

HOUSING AUTHORITY RESOLUTION NO. 2009

RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE HOUSING AUTHORITY OF THE CITY OF RICHMOND AUTHORIZING AN AMENDMENT TO RESOLUTION #1991 AUTHORIZING THE CONVERSION OF FRIENDSHIP MANOR AND TRIANGLE COURT TO PROJECT-BASED SECTION 8 UNDER THE RAD PROGRAM, THE GROUND LEASE AND SALE OF IMPROVEMENTS, THE LOAN OF SALES PROCEEDS, THE GUARANTY OF CONSTRUCTION AND TAX CREDIT FINANCING AS A CO-GUARANTOR AND RELATED ACTIVITIES

WHEREAS, in December 2012, the Housing Authority of the City of Richmond (the "Authority") was selected as a successful recipient of the U.S. Department of Housing and Urban Development ("HUD") Rental Assistance Demonstration (RAD) Program to implement the conversion of Triangle Court and Friendship Manor Public Housing sites to long term, Project Based Section 8 rental assisted properties; and

WHEREAS, the Authority is the owner of that certain real property located at 564 Stege Avenue (formerly 603 South 37th Street) and 980 Triangle Court, in the City of Richmond, County of Contra Costa, State of California (the "Land"); and all improvements and fixtures located on the Land consisting of one hundred fifty-six (156) units of affordable multifamily housing commonly known as Friendship Manor and Triangle Court (the "Improvements"); and

WHEREAS, the Land and the Improvements are, collectively, the "Property"; and

WHEREAS, the Property is currently operated as public housing and, as such, is encumbered by declarations of trust in favor of the HUD (the "Declarations"); and

WHEREAS, it is intended that the Property will convert from public housing units to Project-Based Section 8 Housing Units ("Section 8 Units") through HUD's RAD Program and receive Project-Based Section 8 vouchers for up to one hundred fifty-three (153) units through a Housing Assistance Payment Contract with the Authority (the "HAP Contract"); and

WHEREAS, RHA Housing Corporation, a California nonprofit public benefit corporation controlled by the Authority ("RHAHC") formed a limited liability company known as RHA RAD LLC, a California limited liability company ("RHA LLC") to be the managing general partner of RHA RAD Housing Partnership LP, a California limited partnership (the "Partnership"); and

WHEREAS, the John Stewart Company ("JSCO"), as co-guarantor of the Project, has formed JSCo Friendship Triangle, LLC, a California limited liability company ("JSCO LLC"), as an affiliate to serve as the administrative general partner of the Partnership; and

WHEREAS, the Authority, acting on behalf of itself, deems it to be in the best interest of the Authority for the Authority to convey the fee interest in the Improvements and ground lease the Land to the Partnership for a term of up to 99 years, in order for the Partnership to rehabilitate and operate the Improvements (the "Project"); and

WHEREAS, the Authority, acting on behalf of itself, deems it to be in the best interest of the Authority for the Authority to enter into a ground lease of the Land, purchase and sale agreement and grant deed for the Improvements, a bill of sale and assignment, and ancillary documents, including a memorandum of ground lease, a preliminary change of ownership report, closing statements, escrow instructions, and any and all other documents and certifications necessary to ground lease the Land and convey the Improvements to the Partnership (the "Acquisition Documents"); and

WHEREAS, as a condition of participation in the RAD Program, HUD will require that a Use Agreement restricting the use of the Property be executed by the Partnership and recorded against the Property (the "Use Agreement") and that the Authority and the Partnership execute a RAD Conversion Commitment and any amendments thereto (the "RCC"), and other RAD Program documents; and

WHEREAS, the Authority, acting on behalf of itself, deems it to be in the best interest of the Authority for the Authority to enter into or, as applicable, cause the Partnership to enter into any and all documents, including, but not limited to, the Use Agreement, the RCC and the RAD HAP Contract, and execute any certifications required by HUD in order to facilitate the conversion of the public housing units to Section 8 Units (collectively, the "RAD Documents"); and

WHEREAS, upon conversion of the Property from public housing to Section 8, HUD will release the Declarations as encumbrances against the Property; and

WHEREAS, the Authority, acting on behalf of itself, deems it to be in the best interests of the Authority to assist the Partnership in securing acquisition, construction and permanent financing for the Project; and

WHEREAS, JPMorgan Chase Bank, N.A. ("Bank"), has committed to purchasing approximately Sixteen Million Five Hundred Thousand Dollars (\$16,500,000) of tax exempt bonds issued by the Authority (the "Bonds"), the proceeds of which will be used to provide a construction loan to the Partnership (the "Bond/Construction Loan"), with up to Two Million Dollars (\$2,000,000) of the Bond/Construction loan converting to a permanent loan; and

