____, 2014, by and among AMA PLASTICS, INC., a California Corporation, the owner of the real property described below ("Owner"), SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY FOR THE COUNTY OF RIVERSIDE, A PUBLIC BODY, CORPORATE AND POLITIC ("Beneficiary"), which is the present owner and holder of the Subordinated Deed of Trust defined below and which is the successor to the Redevelopment Agency For the County of Riverside, a Public Body, Corporate and Politic, and WELLS FARGO BANK, NATIONAL ASSOCIATION ("Bank").

RECITALS

A. AMA PLASTICS, INC., a California Corporation executed a deed of trust dated as of October 29, 2010, to FIRST AMERICAN TITLE INSURANCE CO., as Trustee, and for the benefit of Beneficiary (said deed of trust was initially for the benefit of the Redevelopment Agency For the County of Riverside, a Public Body, Corporate and Politic, which as indicated above was the predecessor to Beneficiary (the "Subordinated Deed of Trust"), to secure a promissory note dated as of October 29, 2010, in the principal amount of \$2,000,000.00 and payable to the Redevelopment Agency For the County of Riverside, a Public Body, Corporate and Politic, which Subordinated Deed of Trust was recorded on October 29, 2010, as Instrument (Serial) No. 2010-0520266, of the Official Records of Riverside County, California, and covers the real property described on Exhibit A attached hereto and incorporated herein by this reference (the "Property").

B. Bank has made, or will hereafter make, a loan to Owner in the principal amount of \$_____ (the "Bank Loan"), evidenced by a promissory note dated as of _____, 2014, and payable to the order of Bank with interest and upon the terms and conditions described therein, which promissory note is or will be secured by a deed of trust covering the Property (the "Bank Deed of Trust").

C. It is a condition of Bank making or continuing the Bank Loan that the security of the Bank Deed of Trust be and at all times remain a lien or charge on the Property prior and superior to the lien or charge of the Subordinated Deed of Trust thereon.

NOW, THEREFORE, for valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agrees as follows:

1. SUBORDINATION.

(a) Subordination. The Bank Deed of Trust and any and all extensions, renewals, modifications or replacements thereof shall be and at all times remain a lien or charge on the Property prior and superior to the Subordinated Deed of Trust. Beneficiary intentionally and unconditionally waives, relinquishes and subordinates the priority and superiority of the lien or charge of the Subordinated Deed of Trust to the lien or charge on the Property of the Bank Deed of Trust; provided however, that Beneficiary is only subordinating the Subordinated Deed of Trust to the Bank Deed of Trust to the extent the Bank Deed of Trust secures (i) principal in the amount of \$_____, (ii) interest, (iii) obligations and liabilities under any interest rate swap agreement that is entered into between Bank and Owner in connection with the Bank Loan, (iv) fees, costs and expenses, including without limitation reasonable attorneys fee, at any time owing to Bank from Owner in connection with the Bank Loan, and (v) advances at any time made by Bank to protect its rights and interests in the Property and/or the value of the Property, including advances made to pay off liens or encumbrances against the Property or to preserve and protect the Property.

(b) Reliance. Beneficiary acknowledges that Bank, in extending or continuing to extend credit to Owner secured by the Property, including the Bank Loan, is doing so in material reliance on this Agreement.

(c) Endorsement. Beneficiary has placed an endorsement on the promissory note secured by the Subordinated Deed of Trust stating that it has, by this instrument, been subordinated to the lien or charge of the Bank Deed of Trust.

(d) Acknowledgments of Beneficiary. Beneficiary acknowledges that it has such information with respect to the Bank Loan, and any promissory note and other loan documents executed in connection therewith, as Beneficiary deems necessary in order to grant this subordination. Beneficiary further agrees that Bank is under no obligation or duty to, nor has Bank represented that it will, see to the application of any Bank Loan proceeds by any person or entity, and any application or use of such proceeds for purposes other than those for which they were intended shall not defeat this subordination.

(e) Entire Agreement. This Agreement constitutes the whole and only agreement between the parties hereto with regard to the subordination of the Subordinated Deed of Trust to the lien or charge of the Bank Deed of Trust; there are no agreements (written or oral) outside or separate from this Agreement with respect to the subject matter hereof; and all prior negotiations with respect thereto, if any, are merged into this Agreement. This Agreement shall supersede and cancel, but only insofar as would affect the priority between the Subordinated Deed of Trust and the Bank Deed of Trust, any prior agreements as to such subordination, including without limitation those provisions, if any, contained in the Subordinated Deed of Trust which provide for the subordination thereof to the lien of a deed of trust or mortgage affecting all or any portion of the Property.

2. MISCELLANEOUS.

(a) Notices. All notices, requests and demands which any party is required or may desire to give to any other party under any provision of this Agreement must be in writing delivered to each party at the address set forth below its signature, or to such other address as any party may designate by written notice to all other parties. Each such notice, request and demand shall be deemed given or made as follows: (i) if sent by hand delivery, upon delivery; (ii) if sent by mail, upon the earlier of the date of receipt or three (3) days after deposit in the U.S. mail, first class and postage prepaid; and (iii) if sent by telecopy, upon receipt.

