



**DATE:** July 21, 2015

**TO:** Mayor and City Council  
Chair and Housing Authority Board Members

**FROM:** Director of Library and Community Services

**SUBJECT:** Public TEFRA Hearing as Required by the Internal Revenue Code of 1986, and Adoption of: a) a Resolution Authorizing the Issuance of Bonds, Declaring the City's intent to Reimburse Certain Project Expenditures from Proceeds of the Bonds, and Authorizing the Submission of an Application to the California Debt Limit Allocation Committee, and b) Resolutions Authorizing the Restructuring of Existing Loans, All in Connection with Financing the Acquisition and Rehabilitation of Certain Affordable Housing Developments Owned by Eden Housing, Inc., and Its affiliates. Exempt from the California Environmental Quality Act pursuant to Section 15301 of the "CEQA" Guidelines.

## RECOMMENDATION

That the City Council:

- a) Conducts a public hearing to consider the issuance of Tax-Exempt Multifamily Housing Revenue Bonds to assist in the acquisition and rehabilitation of certain affordable housing developments owned by Eden Housing, Inc., and its affiliates; and
- b) Adopts the attached resolution: i) approving the use of tax-exempt bond proceeds to reimburse project costs related to the acquisition and rehabilitation of certain affordable housing developments owned by Eden Housing, Inc. (Eden); ii) authorizing the filing of an application with the California Debt Limit Allocation Committee (CDLAC) for a portion of the State of California's ceiling of private activity bond allocation; and iii) approving the issuance of Tax-Exempt Multifamily Housing Revenue Bonds for purposes of Section 147(f) of the Internal Revenue Code of 1986 (Attachment I).
- c) Adopts the attached resolution approving the restructuring of certain loans required for project feasibility and for compliance with tax law (Attachment II).

That the Housing Authority:

- a) Adopts the attached resolution approving the restructuring of certain loans required for project feasibility and for compliance with tax law (Attachment III).

## BACKGROUND

Earlier this year, Eden and the City’s Housing Division staff began to evaluate financing, including the issuance of Tax-Exempt Multifamily Housing Revenue Bonds (the “Bonds”), for the acquisition and rehabilitation of four Eden-owned properties in Hayward comprising a total of 118 units of multifamily rental housing affordable to low and very low-income households (the “Project”). Table A shows the names of the properties, their addresses, and the number of affordable units in each of them:

Table A: The Properties Comprising the Project

Property Name	Location	Number of Units
742 Harris Ct. Apartments	742 Harris Court	4
Harris Court Apartments	734, 735, 743, 750, and 751 Harris Court	20
Cypress Glen	25100 Cypress Avenue	54
Huntwood Commons	27901 Huntwood Avenue	40
	Total:	118

The City and the former Redevelopment Agency (the “Former RDA” through the Low-Moderate Income Housing Fund) provided critical financial support in the form of loans to Eden to fund the properties at different stages of development. In order to make the Project feasible and to comply with current tax law provisions, Eden has requested that the loans be restructured as further described below (the “Restructured Loans”). Eden has also requested that the City serve as the conduit issuer of the Bonds for the Project.

The actions at this meeting are only preliminary. The Bonds cannot be issued until the Bond allocation has been received from CDLAC, bond counsel has prepared all documents, the purchaser or underwriter of the Bonds has provided all necessary agreements, and the bond documents and final resolution are approved by Council. The actions today permit the submission process to CDLAC to begin but do not bind the City to ultimately issue any bonds.

The City has facilitated similar transactions in the past and Council is familiar with the actions required by the Code to initiate the process to issue tax-exempt bonds for affordable housing or other projects of public benefit. Recently, Council held three TEFRA hearings: one for the issuance of bonds for the South Hayward BART Affordable Project, currently under construction; one for the Hayward Senior Housing II development located at B and Grand Streets, completed earlier this year; and another for the issuance of bonds by the California Statewide Community Development Corporation for the Faith Manor Apartments, a rental complex owned by the Glad Tidings Community Development Corporation, currently in predevelopment.

## DISCUSSION

*The Original Loans and Overall Balance to Date.* The following table summarizes the different loans that the City and/or the Former RDA Low-Moderate Income Housing Fund provided to Eden to help finance the development of the properties:

Table B: The Original Loans

Property	Source	Date of Note or Loan Agreement	"Original Loans"	Loan Rate
742 HARRIS	HOME	1/10/1999	\$ 165,000	4.691%, Simple
		SUBTOTAL	<b>\$ 165,000</b>	
HARRIS COURT	HOME	11/1/1998	\$ 825,000	4.762%, Simple
	RDA/Low-Mod	11/1/1998	\$ 275,000	4.762%, Simple
		SUBTOTAL	<b>\$1,100,000</b>	
CYPRESS GLEN	HOME	12/11/2007	\$ 200,000	3.00%, Simple
	CDBG	12/11/1987	\$ 455,000	11.5%/5% Compound
		SUBTOTAL	<b>\$ 655,000</b>	
HUNTWOOD COMMONS	HODAG	10/9/1987	\$ 730,000	9.17%, Compound
	CDBG	8/25/1998	\$ 170,000	9.17%, Compound
	HOME	9/26/2006	\$ 840,000	3.00%, Simple
	Workforce Housing Reward Program	2/5/2007	\$ 175,000	3.00%, Simple
		SUBTOTAL	<b>\$1,935,000</b>	
		<b>TOTAL</b>	<b>\$3,855,000</b>	

The City's original investment in the form of loans to the properties totaled \$3,855,000. A calculation of the interest accrued on the Original Loans to December 1, 2015, the date the Project financing is expected to close ("Closing"), yields an overall balance (principal and interest) of approximately \$11.2 Million. This balance is based on the terms of the Original Loans.