WHEREAS, it is proposed that the Authority will adopt a companion resolution to this Resolution authorizing the issuance of the Bonds, prepared by Orrick Herrington and Sutcliffe as bond counsel to the Authority, and authorizing the Authority to enter into all documents associated with the Bonds and the Bond/Construction Loan; and

WHEREAS, in addition, pursuant to this Resolution, the Authority deems it in its best interests for the Authority to enter into all documents necessary for the Bonds and Bond/Construction Loan, including, but not limited to, a master pledge and assignment, a master agency agreement, bond regulatory agreements, a payment and performance guaranty and environmental indemnity guaranteeing the completion of the Project and repayment of the Bond/Construction Loan (the "Bond/Construction Loan Obligations"), subordination agreements, a cash collateral and escrow of sales proceeds agreement, opinion certificates, and any and all other documents or certifications necessary to assist the Partnership in consummating the Bond/Construction Loan for the rehabilitation of the Project (the "Bond and Construction Loan Documents"); and

WHEREAS, the Authority, acting on behalf of itself, deems it to be in the best interest of the Authority for the Authority to make a loan of funds to the Partnership in the approximate amount of Seven Million Nine Hundred Eleven Thousand Five Hundred Dollars (\$7,911,500) for the purchase price of the Property (the "Seller Take-Back Loan"); and

WHEREAS, the Authority acting on behalf of itself, deems it to be in the best interest of the Authority for the Authority to make a loan of funds to the Partnership for the Project in the approximate amount of Five Million Six Hundred Eighteen Thousand Five Hundred Dollars (\$5,618,500) (the "Housing Authority Loan") for the rehabilitation of the Project; and

WHEREAS, the Authority, acting on behalf of itself, deems it to be in the best interest of the Authority for the Authority to make the Seller Take-Back Loan and Housing Authority Loan to the Partnership; and

WHEREAS, the Authority, acting on behalf of itself, deems it to be in the best interest of the Authority for the Authority to enter into any and all documents, including but not limited to, loan agreements, regulatory agreements, subordination agreements, deeds of trust, and any other documents or certifications necessary to make the Seller Take-Back Loan and the Housing Authority Loans to the Partnership (the "Housing Authority Loan Documents"); and

WHEREAS, the Seller Take-Back Loan and the Housing Authority Loan may increase if the Bank's appraised value and the sale price of the Improvements increases; and

WHEREAS, should the appraised value and the sale price for the Improvements increase, the Authority, acting on behalf of itself, deems it to be in the best interest of the Authority to authorize an increase in the Seller Take-Back Loan and the Housing Authority Loan, collectively, to equal such increased price; and

WHEREAS, the Authority has received an allocation of low income housing tax credits (the "Tax Credits") from the California Tax Credit Allocation Committee ("TCAC") as part of the financing for the rehabilitation of the Project; and

WHEREAS, the Authority desires to assign the allocation of the Tax Credits to the Partnership for the acquisition of the Improvements and rehabilitation of the Project; and

WHEREAS, the Authority, acting on behalf of itself, deems it to be in the best interest of the Authority to assign the allocation of the Tax Credits to the Partnership and enter into and assignment of tax credits with the Partnership (the "Tax Credit Assignment"); and

WHEREAS, the Richman Group Affordable Housing Corporation, through U.S.A. Institutional Tax Credit Fund XCVIII L.P. (the "Tax Credit Investor") will invest up to Thirteen Million Dollars (\$13,000,000) in the Project in exchange for the Tax Credits and will enter into a limited partnership agreement (the "Partnership Agreement") with the RHAHC and JSCo LLC; and

WHEREAS, the Partnership Agreement will obligate the Partnership to complete the Project, deliver the Tax Credits to the Tax Credit Investor and stabilize the Project through an initial period of operations ("Tax Credit Obligations"); and

WHEREAS, to assist with the tax credit syndication of the Partnership, the Authority is requested to enter into an unconditional guaranty for the Tax Credit Obligations, a purchase option and right of first refusal, and a memorandum of purchase option and right of first refusal; and

WHEREAS, the Authority, acting on behalf of itself, deems it to be in the best interest of the Authority to enter into an unconditional guaranty, purchase option and right of first refusal, and memorandum of option and right of first refusal (the "Tax Credit Documents"); and

WHEREAS, the guarantees to be provided to the Bank for the Bond/Construction Loan Obligations and to the Tax Credit Investor for the Tax Credit Obligations shall be joint and several obligations of the Authority and JSCo as co-guarantors; and

WHEREAS, the Authority shall enter into a co-guarantor contribution agreement with JSCo by which the Authority shall be responsible for two-thirds (2/3) of any amounts that may become due under such joint guarantees and JSCo shall be responsible for one-third (1/3) of any such amounts (the "Co-Guarantor Contribution Agreement"); and

