SAN RAFAEL
THE CITY WITH A MISSION

Agenda Item No: 5.b

Meeting Date: August 17, 2020

SAN RAFAEL CITY COUNCIL AGENDA REPORT

Department: Community Development

Prepared by: Ethan Guy, Principal Analyst

City Manager Approval: ______________

TOPIC: **AGREEMENT GRANTING TO CENTERTOWN II, LLC AN OPTION TO LEASE 855 C STREET**

SUBJECT: **RESOLUTION OF THE SAN RAFAEL CITY COUNCIL APPROVING AND AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGREEMENT GRANTING TO CENTERTOWN II, LLC AN OPTION TO LEASE THE REAL PROPERTY LOCATED AT 855 C STREET IN THE CITY OF SAN RAFAEL**

RECOMMENDATION:

Adopt resolution approving and authorizing the City Manager to execute the attached "Option to Lease," agreement, which grants Centertown II, LLC an option to lease the City-owned property at 855 C Street.

BACKGROUND:

Note, the following staff report has been compiled based upon due diligence analysis performed by Seifel Consulting, Inc. The complete due diligence analysis is provided as ***Attachment A****.*

Centertown Apartments is located at 855 C Street on a 0.98-acre lot in downtown San Rafael owned by the City of San Rafael. The property was a housing asset of the former San Rafael Redevelopment Agency (SRRA). The City also owns the adjoining property at 815 C Street.

The apartment building contains approximately 85,469 gross square feet of building area and is arranged around a central courtyard. Centertown provides 59 affordable family apartments– 17 one-bedroom units, 27 two-bedroom units, and 15 three-bedroom units. An onsite property manager occupies a two-bedroom manager's unit for a total of 60 units. Additionally, the property includes 102 parking spaces, including six offsite spaces on 815 C Street. Centertown residents may use these spaces under the terms of a recorded Declaration of Restrictions for as long as the property remains residential and parking is required by the City.

All of the residents of Centertown are lower income households, with many of them being extremely low income. The average household income of Centertown residents is about 32% of the Marin County Areawide Median Income (AMI).

FOR CITY CLERK ONLY

File No.: ______________________________

Council Meeting: ______________________

Disposition: ___________________________

Development Financial History

The property was originally planned as market rate condominiums, but the condominium development failed financially prior to construction completion. The SRRA collaborated with BRIDGE Housing and EAH Housing (BRIDGE/EAH) to acquire the property and redevelop it as 60 units of affordable rental housing.

As part of the project's financial structure, the City owns the land, and a BRIDGE/EAH-controlled limited partnership (Centertown Associated, Ltd) ground leases the property from the City and owns the Centertown building improvements. EAH is the property manager for the property.

The ground lease was originally recorded on November 30, 1989, and the term of the ground lease is 75 years. Three ground lease amendments have occurred since 1989 that amended specific sections related to the payment of ground rent given evolving financial conditions over time.

Current Development Status

While BRIDGE/EAH were able to redevelop the property into apartments in 1992 by incorporating the existing, partially built foundation, Centertown has unfortunately experienced subsequent construction related issues including significant problems related to water intrusion. BRIDGE/EAH commissioned Marx | OKUBO Associates to perform a Facility Condition Assessment of the property to determine its condition and the need for repairs to the building systems. The total estimated cost for the proposed improvements is approximately $10 million, which includes an approximately 10 percent hard cost contingency that is typical for rehabilitation of older properties.

BRIDGE/EAH are proposing to re-syndicate and refinance Centertown using tax exempt bonds and low income housing tax credits (LIHTC), in order to rehabilitate the property to address all immediate physical needs and establish reserves and cash flow to address future maintenance needs as they arise. All of the existing residents will be able to continue to reside in their apartments, although some residents could be temporarily moved depending on the extent of renovation in their units. These residents will be able to move back to their original unit once renovated.

ANALYSIS:

BRIDGE/EAH need a contractual option to enter a new ground lease in order to meet requirements for applying for tax credits and tax-exempt bond monies. Entering into a new ground lease will enable the proposed re-syndication and rehabilitation to occur, which will significantly improve the building improvements. As the City will ultimately receive the building improvements at the end of the lease, the rehabilitation will enhance the City's long-term asset. Any new ground lease will have to be approved by the City Council, but subject to the material terms agreed to in the Option.

Under a proposed ground lease option BRIDGE/EAH would form a new legal entity, Centertown II, LLC, that would serve as the Optionee. The proposed ground lease option (Attachment C) would enable BRIDGE/EAH and the City to negotiate a new lease under the following terms, which may be modified as the financing program is refined over the next few months:

- A new ground lease term of 99 years from the date of execution.
- $83,000 upfront ground lease payment based on a 2020 property appraisal that indicates the current land value is $83,000, due to existing regulatory restrictions on the property. (This amount would be paid to the City at closing).

- Payment of a $5,000 per year annual City monitoring fee, which could escalate at 3% per year after permanent financing is in place. This amount will be determined in collaboration with City staff based on experience with other projects, taking into account the size of this development.
- The ground lease language will be modernized in connection with the re-syndication, which will include a provision that the ground rent won't exceed the market value of the land.
- As described above, the consolidated City loan would be entered into at the same time.

FISCAL IMPACT:

The purpose of this report is to provide BRIDGE/EAH the option for them to obtain re-syndication and refinancing. There is no fiscal impact in adopting a resolution that approves and authorizes the City Manager to execute the attached "Option to Lease" agreement. Any fiscal impacts would occur upon the execution of a new ground lease, which would be negotiated upon BRIDGE/EAH successfully obtaining project re-syndication and refinancing and exercising this option. This new ground lease will have to be approved by the City Council.

OPTIONS:

The City Council has the following options to consider on this matter:

1. Adopt resolution
2. Adopt resolution with modifications.
3. Direct staff to return with more information.
4. Take no action.

RECOMMENDED ACTION:

Adopt resolution approving and authorizing the City Manager to execute the attached "Option to Lease" Agreement.

ATTACHMENTS:

1. San Rafael Centertown Apartments Due Diligence Analysis
2. Resolution
3. Exhibit A to Resolution

Memorandum

Date August 7, 2020

To: City of San Rafael

From: Seifel Consulting, Inc.

Subject: San Rafael Centertown Apartments Due Diligence

Seifel Consulting, Inc. (Seifel) has performed a due diligence analysis regarding a proposed ground lease amendment and funding request from BRIDGE Housing and EAH Housing (BRIDGE/EAH) that would substantially rehabilitate Centertown Apartments (Centertown) in downtown San Rafael. The current residents of Centertown are in substantial need of affordable housing as their incomes are significantly below typical household incomes in Marin County.

Prior to BRIDGE/EAH acquiring the site, the property was originally planned as condominiums, but the condominium development failed financially prior to construction completion. The City of San Rafael (City) and its former Redevelopment Agency collaborated with BRIDGE/EAH to acquire the property and redevelop it as 60 units of affordable rental housing. As part of the project's financial structure, the City owns the land, and a BRIDGE/EAH-controlled limited partnership (Centertown Associated Ltd) ground leases the property from the City and owns the Centertown building improvements. EAH is the property manager for the property.

While BRIDGE/EAH were able to redevelop the property into apartments in 1992 by incorporating the existing, partially built foundation, Centertown has unfortunately experienced subsequent construction related issues including significant problems related to water intrusion.. These problems, coupled with the overall age of the building, have resulted in the need for substantial ongoing investment out of operating cash flow. BRIDGE/EAH have requested and been granted the deferral of payments on the City's ground lease and outstanding promissory note, as well as loan payment deferrals from other soft lenders, to pay for needed repairs and increase replacement reserves to help pay for the proposed substantial rehabilitation of the property.

BRIDGE/EAH commissioned Marx | OKUBO Associates to perform a Facility Condition Assessment of the property to determine its condition and the need for repairs to the building systems. As will be further described below, the property is in significant need of repair given its age and construction type. BRIDGE/EAH are proposing to undertake rehabilitation improvements to the property as recommended in the Facility Condition Assessment and to provide additional building common area for residents and property management. The proposed re-syndication of the property and amendment to the ground lease is anticipated to leverage substantial funding from the State of California, County of Marin and private capital to holistically correct the property's waterproofing issues and to undertake other needed rehabilitation.

