

OFFICE OF THE CITY CLERK  
OAKLAND

APPROVED AS TO FORM AND LEGALITY:

2006 FEB 16 PM 4:13



Deputy City Attorney

## OAKLAND CITY COUNCIL

RESOLUTION No. 79784 C.M.S.

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**A RESOLUTION AUTHORIZING AN AFFORDABLE HOUSING DEVELOPMENT LOAN IN AN AMOUNT NOT TO EXCEED \$1,600,000 TO EAST BAY ASIAN LOCAL DEVELOPMENT CORPORATION AND THE RELATED COMPANIES OF CALIFORNIA JOINTLY FOR THE LION CREEK CROSSINGS (FORMERLY KNOWN AS COLISEUM GARDENS HOPE VI PHASE 3) PROJECT LOCATED AT 928-998 66<sup>TH</sup> AVENUE**

**WHEREAS**, Oakland Redevelopment Agency Resolution No. 2005-012 C.M.S. dated February 15, 2005 authorized an Agency affordable housing development loan in an amount not to exceed \$3,000,000 to East Bay Asian Local Development Corporation, a nonprofit organization devoted to the provision of affordable housing, and the Related Companies of California, a California Limited Liability Company (jointly, the "Developer"), for the Coliseum Gardens HOPE VI Phase 3 project (the "Project"), a 106 unit housing project located at 928-998 66<sup>th</sup> Avenue in the City of Oakland; and

**WHEREAS**, on September 12, 2005, the City and the Redevelopment Agency of the City of Oakland jointly issued a Notice of Funding Availability ("NOFA") soliciting applications for funding for affordable housing developments; and

**WHEREAS**, the Developer anticipates substantial cost increases over those originally anticipated and submitted a proposal in response to the September 12, 2005 NOFA amending their original proposal for Coliseum Gardens, now renamed Lion Creek Crossings, to request additional loan funding of \$1,600,000 to cover a portion of the nearly \$10 million in project cost increases; and

**WHEREAS**, 105 Project units will be rented at prices affordable to households earning no more than 60% of area median income, and at least 20% of the total units will be affordable to households earning 50% of area median income; and

**WHEREAS**, the City's Consolidated Plan for Housing and Community Development indicates that there is a need for affordable rental housing, and has identified this activity as a priority; and

**WHEREAS**, the Project is consistent with the City's Project Development Guidelines, and Developer meets the City's Threshold Developer Criteria; and

**WHEREAS**, the Project will increase and improve the supply of low and moderate income housing available in the City of Oakland; and

**WHEREAS**, no other reasonable means of private or commercial financing of the Project at the same level of affordability and quantity are reasonably available to the Developer other than the HOME Investment Partnership Program funds; and

**WHEREAS**, the Agency is the Lead Agency for this Project for purposes of environmental review under the California Environmental Quality Act of 1970 ("CEQA"); and

**WHEREAS**, the Agency, as the Lead Agency, has prepared a Mitigated Negative Declaration which covers the Project, analyzing the environmental effects and mitigation measures in accordance with the California Environmental Quality Act, Public Resources Code section 21000, et seq.; and

**WHEREAS**, on June 4, 2003 the Agency, in accordance with CEQA Guidelines Section 15074, adopted a Mitigated Negative Declaration in compliance with CEQA and the Guidelines for Implementation of the California Environmental Quality Act (14 CCR sections 15000, et. Seq.) ; and

**WHEREAS**, execution of loan documents or other documents legally committing the City to fund this Project shall be expressly conditioned on compliance with the requirements of the National Environmental Protection Act ("NEPA"), as certified by the City Administrator or his or her designee; and

**WHEREAS**, funds are available from the HOME Investment Partnership Program to assist the Project; now, therefore, be it

**RESOLVED:** That the City Council hereby authorizes the City Administrator or his or her designee to provide a loan in an amount not to exceed \$1,600,000 to East Bay Asian Local Development Corporation and the Related Companies of California or to an affiliated entity approved by the City Administrator or his or her designee, to be used for development of the Project; and be it

