


CITY ATTORNEY'S OFFICE

OAKLAND CITY COUNCIL

RESOLUTION NO. _____ C.M.S.

RESOLUTION TO ALLOCATE FUNDS FROM MEASURE U HOUSING BOND AND OTHER NON-BOND FUNDS IN A TOTAL AMOUNT NOT TO EXCEED \$113,400,039 TO FUND NEW CONSTRUCTION OF MULTIFAMILY RENTAL AFFORDABLE HOUSING PROJECTS, HOMEKEY AND RAPID RESPONSE HOMELESS HOUSING, ACQUISITION AND CONVERSION TO AFFORDABLE HOUSING AND REHABILITATION OF THE EXISTING AFFORDABLE HOUSING, AND AUTHORIZING THE CITY ADMINISTRATOR TO MAKE DEVELOPMENT LOANS UNDER THE NEW CONSTRUCTION OF MULTIFAMILY RENTAL AFFORDABLE HOUSING PROGRAM, RAPID RESPONSE HOMELESS HOUSING, ACQUISITION AND CONVERSION TO AFFORDABLE HOUSING AND REHABILITATION OF THE EXISTING AFFORDABLE HOUSING WITHOUT RETURNING TO COUNCIL, CONTINGENT ON FUNDING AVAILABILITY

WHEREAS, the City of Oakland periodically issues a Notice of Funding Availability (“NOFA”) or Request for Proposals (“RFP”) soliciting applications for funding affordable housing developments under the following funding programs: New Construction of Multifamily Rental Affordable Housing Projects, Homekey and Rapid Response Homeless Housing, Acquisition and Conversion to Affordable Housing and Rehabilitation of the Existing Affordable Housing; and

WHEREAS, the City's Consolidated Plan for Housing and Community Development (“HCD”) and HCD’s 2023 – 2027 Strategic Action Plan indicates that there is a severe need for affordable rental housing, and has identified this activity as a priority; and

WHEREAS, the projects that apply for funding through the NOFA/RFPs must be consistent with the City’s Project Development Guidelines, and each developer must meet the City’s Threshold Developer Criteria in order to qualify for funding; and

WHEREAS, the projects that apply for funding through the NOFA/RFPs are evaluated and scored on criteria specified in the applications, and the highest ranked projects will be recommended for funding as long as adequate funding is available; and

WHEREAS, City funding commitments through the NOFA/RFP processes are critical for affordable housing developers to secure other sources of affordable housing funding from County, State and Federal sources, and the NOFA/RFP's established funding priorities seek to align with both the City's funding priorities for affordable housing spending and those of other funders; and

WHEREAS, funds for affordable housing development in the total amount of \$113,400,039 was approved in the Fiscal Year (FY) 2024-25 Midcycle Budget from the Affordable Housing Trust Fund (Funds 1870/1871/1872/2423/2424) (Jobs/Housing Impact Fees, Affordable Housing Impact Fees, and the Former Redevelopment Funds portion of the Affordable Housing Trust Fund), the Low and Moderate Income Housing Asset Fund (Fund 2830), the 2011A-T Subordinated Housing (Fund 1885), the HUD HOME Investment Partnership Program Fund (Fund 2109), and the Affordable Housing and Infrastructure Bond (Measure U) second affordable housing tranche (Fund 5343) to assist the projects; and

WHEREAS, the FY 24-25 Midcycle Budget assumes the receipt of one-time revenues of \$63 million from the City's sale of its 50% undivided ownership interest in the Coliseum Complex located at 7000 Coliseum Way (the "Coliseum Site");

WHEREAS, if the one-time revenue of \$63 million from the sale of Coliseum Site during the budgeted fiscal year is not received as outlined in the Midcycle Budget, the City Administrator is directed to initiate the contingency budget amendments; and

WHEREAS, the second issuance of the bonds authorized by Measure U is part of the contingency budget amendments to be removed; and

WHEREAS, unfunded affordable housing pipeline projects from recent NOFA/RFPs pipeline and expressions of interest in the City's upcoming NOFA/RFP processes appear to represent more demand for local subsidy than the previously identified sources of funding will be able to accommodate; and

WHEREAS, multiple affordable housing developments funded by previous City funding opportunities require additional local subsidy to be competitive for tax credits and tax-exempt bonds allocated by the State of California due to rising interest rates and construction cost increases, as well as State Homekey funding, and other competitive sources of affordable housing funding available to leverage City funding; and