*The Restructuring of the Original Loans.* As mentioned in the Background section of this report, Eden has requested that the City and the Housing Authority (acting as housing successor agency to the Former RDA) restructure their existing loans to render the Project feasible. In consideration of the Project's loan repayment capacity and current financial projections, staff is recommending that the Council approves the restructuring of the Original Loans within the following parameters:

- 1) No write off of the Original Loans.
- 2) Partially forgiving the accrued interest on the Original Loans with high compounding interest rates (i.e., Huntwood Commons' HODAG and CDBG loans).<sup>1</sup>
- 3) To obtain the new principal amount of the Restructured Loans (see Table C) for the high compounding interest-rate loans, add accrued interest at a 3% simple interest rate to those loans from the beginning of their term through Closing.
- 4) Keep the 3% simple interest rate (i.e., Cypress Glen and Huntwood Commons HOME loans) and the 4.762% and 4.691 simple interest rates (i.e., the loans for Harris Court and

<sup>1</sup> To determine the forgiveness amount, staff calculated the difference between the accrued interest based on original compounding rate for each of those loans and a 3% simple interest rate accrued from the beginning of their term through Closing.

742 Harris Court, respectively) for purposes of calculating accrued interest for the Original Loans with those rates and add the resulting accrued interest to obtain the respective Restructured Loans.

- 5) Recast the interest rates of all the Restructured Loans at a financially-feasible rate, which is anticipated to be the prevailing Applicable Federal Rate (AFR) at the time of the rate lock. As of the date of this report, the rate assumed in the Project's financial projections is 2.9% compounding, which translated into a simple rate is actually higher than 3%.

The calculation of the principal and interest of the Original Loans based on the above parameters yielded new or Restructured Loans whose combined total is approximately \$5.4 M.

Table C: The Restructured Loans

Property	Source	Unpaid Principal (Original Loan Amounts minus Payments)	Accrued Interest to Closing	Restructured Loans
742 HARRIS	HOME	\$ 165,000	\$ 116,219	<b>\$ 281,219</b>
HARRIS COURT	HOME	\$ 825,000	\$ 628,154	\$ 1,453,154
	RDA/Low-Mod	\$ 275,000	\$ 209,384	\$ 484,384
			<b>SUBTOTAL</b>	<b>\$ 1,937,538</b>
CYPRESS GLEN	HOME	\$ 200,000	\$ 48,000	\$ 248,000
	CDBG	\$ 435,738 <sup>2</sup>	\$ 326,292	\$ 762,029
			<b>SUBTOTAL</b>	<b>\$ 1,010,029</b>
HUNTWOOD COMMONS	HODAG	\$ 348,985	\$ 212,008	\$ 560,993
	CDBG	\$ 170,000	\$ 139,400	\$ 309,400
	HOME	\$ 840,000	\$ 235,200	\$ 1,075,200
	Workforce Housing Reward	\$ 175,000	\$ 46,836	\$ 221,836
			<b>SUBTOTAL</b>	<b>\$2,167,429</b>
			<b>TOTAL</b>	<b>\$5,396,215</b>

Table D is a summary of the loan restructuring process with aggregate amounts only and the calculation of the Original Loans' accrued-interest forgiveness amount. Most of the interest forgiveness is attributable to the high-compounding interest-rate loans.

<sup>2</sup> One of the implications of calculating the accrued interest based on a lower interest rate was that some of the amortization Eden made towards the Huntwood Commons' HODAG loan and the Cypress Glen's CDBG loan needed to be applied to principal. This would not have been the case if the interest was calculated based on the higher original compounding rates.

Table D: Loan Restructuring Summary and Loan Forgiveness Amount\*

Original Loans (total, principal only)	\$ 3.86
Interest on Original Loans (based on original terms)	\$ 7.34
Original Loans' Balance to Closing (total principal and interest)	\$ 11.20
Restructured Loans (based on above parameters, total <b>new principal</b> )	\$ 5.40
Forgiveness amount (Original Loan's Balance to closing minus Restructured Loans)	\$ <b>5.80</b>

\*approximate amounts, in millions.

*New Fifty-FiveYear (City) Affordability Restrictions for the Entire Project.* In exchange for the forgiveness of approximately \$5.8 Million and its agreement to restructure the loans, the City will record a new regulatory agreement against the Project, to restrict 100% of the units for low income households<sup>3</sup> for fifty-five years from completion of the rehabilitation. The existing regulatory agreements will be modified along with the other existing loan documents.

The affordability restrictions<sup>4</sup> in the existing regulatory agreements will generally remain the same. This approach will help maintain clarity for the Department of Housing and Urban Development (HUD) during the remaining HOME, CDBG, and HODAG funding reporting and monitoring periods, if applicable. Attachment IV is a matrix summarizing existing and proposed affordability restrictions by funding source, including the unit mix of all the properties. The CDBG program (one of the sources of funding as well) only requires that the funding provided meets a national objective upon initial occupancy and that the loans or grants are repaid if the intended use of the properties, in this case affordable rental housing, changes during the affordability period. For these reasons, CDBG is not part of Attachment IV.

*Documentation of the Restructured Loans and Security.* Each of the Restructured Loans will be documented by amended and restated documents or other modifications to the existing loan documents. However, because the Restructured Loans will be repaid from revenues generated by the entire Project as they are part of a “Common Scheme of Financing,” a term used in tax credit financing, the Restructured Loans will be cross-collateralized. In other words, the Restructured Loans will be secured by one single lien, a deed of trust recorded against the entire Project (all properties). Although this is a widely-used financing structure, the City’s Legal Counsel has verified that both the modification of the Original Loans and the cross-collateralization of the Restructured Loans comply with the regulations of the funding sources such as the HOME and CDBG programs.

