


CITY ATTORNEY'S OFFICE

As revised by the Community & Economic Development Committee,
November 15, 2022

OAKLAND CITY COUNCIL

RESOLUTION NO. _____ C.M.S.

RESOLUTION (1) ALLOCATING UP TO \$12,265,543 FROM AFFORDABLE HOUSING TRUST FUNDS, LOW AND MODERATE INCOME HOUSING ASSET FUNDS, AND MEASURE KK BOND FUNDS TO THE ACQUISITION AND CONVERSION TO AFFORDABLE HOUSING (ACAH) PROGRAM; (2) ALLOCATING ADDITIONAL FUNDS IN AN AMOUNT NOT TO EXCEED \$10,000,000 FROM AFFORDABLE HOUSING TRUST FUNDS AND EXCESS REDEVELOPMENT BOND FUNDS TO THE ACAH PROGRAM, FOR A TOTAL AMOUNT NOT TO EXCEED \$22,265,543 CONTINGENT UPON THE CITY NOT RECEIVING A FUNDING AWARD FROM THE STATE OF CALIFORNIA HOMEKEY PROGRAM; AND (3) AUTHORIZING THE CITY ADMINISTRATOR TO FUND LOANS UNDER THE ACAH PROGRAM WITHOUT RETURNING TO COUNCIL

WHEREAS, on November 8, 2016, Oakland voters passed Measure KK, the Affordable Housing and Infrastructure Bond, that provided \$100 million in funding for affordable housing, and on November 29, 2016, the City Council approved Ordinance No. 13403 C.M.S. that enacted the City of Oakland Affordable Housing and Infrastructure Bond Law; and

WHEREAS, on June 19, 2017, the City Council approved Resolution No. 86774 C.M.S. identifying the programs that are authorized for funding with proceeds from the first tranche of Measure KK bonds in an amount of \$55 million, which included The Site Acquisition Program; and

WHEREAS, on September 12, 2019, the City Council adopted Resolution No. 87876 C.M.S., which renamed and revised the former Site Acquisition Program to establish the Acquisition and Conversion to Affordable Housing (ACAH) Program; and

WHEREAS, the purpose of the ACAH Program is to provide loans to eligible borrowers for acquisition- and rehabilitation-related costs associated with protecting and

preserving long term affordable housing throughout the City of Oakland, with funds set aside for community land trusts/limited equity housing cooperatives in addition to all types of affordable housing developers; and

WHEREAS, on December 10, 2019 the City Council allocated an additional \$25,147,847 through Resolution No. 87189 C.M.S. to the ACAH Program from the second tranche of Measure KK bond funds, after having successfully allocated 100% of the funds from the first tranche of Measure KK bonds in the amount of \$20,691,525; and

WHEREAS, on December 6, 2019, and December 17, 2020, the City of Oakland issued two Notices of Funding Availability (“ACAH Program NOFAs”) soliciting applications for funding for ACAH projects; and

WHEREAS, the City has since awarded a total of \$45,839,372 in Measure KK bond funds across the 2017 Site Acquisition Program and the 2019 and 2020 ACAH Program NOFAs (including \$30 million in delegated authority for the 2019 and 2020 ACAH Program NOFAs), funding 460 affordable housing units, including 85 units that serve residents living at or below 30% of the Area Median Income (AMI), and nine properties owned by community land trusts/ limited equity housing cooperatives; and

WHEREAS, funds for the ACAH Program are now depleted or committed to other ACAH projects, and the \$30 million delegated authority cap has been reached; and

WHEREAS, there is still a significant need for affordable housing resources to help preserve affordable housing in the City; and

WHEREAS, given the significant need to further expand affordable housing and remedies to homelessness, approving additional funds to be expended which would expand available housing, including for vulnerable populations, is important for the health of our community; and

WHEREAS, establishing a pipeline of authorized projects and delegating authority to the City Administrator to fund projects in the pipeline from available funds will enable the City to maximize its resources, providing only the amount of City assistance needed to make the project feasible, preventing the cost of reapplication during subsequent fiscal years, and expediting funding awards; and

WHEREAS, funds for affordable housing protection and preservation in an amount not to exceed \$12,265,543 are available from the Affordable Housing Trust Fund, including Jobs/Housing Impact Fees and “Boomerang Funds,” the Low and Moderate Income Housing Asset Fund, and Measure KK Bond Funds for the ACAH Program; and