(b) Costs, Expenses and Attorneys' Fees. If any party hereto institutes any arbitration or judicial or administrative action or proceeding to enforce any provisions of this Agreement, or alleging any breach of any provision hereof or seeking damages or any remedy, the losing party or parties shall pay to the prevailing party or parties all costs and expenses, including reasonable attorneys' fees (to include outside counsel fees and all allocated costs of such prevailing party's in-house counsel), expended or incurred by the prevailing party or parties in connection therewith, whether incurred at the trial or appellate level, in an arbitration proceeding or otherwise, and including any of the foregoing incurred in connection with any bankruptcy proceeding (including without limitation, any adversary proceeding, contested matter or motion brought by Bank or any other person) relating to Owner, Beneficiary or any other person or entity.

(c) Further Assurances. At the request of any party hereto, each other party shall execute, acknowledge and deliver such other documents and/or instruments as may be reasonably required by the requesting party in order to carry out the purpose of this Agreement, provided that no such document or instrument shall modify the rights and obligations of the parties provided herein.

(d) Successors; Assigns; Amendment. This Agreement shall be binding upon and inure to the benefit of the heirs, executors, administrators, legal representatives, successors and assigns of the parties. This Agreement may be amended or modified only in writing signed by all parties hereto.

(e) Severability of Provisions. If any provision of this Agreement shall be held to be prohibited by or invalid under applicable law, such provision shall be ineffective only to the extent of such prohibition or invalidity, without invalidating the remainder of such waiver or other provision or any remaining provisions of this Agreement.

(f) Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute and be construed as one and the same instrument.

(g) Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of California.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first above written.

OWNER:

BANK:

AMA PLASTICS, INC., a California Corporation

WELLS FARGO BANK,
NATIONAL ASSOCIATION

By: _____
MARK ATCHISON,
CHIEF EXECUTIVE OFFICER, SECRETARY

By: _____
TERRENCE C. TRUDO,
RELATIONSHIP MANAGER

Address: 1100 Citrus Street
Riverside, CA 92507

Address: 4141 Inland Empire Boulevard, Suite 350
Ontario, CA 91764

NOTICE: THIS SUBORDINATION AGREEMENT CONTAINS A PROVISION WHICH MAY ALLOW THE PERSON OBLIGATED ON YOUR REAL PROPERTY SECURITY TO OBTAIN A LOAN A PORTION OF WHICH MAY BE EXPENDED FOR OTHER PURPOSES THAN IMPROVEMENT OF THE LAND.

BENEFICIARY:

**SUCCESSOR AGENCY TO
THE REDEVELOPMENT AGENCY
FOR THE COUNTY OF RIVERSIDE**

Jeff Stone, Chairman
Board of Supervisors

Address: _____

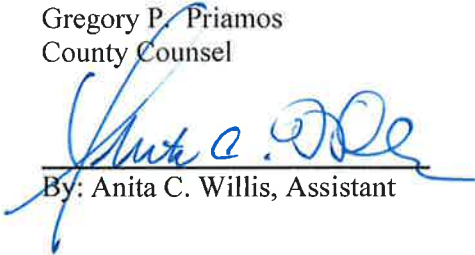
ATTEST:

Kecia Harper-Ihem
Clerk of the Board

Deputy

APPROVED AS TO FORM:

Gregory P. Priamos
County Counsel


By: Anita C. Willis, Assistant

OBTAIN NOTARY ACKNOWLEDGMENTS

EXHIBIT A
TO
SUBORDINATION AGREEMENT
(DEED OF TRUST)

Legal Description of Property:

Parcel 1 of Parcel Map No. 34195, in the City of Riverside, County of Riverside, State of California, as shown on Map filed in Book 221, Pages 93 to 96 inclusive of Parcel Maps, records of said County.

APN: 247-170-042-7

RECORDING REQUESTED BY
FIRST AMERICAN TITLE COMPANY
NATIONAL COMMERCIAL SERVICES
COMMERCIAL/INDUSTRIAL DIVISION

DOC # 2010-0520266

10/29/2010 08:00A Fee:NC

Page 1 of 4

Recorded in Official Records
County of Riverside

Larry W. Ward

Assessor, County Clerk & Recorder

DEED OF TRUST

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

Redevelopment Agency for the County of
Riverside
3403 10th Street, Suite 500
Riverside, California 92501
Attention: Executive Director

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This document is exempt from the payment of a recording
fee pursuant to Government Code Section 6103 and 27383.

DEED OF TRUST AND ASSIGNMENT OF RENTS

This **DEED OF TRUST WITH ASSIGNMENT OF RENTS** (this "Deed of Trust"), is made as of 10-29, 2010, by and among **AMA PLASTICS, INC.**, a California corporation (the "Trustor"), whose address is 1100 Citrus Avenue, Riverside, California 92507, **First American Title Insurance Co.** (the "Trustee"), whose address is 5 First American Way, Santa Ana, CA 92707, and the **REDEVELOPMENT AGENCY FOR THE COUNTY OF RIVERSIDE**, a public body, corporate and politic (the "Beneficiary"), whose address is 3403 10th Street, Suite 500, Riverside, California 92501.

