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OFFICE OF THE CITY CLERK  
OAKLAND

# CITY OF OAKLAND

## AGENDA REPORT

2011 APR 28 AM 9:42

TO: Office of the City Administrator  
ATTN: P. Lamont Ewell, Interim City Administrator  
FROM: Community and Economic Development Agency  
DATE: May 10, 2011

RE: A City Resolution Amending Resolution No. 66603 C.M.S. Authorizing A Loan To Mar Associates For The Frank G. Mar Project To Reduce The Interest Rate To 3%, Extend The Time For Repayment, And Convert The Loan Into A Surplus Cash Flow Loan

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### SUMMARY

Staff is recommending that the City Council amend a resolution to re-configure the loan issued to Mar Associates (a general partner affiliate of The East Bay Asian Local Development Corporation, EBALDC) in 1989 for the development of the Frank G. Mar Project. The 119-unit, affordable housing development is managed by EBALDC.

The proposed resolution would amend Resolution No. 66603 C.M.S, effective July 1, 2011, to reconfigure the 1989 Housing Development Grant (HDG) loan issued to Mar Associates for the development of the Frank G. Mar affordable housing project by reducing the interest rate to 3% simple interest, restarting the clock to make the payments due in 2042 instead of 2013, and to make this a residual receipts loan instead of an amortized loan.

Instead of having amortized payments due beginning in 2013, all payments will be residual receipts paid only once per year. These residual receipts, or cash surplus, will be shared 50% as payment on the City loan, and the other 50%, often called the Incentive Management Fee, will be deposited into the Portfolio Reserve instead of going to the sponsor/borrower.

### FISCAL IMPACT

The Mar Associates HDG loan closed on January 24, 1990, with an interest rate of 8.02%. This loan was set up with a market rate interest rate at the time of issuance, so the funds would not count as a "Federally Funded Below Market Interest Rate" loan. This enabled Mar Associates to leverage more tax credit funds for the project instead of seeking more money from the City.

Syndication proceeds were used to prepay substantial amounts of principal and interest on the loan, however due to the 8% compounding interest rate, monthly payments of \$67,000 become due in 2013. These monthly payments and the high loan balance are too much for the project to support.

Item: \_\_\_\_\_  
CED Committee  
May 10, 2011

The changes recommended in this report will extend payments to the City until 2042, and help to ensure the long term financial health of the project. Additionally, the reconfiguration of this loan will enable EBALDC to make annual residual receipts repayments to the City and deposit unused cash flow to the EBALDC Oakland Portfolio Reserve Fund.

## BACKGROUND

The Frank G. Mar is a 119 unit affordable housing project. The City made a HDG loan in the amount of \$5,523,579 (Resolution No. 66603 C.M.S.) to Mar Associates for the project. It is secured by the property and matures in February 2022. Pursuant to a promissory note dated January 24, 1990, the loan bears interest at the applicable federal rate at the time of the note, which was 8.02%, compounding annually. For the first twenty years from the first advance of funds, which occurred on March 16, 1992, payments of principal and interest are due from surplus cash. Beginning in the twenty first year (March 2013), level monthly payments of principal and interest will be due based on a thirty year amortization schedule. Any remaining principal and interest will be due at maturity. As of December 31, 2009 and 2008, accrued interest was \$4,827,840 and \$4,308,197, respectively. Interest expense during 2009 and 2008 was \$519,643 and \$454,752, respectively.

The City entered into a Loan Repayment Deferment Agreement with EBALDC in October 2010. This agreement authorizes EBALDC to defer its obligation to repay loans from surplus cash flow generated by the Frank G. Mar Apartments, and to instead use these funds to cover certain necessary capital expenses at other housing development projects in Oakland previously assisted by the City.

EBALDC is requesting that the City reconfigure the HDG loan to enable EBALDC to refinance the first mortgage and allow the City to take 50% of the residual receipts. Additionally, although there is no pre-payment penalty on the first mortgage, the interest rate is nearly 8%. By resetting the clock on the existing balance EBALDC will decrease its debt service cost significantly, which makes for more surplus cash flow and less need for a large operating reserve. This will benefit both the Portfolio Reserve and the City of Oakland. Furthermore, EBALDC cannot refinance the first mortgage with Citibank while the City loan is about to require \$67,000 in monthly payments beginning in 2013.

## KEY ISSUES AND IMPACTS

1. EBALDC will not be able to make the amortized payments of \$67,000 per month that come due in 2013.
2. Reconfiguring the loan will allow 50%, or \$165,000, of the estimated \$330,000 surplus cash flow to return to the City annually and the remaining 50%, or \$165,000, will support

the Portfolio Reserve. The funds deposited into the Portfolio Reserve are used to perform improvements to EBALDC's Oakland properties.

3. These actions will allow EBALDC to refinance their senior loan with Citibank and also perform needed capital improvements to their other Oakland affordable housing properties with funds from the Portfolio Reserve, reducing the need to come to the City for additional funds.

### SUSTAINABLE OPPORTUNITIES

**Economic:** Making \$67,000 monthly loan payments to the City beginning in 2013 will be a financial hardship for EBALDC. Approving this resolution will ensure the long term financial health of the Frank G. Mar Apartments.

