

PLACER COUNTY
REDEVELOPMENT AGENCY

MEMORANDUM

TO: Honorable Members of the Redevelopment Agency Board
FROM: Rich Colwell, Chief Assistant CEO-Redevelopment Director
Jim LoBue, Deputy Director
DATE: August 4, 2009
SUBJECT: Adopt a Resolution Authorizing the Chief Assistant CEO-Redevelopment Director or Designee to Execute an Option Agreement Amendment with Domus Development, LLC for Conveyance of Redevelopment Agency-Owned Property at 325, 348, and 385 Deer Street, 265 Fox Street, and 200 Chipmunk Street in Kings Beach, Assessor Parcel Numbers 090-064-013, 090-064-017, 090-064-012, 090-126-026, and 090-222-050.

RE Colwell

ACTION REQUESTED: Adopt a resolution authorizing the Chief Assistant CEO-Redevelopment Director or designee to execute an Option Agreement Amendment with Domus Development, LLC for conveyance of Redevelopment Agency (Agency)-owned property at 325, 348, and 385 Deer Street, 265 Fox Street, and 200 Chipmunk Street in Kings Beach, Assessor Parcel Numbers 090-064-013, 090-064-017, 090-064-012, 090-126-026, and 090-222-050.

BACKGROUND: On July 23, 2007, your Board approved an Exclusive Negotiating Rights Agreement with Domus Development, LLC for the development of new affordable housing and associated improvements at scattered sites in Kings Beach.

On February 26, 2008, your Board authorized the execution of an Option Agreement with Domus Development, LLC (Domus). The agreement provides for the Agency conveyance of Agency-owned properties to Domus when all required conditions are satisfied and the housing development project is ready to proceed with full financing and construction.

The Agency is applying for State of California, Department of Housing and Community Development, HOME Program funding for the Deer Street properties. As a condition of this application, the developer must demonstrate site control for the full term of the standard agreement with the HOME Program should the Agency's HOME application be successful. The Option Agreement can serve as evidence of the required site control. However, the HOME Program also requires that no choice limiting actions be taken prior to the completion of Federal Department of Housing and Urban Development (HUD) National Environmental Policy Act (NEPA) environmental documents. It has been determined that the existing Option Agreement lacks the necessary language to adequately demonstrate the Agency's commitment to abide by this HUD requirement. A proposed Option Agreement Amendment has added the necessary language required during the environmental review process.

Actual conveyance of the property would not occur unless and until the project received all necessary environmental review certifications, entitlement permit approvals, and full financing. In addition, it is anticipated that a disposition and development agreement will be brought to your Board to establish in more detail all the requirements and obligations of the developer and Agency in order to implement the project.

ENVIRONMENTAL STATUS: This is an action to authorize the execution of an Option Agreement Amendment and, as such, does not result in a potential impact to the environment as such is understood in the California Environmental Quality Act (CEQA) per CEQA Guidelines Section 15061(b)(3). If this option is exercised, at that time additional CEQA and NEPA compliance review will be performed. Any development project application submitted by Domus Development, LLC to the County of Placer shall be subject to the County's and NEPA environmental review procedures and requirements.

FISCAL IMPACT: No expenditure authorization is associated with this action.

RECOMMENDATION: Adopt a resolution authorizing the Chief Assistant CEO-Redevelopment Director or designee to execute an Option Agreement Amendment with Domus Development, LLC for conveyance of Agency-owned property at 325, 348, and 385 Deer Street, 265 Fox Street, and 200 Chipmunk Street in Kings Beach, Assessor Parcel Numbers 090-064-013, 090-064-017, 090-064-012, 090-126-026, and 090-222-050.

Attachment: Resolution
Option Agreement Amendment

cc: Karin Schwab, Agency Counsel

**Before the Placer County
Redevelopment Agency Board of Directors
County of Placer, State of California**

In the matter of:

Authorizing the Chief Assistant CEO-Redevelopment Director or designee to execute an Option Agreement Amendment with Domus Development, LLC for conveyance of Redevelopment Agency-owned property at 325, 348, and 385 Deer Street, 265 Fox Street, and 200 Chipmunk Street in Kings Beach, Assessor Parcel Numbers 090-064-013, 090-064-017, 090-064-012, 090-126-026, and 090-222-050

Resol. No:.....

Ord. No:.....

First Reading:

The following Resolution was duly passed by the Redevelopment Agency Board of the County of Placer at a regular meeting held _____,

by the following vote on roll call:

Ayes:

Noes:

Absent:

Signed and approved by me after its passage.