WITNESSETH: that Trustor grants to Trustee in Trust, with Power of Sale, that property in the City of Riverside, the County of Riverside, State of California, that is described in Attachment No. 1, attached hereto and by this reference incorporated herein (the "Property");

Together with the rents, issues and profits thereof, subject, however, to the right, power and authority hereinafter given to and conferred upon Beneficiary to collect and apply such rents, issues and profits.

For the purpose of securing (1) Payment of indebtedness in the principal amount of \$2,000,000.00 together with interest thereon according to and as set forth in the certain Note from AMA Plastics, Inc. (the "Participant") to the Beneficiary of even date herewith (which repayment may be made by credit pursuant to the terms of such promissory note); (2) Payment of any sums advanced by Beneficiary to protect the Security pursuant to the terms and provisions of this Deed of Trust following a breach of Trustor's obligation to advance said sums and the expiration of any applicable cure period and upon fifteen (15) business days notice to the Trustor, with interest thereon as provided herein; (3) Payment of such additional sums and interest thereon which may hereafter be loaned to Trustor or, with the prior consent of Trustor, to the Participant, or its successors or assigns, by Beneficiary, when evidenced by a promissory note or notes or other documents reciting that they are secured by this Deed of Trust; and (4) Performance of every obligation, covenant or agreement of Trustor contained herein, in the Note (and any amendments thereto) in that certain Loan Agreement between the Participant and the Beneficiary dated as of September 14, 2010, a copy of which is on

This Deed of Trust is Third and Subordinate to a First and Second Deed of Trust securing an indebtedness of \$4,726,000.00 and \$3,726,000.00 recording concurrently herewith.

C-1

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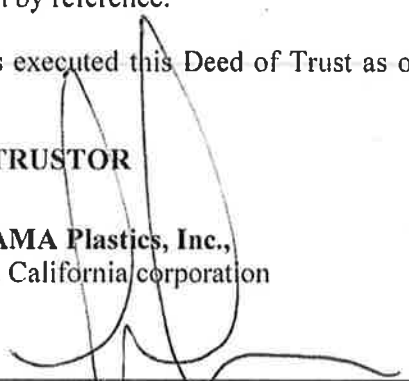
file with the Agency as a public record (the "Loan Agreement") and any amendments thereto, and in the "Maintenance Agreement" (Exhibit E to the Loan Agreement), and any amendments thereto.

To protect the security of this Deed of Trust, and with respect to the property above described, Trustor expressly makes each and all of the agreements, and adopts and agrees to perform and be bound by each and all of the terms and provisions set forth in subdivision A, and it is mutually agreed that each and all of the terms and provisions set forth in subdivision B of the fictitious deed of trust recorded in Riverside County, August 18, 1964, in Book 3778, Page 347 of the Official Records of the County Recorder of the County of shall inure to and bind the parties hereto, with respect to the property above described. Said agreements, terms and provisions contained in said subdivision A and B, (identical in all counties), are by the within reference thereto, incorporated herein and made a part of this Deed of Trust for all purposes as fully as if set forth at length herein, and Beneficiary may charge for a statement regarding the obligation secured hereby, provided the charge therefor does not exceed the maximum allowed by law. This Deed of Trust further includes Attachment No. 1 hereto, which is attached hereto and incorporated herein by reference.

IN WITNESS WHEREOF, Trustor has executed this Deed of Trust as of the day and year first above written.

TRUSTOR

AMA Plastics, Inc.,
a California corporation



By: Mark Atchison
Its: Chief Executive Officer

STATE OF CALIFORNIA

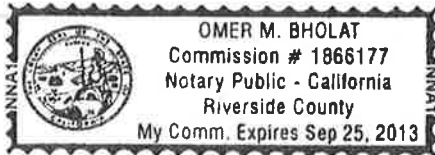
COUNTY OF Riverside

)
) ss.
)

On September 23, 2010, before me, Omer M Bholat, Notary Public,
(Print Name of Notary Public)
personally appeared Mark Atchison

who 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.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.



WITNESS my hand and official seal.

[Signature]
Signature of Notary Public

OPTIONAL

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

CAPACITY CLAIMED BY SIGNER

- ☐ Individual
☐ Corporate Officer

Title(s)

- ☐ Partner(s) ☐ Limited
 ☐ General
☐ Attorney-In-Fact
☐ Trustee(s)
☐ Guardian/Conservator
☐ Other: _____

Signer is representing:
Name Of Person(s) Or Entity(ies)

DESCRIPTION OF ATTACHED DOCUMENT

Title Or Type Of Document

Number Of Pages

Date Of Documents

Signer(s) Other Than Named Above

ATTACHMENT NO. 1 TO EXHIBIT "C"

LEGAL DESCRIPTION

Parcel 1 of Parcel Map No. 34195, in the City of Riverside, County of Riverside, State of California, as shown on Map filed in Book 221, Pages 93 to 96 inclusive of Parcel Maps, records of said County.

APN: 247-170-042-7