



EATON HOUSING AUTHORITY MEETING AGENDA
Thursday, January 18, 2024, Following Regular Board Meeting
Held at the Carsten Board Room at 224 First Street

CALL TO ORDER

ROLL CALL

AGENDA APPROVAL / AMENDMENTS

Motion to approve agenda as is or approve agenda with amendment(s).

PUBLIC COMMENT*

Members of the audience are invited to speak at the Board of Trustees' meeting. Public Comment is reserved for citizen comments on items not contained on the printed agenda. Citizen comments are limited to three (3) minutes per speaker. When several people wish to speak about the same position on a given item, they are requested to select a spokesperson to state that position.

NEW BUSINESS

Ratification of the Second Amendment to the Purchase and Sale Agreement – Wesley LaVanchy, Town Administrator

ADJOURN

** If you have public comment but are not comfortable attending in person, please send the comments to wesley@eatonco.org by noon on the day of the meeting, and the comment will be read into the record or otherwise shared with the Board during the meeting.*

AMERICANS WITH DISABILITIES ACT NOTICE

In accordance with the Americans with Disabilities Act, persons who need accommodation to attend or participate in this meeting should contact Town Hall at (970) 454-3338 within 48 hours prior to the meeting to request such assistance.



Eaton Town Board Agenda Item

TO: Board of Trustees of the Town of Eaton
FROM: Wesley LaVanchy, Executive Director, and Avi Rocklin, Town Attorney
DATE of MEETING: January 17, 2024
TITLE/SUBJECT: Ratification of Second Amendment to Purchase and Sale Agreement

DESCRIPTION: For consideration is ratification of the Second Amendment to the Purchase and Sale Agreement between the Housing Authority of the Town of Eaton and B Square Apartments Owner, LLC a/k/a Brikwell (“Brikwell”) for the Sale of Real Property known as Benjamin Square I & II, located at 55 Juniper Avenue, Eaton, CO 80615 (“Second Amendment”).

SUMMARY: On or about July 31, 2023, the Housing Authority and Brikwell entered into a Purchase and Sale Agreement concerning the purchase and sale of Benjamin Square (“Agreement”) and, on or about November 7, 2023, entered into a First Amendment to the Agreement to extend the inspection period to January 12, 2024. Brikwell currently desires additional time, to and including March 27, 2024, within which to conduct its due diligence and thus seeks an extension of the inspection period. In addition, based on an unanticipated increase in utility expenses, Brikwell seeks a reduction in the purchase price from Five Million Six Hundred Thousand (\$5,600,000) to Five Million Four Hundred Thousand (\$5,400,000). Because the inspection period terminated on January 12, 2024, before the Housing Authority’s meeting on January 18, 2024, the Town attorney requested that the Town Board of Trustees take a position via email on the Second Amendment, for ratification at the January 18, 2024 meeting. Trustees Gentry, Ledall, Griffith and Lewis agreed to the terms of the Second Amendment. Copies of the email correspondence are included herewith. Based on the foregoing approval, on or about January 11, 2024, Wesley LaVanchy, the Executive Director of the Housing Authority, executed the Second Amendment.

KEY POINTS:

The key points of the Second Amendment are as follows:

- The inspection period is extended to March 27, 2024;
- The purchase price is reduced to \$5,400,000; and
- As of January 12, 2024, a portion of the earnest money deposit in the amount of \$10,000 is nonrefundable except if there is a breach of the Agreement by the Housing Authority.

COST & BUDGET: N/A

RECOMMENDATION: Approve ratification of the Second Amendment to the Purchase and Sale Agreement between the Housing Authority of the Town of Eaton and B Square Apartments Owner, LLC.



223 1st St, Eaton, CO 80615



(970) 454-3338



townofeaton.colorado.gov

PROPOSED MOTIONS:

For Approval: I move to ratify the execution of, and thus approve, the Second Amendment to the Purchase and Sale Agreement between the Housing Authority of the Town of Eaton and B Square Apartments Owner, LLC for the Sale of Real Property known as Benjamin Square I & II, located at 55 Juniper Avenue, Eaton, CO 80615.