In addition to the modifications to the loan documents, the nine loans included in Table B will be reduced to seven because the HOME loans for Harris Court and for 742 Harris Court as well as the two CDBG loans will be combined. This will slightly help reduce the significant amount of legal documents that need to be drafted. In the case of the Harris Court properties, this will be necessary because the two properties will be merged into one.

3 Based on newly-released income limits for 2015 by HUD, the low-income limit for family of four in Alameda County is \$71,600.

4 I.e., the number of units restricted, their affordability levels (low or very-low income), the duration of the restrictions (typically fifty-five years), etc.

*Acquisition and Scope of Rehabilitation Work.* Harris Court Apartments, Huntwood Commons, and Cypress Glen have been previously funded with Low-Income Housing Tax Credits (Tax Credits), and Harris Court and Huntwood Commons are still within their Tax Credit regulatory periods, restricting their use as housing affordable to low-income households. Since a re-syndication is part of the financing structure of the Project, a new ownership entity will be created to comply with Tax Credit regulations. In other words, although Eden or one of its affiliates is currently the Tax Credit general partner or ownership entity that manages the properties and provides the tax benefits to a limited partner, a new Tax Credit ownership entity (also an affiliate of Eden) will replace the current partnership. For this reason, the Project involves an acquisition.

Harris Court and 742 Harris Court are almost fifteen years old and Huntwood Commons and the Cypress Glen apartments are approximately thirty years old. Thus, in varying degrees, the properties have started to show signs of deterioration. In particular, Cypress Glen is in need of major upgrades and repairs. The restructuring of the Original Loans and the new financing will support a Project recapitalization and much needed rehabilitation, with additional energy-efficiency improvements, to the extent permitted by the budget. The Tax Credits are anticipated to bring in approximately \$14M in investor equity in support of the work to be performed. The scope of rehabilitation will include:

- addressing weatherproofing including roofs, windows, and building envelopes;
- upgrading the Project buildings to bring them up to building code changes and Tax Credit and bond issuance standards that have been enacted since the properties were originally placed-in-service;
- safety upgrades including seismic performance;
- universal accessibility upgrades;
- refreshing a portion of common areas and unit interiors; and
- upgrading all systems to a minimum lifespan of ten or more years.

Depending on the budget and required approvals, Eden will also:

- perform energy and water conservation improvements on the properties by installing photovoltaic and solar thermal systems;
- perform a larger-scale enhancement of common areas and unit interiors; and
- add new site and resident amenities.

*Relocation.* There will not be any permanent relocation or displacement of residents due to the rehabilitation work. However, due to the nature of the rehabilitation work for 742 Harris, Harris Court, and Cypress Glen, some temporary relocation will be necessary. Eden will retain an experienced third-party consultant to ensure compliance with all applicable federal and State laws governing relocation. Eden will make every effort to minimize the need for temporary relocation, and the consultant will be providing one-on-one counseling to residents to minimize the disruption to their daily lives and schedules.

*The Project Financing and the Inducement and the TEFRA Hearing.* In addition to the \$5.8 million interest forgiveness and the Restructured Loans (see Table D), the City-approved financing for the Project includes up to \$30 Million in Bonds which will be issued by the City to accommodate Eden's request. The Bonds will be complemented by approximately \$14 Million

of non-competitive 4% Tax Credits. Together, the Bonds and the Tax Credits constitute the largest source of external financing for the Project. These two programs are normally used together for the financing of affordable rental housing as they provide the most favorable financing for projects.

The Bonds would be limited special obligations of the City; payable only from the revenues from the Project, and the City would not have any obligation to advance any of its funds or its credit for the repayment of the Bonds. In other words, the City simply acts as a conduit for the Bond issuance process and is not financially responsible for repayment. It is currently anticipated that the Bonds would be sold on a private placement basis to a sophisticated institutional buyer.

In order to issue the bonds, the City and Eden need to apply to the California Debt Limit Allocation Committee (CDLAC) for an allocation of the State's ceiling of private activity bonds. CDLAC's rules require that the issuing jurisdiction adopt a resolution approving the submittal of the application prior to filing it with CDLAC. Upon Council's approval, staff and Eden intend to file the application for the Project within the next few weeks so that the application can be considered at CDLAC's October meeting.

In addition to approving the submittal of the CDLAC application, the Internal Revenue Code of 1986 (the Code) requires that the "applicable elected representatives" of the jurisdiction where a project to be financed with "private activity bonds" is to be situated, adopt a resolution approving the issuance of such bonds after holding a Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA) public hearing, which must be noticed in a newspaper of general circulation. The City Council is being asked to hold such public hearing which, as required by the Code, was properly noticed on July 7.

Staff proposes using the same bond counsel (Jones Hall) as has been used for previous transactions involving the issuance of tax-exempt bonds for affordable housing developments. Jones Hall attorneys, like all the team of consultants proposed for this transaction, are very familiar with the City's processes and, as such, are able to provide the requested services more efficiently.

CEQA and NEPA. The Restructured Loans and proposed rehabilitation are categorically exempt from the California Environmental Quality Act ("CEQA") pursuant to Section 15301 of the CEQA Guidelines because the rehabilitation work will be performed to existing facilities. In addition, NEPA (the National Environmental Protection Act) is not triggered because no new federal financing will be provided.

## **ECONOMIC IMPACT**

The proposed rehabilitation work will not only improve the long term viability of the properties but will also ensure the long-term affordability of the units to Hayward families as a result of new fifty-five year covenants that will be recorded against the properties. The following are additional benefits of the Project rehabilitation:

- Improved Project sustainability: as mentioned in the previous section, the goal of the rehabilitation work is not only to extend the buildings and their major systems' useful life but also to perform, to the extent permitted by the budget, energy-efficiency improvements.

