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APPROVED AS TO FORM AND LEGALITY

FILED
OFFICE OF THE CITY CLERK
OAKLAND

Lesley Coyle
CITY ATTORNEY'S OFFICE

OAKLAND CITY COUNCIL

RESOLUTION NO. 9055 2 C.M.S.

RESOLUTION (1) ALLOCATING \$10,000,000 IN FUNDS FROM MEASURE U HOUSING BOND FUNDS TO FUND NEW CONSTRUCTION OF MULTIFAMILY RENTAL AFFORDABLE HOUSING PROJECTS, AND (2) AUTHORIZING THE CITY ADMINISTRATOR TO MAKE DEVELOPMENT LOANS UNDER THE NEW CONSTRUCTION OF MULTIFAMILY RENTAL AFFORDABLE HOUSING PROGRAM, HOMEKEY AND 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, 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 numerous funding sources, including Affordable Housing and Infrastructure Bond (Measure U) second affordable housing tranche (Fund 5343) to assist the projects, and the City Administrator was authorized to make loan commitments to the City’s affordable housing programs without returning

to Council for this amount pursuant to City Council Resolution No. 90419 C.M.S., which was approved on September 17, 2024; 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, on September 17, 2024, the City Council adopted C.M.S. 90419, which allocated 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 to projects through the City's 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 NOFA/RFPs (collectively, the City NOFA/RFPs); and

WHEREAS, pursuant to C.M.S. 90419, the City Council authorized 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 City NOFA/RFPs, without returning to Council; and

WHEREAS, City staff issued a New Construction NOFA on September 20, 2024 with approximately \$66,000,000 in affordable housing funding available, and on November 4, 2024, received 24 applications from affordable housing developers for affordable rental applicants seeking nearly \$412,000,000; and

WHEREAS, the second issuance of the bonds authorized by Measure U is expected to take place in 2025; and the City Council adopted C.M.S. 90326 adopting the Midcycle Budget and projected \$130,000,000 of Measure U Bond funds available for the City's affordable housing projects from the second issuance; and

WHEREAS, the City Council is considering a resolution to increase the second issuance of the bonds authorized by Measure U by \$10 million for a total amount available from the sale of \$140 million 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, in addition to the \$113,400,029 in funds previously allocated under C.M.S. 90419, the City Council hereby allocates up to an additional \$10 million in affordable housing funding 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 will be awarded through the City NOFA/RFPs, less allowable administrative expenses of \$500,000, with \$76 million awarded through the New Construction of Multifamily Rental Affordable Housing Projects NOFA; and be it

FURTHER RESOLVED: That the City Council hereby authorizes the City Administrator to provide loans in a total amount not to exceed \$123,400,039, inclusive of the \$113,400,039 previously authorized under C.M.S. 90419, 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 City NOFA/RFPs, without returning to Council; 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 Projects, Acquisition and Conversion to Affordable Housing and Rehabilitation of the Existing Affordable Housing Projects 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,

DEC 16 2024

PASSED BY THE FOLLOWING VOTE:

AYES - ~~FIFE~~, GALLO, JENKINS, KALB, KAPLAN, ~~RAMACHANDRAN~~, REID, AND
PRESIDENT FORTUNATO BAS ~~6~~

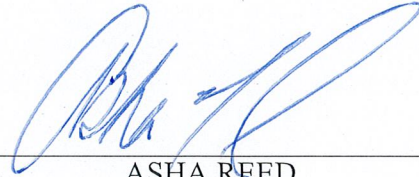
NOES - ~~0~~

ABSENT - ~~0~~

ABSTENTION - ~~0~~

2 EXCUSED - ~~FIFE~~ Ramachandran

ATTEST:



ASHA REED

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