Both BRIDGE and EAH have a long history of developing, rehabilitating and managing affordable housing. As the property manager of Centertown, EAH provides a broad array of resident services and regularly communicates with residents. Once BRIDGE/EAH have been able to secure funding for the rehabilitation, they will provide information to the residents regarding the likely rehabilitation schedule and information regarding any temporary moves that households may need to make during the rehabilitation process. Alternative housing will be provided at no additional cost to residents who need to be temporarily relocated, and they will receive assistance with their move and will not have to pay any costs associated with the move or storage for personal belongings. The main focus will be to provide ample information and support to residents, as well as comfortable and convenient accommodations during any temporary moves.

In order to perform its due diligence analysis, Seifel analyzed a series of technical documents that were provided by City and BRIDGE/EAH staff and are referenced in this memorandum. Seifel also interviewed City staff and BRIDGE/EAH staff regarding specific elements of the proposed project and worked with staff and outside counsel to refine the proposed terms of the ground lease amendment and funding request to the City.

This memorandum is organized into the following sections:

A. Project Description
B. Existing Ground Lease
C. Existing City Loan and Other Financial Obligations
D. Proposed Rehabilitation Program
E. Proposed Funding Program and Ground Lease Modifications
F. Due Diligence Findings
G. Conclusion

The due diligence analysis in this memorandum documents why BRIDGE/EAH's proposed modifications to the ground lease and City loan requests are reasonable, and how they will help the City of San Rafael preserve and substantially rehabilitate an important source of affordable housing for local residents, consistent with the City's Housing Element goals. The proposed resyndication and rehabilitation program will improve the living environment for approximately 180 of the City's lower income residents and will leverage sufficient public and private funding to accomplish much needed repairs and building improvements that will enhance the City's long-term interests in the property.

A. Project Description

Centertown Apartments is located at 855 C Street on a 0.98-acre lot in downtown San Rafael owned by the City of San Rafael. The property was a housing asset of the former San Rafael Redevelopment Agency (SRRA). The City also owns the adjoining property at 815 C Street.

BRIDGE/EAH redeveloped the property into 60 affordable apartments in 1992 by incorporating an existing, partially completed foundation structure that was part of a former condominium development.[1] The former condominium developer declared bankruptcy before construction was complete, and the property was foreclosed in 1984 by the United States Bank. The foundations remained as they were constructed in 1983 until BRIDGE/EAH began construction on Centertown Apartments in the early 1990s.[2]

[1] For purposes of this memorandum, the use of the term BRIDGE/EAH refers to the Centertown legal entities that have developed and are proposing to rehabilitate and resyndicate the property.

[2] A detailed history of the development and key terms of the City's ground lease and loans are presented in the Centertown Deal Memo, which was prepared by Page Robbins Associates for the City of San Rafael on February 1, 2000. This is a major source of information that was used in this due diligence analysis, which was verified to the extent feasible with current City and BRIDGE/EAH staff, as well as outside counsel.

The apartment building contains approximately 85,469 gross square feet of building area and is arranged around a central courtyard. Centertown provides 59 affordable family apartments– 17 one-bedroom units, 27 two-bedroom units, and 15 three-bedroom units. An onsite property manager occupies a two-bedroom manager's unit for a total of 60 units. The property includes 102 parking spaces including six offsite spaces on 815 C Street that are able to be used by Centertown residents under the terms of a recorded Declaration of Restrictions for as long as the property remains residential and parking is required by the City.

All of the residents of Centertown are lower income households, with many of them being extremely low income. According to BRIDGE/EAH, the average household income of Centertown residents is about 32% of the Marin County Areawide Median Income (AMI).

B. Existing Ground Lease

On March 8, 1988, BRIDGE entered into the initial Purchase Agreement with United Savings Bank to acquire the property. Later that year, property ownership was transferred from United Savings Bank to the former San Rafael Redevelopment Agency (SRRA). In 1989, property ownership of the adjacent 815 C Street was transferred from BRIDGE to SRRA. Both sites were then leased by the Lessor, SRRA, through a long-term ground lease to the Lessee, a project specific legal entity called Centertown Associates managed by BRIDGE/EAH.

The ground lease was originally recorded on November 30, 1989, and the term of the ground lease is 75 years. Three ground lease amendments have occurred since 1989 that amended specific sections related to the payment of ground rent given evolving financial conditions over time.

The original ground lease and subsequent amendments describe a complicated stream of payments that occur during specific periods of time. These payment amounts were tied to the project's projected ability to meet its financial obligations including the repayment of loans that were provided by the City and the former SRRA. The most critical portions of the ground lease payment structure are summarized here:

- For the first five years, the Lessee's initial ground lease payment or ground rent was $1 per year.
    - A reconciliation was done in the sixth year to determine if the Lessee's equity investment had been returned, and the rent continued at $1 per year until this occurred.
- Once the Lessee's equity investment was returned, the ground rent became 9% of gross income paid annually in arrears until it accumulates to $1,061,104.
    - As further described below, the California Department of Housing and Community Development (HCD) provided a loan to the property that is subject to an HCD Regulatory Agreement that limits the amount of annual ground lease payments to a maximum of $69,880 ($84,880 minus a $15,000 partnership management fee).[3]
- Once $1,061,104 in ground rent payments have accumulated, the ground lease payment is $1 per year until all of the original City and SRRA loans are repaid. (Only one City loan is currently outstanding as described below.)
- After the City and SRRA loans are repaid, ground rent is then based on 6% of gross income.

[3] The HCD Regulatory Agreement does not allow cumulative distributions, but instead allows an annual distribution of up to $84,880 in any year when there is net cash flow. After the allowable deduction of $15,000 for a Partnership Management Fee, $69,880 is available for payment of the deferred ground lease rent, although in recent years, surplus revenues have been used to fund reserves in order to meet repairs.

Based on an analysis of historical payments that were reported in annual financial audits performed on Centertown, the Lessee has made approximately $430,000 in payments on the ground lease through December 2019, which means that about $631,000 is remaining to be paid on the current $1,061,104 ground lease payment tranche. Since 2016, almost all of the remaining cash flow has been deposited in the replacement reserve account to help pay for repairs on the property, and only about $4,500 in ground lease payments have been made since then.

C. Existing City Loan and Other Loan Obligations

The property has several outstanding loans that are payable to the City of San Rafael, State of California, County of Marin, and Citibank.

1. Existing City Loan

The former SRRA and the City provided three loans to help finance redevelopment of the property. All but one loan was repaid in the early 1990s. The remaining $303,000 promissory note from the former SRRA was transferred to the City, which is referred to in this memo as the existing City loan.

According to the City's FY 2018/19 Consolidated Annual Financial Report (CAFR), the former SRRA loaned $303,000 at 3% simple interest to Centertown Associates, Ltd, which was due to be paid semi-annually. This existing City loan is fully secured by a deed of trust. With the dissolution of the Redevelopment Agency effective February 1, 2012, the assets of the Agency's Low and Moderate Income Housing Fund (LMHAF), including the Centertown Associates loan, were assumed by the City's Low and Moderate Income Housing Special Revenue Fund.

The existing City loan was amended, with the relevant terms being contained in the Amended and Restated Promissory Note dated May 6, 1991, with a maturity date of June 30, 2023.

Payments have been made on this loan over the years, and the remaining balance is about $260,000 according to the most recent City Consolidated Annual Financial Report (CAFR) and Centertown 2019 Audit performed on behalf of BRIDGE/EAH.[4] (Please see Appendix Table A-1 for additional information regarding this loan and other loan obligations.)

2. California Housing and Community Development (HCD) Loan

The California Department of Housing and Community Development (HCD) provided a Rental Housing and Construction Program (RHCP) loan to the property in the early 1990s, which is subject to an HCD Regulatory Agreement that restricts rents on 29 units (RHCP units). The loan is for 3% simple interest and is payable by November 5, 2052. The current principal balance is $1,722,662, and about $1.45 million in interest has accrued on this loan as of the end of 2019.

3. County of Marin Loan

The County of Marin (County) provided two loans totaling $99,504 loan to the property in the early 1990s, which is subject to a loan agreement that has a unique set of interest and payment provisions. No interest or principal is currently due, but the loan comes due on May 1, 2021. (The County also provided a CDBG loan of $59,504 that has since been retired.)