For Denial: I move to deny ratification of the execution of the Second Amendment to the Purchase and Sale Agreement Between the Housing Authority of the Town of Eaton and B Square Apartments Owner, LLC for the Sale of Real Property known as Benjamin Square I & II, located at 55 Juniper Avenue, Eaton, CO 80615.

From: [Avi Rocklin](#)
To: [Jane Winter](#)
Subject: FW: Brikwell Update and Request for Extension of the Due Diligence Period
Date: Thursday, January 11, 2024 9:08:54 AM

Hi, Jane –

Please print this email chain for inclusion in the Housing Authority packet.

Thanks – avi

Avi S. Rocklin
Law Office of Avi S. Rocklin, LLC
1437 N. Denver Avenue, # 330
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970-419-8226
www.rocklinlaw.com
avi@rocklinlaw.com

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From: Nina Lewis <nlewis@eatonco.org>
Sent: Wednesday, December 27, 2023 8:42 PM
To: Lee Griffith <lgriffith@eatonco.org>
Cc: Glenn Ledall <gledall@eatonco.org>; Coby Gentry <Cgentry@eatonco.org>; Avi Rocklin <avi@rocklinlaw.com>; Scott Moser <smoser@eatonco.org>; Liz Heid <lheid@eatonco.org>; Karla Winter <KWinter@eatonco.org>; Wesley LaVanchy <Wesley@eatonco.org>
Subject: Re: Brikwell Update and Request for Extension of the Due Diligence Period

Thank you for the update. I approve the extension.

Nina
Nina Lewis
Create-Share-Inpire-Heart through Hands
970-371-2401
Treasuresbynina@aol.com

Sent from my iPhone

On Dec 26, 2023, at 10:23 PM, Lee Griffith <lgriffith@eatonco.org> wrote:

I agree to the extension as well

From: Glenn Ledall <gledall@eatonco.org>
Sent: Saturday, December 23, 2023 7:40 AM
To: Coby Gentry <Cgentry@eatonco.org>; Avi Rocklin <avi@rocklinlaw.com>
Cc: Scott Moser <smoser@eatonco.org>; Liz Heid <lheid@eatonco.org>; Karla Winter <KWinter@eatonco.org>; Nina Lewis <nlewis@eatonco.org>; Lee Griffith <lgriffith@eatonco.org>; Wesley LaVanchy <Wesley@eatonco.org>
Subject: Re: Brikwell Update and Request for Extension of the Due Diligence Period

Avi,

Thank you for update. I agree to extension of time for due dillagence period.

Glenn Ledall

From: Coby Gentry <Cgentry@eatonco.org>
Sent: Friday, December 22, 2023 3:19 PM
To: Avi Rocklin <avi@rocklinlaw.com>
Cc: Scott Moser <smoser@eatonco.org>; Liz Heid <lheid@eatonco.org>; Karla Winter <KWinter@eatonco.org>; Glenn Ledall <gledall@eatonco.org>; Nina Lewis <nlewis@eatonco.org>; Lee Griffith <lgriffith@eatonco.org>; Wesley LaVanchy <Wesley@eatonco.org>
Subject: Re: Brikwell Update and Request for Extension of the Due Diligence Period

Avi

Thanks for the update. I Agree to the request for the extension of time.

Thanks
Coby Gentry
Sent from my iPhone

On Dec 22, 2023, at 11:13 AM, Avi Rocklin <avi@rocklinlaw.com> wrote:

Mayor and Board –

Please see the attached correspondence from Brikwell related to the purchase of Benjamin Square.

In sum, Brikwell will accept the \$200,000 price reduction (rather than the \$550,000 requested) to offset the increased utility expenses and understands that the Town Board will not offer a price reduction related to the interest rates. Brikwell, however, is asking for an extension of the due diligence period under the purchase agreement from January 12,

2024, to March 27, 2024, to allow them further time to explore a potential grant. The purchase agreement provides that Brikwell is entitled to terminate the agreement and obtain a refund of their deposit up to the end of the due diligence period. After such time, the deposit becomes non-refundable. If Brikwell wants/needs additional extensions of time after the due diligence period, they will be required to provide additional non-refundable deposits. Town staff is supportive of Brikwell's request for an extension of time.

