


City Attorney's Office

OAKLAND CITY COUNCIL

RESOLUTION NO. _____ C.M.S.

RESOLUTION:

(1) AUTHORIZING THE CITY ADMINISTRATOR OR DESIGNEE FROM THE CALIFORNIA DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT UNDER THE HOMEKEY PROGRAM (HOMEKEY FUNDS);

(2) ACCEPTING AND APPROPRIATING (A) UP TO \$9.6 MILLION IN HOMEKEY FUNDS FOR THE ACQUISITION OF 5276 BROADWAY (CLIFTON HALL) AS A FAMILY SHELTER AND PERMANENT AFFORDABLE HOUSING AND (B) UP TO \$600,000 FOR THE OPERATION OF THE PERMANENT AFFORDABLE HOUSING AT CLIFTON HALL;

(3) ALLOCATING, AS A LOCAL MATCH TO THE HOMEKEY FUNDS, UP TO (A) \$3.42 MILLION OF MEASURE KK FUNDS FOR THE ACQUISITION OF CLIFTON HALL FOR PERMANENT AFFORDABLE HOUSING AND (B) \$2 MILLION OF FUNDS FROM THE AFFORDABLE HOUSING TRUST FUND (BOOMERANG FUNDS) FOR THE REHABILITATION OF CLIFTON HALL AND CLOSING COSTS;

(4) AMENDING OAKLAND CITY COUNCIL RESOLUTION NO. 88109 C.M.S., WHICH APPROPRIATED \$19,697,548 IN HOMELESS, HOUSING, ASSISTANCE AND PREVENTION (HHAP) FUNDS FOR THE PROVISION OF HOMELESS SERVICES, TO ALLOCATE UP TO \$5.22 MILLION OF SAID HHAP FUNDS FOR 13 YEARS OF OPERATING SUBSIDY FOR THE PERMANENT AFFORDABLE HOUSING AT CLIFTON HALL; AND

(5) AUTHORIZING THE CITY ADMINISTRATOR TO SELECT A GRANTEE AND AWARD A 15-YEAR GRANT AGREEMENT IN AN AMOUNT NOT TO EXCEED \$5.82 MILLION FOR OPERATION OF THE PERMANENT AFFORDABLE HOUSING AT CLIFTON HALL.

WHEREAS, the California Department of Housing and Community Development (Department) has issued a Notice of Funding Availability (NOFA), dated July 16, 2020, for the Homekey Program (Homekey) pursuant to California Health and Safety Code section 50675.1.1; 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 \$600 million in grant funding to local public entities, including cities, counties, or other local public entities, including housing authorities or federally recognized tribal governments within California to purchase and rehabilitate housing, including hotels, motels, vacant apartment buildings, and other buildings and convert them into interim or permanent, long-term housing; and

WHEREAS, of the \$600 million in Homekey grant funds, \$550 million is derived from the State's direct allocation of the federal Coronavirus Aid Relief Funds (CRF), and \$50 million is derived from the State's General Fund, and, per the federal funding requirements, the CRF must be expended by December 30, 2020; and

WHEREAS, for projects that involve an acquisition and are receiving CRF awards, grantees must expend the funds by the expenditure deadline and close escrow by December 30, 2020, and occupy at least fifty percent of the units within ninety days of acquisition; and

WHEREAS, Homekey will award funds to eligible projects up to \$100,000 “per door”, with additional \$50,000 per door with a 1:1 local match, and an additional \$50,000 per door with a 2:1 local match; and

WHEREAS, Homekey will award funds for a capitalized operating subsidy for 24 months, with a three-year local matching requirement; and

WHEREAS, per Resolution No. 86774 C.M.S. (as amended per Resolution No. 86814 C.M.S.), the City is authorized to issue housing bond funds pursuant to Measure KK, Infrastructure and Housing Bond, in an amount not to exceed \$50 million, including funds for the purchase of a transitional housing facility or facilities in an amount up to \$14 million (KK Bond Series 2017 A-1 and A-2, referred to as “KK Tranche 1”); and

WHEREAS, from KK Tranche 1, the City Council allocated and authorized the City to purchase 641 West Grand for a total acquisition cost of \$7.02 million, which facility the City now operates as a transitional facility called “The Holland”; and

WHEREAS, per Ordinance 13553, the City Council appropriated an additional \$3.15 million from KK Tranche 1 (Fund 5331) for the acquisition of 2327 San Pablo Avenue for an additional transitional housing facility (San Pablo Site); and

WHEREAS, acquisition of the San Pablo Site was not consummated and the City Council, pursuant to the Emergency Ordinance adopted and made effective concurrently herewith, defunded the San Pablo Site project and those funds have now been transferred back into KK Tranche 1; and

WHEREAS, per Resolution 87981 C.M.S., the City appropriated and allocated an additional \$1 million in Measure KK funds from Fund 5333 (KK Bond Series 2020 B-1 and B-2, referred to as “KK Tranche 2”) for acquisition or rehabilitation of affordable housing facilities for individuals experiencing homelessness; and

WHEREAS, with the combination of KK Tranche 1 and KK Tranche 2, a total of \$7,984,255 remains available for the acquisition of affordable and/or transitional housing facilities; and

