

APPROVED AS TO FORM AND LEGALITY


CITY ATTORNEY'S OFFICE

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FILED
OFFICE OF THE CITY CLERK
OAKLAND

OAKLAND CITY COUNCIL

RESOLUTION NO. 88984 C.M.S.

INTRODUCED BY VICE MAYOR KAPLAN

RESOLUTION AMENDING RESOLUTION NO. 88950 C.M.S., WHICH AUTHORIZED THE CITY ADMINISTRATOR TO JOINTLY APPLY FOR, ACCEPT, AND ENTER INTO A STANDARD AGREEMENT AS A LOCAL AGENCY PARTNER FOR, FUNDS UNDER THE CALIFORNIA DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT'S HOMEKEY PROGRAM FOR CERTAIN PROJECTS, TO ADD THE FOOTHILL & EDES/CLARA SENIOR HOUSING HOMEKEY PROJECT TO THE APPLICATION, WAIVE THE REQUEST FOR PROPOSALS PROCESS FOR THIS PROJECT, AND INCREASE THE APPLICATION AMOUNT FROM \$120 MILLION TO \$160 MILLION

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, to the pool of Qualified Sponsors to solicit Homekey project proposals for the City to jointly apply with qualified sponsors for Homekey grant funds; and

WHEREAS, the City Council on December 21, 2021 adopted Resolution No. 88950 C.M.S., which authorized 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 State’s Homekey Program for several projects; and

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

WHEREAS, the City wishes to apply, as the local agency partner, with Housing Consortium of the East Bay for Homekey Funds for the Foothill & Edes/Clara Senior Housing Homekey Project, a 206-unit modular construction senior housing project; and

WHEREAS, Council wishes to waive the City Homekey RFP process for the Foothill & Edes/Clara Senior Housing Homekey Project; and

WHEREAS, the City wishes to increase the Homekey Application amount from \$120 million to \$160 million to accommodate the Foothill & Edes/Clara Senior Housing Homekey Project; and

WHEREAS, Homekey will award funds for project costs to eligible projects from \$150,000 to \$200,000 “per door”, with additional funds per door with a local match, and operating costs; and

WHEREAS, should the City’s Homekey Application be awarded funds, any future loan or grant agreement shall require that any contracts entered into by 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 statutes, regulations, and ordinances that could prevent timely delivery of housing and shelter solutions for the City's homeless residents, which Homekey projects could address; 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 Foothill & Edes/Clara Senior Housing Homekey Project may be exempt from CEQA pursuant to CEOA Guidelines section 15332, "In Fill Development Projects." which exempts projects characterized as infill development meeting certain specified criteria, if the Foothill & Edes/Clara Senior Housing Homekey Project meets the criteria specified therein; 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 Resolution No. 88950 C.M.S is hereby amended to provide that the City Council authorizes and directs the City Administrator to submit an Application to the Department in response to the NOFA, dated September 9, 2021, and to apply for Homekey grant funds for capital and operating expenditures for the Foothill & Edes/Clara Senior Housing Homekey Project, in addition to the Homekey projects which received authorization under Resolution No. 88950 C.M.S.; and be it

FURTHER RESOLVED: That the City Council hereby waives the City Homekey RFP process for the Foothill & Edes/Clara Senior Housing Homekey Project; and be it

FURTHER RESOLVED: That Resolution No. 88950 C.M.S is hereby further amended to authorize and direct the City Administrator to submit an Application for Homekey grant funds

in a total amount not to exceed \$160,000,000 for capital and operating expenditures for the projects authorized under Resolution No. 88950 C.M.S. as well as the Foothill & Edes/Clara Senior Housing Homekey Project; and be it

FURTHER RESOLVED: That, if the Application is approved, the City Administrator is authorized to enter into, execute, and deliver a Standard Agreement 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 Agreement, that the NOFA and Application will be incorporated in the Standard Agreement 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 Agreement, and that funds are to be used for the allowable expenditures and activities identified in the Standard Agreement; and be it

FURTHER RESOLVED: That, contingent upon the award of Homekey funds for the Foothill & Edes/Clara Senior Housing Homekey Project, the City Administrator is hereby authorized to enter into a grant or loan agreement with the Qualified Sponsor, or affiliated entities, for the Foothill & Edes/Clara Senior Housing Homekey Project in a total amount up to the amount of Homekey funds awarded; and be it

FURTHER RESOLVED: That, should the City enter into an agreement, it 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 adoption of this Resolution and authorization of the Homekey Application for the Foothill & Edes/Clara Senior Housing Homekey Project is expressly conditioned on the City Administer determining prior to submission of the Application for this project that (1) the Foothill & Edes/Clara Senior Housing Homekey Project meets the criteria for exemption as an infill project under CEOA Guidelines section 15332 and is therefore exempt from CEQA, and (2) the Sponsor of the Foothill & Edes/Clara Senior Housing Homekey Project has provided sufficient information on the project to the City Administrator or his designee necessary for the City Administrator to timely submit the Application and be able to provide the necessary certifications thereto; 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 Foothill & Edes/Clara Senior Housing Homekey Project, and the Application as amended under this Resolution, consistent with this Resolution and its basic purpose.

IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

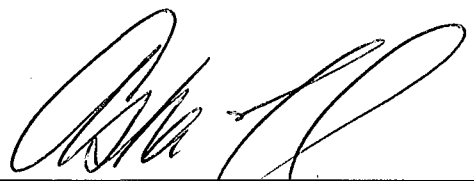
JAN 18 2022

AYES – FIFE, GALLO, KALB, KAPLAN, REID, TAYLOR, THAO, – 8
PRESIDENT FORTUNATO BAS

NOES – 0

ABSENT – 0

ABSTENTION – 0

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