



# City of San Leandro

Meeting Date: October 5, 2015

## Staff Report

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**File Number:** 15-562 **Agenda Section:** CONSENT CALENDAR

**Agenda Number:** 8.M.

**TO:** City Council

**FROM:** Chris Zapata  
City Manager

**BY:** Cynthia Battenberg  
Community Development Director

**FINANCE REVIEW:** David Baum  
Finance Director

**TITLE:** Staff Report for the Assignment and Assumption of the Loan Agreement, Deed of Trust and Regulatory Agreement for the Real Property at 15370-15375 Tropic Court in the City of San Leandro

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### SUMMARY AND RECOMMENDATIONS

Las Palmas Apartments, which is owned and operated by the nonprofit housing developer Eden Housing, Inc. (Eden), received a \$50,000 loan from City of San Leandro Redevelopment Agency Housing Set-Aside Fund in 2011. Staff recently discovered that the \$50,000 loan was inadvertently left off the Housing Asset Inventory Report (HAT), which the California Department of Finance (DOF) required and approved in 2012 soon after the dissolution of redevelopment agencies state-wide.

Staff recommends that the City Council approve a resolution assigning the \$50,000 loan from the Successor Agency of the Redevelopment Agency of the City of San Leandro to the Housing Successor. This assignment enables the City to assume the duties and rights to modify the loan and related documents and qualifies Eden for State/federal low income housing tax credits/tax-exempt bonds for Las Palmas Apartments.

### BACKGROUND AND ANALYSIS

The 91-unit Las Palmas Apartments at 15370 and 15375 Tropic Court received federal Home Investment Partnership Program (HOME) loan funds from the City of San Leandro in 1999 and executed a regulatory agreement, which is still in effect, that requires Eden to maintain the majority of units as long-term affordable rental housing. Around 1999, the property also received State/federal low income housing tax credits, which also restricted the majority of units as affordable; those tax credits have expired.

Eden re-applied for low income housing tax credits and tax-exempt bonds from the State Tax Credit Allocation Committee (TCAC) and California Debt Limit Allocation Committee (CDLAC) in August 2015 to make needed renovations to the aging Las Palmas. Eden Housing is not

seeking any additional City financial assistance.

Upon the dissolution of redevelopment agencies in February 2012, all former redevelopment agencies were required to submit a Housing Asset Inventory Report to DOF in summer 2012. The City completed and submitted the report to DOF by the deadline, and DOF approved the report shortly after submittal. CDLAC reviewed the HAT as part of Eden's tax credit application and noted that it did not find the Las Palmas loan on the list. City staff, upon further review, confirmed that the \$50,000 loan from Redevelopment Agency Housing Set-Aside funds was inadvertently left off the report.

To rectify the omission from the HAT of the \$50,000 loan to Las Palmas, DOF recommended that the Successor Agency and the Oversight Board review and approve a resolution to transfer this asset to the Housing Successor. The Oversight Board approved a resolution on September 23, 2015. Under State law, the City Council must now approve assignment and assumption of the loan agreement and related legal documents from the Successor Agency to the City. The transfer of this asset is a prerequisite for Eden's eligibility for low income housing tax credits/tax-exempt bond financing to make needed improvements at Las Palmas Apartments.

### **Previous Actions**

On September 8, 2015, the City Council conducted a TEFRA public hearing and adopted a resolution approving CMFA to issue revenue bonds for Eden's tax credit/tax-exempt bond financing application for renovations to Las Palmas Apartments.

### **Committee Review and Actions**

On September 23, 2015, the Successor Agency Oversight Board approved by resolution that the \$50,000 Redevelopment Housing Set-Aside loan (from 2011) be transferred to the housing successor pursuant to Health and Safety Code (HSC) section 34176 (a) (1) and 34177 (g).

### **Applicable General Plan Policies**

The proposed renovations to Las Palmas Apartments by Eden Housing advance Goal 56 (Affordable Housing Conservation) under the City's Housing Element Update, which was certified by the State Housing and Community Development Department in February 2015.

### **Legal Analysis**

The City Attorney's Office reviewed and approved this staff report, resolution and related legal documents (see File 15-563).

### **Fiscal Impacts**

The assignment of the \$50,000 loan from the Successor Agency to the City has no fiscal impact to the City's General Fund. The City will assume the \$50,000 loan and will be assigned any future loan repayments from Eden.

