

MISSING ORIGINAL LEGISLATION

Resolution / Ordinance Number: 82723

City Council Meeting Date May 4, 2010

Agenda Item No. 9.3-2

Recorded Vote 7 AYES, 1 Excused

Reason for Missing Legislation:

- Draft submitted in agenda packet, original never received
- Council amended legislation at the meeting

Responsible Contact Information

Department Community and Economic Development Agency

Contact Person/Ext. Walter Cohen

Notes (if any)

2010 APR 15 PM 5:18

DRAFT

Deputy City Attorney

OAKLAND CITY COUNCIL

RESOLUTION No. _____ C.M.S.

A RESOLUTION AUTHORIZING A LOAN IN AN AMOUNT NOT TO EXCEED \$200,000 TO RESOURCES FOR COMMUNITY DEVELOPMENT UNDER THE HUD NEIGHBORHOOD STABILIZATION PROGRAM FOR THE ACQUISITION AND REHABILITATION OF THE MARIN WAY COURT PROJECT LOCATED AT 2000 INTERNATIONAL BOULEVARD, AND AUTHORIZING LOAN EXTENSIONS AND CHANGES IN TERMS FOR EXISTING CITY LOANS FOR THE PROJECT

WHEREAS, on November 18, 2008 the Oakland City Council accepted and appropriated a formula allocation of Neighborhood Stabilization Program ("NSP") funds from the U.S. Department of Housing and Urban Development in the total amount of \$8,250,668; and

WHEREAS, NSP funds in the amount of \$1,159,031 have not yet been awarded to specific projects and must be awarded to projects assisting households at or below 50% of the Area Median Income; and

WHEREAS, Resources for Community Development ("Developer"), a non-profit developer of affordable housing, has received funding authorization of \$2,400,000 from the Redevelopment Agency to rehabilitate the Marin Way Court affordable rental project at 2000 International Boulevard in the City of Oakland (the "Property") to continue to provide 20 rental units of housing to serve families (the "Project"); and

WHEREAS, the Project has a remaining construction financing gap of \$200,000 that could be filled by NSP funds; and

WHEREAS, the owner of Marin Way Court is currently in default on its senior mortgage, and a transition of the property ownership by foreclosure on the property's deed of trust will be conducted in the near future; and

WHEREAS, all units at the Property are rented at prices affordable to households earning no more than 50% of area median income; and

WHEREAS, the Project is consistent with the Amendment to the NSP Substantial Amendment included in the Action Plan for FY 2010-2011; and

WHEREAS, the City of Oakland has made previous affordable housing development loans for development of the Property, and the Property is subject to recorded long-term rent and occupancy restrictions enforceable by the City; and

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

WHEREAS, per the CEQA Guidelines, this Project is exempt from environmental review; and

WHEREAS, the requirements of CEQA, the CEQA Guidelines as prescribed by the Secretary for Resources, and the provisions of the Environmental Review Regulations of the City of Oakland have been satisfied; and

WHEREAS, execution of loan documents or other documents legally committing the City to fund this loan 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 Neighborhood Stabilization 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 \$200,000 under the NSP to Resources for Community Development, 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 \$200,000 shall be allocated from the 2008-09 HUD-CDBG Fund (2108), Community Development Block Grant Organization (88989), Neighborhood Stabilization Program Project (G368110) for this loan; and be it

FURTHER RESOLVED: That the loan shall be contingent upon the transfer of ownership of the Property after foreclosure to Developer or to an affiliated entity approved by the City Administrator or his or her designee; and be it

FURTHER RESOLVED: That the loan shall also be contingent on the availability of sufficient NSP funds to cover the City loan of \$200,000; and be it

FURTHER RESOLVED: That the loan shall be treated as a short-term construction and acquisition loan, and repaid at the closing of permanent financing after construction is completed.

FURTHER RESOLVED: That the City has independently reviewed and considered this environmental determination, and the City finds and determines that this

action complies with CEQA because the Project is exempt from CEQA pursuant to Section 15301 (Existing Facilities) and 15183 (Projects Consistent with Zoning and General Plan) of the CEQA Guidelines; and be it

FURTHER RESOLVED: That the City Administrator or his or her designee shall file a Notice of Exemption and an Environmental Declaration under California Fish and Game Code (section 711.4), with the County of Alameda; and be it

FURTHER RESOLVED: That the loan shall be for a maximum term of sixteen months, with an interest rate to be determined by the City Administrator in his or her discretion, 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 twelve months 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 Developer's submission of specific property information, rehabilitation plans, budgets, and other materials evidencing that the acquisition and rehabilitation of the property is financially feasible and is consistent with the Amendment to the NSP Substantial Amendment included in the Action Plan for FY 2010-2011; 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 Administrator is authorized to extend the term of any existing City loans on the Property up to 55 years, modify other terms and conditions of the existing City loans to be consistent with the terms and conditions of any new funding for the Project, and negotiate and execute loan documents with respect to existing City loans; and be it

FURTHER RESOLVED: That the City hereby authorizes the City Administrator or his or her designee in his or her discretion to subordinate the priority of any of the City's recorded interests in the Project property 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 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 execution of loan documents or other documents legally committing the City to fund the loan is 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 all loan documents shall be reviewed and approved by Deputy City Attorney for form and legality prior to execution, and copies will be placed on file with the City Clerk.

IN COUNCIL, OAKLAND, CALIFORNIA, _____, 2010

PASSED BY THE FOLLOWING VOTE:

AYES- BROOKS, ~~DE VRIES~~, KAPLAN, KERNIGHAN, NADEL, QUAN, REID, AND PRESIDENT BRUNNER

NOES-

ABSENT-

ABSTENTION-

ATTEST: _____
LaTonda Simmons
City Clerk and Clerk of the Council
of the City of Oakland, California