[4] The remaining balance on the City loan is $259,756 (including accrued interest) as of December 31, 2019, according to the most recent Centertown 2019 Audit (Centertown Associates, Ltd. Financial Statements and Independent Auditor's Report, December 31, 2019). The City's FY 2018/19 Consolidated Annual Financial Report (CAFR) indicates that the remaining balance as of the end of June 30, 2019 was $256,870.

4. Citibank Loans (AHP and Permanent Mortgage)

In addition to these soft, public agency loans, two private loans were provided to the project. The Affordable Housing Program (AHP) loan is a soft private loan that is provided through Citibank (Citi). It has a 0% interest rate and a 30-year term, with a due date of June 30, 2023. BRIDGE/EAH believe that this loan will be forgiven and will no longer apply to the property in the future.

A senior permanent mortgage with a remaining balance of $236,321 is payable to Citibank and serviced by Berkadia Commercial Mortgage. This loan is senior to all other loan obligations, and the required payments are due in monthly installments of $5,981, based on a 30-year amortization including interest at 4.690%. The loan is due in full in the year 2023. (Please refer to Appendix Table A-1 for a summary of these loans that is organized according to the seniority of the loans based on the City's records.)

5. Deferral of Loan Payments

In the past five years, BRIDGE/EAH have requested and been granted annual deferral of payments on the City's ground lease and outstanding promissory note, as well as loan payment deferrals from HCD in order to contribute additional funds to the replacement reserves. According to the Centertown 2019 Audit, the property currently has about $614,354 in replacement reserves available for capital improvements as of the end of 2019.

D. Proposed Rehabilitation Program

As described above, the Centertown development has experienced numerous construction related issues, which include significant problems related to water intrusion, aging building systems and deferred maintenance, as identified in the Facility Needs Assessment performed by Marx | OKUBO Associates. These problems are not uncommon for a building that was constructed about three decades ago, particularly for affordable housing that does not generate sufficient cash flow to pay for significant rehabilitation costs. While ongoing repairs have been undertaken, the needed level of repairs substantially exceeds the replacement reserve account that has been accumulated from project cash flow, and the apartments require substantial renovation to improve the health, safety and quality of life for residents.

BRIDGE/EAH are proposing to resyndicate and refinance Centertown using tax exempt bonds and low income housing tax credits (LIHTC), as further described in the next section, in order to rehabilitate the property to address all immediate physical needs and establish reserves and cash flow to address future maintenance needs as they arise. All of the existing residents will be able to continue to reside in their apartments, although some residents could be temporarily moved depending on the extent of renovation in their units. These residents will be able to move back to their original unit once renovated.

The rehabilitation program is proposed to include the following improvements in the following priority order:

1. Waterproofing-related repairs, including the replacement of windows and sliding glass doors, repair of the roof membrane, shingles, gutters, and downspouts, and the removal and replacement of all cement plaster, repair of gypsum and plywood siding.
2. Exterior improvements to improve health and safety, including replacement of ceramic tiles, use of non-skid strips, signage, upgrades to handrails and entrances.
3. Accessibility upgrades to meet Americans with Disabilities Act (ADA) requirements, including the renovation of six apartment units to serve persons with disabilities.
4. Upgrade and/or replacement of HVAC, plumbing and electrical that will make the property safer, healthier, and environmentally sustainable and provide more efficient operations.

5. Upgrade of unit interiors to address critical repairs related to plumbing leaks and decayed unit finishes.
6. Community building addition of approximately 1,100 square feet to be located on the property's lower, interior courtyard, which will provide a community room, common area restrooms, kitchen area, resident service rooms and management offices.
7. Upgrade of common areas, including replacement of damaged exterior common area and dwelling unit doors and installation of resilient flooring in corridors.
8. Repair and upgrade of the courtyard and parking areas.
9. Should sufficient funds be available, additional rehabilitation of unit interiors will be done to those units most in need of updated interior finishes, which would include new kitchens, bathrooms, flooring and lighting fixtures.

These improvements will be done approximately in the priority order described above. The total estimated cost for the proposed improvements is approximately $10 million, which includes an approximately 10 percent hard cost contingency that is typical for rehabilitation of older properties. The City's Building Department will monitor the rehabilitation efforts through its permitting and inspection process. Appendix Table A-2 shows the proposed development sources, which presents all of the costs associated the renovation and resyndication including the construction hard cost.

To permit the new addition proposed for the lower, interior courtyard, the BRIDGE/EAH team have submitted a design review application to the City's Zoning Administrator, and approvals were received on July 22, 2020. The remainder of the rehabilitation scope is by-right and a building permit application will be submitted in February 2021, in anticipation of a May 2021 construction start.

E. Resident Communication and Temporary Relocation

As the property manager of Centertown, EAH regularly communicates with Centertown residents and provides an array of social services through the EAH "StayWell!" program for families, individuals, and aging adults. Once BRIDGE/EAH have been able to secure funding for the rehabilitation, they will provide information to the residents regarding the proposed rehabilitation schedule and any temporary moves that households may need to make during the rehabilitation process.

The proposed exterior rehabilitation and a substantial portion of the interior rehabilitation, including window/sliding door replacement, lighting, heating and water saving upgrades to all 60 units, can be performed while residents remain in their units. However, the proposed ADA retrofits for 6 units, and the potential kitchen and/or bathroom replacements in about 6-12 units, will be most effectively and safely done if households are temporarily moved while these upgrades are performed.

This means that some households will be temporarily relocated for a period of approximately 4-8 weeks while their units undergo interior rehabilitation work. Every effort will be made to minimize the time when residents must leave their homes. A relocation consultant and on-site property management staff will work with all affected households to address their immediate needs and resolve health and safety concerns.

Accommodations will be provided to residents who are temporarily relocated at no additional cost to the tenants. Packing materials, moving and storage of tenant belongings will also be coordinated and facilitated for them. The rehabilitation budget includes projected costs associated with the temporary relocation, and affected residents will not have to pay any of these expenses. The main focus will be to provide ample information and communication regarding any required move and to provide comfortable and convenient alternative housing for them during the relocation period. Once unit renovations are complete residents will be able to return to their original units.

BRIDGE/EAH are in the process of retaining a relocation consultant who will interview residents, prepare a relocation plan and then implement the plan to accomplish the temporary relocation in compliance with all relevant State and Federal laws. Interviews will be conducted with current residents to understand their housing needs, including any special needs related to disabilities and health problems, and their preferences related to the location and type of temporary housing. Relocation information and assistance will be provided in the primary language of the residents in order to assure that they understand the relocation plan and how their housing needs will be addressed.

A relocation schedule and noticing will be provided to households once the construction phasing is confirmed and BRIDGE/EAH know which households may be affected. A BRIDGE/EAH rehabilitation project manager will work closely with the General Contractor, relocation consultant, and property management staff to ensure a smooth construction schedule and facilitate temporary relocation.

F. Proposed Funding Program and Ground Lease Amendment

BRIDGE/EAH are proposing to renegotiate the existing City, County and State loans to extend their term and modify their interest rates in some cases, among other modifications to be negotiated between the parties. BRIDGE/EAH are also proposing to resyndicate and refinance the development using tax exempt bonds and LIHTC that would be applied for in September 2020 to the California Debt Limit Advisory Committee (CDLAC). Each of the major proposed sources of funding are described below and shown in Appendix Table A-3.

As part of the proposed funding program, the apartments will continue to be restricted as affordable rental units for another 55 years. BRIDGE/EAH propose to maintain the current income restrictions, which range from 50% to 60% of the Area Median Income (AMI). More than 40% of the units will continue to house residents earning 50% AMI or less. Currently, fifteen residents receive Housing Choice Vouchers (HCV) from the Marin County Housing Authority that provide additional annual revenues to Centertown.

The 29 RHCP units will be maintained, which are subject to the HCD Regulatory Agreement and have rents that are subject to review and approval by HCD. Table 1 shows the proposed household income distribution at Centertown, which will remain substantively the same as the current income mix.