### **ATTACHMENT(S)**

**Attachment(s) to Related Legislative Files**

Attached to Resolution:

- Assignment and Assumption of the Loan Agreement, Deed of Trust and Regulatory Agreement for the Real Property at 15370-15375 Tropic Court in the City of San Leandro

**PREPARED BY:** Tom Liao, Deputy Community Development Director, Community Development Department



# City of San Leandro

Meeting Date: October 5, 2015

## Resolution - Council

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**File Number:** 15-563

**Agenda Section:** CONSENT CALENDAR

**Agenda Number:**

**TO:** City Council

**FROM:** Chris Zapata  
City Manager

**BY:** Cynthia Battenberg  
Community Development Director

**FINANCE REVIEW:** David Baum  
Finance Director

**TITLE:** RESOLUTION Approving The Assignment And Assumption Of The Loan Agreement, Deed Of Trust And Regulatory Agreement For The Real Property At 15370-15375 Tropic Court In The City Of San Leandro [To Assist Eden Housing, Inc., A Non-Profit Corporation That Owns And Operates Las Palmas Apartments At 15370-15375 Tropic Court, In Obtaining Financing For Necessary Improvements And Preserving Affordability]

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WHEREAS, on February 7, 2011, the Redevelopment Agency to the City of San Leandro (the "**Former Agency**") entered into that certain affordable housing loan agreement with Las Palmas Development Partners (the "**Borrower**"), pursuant to which the Former Agency provided a loan to Borrower in the amount of Fifty Thousand Dollars (\$50,000) (the "**Housing Loan**") for the purpose of providing financial assistance for a multi-family affordable housing project owned by Borrower (the "**Project**") located at 15370-15375 Tropic Court in the City.

WHEREAS, Assembly Bill 26 ("ABx1 26") was enacted by the State Legislature and signed by the Governor on June 29, 2011; and

WHEREAS, on December 29, 2011 the California Supreme Court delivered its decision in *California Redevelopment Association v. Matasantos*, finding ABx1 26 largely constitutional and resulting in the dissolution of all California redevelopment agencies, including the Former Agency, on February 1, 2012; and

WHEREAS, on June 27, 2012, AB 1484 (together with ABx1 26, the "**Dissolution Law**"), a budget trailer bill that made substantial amendments and additions to ABx1 26, was signed into law; and

WHEREAS, pursuant to the Dissolution Law, the Successor Agency is the successor in interest to the Former Agency; and

WHEREAS, pursuant to Section 34176 of the Dissolution Law, the City elected to retain the housing assets and functions previously performed by the Former Agency, and provided a housing asset transfer report to the State Department of Finance, as required under Section 34176(a)(2); and

WHEREAS, in completing the housing asset transfer report, the Successor Agency inadvertently left the Housing Loan off of the report; and

WHEREAS, the Housing Loan is evidenced by a promissory note (the "**Note**"), and is secured by that certain deed of trust (the "**Deed of Trust**") recorded as Document Number 2011092526 in the official records of Alameda County. The Housing Loan is further subject to the requirements of that certain regulatory restriction agreement (the "**Regulatory Agreement**") recorded as Document Number 2011092526 in the official records of Alameda County; and

WHEREAS, Assignee desires to assume all rights and obligations of Successor Agency under the Housing Loan, the Note, the Deed of Trust and the Regulatory Agreement (collectively hereinafter the "**Agreements**") and Successor Agency desires to assign all rights and obligations of Agency under the Agreements to Assignee, pursuant to the terms of an Assignment Agreement presented to this board, substantially in the form attached as Exhibit A.

NOW, THEREFORE, the City Council of the City of San Leandro does RESOLVE as follows:

Section 1. Approve the Assignment Agreement, substantially in the form attached as Exhibit A.

Section 2. Authorizes the Executive Director to the Successor Agency to execute the Assignment Agreement and to take all actions and execute such other documents as may be necessary to carry out the intent of this resolution.

**ASSIGNMENT AND ASSUMPTION OF LOAN AGREEMENT, DEED OF TRUST AND  
REGULATORY AGREEMENT FOR THE REAL PROPERTY AT 15370-15375 TROPIC  
COURT IN THE CITY OF SAN LEANDRO**

THIS ASSIGNMENT AND ASSUMPTION AGREEMENT (this “**Assignment**”), is dated as of October 5, 2015 by and between the Successor Agency to the Redevelopment Agency of the City of San Leandro, a public entity (“**Successor Agency**”) and the City of San Leandro, a charter city (“**Assignee**” or “**City**”). Agency and Assignee are collectively referred to herein as the “**Parties**.”