WHEREAS, the Authority, acting on behalf of itself, deems it to be in the best interest of the Authority for the Authority to execute a Co-Guarantor Contribution Agreement; and

WHEREAS, the Authority may have entered into professional and service contracts with third parties to provide certain services required in connection with the predevelopment and rehabilitation of the Project (collectively the "Service Contracts"); and

WHEREAS, the Authority, acting on behalf of itself, deems it to be in the best interest of the Authority for the Authority to assign its rights, warranties and any work products of the Service Contracts to the Partnership (the "Assignment of Service Contracts"); and

WHEREAS, timing requirements for completing Project financing require that the Executive Director of the Authority have the ability to negotiate the final terms of all of the above-referenced and any other necessary Project documentation in the best interests of the Authority.

NOW, THEREFORE, BE IT RESOLVED: that the Authority is hereby authorized to convey the fee interest in the Improvements and ground lease the Land to the Partnership and enter into the Acquisition Documents.

BE IT FURTHER RESOLVED: that the Authority is hereby authorized to enter into the RAD Documents.

BE IT FURTHER RESOLVED: that the Authority is hereby authorized to assist the Partnership in securing acquisition, construction and permanent financing for the Project.

BE IT FURTHER RESOLVED: that the Authority is authorized to execute the Bond/Construction Loan Documents.

BE IT FURTHER RESOLVED: that the Authority is authorized to make the Seller Take-Back Loan to the Partnership.

BE IT FURTHER RESOLVED: that the Authority is authorized to make the Housing Authority Loan to the Partnership.

BE IT FURTHER RESOLVED: that the Authority is authorized to enter the Tax Credit Documents.

BE IT FURTHER RESOLVED: that the Authority is hereby authorized to enter into the Co-Guarantor Contribution Agreement.

BE IT FURTHER RESOLVED: that should the Bank appraised value and the sale price for the Improvements increase, the Authority is hereby authorized to increase the amounts of the Seller Take-Back Loan and the Housing Authority Loan.

BE IT FURTHER RESOLVED: that the Authority is hereby authorized to assign its rights, interest and obligations under the Tax Credits to the Partnership and enter into the Tax Credit Assignment.

BE IT FURTHER RESOLVED: that the Authority is hereby authorized to assign the Authority's rights, warranties and any work products of the Service Contracts for the rehabilitation of the Project, as needed, and enter into the Assignment of Service Contracts.

BE IT FURTHER RESOLVED: that the Executive Director of the Authority, acting alone on behalf of the Authority, shall be authorized and directed to negotiate, finalize and execute any and all necessary documents, agreements and certificates, including but not limited to, the Acquisition Documents, the RAD Documents, the Bond and Construction Loan Documents, the Seller Take Back Loan Documents, the Authority Loan Documents, the Tax Credit Documents, the Co-Guarantor Contribution Agreement, the Assignment of Tax Credits, the Assignment of Service Contracts, and any and all other documents necessary to have the Authority convey the fee interest in the Improvements and ground lease the Land to the Partnership, convert the Property under the RAD Program, assist the Partnership in securing financing for the Project, consummate the Bond Loan, the Seller Take-Back Loan, the Authority Loan, and the Tax Credits, and assign all of its rights, interest and obligations under the Tax Credits and the Service Contracts to the Partnership, and is further authorized to take any and all other actions contemplated by this Resolution or necessary to complete the RAD conversion of the Project and the transactions described herein.

BE IT FURTHER RESOLVED: that the Executive Director, or any other officer of the Authority shall be authorized to execute and certify any other form of resolution required by any lender, investor, regulator or other third party involved in the transaction, so long as the Executive Director and counsel to the Authority determine that the substance of such resolution does not materially conflict with the substance of this resolution.

BE IT FURTHER RESOLVED: that to the extent that any actions authorized herein have already been performed, such actions are ratified and approved.

The foregoing resolution was passed and adopted by the Commissioners of the Housing Authority of the City of Richmond at a special meeting thereof held on July 28, 2015, by the following vote:

AYES: Commissioners Bates, Beckles, Martinez, McLaughlin, Pimplé, Vice Chairperson Myrick, Chairperson Butt, and Housing Authority Tenant Commissioners Johnson and Sutton.

NOES: None.

ABSTENTIONS: None.

ABSENT: None.

TOM BUTT
Chairperson

[SEAL]

ATTEST:

PAMELA CHRISTIAN
Secretary

Approved as to form:

BRUCE GOODMILLER
Attorney

State of California }
County of Contra Costa : ss.
City of Richmond }

I certify that the foregoing is a true copy of **Resolution No. 2009** finally passed and adopted at a Special Housing Authority Meeting held on July 28, 2015.



SECRETARY OF THE HOUSING AUTHORITY