While the first choice is not to make this request by email, since the Town Board does not meet again until January 18, 2024, *after* the current expiration of the due diligence period, I am sending this request by email. Please "reply all" to this email and state whether you agree or don't agree to the request for an extension of time. If a majority agrees to the extension of the due diligence period to March 27, 2024, the Mayor will execute an amendment to the purchase agreement before January 12, 2024, and ask that the action be ratified at the next Board meeting, which packet will also include your email responses for transparency.

Please call me or Wes if you have any questions or would like to discuss this matter.

Thanks, and Merry Christmas and Happy New Year!! avi

Avi S. Rocklin
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<Transaction Update_Benjamin Square.pdf>

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EATON HOUSING AUTHORITY
223 1st Street
Eaton, Colorado 80615
(970) 454-3338
(970) 454-3339 Fax



January 10, 2024

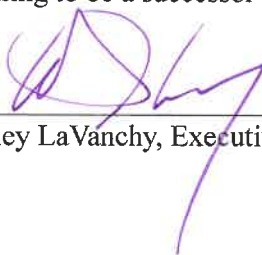
RE: Commitment for Title Insurance issued by Land Title Guarantee Company, as agent for Old Republic National Title Insurance Company (collectively the "Title Company"), under Order No. FCC25207213 (the "Commitment")

Title Company:

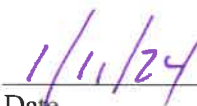
The Housing Authority of the Town of Eaton, a body corporate and politic ("Seller"), is the owner of the real property and improvements located at 55 Juniper Avenue, Eaton, Colorado (the "Property"), pursuant to Warranty Deed dated December 30, 1977, recorded in the real property records of Weld County on January 3, 1978, at Reception No. 1740525.

Pursuant to Exception 14 in Schedule B, Part II of the Commitment, an Abstract of Lease, recorded in the real property records of Weld County on November 19, 1979, at Reception No. 1809547 (the "Abstract of Lease"), indicates that the Property was subject to a lease (the "Laundry Lease") between Eaton Housing Authority and Automatic Laundry Company ("Laundry Lessee"). As set forth in the Abstract of Lease, the term of the Laundry Lease was seven years, commencing on July 15, 1979.

Seller hereby certifies that (a) except as set forth in the Commitment, Seller has no knowledge of the Laundry Lease, and (b) Seller has not received any written notice from Laundry Lessee, or any entity claiming to be a successor-in-interest to Laundry Lessee, regarding the Laundry Lease.



Wesley LaVanchy, Executive Director



Date



BENJAMIN SQUARE – BOARD UPDATE

January 2024

DUE DILIGENCE

Brikwell has thoroughly inspected the property's physical condition, environmental condition, current and historical HAP contracts, service contracts, and lease files and is satisfied with the findings.

HUD APPROVAL STATUS

Brikwell submitted its HAP contract renewal request package to HUD in October 2023. Per the latest update from Brikwell's HUD counsel, HUD is making good progress on its review of the transaction. They are currently reviewing the Property Condition Report and Environmental Condition Report, as well as our request to combine the 2 existing HAP contracts into 1 contract to provide for less administrative burden for the on-site staff.

PROPOSED AMENDMENT

Brikwell would like to accept the Board's offer of a \$200,000 price adjustment to offset a portion of the impact due to unforeseen heightened utility costs uncovered during due diligence. We appreciate the Board's willingness to work with us on this matter.

In connection with memorializing the price adjustment, Brikwell also kindly requests the Board approve extending the Inspection Period expiration date to March 27, 2024 to allow for additional time needed to explore securing grant funds to offset the remaining financial impact from the utility expense increase. Although we're very appreciative of the \$200,000 adjustment, the utility impact was \$550,000. Brikwell has learned that there are federal grant funds available for certain green improvements. Based on feedback from our green consultant, we believe Benjamin Square is a good candidate for these grant funds. Brikwell was already planning on making these green improvements, so securing grant funds to cover this expense would not only offset the additional financial strain we're facing, they would also allow us to inject additional capital into the property.

