

OFFICE OF THE CLERK
CITY OF OAKLAND

2008 FEB 13 PM 3:27

APPROVED AS TO FORM AND LEGALITY:



Deputy City Attorney

OAKLAND CITY COUNCIL

RESOLUTION No. 81111 C.M.S.

A RESOLUTION AUTHORIZING AN AFFORDABLE HOUSING DEVELOPMENT LOAN IN AN AMOUNT NOT TO EXCEED \$3,499,453 TO EAST BAY ASIAN LOCAL DEVELOPMENT CORPORATION AND THE RELATED COMPANIES OF CALIFORNIA JOINTLY FOR THE LION CREEK CROSSINGS PHASE IV RENTAL PROJECT LOCATED AT 69TH AVENUE AND SNELL STREET

WHEREAS, on August 15, 2007, 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, East Bay Asian Local Development Corporation and The Related Companies of California (jointly the "Developer"), certified Community Housing Development Organizations that develop affordable housing, submitted a proposal in response to the NOFA; and

WHEREAS, Developer proposes to develop a 72-unit family rental development at 69th Avenue and Snell Street in the City of Oakland (the "Project") known as Lion Creek Crossings Phase IV; and

WHEREAS, 71 Project units will be rented at prices affordable to households earning no more than 50% of area median income; and

WHEREAS, the Agency and City have previously authorized \$7,600,000 in loan funding to Developer for development of Phases I and III of the Project, which have been completed; and

WHEREAS, Developer is also requesting additional funds from the Redevelopment Agency in the amount of \$2,980,547 to come from the Low and Moderate Income Housing Fund for development of the Project; 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 otherwise 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, 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 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 by the June 4, 2003 certification of Mitigated Negative Declaration; 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 will be available from the HOME Investment Partnership Program in fiscal year 2007-08 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 \$3,499,453 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 the combined total of the City and Agency loans for the Project shall not exceed \$6,480,000; and be it

FURTHER RESOLVED: That \$3,499,453 will be allocated from 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 of \$3,499,453 and the Redevelopment Agency development loan of \$2,980,547; 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 and 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 is contingent upon the demonstrated commitment of the Oakland Housing Authority to develop or cause to be developed a minimum of 178 affordable housing rental units, within three years of the demolition of the Coliseum Gardens public housing units, that are of the same bedroom mix as the demolished units, and will be rented at prices affordable to low-income households earning no more than 50% of area median income; 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 eighteen 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 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 shall retain all discretionary authority over the Project under CEQA, including approval, denial or modification of 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 authorizes the City Administrator or his or her designee in his or her discretion to subordinate the priority of any of the Agency'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 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 and an Environmental Declaration (CA Fish and Games Code Sec. 711.4) for the Project; 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; and be it

FURTHER RESOLVED: That the City Council hereby authorizes the City Administrator, and his or her designee, 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.

IN COUNCIL, OAKLAND, CALIFORNIA, MAR 4 2008, 2008

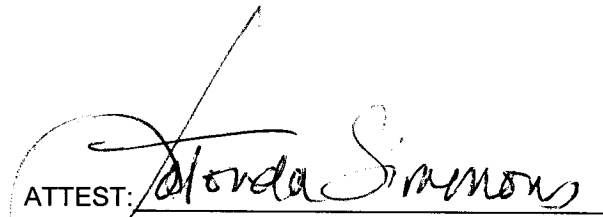
PASSED BY THE FOLLOWING VOTE:

AYES- BROOKS, BRUNNER, CHANG, KERNIGHAN, NADEL, QUAN, REID, AND PRESIDENT DE LA FUENTE - 8

NOES- 0

ABSENT- 0

ABSTENTION- 0

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