Table 1
Resident Affordability by Unit Type
Centertown Apartments

Bedrooms	Rental Restriction	AMI	Total Units
1	TCAC (RHCP)	50%	6
1	TCAC + HCV	60%	10
1	TCAC (Rent Burdened)	60%	1
2	TCAC (RHCP)	50%	11
2	TCAC + HCV	60%	5
2	TCAC (Rent Burdened)	60%	10
2	TCAC	60%	1
3	TCAC (RHCP)	50%	8
3	TCAC (RHCP)	60%	4
3	TCAC (Rent Burdened)	60%	2
3	TCAC	60%	1
2	Manager's Unit	N/A	1
		Subtotal RHCP Units	29
		Subtotal HCV Units	15
Total			60

Source: City of San Rafael, BRIDGE Housing, EAH Housing.

The current resident population is primarily families, with a number of single adults and seniors. This resident mix is proposed to continue in the future. While Centertown does not currently have any special needs or targeted populations, BRIDGE/EAH are proposing to retrofit six units to be fully ADA accessible, as required by TCAC. These units will be available to current households with disabilities and will be also be provided to new households with disabilities if residents were to move. Although no special needs units would be designated, some of the units will continue to be rented to extremely low-income households that earn 30% or less of AMI. (Although these units are designated as very low-income units affordable at 50% AMI, some are occupied by extremely low-income households.

1. Modifications to City Loans and Ground Lease

BRIDGE/EAH are proposing that the City amend the loan terms of the existing City loan, and this loan would continue to remain a source of funding for the rehabilitation program. The existing City loan would be modified to change the interest rate to meet tax credit requirements (from 3% simple to compounding interest at the Applicable Federal Rate or AFR), extend the loan term to 55 years, and other needed changes to be negotiated with the City. The existing City loan would be assigned to the new tax credit partnership when this occurs, anticipated to be in May 2021.

A Fourth Amendment to the Ground Lease is proposed to occur at the end of 2020, and an option to enter into a new ground lease would be entered into during August 2020, with the formal agreement for the new ground lease to occur only if and when the re-syndication and refinancing process moves forward. The Option to Ground Lease is a required document to be submitted with the project's joint TCAC/CDLAC application to establish site control (a Purchase and Sale Agreement will also be entered into for the improvements).

a. Fourth Amendment to the Ground Lease (To be Executed by End of 2020)

Under the City's existing ground lease, the City is unlikely to receive substantive ground lease payments in the future as surplus cash flow will likely continue to be needed for repairs. The estimated hard cost for repairs (before consideration of soft costs related to professional services to undertake them) is $10 million in 2020 dollars. If this amount of rehabilitation were divided by the 42 years remaining on the ground lease, the operating cash flow would need to contribute $238,000 per year (in 2020 dollars) toward these repairs to accomplish them by the end of the ground lease. As noted in Section C, only $69,880 is allowed by HCD to be annually paid out of project cash flow, so there would not be sufficient cash flow to pay for all of the proposed repairs before the end of the lease term.

In recent years, the developer has requested permission to contribute excess cash flow into replacement reserves, rather than make residual receipts distributions to ground lease and soft debt payments. These requests have consistently been approved by the City and HCD. The replacement reserves have been used to make immediate repairs and to save for the upcoming substantial rehabilitation that is planned for 2021.

Additionally, structural changes to the current ground lease payment structure are needed to bring the ground lease into compliance with IRS rules. These changes need to occur prior to the anticipated construction financing closing/resyndication event that is anticipated for May 2021. The developer and investor's respective tax counsel advise that amendments to the ground lease and the new loan be completed in 2020.

Taking into account these considerations while also seeking to enhance potential revenues to the City, the fourth amendment of the ground lease is proposed to modify the lease as follows:

- $1 per year ground lease payment plus a $5,000 per year annual City monitoring fee. These annual payments will continue until a new lease is negotiated.
- The remaining balance of the second ground lease payment tranche, which is approximately $631,000, will become the principal amount on a new City loan.[5]
    - The precise loan amount will be verified with City staff and be based on the Centertown 2019 Audit as of 12/31/19 and the City's FY 2018/19 CAFR.)
    - This new City loan will ultimately be consolidated with the existing City loan and become part of a consolidated City loan to the new Limited Partnership should the resyndication and refinancing proceed. This consolidated City loan will be a part of the overall residual receipts distributions.
- The fourth amendment and the new City deferred loan are proposed to be entered into by the end of 2020 with City Council approval, once receipt of the tax credit and bond allocation is received.

The proposed 4th Amendment and the New City Loan allows the accrued ground rent of $631,000 to be recast as a loan, which paves the way for an optimal structure for the project's resyndication and future

[5] The New City Loan will be evidenced by a promissory note, with a maturity date of November 6, 2052 (after the HCD loan term has expired but before the expiration of the current Ground Lease term, which expires November 5, 2064) and will be a fully deferred soft loan. It will not be secured by the Property, but a default under the promissory note will be a default under the Ground Lease, which is how the Ground Lease payment is secured now. The New City Loan will essentially be a placeholder loan, as it will be consolidated with the City's Existing Loan when that loan is modified (to change some of the terms to comply with tax credit requirements such as: changing the interest rate from 3% simple to compounding AFR, extending the term to 55 years, and other needed changes to be negotiated with the City) and assigned to the new tax credit partnership in May 2021.

ground lease, while at the same time preserving the City's ability to retain the ability to collect residual receipts payments from $631,000 in the resyndication financial plan.

b. Option to Ground Lease and New Ground Lease (Option To be Executed in August 2020; New Ground Lease Agreement to Occur with Proposed Resyndication and Refinancing)

The proposed ground lease option would enable BRIDGE/EAH and the City to negotiate a new lease under the following terms, which may be modified as the financing program is refined over the next few months:

- A new ground lease term of 99 years from the date of execution.
- $83,000 upfront ground lease payment based on a 2020 property appraisal that indicates the current land value is $83,000, due to existing regulatory restrictions on the property. (This amount would be paid to the City at closing.)
- Payment of a $5,000 per year annual City monitoring fee, which could escalate at 3% per year after permanent financing is in place. This amount will be determined in collaboration with City staff based on experience with other projects, taking into account the size of this development.
- The ground lease language will be modernized in connection with the resyndication, which will include a provision that the ground rent won't exceed the market value of the land.
- As described above, the consolidated City loan would be entered into at the same time.

As noted above, BRIDGE/EAH need a contractual option to enter a new ground lease in order to meet requirements for applying for tax credits and tax exempt bond monies. Entering into a new ground lease will enable the proposed resyndication and rehabilitation to occur, which will significantly improve the building improvements. As the City will ultimately receive the building improvements at the end of the lease, the rehabilitation will enhance the City's long-term asset. Any new ground lease will have to be approved by the City Council, but subject to the material terms agreed to in the Option.

c. New Housing Trust Fund Loan

BRIDGE/EAH is applying to the City for between $500,000 and $1 million in Housing Trust Funds to help fund the rehabilitation of the development. (The City's funds will be solely used for this purpose.) If approved, these loan funds would collectively be repaid out of residual cash flow from the project in proportion to the City's contribution, as the project stabilizes. Table 2 summarizes the proposed City funding.

Table 2
Proposed City Funding
Centertown Apartments

Proposed City Loans	Potential Loan Amount
City- Existing Loan	$259,576
City- New Loan	$631,000
City- Housing Trust Fund	$524,927
Total Proposed Loans	**$1,415,503**

Source: City of San Rafael, BRIDGE Housing, EAH Housing.

Seifel CONSULTING INC.

2. California Housing and Community Development (HCD) Loan

BRIDGE/EAH are proposing that HCD amend the existing HCD loan terms and allow this loan to remain a source of funding for the rehabilitation program pursuant to HCD's Loan Portfolio Restructuring Program and Guidelines. The existing HCD loan would be modified to change the interest rate to AFR, extend the loan term to 55 years, and other needed changes to be negotiated with HCD. The HCD loan would also be assigned to the new tax credit partnership. HCD would likely continue to receive an annual senior payment of $10,311 per year, as well as a proportionate share of residual receipts.

3. County of Marin Loan

BRIDGE/EAH are also proposing that the County amend the loan terms of its existing County loan and allow this loan to remain a source of funding for the rehabilitation program. In addition, BRIDGE/EAH have received additional funding of approximately $1 million to help fund the project's substantial rehabilitation. The existing and new County loan would likely have the same terms, which would need to be consistent with tax credit requirements and would be similar to the City and HCD loan terms as described above.

