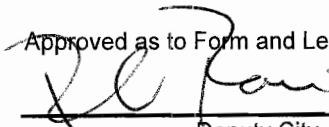


FILED  
OFFICE OF THE CITY CLERK  
OAKLAND

2013 FEB 14 AM 11:09

Approved as to Form and Legality:

  
Deputy City Attorney

## OAKLAND CITY COUNCIL

RESOLUTION No. 84234 C.M.S.

---

**A RESOLUTION AUTHORIZING AN AFFORDABLE HOUSING DEVELOPMENT LOAN IN AN AMOUNT NOT TO EXCEED \$2,000,000 TO EAST BAY ASIAN LOCAL DEVELOPMENT CORPORATION AND THE RELATED COMPANIES OF CALIFORNIA FOR THE LION CREEK CROSSINGS SENIOR PHASE V RENTAL PROJECT LOCATED AT 6710-6760 LION WAY**

**WHEREAS**, on September 20, 2012, the City of Oakland 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") submitted a proposal in response to the NOFA; and

**WHEREAS**, the Developer proposes to develop a 128-unit rental housing project at 6710-6760 Lion Way in the City of Oakland (the "City") known as the Lion Creek Crossings Senior Apartments (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**, at least 127 Project units will be rented at prices affordable to households earning no more than 60% of area median income; and

**WHEREAS**, the Project is consistent with the City's Project Development Guidelines, and the Developer meets the City's Threshold Developer Criteria; 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 the May 3, 2012 Subsequent Mitigated Negative Declaration/Addendum (SMND/A); and

**WHEREAS**, funds are available or will be available in fiscal year 2013-14 from the HUD HOME Investment Partnership Program and from the Affordable Housing Trust Fund to assist the Project; now, therefore, be it

**RESOLVED:** That the City hereby authorizes the City Administrator or his or her designee to provide a loan in an amount not to exceed \$2,000,000 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 \$966,709 will be allocated from the Affordable Housing Trust Fund (7450), Housing Development Organization (89929), Housing Trust Fund Housing Development Project (P435210) for this loan; and be it

**FURTHER RESOLVED:** That the following will be allocated from the HUD-HOME Fund (2109) for this loan: \$477,903 from Housing Development Organization (89929), HOME Housing Development Program project (G172111); \$40,000 from Housing Development Organization (89929), HOME Housing Development Program project (G172111) after the 2013-14 fiscal year HOME funds are available; \$200,000 from Municipal Lending Organization (89939), HMIP-Homeowner Rehab project (G155810); and \$315,388 from Housing and Community Development Organization (89919), CHDO Operating project (G172121); 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 Affordable Housing Trust Fund to cover the City loan of \$2,000,000; 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 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 has independently reviewed and considered the 2003 Mitigated Negative Declaration and the 2012 SMND/A has determined that further environmental review is not required because none of the circumstances described in CEQA Guidelines Section 15162 or 15163 are present; there are no project changes, changes in the circumstances under which the project is undertaken that involve new significant impacts or a substantial increase in the severity of previously identified impacts, nor is there any new information of substantial importance regarding significant effects, mitigation measures or alternatives that was not known or could not have been known with the exercise of reasonable diligence at the time the 2003 Mitigated Negative Declaration and the 2012 SMND/A were adopted; and be it

**FURTHER RESOLVED:** That the City Administrator or her designee shall file a Notice of Exemption, and an Environmental Declaration under the California Fish and Game Code (Section 711.4) with the County of Alameda; 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 the National Environmental Protection Act ("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 the City Attorney's Office for form and legality prior to execution; and be it

**FURTHER RESOLVED:** That the City hereby authorizes the City Administrator or 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.

**MAR 5 2013**

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

**PASSED BY THE FOLLOWING VOTE:**

AYES - BROOKS, GALLO, GIBSON-MCELHANEY, KALB, KAPLAN, ~~REID~~, SCHAAF and PRESIDENT  
KERNIGHAN - 7

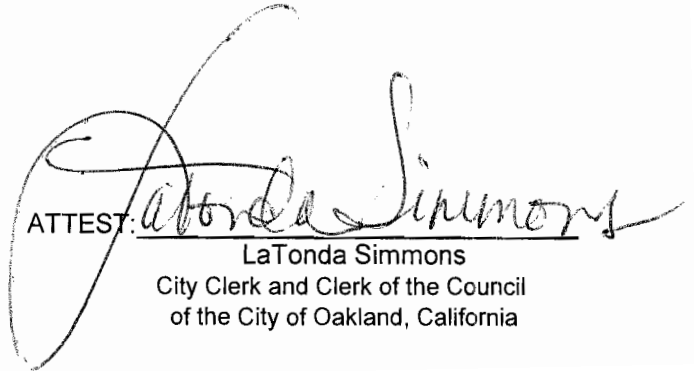
NOES - 0

ABSENT - 0

ABSTENTION - 0

Excused - Reid - 1

ATTEST:



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