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OFFICE OF THE CITY CLERK
OAKLAND

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APPROVED AS TO FORM AND LEGALITY:



Deputy City Attorney

OAKLAND CITY COUNCIL

RESOLUTION No. 81846 C.M.S.

A RESOLUTION AUTHORIZING AN AFFORDABLE HOUSING DEVELOPMENT LOAN IN AN AMOUNT NOT TO EXCEED \$3,850,344 TO AFFORDABLE HOUSING ASSOCIATES FOR THE 6TH AND OAK SENIOR HOMES PROJECT LOCATED AT 609 OAK STREET

WHEREAS, on September 2, 2008, 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, Affordable Housing Associates ("Developer"), a nonprofit organization devoted to the provision of affordable housing, submitted a proposal in response to the NOFA; and

WHEREAS, Developer proposes to develop a 70-unit rental development at 609 Oak Street in the City of Oakland (the "Project") known as the 6th and Oak Senior Homes Project; and

WHEREAS, at least 69 Project units will be rented at prices affordable to households earning no more than 60% of area median income; and

WHEREAS, Developer is also requesting additional funds from the Redevelopment Agency in the amount of \$3,699,656 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 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 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, 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 2008-09 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 \$3,850,344 to Affordable Housing Associates 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 City Administrator or his designee is authorized 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 \$3,850,344 will be allocated from the 2008-09 HUD-HOME Fund (2109), Housing Development Organization (88929), HOME Housing Development Project (G172111) for this loan after the 2008-09 fiscal year funds are available; and be it

FURTHER RESOLVED: That the combined total of the City and Agency loans for the Project shall not exceed \$7,550,000; 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 Low and Moderate Income Housing Fund to cover both the City loan of \$3,850,344 and the Redevelopment Agency development loan of \$3,699,656; 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 the City has independently reviewed and considered this environmental determination, and the City 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 CEQA Guidelines Sections 15332 (Infill Development) and 15183 (Projects Consistent with Zoning and General Plan) and meets the relevant criteria for these exemptions; and be it

FURTHER RESOLVED: That the City Administrator shall cause to be filed with the County of Alameda a Notice of Exemption and an Environmental Declaration under the California Fish and Game Code (section 711.4); 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 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 if the Project is unable to secure commitments for full Project funding due to delays in state financing that are out of the control of the Developer, the City Administrator or his or her designee may extend the reservation period for Project funding at his or her discretion; 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 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 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 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.

IN COUNCIL, OAKLAND, CALIFORNIA, MAR 17 2009, 2009

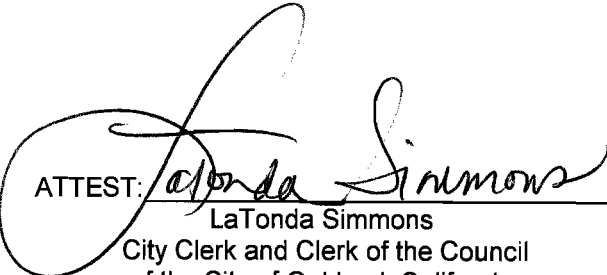
PASSED BY THE FOLLOWING VOTE:

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

NOES- 0

ABSENT- 0

ABSTENTION- 0

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