- Improved property management and mandated resident services: through close and frequent monitoring visits and audits, the Tax Credit Allocation Committee (TCAC), the State agency that administers the tax credits program, will ensure that the properties are well managed and that services and amenities adequate for the resident population are provided throughout their compliance period - the first fifteen (15) years after completion of the rehabilitation.
- Regional Housing Needs Allocation (RHNA): although no new affordable units will be created within the City limits, the City will receive partial credits towards State-mandated RHNA targets as the work on the properties will qualify as substantial rehabilitation, which is one of the means for unit-production credits under the RHNA/Annual Housing Element Progress Report guidelines. The Project will be reported on the corresponding RHNA Report as a project that helps the City further one of its Housing Element goals: to conserve and improve the condition of the existing housing stock.
- Potential funding or grants for much-needed local projects of community benefit: As mentioned above, the proposed work for the properties will meet the threshold to be categorized as substantial rehabilitation. This could present funding opportunities for the City through State programs that reward the creation or substantial rehabilitation of affordable housing such as the State Department of Housing and Community Development Department's Housing-Related Parks program. The City was recently awarded approximately \$1.1 Million through this program. Some of the credits the State counted towards the calculation of the award were from substantial rehabilitations of affordable housing projects in Hayward since 2010.
- Local employment: it is expected that the General Contractor will hire local workers to assist in the construction.

In sum, addressing the Project's rehabilitation needs will improve the properties' operating performance and ensure their long-term affordability and viability. Therefore, this Project advances Council priorities and the City's Housing Element goals.

## **FISCAL IMPACT**

The restructuring of the Original Loans does not represent a financial impact to the General Fund or other special fund. There is no new investment of funding of the City or Housing Authority on the Project. The Original Loans will only be brought up to current affordable housing underwriting standards to improve the Project's feasibility and to comply with tax law.

The issuance of the Bonds does not represent a financial impact to the General Fund and the General Fund is not responsible for repayment of the Bonds. An undetermined amount of revenue will be received by the City upon completion of the Project through bond issuance and administrative fees. These will help to offset some of the staff costs associated with implementation and monitoring of the Project. All costs associated with issuance of the Bonds



will be reimbursed through bond proceeds, including the City's financial advisors and legal counsel on affordable housing and bond counsel fees.

## **NEXT STEPS**

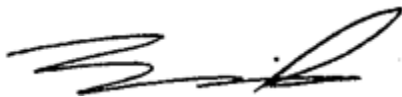
If the City Council adopts the attached resolutions authorizing the restructuring of the Original Loans, staff and its consultants will prepare the necessary legal documents to memorialize and secure the Restructured Loans. The final documents will not be brought back to Council because the resolutions authorize the City Manager to negotiate and execute the documents within the parameters outlined in the Discussion section of this report and developed in more detail in the attached Term Sheet (Attachment V).

Notice of the TEFRA hearing was published in the Daily Review on July 7, 2015. If the City Council adopts the attached resolution authorizing the bond issuance, staff and consultants will prepare documentation necessary for the bond issuance to take place. Staff will bring an item back to Council for approval of final bond documents.

*Prepared by:* Omar Cortez, Housing Development Specialist

*Recommended by:* Sean Reinhart, Library and Community Services Director

Approved by:



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Fran David, City Manager

- Attachment I Resolution Authorizing the Issuance of Bonds and Related Actions
- Attachment II City Council Resolution Approving the Restructuring of the Original Loans
- Attachment III Housing Authority Resolution Approving the Restructuring of the Original Loans
- Attachment IV Summary of Existing and Proposed Affordability Restrictions on the Project
- Attachment V Term Sheet for Documentation of the Original Loans' Restructuring
- Attachment VI Acronyms Used in This Report

**HAYWARD CITY COUNCIL**

**RESOLUTION NO. \_\_\_\_\_**

**INTRODUCED BY COUNCILMEMBER \_\_\_\_\_**

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HAYWARD DECLARING AN OFFICIAL INTENT TO REIMBURSE CERTAIN EXPENDITURES FROM PROCEEDS OF QUALIFIED RESIDENTIAL RENTAL PROJECT BONDS, AUTHORIZING AN APPLICATION TO THE CALIFORNIA DEBT LIMIT ALLOCATION COMMITTEE TO PERMIT THE ISSUANCE OF QUALIFIED RESIDENTIAL RENTAL PROJECT BONDS, AND APPROVING THE ISSUANCE OF QUALIFIED RESIDENTIAL RENTAL PROJECT BONDS IN ACCORDANCE WITH SECTION 147(f) OF THE INTERNAL REVENUE CODE**

WHEREAS, the City of Hayward (the “City”) desires to engage in a program (the “program”) of financing the rehabilitation and construction of a multifamily rental housing;

WHEREAS, Eden Housing Inc., a California not-for-profit corporation the “Sponsor”), has made a request to the City for assistance with respect to the financing of the acquisition and rehabilitation of 118 units of multifamily rental housing located on four sites in Hayward, California, including: (1) 4 units at 742 Harris Court and known as 742 Harris Apartments, (2) 20 units at 734, 735, 743, 750, and 751 Harris Court and known as Harris Court Apartments, (3) 54 units at 25100 Cypress Avenue and known as Cypress Glen Apartments, and (4) 40 units at 27901 Huntwood Avenue and known as Huntwood Commons Apartments (collectively, the "Project"), which will be acquired, owned and operated by the Sponsor or a limited partnership or limited liability company established by the Sponsor or an affiliate thereof (the “Borrower”);

WHEREAS, all or a portion of the units in the Project are expected to be occupied by persons or families of lower or very low income; and

WHEREAS, the Sponsor has requested the City to issue its qualified residential rental project (the “Bonds”) in an amount not to exceed \$30,000,000, the proceeds of which would be loaned to the Borrower for the purpose of acquiring and rehabilitating the Project;