**Environmental:** Approving the reconfiguration of this loan will free up other money that EBALDC could use to make energy efficiency improvements to the Frank G. Mar Apartments.

**Social Equity:** Affordable housing development promotes social equity through the provision of housing to low-income households. The Frank G. Mar Apartments provides 119 units of affordable housing for low income families who wish to remain in their community and who otherwise would not be able to afford to live in the Metropolitan Bay Area.

### DISABILITY AND SENIOR CITIZEN ACCESS

The Housing Development program actively works with developers to assure that multifamily developments include units for people with disabilities per applicable State and Federal laws, and to provide affordable housing for seniors. The Frank G. Mar housing development has approximately 30 units reserved for seniors.

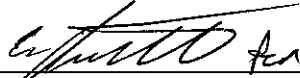
### RECOMMENDATION AND RATIONALE

It is recommended that the City Council amend Resolution No. 66603 C.M.S. to reduce the high monthly loan payments that are set to begin in 2013. This action will make the project more financially solvent, provide annual residual receipts payments to the City, and enable EBALDC to reinvest funds into this and other Oakland affordable housing projects.

**ACTION REQUESTED OF THE CITY COUNCIL**

Staff requests that the City Council approve the resolution which accompanies this report.

Respectfully submitted,

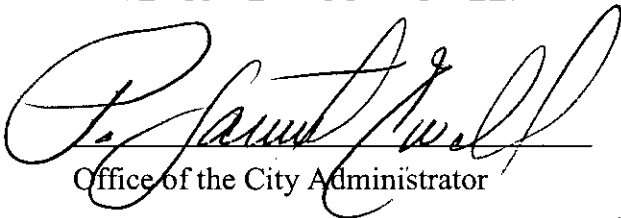


Walter S. Cohen, Director  
Community and Economic Development Agency

Reviewed by: Michele Byrd, Deputy Director  
Housing and Community Development

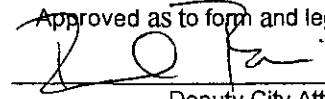
Prepared by: Traci Lewis, Housing Development Coordinator

**APPROVED AND FORWARDED TO THE  
COMMUNITY AND ECONOMIC  
DEVELOPMENT COMMITTEE:**



Office of the City Administrator

2011 APR 28 AM 9:42

Approved as to form and legality:  
  
Deputy City Attorney

## OAKLAND CITY COUNCIL

Resolution No. \_\_\_\_\_ C.M.S.

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**RESOLUTION AMENDING RESOLUTION NO. 66603 C.M.S.  
AUTHORIZING A LOAN TO MAR ASSOCIATES FOR THE  
FRANK G. MAR PROJECT TO REDUCE THE INTEREST RATE  
TO 3%, EXTEND THE TIME FOR REPAYMENT, AND CONVERT  
THE LOAN INTO A SURPLUS CASH LOAN**

**WHEREAS**, per Resolution No. 66603 C.M.S., in 1989 the City loaned \$5,523,579 to Mar Associates (a general partner affiliate of The East Bay Asian Local Development Corporation or EBALDC) for the development of the 119-unit Frank G. Mar Apartments affordable housing project; and

**WHEREAS**, there is presently an existing loan and repayment agreement between the City and MAR Associates, and said loan will mature and monthly payments of \$67,000 come due in 2013; and

**WHEREAS**; the City recognizes that deferring these payments and extending the loan terms will ensure the long term financial health of the Frank G. Mar Apartments and EBALDC; and

**WHEREAS**, the City entered into a Loan Repayment Deferment Agreement (Portfolio Reserve) with EBALDC in October 2010, which authorizes EBALDC to defer its obligation to repay loans from surplus cash flow generated by the Frank G. Mar Apartments, and to instead use these funds to cover certain necessary capital expenses at other housing development projects in Oakland previously assisted by the City; and

**WHEREAS**, the City recognizes that reconfiguring the loan will allow 50% of the cash flow to return to the City, with the remaining 50% to support the Portfolio Reserve; now, therefore, it be

**RESOLVED**: That the City Council hereby amends Resolution No. 66603 C.M.S. to authorize a reduction in the current 8.02% interest rate to 3% simple interest; and be it

**FURTHER RESOLVED**: That the City Council hereby authorizes an extension of the time for loan repayment until 2042, and a conversion of the loan into a surplus cash flow loan; and be it

**FURTHER RESOLVED:** That the City Council hereby authorizes the City Administrator or his or her designee to negotiate and execute a loan amendment and to take action with respect to this funding consistent with this Resolution and its basic purposes.

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

PASSED BY THE FOLLOWING VOTE:

AYES - BROOKS, BRUNNER, DE LA FUENTE, KAPLAN, KERNIGHAN, NADEL, SCHAAF, AND  
PRESIDENT REID

NOES -

ABSENT -

ABSTENTION -

ATTEST:

\_\_\_\_\_  
LATONDA SIMMONS  
City Clerk and Clerk of the Council, City of Oakland