WHEREAS, the City’s Affordable Housing Trust Fund (Fund 1870), established pursuant to Oakland Municipal Code (OMC) Section 15.62, has \$5,182,725 in Boomerang Funds available to use towards increasing, improving, and preserving the supply of affordable housing in the City, or for interventions aimed at rehousing homeless residents; and

WHEREAS, the City has identified the former dormitory located at 5276 Broadway, commonly known as Clifton Hall, for potential acquisition and conversion of shelter for approximately 20-25 families (Family Shelter) and 42 units of permanent affordable housing for homeless seniors (Permanent Housing), (the Clifton Hall Project); and

WHEREAS, the purchase price of Clifton Hall is not to exceed thirteen million dollars \$13,000,000, with closing costs and fees of approximately \$50,000; and

WHEREAS, the City desires to undertake certain renovations to make Clifton Hall suitable for the desired uses (Improvements), the cost of which shall not exceed \$1,950,000; and

WHEREAS, the City wishes to apply for Homekey Funds for the Clifton Hall Project in a total amount not to exceed \$10.2 million, which amount includes \$9,583,333 for capital expenditures and \$582,547 for a capitalized operating subsidy; and

WHEREAS, the City desires to purchase Clifton Hall with a combination of \$9,583,333 in grant funds from the Homekey Program, and \$3,416,667 in matching funds for the acquisition from KK Tranche 1 (Fund 5331); and

WHEREAS, the City desires to rehabilitate Clifton Hall for the desired uses and pay for the closing costs associated with the acquisition with not to exceed \$2,000,000 from the Affordable Housing Trust Fund “Boomerang Funds” (Fund 1870); and

WHEREAS, the City has submitted additional applications for Homekey Funds for other projects, and there are available funds in Measure KK and Boomerang funds to match the Clifton Hall Project should the other applications be successful, as shown on Exhibit A to this Resolution; and

WHEREAS, the City desires to fund the first two years of operating expenses for the Permanent Housing with the anticipated award of \$582,547 in grant funds from Homekey; and

WHEREAS, the City desires to fund an additional 13 years (15 years total) of operating expenses, \$5,220,000, through an operating reserve to be paid to the operator of the Permanent Housing; and

WHEREAS, the State awarded the City \$19,697,548.19 of Homeless Housing, Assistance and Prevention (HHAP) funds, which funds must be expended by June 30, 2023; and

WHEREAS, Governor Gavin Newsom signed Executive Order N-32-20, which lifted any restrictions on the use of HHAP funds to prepare for and address the impacts of the COVID-19 pandemic on homeless individuals; and

WHEREAS, pursuant to Resolution 88109 C.M.S., the City Council appropriated the full State award of the HHAP funds and over \$10,000,000 remains available for homelessness programs in the State of California Fund (2159), Community Housing Services Organization (78411) in project (TBD); and

WHEREAS, the City desires to amend Resolution 88109 to create a 15-year operating reserve for the operation of the Permanent Housing at Clifton Hall; and

WHEREAS, concurrently with this Resolution, the City Council will consider the adoption of a resolution amending City Council Resolution No. 88174, which adopted the FY 2020-21 mid-cycle budget amendments, in order to re-allocate \$1.2 million in Measure Q funds to support the operation of the Family Shelter at Clifton Hall by East Oakland Community Project; and

WHEREAS, the City desires to enter into a grant award agreement for the operation of Clifton Hall with an operator for the Permanent Housing to be selected by the City Administrator or designee from a qualified list of operators from a competitive solicitation process conducted by the County of Alameda Health and Human Services Agency, for an amount not to exceed \$5,220,000 HHAP funds and \$582,547 of Homekey Funds, paid from a City controlled reserve account to be distributed in prorata amounts annually, over 15 years; and

WHEREAS, such grant agreement shall require that any contracts for the rehabilitation, alteration, or construction at Clifton Hall will include enforceable requirements that the contractor and all subcontractors pay prevailing wages in accordance with California Labor Code Section 1720 et seq., and use a skilled and trained workforce in accordance with California Public Contract Code Section 2600 et seq.; and

WHEREAS, the City shall record a binding use restriction against 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 55 years; and

WHEREAS, California Health and Safety Code section 50675.1.2 establishes a statutory exemption from the California Environmental Quality Act (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, 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 Clifton Hall Project satisfies the conditions of Health and Safety Code section 50675.1.2 and is exempt from CEQA review; and is also exempt from CEQA pursuant to CEQA Guidelines sections 15301 (existing facilities) and 15326 (acquisition of housing); and

WHEREAS, to effectuate the City's goals, Staff has initiated the submittal of applications for Homekey funds to the Department for review and consideration for the Clifton Hall Project (Application); and

