



# AGENDA REPORT

**TO:** Edward D. Reiskin  
City Administrator

**FROM:** Shola Olatoye  
Director, Housing and  
Community Development

**SUBJECT:** CalOES Grant for ADU Legalization  
Assessments

**DATE:** April 6, 2022

City Administrator Approval

Date: May 12, 2022

## **RECOMMENDATION**

**Staff Recommends That City Council Adopt A Resolution:**

- 1) Authorizing The City Administrator To Accept And Appropriate Up To Six Hundred Thousand Dollars (\$600,000) In Prepare California Jumpstart Program Funds From The California Governor's Office Of Emergency Services (CalOES) To Provide Feasibility Assessments To Encourage The Legalization Of Accessory Dwelling Units**
- 2) Authorizing The City Administrator To Contract With Qualified Consultants To Provide The Feasibility Assessments**

## **EXECUTIVE SUMMARY**

In February 2022, Housing and Community Development Department staff applied for \$600,000 in Prepare California JumpStart grant funds (JumpStart funds) from the California Governor's Office of Emergency Services (CalOES) to encourage more Oakland homeowners to legalize unpermitted Accessory Dwelling Units (ADUs). The Department of Housing and Community Development was not advised of this special, one-time funding opportunity until shortly before the application deadline, which is why the Department applied prior to seeking Council guidance on possible uses. If awarded the JumpStart funds, approval of the proposed resolution will authorize the City Administrator to accept and appropriate up to \$600,000 of JumpStart funds to create a small program that would provide homeowners with feasibility assessments for legalizing unpermitted ADUs. This program will pay for approximately 165 free, no-obligation feasibility assessments for homeowners in designated disadvantaged neighborhoods as defined below. By providing homeowners with actionable information about the scope and cost of legalizing their unpermitted ADU, this program is expected to lower the cost barrier and increase the number of ADU legalizations. By encouraging ADU legalization, the program would support the preservation of an important source of lower-cost housing while safeguarding the health and safety of ADU tenants currently residing in illegal ADUs. The feasibility assessment program will also help identify candidates for the City's CalHOME-funded ADU legalization loan program. Because the administration costs of this new program are entirely covered by the grant, there is no negative budgetary impact.

This resolution would also authorize the City Administrator to contract with qualified consultants to provide the assessments, provided that half of all assessments are conducted by Oakland-

CED Committee  
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based businesses or professionals. The large volume of assessments and the need to conduct assessments in parallel with the ADU legalization loan's application window will require multiple consultants to conduct the assessments very soon after the launch of the program. For this reason, the resolution would authorize the City Administrator to contract with any qualified consultant who is willing to provide feasibility assessments at their customary rate, provided that the rate is no more than \$3,000 per assessment.

## **BACKGROUND / LEGISLATIVE HISTORY**

According to the 2020 "Existing Conditions and Barriers Report"<sup>1</sup> on ADUs in Oakland, there are approximately 7,500 to 13,600 unpermitted ADUs in Oakland. The condition of these units varies considerably- while some are almost indistinguishable from legal construction, other units were built in the 1940s and have not been updated to modern health and safety standards. Some of these substandard units are structurally unsound, lack proper evacuation routes, or have hazardous electrical setups. These conditions represent an ongoing health and safety threat to the ADU tenants and an especially severe danger during an earthquake.

At the same time, these unpermitted ADUs serve as a source of desperately needed lower-cost housing. ADUs in the Bay Area generally rent for somewhat less than a comparable apartment, and many ADUs are rented to relatives for little or no expense<sup>2</sup>. The legalization of unpermitted ADUs is therefore an important housing preservation issue.

In 2021, the City of Oakland received a \$3 million grant from the State of California's CalHome Program to establish an ADU legalization loan program<sup>3</sup>. This program, administered by the Department of Housing and Community Development, is expected to provide approximately 30 loans of \$90,000 each in combination with no cost project management assistance for participating homeowners. The ADU legalization loan program will accept low-income, owner-occupant homeowners living in federally designated Opportunity Zones. The details of this loan program are currently being finalized in consultation with the State of California, and this program expects to begin accepting homeowner applications in May or June 2022. Unfortunately, the CalHome grant would not be able to cover the cost of no-obligation feasibility assessments due to program requirements, and as a result staff have identified this CalOES grant as a potential source to cover these assessments.

