

Mayor and Council Communication

DATE: 08/06/19

M&C FILE NUMBER: M&C 19-0011

LOG NAME: 19BERKELEYEXTENSION

SUBJECT

Authorize Amendment of City Secretary Contract No. 46559, a Tax Abatement Agreement with Berkeley Apartments Phase II, LLC Crest Berkeley TIC 1, LLC, Crest Berkeley TIC II, LLC and Crest Berkeley TIC III, LLC (COUNCIL DISTRICT 9)

RECOMMENDATION:

It is recommended that the City Council authorize the execution of an amendment of City Secretary Contract No. 46559, a Tax Abatement Agreement the City and Crest Berkeley TIC I, LLC, Crest Berkeley TIC II, LLC and Crest Berkeley TIC III, LLC (collectively, "Company") to revise the abatement beginning date, located at 2521 Frazier Avenue.

DISCUSSION:

On February 4, 2014, the City Council approved a five-year Tax Abatement Agreement (Agreement) with Park Ridge Multi-Family L.P., assigned to affiliate, Berkeley Apartments, Phase II, Company's predecessor in interest, related to the construction of a multi-family project with 310 residential units located at 2521 Frazier Avenue in the Berry/University Neighborhood Empowerment Zone Mayor and Council Communication (M&C C-26660), City Secretary Contract No. 46559 as amended by City Secretary Contract Nos. 46559-CA1 and 46559-CA2.

Per the Agreement, the Company and/or its predecessors were required to invest at least \$33,685,000 in real property improvements within thirty-six (36) months of Council approval. Under the Agreement, the Company must also reserve thirty-one (31) units as affordable houses for adjusted incomes at or below 80% of HUD's income limits for the Fort Worth-Arlington, TX metropolitan area. In addition, six units on property are required to be fully handicapped accessible with two (2) units being shall be fully accessible to persons with sensory impairments.

All of the required construction improvements at the project site have been completed. The Company has also acted in good faith to meet all annual commitments under the Agreement to date. Unbeknownst to the Company, Tarrant Appraisal District (TAD) requires any recipient of an abatement to also file an application with TAD in order for an abatement to be applied to the applicants tax bill. Because of this disconnect, Company did not file such an application for the 2018 tax year. As a result, Company did not receive the tax abatement for the 2018 tax year that both the City and Company expected in accordance with the Agreement.

In order to effectuate the parties' intent under the Tax Abatement Agreement, staff is recommending that the City and Company amend the Agreement to amend the Term of the Abatement to begin in 2019 and end in 2023 under which the City will provide a tax abatement to Company in an amount equal to the amount of the Abatement that both the Company and the City expected to be applied for the 2018 tax year. For 2019 and all remaining years in which Company is due an abatement, Company will submit the proper application to TAD, and the Tax Abatement Agreement will govern.

This project is located in COUNCIL DISTRICT 9.

FISCAL INFORMATION / CERTIFICATION:

The Director of Finance certifies that approval of the above recommendations will adjust the five year abatement period from 2018-2022 to 2019-2023 and shall be incorporated into the City's long-term financial forecast.

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