4. Private Loans

In addition to these soft, public agency loans, BRIDGE/EAH will secure a permanent mortgage, which is projected to be about $5 million in size. This loan will be senior to all other loan obligations, and the required payments will likely be due in monthly installments based on a 40-year amortization at an interest of about 4.25%. (The AHP loan is assumed to be forgiven.)

5. Replacement Reserves

BRIDGE/EAH are proposing to utilize about $680,000 in funding from replacement reserves to help pay for the rehabilitation. As indicated earlier, the Centertown replacement reserve account has $614,354 in funds as of 2019. Assuming the continuation of substantial HCV payments to tenants, additional funds could be available from surplus cash flow to be deposited in the replacement reserve. The final amount of replacement reserves that could be available to help pay for future rehabilitation costs will be finalized at the close of construction period financing, and upon finalization of the 2020 financial audit of the property. If additional reserves result in a surplus of project sources, the City of San Rafael Housing Trust Fund would be reduced by an amount commensurate to the surplus.

6. Syndication Proceeds, General Partner Equity and Seller Carry Back Loan

BRIDGE/EAH are applying for low income housing tax credits, which will be syndicated and are projected to yield about $9.1 million in investor equity. BRIDGE/EAH will also contribute about $1.7 million in General Partner Equity that is equal to the portion of the developer fee that is in excess of the allowable fee pursuant to State guidelines. The seller carry back loan represents the difference between the appraised value for Centertown and the sum of the refinanced loans and the sponsor loan.

G. Due Diligence Findings

The Centertown apartments are in substantial need of rehabilitation, which is evident from the Facility Needs Assessment performed by Marx | OKUBO Associates. In addition, BRIDGE/EAH retained an experienced General Contractor (Saarman) to review the building conditions and prepare a detailed cost estimate to undertake the rehabilitation in alignment with the findings of the Facility Needs Assessment.

Seifel reviewed the Facility Needs Assessment and interviewed BRIDGE/EAH to understand what rehabilitation elements are most critically needed, as there may not be sufficient funding to undertake all of the improvements that have been identified. Section D of this memorandum describes the proposed rehabilitation and the proposed order of priority to undertake these improvements depending on the level of available funding from all sources.

Seifel has reviewed BRIDGE/EAH's funding plan as it evolved over the past two months and agrees that BRIDGE/EAH has identified all relevant public funding sources that could be utilized for this rehabilitation effort. BRIDGE/EAH will work to maximize the amount of revenues that are generated from LIHTC, and BRIDGE/EAH will contribute about 40 percent of its eligible developer fee (in the form of a General Partner contribution) to help fund the planned rehabilitation. In addition, BRIDGE/EAH is providing a seller back carry loan to the development that is equal to the difference between the appraised property value and the existing debt. Repayment on this loan is limited to 50% of cash flow per the HCD Loan Portfolio Restructuring Guidelines.

Seifel reviewed BRIDGE/EAH's financial pro forma, and the proposed high priority rehabilitation projects that can be feasibly undertaken if the City, County, State and private lender provide the requested level of funding. BRIDGE/EAH has included a 10% contingency to take into account cost escalation and potential rehabilitation needs that could occur once construction begins.

Should less funding be available, the scope of the rehabilitation may need to be reduced. If additional funding is available or not all of the construction contingency funds are needed, additional rehabilitation improvements could be undertaken. Seifel worked with BRIDGE/EAH to identify and prioritize these improvements, and BRIDGE/EAH is committed to implementing as many of the needed rehabilitation improvements as possible, following the order of priority in this memorandum, or as this priority may be further revised in consultation with City staff.

BRIDGE/EAH proposes that the existing public loans (soft debt) from the City of San Rafael, Marin County and the State of California will be amended to a compounded interest rate equal to the AFR, which is currently approximately 1.2%. While this proposed modification could generate less interest than the City's current 3% simple interest rate, this modification will generate additional tax credit equity for the project. Furthermore, the AFR may increase by the time this project proceeds and be closer to the City's current effective interest rate.

Seifel worked with City staff, BRIDGE/EAH and outside counsel to refine what BRIDGE/EAH originally proposed with respect to the ground lease and City funding. The proposed Fourth Amendment to the Ground Lease and proposed Option to Ground Lease, and the recommended provision of a new City loan equal to the outstanding balance on the ground lease, will enable the City to properly secure its interest in the property and provide for greater participation in future residual receipts. Seifel also prepared a comparative analysis of what the City would likely receive under the existing ground lease and with the proposed project under two alternative revenue scenarios. Table 3 on the next page compares the City revenues under these three scenarios. As this shows, the City will likely receive a larger stream of revenues with the proposed project than under the existing ground lease scenario.

1. Scenario 1– Existing Ground Lease With Fourth Amendment

Scenario 1 assumes that the City would enter into the Fourth Amendment to the Ground Lease by the end of 2020. As described above under Section E, the Fourth Amendment to the Ground Lease will revise the existing payment terms to confirm with current IRS rules, provide for the payment of an annual monitoring fee, and will facilitate the creation of a new City loan that will be refinanced in the resyndication of the project, generating revenues to the City from residual receipts.

2. Scenario 2A and 2B– Proposed Project Under Two Revenue Scenarios

Two proposed project scenarios are analyzed that assume the proposed resyndication and rehabilitation occurs based on key financial projections in the BRIDGE/EAH proforma. Scenario 2A assumes that future rental revenues do not include payments from Housing Choice Vouchers, as HCV payments cannot be underwritten to secure a permanent mortgage. Scenario 2A assumes that the resyndication occurs in May 2021, the new ground lease is signed in connection with the resyndication's financial closing, an upfront ground lease payment of $83,000 is made at this time, and the City's annual monitoring fee payments continue throughout the term.

Scenario 2B assumes that 15 residents will continue to receive HCV, and revenues from these HCV payments are included in the cash flow projections. Scenario 2B assumes that the resyndication is delayed two years and occurs in May 2023, the new ground lease is signed prior to this date, an upfront ground lease payment of $83,000 is made in May 2023, and the City's annual monitoring fee payments continue throughout the term. Scenario 2B generates significantly more revenues than the other two scenarios as additional cash flow is generated, and about 12.7% of this cash flow accrues to the City.

Table 3
Comparison of City Revenues from Alternative Scenarios
Centertown Apartments

Lease Year (Fiscal Year Beginning)	Pro Forma Year	Scenario 1: Existing (Amended)	Scenario 2A: Proposed Project	Scenario 2B: Proposed Project (Plus HCV)
2020		$5,001	$0	$0
2021		$5,001	88,000	$5,001
2022		$5,001	$5,000	$5,001
2023	1	$5,001	$5,680	$101,066
2024	2	$5,001	$5,759	$18,392
2025	3	$5,001	$5,816	$18,702
2026	4	$5,001	$5,850	$18,994
2027	5	$5,001	$5,860	$19,267
2028	6	$5,001	$5,846	$19,521
2029	7	$5,001	$5,805	$19,753
2030	8	$5,001	$5,736	$19,963
2031	9	$5,001	$5,638	$20,150
2032	10	$5,001	$5,510	$20,312
2033	11	$5,001	$5,350	$20,449
2034	12	$5,001	$5,157	$20,557
2035	13	$5,001	$5,000	$20,637
2036	14	$5,001	$5,000	$20,686
2037	15	$5,001	$5,000	$20,703
2038	16	$5,001	$6,942	$22,953
2039	17	$5,001	$6,645	$22,969
2040	18	$5,001	$6,306	$22,950
2041	19	$5,001	$5,924	$22,894
2042	20	$5,001	$5,498	$22,800
2043	21	$5,001	$5,024	$22,665
2044	22	$5,001	$5,000	$22,488
2045	23	$5,001	$5,000	$22,266
2046	24	$5,001	$5,000	$21,997
2047	25	$5,001	$5,000	$21,680
2048	26	$5,001	$5,000	$21,311
2049	27	$5,001	$5,000	$20,889
2050	28	$5,001	$5,000	$20,411
2051	29	$5,001	$5,000	$19,874
2052	30	$5,001	$5,000	$19,276
2053	31	$5,001	$5,000	$18,614
2054	32	$5,001	$5,000	$17,886
2055	33	$5,001	$5,000	$17,087
2056	34	$5,001	$5,000	$16,216
2057	35	$5,001	$5,000	$15,269
2058	36	$5,001	$5,000	$14,243
2059	37	$5,001	$5,000	$13,135
2060	38	$5,001	$5,000	$11,940
2061	39	$5,001	$5,000	$10,656
2062	40	$5,001	$5,000	$9,278
2063	41	$5,001	$26,993	$43,893
2064	42	$5,001	$25,183	$42,317
	Total	**$225,045**	**$359,524**	**$947,113**

