



Staff Report

Agenda Item: **CONSIDERATION OF RESOLUTION NUMBER _____, AUTHORIZING THE MAYOR AND COUNCIL TO APPROVE THE RECEIPT OF PAYMENT FROM ARCH INSURANCE COMPANY** – Discussion and consideration of Resolution # _____, a Resolution authorizing the Mayor and Council to receive payment from Arch Insurance Company in the amount of \$150,572.04 and authorization to release and exonerate the ARCH insurance bond.

Staff Contact: Sherry Bailey, Community Development Director

Meeting Date: October 28, 2008

Background: Council has reviewed the settlement agreement with ARCH Insurance Company. This resolution is authorizing the Town to accept payment of the settlement.

Recommendation: Approval of Resolution # _____, authorizing the receipt of ARCH Performance Bond funds in the amount of \$150,572.04 for Phase I items at Mountain Gate Subdivision, covered by Arch Insurance Company Bond releasing and exonerating ARCH Insurance Company.

RESOLUTION # _____

A RESOLUTION OF THE MAYOR AND COUNCIL, TOWN OF CLARKDALE, YAVAPAI COUNTY, ARIZONA AUTHORIZING THE RECEIPT OF ARCH INSURANCE COMPANY PERFORMANCE BOND FUNDS ON THE MOUNTAIN GATE SUBDIVISION PROJECT AND AUTHORIZATION TO RELEASE AND EXONERATE ARCH INSURANCE COMPANY FROM FURTHER LIABILITY ON SAID PROJECT

WHEREAS, the Town of Clarkdale entered into a Development Agreement with Empire Residential Construction, L.P. for the development of a subdivision to be know as Mountain Gate, and

WHEREAS, Empire Residential Construction, L.P. acquired a Faithful Performance Subdivision Bond from ARCH INSURANCE COMPANY (ARCH), No. SU5013728, for the project in the amount of Three Million Eleven Thousand Four Hundred Forty and 83/100 Dollars (\$3,011,440.83), and

WHEREAS, the Town of Clarkdale filed a Notice of default of Empire Residential Construction, L.P. March 6, 2008, and

WHEREAS, Empire Residential Construction, L.P. filed for Chapter 11 Bankruptcy In the United States Bankruptcy Court, Central District of California, Riverside Division, Case No.: 6:08-14592 MJ, and

WHEREAS, ARCH has acknowledged its obligation under the aforesaid Performance Bond to either complete the project or pay to the Town of Clarkdale the remaining penal sum on the Performance Bond of One Hundred Fifty Thousand Five Hundred Seventy Two and 04/100 (\$ Dollars 150,572.04) for the incomplete work and/or defective work, said funds to be used by the Town toward the cost of completing of the bonded project improvements.

NOW, THEREFORE, BE IT RESOLVED THAT the Mayor and Town Council of the Town of Clarkdale accept the sum of One Hundred Fifty Thousand Five Hundred Seventy Two and 04/100 Dollars (\$150,572.04) as full payment of the amount due from ARCH under the Performance Bond No. SU5013728 issued for the project and further agree to execute a full release and exoneration of Performance Bond No. SU5013728 to ARCH INSURANCE COMPANY.

Passed and adopted by the Mayor and the Town Council of the Town of Clarkdale this 28th day of October, 2008.

ATTEST:

Doug Von Gausig, Mayor

Kathy Bainbridge, Town Clerk

APPROVED AS TO FORM

Robert S. Pecharich, Town Attorney