



City Attorney's Office

## OAKLAND CITY COUNCIL

RESOLUTION NO. \_\_\_\_\_ C.M.S.

### RESOLUTION:

**(1) AUTHORIZING THE USE OF FISCAL YEAR 2024-2025 COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) FUNDS IN AN AMOUNT NOT TO EXCEED \$1,000,000 FOR EXPENSES RELATED TO THE ACQUISITION OF REAL PROPERTY, PUBLIC IMPROVEMENTS, SITE CLEARANCE, AND THE RELOCATION OF PRIVATELY OWNED UTILITIES TO SUPPORT THE NEW CONSTRUCTION OF THE ELIZA AFFORDABLE SENIOR HOUSING PROJECT (THE ELIZA);**

**(2) AUTHORIZING THE CITY ADMINISTRATOR TO ENTER INTO AN UNSECURED CDBG PREDEVELOPMENT LOAN AGREEMENT WITH MERCY HOUSING CALIFORNIA AND/OR ITS AFFILIATED ENTITY OR ENTITIES (MERCY) IN AN AMOUNT NOT TO EXCEED \$500,000;**

**(3) AUTHORIZING THE CITY ADMINISTRATOR TO ENTER INTO A CDBG SECURED CONSTRUCTION LOAN WITH MERCY HOUSING CALIFORNIA AND/OR ITS AFFILIATED ENTITY OR ENTITIES (MERCY) IN AN AMOUNT NOT TO EXCEED \$500,000; AND**

**(4) ADOPTING APPROPRIATE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) FINDINGS.**

**WHEREAS**, the City of Oakland Five-Year Consolidated Plan (2020/21-2024/25 Con Plan), mandated by Title 24 HUD Code of Federal Regulations Part 91 (24 CFR 91 Subparts A-C and F), is designed to help local jurisdictions assess their affordable housing needs, community development needs, market conditions, and to make data-driven, place-based investment decisions that meet the City's identified goals; and

**WHEREAS**, the 2020/21-2024/25 Con Plan is the framework for a communitywide dialogue to identify housing and community development priorities aligned with funding from the Community Planning & Development (CPD) Formula Entitlement Grant programs: CDBG, HOME Investments Partnership (HOME), Emergency Solutions Grant (ESG), and Housing Opportunities for Persons with AIDS (HOPWA); and

**WHEREAS**, the City of Oakland 2020/21-2024/25 Con Plan is authorized under [Oakland City Council Resolution No. 88202 C.M.S.](#), adopted June 30, 2020; and

**WHEREAS**, the 2020/21-2024/25 Con Plan is facilitated by the Annual Action Plan (AAP), as mandated by 24 Code of Federal Regulations (CFR) 91.220; and

**WHEREAS**, the AAP provides a summary of the action plans and resources to be used to prioritize communitywide needs and goals, in furtherance of outcomes and objectives, as identified in the Con Plan, evaluating past performances and including a summary of citizen participation; and

**WHEREAS**, the City's FY 2024/25 AAP is the fifth annual update to the City's current 2020/21-2024/25 Con Plan; and

**WHEREAS**, on May 7, 2024, the United States Department of Housing & Urban Development (HUD) announced the Fiscal Year 2024/25 CPD Formula Grant allocations for CDBG, HOME, HOPWA, and ESG, allocating \$14,260,551 in grant funds to the City of Oakland; and

**WHEREAS**, on July 16, 2024, the Oakland City Council authorized the acceptance and appropriation of a HUD grant award in the amount of \$14,260,551 for CDBG, HOME, ESG, and HOPWA funding for HUD Fiscal Year 2024/2025 per [Oakland City Council Resolution No. 90372 C.M.S.](#); and

**WHEREAS**, Mercy is the owner of that certain real property located at 2125 Telegraph Avenue, and Mercy proposes to convert the infill development site into an affordable senior housing rental development to be known as The Eliza with a total of ninety-seven (97) newly constructed units consisting of ninety-six (96) studio units and one (1) unrestricted manager's unit. Thirty-nine (39) units will be reserved for extremely low-income senior households with incomes no greater than 30% of the Area Median Income (AMI) and fifty-seven (57) units for very low-income seniors with incomes no greater than 50% AMI. Twenty (20) units will be targeted for formerly homeless seniors; and

**WHEREAS**, Mercy has requested an unsecured predevelopment loan (the "Predevelopment Loan") in an amount not to exceed \$500,000 for CDBG-eligible activities including acquisition legal costs & a lot line adjustment, repaving the public sidewalk & street, and installing new sidewalk street trees, demolishing an existing asphalt parking lot, environmental monitoring of the demolition, board of equalization fees for disposing hazardous soil, and the relocation of an above ground PG&E transformer and power lines to underground for the Eliza; and

**WHEREAS**, Mercy has requested a construction loan (the "Construction Loan") in an amount not to exceed \$500,000 for CDBG-eligible acquisition costs for the Eliza; and

**WHEREAS**, it is anticipated that the predevelopment loan will be consolidated with the Construction Loan when the Construction Loan is closed; and

**WHEREAS**, sufficient funding in the amount not to exceed \$1,000,000 is available to the City from the Fiscal Year 2024/2025 HUD grant award in HUD-CDBG Fund (2108), CDBG Coordination Organization (89949), CDBG Acq\_Rehab Afford Hsg Project (1006893); and

**WHEREAS**, the funding will be transferred to a new project code to be determined (TBD) for The Eliza to expend the loans; and

**WHEREAS**, the proposed new construction activity for The Eliza includes the cost of acquisition related expenses, public improvements, site clearance, and the relocation of privately owned utilities; and

**WHEREAS**, the AAP and Oakland City Council Resolution No. 90372 C.M.S. appear to authorize acquisition and/or rehabilitation activities only; and