H. Conclusion

As described above, the property needs to be substantially rehabilitated, and the proposed funding request is reasonable. The City should continue to work with BRIDGE/EAH and the County to obtain the additional $1 million in funding, as well as to facilitate the renegotiation of the HCD loan. In total, the City's commitment to the development would be to amend and renegotiate the ground lease and to enter into the following loans with the future Limited Partnership:

- Existing Loan—Approximately $260,000, which is the current remaining balance including accrued interest.
- New Loan– Approximately $631,000, which is equivalent to the remaining unpaid amount from the ground lease.
- Potential Housing Trust Fund Loan— Between $500,000 and $1,000,000, which, if awarded, would be used to help pay for new community facilities.

These loans would be repaid out of the resyndicated project's residual cash flow in proportion to the City's contribution. The City's investment will leverage about $21.8 million in private and public funding to meet the total development costs of about $23.2 million net of the building acquisition value.

The City's ground lease modification and investment will result in the following:

- Enhanced living environment for approximately 180 of the City's lower income residents.
- Substantial health, life-safety, environmental and accessibility improvements.
- Continued preservation of 60 affordable apartments, with an extension of the affordability covenants for another 55 years.
- Recapitalization of the development, which will leverage sufficient funding to undertake much needed rehabilitation improvements that will enhance the City's long term interests in the property.

Appendix Table A-1
Summary of Existing and Proposed Loans
Centertown Apartments

	Original Principal	Outstanding Balance as of Dec. 31, 2019			Key Loan Terms	
		Principal	Accrued Interest	Total	Due Date	Rate
Existing Loans						
First Mortgage (Berkadia, Citi)	$1,025,504	$236,321	$924	$237,245	2023	4.69%
Affordable Housing Program (AHP, Citi)	$390,000	$390,000	$0	$390,000	2023	None
California HCD (RHCP)	$2,647,711	$1,722,662	$1,495,167	$3,217,829	2052	3.00%
City of San Rafael/Former SRRA*	$303,000	$219,982	$39,594	$259,576	June 2023	3.00%
City of San Rafael and Former SSRA*	$616,000	$0	$0	$0	N/A	N/A
County of Marin	$99,504	$99,504	$0	$99,504	May 2021	Specific Terms
Subtotal	$5,081,719	$2,668,469	$1,535,685	$4,204,154		

* The City and the former San Rafael Redevelopment Agency (SRRA) provided three loans to the development, two of which were repaid in the 1990s. The remaining $303,000 promissory note was transferred to the City as a former housing asset of the SRRA.

Source: Centertown Associates, Ltd. Financial Statements and Independent Auditor's Report, December 31, 2019, BRIDGE Housing, EAH Housing, .

Appendix Table A-2
Estimated Development Uses
Centertown Apartments

Development Cost (Uses)	Project Estimates	
	Total	Per Unit
Property Related Costs		
Acquisition Cost (Upfront Ground Lease Payment)	$83,000	$1,383
Acquisition Cost or Value- Building	$14,917,000	$248,617
BRIDGE WC Interest	$50,000	$833
Other Acquisition Costs	$41,500	$692
Subtotal	$15,091,500	$251,525
Hard Construction Costs		
Rehabilitation Costs	$6,937,344	$115,622
General Conditions	$416,241	$6,937
General Requirements & Profit	$554,988	$9,250
Covid Related	$300,000	$5,000
GC Testing Allowance	$40,000	$667
Insurance & Bond	$158,171	$2,636
Design Contingency	$840,674	$14,011
Hard Cost Contingency	$924,742	$15,412
Subtotal	$10,172,160	$169,536
Project Related Soft Costs		
Architecture/Engineering	$1,085,109	$18,085
Legal	$135,000	$2,250
Marketing/Lease-up	$123,800	$2,063
Appraisal	$7,500	$125
Miscellaneous	$549,450	$9,158
Title & Recording	$52,500	$875
Furnishings and Equipment	$49,000	$817
Permits and Fees	$60,000	$1,000
Soft Cost Contingency and Reserves	$682,602	$11,377
Insurance	$79,218	$1,320
Subtotal	$2,824,179	$47,070
Project Financing		
Construction Interest & Fees	$1,365,688	$22,761
Permanent Financing	$327,500	$5,458
Subtotal	$1,693,188	$28,219
Syndication & Developer Fee		
Capitalized Developer Fee	$2,010,264	$33,504
GP Equity	$2,010,264	$33,504
Construction Management and Other Consultants	$170,600	$2,843
Subtotal	$4,191,128	$69,852
Total Development Cost	**$33,972,155**	**$566,203**

Source: City of San Rafael, BRIDGE Housing, EAH Housing.

Appendix Table A-3
Estimated Development Sources
Centertown Apartments

Development Revenues (Sources)	Project Estimates	
	Total	Per Unit
Permanent Loan	$5,406,942	$90,116
Building Acquisition Value		
Seller Note	$2,500,000	$41,667
Seller Carryback Loan	$8,222,431	$137,041
Subtotal	$10,722,431	$178,707
Tax Credit Equity		
Federal	$9,144,715	$152,412
State	$0	$0
Subtotal	$9,144,715	$152,412
City of San Rafael Financial Assistance		
City- Existing Loan	$259,576	$4,326
City- New Loan (Former Ground Lease)	$631,000	$10,517
City- Housing Trust Fund	$524,927	$8,749
Subtotal	$1,415,503	$23,592
Other Public Funding Assistance		
HCD RHCP- Existing Loan	$1,722,662	$28,711
County of Marin- Existing Loan	$99,504	$1,658
County of Marin- New Loan	$1,013,732	$16,896
Subtotal	$2,835,898	$47,265
Other Revenues		
GP Equity	$2,010,264	$33,504
Accrued interest during construction	$1,603,421	$26,724
Income From Operations	$152,725	$2,545
Contributed Reserves	$680,257	$11,338
Subtotal	$4,446,667	$74,111
Deferred Developer Fee	$0	$0
Total	**$33,972,155**	**$566,203**

Source: City of San Rafael, BRIDGE Housing, EAH Housing.

RESOLUTION NO.

RESOLUTION OF THE SAN RAFAEL CITY COUNCIL APPROVING AND AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGREEMENT GRANTING TO CENTERTOWN II, LLC AN OPTION TO LEASE THE REAL PROPERTY LOCATED AT 855 C STREET IN THE CITY OF SAN RAFAEL

WHEREAS, the City of San Rafael, as successor housing agency to the former San Rafael Redevelopment Agency ("SRRA"), is the fee owner of that certain approximately 0.98-acre lot at 855 C Street in downtown San Rafael ("Centertown Land") on which the Centertown Apartments are located; and

WHEREAS, in 1989 Centertown Associates, Ltd. ("Centertown Associates") a limited partnership managed by BRIDGE Housing and EAH Housing ("BRIDGE/EAH"), entered into a 75-year ground lease with City's predecessor-in-interest, SRRA, which provided among other things for redevelopment of the Centertown Land, including an existing, partially completed foundation structure that was part of an earlier failed condominium development, as an affordable rental apartment project; and

WHEREAS, as contemplated by the ground lease, Centertown Associates completed development of the Centertown apartments ("Centertown Apartments") which include approximately 85,469 gross square feet of building area arranged around a central courtyard, with 60 affordable family apartments– 17 one-bedroom units, 27 two-bedroom units, 15 three-bedroom units, and an onsite two-bedroom property manager's unit; and

WHEREAS, all of the residents of Centertown Apartments are lower income households, with an average household income equal to approximately 32% of the Marin County Areawide Median Income (AMI); and

