



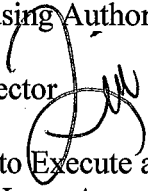
Berkeley Housing Authority

1901 Fairview St., Berkeley, CA 94703
Telephone: (510) 981 5470 Fax: (510) 981 5480

Office of the Executive Director

Item 5F
NEW BUSINESS
December 12, 2012

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

From: Tia M. Ingram, Executive Director 

Subject: Authorize Executive Director to Execute an Extension of the term of the
Disposition Development and Loan Agreement with "Berkeley 75 Housing
Partners, L.P." – BHA's 75 Family Rental Units

RECOMMENDATION

Authorize the Executive Director to execute an extension of the term of 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.

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 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.

Notwithstanding some slippage in the estimated project timeline, the parties have made good progress on the project, balancing the need to complete the project, and respect the human interest of our residents.

STATUS

Both parties remain committed to completing the project, and mutually agree to extend the term of the DDLA through November 15, 2013. An affirmative action of the Board this evening will serve to reiterate the strong commitment of the Board to the project.



BERKELEY HOUSING AUTHORITY
RESOLUTION NO. 12-_____

AUTHORIZING THE EXECUTIVE DIRECTOR TO EXECUTE AN EXTENSION TO THE TERM OF THE DISPOSITION DEVELOPMENT AND LOAN AGREEMENT ('DDLA') WITH "BERKELEY 75 HOUSING PARTNERS, L.P." – BHA's 75 FAMILY RENTAL UNITS

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., 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 Berkeley Housing Partners, L.P. ("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 certain actions to be taken by the parties thereto by date certain; and

WHEREAS, both parties remain committed to completing the project, and agree to an extension of the term of the DDLA.

NOW, THEREFORE, be it resolved by and that the Board of Commissioners of The Berkeley Housing Authority, acknowledge and concur with the decision of the Executive Director to extend the term of the DDLA with Berkeley 75 Housing Partners, LP through November 15, 2013.

The foregoing Resolution was adopted by the Board of Commissioners of the Berkeley Housing Authority on December 13, 2012 by the following vote:

Ayes:

Noes:

Abstain:

Absent:

Attest:

Tia M. Ingram, Secretary



21 November 2012

Ms. Tia Ingram
Executive Director
Berkeley Housing Authority
1901 Fairview Street
Berkeley, CA 94703

Re: Berkeley Scattered Site Housing Project
DDLA Extension

Dear Tia:

As we have described, the project is moving more slowly than anticipated and we believe it is in the best interest of both the Project, and the Berkeley Housing Authority, to delay the time for release of the Preliminary Relocation Contingency and the subsequent submission of the Updated Financing Plan. This letter confirms that by mutual agreement the Berkeley Housing Authority and Berkeley 75 Housing Partners, L.P. agree to extend the deadline for the release of the Preliminary Relocation Contingency, as defined in the Disposition, Development and Loan Agreement executed between the parties and dated March 8, 2012, until November 15, 2013.

Sincerely,

A handwritten signature in black ink, appearing to read 'Lydia Tan'.

Lydia Tan
Executive Vice President

Cc: Don Lusty, Related California

Acknowledged: _____
Tia Ingram, Executive Director