**WHEREAS**, the Eliza is a new construction project and the proposed activities, allowed by HUD for CDBG funds, go beyond acquisition; and

**WHEREAS**, Council Resolution 90372 C.M.S. does not authorize the use of CDBG funds for new construction activities without returning to Council; and

**WHEREAS**, Staff seeks Council's authority to use FY 2024/25 CDBG funds in an amount not to exceed \$1,000,000 for HUD eligible CDBG activities including acquisition, public improvements, site clearance, and relocation of privately owned utilities for the new construction of The Eliza; and

**WHEREAS**, Staff is requesting Council to authorize FY 2024/25 CDBG funds as loans for The Eliza, to foster new production of affordable rental housing for low-income seniors and reduce the potential for homelessness; and

**WHEREAS**, upon review of the City of Oakland Planning Bureau and as of September 30, 2020, The Eliza received a categorical exemption under CEQA pursuant to California Senate Bill 35 (SB 35), Streamline Housing Construction; now, therefore, be it

**RESOLVED**: That authorizing CDBG funds towards The Eliza, as an affordable senior housing new construction project, will help provide safe, accessible, and age-appropriate living spaces for an increasingly aging low-income population; and be it

**FURTHER RESOLVED**: That CDBG, HOME, ESG, and HOPWA programs seek to minimize disparities in outcomes by race and supports equitable activities promoting a healthy wellbeing for Oakland residents, providing safe, healthy, and secure affordable housing options and suitable living environments, thus expanding economic opportunities for low- and moderate-income persons and areas; and be it

**FURTHER RESOLVED**: That the City Council hereby authorizes the use of City of Oakland, HUD awarded FY 2024/25 CDBG funds, in an amount not to exceed \$1,000,000, for CDBG-eligible new construction activities including acquisition, public improvements, site clearance, and relocation of privately owned utilities for the new construction of The Eliza; and be it

**FURTHER RESOLVED:** That the City Council hereby authorizes the City Administrator to provide an unsecured predevelopment loan in the amount not to exceed \$500,000 to Mercy, or to an affiliated entity or entities approved by the City Administrator, to support CDBG-eligible predevelopment activities associated with the new construction of the Eliza; and be it

**FURTHER RESOLVED:** That the Predevelopment Loan shall be for a term of 24 months with an interest rate of 3%, with the balance due at the end of the term, or on such other repayment terms and schedule as the City Administrator determines are in the best interests of the City and The Eliza; and be it

**FURTHER RESOLVED:** That the Predevelopment Loan will be consolidated with the Construction Loan at closing of the Construction Loan and will become a secured loan payable in accordance with the terms of the Construction Loan; and be it

**FURTHER RESOLVED:** That the City Administrator is hereby authorized to negotiate and execute loan documents for the Predevelopment Loan, administer the Predevelopment Loan, extend or modify the repayment terms, and take whatever other action is necessary with respect to the Predevelopment Loan and The Eliza consistent with this Resolution and its basic purposes; and be it

**FURTHER RESOLVED:** That the making of the Predevelopment Loan shall be contingent on and subject to such other appropriate terms and conditions as the City Administrator may establish; and be it

**FURTHER RESOLVED:** That the City Council hereby authorizes the City Administrator to provide a construction loan in the amount not to exceed \$500,000 to Mercy, or to an affiliated entity or entities approved by the City Administrator, to support CDBG-eligible acquisition cost associated with the new construction of the Eliza; and be it

**FURTHER RESOLVED:** That the Construction Loan shall be for a maximum term of 55 years, with an interest rate to be determined by the City Administrator in their discretion, with repayment to the City from surplus cash flow from The Eliza and other available funds during the term of the Construction Loan, with the balance due at the end of the term, or on such other repayment terms and schedule as the City Administrator determines are in the best interests of the City and The Eliza; and be it

**FURTHER RESOLVED:** That as a condition of the Construction Loan, the City will require that appropriate restrictions on project occupancy, rents, and operations be recorded against the project land and/or improvements; and be it

**FURTHER RESOLVED:** That the Construction Loan shall be secured by a deed of trust on the project land and/or improvements; and be it

**FURTHER RESOLVED:** That the City Administrator is hereby authorized to negotiate and execute loan documents for the Construction Loan, administer the Construction Loan, extend

or modify the repayment terms, and take whatever other action is necessary with respect to the Construction Loan and The Eliza consistent with this Resolution and its basic purposes; and be it

**FURTHER RESOLVED:** That the making of the Construction Loan shall be contingent on and subject to such other appropriate terms and conditions as the City Administrator may establish; and be it

**FURTHER RESOLVED:** That the City hereby authorizes the City Administrator in their discretion to subordinate the priority of any of the City's recorded interests in each 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 execution of loan documents and other documents legally committing the City to fund a project with federal funds will be expressly conditioned on compliance with the requirements of NEPA, as certified by the City Administrator; and be it

**FURTHER RESOLVED:** That all loan documents shall be reviewed and approved by the Office of the City Attorney for form and legality prior to execution; and be it

**FURTHER RESOLVED:** That the City Council finds and determines that the proposed funding transactions would not result in any significant effect that has not already been analyzed in The Eliza's CEQA clearance, and there will be no significant environmental effects caused by the funding transactions that have not already been analyzed.

IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

AYES - BROWN, FIFE, HOUSTON, KAPLAN, RAMACHANDRAN, UNGER, AND  
PRESIDENT PRO TEMPORE GALLO

NOES -

ABSENT - COUNCIL PRESIDENT JENKINS (serving as Mayor pursuant to Charter Section 303)

ABSTENTION -

ATTEST: \_\_\_\_\_  
ASHA REED  
City Clerk and Clerk of the Council of the  
City of Oakland, California