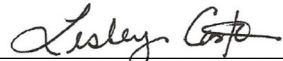


Approved as to Form and Legality

  
\_\_\_\_\_  
City Attorney's Office

## OAKLAND CITY COUNCIL

RESOLUTION NO. \_\_\_\_\_ C.M.S.

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**A RESOLUTION ALLOCATING UP TO \$7,390,000 TO FUND NEW CONSTRUCTION OF MULTIFAMILY RENTAL AFFORDABLE HOUSING PROJECTS, AND AUTHORIZING THE CITY ADMINISTRATOR TO MAKE DEVELOPMENT LOANS UNDER THE NEW CONSTRUCTION OF MULTIFAMILY RENTAL AFFORDABLE HOUSING PROGRAM WITHOUT RETURNING TO COUNCIL**

**WHEREAS**, on March 21, 2023, the City Council adopted C.M.S. 89646, which authorized the City's Department of Housing and Community Development (DHCD) to allocate up to \$63 million to projects through the City's New Construction Notice of Funding Availability; and

**WHEREAS**, the City closed its New Construction Notice of Funding Availability on April 3, 2023; and

**WHEREAS**, the City received 16 applications requesting a total of \$193,988,748.00 in City funds, leaving an unfunded gap of \$130,988,748; and

**WHEREAS**, on May 9, 2023, the State of California awarded the City a \$2.39 million grant through the State's Prohousing Incentive Pilot Program, which was accepted by the City Council on March 21, 2023 via C.M.S. 89637; and

**WHEREAS**, on July 26, 2022, the City Council adopted C.M.S. 89379, which allocated \$31,072,916 in capital and operating funds to serve as the City's match for Homekey Round 3 projects; and

**WHEREAS**, the City has \$5 million in excess Boomerang funds in the Affordable Housing Trust Fund (1870) remaining after the conclusion of the Homekey match funding process; and

**WHEREAS**, the allocation of available resources would enable the City to fully fund one or more proposed affordable housing developments that applied to the City's 2023 New Construction Notice of Funding Availability and that would otherwise be unfunded or only partially funded; now, therefore, be it:

**RESOLVED:** That, in addition to the \$63,000,000 in funds previously allocated, the City Council hereby allocates up to \$7,390,000 including \$5,000,000 in excess Boomerang funds in the Affordable Housing Trust Fund (1870), and \$2,390,000 from the Prohousing Incentive Pilot Program grant to fund affordable housing projects received through the 2023 New Construction Notice of Funding Availability; and be it

**FURTHER RESOLVED:** That the City Council hereby authorizes the City Administrator to provide loans in a total amount not to exceed \$70,390,000 to be used for development of new construction affordable housing projects that are selected by the City Administrator as a potential recipient through the 2023 New Construction Notice of Funding Availability, without returning to Council; 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 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 may establish; and be it

**FURTHER RESOLVED:** That the City hereby authorizes the City Administrator 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 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 Program 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 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, issue commitment letters, 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 - FIFE, GALLO, JENKINS, KALB, KAPLAN, RAMACHANDRAN, REID, AND  
PRESIDENT FORTUNATO BAS

NOES –

ABSENT –

ABSTENTION –

ATTEST: \_\_\_\_\_

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