

HOUSING AUTHORITY OF THE CITY OF HAYWARD

RESOLUTION NO. HA 15-\_\_\_\_\_

Introduced by Commissioner

RESOLUTION OF THE HOUSING AUTHORITY OF THE CITY OF HAYWARD ACCEPTING THE TRANSFER OF INTERESTS IN A REGULATORY AGREEMENT IN CONNECTION WITH THE GLEN BERRY DEVELOPMENT AND AUTHORIZING MODIFICATION OF THE REGULATORY AGREEMENT

WHEREAS, the California state legislature enacted Assembly Bill x1 26, as amended by AB 1484 (the "Dissolution Statutes") to dissolve redevelopment agencies formed under the "Community Redevelopment Law" (Health and Safety Code Section 33000 et seq.); and

WHEREAS, pursuant to Health and Safety Code Section 34173, the City Council of the City of Hayward (the "City Council") declared that the City of Hayward, a charter city (the "City"), would act as successor agency (the "Successor Agency") for the dissolved Redevelopment Agency of the City of Hayward (the "Dissolved Agency") effective February 1, 2012, and effective June 28, 2012, the Successor Agency was declared to be a separate legal entity; and

WHEREAS, the Housing Authority of the City of Hayward (the "Authority") was formed to provide decent, safe and sanitary housing in the City of Hayward; and

WHEREAS, effective February 1, 2012, the Authority is the housing successor (the "Housing Successor") to the Dissolved Agency pursuant to California Health and Safety Code Section 34176 of the Dissolution Statutes; and

WHEREAS, pursuant to Health and Safety Code Section 34176, all housing assets (as defined in Section 34176(e)) transfer to the Housing Successor; and

WHEREAS, on August 1, 2012, the Authority submitted a Housing Asset Transfer List to the California Department of Finance (the "Department") which identified the housing assets of the Dissolved Agency, as defined in Health and Safety Code Section 34176(e); and

WHEREAS, the Authority received a letter from the Department dated February 25, 2013, approving substantially all housing assets listed on the draft Housing Asset List (as approved, the "Final Housing Asset List"); and

WHEREAS, in 1992 the City of Hayward, on behalf of the Dissolved Agency, provided \$230,000 (the "Bridge Loan") for the development of a 50-unit affordable housing development at 625 Berry Avenue in Hayward California (the "Glen Berry Development"); and

WHEREAS, in connection with the Bridge Loan, the City of Hayward recorded a Regulatory Agreement, that imposed the Community Redevelopment Law affordability restrictions required under Health and Safety Code Section 33334.2 et. seq., on June 8, 1993, in the Official Records of the County of Alameda as Document No. 93-201286 (the "Glen Berry Regulatory Agreement"); and

WHEREAS, the Bridge Loan has been repaid but the Glen Berry Regulatory Agreement continues to be an encumbrance on the Glen Berry Development and constitutes a housing asset, as such term is defined in Health and Safety Code Section 34176(e)(1), consisting of restriction on the use of real property for low- and moderate-income housing purposes; and

WHEREAS, the Glen Berry Regulatory Agreement was inadvertently left off the Final Housing Asset List created by the Authority pursuant to Health and Safety Code Section 34176(e) and no statutory mechanism exists to amend the Final Housing Asset List to add the Glen Berry Regulatory Agreement thereto; and

WHEREAS, Health and Safety Code Section 34181(c) authorizes the Oversight Board of the Successor Agency for the Redevelopment Agency of the City of Hayward (the "Oversight Board") to direct the Successor Agency to transfer housing assets to the Housing Successor pursuant to Health and Safety Code Section 34176; and

WHEREAS, Health and Safety Code Section 34177(g) further authorizes the Oversight Board to effectuate the transfer of housing functions and assets to the Housing Successor; and

WHEREAS, pursuant to Oversight Board Resolution 2015-07, the Oversight Board directed transfer of the housing asset identified as the Glen Berry Regulatory Agreement to the Authority in its capacity as the Housing Successor to the Dissolved RDA; and

WHEREAS, pursuant to an approval concurrent with this Resolution, the Successor Agency approved the transfer of the housing asset identified as the Glen Berry Regulatory Agreement to the Authority in its capacity as the Housing Successor; and