WHEREAS, the Borrower expects to pay certain expenditures (the “Reimbursement Expenditure”) in connection with the Project prior to the issuance of the Bonds for the purpose of financing costs associated with the Project on a long-term basis;

WHEREAS, Section 1.103-8(a)(5) and Section 1.150-2 of the Treasury Regulations require the City to declare its reasonable official intent to reimburse prior expenditures for the Project with proceeds of a subsequent borrowing;

WHEREAS, the Internal Revenue Code of 1986 and the applicable regulations thereunder require the Borrower to take this action in connection with the payment of certain

expenses in connection with the Project prior to issuance of tax-exempt bonds in order to allow the Borrower to be reimbursed for such expenditures;

WHEREAS, Chapter 11.8 of Division 1 of Title 2 of the Government Code of the State of California governs the allocation in the State of California of the state ceiling established by Section 146 of the Code among governmental units in the State having the authority to issue private activity bonds;

WHEREAS, Section 8869.85 of the Government Code requires a local agency to file an application for a portion of the state ceiling with or upon the direction of the California Debt Limit Allocation Committee ("CDLAC") prior to the issuance of private activity bonds;

WHEREAS, Section 147(f) of the Internal Revenue Code of 1986, requires the City Council of the City (the "City Council"), as the elected representative of the City, the host jurisdiction of such facilities, to approve the issuance of the Bonds after a public hearing has been held following reasonable notice;

WHEREAS, a public hearing was held by the City on the date hereof at the City Council's meeting which commenced at the hour of 7:00 p.m. in the City Council Chambers, 777 B Street, Hayward, California 94541, following duly published notice thereof, and all persons desiring to be heard have been heard; and

WHEREAS, it is in the public interest and for the public benefit that the City Council, as the elected representative of the City, the host jurisdiction of such facilities, approve the issuance and delivery by the City, or by a joint powers authority of which the City is a member, of the Bonds;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Hayward, as follows:

Section 1. The City finds and determines that the foregoing recitals are true and correct.

Section 2. The City hereby declares its official intent to issue, at one time or from time to time, an aggregate of up to \$30,000,000 principal amount of the Bonds, the proceeds of which are to be loaned to the Borrower to finance a portion of the costs of the acquisition and rehabilitation by the Borrower of the Project, including, for the purpose of reimbursing to the Sponsor and the Borrower costs incurred for the Project prior to the issuance of the Bonds. The City Council hereby further approves the issuance of the Bonds in the amount of up to \$30,000,000 for purposes of Section 147(f) of the Internal Revenue Code of 1986.

Section 3. The Bonds will be payable solely from the revenues to be received by the City or by a trustee or agent of the City from the Borrower pursuant to a loan agreement or other agreement or agreements to be entered into between the City and the Borrower in connection with the financing of the Project.

Section 4. The issuance of the Bonds is subject to the following conditions: (a) the City and the Borrower shall have first agreed to mutually acceptable terms for the Bonds and of the sale and delivery thereof, and mutually acceptable terms and conditions of the Bond indenture, trust agreement, loan agreement, regulatory agreement and/or other related documents for the financing of the Project; (b) all requisite governmental approvals shall have first been

obtained; (c) a resolution approving the financing documents to which the City will be a party shall have been adopted by the City Council; and (d) an allocation of tax-exempt bond authority with respect to the Bonds shall have been received from the California Debt Limit Allocation Committee (“CDLAC”).

Section 5. The officers and agents of the City are hereby authorized to submit an application to CDLAC for an allocation of a portion of the State Ceiling (as that term is used in the California Government Code) in an amount not to exceed \$30,000,000 for application towards the issuance of the Bonds by the City to finance the Project. The officers and agents of, and financial advisors to, the City are hereby authorized, on behalf of the City, to submit to CDLAC all such other documents as may be required pursuant to the California Government Code in furtherance of the application. A cash deposit equal to one-half of one percent of the amount of allocation requested (not to exceed the maximum deposit pursuant to CDLAC guidelines), to be provided by or on behalf of the Borrower, is hereby authorized to be placed into an escrow account, and the officers of the City are hereby authorized to execute a deposit agreement with the Borrower as may be required with respect to such deposit, and to certify to CDLAC that such funds are available.

Section 6. It is intended that this Resolution shall constitute “some other similar official action” towards the issuance of bonds within the meaning of Section 1.103-8(a)(5) of the Treasury Regulations and “official intent” within the meaning of Section 1.150-2 of the Treasury Regulations, each as applicable under Section 103 of the Internal Revenue Code of 1986, as amended.

Section 7. The law firm of Jones Hall, A Professional Law Corporation, is hereby designated as Bond Counsel to the City in connection with the issuance of the Bonds. The financial advisory firm of CSG Advisors Incorporated is hereby designated as Financial Advisor to the City in connection with the issuance of the Bonds. The fees and expenses of such firms for matters related to the Bonds shall be payable solely from the proceeds of the Bonds or other sources of funds of the Borrower.

Section 8. This Resolution shall take effect from and after its adoption.

IN COUNCIL, HAYWARD, CALIFORNIA, July 21, 2015.

