



City Attorney's Office

OAKLAND CITY COUNCIL

RESOLUTION NO. _____ C.M.S.

RESOLUTION:

1. **AUTHORIZING THE CITY ADMINISTRATOR TO JOINTLY APPLY FOR, ACCEPT, AND ENTER INTO STANDARD AGREEMENTS AS A LOCAL AGENCY PARTNER FOR, FUNDS IN AN AMOUNT NOT TO EXCEED \$120 MILLION FROM THE CALIFORNIA DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT'S HOMEKEY PROGRAM;**
2. **ALLOCATING CITY MATCHING FUNDS IN A TOTAL AMOUNT NOT TO EXCEED \$9,000,000, AND AUTHORIZING AFFORDABLE HOUSING DEVELOPMENT GRANTS FROM HOMEKEY AND CITY MATCHING FUNDS FOR THE FOLLOWING HOMEKEY PROJECTS: KINGDOM BUILDERS TRANSITIONAL HOUSING (2317 INTERNATIONAL BOULEVARD), THE PHOENIX (801 PINE STREET), PIEDMONT PLACE (55 MACARTHUR BOULEVARD), COLISEUM WAY (4801 COLISEUM WAY), 8400 EDES AVENUE, AND BAY AREA COMMUNITY SERVICES (BACS) PROJECT RECLAMATION; AND**
3. **AUTHORIZING HOMELESS HOUSING, ASSISTANCE, AND PREVENTION PROGRAM GRANTS IN A TOTAL AMOUNT NOT TO EXCEED \$10,000,000 TO PROVIDE LONG-TERM OPERATING FUNDS FOR THE PIEDMONT PLACE AND COLISEUM WAY HOMEKEY PROJECTS; AND**
4. **WAIVING CITY REQUIREMENTS FOR LOCAL AND SMALL LOCAL BUSINESS ENTERPRISE (L/SLBE) PROGRAM, LOCAL EMPLOYMENT PROGRAM, AND OAKLAND APPRENTICESHIP PROGRAM.**

WHEREAS, the Department of Housing and Community Development ("Department") has issued a Notice of Funding Availability, dated September 9, 2021 ("NOFA"), for the Homekey Program ("Homekey" or "Homekey Program") pursuant to Health and Safety Code Section 50675.1.3 (Assem. Bill No. 140 (2021-2022 Reg. Sess.), § 20.); and

WHEREAS, the Department is authorized to administer Homekey pursuant to the Multifamily Housing Program (Chapter 6.7 (commencing with Section 50675) of Part 2 of Division 31 of the Health and Safety Code); and

WHEREAS, Homekey will make available approximately \$1.45 billion in grant funding to local public entities, including cities, counties, or other local public entities within California to sustain and rapidly expand housing for persons experiencing homelessness or at-risk of homelessness, and who are, thereby, inherently impacted by or at increased risk for medical diseases or conditions due to the COVID-19 pandemic; and

WHEREAS, of the \$1.45 billion in Homekey grant funds, \$1.2 billion is derived from the Coronavirus State Fiscal Recovery Fund (CSFRF) established by the Federal American Rescue Plan Act of 2021 (ARPA) (Public Law 117-2), and \$250 million is derived from the State's General Fund, and, per the State's funding requirements, CSFRF Homekey awards must be expended within eight months of the date of award and the State's General Fund Homekey awards must be expended by June 30, 2026; and

WHEREAS, the City of Oakland desires to jointly apply for Homekey grant funds ("Application") with qualified sponsors ("Qualified Sponsors") to the Department for review and consideration; and

WHEREAS, Homekey funding allocations are subject to the terms and conditions of the NOFA, the Application, the Department-approved STD 213, Standard Agreement ("Standard Agreement"), and all other legal requirements of the Homekey Program; and

WHEREAS, the City issued a Homekey Request for Qualifications on June 25, 2021, to establish the pool of Qualified Sponsors, and finalized the pool of Qualified Sponsors on September 30, 2021; and

WHEREAS, the City issued a Homekey Request for Proposals ("City Homekey RFP") on October 18, 2021, only to the pool of Qualified Sponsors to solicit and score Homekey project proposals for the City to jointly apply with qualified sponsors for Homekey grant funds, with responses due November 18, 2021; and

WHEREAS, seven projects submitted proposals in response to the City Homekey RFP, and six projects met threshold scoring and requirements in staff's evaluation of project proposals; and

