

2019 SEP 26 PM 4:18

Revised by CED Committee Sept. 24, 2019

Approved as to Form and Legality


City Attorney's Office
Ravi S. Patel

OAKLAND CITY COUNCIL

RESOLUTION NO. _____ C.M.S.

RESOLUTION AUTHORIZING THE CITY ADMINISTRATOR TO:

- 1) **MAKE ACQUISITION AND CONVERSION TO AFFORDABLE HOUSING (ACAH) LOANS FROM MEASURE KK BOND PROCEEDS WITHOUT RETURNING TO COUNCIL; AND**
- 2) **REALLOCATE FUNDING FROM PROJECTS CURRENTLY SCHEDULED TO BE FUNDED BY THE FIRST TRANCHE OF MEASURE KK FUNDS (FUND 5331), NOTWITHSTANDING ANY PREVIOUS ACTION BY THE CITY COUNCIL, TO ANY NEW PROJECTS INITIATED PURSUANT TO PROGRAMS AUTHORIZED TO RECEIVE FUNDING FROM MEASURE KK BONDS, INCLUDING BUT NOT LIMITED TO PROJECTS INITIATED PURSUANT TO THE ACAH PROGRAM, TO THE EXTENT NECESSARY TO MAXIMIZE SPEND DOWN OF OUTSTANDING BOND FUNDS AND ENSURE COST EFFICIENCY**

WHEREAS, at the statewide general election held on November 8, 2016, voters approved "Measure KK," which authorized the issuance of infrastructure bonds in an amount not to exceed \$600 million, including up to \$100 million to support affordable housing;

WHEREAS, pursuant to City Council Resolutions No. 86774 C.M.S. and No. 86814 C.M.S., in June 2017, the City identified programs authorized to receive funding from Measure KK bonds to support affordable housing and approved estimated allocations to those programs in a total amount of \$55 million, subject to the City Administrator's authority to adjust estimated allocations to meet demand, community need, and timely expenditure of funds;

WHEREAS, the programs authorized to receive funding included the "Site Acquisition Program," which provides site acquisition loans to affordable housing developers; and

WHEREAS, the Measure KK Site Acquisition Program was highly successful and the City Administrator executed five loans totaling \$15.65 million to acquire land, preserve existing properties for long-term affordable housing and prevent displacement in 2018; and

WHEREAS, the City is preparing to issue a second tranche of Measure KK bond funds in 2020; and

WHEREAS, the Housing and Community Development (HCD) staff is renaming the Site Acquisition Program to the "Acquisition and Conversion to Affordable Housing (ACAH) Program" and retooling the program to improve its ability to prevent displacement and preserve affordable housing in Oakland neighborhoods; and

WHEREAS, because the ACAH Program will finance the purchase of real estate in the open real estate market, the program requires rapid approval of eligible applications to secure properties and avoid price increases through speculation; and

WHEREAS, the first tranche of Measure KK bond funds has not been fully expended, although the majority of the funds are committed to affordable housing projects; and

WHEREAS, some unexpended but committed bond funds will not be drawn down until additional financing is obtained for some of the projects and/or later in construction or at permanent close following completion of construction; and

WHEREAS, while the draw down for these projects is of a longer duration, HCD staff want to move the ACAH Program forward quickly upon release of a Notice Of Funding Availability (NOFA) in November 2019 and draw down bond funds in the short term as the funding is for acquisitions on the open real estate market;

WHEREAS, the ability to move bond funds from the current Measure KK Bond Fund, Fund 5331, to new projects prior to the issuance of the second tranche of Measure KK funds will maximize spend down and cost efficiency;

WHEREAS, the FY 2019-2021 Budget, adopted by the City Council on June 25, 2019, includes a Budget Policy Directive creating a Permanent Affordability Program with an annually recapitalized budget of \$12 million to be utilized by Community Land Trusts and Limited Equity Housing Cooperatives to acquire, rehabilitate, and preserve small sites (properties of 25 units or less) for permanent affordability, prioritizing households under 80 percent AMI; now, therefore, be it

RESOLVED: That the City Council establishes the Acquisition and Conversion to Affordable Housing (ACAH) Program as set forth in Exhibit A and in addition to the programs previously authorized to receive funding from the first tranche of Measure KK bonds;

FURTHER RESOLVED: That the City Council hereby authorizes the City Administrator or her designee to select borrowers and make loans under the ACAH Program in an amount not to exceed \$30 million without returning to Council; and be it

FURTHER RESOLVED: That the making of each loan under the ACAH Program shall be contingent on and subject to such appropriate terms and conditions as the City Administrator or his or her designee may establish; and be it

FURTHER RESOLVED: That as a condition of the loans under the ACAH Program, the City will require that appropriate restrictions on project occupancy, rents and operations be recorded against the property and any project improvements; 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 her designee 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 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 reasonable available, (2) the City's investment in the project in the event of default is reasonable protected, and (3) subordination is in the best interests of the City; and be it

FURTHER RESOLVED: That the City Council hereby appoints the City Administrator and her designee as agent of the City to conduct negotiations, execute and submit all documents, administer the loans, extend or modify the repayment terms and take any other actions with respect to the ACAH Housing Program consistent with this Resolution and its basic purposes; and be it

FURTHER RESOLVED: That the City Council authorizes the City Administrator, or her designee, to reallocate funding from projects currently scheduled to be funded by the first tranche of Measure KK funds (Fund 5331), notwithstanding any previous action by the City Council, to any new projects initiated pursuant to programs authorized to receive funding from Measure KK bonds, including but not limited to projects initiated pursuant to the ACAH Program, to the extent necessary to maximize spend down of outstanding bond funds and ensure cost efficiency; and be it

FURTHER RESOLVED: That \$12 million of Measure KK funds be dispensed on a rolling basis to the extent that funds are available after the first round in accordance with the Budget Policy Directive creating a Permanent Affordability Program and allocating these funds towards Community Land Trusts, Limited Equity Housing Cooperatives, and organizations that partner with these entities.

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

Exhibit A

Acquisition and Conversion to Affordable Housing (ACAH) Program

Name/Eligible Activity per Bond Law	Program Description	Project Attributes per Ordinance
<p>Acquisition and Conversion to Affordable Housing (ACAH) NOFA</p> <p>Protect Existing Homes (Rental), Protect Existing Homes (Ownership)</p>	<p>Loans for acquisition and minor rehabilitation costs. The program will be bifurcated into two subprograms: one for projects with 25 units or less with funds allocated towards community land trusts and limited equity cooperatives and organizations that partner with these entities and one for projects with one unit and greater. Projects are awarded on a competitive basis, but there will be priority points given to projects that prevent the displacement of existing tenants. Protects and preserving long-term affordable housing for both ownership and rental. City Administrator will approve loans without returning to City Council for approval to meet timing constraints of the market. Applies 55 year affordability restrictions.</p>	<p>Social and geographic equity: Creates affordable housing through long-term affordability restrictions.</p> <p>Impact on City's existing core capital assets: Does not directly improve core capital assets but may provide collateral improvements.</p> <p>Impact on City's existing operations and maintenance costs: Operations and maintenance cost will be covered by the property owner.</p> <p>Improvements to energy consumption, resiliency and mobility: Rehabilitation will improve energy consumption based on current standards and possibly address other resiliency issues.</p>

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OFFICE OF THE CITY CLERK
OAKLAND

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