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS

NOES: COUNCIL MEMBERS

ABSTAIN: COUNCIL MEMBERS

ABSENT: COUNCIL MEMBERS

ATTEST: \_\_\_\_\_  
Miriam Lens, City Clerk of the  
City of Hayward

APPROVED AS TO FORM:

\_\_\_\_\_  
Michael Lawson, City Attorney of the  
City of Hayward

CITY OF HAYWARD

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

Introduced by Councilmember \_\_\_\_\_

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF  
HAYWARD AUTHORIZING THE MODIFICATION OF CITY  
FINANCING FOR THE REHABILITATION OF CERTAIN HOUSING  
OWNED BY EDEN HOUSING, INC. AND ITS AFFILIATES

WHEREAS, in 1998, the City of Hayward (the "City"), acting on behalf of the former Redevelopment Agency of the City of Hayward (the "Former RDA") provided a \$275,000 loan at 4.762% simple interest (the "RDA Loan") to Harris Court Associates, an affiliate of Eden Housing, Inc. ("Eden") and owner of Harris Court Apartments;

WHEREAS, in 1998, the City also provided a \$825,000 federal HOME Investment Partnership Program ("HOME") loan at 4.762% simple interest to Harris Court Associates for Harris Court Apartments (the "Harris Court HOME Loan");

WHEREAS, in 1999, the City provided a \$165,000 HOME loan at 4.691% simple interest to Eden for 742 Harris Court (the "742 Harris Court Loan");

WHEREAS, in 1987, the City provided a \$455,000 loan of Community Development Block Grant ("CDBG") funds at 11.5% interest to C.G.A. Associates (an affiliate of Eden) for the Cypress Glen Development (the "Cypress CDBG Loan");

WHEREAS, in 2007, the City provided a \$200,000 HOME loan at 3% simple interest to Eden for the Cypress Glen Development (the "Cypress HOME Loan");

WHEREAS, in 1988, the City provided a \$170,000 loan of CDBG Funds at a rate of 9.17% compounded interest to Eden for the Huntwood Commons Development (the "Huntwood CDBG Loan");

WHEREAS, in 1988, the City provided a \$730,000 loan of federal Housing Development Action Grant Program ("HoDAG") funds at a rate of 9.17% compounded interest to Eden for the Huntwood Commons Development (the "Huntwood HODAG Loan");

WHEREAS, in 2006, the City provided a \$840,000 HOME loan (the "Huntwood HOME Loan") and in 2007, the City provided a \$175,000 Workforce Housing Grant loan (the "Huntwood Workforce Housing Loan"), both bearing simple interest at a rate of 3% to Huntwood Commons Associates for the Huntwood Commons Development;

WHEREAS, Harris Court Apartments, 742 Harris Court, the Cypress Glen Development, and Huntwood Commons (collectively, the "Hayward 4 Development") are all in need of

rehabilitation and repair, as more specifically described in the Staff Report accompanying this resolution (the "Staff Report");

WHEREAS, in order to maximize the amount of rehabilitation work that is financially feasible to perform on the Hayward 4 Development and for the other reasons stated in the Staff Report, Eden and its affiliates intend to sell the Hayward 4 Development to a single tax credit partnership affiliate (the "Partnership") and modify the above described loans to benefit the Hayward 4 Development by creating a common scheme of financing for the Hayward 4 Development that will help to fund rehabilitation work at the four original projects, collectively;

WHEREAS, in order to assist in the feasibility of the Hayward 4 Development rehabilitation, the City desires to have the Housing Authority, as successor to the Former RDA modify the RDA Loan in a manner that is consistent with its concurrent approvals and the Staff Report;

WHEREAS, in order to assist in the feasibility of the Hayward 4 Development rehabilitation, the City desires to modify the other Hayward 4 Loans and amend, amend and restate, or otherwise modify the documents evidencing the other Hayward 4 Loans to reflect the following new principal amounts, which are generally equal to the unpaid principal amount of such loans plus interest accruing as described in the Staff Report (the "Hayward 4 Loans"): \$762,029 for the Cypress CDBG Loan and \$309,400 for the Huntwood CDBG Loan (which loans will be combined); \$248,000 for the Cypress HOME Loan, \$1,075,200 for the Huntwood HOME Loan; \$1,453,154 for the Harris Court Home Loan and \$281,219 for the 742 Harris HOME Loan (which loans will be combined); \$560,993 for the Huntwood HODAG Loan; and \$221,836 for the Huntwood Workforce Loan;

WHEREAS, the Hayward 4 Loans will all bear interest at a rate that will ensure the rehabilitation is financially feasible (expected at the Applicable Federal Rate);

WHEREAS, the City desires to retain the affordability at each of the four original projects by recording an affordability agreement restricting occupancy at the Hayward 4 Development to low income households (the "New Affordability Agreement") and by otherwise maintaining the affordability that is described in the Staff Report;

WHEREAS, the Hayward 4 Loans will be repaid from cash remaining after payment of development and operating costs of the Hayward 4 Development and will be secured by a deed of trust recorded against title to the Hayward 4 Development;

WHEREAS, the Borrower of the Hayward 4 Loans will be the Partnership;

WHEREAS, the modification of the Development is categorically exempt as a Class 1 exemption pursuant to Section 15301 of the CEQA Guidelines because the rehabilitation work will be performed to existing facilities.

NOW THEREFORE, based on the evidence presented to the City Council, including the Staff Report and oral testimony in this matter, the City Council does hereby find, determine, resolve and order as follows:

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

FURTHER RESOLVED, that the City Council hereby approves the Hayward 4 Loans, and the making of such loans.

FURTHER RESOLVED, that the City Council hereby approves the New Affordability Agreement.

FURTHER RESOLVED, that the City Council hereby approves the execution and negotiation of documents evidencing the Hayward 4 Loans and the Affordability Agreement by the City Manager or her designee, in a manner and form that is consistent with the Staff Report and this Resolution and approved by the City Manager and City Attorney.

FURTHER RESOLVED, that the City Council hereby authorizes the City Manager or the City Manager's designee to take such other actions as may be reasonably necessary to facilitate the making of the Hayward 4 Loans and the rehabilitation of the Hayward 4 Development.