WHEREAS, the City received authority to apply for a Round 3 funding award from the State of California Homekey Program, authorized under Resolution No. 89379 C.M.S. on July 26, 2022, to fund housing for persons experiencing homelessness or at-risk of homelessness; and

WHEREAS, the State Homekey Program requires City capital match funds be allocated along with awarded funds, and for this reason, \$17,396,203 in match funds were set aside for this Program; and

WHEREAS, if the City does not receive the full amount of the State's Round 3 Homekey award, the \$17,396,203 or a portion thereof in matching funds remain available, in which case the City will reallocate up to \$10,000,000 of the matching funds for the ACAH Program; and

WHEREAS, the \$10,000,000 in Homekey matching funds or the portion thereof remaining available for the ACAH Program would be reallocated to the ACAH Program from the Affordable Housing Trust Fund (Fund 1870); including up to \$3,400,000 in Affordable Housing Impact Fees and up to \$6,000,000 in "Boomerang" funds, and up to \$600,000 in Excess Redevelopment Funds (Fund 56XX); and

WHEREAS, if the City does not receive the Homekey Program State award in the full requested amounts, an amount of up to \$10,000,000 from Affordable Housing Impact Fees, "Boomerang Funds," and Excess Redevelopment Bond Funds will be available; and

WHEREAS, the City will allocate these additional funds to the ACAH Program, should they remain available, ensuring available affordable housing funds be used in an expeditious and effective manner; and

WHEREAS, contingent upon the city not receiving a funding award from the State of California Homekey Program, the combined total amount of funds will not exceed \$22,265,543 for the ACAH Program; and

WHEREAS, the City is the Lead Agency for the ACAH-funded 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 will be satisfied for these projects as part of the evaluation process and before commitments are provided; now, therefore, be it

RESOLVED: That the City Council hereby allocates funds in an amount up to \$12,265,543 to the ACAH Program to fund affordable housing acquisition, rehabilitation, and preservation loans under the ACAH Program; and be it

FURTHER RESOLVED: That said funding is allocated from the following funding sources: the Affordable Housing Trust Fund (Fund 1870), including Jobs/Housing Impact Fees and "Boomerang Funds," the Low and Moderate Income Housing Asset Fund (Fund 2830), and Measure KK Bond funds (Funds 5331 and 5333); and be it

FURTHER RESOLVED: That the City Council hereby allocates an additional amount up to \$10,000,000 from the Affordable Housing Trust Fund (Fund 1870), including Affordable Housing Impact Fees and "Boomerang Funds," and the

Excess Redevelopment Bond Fund, (Fund 56XX), to the ACAH Program from funds that were set aside as matching funds required to apply for funds under the State of California Homekey Program, contingent on the City not receiving the full award of funds from such State program, to instead fund affordable housing acquisition, rehabilitation, and preservation loans under the ACAH Program; and be it

FURTHER RESOLVED: That the making of each ACAH loan shall be contingent on the availability of sufficient funds in the above funds in fiscal year 2022-23 and 2023-24; and be it

FURTHER RESOLVED: That each ACAH 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 rental units at 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 each ACAH loan, the City will require that appropriate restrictions on project occupancy, rents and operations be recorded against project land and/or improvements; and be it

FURTHER RESOLVED: That each ACAH loan shall be secured by a deed of trust on the project land and/or improvements; and be it

FURTHER RESOLVED: That ACAH loan funds shall be reserved for a period of no more than 18 months from the date of the commitment letter, and shall be subject to reprogramming at the end of this period unless the developer has secured commitments for full project funding or provided other assurances of adequate project funding that the City Administrator deems sufficient within his or her discretion, within the reservation period; and be it

FURTHER RESOLVED: That the making of each ACAH 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 make specific allocations of the funds approved under this Resolution for ACAH loans without returning to Council; and be it

FURTHER RESOLVED: That the City Administrator shall cause to be filed with the County of Alameda a Notice of Exemption or Notice of Determination for each ACAH-funded project as appropriate; and be it

FURTHER RESOLVED: That all ACAH 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 Council hereby authorizes the City Administrator to determine funding allocations, approve projects for ACAH loans, conduct negotiations, execute documents, administer the loans, extend or modify the repayment

terms, and take any other action with respect to the ACAH loans, funding allocations, and ACAH-funded 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