**FURTHER RESOLVED:** That \$1,600,000 is allocated from the HUD-HOME Fund (2109), Housing Development Organization (88929), HOME Housing Development project (G172111) for this loan; and be it

**FURTHER RESOLVED:** That the loan shall be contingent on the availability of sufficient funds in the HOME Program Development Fund and the Agency's Low and Moderate Income Housing Fund to cover both the City loan and a previously authorized Redevelopment Agency development loan of \$3,000,000; and be it

**FURTHER RESOLVED:** That the loan shall be for a maximum term of 55 years, with an interest rate to be determined by the City Administrator in his or her discretion, with repayment to the City from surplus cash flow from the Project and other available funds during the term of the loan with the balance due at the end of the term, or on such other repayment terms and schedule as the City Administrator or his or her designee determines are in the best interests of the City and the Project; and be it

**FURTHER RESOLVED:** That as a condition of the loan, the City will require that appropriate restrictions on Project occupancy, rents and operations be recorded against Project improvements; and be it

**FURTHER RESOLVED:** That the loan shall be secured by a deed of trust on the Project land and/or improvements; and be it

**FURTHER RESOLVED:** That the loan funds shall be reserved for a period of no more than one year from the date of this Resolution, and the making of the loan shall be contingent on Developer's success in securing commitments for full Project funding, or other assurances of adequate Project funding the City Administrator or his or her designee deems sufficient within his or her discretion, within this reservation period; and be it

**FURTHER RESOLVED:** That the making of the loan shall be contingent on and subject to such other appropriate terms and conditions as the City Administrator or his or her designee may establish; and be it

**FURTHER RESOLVED:** That the City Council hereby authorizes the City Administrator or his or her designee in his or her discretion to subordinate the priority of the City's deed of trust and/or recorded restrictions to a lien or encumbrance of another private or governmental entity providing financial assistance to the Project, if the City Administrator or his or her designee determines that (1) an economically feasible alternative method of financing the Project on substantially comparable terms and conditions but without subordination is not reasonably available, (2) the City's investment in the Project in the event of default is reasonably protected, and (3) subordination is in the best interests of the City; and be it

**FURTHER RESOLVED:** That the City Council has independently reviewed and considered this environmental determination, and the City Council finds and determines, based on the information provided in the staff report accompanying this Resolution, that this action complies with CEQA because, based on the Mitigated Negative Declaration that was adopted by the City on June 4, 2003, none of the circumstances requiring preparation of additional CEQA review are present, as specified in Public Resources Code Section 21166 and CEQA Guidelines Sections 15162 or 15163, and the Project as mitigated will not have a significant adverse impact on the environment; and be it

**FURTHER RESOLVED:** That the City Council agrees that the Agency Administrator or his or her designee shall cause to be filed with the County of Alameda a Notice of Determination for the Project; and be it

**FURTHER RESOLVED:** That execution of loan documents or other documents legally committing the City to fund this Project are expressly conditioned on compliance with the requirements of NEPA, as certified by the City Administrator or his or her designee; and be it

**FURTHER RESOLVED:** That the City Council hereby appoints the City Administrator and his or her designee as agent of the City to conduct negotiations, execute documents, administer the loan, extend or modify the repayment terms, and take any other action with respect to the loan and the Project consistent with this Resolution and its basic purpose; and be it

**FURTHER RESOLVED:** That all loan documents shall be reviewed and approved by the City Attorney's Office for form and legality prior to execution, and copies will be placed on file with the City Clerk.

**MAR - 7 2006**

IN COUNCIL, OAKLAND, CALIFORNIA, \_\_\_\_\_, 2006

**PASSED BY THE FOLLOWING VOTE:**

AYES- BROOKS, BRUNNER, CHANG, KERNIGHAN, NADEL, QUAN, ~~REID~~, AND ~~PRESIDENT~~  
DE LA FUENTE — *[Signature]*

NOES- *[Signature]*

ABSENT- *[Signature]*

ABSTENTION- *[Signature]*

*Excused - Reid,  
DeLaFuente - 2*

ATTEST:

*[Signature: LaTonda Simmons]*  
LaTonda Simmons  
City Clerk and Clerk of the Council  
of the City of Oakland, California