FURTHER RESOLVED, that the City Manager or the City Manager's designee is authorized to file a Notice of Exemption with respect to the Hayward 4 Loans and the Hayward 4 Development in accordance with CEQA.

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, City Clerk of the  
City of Hayward

APPROVED AS TO FORM:

\_\_\_\_\_  
Michael Lawson, City Attorney of the  
City of Hayward

HOUSING AUTHORITY OF THE CITY OF HAYWARD

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

Introduced by Commissioner

RESOLUTION OF THE HOUSING AUTHORITY OF THE CITY OF HAYWARD AUTHORIZING THE MODIFICATION OF REDEVELOPMENT AGENCY FINANCING FOR THE REHABILITATION OF CERTAIN HOUSING OWNED BY EDEN HOUSING, INC. AND ITS AFFILIATES

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 is designated as the housing successor to the dissolved Redevelopment Agency of the City of Hayward (the "Dissolved RDA") pursuant to California Health and Safety Code Section 34176;

WHEREAS, in 1998 the Dissolved Agency provided, through the City of Hayward, \$275,000 (the "RDA Loan") in financing to Harris Court Associates, an affiliate of Eden Housing Corporation ("Eden").

WHEREAS, the RDA Loan has earned interest at a rate of 4.762% per annum.

WHEREAS, in addition to Harris Court, Eden and its affiliates also own and operate the developments commonly referred to as 742 Harris Court, the Cypress Glen Development, and Huntwood Commons in the City of Hayward;

WHEREAS, Harris Court, 742 Harris Court, the Cypress Glen Development and Huntwood Commons (collectively, the "Hayward 4 Development") were also financed with loans from the City of Hayward (the "Additional City Loans") and are all in need of rehabilitation and repair, as more specifically described in the Staff Report accompanying this resolution (the "Staff Report");

WHEREAS, in order to maximize the amount of rehabilitation work that is financially feasible to perform on the Hayward 4 Development and for the other reasons stated in Staff Report, Eden and its affiliates intend to sell the Hayward 4 Development to a single tax credit partnership affiliate (the "Partnership") and modify the RDA Loan and the Additional City Loans to benefit the Hayward 4 Development by creating a common scheme of financing for the Hayward 4 Development that will help to fund rehabilitation work at the four projects collectively;

WHEREAS, in order to assist in the feasibility of the Hayward 4 Development rehabilitation, the Housing Authority desires to modify the RDA Loan by amending and restating the loan documents evidencing the RDA loan to provide for a new principal amount \$484,384,

which amount is equal to the original principal amount of the RDA Loan plus interest accruing at 3% simple interest per year (the "New Authority Loan");

WHEREAS, the New Authority Loan will bear interest at a rate that will ensure the rehabilitation is financially feasible;

WHEREAS, the Authority desires to retain the affordability at Harris Court to very low income households and low income households, as more specifically described in the Staff Report;

WHEREAS, the New Authority Loan will be repaid from cash remaining after payment of development and operating costs of the Hayward 4 Development and will be secured by a deed of trust recorded against title to the Hayward 4 Development;

WHEREAS, the Borrower of the Hayward 4 Loans will be the Partnership;

WHEREAS, the modification of the New Authority Loan is categorically exempt as a Class 1 exemption pursuant to Section 15301 of the CEQA Guidelines because the rehabilitation work will be performed to existing facilities.

NOW THEREFORE, based on the evidence presented to the Housing Authority Board, including the Staff Report and oral testimony in this matter, the Housing Authority Board does hereby find, determine, resolve and order as follows:

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

FURTHER RESOLVED, that the Authority hereby approves the New Authority Loan and the making of the New Authority Loan to the Partnership;

FURTHER RESOLVED, that the Authority approves the execution and negotiation of documents evidencing the New Authority Loan by the Housing Authority's Executive Director or her designee, in a manner and form that is consistent with the Staff Report and this Resolution and approved by the Authority Executive Director and the Housing Authority General Counsel.

FURTHER RESOLVED, that the Authority hereby authorizes the Housing Authority's Executive Director or the Executive Director's designee to take such other actions as may be reasonably necessary to facilitate the making of the New Authority Loan and the rehabilitation of the Hayward 4 Development.

FURTHER RESOLVED, that the Housing Authority Executive Director or the Housing Authority Executive Director's designee authorizes to file a Notice of Exemption with respect to the New Authority Loan and Hayward 4 Development in accordance with CEQA.

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

### Summary of Existing and Proposed Affordability Restrictions

Property	Restrictions (Sources)	Income Limit	Rent Limit	1-bdr.	2-bdr.	3-bdr.	Totals
Harris Court (merged) - 24 units	City Restructured Loans	@ 60% of AMI	60% TCAC Rents	4	10	10	<b>24</b>
	HOME Program	@ 50% of AMI	Low HOME Rent		1	2	<b>3</b>
		@ 60% of AMI	60% TCAC Rents	2	3	3	<b>8</b>
	Housing Authority	@ 80% of AMI	1/12 of 30% of 80% of AMI	2	6	5	<b>13</b>
Cypress Glen - 54 units (incl. manager's unit)	City Restructured Loans	@ 60% of AMI	60% TCAC rents	12	24	17	<b>53</b>
	HOME Program	@ 50% of AMI	Low HOME Rent		1	1	<b>2</b>
Huntwood Commons - 40 units (incl. manager's unit)	City Restructured Loans	@ 60% of AMI	60% TCAC Rents	12	19	8	<b>39</b>
	HODAG Program	@ 80% of AMI	1/12 of 30% of 50% of AMI		8	8	<b>16</b>
	HOME Program	@ 50% of AMI	Low HOME Rent	2	2	4	<b>8</b>
		@ 60% of AMI	60% TCAC Rents	10	17	4	<b>31</b>
	Workforce Housing Reward	@ 50% of AMI	Low HOME Rent	2	2	4	<b>8</b>
		@ 60% of AMI	60% TCAC Rents	10	17	4	<b>31</b>