WHEREAS, the ground lease originally recorded on November 30, 1989, has been subsequently amended three times given evolving financial conditions over time; and

WHEREAS, Centertown Apartments has experienced numerous construction related issues, including significant problems related to water intrusion, aging building systems and deferred maintenance with a total estimated rehabilitation cost of approximately $10 million, which includes an approximately 10 percent hard cost contingency that is typical for rehabilitation of older properties; and

WHEREAS, BRIDGE/EAH desire to fund the needed rehabilitation work by re-syndicating and refinancing the Centertown Apartments development using tax exempt bond proceeds and in connection therewith BRIDGE/EAH desire to extend the term of the ground lease and modify the existing City loans to extend their term and reduce their interest rates; and

WHEREAS, entering into an option to enter a new ground lease will enable BRIDGE/EAH to demonstrate sufficient site control to apply for an allocation of tax-exempt bond proceeds from the California Debt Limit Allocation Committee ("CDLAC");

NOW, THEREFORE, BE IT RESOLVED, that the City Council hereby approves and authorizes the City Manager to execute an Option to Lease Agreement with Centertown II, LLC for the real property located at 855 C Street in the City of San Rafael in the form attached to this Resolution as Exhibit A, subject to final approval as to form by the City Attorney.

I, LINDSAY LARA, City Clerk of the City of San Rafael, hereby certify that the foregoing resolution was duly and regularly introduced and adopted at a regular meeting of the City Council held on the 17th day of August 2020, by the following vote to wit:

AYES: COUNCILMEMBERS:

NOES: COUNCILMEMBERS:

ABSENT: COUNCILMEMBERS:

LINDSAY LARA, City Clerk

EXHIBIT A: OPTION TO LEASE

OPTION TO LEASE
(CENTERTOWN PROJECT)

This Option to Lease ("**Agreement**") is entered into as of August__, 2020 ("**Effective Date**"), by and between the City of San Rafael, a municipal corporation, in its capacity as successor in interest to the housing assets of the former Redevelopment Agency of the City of San Rafael ("**Owner**"), and Centertown II, LLC, a California limited liability company ("**Optionee**"). Owner and Optionee may individually be referred to as "**Party**" and collectively referred to as "**Parties**".

RECITALS

A. Owner, as successor housing agency to the former Redevelopment Agency of the City of San Rafael, owns that certain real property located at 855 C Street, in the City of San Rafael, as more particularly described in Exhibit A attached hereto and incorporated herein by this reference ("**Property**").

B. Centertown Associates Ltd., a California limited partnership ("**Centertown Ltd.**") acquired a leasehold interest in the Property ("**Leasehold Estate**") from Owner's predecessor-in-interest, the former Redevelopment Agency of the City of San Rafael, pursuant to that certain Ground Lease Centertown Project dated November 6, 1989, as amended by that certain First Amended and Restated Ground Lease dated August 20, 1990, that certain Second Amendment to the First Amended and Restated Ground Lease dated May 6, 1991, and that certain Third Amendment to First Amended and Restated Ground Lease Centertown Project dated April 1, 1993, and as may be further amended (collectively, "**Existing Ground Lease**"). The term of the Existing Ground Lease is seventy-five (75) years, which term expires November 6th, 2064

C. Pursuant to the terms of the Existing Ground Lease, Centertown Ltd. developed, constructed, owns and operates a residential development consisting of sixty (60) units rented to and occupied by low income households and commonly known as Centertown Apartments ("**Project**") on the Property.

D. The Project is in need of rehabilitation. In order to finance the rehabilitation, a new allocation of low-income housing tax credits pursuant to Internal Revenue Code Section 42 ("**LIHTC**") will be obtained, which requires that (i) the Project be owned by a new, to be formed limited partnership (the "**Partnership**") and (ii) the term of the ground lease for the Property be ninety-nine (99) years. As such, (i) Optionee will enter into a purchase and sale agreement with Centertown Ltd. to purchase the Project (the "**PSA**") and (ii) the Existing Ground Lease will be terminated and Optionee will enter into a new ground lease with Owner to lease the Property pursuant to this Agreement. Both the PSA and this Agreement will be assigned to, and assumed by, the Partnership. Optionee will be the general partner of the Partnership.

E. The parties desire to enter into this Agreement to set forth the terms of the option from Owner to Optionee to lease the Property.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing recitals, which are hereby incorporated into this Agreement by this reference, and the mutual benefits accruing to the parties hereto and other valuable consideration, the receipt and sufficiency of which consideration is hereby acknowledged, it is hereby declared, understood and agreed as follows:

Section 1. Grant of Option and Consideration. For consideration of One Hundred Dollars ($100.00), Owner grants to Optionee an option ("**Option**") to ground lease the Property on the terms and conditions set forth in this Agreement.

Section 2. Term of Option. The term of the Option shall commence on the Effective Date of this Agreement and shall expire at 12:01 a.m. on the date that is three (3) years from the Effective Date, unless such date is extended by a written amendment to this Agreement executed by Owner and Optionee (as may be extended, the "**Option Term**"). If the expiration date of the Option Term falls on a Saturday, Sunday, or legal holiday in the State of California, then the Option may be exercised on, and shall expire at midnight on, the next following business day. Optionee may request an extension of the Option Term for an additional two (2) years by giving written notice to Owner no later than thirty (30) days prior to the expiration of the initial Option Term ("**Extension**"), which Extension shall be subject to approval by the City Council.

Section 3. Exercise of Option. Optionee may exercise the Option by delivering to Owner, during the Option Term, a written notice of the exercise of the Option ("**Option Notice**").

Section 4. Lease of the Property. Following execution and delivery of the Option Notice, the Parties shall negotiate in good faith a new ground lease for the Property ("**Ground Lease**"). The Parties agree to use the Existing Ground Lease as the model for the Ground Lease with the Material Lease Term changes set forth in Exhibit B hereto. Any new Ground Lease shall be subject to approval by Optionee's board and the City Council.

Section 5. Closing.

(a) Close of Escrow. The Parties' execution and delivery of a new Ground Lease as contemplated herein shall be effectuated through an escrow with an escrow holder mutually acceptable to the Parties. The escrow shall close within ninety (90) days after the Option is exercised ("**Close of Escrow**"), which date may be extended by Optionee in its reasonable discretion for up to an additional thirty (30) days upon notice to Owner of such intent by Optionee.

(b) Closing Expenses. If the Option is exercised, Optionee shall pay any documentary transfer tax, revenue tax or excise tax (and any surtax thereon) due in connection with the consummation of this transaction, the premium for Optionee's title policy, Owner's title policy premium and all other escrow and closing costs. Optionee shall be responsible for its own attorneys' fees and Optionee shall also reimburse Owner for Owner's attorneys' fees, not to exceed $10,000. Owner shall be responsible for any of Owner's attorneys' fees in excess of $10,000.

Section 6. Option Not to Be Recorded. This Agreement will not be recorded.

Section 7. Notice. Any notice or other communication given or made pursuant to this Agreement shall be in writing and shall be deemed given if: (a) delivered personally or by courier, (b) sent by overnight express delivery, (c) mailed by registered or certified mail (return receipt requested), postage prepaid, or (d) sent by email in PDF format ("**Email Notification**") provided that (i) any Email Notification received after 5:00 p.m. on a business day shall be deemed received on the next business day and (ii) the sender also delivers the communication by one of the methods listed in (a)-(c) (the "**Secondary Notice**") provided that if the recipient of the Email Notification responds with an email acknowledgement of receipt (an automatic "read receipt" does not constitute acknowledgement), such Secondary Notice is not required, to a party at its respective address set forth below (or at such other address as shall be specified by the party by like notice given to the other party):

If to Owner:

City of San Rafael
1400 Fifth Avenue, Room 203
San Rafael, CA 94901
Attn: Jim Schutz, City Manager
jim.schutz@cityofsanrafael.org

With a copy to:

City of San Rafael
1400 Fifth Avenue, Room 202
San Rafael, CA 94901
Attn: Robert Epstein, City Attorney
rob.epstein@cityofsanrafael.org

And:

Burke, Williams & Sorensen, LLP
1901 Harrison St., Suite 900
Oakland, CA 94612
Attn: Gerald J. Ramiza
jramiza@bwslaw.com

If to Optionee:

Centertown II, LLC
c/o BRIDGE Housing Corporation
600 California Street, Suite 600
San Francisco, CA 941 08
Attn: Rebecca V. Hlebasko and Sarah White
rhlebasko@bridgehousing.com
swhite@bridgehousing.com

And:

Centertown II, LLC
c/o EAH, Inc.
22 Pelican Way
San Rafael, CA 94901
Attn: Welton Jordan
Welton.Jordan@eahhousing.org

With a copy to:

Goldfarb & Lipman LLP
1300 Clay Street, 11th Floor
City Center Plaza
Oakland, CA 94612
Attn: Erica Williams Orcharton
ewilliams@goldfarblipman.com

Any notice provided in accordance with this Section shall be deemed to have been given on the delivery date or the date that delivery is refused by the addressee, as shown on the return receipt.