WHEREAS, the disposition of the Glen Berry Regulatory Agreement pursuant to the Resolution is exempt from the requirements of the California Environmental Quality Act and the applicable state and local implementing guidelines ("CEQA") pursuant to State CEQA Guidelines Section 15061(b)(3); and

WHEREAS, Eden Housing, Inc. ("Eden") intends to rehabilitate the Glen Berry Development, along with the Glen Eden Development located at 561 A Street, both of which are currently owned by affiliates of Eden; and

WHEREAS, Glen Eden and Glen Berry (collectively, the "Glen Berry/Glen Eden Development") were also financed with a HOME Investment Partnership loan and two Community Development Block Grant loans from the City of Hayward (the "Additional City Loans"); and

WHEREAS, the Glen Berry/Glen Eden Development is need of rehabilitation and repair, as more specifically described in the Staff Report accompanying this resolution (the "Staff Report"); and

WHEREAS, in order to maximize the amount of rehabilitation work that is financially feasible to perform on the Glen Berry/Glen Eden Development and for the other reasons stated in Staff Report, Eden's affiliates intend to sell the Glen Berry/Glen Eden Development to a single tax credit partnership affiliate and restructure the Additional City Loans to benefit the Glen Berry/Glen Eden Development by creating a common scheme of financing for the Glen Berry/Glen Eden Development that will help to fund rehabilitation work at the two projects collectively; and

WHEREAS, the City intends to restructure its existing Home Investment Partnership Program (HOME) and Community Development Block Grant (CDBG) funds so that they are part of a common scheme of financing to be repaid with income generated by both the Glen Berry Development and the Glen Eden Development; and

WHEREAS, in consideration of such restructuring, the City and Authority desire for the Authority to amend and restate or otherwise modify the Glen Berry Regulatory Agreement to restrict 49 units in the Glen Berry Development to low income households in the manner described in the Staff Report (the "Amended and Restated Regulatory Agreement").

NOW THEREFORE, the Authority does hereby find, determine, resolve and order as follows:

BE IT RESOLVED finds that the Recitals above are true and correct and by this reference makes them a part hereof.

FURTHER RESOLVED, that the Authority hereby accepts the transfer of interests in the Glen Berry Regulatory Agreement from the Successor Agency;

FURTHER RESOLVED, the Authority Board of Directors, hereby approves and authorizes the Authority Executive Director, or the Authority Executive Director's designee to take any action and execute any documents, in consultation with the Authority General Counsel, as may be necessary to implement the disposition of the Glen Berry Regulatory Agreement pursuant to the terms approved in this Resolution.

FURTHER RESOLVED that the Authority authorizes the Authority Executive Director, or the Authority Executive Director's designee to negotiate, prepare and execute the Amended and Restated Regulatory Agreement in a manner that is consistent with the Staff Report and approved by the Authority Executive Director and the Authority General Counsel.

FURTHER RESOLVED that transfer of the Glen Berry Regulatory Agreement to the Housing Authority and the Amended and Restated Regulatory Agreement are exempt from the requirements of the California Environmental Quality Act pursuant to State CEQA Guidelines

Section 15301 (as an action resulting in continuation of an existing facility) and State CEQA Guidelines Section 15061(b)(3).

FURTHER RESOLVED, that the Authority Executive Director or the Authority Executive Director's designee is authorized to file a Notice of Exemption with respect to the acceptance of the transfer of interest in the Regulatory Agreement and Glen Berry Development in accordance with CEQA and the Amended and Restated Regulatory Agreement.

FURTHER RESOLVED, that this Resolution shall take immediate effect upon its adoption.

HAYWARD, CALIFORNIA, \_\_\_\_\_, 2015

ADOPTED BY THE FOLLOWING VOTE:

AYES:            COMMISSION MEMBERS:

CHAIR:

NOES:           COMMISSION MEMBERS:

ABSTAIN:       COMMISSION MEMBERS:

ABSENT:        COMMISSION MEMBERS:

ATTEST: \_\_\_\_\_  
Miriam Lens, Secretary of the  
Housing Authority of the City of Hayward

APPROVED AS TO FORM:

\_\_\_\_\_  
Michael Lawson, General Counsel of the  
Housing Authority of the City of Hayward