Many homeowners are reluctant to pursue the legalization of their unpermitted ADU; every legalization project is different, and without an inspection by the Building Department or another building code expert, it is difficult for homeowners to estimate the cost or complexity of bringing their ADU into compliance. Once a homeowner has had their unpermitted unit inspected by the Building Department, the homeowner faces a legal obligation to bring the unit up to current standards or restore the space to its pre-ADU use. This means that many homeowners beginning the legalization process are required to take a leap of faith that they can afford to finish their project, or risk taking the ADU out of commission. This lack of upfront information on

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<sup>1</sup> Oakland Existing Conditions and Barriers Report available at: <https://cao-94612.s3.amazonaws.com/documents/Oakland-ADU-Research-Report-Jan-2020-Rev-June-2020.pdf>

<sup>2</sup> Oakland Existing Conditions and Barriers Report available at: <https://cao-94612.s3.amazonaws.com/documents/Oakland-ADU-Research-Report-Jan-2020-Rev-June-2020.pdf>

<sup>3</sup> As authorized by [88061 C. M. S.](#)

the cost and scope of ADU legalization projects therefore reduces the number of ADU legalization projects in Oakland and will be a hurdle to the City's new CalHOME ADU legalization program.

As part of the 2021-22 State Budget, the California Office of Emergency Services (CalOES) was provided with \$15 million to launch a competitive grant program for local governments and nonprofits to increase disaster preparedness. This program, the Prepare California JumpStart Program, allowed a wide range of planning and capacity building uses for these grant funds. Among these eligible uses were vulnerability assessments for structures at risk of natural disasters. The JumpStart program was specifically intended to serve the most vulnerable communities, which the State of California identified as a set of census tracts that had high vulnerability to natural disasters and high social vulnerability (socio-economically disadvantage) scores as shown on the CalOES Hazard Exposure and Social Vulnerability Heat Map.<sup>4</sup>

City staff confirmed with CalOES that the creation of an ADU legalization assessment program would be an eligible use of funds for the JumpStart grant, provided that a majority of the feasibility assessments were conducted in the target census tracts.

### **ANALYSIS AND POLICY ALTERNATIVES**

The \$600,000 feasibility assessment program funded by this grant will hire outside consultants with subject matter expertise to inspect unpermitted ADUs and provide homeowners with written reports on the cost and scope of changes required for legalization. The grant would fund approximately 165 feasibility assessments, assuming a consultant cost of no more than \$3,000 per assessment. If the average cost per assessment is lower, the savings will be used to fund additional feasibility assessments. The assessments in this program would be covered by the Jumpstart grant and provided at no cost to participating homeowners. The legalization assessment process would launch in summer 2022 and would continue for five years or until available funds are exhausted. The spending deadline for the program is five years after the grant is first awarded.

The outside consultants hired to conduct the assessments would be independent building inspectors or general contractors with subject matter expertise in ADU legalization projects. While the consultants would provide the City with summary information from their completed assessments (such as the estimated cost of legalizing an unpermitted unit), this report would not include a specific breakdown of code concerns. This would avoid triggering any mandatory code enforcement action, thereby providing for a "no-obligation" program. This lack of obligation is essential to secure participation from residents who are concerned they may not be able to afford a legalization project or who in past have had negative experiences with City enforcement processes. As the assessments provided in the program are not formal inspections by the City of Oakland Building Department, it is possible that ADU improvements beyond the identified scope will be required once an actual Building Inspector views the property. However, in the County of San Mateo's ADU amnesty program which also used outside no-obligation inspections, additional scope identified during official building inspections did not result in significant cost increases.

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<sup>4</sup> The map of these high vulnerability target census tracts can be found here:  
<https://www.arcgis.com/apps/dashboards/677300969f9b4d4786d75aaa534318e6>

The proposed program would advance two Citywide priorities: holistic community safety and housing, economic, and cultural security. By encouraging more homeowners to upgrade and legalize their unpermitted ADU, this program would reduce the vulnerability of Oakland's housing stock to earthquake, fire, and water damage. By referring eligible participants from the ADU legalization assessment program to the City's forthcoming ADU legalization loan program, the assessment program helps low-income homeowners finance unit upgrades. When unpermitted ADUs are legalized, it also reduces the risk that code enforcement action would displace the tenants of the unpermitted ADU.

