



CITY OF HAYWARD

Hayward City Hall
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Cover Memo

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DATE: September 23, 2015

TO: Chair and Members of Successor Agency Oversight Board

FROM: Assistant City Manager

SUBJECT

Resolution Directing Transfer of a Specified Housing Asset to the Housing Authority of the City of Hayward

RECOMMENDATION

That the Oversight Board adopts the attached resolution (Attachment I) authorizing and directing the transfer of a specified housing asset by the Successor Agency to the Housing Authority of the City of Hayward pursuant to Health and Safety Code Section 34181(c).

BACKGROUND AND DISCUSSION

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.*). Under the Dissolution Statutes, all California redevelopment agencies, including the Redevelopment Agency of the City of Hayward (the "Dissolved Agency") were dissolved effective February 1, 2012.

As allowed under Health and Safety Code Section 34176(b)(3), the City Council of the City of Hayward (the "City") elected for the City to not retain the housing assets and functions previously performed by the Dissolved Agency, and instead selected the Housing Authority of the City of Hayward (the "Housing Authority" and "Housing Successor") to serve as the successor housing agency pursuant to Section 34176 (b)(3) effective February 1, 2012. Under Health and Safety Code Section 34176, all rights, powers, duties, obligations, and housing assets (as defined in Section 34176(e)) of the Dissolved Agency transfer to the entity that retains the housing assets and functions previously performed by the Dissolved Agency. The Housing Authority (and most housing successors in the State) believed that housing assets approved by Department and contained in the Final Housing Asset List transferred to the Housing Authority as housing successor by operation of law and therefore did not require an Oversight Board action to direct this transfer.

As later required under the Dissolution Statutes, the Housing Authority prepared the Housing Asset Transfer List (the "Draft Housing Asset List") which identified the "housing assets" of the Dissolved Agency, as defined in Health and Safety Code Section 34176(e). These included: real and personal property interests acquired for low- and moderate-income housing purposes; encumbered funds; loan and grant receivables for assistance provided by the Low and Moderate Income Housing Fund ("Housing Fund"); rents and payments from housing operations; and amounts owed to the Housing Fund as a result

of previously deferred or borrowed Housing Fund deposits.

On August 1, 2012, the Housing Authority submitted a draft Housing Asset Transfer List to the Department of Finance (the "Department").

The Housing Authority received an initial letter from the Department on August 31, 2012, which questioned specified assets on the draft Housing Asset List. Through the meet and confer process, the Successor Agency, the Housing Authority, and Department were able to clarify all but two of the listed assets which were rejected and retained by the Successor Agency. The Housing Authority received a letter from the Department dated February 25, 2013 (Attachment III), approving all housing assets listed on the Draft Housing Asset List (except for Items 106 and 107 on Exhibit D thereof) herein after referred to as the "Final Housing Asset List" (Attachment II) which includes all of those housing assets approved by the Department.

On December 1, 1992, the City entered into a Loan Agreement with Eden Housing, Inc., under which the City agreed to provide a temporary "Bridge Loan" in the amount of Two Hundred Thirty Thousand Dollars (\$230,000) from an allocation of the Dissolved Agency's Low and Moderate Income Housing Fund (Attachment IV). The purpose of the Bridge Loan was to provide additional financing for the development of a 50-unit affordable housing development located at 625-561 Berry Avenue in Hayward California (the "Glen Berry Development").

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

The Glen Berry Regulatory Agreement was inadvertently excluded from the Final Housing Asset List because the obligation to repay the loan had been satisfied. Although there is no statutory mechanism to amend the Final Housing Asset List to add the Glen Berry Regulatory Agreement, Health and Safety Code Section 34181(c) authorizes the Oversight Board to direct the Successor Agency to transfer housing assets to the Housing Successor pursuant to Health and Safety Code Section 34176. Additionally, Health and Safety Code Section 34177(g) authorizes the Oversight Board to effectuate the transfer of housing functions and assets to the Housing Successor.

Therefore, in compliance with Health and Safety Code Section 34176, the Oversight Board has considered and desires to approve and direct the transfer of the Glen Berry Regulatory Agreement to the Housing Authority in its capacity as Housing Successor. The transfer of the Glen Berry Regulatory Agreement to the Housing Successor is consistent with the Dissolution Statutes and will ensure that the Glen Berry Development is used for affordable housing.

The Successor Agency requests that the Oversight Board adopt the attached resolution authorizing and directing the transfer of the housing asset, the Glen Berry Regulatory Agreement, to the Housing Authority in its capacity as housing successor.

ECONOMIC AND FISCAL IMPACT

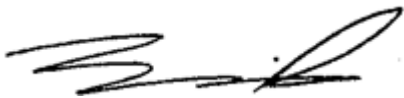
There is no economic impact associated with the transfer of the Glen Berry Regulatory Agreement. The Bridge Loan has been repaid and no income will be generated. Transfer of the assets does not create any new enforceable obligation of the Successor Agency, but rather allows the Housing Authority to manage and enforce the specified housing asset of the Dissolved Agency.

NEXT STEPS

Following the Oversight Board’s adoption of the resolution, staff will submit the resolution to the Department in accordance with Health and Safety Code Sections 34179(h) and Section 34181(f). Once the Department has issued a determination letter, the Housing Authority governing board will be required to adopt a resolution accepting the housing asset.

Prepared and Recommended by: Kelly McAdoo, Assistant City Manager

Approved by:



Fran David, City Manager

Attachments:

- Attachment I: Resolution Authorizing and Directing Transfer of Housing Asset
- Attachment II: Housing Asset Transfer List
- Attachment III: Determination Letter
- Attachment IV: Loan Agreement
- Attachment V: Regulatory Agreement