Attest:

Chair, Agency Board

Clerk of said Board

WHEREAS, the Placer County Redevelopment Agency (Agency) has adopted the North Lake Tahoe Redevelopment Plan (Plan);

WHEREAS, the Agency is responsible for administering the Plan to carry out redevelopment efforts within the North Lake Tahoe Redevelopment Project Area;

WHEREAS, the Agency wishes to encourage and support affordable housing development in the North Lake Tahoe Redevelopment Project Area;

WHEREAS, there is no expenditure authorization associated with this action;

WHEREAS, the proposed agreement is an administrative action and exempt from environmental review under the California Environmental Quality Act per Guidelines Section 15178(b)(5);

WHEREAS, the Agency owns real property located at 325, 348, and 385 Deer Street, 265 Fox Street, and 200 Chipmunk Street, Kings Beach, CA, also known as Assessor Parcel Number 090-064-013, 090-064-017, 090-064-012, 090-126-026, and 090-022-050 (Property);

WHEREAS, the Agency entered into an Exclusive Negotiating Rights Agreement with Domus Development, LLC to support the development of an affordable housing project in Kings Beach; and

WHEREAS, on February 26, 2008, the Agency entered into an Option Agreement with Domus Development, LLC for the eventual conveyance of Property for affordable housing development. The Agency is applying for State of California, Department of Housing and Community Development, HOME Program funding for the Deer Street property. The existing Option Agreement does not include the Department of Housing and Urban Development National Environmental Policy Act language that the HOME application requires and an Option Agreement Amendment that has the necessary environmental language is proposed to be executed.

NOW, THEREFORE, BE IT RESOLVED that the Agency Board authorizes the Chief Assistant CEO-Redevelopment Director or designee to execute an Option Agreement Amendment with Domus Development for conveyance of Redevelopment-Owned Property at 325, 348, and 385 Deer Street, 265 Fox Street, and 200 Chipmunk Street, Kings Beach, CA, also known as Assessor Parcel Numbers 090-064-013, 090-064-017, 090-064-012, 090-126-026, and 090-022-050.

**Recording Requested by
and when Recorded, return to:**

Placer County Redevelopment Agency
P.O. Box 7096
Auburn, CA 95604-7096
Attn: Deputy Director, Redevelopment

EXEMPT FROM RECORDING FEES PER
GOVERNMENT CODE §§6103, 27383

Space above this line for Recorder's use.

AMENDMENT TO OPTION AGREEMENT

This Amendment to Option Agreement (this "**Agreement**") is entered into effective as of _____, 2009 ("**Effective Date**") by and between the Placer County Redevelopment Agency, a public body corporate and politic ("**Agency**") and Domus Development, LLC, a California limited liability company ("**Developer**"). Agency and Developer are hereinafter collectively referred to as the "**Parties**." Capitalized terms used but not defined herein shall have the meaning ascribed to such terms in the Option Agreement (defined below)

WHEREAS, the Parties entered into that certain Option Agreement dated as of February 26, 2008, (the "**Agreement**") pursuant to which the Agency agreed to provide developer with an option to acquire the Property.

WHEREAS, the Parties desire to amend the Agreement to modify the Term of Option and include that the Option is conditioned upon the completion of the CEQA and NEPA environmental process.

NOW THEREFORE, in consideration of the mutual covenants of the Parties and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

1. Section 2 of the Agreement is amended in its entirety to read as follows:
 2. Term of Option. Provided that no Event of Default shall have arisen and remained uncured beyond any applicable cure period under the Property Management Agreement, the Predevelopment Loan Agreement, the ENA or this Agreement, the Developer may exercise the Option with respect to each parcel comprising the Property during the period (the "**Option Term**") commencing upon the date that all Conditions Precedent (defined in Section 4 below) have been satisfied with respect to such parcel and ending (i) on December 31, 2013 for the 385 Deer Street (APN 090-064-012), 325 Deer Street (APN 090-064-013), 348 Deer Street (APN 090-067-017) and 265 Fox Street (APN 090-126-026) parcels, and (ii) on December 31, 2014 for the 200 Chipmunk (APN 090-222-050) parcel.

2. Addition of subsection (c) to Section 4. Conditions Precedent to Exercise of Option

(c). The Option is conditional upon the completion of California Environmental Quality Act (CEQA) and HUD National Environmental Protection Act (NEPA) environmental review processes. The Agency makes no commitment of funding prior to the completion of the environmental review process.

3. Renumbering of subsection (c) to (d) and (d) to (e) of Section 4. Conditions Precedent to Exercise of Option

4. All other provisions of the Agreement shall remain unchanged and in full force and effect.

5. This Amendment may be executed in counterparts, each of which shall constitute an original and all of which taken together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first written above.

PLACER COUNTY REDEVELOPMENT AGENCY

By: _____

Name: _____

Authorized Signatory - Placer County Redevelopment Agency

APPROVED AS TO FORM:

By: _____

Agency Counsel

DOMUS DEVELOPMENT, LLC
a California limited liability company

By: MNJ Development, LLC,
a California limited liability company, Member

By: Newport Partners, LLC,
a California limited liability company, sole Member

By: Monique Hastings
Monique Hastings, an individual, Member/Manager

SIGNATURES MUST BE NOTARIZED.

State of California)
County of _____)

On _____, 20____, before me, _____, (here insert name and title of the officer), personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (Seal)

State of California)
County of Orange)

On July 14, 2009 before me, Apryll S. Bashore, ^{Notary Public} (here insert name and title of the officer), personally appeared Monique Hastings, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature ASB (Seal)



Exhibit A

LEGAL DESCRIPTION OF PROPERTY

[Attach legal description of Property.]