



Berkeley Housing Authority

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Office of the Executive Director

Item 5D
NEW BUSINESS
February 14, 2013

To: Honorable Chairperson and
Members of the Berkeley Housing Authority Board

From: Tia M. Ingram, Executive Director

Subject: Satisfaction of the Relocation Contingency in the Disposition Development and Loan Agreement with "Berkeley 75 Housing Partners, L.P." – BHA's 75 Family Rental Units

RECOMMENDATION

Adopting a Resolution acknowledging that the Relocation Contingency in the Disposition Development and Loan Agreement with "Berkeley 75 Housing Partners, L.P.", the Limited Partnership of the Related Company of California, that will hold title to BHA's 75 family rental units has been satisfied.

BACKGROUND

On March 8, 2012, the Board adopted the staff recommendation to execute a Disposition Development and Loan Agreement (DDLA) with the Related Companies of California. Under the DDLA both parties expressed an interest in consummating the transfer of the units, and as a good faith measure, agreed to perform certain tasks by a certain date. We have always acknowledged that the project was complicated by the fact that (1) the units are occupied, (2) a large number of current residents require one or two bedrooms to be adequately housed, (3) the average tenancy is in excess of ten years, and (4) complex rental regulations vis-à-vis the local Rent Control Ordinance. A critical condition of the DDLA is the Relocation Contingency, that required relocation of the residents that required a one or two bedroom unit to be adequately housed.

This Relocation Contingency is critical in that it determines the number of the 75 units that can have a Project Based voucher overlaid, and thus (1) the amount of debt the project can carry, and (2) the potential proceeds to BHA.

STATUS

As a good faith effort, concurrent with the execution of the DDLA (approved by the Board on March 8, 2012) the Related Company provided BHA an initial payment of \$100,000. These funds have been held in escrow, pending satisfaction of the Relocation Contingency.

All parties concerned have worked diligently to relocate any family that sought to move off site, and in particular those households that qualify for one or two bedroom assistance with or without Section 8 Tenant Based assistance. I am pleased to report that with regard to the relocation of

households qualifying for one or two bedrooms, both parties acknowledge that sufficient progress has been made to release the Relocation contingency.

Staff is working with Overland, Pacific and Cutler to secure written commitments from the households that vyiied for one of the two bedroom units in the project, post disposition. We are also closely tracking the remaining households that need to relocate off-site, and are confident that we can meet the December 31st deadline. If the Board approves the release of the Relocation Contingency, Related will release the \$100,000 held in escrow, and begin in earnest their due diligence, including expenditure of considerable funds.

FINANCIAL IMPLICATIONS OF RECOMMENDATION

BHA will receive the \$100,000 held in escrow for BHA for relocation expenses. Should BHA not relocate the remaining over-housed families by December 2013, there could be a significant impact on the anticipated cash proceeds.

CONTACT PERSON

Tia M. Ingram, Executive Director, (510) 981-5471
Jesy Yturralde, Finance Manager

Attachments:

1. Resolution

BERKELEY HOUSING AUTHORITY
RESOLUTION NO. 13-_____

AUTHORIZING THE EXECUTIVE DIRECTOR TO EXECUTE A RELEASE OF THE PRELIMINARY RELOCATION CONTINGENCY IN THE DISPOSITION DEVELOPMENT AND LOAN AGREEMENT WITH BERKELEY 75 HOUSING PARTNERS, L.P.

WHEREAS, the Berkeley Housing Authority executed a Memorandum of Agreement with the U.S. Department of Housing and Urban Development (“HUD”) that required the BHA to rehabilitate its sixty-one (61) Low Income Public Housing (“LIPH”) rental units to an acceptable level by August 2009 or submit an Inventory Removal Application to HUD; and

WHEREAS, BHA’s annual Capital Fund allocation from HUD was insufficient to fund the required repairs of the LIPH units; and

WHEREAS, BHA submitted an Inventory Removal Application to HUD in December 2009, and received approval from HUD in December 2010 (the “HUD Disposition Approval”), the first step in conveying ownership of the LIPH units; and

WHEREAS, on May 2, 2011, BHA issued a Request for Proposals (“RFP”) for a developer to acquire and rehabilitate the Units and preserve them long-term as affordable rental housing; and

WHEREAS, on September 8, 2011 the BHA Board of Commissioners, pursuant to Resolution No.11-38, authorized the Executive Director to enter into an Exclusive Negotiating Rights Agreement (“ENRA”) with The Related Companies of California, LLC (“Related”), one of two developers that submitted a proposal in response to the RFP; and

WHEREAS, the purpose of the ENRA was to provide a time frame for BHA and Related to negotiate the terms of a Disposition Development and Loan Agreement (“DDLA”), pursuant to which the Units would be acquired by a Related-affiliated entity that will rehabilitate the units and preserve them as rental housing affordable to households at or below fifty percent (50%) of Area Median Income; and

WHEREAS, Related has formed Berkeley 75 Housing Partners, L.P. (the “Developer”), to enter into the DDLA with BHA, to lease the land and to own the improvements, and to rehabilitate the Units; and

WHEREAS, on March 8, 2012, BHA entered into the DDLA with the Developer, pursuant to which Developer will acquire a leasehold interest in the land and a fee interest in the improvements and will rehabilitate the units as rental housing affordable to households with incomes at or below fifty percent (50%) of Area Median Income (the “Project”); and

WHEREAS, the DDLA includes a Preliminary Relocation Contingency requiring BHA to complete the relocation of households requiring a one or two bedroom unit to be adequately housed; and

WHEREAS, both parties have reviewed the status of relocation activity, and are confident that the remaining households that need to move, can be relocated by December 31, 2013.

NOW, THEREFORE, be it resolved by and that the Board of Commissioners of the Berkeley Housing Authority, authorizes the Executive Director to execute an agreement with Berkeley Housing Partners 75, L.P., acknowledging that the Preliminary Relocation Contingency has been satisfied;

The foregoing Resolution was adopted by the Board of Commissioners of the Berkeley Housing Authority on February 14, 2013 by the following vote:

Ayes:

Noes:

Abstain:

Absent:

Attest:

Tia M. Ingram, Secretary