Section 8. Miscellaneous.

(a) Captions. The captions used herein are for convenience of reference only and are not part of this Agreement and do not in any way limit or amplify the terms and provisions hereof.

(b) Severability. If any portion of this Agreement is declared by a court of competent jurisdiction to be invalid or unenforceable, such portion shall be deemed severed from this Agreement and the remaining parts shall continue in full force as though such invalid or unenforceable provision had not been part of this Agreement.

(c) Time. Time is of the essence of each and all of the obligations, covenants and conditions of this Agreement.

(d) Further Documentation. Upon the reasonable request of the other party, each party will execute, acknowledge, and deliver or cause to be executed, acknowledged and delivered, such further instruments and documents as may be reasonably necessary in order to carry out the intent and purpose of this Agreement, including, but not limited to escrow instructions.

(e) Default. Failure by any party to perform its obligations as provided in this Agreement shall constitute an event of default hereunder. The non-defaulting party shall give written notice of a default to the defaulting party, specifying the nature of the default and the required action to cure the default. If a default remains uncured fifteen (15) days after receipt by the defaulting party of such notice, or for such longer period of time as may be reasonably necessary to effect cure (in no event to exceed sixty (60) days), so long as the defaulting party has commenced cure within such fifteen (15) day period and is diligently proceeding to completion, the non-defaulting party may exercise the remedies set forth below.

(f) Remedies; No Damages. In no event shall a Party be liable in damages for any default under this Agreement, it being expressly understood and agreed that the sole legal remedy available to a Party for a breach or violation of this Agreement by the other Party shall be an action in specific performance, or other injunctive or declaratory relief to enforce the provisions of this Agreement by the other Party, or to terminate this Agreement.

(g) Governing Law. This Agreement shall be interpreted in accordance with and governed by the laws of the State of California.

(h) Assignment by Optionee. Optionee may assign this Agreement to the Partnership without the need for consent from Owner. Any other assignment shall require the prior written consent of the Owner.

(i) Authorization; Binding Effect. The execution, delivery and performance by the Optionee of this Agreement and any related documents and actions have been duly authorized by all requisite action of the Optionee and create legally binding obligations for the Optionee. The rights and obligations of the Owner and Optionee under this Agreement shall inure to the benefit of, and bind, their respective successors and assigns.

(j) Commission. Each party to this Agreement represents to the other Party that is has not engaged or used the services of any person, firm, or corporation that may claim a broker's commission or finder's fee upon execution or exercise of the Option, and each Party to this Agreement agrees to hold the other Party harmless from any loss, damage, expense, or liability, including attorney's fees, resulting from any claim by any person, firm, or corporation based upon its having acted as broker or finder on behalf of said indemnifying Party.

(k) Entire Agreement. This Agreement constitutes the entire agreement between Owner and Optionee with respect to the subject matter hereof and supersedes all prior offers and negotiations, oral and written. This Agreement may not be amended or modified in any respect whatsoever except by an instrument in writing signed by Owner and Optionee.

(l) Counterparts. This Agreement may be executed in counterparts, each of which will be deemed an original, but all of which together will be deemed to be a single document.

(m) No Joint Venture or Partnership. Owner and Optionee hereby renounce the existence of any form of agency relationship, joint venture, or partnership between Owner and Optionee and agree that nothing contained herein or in any new Ground Lease executed in connection herewith shall be construed as creating any such relationship between Owner and Optionee other than landlord and tenant.

[Signatures on Following Page]

IN WITNESS WHEREOF, Owner and Optionee have executed this Agreement as of the Effective Date.

OWNER:

CITY OF SAN RAFAEL, a municipal corporation

By: ___________________________________

Name: Jim Schutz

Title: City Manager

ATTEST:

____

Lindsay Lara, City Clerk

APPROVED AS TO FORM:

____

Robert Epstein, City Attorney

OPTIONEE:

CENTERTOWN II, LLC, a California limited liability company

By: BRIDGE HOUSING CORPORATION, a California nonprofit public benefit corporation, its managing member

By: ___________________________________

Name: ________________________________

Its: ___________________________________

By: EAH, Inc., a California nonprofit public benefit corporation, its member

By: ___________________________________

Name: ________________________________

Its: ___________________________________

EXHIBIT A

LEGAL DESCRIPTION OF PROPERTY

LEGAL
DESCRIPTION

Parcel A

All that certain real property situated in the City of San Rafael, County of Marin, State of California, described as follows:

"Map of Centertown an Air-space Condominium. Also Being a reversion to acreage being the Lands of U.F. Service Corp., a California Corporation, as described by Deed recorded under Recorder's Serial No. 83-16358, Marin county Records and a portion of the lands described by the Record of survey filed in Book 18 of Surveys, at Page 47, Marin County Records", filed for record December 13, 1983 in Volume 18 of Maps, at Page 98, Marin County Records.

Parcel B

All that certain real property situated in the City of San Rafael, county of Marin, State of California, described as follows:

BEGINNING at a point on the Westerly line of C Street distant thereon 109 feet 8 inches Northerly from the intersection of said Westerly line of C Street and the Northerly line of Second Street said point of beginning being the Southeast corner of that lot conveyed by Loretta Ceaser to John Mirata by Deed recorded in Book 165 of Deeds, page 269, running thence Westerly at a right angle to C street and along the Southerly line of the Lot so conveyed by Ceaser to Mireta 150 feet; thence Southerly at a right angle 42 feet; thence Easterly at a right angle 150 feet to the Westerly line of C Street thence Northerly along the said line of C Street 42 feet to the point of beginning.

BEING a portion of Block 15 of the Townsite of the Town of San Rafael.

EXCEPTING from Parcel A and Parcel B above described, all buildings, structures and improvements of every kind, now existing or to be constructed on or under the surface of the above described property, for a term of years equal to and to run concurrently with the term of the Ground Lease.

EXHIBIT B

MATERIAL LEASE TERMS

Term	99 years from the effective date of the new Ground Lease
Rent	$83,000, paid at closing (when Ground Lease is executed) through a capitalized lease payment. ($83,000 is the value of the land based on an appraisal.)
Use	Use same language from Section 2.4 of Existing Lease (60 units of housing; up to 28% affordable to low income households (80% AMI))
Taxes and Assessments	Optionee/Lessee shall pay taxes and assessments and will apply for property tax exemption.
Ownership of Improvements	Optionee/Lessee owns improvements until lease termination/end of term at which time the ownership of the improvements will vest in the Owner/Lessor
Construction Provisions	Ground Lease to contain language reflecting rehabilitation scope and schedule
As-Is	Use same language from Section 3.6 and 3.7 of the Existing Lease
Mortgagee Protection; Insurance, Casualty and Condemnation	Use language from Articles IV-VI of Existing Lease with agreed upon modifications to reflect reasonable current lender/investor requirements and current Owner/Lessor insurance standards.
Right of First Refusal	Optionee/Lessee shall have right of first refusal if Owner/Lessor sells land (Use same language from Section 7.4 of Existing Lease)
Transfer and Assignment	Use language from Section 10.16 of Existing Lease but add pre-approval of (a) Optionee's/Lessee's (or its members) (i) option to purchase the Project or limited partner's interest in the Partnership and (ii) Section 42 right of first refusal, (b) removal of general partner of the Partnership by the limited partner pursuant to the to be entered into partnership agreement of the Partnership.