WHEREAS, Homekey funding allocations are subject to the terms and conditions of the NOFA, application submittal, Department-approved STD 213, Standard Agreement (Standard Agreement), and all other legal requirements of Homekey; 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 the City Council hereby authorizes and directs the City Administrator or his or her designee to submit an Application to the Department in response to the NOFA, dated July 16, 2020, and to apply for Homekey grant funds for the Clifton Hall Project in a total amount not to exceed \$10,200,000, which amount includes \$9,583,333 for capital expenditures (as allowed under Health and Saf. Code, § 50675.1.1, subd. (a)(1)-(6)) and \$582,547 for a capitalized operating subsidy (as allowed under Health and Saf. Code, § 50675.1.1, subd. (a)(7)); and be it

FURTHER RESOLVED: That if the Application is approved, the City Council hereby authorizes and directs the City Administrator or his or her designee to accept the award, and to enter into, execute, and deliver a Standard Agreement, 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"); and be it

FURTHER RESOLVED: That the City Council hereby acknowledges and agrees that the City shall be subject to the terms and conditions specified in the Standard Agreement(s), and that the NOFA and Application will be incorporated in each Standard Agreement by reference and made a part thereof; any and all activities, expenditures, information, and timelines represented in the respective Application are enforceable through the Standard Agreement; and funds are to be used for the allowable expenditures and activities identified in each Standard Agreement; and be it

FURTHER RESOLVED: That if the Application is approved, the City Council hereby appropriates up to \$10,200,000 in Homekey Funds and allocates the award for the Clifton Hall Project, and authorizes and directs the City Administrator or his or her designee to ensure that any Homekey Funds awarded for capital expenditures are spent by December 30, 2020, and that any Homekey Funds awarded for capitalized operating subsidies are spent by June 30, 2022; and be it

FURTHER RESOLVED: That the City Director of Housing & Community Development is authorized to execute the Application and the Homekey Documents on behalf of City for participation in the Homekey program; and be it

FURTHER RESOLVED: That contingent on the City Council adopting the Emergency Ordinance heard concurrently with this Resolution and on the award of Homekey Funds, the City Council hereby allocates up to \$3,416,667 from KK Tranche 1 of Measure KK (Fund 5331) and up to \$9,600,000 of Homekey Funds, in a total amount not to exceed \$13,000,000, for the acquisition of Clifton Hall; and be it

FURTHER RESOLVED: That contingent on the City Council adopting the Emergency Ordinance heard concurrently with this Resolution and upon the award of Homekey Funds, the City Council hereby allocates up to \$2,000,000 in Boomerang Funds (Fund 1870) for the rehabilitation of Clifton Hall and the closing costs associated with the acquisition; and be it

FURTHER RESOLVED: That the City Administrator or his or her designee is hereby authorized to select an operator for the Permanent Housing, to be the master tenant of the Property; and be it

FURTHER RESOLVED: That the City Council hereby amends Resolution No. 88109 C.M.S. to authorize the City Administrator to allocate up to \$5,220,000 in HHAP funds (Fund 2159) to create a 15-year operating reserve for the operation of the Permanent Housing at Clifton Hall; and be it

FURTHER RESOLVED: That the City Council hereby authorizes the City Administrator or his or her designee to enter into a grant agreement with the operator of the Permanent Housing to be selected by the City Administrator in an amount not to exceed \$5,220,000 in HHAP funds and \$582,547 in Homekey Funds, for a grant term of up to fifteen years; and be it

FURTHER RESOLVED: That the City Council authorizes the City Administrator or his or her designee, without returning to Council, to conduct all negotiations, execute and submit all documents, including but not limited to applications, agreements, amendments, modifications, payment requests, operating reserves, and related actions which may be necessary for the above-referenced agreements, without increasing the amount of the agreements; and be it

FURTHER RESOLVED: That the above agreements shall be reviewed and approved by the Office of the City Attorney to 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 50675.1.2, and CEQA Guidelines 15301 and 15326.

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: _____
ASHA REED
Acting City Clerk and Clerk of the
Council of the City of Oakland, California

EXHIBIT A

City of Oakland Homekey Application Summary

| Project Name | Total Units | Total Development Cost | Total Homekey Requested | Total Local Funds Requested | City of Oakland Matching Funds | | |
|------------------------------|------------------|------------------------|-------------------------|-----------------------------|--------------------------------|-------------------|---------------------------------------|
| | | | | | Measure KK (5331 & 5333) | CDBG-CV (1005400) | Housing Trust Fund - Boomerang (1870) |
| City funds available: | | | | | 7,984,255 | 3,500,000 | 5,182,725 |
| CCA Clifton Hall | 63 | 15,000,000 | 9,583,333 | 5,416,667 | 3,416,667 | 0 | 2,000,000 |
| 392 11th Street | 82 | 21,008,581 | 13,836,194 | 7,172,387 | 3,517,588 | 2,500,000 | 1,154,799 |
| Inn at Temescal | 21 | 5,702,865 | 3,150,000 | 1,050,000 | 1,050,000 | 0 | 0 |
| BACS scattered small sites | Up to 100 | 10,000,000 | 10,000,000 | 0 | 0 | 0 | 0 |
| TOTAL | Up to 266 | 51,711,446 | 36,569,527 | 13,639,054 | 7,984,255 | 2,500,000 | 3,154,799 |
| City funds remaining: | | | | | 0 | 1,000,000 | 2,027,926 |