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OAKLAND

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Approved as to Form and Legality

DRAFT

City Attorney's Office

OAKLAND CITY COUNCIL

RESOLUTION No. _____ C.M.S.

**RESOLUTION AUTHORIZING AFFORDABLE HOUSING DEVELOPMENT
LOANS IN A TOTAL AMOUNT NOT TO EXCEED \$10,970,000, FOR THE
FOLLOWING AFFORDABLE HOUSING ACQUISITION, REHABILITATION
AND PRESERVATION PROJECTS: FRUITVALE STUDIOS, FRANK G. MAR
APARTMENTS, AND HAMILTON APARTMENTS**

WHEREAS, on August 9, 2019, the City of Oakland issued a Notice of Funding Availability ("NOFA") soliciting applications for funding for the acquisition, rehabilitation, and preservation of affordable housing development projects; and

WHEREAS, the three projects listed in Attachment A to this Resolution submitted proposals in response to the NOFA for rehabilitation and preservation of affordable housing and were the top ranked projects in staff's evaluation of project proposals; and

WHEREAS, the City's Consolidated Plan for Housing and Community Development indicates that there is a need for affordable rental housing, and has identified this activity as a priority; and

WHEREAS, the projects are consistent with the City's Project Development Guidelines, and each developer meets the City's Threshold Developer Criteria; 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 by enabling projects to secure additional funding, providing only the amount of City assistance needed to make the project feasible, avoiding the cost of reapplication during the subsequent fiscal year, and expediting funding awards; and

WHEREAS, funds for affordable housing development in the amount of \$10,970,000 are available from the Measure KK Housing and Infrastructure Bond Fund (Funds 5331/5333); 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 these 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 or his or her designee to provide loans in a total amount not to exceed \$10,970,000, to the indicated developers, or to affiliated entities of those developers approved by the City Administrator or his or her designee in amounts not to exceed those listed on Attachment A to this Resolution, which loans shall be used for the acquisition, rehabilitation, and/or preservation of those projects; and be it

FURTHER RESOLVED: That the funding for the loans shall be allocated from the Measure KK Housing and Infrastructure Bond fund (Funds 5331/5333), and the making of each loan shall be contingent on the availability of sufficient funds; 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 his or her 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 or his or her designee 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 have been or will be recorded against project 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 or his or her designee deems sufficient within his or her 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 or his or her designee may establish; and be it

FURTHER RESOLVED: That the City hereby authorizes the City Administrator or his or her designee in his or her 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 approves funding awards to the projects listed on Attachment A to this Resolution from the City of Oakland's 2019-20 NOFA For the Acquisition, Rehabilitation, and Preservation of Multifamily Affordable Housing in a total amount not to exceed \$10,970,000, with the City Administrator or her designee authorized to make the specific allocations of those funds to the respective projects in amounts not to exceed the corresponding amount listed on Attachment A for each project; and be it

FURTHER RESOLVED: That the City Council has independently reviewed and considered the environmental determinations, and the City Council finds and determines, based on the information provided in the staff report accompanying this Resolution, that the action with respect to each project complies with CEQA either because the project is exempt from CEQA, or, based on an initial study and the mitigation measures identified therein, the project as mitigated will not have a significant adverse impact on the environment, as each project's respective CEQA determination is further set forth on Attachment A to this Resolution; and be it

FURTHER RESOLVED: That the City Administrator or his or her designee 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 or his or her designee; 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 or his or her designee 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 - FORTUNATO BAS, GALLO, GIBSON MCELHANEY, KALB, REID, TAYLOR, THAO AND
PRESIDENT KAPLAN

NOES -

ABSENT -

ABSTENTION -

ATTEST: _____

LATONDA SIMMONS
City Clerk and Clerk of the Council of the
City of Oakland, California