### ***Eligibility and Program Priorities***

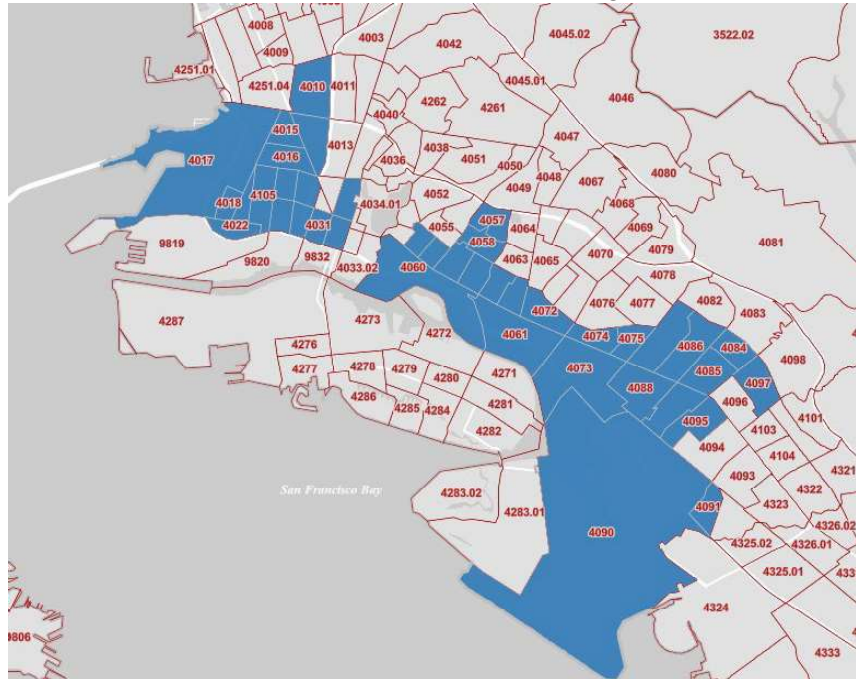
Any property of 1-4 units with an unpermitted ADU in the eligible area, described below, will be eligible to participate in this free, no-obligation legalization assessment program on a first-come, first-serve basis. To ensure equitable participation in this program, staff will conduct a public outreach campaign to faith groups, community organizations, neighborhood associations, and others that can help introduce socioeconomically disadvantaged homeowners to this opportunity. Furthermore, property owners who potentially qualify for the City's forthcoming ADU legalization loan program may be prioritized for assessments. This may be accomplished by batching applications for consideration on a biweekly basis or by setting aside a portion of program slots for households that may qualify for the ADU legalization loan. A homeowner would be eligible for the ADU legalization loan program if they 1) are an owner-occupant, 2) have income at or less than 80% of Area Median Income, and 3) live in a federally-designated "Opportunity Zone."<sup>5</sup> Opportunity Zones are historically disinvested, low-income neighborhoods that would benefit from expanded lending opportunities like the ADU legalization loan program.

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<sup>5</sup> Opportunity Zone map: <https://opportunitydb.com/tools/map/>

The JumpStart grant requires that a majority of the beneficiaries of the program live in the designated high-risk, high-vulnerability communities (as indicated in the [CalOES Hazard Mitigation Division's Vulnerability Map](#)). CalOES has strict criteria for the level of disaster risk that must be present for a census tract to qualify, and this has the unfortunate effect of excluding several highly vulnerable neighborhoods. However, in its JumpStart grant application, the City was still able to include all of the Opportunity Zone census tracts in Oakland without failing the "majority benefit" test. Census tract 4018 is also included in the eligible area as it is substantially similar to its neighbors and surrounded by participating census tracts. The full list of census tracts eligible for the ADU legalization assessment program (see map on the right, in blue) will be as follows:

4010, 4014, 4015, 4016, 4017, 4018, 4022, 4024, 4025, 4026, 4027, 4028, 4029, 4030, 4031, 4033, 4054.01, 4054.02, 4057, 4058, 4059.01, 4059.02, 4060, 4061, 4062.01, 4062.02, 4072, 4073, 4074, 4075, 4084, 4085, 4086, 4087, 4088, 4089, 4090, 4091, 4095, 4097, and 4105. These census tracts cover West



Oakland, parts of Downtown Oakland, portions of Eastlake, most of the Fruitvale, and large portions of East Oakland. Staff estimate there are between 2,000 and 3,500 unpermitted ADUs in the eligible census tracts, based on the number of detached single family homes present.

