



**Berkeley Housing Authority**

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*Office of the Executive Director*

Item 5E  
NEW BUSINESS  
February 14, 2013

To: Honorable Chairperson and  
Members of the Berkeley Housing Authority Board

From: Tia M. Ingram, Executive Director

Subject: Ground Lease for the City-owned land on which Authority-owned units are  
located: 2231 Eighth Street, 1605 Stuart Street, 1812 Fairview Street, 1519  
Alcatraz Avenue and 3016 Harper Street (collectively, the "City Parcels")

**RECOMMENDATION**

Authorize the Executive Director to terminate the Ground Lease with the City of Berkeley for the land located at: 2231 Eighth Street, 1605 Stuart Street, 1812 Fairview Street, 1519 Alcatraz Avenue and 3016 Harper Street (collectively, the "City Parcels")

**BACKGROUND**

Berkeley Housing Authority's 75 family rental units are situated at several sites throughout the City, but the underlying land is not owned by a single entity. The Authority owns some of the the land, the Berkeley Unified School District ("BUSD") owns some, and the City of Berkeley owns the land at the located at: 2231 Eighth Street, 1605 Stuart Street, 1812 Fairview Street, 1519 Alcatraz Avenue and 3016 Harper Street (collectively, the "City Parcels").

We have been in discussion with the City and BUSD regarding the need to execute new ground leases consistent with the transfer of the improvements to Berkeley 75 Housing Partners, L.P., the Related Company's affiliated limited partnership (the "Developer"), pursuant to the Disposition, Development and Loan Agreement ("DDLA") between the Authority and the Developer. As a condition of the City Council authorizing a new ground lease with the Developer, the City Manager has requested that BHA agree to terminate the existing ground lease for the City Parcels. This termination is to be done concurrently with the execution of a new ground lease for the City Parcels from the City to the Developer, close of the Developer's construction financing and conveyance of the Authority's fee interest in the units to the Developer.

We have confirmed with legal counsel that we should obtain Board approval to terminate the lease concurrently with the City's execution of a new ground lease with the Developer. Although the Authority will no longer be a party to a ground lease or own the units, it will still have control over the income and affordability limits of the tenants pursuant to the Regulatory Agreement which is required as a condition of the acquisition loan provided for in the DDLA and which will be executed and recorded at the same time as these conveyances.

**FISCAL IMPACTS OF RECOMMENDATIONS**

None.

**CONTACT PERSON**

Tia M. Ingram, Executive Director, (510) 981-5471  
Jesy Yturalde, Finance Manager, (510) 981-5488

Attachment: Resolution

BERKELEY HOUSING AUTHORITY  
RESOLUTION NO. 13- \_\_\_\_\_

TERMINATING THE GROUND LEASE WITH THE CITY OF BERKELEY

WHEREAS, fourteen of the Authority-owned seventy-five units are located on five parcels of property owned by the City of Berkeley (the "City"): 2231 Eighth Street, 1605 Stuart Street, 1812 Fairview Street, 1519 Alcatraz Avenue and 3016 Harper Street (collectively, the "City Parcels");

WHEREAS, the City Parcels were ground leased to the Authority for a term of 55 years pursuant to a Lease Agreement dated June 6, 1982, and recorded in the Official Records of the County of Alameda on August 20, 1982 (the "Existing City Lease");

WHEREAS, the Authority owns a fee interest in the units located on the City Parcels (the "Improvements"), which it intends to convey to the Developer;

WHEREAS, the Authority has entered into a Disposition, Development and Loan Agreement ("DDLA") with Berkeley 75 Housing Partners, L.P. (the "Developer"), pursuant to which the Authority has agreed to convey its interest in the City Parcels and its additional sixty-one units to the Developer (the "Development");

WHEREAS, the Developer intends, as required by the DDLA, to seek financing for the substantial rehabilitation of the Development from City funds and from the issuance of tax exempt bonds and the Low-Income Housing Tax Credit program, and to maintain the Development's affordability for households at or below fifty percent of Area Median Income;

WHEREAS, the term of the Existing City Lease ends in 2037;

WHEREAS, in order to be eligible for tax exempt bond and Low-Income Housing Tax Credit funds, the Development must maintain income and affordability restrictions for a minimum of fifty-five years;

WHEREAS, the City is willing to enter into a new ground lease directly with the Developer, which requires the consent of the Authority to termination of the Existing City Lease, prior to or concurrently with the close of escrow on the Developer's construction financing and the Authority's conveyance of its fee interest in the Improvements to the Developer;

WHEREAS, the Board of Commissioners deems it to be in the best interest of the Authority to terminate the Existing City Lease prior to or concurrently with the close of escrow on the Developer's construction financing, the City's execution of a new ground lease with the Developer and the Authority's conveyance of its fee interest in the Improvements to the Developer;

NOW THEREFORE, BE IT RESOLVED, that the Authority shall terminate the Existing City Lease prior to or concurrently with the close of escrow on the Developer's construction financing, the execution of a new ground lease from the City to the Developer and the Authority's conveyance of its fee interest in the Improvements to the Developer;

FURTHER RESOLVED, that the Executive Director is authorized to execute any and all documents, including a termination agreement, terminating the Existing City Lease prior to or concurrently with the close of escrow on the Developer's construction financing and the Authority's conveyance of its fee interest in the Improvements to the Developer;

The Foregoing Resolution was adopted by the Board of the Berkeley Housing Authority on February 14, 2013 by the following vote:

Ayes:

Noes:

Abstain:

Absent:

Attest: \_\_\_\_\_

Tia M. Ingram, Secretary