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APPROVED AS TO FORM AND LEGALITY:


Agency Counsel

REDEVELOPMENT AGENCY
OF THE CITY OF OAKLAND

2009 - 0036
RESOLUTION No. _____ C.M.S.

A RESOLUTION AUTHORIZING A PRESERVATION AND REHABILITATION LOAN IN AN AMOUNT NOT TO EXCEED \$450,000 TO THE UNITY COUNCIL FOR THE POSADA DE COLORES APARTMENTS PROJECT LOCATED AT 2221 FRUITVALE AVENUE, AND AUTHORIZING LOAN EXTENSIONS AND/OR CHANGES IN TERMS FOR EXISTING AGENCY LOANS FOR THE PROJECT

WHEREAS, on October 7, 2008, the Redevelopment Agency and the City of Oakland jointly issued a Notice of Funding Availability ("Rehabilitation NOFA") soliciting applications for funding the preservation and rehabilitation of existing affordable rental housing; and

WHEREAS, the Unity Council ("Developer"), a non-profit developer of affordable housing, submitted a proposal in response to the Rehabilitation NOFA to rehabilitate the Posada De Colores Apartments affordable rental project at 2221 Fruitvale Avenue in the City of Oakland (the "Property") to continue to provide 100 rental units of housing to serve families (the "Project"); and

WHEREAS, the Redevelopment Agency 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 Agency; and

WHEREAS, all units at the Property are rented at prices affordable to households earning no more than 60% of area median income; 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 Agency's Project Development Guidelines, and Developer meets the Agency's Threshold Developer Criteria; and

WHEREAS, the Project will ensure the protection and preservation of the supply of existing low and moderate income housing available in the City of Oakland, is an eligible use of the Agency's Low and Moderate Income Housing Fund under California Health and Safety Code Sections 33334.2 and 33334.3, and will continue to benefit the redevelopment project areas in the City of Oakland by maintaining affordable housing within the community which will continue to enhance the economic viability and redevelopment potential of the project areas; and

WHEREAS, according to the findings set forth in the report, no other reasonable means of private or commercial financing of the Project at the same level of affordability and quantity are reasonably available to Developer other than the Low and Moderate Income Housing Fund; and

WHEREAS, the Agency by agreement with 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, funds are available from the Agency's Low and Moderate Income Housing Fund to assist the Project; now, therefore, be it

RESOLVED: That the Redevelopment Agency hereby authorizes the Agency Administrator or his or her designee to provide a loan in an amount not to exceed \$450,000 to the Unity Council or to an affiliated entity approved by the Agency 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 Agency Administrator or his or her designee; and be it

FURTHER RESOLVED: That \$450,000 shall be allocated from the Low Mod Operations Fund (9580), Housing Development Organization (88929), Housing Development Program project (P209310) for 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 to cover the Agency loan of \$450,000; and be it

FURTHER RESOLVED: That the Agency has independently reviewed and considered this environmental determination, and the Agency 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) and 15183 (Projects Consistent with Zoning and General Plan) of the CEQA Guidelines; and be it

FURTHER RESOLVED: That the Agency 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 Agency Administrator in his or her discretion, with repayment to the Agency 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 Agency Administrator or his or her designee determines are in the best interests of the Agency and the Project; and be it

FURTHER RESOLVED: That as a condition of the loan, the Agency 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 new 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 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 new 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 Agency Administrator is authorized to extend the term of any existing Agency loans on the Property up to 55 years, consolidate the existing loans with the new loan authorized by this Resolution, modify other terms and conditions of the existing Agency 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 Agency loans; and be it

FURTHER RESOLVED: That the Agency hereby authorizes the Agency 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 Agency 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 Agency's investment in the Project in the event of default is reasonably protected, and (3) subordination is in the best interests of the Agency; and be it

FURTHER RESOLVED: That all loan documents shall be reviewed and approved by Agency Counsel for form and legality prior to execution, and copies will be placed on file with the Agency Secretary; and be it

FURTHER RESOLVED: That the Agency hereby appoints the Agency Administrator and his or her designee as agent of the Agency to conduct negotiations, execute documents, administer the loan, extend or modify the repayment terms, and take any other action with respect to the new loan, the existing loans, and the Project consistent with this Resolution and its basic purpose.

IN AGENCY, OAKLAND, CALIFORNIA, MAR 17 2009, 2009

PASSED BY THE FOLLOWING VOTE:

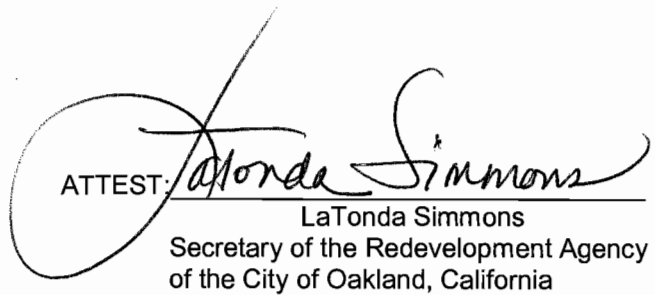
AYES- BROOKS, DE LA FUENTE, KAPLAN, KERNIGHAN, NADEL, QUAN, REID, AND
CHAIRPERSON BRUNNER ~8

NOES- 0

ABSENT- 0

ABSTENTION- 0

ATTEST:


LaTonda Simmons
Secretary of the Redevelopment Agency
of the City of Oakland, California