### ***Contracting with Consultants***

This resolution also requests authority to contract on an over-the-counter basis with qualified consultants to provide the feasibility assessments, provided that at least half of the assessments are conducted by Oakland-based businesses or professionals. The large number of assessments to be completed (approximately 165) and the need to align timing with the application window for the ADU legalization loan program (from May or June through November 2022) means the legalization assessment program will need to rapidly scale up to meet program timelines. Each assessment can be time consuming – taking as many as 15 hours for virtual and physical inspections, a review of building permit history, etc. As such, the JumpStart legalization assessment program may require more than half a dozen consultants to simultaneously participate in the program to meet program implementation timelines. To accommodate the number of consultants required and the implementation timeline, staff propose accepting as a participating consultant any individual or firm who meets the relevant experience requirements and charges a per assessment fee of less than the \$3,000 limit.

However, consultants will be required to charge the City of Oakland no more than their customary fee for services of comparable nature and scope. In line with the Council's local hire policy, at least half of assessments must be conducted by a firm or individual consultant based in Oakland.

### **FISCAL IMPACT**

If City Council adopts the recommended resolution, no commitment of City funds will be required. The JumpStart grant budget includes set asides for the administration costs associated with hiring and managing consultants in this program. This includes funding to support staff time for an existing project manager who will be available to oversee program operations. The CalOES JumpStart grant funds, if awarded, will be appropriated to the California State Emergency Services Fund (2146), Housing Administration (Org 89919), and Residential Lending (Org 89939).

### **PUBLIC OUTREACH / INTEREST**

The Housing and Community Department estimates that there are probably 2,000-3,500 unpermitted ADUs in the eligible program area. This indicates that interest will far exceed available JumpStart ADU legalization assessments. Outreach to homeowners in the eligible area will begin as soon as participating consultants have been identified. The outreach for this program will be tied in with the outreach for the City's ADU legalization loan program.

### **COORDINATION**

The Department of Housing and Community Development has consulted with the Planning and Building Department, on this program, with review by the Budget Bureau and Office of the City Attorney.

### **SUSTAINABLE OPPORTUNITIES**

***Economic:*** Legalizations resulting from the JumpStart legalization assessment program will result in significant cost-savings for property owners, residents, and public agencies by mitigating damage to buildings, loss of human life, serious injuries and loss of needed housing units that may result from seismic events.

***Environmental:*** Unpermitted ADUs are typically small housing units that already share a lot with a main house. This provides inherent energy efficiency and water savings that will be preserved by ADU legalizations. ADU legalizations may in some cases require upgrades to insulation or utility setups that will reduce energy and water waste. By preventing potential loss of infill housing units, ADU legalizations curb longer commutes that result in increased greenhouse gas emissions.

***Race and Equity:*** Demographic data shows that Oakland's housing and homelessness crisis disproportionately impacts Oakland's lower-income residents and especially the African



American community. The JumpStart ADU legalization assessment program would directly address these disparities by providing actionable information on ADU legalization projects in low- to moderate-income areas, with the JumpStart assessments limited to Oakland's Opportunity Zones and high hazard census tracts. By providing free assessments, which will be particularly beneficial to lower-income owners who would not otherwise be able to afford a legalization assessment, this program will improve housing habitability and preserve existing lower-cost housing. These free assessments will provide low-income ADU owners in diverse neighborhoods with a warm handoff to the City's ADU legalization loan program and ADU amnesty program, thereby promoting equitable access to these additional City resources. ADU legalizations protect housing occupied by elderly, disabled, low-income or otherwise vulnerable residents, who are most likely to be permanently displaced or rendered homeless due to earthquake damage. This program will therefore reduce disparities in earthquake vulnerability.

### **ACTION REQUESTED OF THE CITY COUNCIL**

Staff Recommends That City Council Adopt A Resolution:

- 1) Authorizing The City Administrator To Accept And Appropriate Up To Six Hundred Thousand Dollars (\$600,000) In Prepare California Jumpstart Program Funds From The California Governor's Office Of Emergency Services (CalOES) To Provide Feasibility Assessments To Encourage The Legalization Of Accessory Dwelling Units
  
- 2) Authorizing The City Administrator To Contract With Qualified Consultants To Provide The Feasibility Assessments

For questions regarding this report, please contact Christina Mun, Deputy Director of Housing Development, at (510) 238-3360.

Respectfully submitted,

*Shola Olatoye*

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