WHEREAS, the City wishes to apply, as the local agency partner, with Qualified Sponsors for Homekey Funds for the following four top scoring proposals from the Homekey RFP: the Phoenix (801 Pine Street); Kingdom Builders Transitional Housing (2317 International Boulevard); Piedmont Place (55 MacArthur Boulevard); and Coliseum Way (4801 Coliseum Way) (together, the "Homekey Projects"); and

WHEREAS, additionally, the City wishes to apply, as the local agency partner, with Qualified Sponsors for Homekey Funds for the following two proposals from the Homekey RFP, contingent on the identification of additional funding from non-City sources and provision of additional project details by the project sponsors: 8400 Edes Avenue and BACS Project Reclamation (together, the "Contingent Homekey Projects"); and

WHEREAS, Homekey has a matching requirement for both the aggregate acquisition and rehabilitation costs of a property and the aggregate six-year operating costs of managing a program at such property; and

WHEREAS, Homekey will award funds for project costs to eligible projects from \$150,000 to \$200,000 “per door”, with up to an additional \$100,000 per door with a 1:1 local match, and up to three years of operating costs; and

WHEREAS, the City desires to include soft commitments for local matching capital and operating funds for the City’s Homekey applications to enhance the viability and competitiveness of the applications; and

WHEREAS, more than \$6,000,000 in funds for affordable housing development, of which Homekey acquisitions and rehabilitations are eligible uses, are available from the Measure KK Housing and Infrastructure Bond Fund (Funds 5331/5333) and Excess Redevelopment Bond Fund (Fund 5610), and the HOME Investment Partnerships American Rescue Plan Program (HOME-ARP) Fund (Fund 2109); and

WHEREAS, the City Council is concurrently considering the allocation of Homeless Housing, Assistance, and Prevention (“HHAP”) program funds as matching local operating subsidy funding for Homekey Projects; and

WHEREAS, should the City’s Homekey applications be awarded funds, any future loan or grant agreement shall require that any contracts entered into by Qualified Sponsors for the construction, rehabilitation, or alteration of the Homekey projects shall include enforceable requirements that the contractor and all subcontractors pay prevailing wages in accordance with California Labor Code Section 1720 et seq.; and

WHEREAS, such loan or grant agreements shall require that a use restriction be recorded on the property that restricts occupancy to individuals experiencing homelessness or at risk of homelessness meeting the definition in 24 Code of Federal Regulations section 578.3, for at least 15 years for interim housing and 55 years for permanent housing; and

WHEREAS, Homekey funding allocations are subject to the terms and conditions of the NOFA, the Application, the Department-approved STD 213, Standard Agreement, and all other legal requirements of Homekey; and

WHEREAS, on October 1, 2019, the City adopted Ordinance No. 13564 C.M.S., an Emergency Ordinance Declaring a Shelter Crisis in the City of Oakland, with provisions to suspend State or local regulatory statues, regulations, and ordinances that could prevent timely delivery of housing and shelter solutions for the City’s homeless residents, which Homekey projects could address with the support of exemptions from local City contract compliance requirements; and

WHEREAS, the City is the Lead Agency for these projects 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 for The Phoenix project as set forth in the CEQA determination made by Resolution No. 88249 C.M.S.; and

WHEREAS, California Health and Safety Code section 50675.1.4 establishes a statutory exemption from the California Environmental Quality Act (CEQA) for projects using Homekey grant funds and other public funds that (a) provide safe and sanitary units restricted to individuals and families experiencing homelessness or at risk of homelessness for at least 55 years, (b) include commitments requiring all contractors performing construction work to be paid prevailing wage and use a skilled and trained workforce in accordance with California Public Contract Code Section 2600 et seq., and (c) do not increase the footprint of the building by more than 10 percent; and

WHEREAS, each as a separate and independent basis, the following Homekey projects satisfy the conditions of Health and Safety Code section 50675.1.2.4 and are exempt from CEQA review, and are also exempt from CEQA pursuant to CEQA Guidelines sections 15301 (existing facilities): Kingdom Builders Transitional Housing, Piedmont Place, Coliseum Way, 8400 Edes Avenue, and BACS Project Reclamation; and

WHEREAS, excess Oakland Redevelopment Successor Agency (ORSA) bond funds have been identified in the Central District project area, which project area will be benefited by affordable housing projects throughout the City of Oakland; and

WHEREAS, for those projects receiving federal funds, execution of loan documents or other documents legally committing the City to fund the projects shall be expressly conditioned on compliance with the requirements of the National Environmental Protection Act ("NEPA"), as certified by the City Administrator; now, therefore, be it

RESOLVED: That the foregoing recitals are true and correct, and the City Council hereby makes them part of this Resolution; and be it

