

  
CITY ATTORNEY'S OFFICE

**OAKLAND CITY COUNCIL**

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

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**RESOLUTION APPROPRIATING \$4,000,000 FROM GROUND RENT LOAN PAYMENT; AUTHORIZING A \$4,000,000 LOAN TO EAST 12<sup>TH</sup> STREET HOUSING, L.P. FUNDED BY THE GROUND RENT LOAN PAYMENT FOR THE DEVELOPMENT OF 91 UNITS OF AFFORDABLE HOUSING ON A PORTION OF THE 12<sup>TH</sup> STREET REMAINDER PROPERTY LOCATED AT EAST 12<sup>TH</sup> STREET AND 2<sup>ND</sup> AVENUE; AND ADOPTING CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS**

**WHEREAS**, the City of Oakland (“City”) owns approximately 0.925 acres of vacant property (Assessor Parcel Number 019-0027-014), commonly known as the 12th Street Remainder Parcel, bounded by East 12th Street on the east, Second Avenue and property owned by the Oakland Unified School District on the south, open space to the west, and Lake Merritt Boulevard to the north (the “Property”); and

**WHEREAS**, On July 21, 2023, Ordinance No. 13724 C.M.S, the City Council authorized the City Administrator to negotiate a Lease Disposition and Development Agreement (“LDDA”) between the City of Oakland and East 12<sup>th</sup> Street Housing L.P., a California limited partnership (“Developer”), an affiliate of East Bay Asian Local Development Corporation, for the development of 91 units of affordable housing (the “Project”) on a portion of the Property (“Parcel 1”) and to negotiate and execute a 99-year ground lease between the City and Developer with \$1.00 per year base rent plus rent based on the appraised \$4,000,000 fair market value (“FMV”) of Parcel 1 in the form of a loan (“Ground Rent Loan”) for a term of fifty-five (55) years from permanent loan conversion and an interest rate of three percent (3%); and

**WHEREAS**, the Environmental Review Officer determined (1) that pursuant to Government Code Section 65651(b)(2), the City’s review and approval of the Project, which consists of affordable housing, including 30 percent supportive housing, shall not constitute a “project” for purposes of the California Environmental Quality Act (“CEQA”) (Section 21000 et seq. Of the Public Resources Code) and therefore shall not be subject to CEQA review and (2) that the anticipated environmental effects of the Project had been adequately evaluated by the Lake Merritt Station Area Plan Final Environmental Impact Report (Final EIR) (certified November

2014); the Project is consistent with a Community Plan, General Plan or Zoning under Section 15183 of the State CEQA Guidelines (Projects consistent with a Community Plan, General Plan or Zoning); and that the Project complies with Section 15183.3 of the State CEQA Guidelines (Streamlining for Infill Projects); and further, the Project is exempt from CEQA under the following Sections of the State CEQA Guidelines: Section 15601(b)(3) (Common Sense Exemption), Section 15268 (Ministerial Projects), and Section 15332 (In-Fill Development Projects); and

**WHEREAS**, on February 1, 2023, the City and Developer entered into a Lease Disposition and Development Agreement (“LDDA”) for development of the Project on Parcel 1; and

**WHEREAS**, on April 16, 2019, City Council authorized Resolution No. 87626 for the City to apply for, accept, and appropriate loan and grant funds under the state of California’s Affordable Housing and Sustainable Communities program for the Project to be developed on Parcel 1.

**WHEREAS**, the Developer will pay in full the Ground Rent Loan in the amount of \$4,000,000 from Housing and Community Development Affordable Housing Sustainable Communities (“HCD AHSC”) funds and Limited Partner (LP) equity funds at the closing for construction of the Project; and

**WHEREAS**, the Developer has requested a new loan from the City in the amount of \$4,000,000 (the “Loan”) for development of the Project to close a funding gap resulting from higher than anticipated construction costs of the Project; and

**WHEREAS**, the City has reviewed the pro forma for the Project and determined that, based on the development costs, rental income, and other revenue, the Project needs the Loan to make the Project financially feasible; and be it

**RESOLVED:** That the City Council hereby authorizes the City Administrator to provide the Loan to the Developer in an amount not to exceed \$4,000,000 to be used for development of the Project on Parcel 1; and be it

**FURTHER RESOLVED:** That the City Administrator is authorized to accept and deposit the funds from the \$4,000,000 Ground Rent Loan payment to City Entity (1), Miscellaneous Capital Projects Fund (5999), Central District Redevelopment Organization (85245), Land Rental Miscellaneous Revenue Account (44219), in a New Project to be established (TBD), Downtown Redevelopment Program (SC13); and be it

**FURTHER RESOLVED:** That the City Administrator is authorized to appropriate the \$4,000,000 loan expenditure budget into and fund the Loan from City Entity (1), Miscellaneous Capital Projects Fund (5999), Central District Redevelopment Organization (85245), Non-Grant Loan Expenditures Account (58312), in the same New Project to be established (TBD), Downtown Redevelopment Program (SC13) for development of the Project on Parcel 1; and be it

**FURTHER RESOLVED:** That the making of the Loan shall be contingent on the availability of sufficient funds in the above fund; and be it

**FURTHER RESOLVED:** That the Loan shall be for a maximum term of fifty-five (55) years, with a simple rate of interest of three percent (3%), 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 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 the Project improvements and the Developer's leasehold interest in the land; and be it

**FURTHER RESOLVED:** That the Loan shall be secured by a deed of trust on the Project improvements and the Developer's leasehold interest in the land; and be it

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

**FURTHER RESOLVED:** That the City Administrator in their discretion is hereby authorized to subordinate the priority of any of the City's recorded interests in Property to a lien or encumbrance of another private or governmental entity providing financial assistance to the Project, if the City Administrator 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 Council hereby finds and determines, on a separate and independent basis, (1) that pursuant to Government Code Section 65651(b)(2), the City's review and approval of the Project, which consists of affordable housing, including 30 percent supportive housing, shall not constitute a "project" for purposes of the California Environmental Quality Act ("CEQA") (Section 21000 et seq. Of the Public Resources Code) and therefore shall not be subject to CEQA review and (2) that the anticipated environmental effects of the Project had been adequately evaluated by the Lake Marritt Station Area Plan Final Environmental Impact Report (Final EIR) (certified November 2014); the Project is consistent with a Community Plan, General Plan or Zoning under Section 15183 of the State CEQA Guidelines (Projects consistent with a Community Plan, General Plan or Zoning); and that the Project complies with Section 15183.3 of the State CEQA Guidelines (Streamlining for Infill Projects); and further, the Project is exempt from CEQA under the following Sections of the State CEQA Guidelines: Section 15601(b)(3) (Common Sense Exemption), Section 15268 (Ministerial Projects), and Section 15332 (In-Fill Development Projects); and be it

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

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

IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

AYES - FIFE, GALLO, JENKINS, KALB, KAPLAN, RAMACHANDRAN, REID, AND  
PRESIDENT FORTUNATO BAS

NOES –

ABSENT –

ABSTENTION –

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