



Berkeley Housing Authority

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Office of the Executive Director

Item 6D

NEW BUSINESS

May 10, 2012

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

From:  J. M. Ingram, Executive Director

Subject: Authorizing the Executive Director to extend the contract with EJP/Praxis through December 31, 2012; no increase in contract authority

RECOMMENDATION

Authorizing the Executive Director to execute a fourth amendment to the EJP/Praxis contract, extending the term through December 31, 2012.

BACKGROUND

BHA executed a Memorandum of Agreement (MOA) with the U.S. Department of Housing and Urban Development (HUD) in 2009 that required improvements in the management and physical condition of the 61 federally funded Low Income Public Housing units. Specifically, BHA was required to develop a plan (including financing) to rehabilitate the units, or dispose of the units by June 30, 2010. Unfortunately, some 16 months after the anticipated completion date – the project is not yet complete, and is not likely to be completed for another 12 months or more.

A disposition project is not a routine function for any public housing authority, and certainly not for an agency of our size. In fact, many larger Housing Authorities, with development staff, often contract for additional resources for larger, more complicated projects, or to supplement staff availability. We lack the internal expertise for such a project, and given that it will never be duplicated, it does not seem prudent to attempt to develop the expertise. Thus, we have relied on consultants to assist us.

EJP/Praxis responded to BHA's 2009 solicitation for a consultant to evaluate options for addressing the requirements in the MOA, and was awarded the contract. The first contract with EJP/Praxis had a term of March 26, 2009 – June 30, 2009 (Phase 1) and the second contract has an original term of October 1, 2009 – December 31, 2010 (Phase 2, extended three times now through June 30, 2012).

EJP/Praxis has remained a critical player on the project, revising the Strategic Plan (March 2009); making an additional presentation to the BHA Board in April 2010 for newly appointed Board Members; assisting with the Inventory Removal Application; assisting with the development, evaluation and scoring of proposals from prospective developers (May 2011). In the second contract (the current contract), they are tasked to *assist* BHA in: identifying a Development Partner, including preparation of a draft and final developer Request for Qualification (RFQ), negotiating a best and final offer, review of the business terms of the Development agreement, and review of the master development agreement (October 2009-December 31, 2011).

On November 17, 2011 this contract was amended for additional services that included assisting BHA in negotiating Terms of agreement and monitor developer progress through construction start increasing contract amount by \$38,200 and extending the EJP/Praxis completed all of the major tasks in the original contracts: Inventory Removal Application, Developer RFP and Procurement Process, and negotiating the DDA (Disposition Development Loan Agreement).

EJP/Praxis has provided BHA invaluable assistance throughout this project, meeting or exceeding all expectations in terms of tangible deliverables, and providing technical assistance. It is important to note that while EJP/Praxis has always worked under a "fixed-fee" contract, it estimated that BHA has benefitted from over 160 hours on this contract. It is difficult to determine when a task defined as "*assist*" is completed. Although one could argue that EJP/Praxis should be required to complete the project (by *assisting* BHA through execution of the Development agreement) – regardless of the hours required, it is not disputed that the project has taken much longer than anticipated, and that EJP/Praxis has not demanded payment outside the contract, nor have they reduced or limited their contributions to the project.

STATUS

There is currently a balance of \$38,200 on the existing contract. We anticipate that approximately \$20,000 will be billed this fiscal year and the remainder in the coming fiscal year. It is important to note that one or both members of EJP Consulting team have traveled to Berkeley on five occasions to attend various meetings, and serve as lead negotiator in a weekly teleconference with the Related Company during this "due diligence" period leading up to closing and transfer of the property - consummation of the deal.

FINANCIAL IMPLICATIONS

None

CONTACT PERSONS

Tia M. Ingram, Executive Director, (510) 981-5471
Carole Norris, Chair

Attachment: Resolution

BERKELEY HOUSING AUTHORITY
RESOLUTION NO 12-_____

AUTHORIZING THE EXECUTIVE DIRECTOR TO EXECUTE A FOURTH AMENDMENT TO THE OCTOBER 1, 2009 CONTRACT WITH EJP/PRAXIS, PLANNING CONSULTANT FOR THE PUBLIC HOUSING DISPOSITION PROJECT, EXTENDING THE TERM THROUGH DECEMBER 31, 2012

WHEREAS, Berkeley Housing Authority was party to a Memorandum of Agreement (MOA) with the U.S. Department of Housing and Urban Development (HUD) that required certain goals be met within specific time frames; and

WHEREAS, the MOA required BHA to achieve "Standard" performer in the Public Housing Program, or submit a "disposition application" to HUD on or before December 31, 2009; and

WHEREAS, BHA, unable to achieve the "Standard" certification, engaged in a competitive process to procure a consultant to identify the options BHA could consider under a disposition project; and

WHEREAS, in December 2009, BHA submitted an "Inventory Removal Application" to the U.S. Department of Housing and Urban Development for the 61 units of Low Income Public Housing; and

WHEREAS, on December 22, 2010, HUD approved the Inventory Removal Application; and

WHEREAS, EJP/Praxis has assisted BHA in every phase of this project, including the current phase to select a developer; and

WHEREAS, EJP/PRAXIS Consulting is serving as lead agent for BHA in negotiations with the Related Company during the due diligence period, leading up to the transfer of the properties.

NOW, THEREFORE BE IT RESOLVED, that the Executive Director is authorized to amend the October 1, 2009 contract with EJP/Praxis extending the term through December 31, 2012.

The foregoing Resolution was adopted by the Board of the Berkeley Housing Authority on May 10, 2012 by the following vote:

Ayes:

Noes:

Abstain:

Absent:

Attest: _____
Tia M. Ingram, Secretary