WHEREAS, the Affordable Housing and Infrastructure Bond (Measure U) was adopted by the Oakland voters in November 2022, and authorized the City of Oakland to issue \$350 million in General Obligation Bonds to support affordable housing; and

WHEREAS, the second issuance of the bonds authorized by Measure U is expected to take place in late 2024 or early 2025, with \$130 million available for affordable housing activities; and

WHEREAS, pursuant to Section 3(C) of Measure U, prior to issuance of the bonds, Council must identify how the projects authorized for funding with Measure U bond proceeds address social and geographic equity and provide greater benefit to underserved populations and

geographic areas of greatest need, address improvements to the City's existing core capital assets, and maintain or decrease the City's existing operations and maintenance costs; 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 or will be satisfied for these projects prior to the City making a funding commitment to projects; 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 or his or her designee; now, therefore, be it

RESOLVED: That the City Council hereby authorizes the City Administrator to provide loans in a total amount not to exceed \$113,400,039, to be used for development of affordable housing projects that previously received an award of City funds or are selected by the City Administrator as a potential recipient through the upcoming New Construction of Multifamily Rental Affordable Housing Projects, Homekey and Rapid Response Homeless Housing, Acquisition and Conversion to Affordable Housing and Rehabilitation of the Existing Affordable Housing NOFA/RFPs (collectively, the City Housing Programs), without returning to Council; and be it

FURTHER RESOLVED: That, in connection with the loans awarded under the City Housing Programs NOFA/RFPs authorized herein, the City Council hereby allocates up to \$101,679,608 in proceeds from the second available sale of Measure U bonds, contingent on the issuance and sale of Measure U Bonds in a sufficient amount and approval of the final project funding authorization legislation related to such issuance; and be it

FURTHER RESOLVED: That, in connection with the loans awarded under the City Housing Programs NOFA/RFPs authorized herein, the City Council hereby allocates up to \$11,720,431 from the Affordable Housing Trust Fund (Funds 1870/1871/1872/2423/2424) (Jobs/Housing Impact Fees, Affordable Housing Impact Fees, and the Former Redevelopment Funds portion of the Affordable Housing Trust Fund), the Low and Moderate Income Housing Asset Fund (Fund 2830), the 2011A-T Subordinated Housing Fund (Fund 1885), and the HUD HOME Investment Partnership Program Fund (Fund 2109) in fiscal year 2024-25; and be it

FURTHER RESOLVED: that the City Administrator, at their discretion, may reallocate funds awarded to project awardees within the funding amounts specified in previous City Council allocations to best leverage State and other funding sources, and be it

FURTHER RESOLVED: That the making of each loan shall be contingent on the availability of sufficient funds in the above funds in fiscal year 2024-25 or if not available in fiscal year 2024-25, availability of sufficient funds in the above funds in fiscal year 2025-26 contingent upon the funds being allocated for such purposes in the biennial budget adopted by the City Council in 2025; and be it

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

FURTHER RESOLVED: That loan funds shall be reserved for a period of no more than 24 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 their discretion, within the reservation period; and be it

FURTHER RESOLVED: That the making of each 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 City Council hereby authorizes the City Administrator to make specific allocations of the loan funds approved under this Resolution among the projects without returning to Council; and be it

FURTHER RESOLVED: That the City Council finds and determines that the New Construction of Multifamily Rental Affordable Housing Projects, Homekey and Rapid Response Homeless Housing, Acquisition and Conversion to Affordable Housing and Rehabilitation of the Existing Affordable Housing funded by this Resolution (1) will address social and geographic equity and provide greater benefit to underserved populations and geographic areas of greatest need by increasing and preserving the stock of affordable rental housing with long-term affordability restrictions throughout Oakland; (2) will not impact the City's existing core capital assets, but may provide collateral improvements to such assets as part of project development; and (3) will not impact the City's existing operations and maintenance costs, since the operations and maintenance cost of the projects will be covered by the property owner; and be it

FURTHER RESOLVED: That the City Council finds and determines that this action is not subject to CEQA since it is not funding any specific projects, but that the City Administrator

will make the environmental determinations under CEQA for each project that is selected prior to making a loan; 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 project as appropriate; and be it

FURTHER RESOLVED: That execution of loan 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 all 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 hereby authorizes the City Administrator to determine funding allocations, conduct negotiations, execute documents, administer the loans, extend or modify the repayment terms, and take any other action with respect to the loans, funding allocations, and the projects 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