

RESOLUTION 2018-141

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN PABLO AS HOUSING SUCCESSOR APPROVING AND AUTHORIZING THE DEFERRAL OF ANNUAL PAYMENTS DUE TO THE CITY FROM GIANT DEVELOPMENT, L.P., ATTRIBUTABLE TO LOANS MADE FOR THE GIANT ROAD APARTMENTS

WHEREAS, *Housing Programs/Projects*: Affordable higher quality & market rate rental housing projects are adopted policy items under the FY 2018-21 Council Priority Workplan, effective November 1, 2017;

WHEREAS, this is a financing action and not a project requiring environmental review pursuant to the California Environmental Quality Act (CEQA);

WHEREAS, pursuant to Part 1.85 of Division 24 of the California Health and Safety Code (Health and Safety Code Section 34170 *et seq.*; the "Dissolution Act"), on February 1, 2012, the San Pablo Local Successor Agency (the "San Pablo LSA") succeeded to all assets, properties, contracts, leases, books and records, buildings, and equipment (the "redevelopment assets") of the former Redevelopment Agency of the City of San Pablo (the "former RDA") and, except as repealed, restricted, or revised by the Dissolution Act, was vested with all authority, rights, powers, duties and obligations under the California Community Redevelopment Law (Health and Safety Code Section 33000 *et seq.*; the "CRL") previously vested with the former RDA;

WHEREAS, the redevelopment assets included assets associated with the former RDA's obligations under the CRL to increase, improve or preserve the community's supply of low and moderate income housing available at affordable housing cost to persons and families of low and moderate income (the "housing assets");

WHEREAS, Section 34176 of the Dissolution Act authorized the City of San Pablo to elect to retain the housing assets and functions previously performed by the former RDA;

WHEREAS, the City of San Pablo is serving as the housing successor to the former RDA (the "Housing Successor");

WHEREAS, on September 28, 2004, the former RDA authorized a \$500,000 loan for the Giant Road Apartments, an 86-unit affordable rental dwelling project (the "Project") and on August 16, 2005, authorized an additional \$1,200,000 loan, for a total Project loan of \$1,700,000;

WHEREAS, funding for the Project also included loans from the State Department of Housing and Community Development ("HCD") and the County of Contra Costa (the "County");

WHEREAS, the Borrower is Giant Development, L.P., a California limited liability partnership, the general partner of which is a California limited liability company owned and controlled by East Bay Asian Local Development Corporation ("EBALDC");

WHEREAS, by letter dated July 11, 2018, EBALDC described that significant damage caused by water intrusion occurred at the Project and that in order to borrow the funds it needs to complete repairs, all lenders receiving annual payments of surplus cash need to agree to forgo those payments for several years;

WHEREAS, as described in its letter, to complete the repairs, EBALDC will borrow from a transition reserve established in connection with the HCD funding and HCD is requiring that EBALDC agree to replenish the reserve funds from surplus cash;

WHEREAS, according to EBALDC, HCD has agreed to forgo its annual payment of surplus cash; the County authorized deferment on July 24, 2018;

WHEREAS, the annual payments of surplus cash to the former RDA/City are described in and governed by an Amended and Restated Intercreditor Agreement dated July 1, 2009, and recorded on September 11, 2009, as Document No. 2009-0216915 in the Official Records of the County; the surplus cash, referred to as "Residual Receipts" in the Intercreditor Agreement, is essentially the annual income remaining after the payment of annual operating expenses, including mortgage payments; and

WHEREAS, the Residual Receipts are divided pro rata among HCD, the RDA/City and the County; to date, the RDA/City has been receiving approximately \$34,546.40 per year, and the balance owed on the Project loan is \$1,549,163.98, which is not due until 2060.

NOW, THEREFORE, the City Council of the City of San Pablo does hereby resolve as follows:

Section 1. Recitals. The Recitals set forth above are true and correct and incorporated herein.

Section 2. Approval of Deferral of Annual Payments from Giant Development, L.P. The City Council hereby approves and authorizes the deferral of the annual payments due to the City from Giant Development, L.P., attributable to the Project loan for the Giant Road Apartments Project in order to allow repairs caused by water intrusion until the reserve fund is replenished as required by the State Department of Housing and Community Development. The City Manager is further authorized to execute such documents and/or take such actions as are necessary to implement the deferral authorized hereby.

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ADOPTED this 5th day of November, 2018, by the following vote:

AYES:	COUNCILMEMBERS:	Cruz, Kinney, Morris and Calloway
NOES:	COUNCILMEMBERS:	None
ABSENT:	COUNCILMEMBERS:	Valdez
ABSTAIN:	COUNCILMEMBERS:	None

ATTEST:

APPROVED:

/s/ Elizabeth Pabon-Alvarado
Elizabeth Pabon-Alvarado, City Clerk

/s/ Genoveva Garcia Calloway
Genoveva Garcia Calloway, Mayor