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APPROVED AS TO FORM AND LEGALITY:

  
Deputy City Attorney

## OAKLAND CITY COUNCIL

RESOLUTION No. 82724 C.M.S.

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**A RESOLUTION AUTHORIZING A LOAN IN AN AMOUNT NOT TO EXCEED \$1,159,031 TO EAST BAY ASIAN LOCAL DEVELOPMENT CORPORATION UNDER THE HUD NEIGHBORHOOD STABILIZATION PROGRAM FOR THE ACQUISITION AND REHABILITATION OF THE DRASNIN MANOR APARTMENTS LOCATED AT 2530 INTERNATIONAL BOULEVARD**

**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 properties and must be awarded to projects assisting households at or below 50% of the Area Median Income; and

**WHEREAS**, East Bay Asian Local Development Corporation ("Developer"), a non-profit developer of affordable housing, received a funding authorization of \$1,800,000 from the Redevelopment Agency on March 16, 2010 to rehabilitate the Drasnin Manor affordable rental project at 2530 International Boulevard in the City of Oakland (the "Property") to continue to provide 26 rental units of housing to serve families (the "Project"); and

**WHEREAS**, the Project has a remaining financing gap that could be filled with \$1,159,031 of NSP funds; and

**WHEREAS**, the Marin Way Court project also has a construction period budget gap of \$200,000 that could be filled by NSP funds, which can then be repaid on closing the project's permanent financing and re-allocated to the Drasnin Manor project after construction at Marin Way Court has been completed and those funds have been repaid to the City; and

**WHEREAS**, the owner of Drasnin Manor is currently in default on its senior mortgage, is in danger of losing property management services provided through a court-ordered receivership, and plans call for transferring the Property to Developer through foreclosure on the Property's deed of trust; 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 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 of which \$959,031 is available immediately and \$200,000 will be available after repayment of NSP funds by the Marin Way Court 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 \$1,159,031 under the NSP to East Bay Asian Local Development Corporation, 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 \$959,031 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 \$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 as soon as those funds are available; 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 \$1,159,031; and be it

**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 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 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 Agency 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 NSP in the 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 Agency Administrator or his or her designee may establish; 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, MAY 4 2010, 2010

**PASSED BY THE FOLLOWING VOTE:**

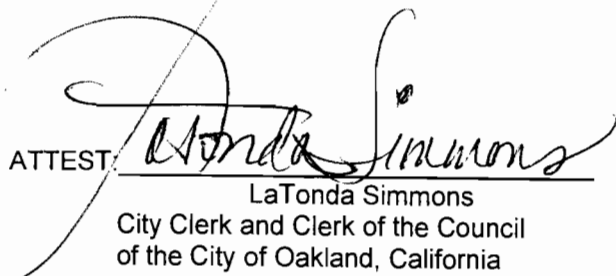
AYES- BROOKS, ~~DE LA FUENTE~~, KAPLAN, KERNIGHAN, NADEL, QUAN, REID, AND PRESIDENT BRUNNER - 7

NOES- 0

ABSENT- 0

ABSTENTION- 0

Excused - De La Fuente - 1

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