ANTICIPATED CLOSING TIMELINE

Closing is expected to occur within 30-60 days of receipt of formal HUD approval. It typically takes 6 months after HUD receives the request to grant approval. With a submission in October 2023, although Brikwell will use best efforts to expedite this, a realistic timeline for HUD approval is April 2024, which would translate to a closing in April-June 2024.

Brikwell has made great progress in recent months honing the scope and budget for the planned renovation at Benjamin Square. To ensure Benjamin Square is well positioned to provide a high quality of living for its residents for the long term, Brikwell intends to infuse ~\$900K (\$15K/unit) into the property, as outlined below.

UNIT IMPROVEMENTS

- New appliances in every unit
- Addition of new microwaves for every unit (not every unit currently has a microwave)
- New window awnings
- Free in-unit wireless internet for all residents
- Smoke detectors in all bedrooms

AMENITY IMPROVEMENTS

- Outdoor Amenities
 - Installation of a dog park
 - Installation of a community garden
 - Upgraded landscaping
 - Free car care center (vacuum + air)
 - Installation of security cameras
- Indoor Amenities
 - Clubhouse renovation
 - Installation of an exercise facility + storage lockers
 - Installation of a business / computer center
 - Installation of a dog washing station
 - Free central laundry for all residents
 - Free periodic transportation to nearby grocery store

DEFERRED MAINTENANCE

- Asphalt pavement striping and coating
- Repairs to the concrete pedestrian pathways

ADA ACCESSIBILITY IMPROVEMENTS

- Addition of an ADA van-accessible parking spot in front of leasing office
- Bring existing ADA spaces into compliance (signage, striping, etc.)
- Bring community kitchen into ADA compliance
- Bring dumpster enclosures into ADA compliance
- Bring mailboxes into ADA compliance

GREEN IMPROVEMENTS

- All unit appliances will be energy star efficient
- Installation of high-efficiency toilets, showerheads, and faucets
- LED lighting retrofit where appropriate
- Installation of a Hydropoint Smart Irrigation system to increase overall irrigation efficiency

Brikwell's investment strategy includes identifying the best-in-class property manager for each asset it develops or acquires. As a hands-on Asset Manager, Brikwell views its Property Managers as partners and looks to ensure a proper asset / operator fit.

After interviewing multiple property management firms, Brikwell has selected Yarco Companies ("Yarco") to shepherd Benjamin Square and its residents into the future.

Founded in 1923, Yarco has been family-owned and operated since its inception, and for three generations, has demonstrated exceptional skills in the disciplines of property management, resident engagement, project management, governmental compliance, accounting, maintenance, information systems, and human (social) services.

With a current portfolio of 7,776 units across 9 states, Yarco is an industry leader in Section 8 affordable seniors housing and has a tremendous reputation among Housing Authorities and HUD.

Yarco is a values-aligned manager who currently manages 260 units on behalf of Brikwell and is in the process of taking over management of another 358 units that Brikwell owns.

Brikwell has had a wonderful experience with Yarco as our property manager and is confident they are the ideal property management company for Benjamin Square and will provide top-notch service to the property and its residents now and long into the future.



SECOND AMENDMENT TO PURCHASE AND SALE AGREEMENT

THIS SECOND AMENDMENT TO PURCHASE AND SALE AGREEMENT ("**Second Amendment**") is made and entered into as of the 12 day of January, 2024 ("Effective Date"), by and between **THE HOUSING AUTHORITY OF THE TOWN OF EATON**, a body corporate and politic, the address of which is 223 First Street, Eaton, Colorado 80615 ("**Seller**"), and **B SQUARE APARTMENTS OWNER, LLC**, a Delaware limited liability company, the address of which is 3892 S. Grape Street, Denver, Colorado 80237 ("**Purchaser**"). Purchaser and Seller may be referred to individually as a "Party" and together as the "Parties."

RECITALS

A. On or about July 31, 2023, Purchaser and Seller entered into that certain Purchase and Sale Agreement concerning the purchase and sale of real estate known as Benjamin Square I & II, located at 55 Juniper Avenue, Eaton, CO 80615 ("Agreement").