**RECITALS**

A. On February 7, 2011, the Redevelopment Agency to the City of San Leandro (the “**Former Agency**”) entered into that certain affordable housing loan agreement with Las Palmas Development Partners (the “**Borrower**”), pursuant to which the Former Agency provided a loan to Borrower in the amount of Fifty Thousand Dollars (\$50,000) (the “**Housing Loan**”) for the purpose of providing financial assistance for a multi-family affordable housing project owned by Borrower (the “**Project**”) located at 15370-15375 Tropic Court in the City.

B. Assembly Bill 26 (“**ABx1 26**”) was enacted by the State Legislature and signed by the Governor as of June 29, 2011.

C. On December 29, 2011 the California Supreme Court delivered its decision in *California Redevelopment Association v. Matasantos*, finding ABx1 26 largely constitutional and resulting in the dissolution of all California redevelopment agencies, including the Former Agency, on February 1, 2012.

D. On June 27, 2012, AB 1484 (together with ABx1 26, the “**Dissolution Law**”), a budget trailer bill that made substantial amendments and additions to ABx1 26, was signed into law.

E. Pursuant to the Dissolution Law, the Successor Agency is the successor in interest to the Former Agency.

F. Pursuant to Section 34176 of the Dissolution Law, the City elected to retain the housing assets and functions previously performed by the Former Agency, and provided a housing asset transfer report to the department of finance, as required under Section 34176(a)(2).

G. In completing the housing asset transfer report, the Successor Agency inadvertently left the Housing Loan off of the report.

H. The Housing Loan is evidenced by a promissory note (the “**Note**”), and is secured by that certain deed of trust (the “**Deed of Trust**”) recorded as Document Number 2011092526 in the official records of Alameda County. The Housing Loan is further subject to the requirements of that certain regulatory restriction agreement (the “**Regulatory Agreement**”) recorded as Document Number 2011092526 in the official records of Alameda County.

I. Assignee desires to assume all rights and obligations of Successor Agency under the Housing Loan, the Note, the Deed of Trust and the Regulatory Agreement (collectively

hereinafter the “**Agreements**”) and Successor Agency desires to assign all rights and obligations of Agency under the Agreements to Assignee, pursuant to the terms of this Assignment.

NOW, THEREFORE, in consideration of the premises and the mutual covenants herein contained, the Parties hereby agree as follows:

1. Assignment of the Agreements. Agency hereby assigns, sets over and transfers to Assignee all of its right, title and interest in, to and under the Agreements.
2. Assumption of Obligations Under the Housing Loan and Note. Assignee expressly assumes and agrees to perform all obligations of the Successor Agency under the Housing Loan and Note, whether initially arising before or after the date hereof.
3. Assumption of Deed of Trust. Assignee expressly assumes and agrees to perform all obligations of the Successor Agency under the Deed of Trust, whether initially arising before or after the date hereof.
4. Assumption of Regulatory Agreement. Assignee expressly assumes and agrees to perform all obligations of the Successor Agency under the Regulatory Agreement, whether initially arising before or after the date hereof.
5. Successor Agency Covenants. Agency hereby covenants that (i) the Agreements are in full force and effect and (ii) no default exists under the Agreements which, with the passage of time or the giving of notice or both, could become a default under the Agreements.
6. Miscellaneous. This Assignment constitutes the entire agreement the Parties with respect to the subject matter hereof, and shall be interpreted and enforced in accordance with the laws of the State of California. In any action to enforce or interpret this Assignment, the prevailing party shall be entitled to the recovery of attorneys fees. This Assignment may not be modified or amended except by a writing signed by all Parties to this Assignment.
7. Severability. If any term or provision of this Assignment or the application thereof to any persons or circumstances shall, to any extent, be invalid or unenforceable, the remainder of this Assignment or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable shall not be affected thereby, and each term and provision of this Assignment shall be valid and enforced to the fullest extent permitted by law.
8. Counterparts. This Assignment may be executed in counterparts, each of which shall be an original and all of which counterparts taken together shall constitute one and the same instrument.

***[SIGNATURES ON THE FOLLOWING PAGE]***

IN WITNESS WHEREOF, the undersigned have executed this Assignment as of the date first written above.

**SUCCESSOR AGENCY**

SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY  
OF THE CITY OF SAN LEANDRO,  
a public entity

By: \_\_\_\_\_  
Executive Director

ATTEST:

By \_\_\_\_\_  
Agency Secretary

APPROVED AS TO FORM:

By \_\_\_\_\_  
Agency Counsel

**CITY**

CITY OF SAN LEANDRO,  
a municipal corporation

By: \_\_\_\_\_  
City Manager

ATTEST:

By \_\_\_\_\_  
City Clerk

APPROVED AS TO FORM:

By \_\_\_\_\_  
City Attorney