


CITY ATTORNEY'S OFFICE

OAKLAND CITY COUNCIL

RESOLUTION NO. _____ C.M.S.

RESOLUTION AUTHORIZING THE CITY TO APPLY FOR, ACCEPT, AND APPROPRIATE FUNDS AS A LOCAL AGENCY JOINT PARTNER UNDER THE CALIFORNIA DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT'S HOMEKEY + PROGRAM FOR THE MARK TWAIN HOMES AFFORDABLE HOUSING PROJECT AT 3525-3539 LYON AVENUE IN AN AMOUNT NOT TO EXCEED \$35,000,000 AND MAKING RELATED CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS

WHEREAS, the California Department of Housing and Community Development ("California HCD") has issued a Notice of Funding Availability, dated November 26, 2024 ("NOFA"), for the Homekey + Program ("Homekey +" or "Program") pursuant to: Health and Safety Code Section 50675.1.3 (Assem. Bill No. 140 (2021-2022 Reg. Sess.), § 20.); Health and Safety Code Section 50675.1.5 (Assem. Bill No. 531 (2023-2024 Reg. Sess.); Section 14184.402 of the Welfare and Institutions Code; Section 5891.5 of the Welfare and Institutions Code; and Round 5 and 6 of the Homeless Housing, Assistance and Prevention ("HHAP") grant program. (Assem. Bill No. 129 (Chapter 40, Statutes 2023) and Assem. Bill No. 166 (Chapter 48, Statutes 2024), respectively; and

WHEREAS, California HCD 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 Homekey funding allocations are subject to the terms and conditions of the NOFA, the application for funding, the HCD-approved STD 213, Standard Agreement with the City and other partners (the "Standard Agreement"), and all other legal requirements of the Homekey + Program; and

WHEREAS, the Homekey + Program is Round Four of California's Homekey Program; and

WHEREAS, the Homekey + Program will make available 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 on behalf of the City as a local agency partner with developers/operators for Round Four Homekey (i.e., Homekey +) projects, and provided that staff would return to the City Council for approval of specific Homekey + projects; and

WHEREAS, Resolution No. 89976 C.M.S., waived any City requirements under its Local and Small Local Business Enterprise (L/SLBE) Program, Local Employment Program, and Oakland Apprenticeship Program, for Homekey Round Four (i.e., Homekey +) Projects; and

WHEREAS, Resolution No. 89977 C.M.S., adopted on November 7, 2023, established the Rapid Response Homeless Housing (“R2H2”) Program, allocated funds to the R2H2 Program, authorized the City Administrator to fund loans or grants from R2H2 funds without returning to Council, including using R2H2 funds as a local capital or operating match for Homekey projects, and waived application of the above-referenced City’s employment and contracting programs for R2H2-funded projects; and

WHEREAS, the City of Oakland Housing & Community Development Department issued a NOFA for New Construction of Multifamily Affordable Rental Housing (“City New Construction NOFA”) on January 31, 2023, to solicit proposals from potential developers/operators for New Construction projects; and

WHEREAS, MPI Homes and Housing Consortium of the East Bay (HCEB) (together, "Developer") submitted a proposal in response to the 2023 City New Construction NOFA to develop the Mark Twain Homes affordable housing project for persons experiencing homelessness or at-risk of homelessness at 3525-3539 Lyon Avenue in the City of Oakland (the "Project"); and

WHEREAS, the Project involves 107 total units with 75 units for people at risk of homelessness and 32 units for people who are chronically homeless, with on-site supportive services; and

WHEREAS, the Project met the City New Construction NOFA’s threshold scoring and requirements in staff’s evaluation of project proposals; and

WHEREAS the City desires to jointly apply for Homekey + grant funds with Developer to California HCD for the Project; and

WHEREAS, the City Administrator will determine what R2H2 local matching funds, if any, will be provided to the Project under the authority delegated to the City Administrator under Resolution No. 89977 C.M.S.; 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 with the support of exemptions from local City contract compliance requirements; and

WHEREAS, the City is the Lead Agency for this action for purposes of environmental review under the California Environmental Quality Act of 1970 ("CEQA"); and

WHEREAS, California Health and Safety Code section 50675.1.4 establishes a statutory exemption from 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 Project satisfies the conditions of Health and Safety Code section 50675.1.4 and is exempt from CEQA review thereunder, and is also exempt from CEQA pursuant to CEQA Guidelines sections 15301 (existing facilities) and 15326 (acquisition of housing); now, therefore, be it

RESOLVED: That the City Council hereby authorizes the City Administrator to submit a joint application with Developer, or an approved affiliate of Developer, to California HCD for the Project in response to the City New Construction NOFA in an amount not to exceed \$35,000,000; and be it

FURTHER RESOLVED: That the City Administrator is authorized to accept and appropriate the Homekey + grant funds in the amounts stated to the California Housing and Community Development Fund (2144), Project(s) To Be Determined (TBD); and be it

FURTHER RESOLVED: That, if the application for a Homekey + grant funding of the Project is approved, the City Administrator Jestin D. Johnson, or his successor as City Administrator, is authorized to enter into, execute, and deliver a Standard Agreement for the total amount awarded to the Project, and any and all other documents required or deemed necessary or appropriate to secure the Homekey funds from California HCD, and all amendments thereto (collectively, "the Homekey Documents"), on behalf of the City as a local agency partner, and to participate in the Homekey Program with respect to the Project; 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 Agreements by reference and made a part thereof, that any and all activities, expenditures, information, and timelines represented in the application will be 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 Project, the City Administrator is hereby authorized to enter into a grant or loan agreement with Developer, or an approved affiliated entity or entities, to provide Homekey + funds, along with any local matching funds, if any, to the Project; 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 City Council hereby determines that the actions authorized by this Resolution are exempt from CEQA pursuant to Health and Safety Code Section 50675.1.4 and CEQA Guidelines 15301 and 15326, 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 Council hereby authorizes the City Administrator to conduct negotiations, draft and execute documents (including the Homekey Documents), administer the loan or grant, extend or modify the repayment terms, and take any other action with respect to the Project and the application for and acceptance of Homekey + funds, consistent with this Resolution and its basic purpose.

IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

AYES - BROWN, FIFE, HOUSTON, KAPLAN, RAMACHANDRAN, UNGER, AND
PRESIDENT PRO TEMPORE GALLO

NOES –

ABSENT – COUNCIL PRESIDENT JENKINS (serving as Mayor pursuant to Charter Section 303)

ABSTENTION –

ATTEST: _____

ASHA REED
City Clerk and Clerk of the Council of the
City of Oakland, California