B. On or about November 7, 2023, Purchaser and Seller entered into that certain First Amendment to Purchase and Sale Agreement ("First Amendment"). (For purposes of this Second Amendment, the Agreement and First Amendment shall collectively herein be referred to as the "Agreement.")

C. Pursuant to the Agreement, the Inspection Period terminates on January 12, 2024.

D. Purchaser desires additional time, to and including March 27, 2024, within which to conduct its due diligence and thus seeks an extension of the Inspection Period, and Seller desires to accommodate such request.

E. Based on an unanticipated increase in utility expenses, Purchaser seeks a reduction in the Purchase Price from Five Million Six Hundred Thousand (\$5,600,000) to Five Million Four Hundred Thousand (\$5,400,000), and Seller desires to accommodate such request.

F. To effectuate the foregoing, the Parties desire to enter into this Second Amendment.

AGREEMENT

NOW, THEREFORE, in consideration of mutual covenants set forth herein, Seller and Purchaser hereby agree as follows:

1. **Recitals and Capitalized Terms.** The above recitals are incorporated herein by reference as though fully set forth herein. Capitalized terms used herein shall have the meaning set forth in the Agreement.

2. **Amendment to Section 1.3.** Section 1.3 of the Agreement is hereby deleted in its entirety and in its place inserted the following:

1.3. "**Inspection Period**" means the period commencing on the Effective Date and ending at 11:59 p.m. (Denver, Colorado time) on March 27, 2024.

3. **Amendment to Section 2.2.** Section 2.2 of the Agreement (but not Sections 2.2.1, 2.2.2 or 2.2.3) is hereby deleted in its entirety and in its place inserted the following:

2.2. **Purchase Price and Deposit.** The purchase price for the Property is Five Million Four Hundred Thousand Dollars (**\$5,400,000.00**) (the "**Purchase Price**"). The Purchase Price for the Property shall be payable by Purchaser as follows:

....

4. **Deposit.** Notwithstanding any provision of the Agreement to the contrary, from and after January 13, 2024, a portion of the Deposit in the amount of \$10,000 (the "**Nonrefundable Amount**") shall be nonrefundable to Purchaser, except as to a Seller default under Section 10.2 of the Agreement. Purchaser acknowledges and agrees that, as of the date of this Second Amendment, Seller is not in default in the performance of its obligations under the Agreement. Seller acknowledges and agrees that, as of the date of this Second Amendment, Purchaser is not in default in the performance of its obligations under the Agreement.

5. **Inspection Deadline.** Notwithstanding any provision of the Agreement to the contrary, except with respect to the matter set forth in Exception 13 contained in the Title Commitment (the "**Utility Easement Exception**"), the Inspection Deadline (for purposes of Section 4.3 and Section 7.3 of the Agreement only) shall be January 12, 2024. Purchaser shall retain the right to object to the Utility Easement Exception, pursuant to Section 4.3 of the Agreement, on or before March 27, 2024, and Purchaser retains all rights set forth in Section 4.3 of the Agreement in connection with such objection, including without limitation the right to terminate the Agreement and receive the Deposit (excluding the Nonrefundable Amount).

6. **Effect of Amendment.** Except as expressly provided in this Second Amendment, the Agreement has not been amended, supplemented or altered in any way by this Second Amendment and the Agreement shall remain in full force and effect in accordance with its terms. If there is any inconsistency between the terms of the Agreement and the terms of this Second Amendment, the provisions of this Second Amendment shall govern and control.

[SIGNATURE PAGE FOLLOWS]

NOW, THEREFORE, the Parties hereto have executed this Second Amendment to Purchase and Sale Agreement as of the Effective Date first set forth above.

Seller:

**THE HOUSING AUTHORITY OF THE TOWN
OF EATON**, a body corporate and politic

By: 

Name: Wesley D. Dancy

Title: Town Administrator / Executive Director, EHA

Purchaser:

B Square Apartments Owner, LLC, a Delaware limited liability company

By: B Square Apartments Investors, LLC, its Manager, a Colorado limited liability company

By: B Square Apartments GP, LLC, a Colorado limited liability company, its Manager

By: 

Max Bresner, Manager