

FILED
OFFICE OF THE CITY CLERK
OAKLAND

2011 FEB 24 AM 11:42

APPROVED AS TO FORM AND LEGALITY:


Deputy City Attorney

OAKLAND CITY COUNCIL

RESOLUTION No. 83252 C.M.S.

A RESOLUTION AUTHORIZING AN AFFORDABLE HOUSING DEVELOPMENT LOAN IN AN AMOUNT NOT TO EXCEED \$3,168,000 TO EAST BAY ASIAN LOCAL DEVELOPMENT CORPORATION FOR THE CALIFORNIA HOTEL PROJECT LOCATED AT 3501 SAN PABLO AVENUE AND AUTHORIZING CHANGES IN TERMS FOR PREVIOUS CITY LOANS FOR THE PROJECT

WHEREAS, on September 3, 2010, the Redevelopment Agency and 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 ("Developer"), a non-profit developer of affordable housing, submitted a proposal in response to the NOFA to rehabilitate the California Hotel, an affordable rental project at 3501 San Pablo Avenue in the City of Oakland (the "Property") to provide 137 rental units of housing; and

WHEREAS, Resolution 2010-0022 C.M.S. dated March 16, 2010 provided a \$300,000 grant to the Developer for predevelopment activities for the Project; and

WHEREAS, the Redevelopment Agency and the City of Oakland have made previous affordable housing rehabilitation loans for the improvement of the Project which is subject to recorded long-term rent and occupancy restrictions enforceable by the Agency and City; and

WHEREAS, Developer is also requesting additional funds from the Agency in the amount of \$5,253,000 to come from the Low and Moderate Income Housing Fund for a total City and Agency loan amount not to exceed \$8,421,000; and

WHEREAS, the City of Oakland's Consolidated Plan for Housing and Community Development indicates that there is a need for creating, preserving and maintaining decent, safe and habitable 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 Agency's Threshold Developer Criteria; 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, 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, funds will be available from the HOME Investment Partnership Program in fiscal year 2011-12 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 \$3,168,000 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 the Project; and be it

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

FURTHER RESOLVED: That \$3,168,000 will be allocated from 2011-12 HUD-HOME Fund (2109), Housing Development Organization (88929), HOME Housing Development Project (G172111) for this loan after the 2011-12 fiscal year funds are available; and be it

FURTHER RESOLVED: That the loan shall be contingent on the City's receipt of HOME Investment Partnership funds from HUD in FY 2011-12 in an amount sufficient to provide this loan; and be it

FURTHER RESOLVED: That the loan shall be contingent on the availability of sufficient funds in the Agency's Low and Moderate Income Housing Fund, the 2006 Affordable Housing Set-Aside Bond funds, and the HOME Investment Partnership to cover both the Agency loan of \$5,253,000 and the City loan of \$3,168,000; and be it

FURTHER RESOLVED: That the combined total of the City and Agency loans for the Project shall not exceed \$8,421,000; and be it

FURTHER RESOLVED: That the City Council has independently reviewed and considered this environmental determination, and the Council finds and determines, based on the information provided in the staff report accompanying this Resolution, that this action complies with CEQA because the Project is exempt from CEQA pursuant to Section 15301 (Existing Facilities) of the CEQA Guidelines; and be it

FURTHER RESOLVED: That the City Administrator or his or her designee shall cause to be filed with the County of Alameda a Notice of Exemption for the Project; 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 twenty four 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 Administrator is authorized to extend the term of any previous City loans up to 55 years, consolidate these loans with the loan authorized by this Resolution, modify other terms and conditions of the previous City loans to be consistent with the terms and conditions of the new funding for the Project, and negotiate and execute loan documents with respect to these previous City loans; 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 securing the loan to the liens or encumbrances of other private or governmental entities providing financial assistance to the Project; provided, however, that the City's affordability restrictions shall not be subordinated in priority to other liens or encumbrances with the exception of preexisting liens or encumbrances, refinancings of preexisting liens, or the liens or encumbrances of other governmental entities providing affordable housing assistance to 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 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, the previous City loans, and the Project consistent with this Resolution and its basic purpose.

IN COUNCIL, OAKLAND, CALIFORNIA, MAR 3 2011, 2011

PASSED BY THE FOLLOWING VOTE:

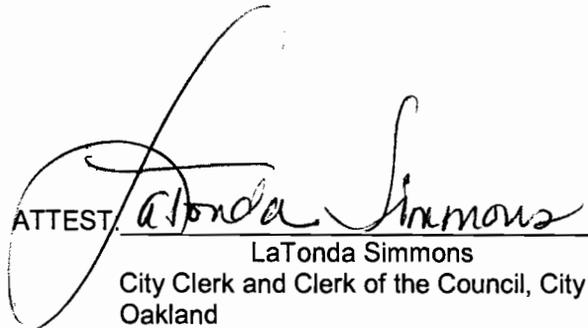
AYES- ~~BROOKS~~, BRUNNER, ~~DE LA FUENTE~~, KAPLAN, KERNIGHAN, NADEL, SCHAAF,
AND PRESIDENT REID - 6

NOES- 0

ABSENT- 0

ABSTENTION- 0

Excused- Brooks, De La Fuente - 2

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