FURTHER RESOLVED: That the City Council hereby authorizes and directs the City Administrator to submit Applications to the Department in response to the NOFA, dated September 9, 2021, and to apply for Homekey grant funds in a total amount not to exceed \$120,000,000 for capital and operating expenditures for the Homekey Projects, as well as for the Contingent Homekey Projects contingent on the identification of additional funding from non-City sources and provision of additional project details by the project sponsors of the Contingent Homekey Projects; and be it

FURTHER RESOLVED: That, if the Application is approved, the City Administrator is authorized to enter into, execute, and deliver Standard Agreements for the total amount awarded, any and all other documents required or deemed necessary or appropriate to secure the Homekey funds from the Department, and to participate in the Homekey Program, and all amendments thereto (collectively, "the Homekey Documents") on behalf of the City, as a local agency partner; and be it

FURTHER RESOLVED: That the City acknowledges and agrees that it shall be subject to the terms and conditions specified in the Standard Agreements, that the NOFA and Application will be incorporated in the Standard Agreements by reference and made a part thereof, that any and all activities, expenditures, information, and timelines represented in the Application are enforceable

through the Standard Agreements, and that funds are to be used for the allowable expenditures and activities identified in the Standard Agreements; and be it

FURTHER RESOLVED: That the City Council re-allocates \$500,000 from Measure KK accessory dwelling unit (ADU) set-aside in Measure KK Tranche 2 (Fund 5331) to be made available for use as matching funds for Homekey acquisitions and rehabilitations in addition to the \$3,517,588 remaining in the Measure KK Transitional Housing set-aside in Measure KK Tranches 1 and 2 for homeless housing acquisitions and rehabilitations, for which Homekey acquisitions and rehabilitations are an eligible use; and be it

FURTHER RESOLVED: That the City Council hereby allocates up to \$9,000,000 in City funds comprised of \$4,017,588 from Measure KK Tranche 1 (Fund 5331) and KK Tranche 2 (Fund 5333), as well as up to \$3,904,705 from the Excess Redevelopment Bond Funds (Fund 5611 \$426,959 and 5612 \$3,477,746) and up to \$3,977,707 of HOME-ARP funds (Fund 2109) for Homekey acquisitions and rehabilitations; and be it

FURTHER RESOLVED: That the City Council finds that it is in the best interest of the City to use the identified Central District excess ORSA bond proceeds for the affordable housing projects because affordable housing anywhere in the City of Oakland is a benefit to the Central District project area; and be it

FURTHER RESOLVED: That, contingent upon the award of Homekey funds for the Homekey Projects, the City Administrator is hereby authorized to enter into grant or loan agreements with the Qualified Sponsors, or affiliated entities, for the Homekey Projects in a total amount up to the amount of Homekey funds awarded and up to \$9,000,000 of City matching funds allocated under this Resolution, for the purposes and with the restrictions described in this Resolution; and be it

FURTHER RESOLVED: That, contingent upon the award of Homekey funds for the Homekey Projects by the Department and the allocation of HHAP funds to Homekey Projects by the City Council, the City Administrator is hereby authorized to enter into grant or loan agreements with the Qualified Sponsors, or affiliated entities, in an amount not to exceed \$10,000,000 in HHAP program funds, for the operations of Piedmont Place and Coliseum Way, for the purposes and with the restrictions described in this Resolution; and be it

FURTHER RESOLVED: That the above agreements shall be reviewed and approved by the Office of the City Attorney for form and legality and placed on file in the Office of the City Clerk; and be it

FURTHER RESOLVED: That the execution of loan or grant documents or 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 the City Council hereby determines that the actions authorized by this Resolution are exempt from CEQA pursuant to Health and Safety Code section 50675.1.2.4 and CEQA Guidelines 15301, and the City Administrator is hereby directed to file a

notice of exemption with the Office of the Alameda County Recorder and the State Office of Planning and Research; and be it

FURTHER RESOLVED: That the City hereby waives any City requirements of its Local and Small Local Business Enterprise (L/SLBE) Program, Local Employment Program, and Oakland Apprenticeship Program; and be it

FURTHER RESOLVED: That the City hereby authorizes the City Administrator to determine funding allocations, conduct negotiations, execute documents, administer loans or grants, extend or modify the repayment terms, and take any other action with respect to the Homekey Program, the Homekey Projects, the Contingent Homekey Projects, and the Homekey and HHAP loans or grants, funding allocations, and projects consistent with this Resolution and its basic purpose.

IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

AYES - FIFE, , GALLO, KALB, KAPLAN, REID, TAYLOR, THAO AND PRESIDENT
FORTUNATO BAS

NOES –

ABSENT –

ABSTENTION –

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