Refinance of Soft Loans for Cypress Glen, Huntwood Commons, Harris Court and 742 Harris Court Developments

Properties	<ul style="list-style-type: none"> <li>• Cypress Glen Development</li> <li>• Huntwood Commons</li> <li>• Harris Court</li> <li>• 742 Harris</li> </ul>
Parties	<ul style="list-style-type: none"> <li>• City as Lender of CDBG, HOME, HODAG and Workforce Housing Reward Grant Funds</li> <li>• Housing Authority in its capacity as housing successor to the RDA as Lender of RDA Funds</li> <li>• Eden Housing Inc., as Sponsor and its affiliate CHHP L.P, as the Owner and Borrower</li> </ul>
CDBG Financing	<p>The two CDBG loans will be modified and combined to reflect the new principal amounts of:</p> <ul style="list-style-type: none"> <li>• \$762,029 (former Cypress Glen loan of \$455,000)</li> <li>• \$309,400 (former Huntwood Commons loan of \$170,000)</li> </ul>
HOME Financing	<p>The four existing HOME Loans will be modified to reflect the new principal amounts of:</p> <ul style="list-style-type: none"> <li>• \$248,000 (former Cypress Glen loan of \$200,000)</li> <li>• \$1,075,200 (former Huntwood Commons loan of \$840,000)</li> <li>• \$1,453,154 (former Harris Court loan of \$825,000)</li> <li>• \$281,219 (former 742 Harris loan of \$165,000)</li> </ul>
HODAG Financing	<p>The HODAG loan will be modified to reflect the new principal amount of:</p> <ul style="list-style-type: none"> <li>• \$560,993 (former Huntwood Commons loan of \$730,000)</li> </ul>
RDA/Housing Authority Financing	<p>The RDA/Housing Authority Loan will be modified to reflect the new principal amount of:</p> <ul style="list-style-type: none"> <li>• \$484,384 (former Harris Court loan of \$275,000)</li> </ul>
Workforce Housing Reward Grant Financing	<p>The Workforce Housing Grant loan will be modified to reflect the new principal amount of:</p> <ul style="list-style-type: none"> <li>• \$221,836 (former Huntwood loan of \$175,000)</li> </ul>
Interest	<p>The rate will be agreed to by the City Manager to maximize the rehabilitation scope and maintain financial feasibility consistent with tax requirements (expected to be the Applicable Federal Rate)</p>
Repayment	<p>Residual Receipts (to be shared among the City and Housing Authority Loans on a prorata basis as a first priority, and thereafter to the Seller Carryback loan). Cost savings shall be paid to the Housing Authority and City, as determined by the City. Any funds paid to Eden or Seller at acquisition in connection with their loans</p>

	shall be reinvested into the project in accordance with the project budget approved by the City or used to pay down the Housing Authority and City loans as a first priority.
Non-Recourse	The loans will be non-recourse to the Borrower
Affordability	<p>The Affordability at each individual project will be maintained:</p> <ul style="list-style-type: none"> <li>• Cypress Glen: 1 very low income HOME two-bedroom unit and 1 very low income HOME three-bedroom unit. City restricted until 2062.</li> <li>• Huntwood Commons: 8 very low and 31 60% AMI HOME units. One- to three-bedroom units. City Restricted until 2062.</li> <li>• 742 Harris: 2 60% AMI HOME two- and three-bedroom Units and 2 low income one- and two-bedroom units. City restricted until 2054.</li> <li>• Harris Court: 9 very low income HOME Units and 11 low income units. 2 and 3 bedroom units. City restricted until 2053.</li> </ul> <p>An additional affordability agreement will be recorded against all properties to maintain affordability to low income households. It will be in place for 55 years following the completion of the rehabilitation (2072).</p>
Conditions Precedent to Closing on Modified Documents	<ul style="list-style-type: none"> <li>• The City has approved the rehabilitation scope and plans and specifications</li> <li>• City has approved Eden's financing plan</li> <li>• City has received evidence of insurance and payment and performance bonds</li> <li>• Eden has obtained all permits needed for rehabilitation work</li> <li>• City has approved construction contract</li> <li>• Reporting related to any of the properties is current</li> <li>• City has approved form of lease and marketing plan</li> <li>• Comply with applicable relocation requirements</li> <li>• Any subordination of the City or Housing Authority financing does not limit the effect of the Deed of Trust and/or Regulatory Agreement before a foreclosure, nor require the consent of the Senior Lender to exercising remedies</li> </ul>
Construction	<ul style="list-style-type: none"> <li>• 12-18 month construction period</li> </ul>

### Key Terms and Acronyms Used in the Staff Report

AFR:	Applicable Federal Interest Rate
AMI:	Area Median Income
The Bonds:	Tax-Exempt Multifamily Housing Revenue Bonds
CDBG:	Federal Community Development Block Grant Program
CDLAC:	California Debt Limit Allocation Committee
CEQA:	California Environmental Quality Act
Closing:	Expected date the Project financing is expected to close (December 1, 2015)
The Code:	The Internal Revenue Code of 1986
Eden:	Eden Housing, Inc.
Former RDA:	Former Redevelopment Agency of the City of Hayward
HOME:	Federal HOME Investment Partnerships Program
HODAG:	Housing Development Action Grants Program
HUD:	U.S. Department of Housing and Urban Development
NEPA:	National Environmental Protection Act
RHNA:	Regional Housing needs Allocation
Tax Credits:	Low-Income Housing Tax Credits
TCAC:	State of California Tax Credit Allocation Committee
TEFRA Hearing:	Tax Equity and Fiscal Responsibility Act of 1982 public hearing