


City Attorney's Office

OAKLAND CITY COUNCIL

RESOLUTION NO. _____ C.M.S.

RESOLUTION:

(1) AUTHORIZING THE CITY ADMINISTRATOR TO APPLY FOR, AS A LOCAL AGENCY PARTNER, UP TO \$13.84 MILLION OF FUNDS FROM THE CALIFORNIA DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT UNDER THE HOMEKEY PROGRAM (HOMEKEY FUNDS);

(2) ACCEPTING AND APPROPRIATING UP TO \$13.84 MILLION IN HOMEKEY FUNDS, AS A LOCAL AGENCY PARTNER, FOR THE ACQUISITION OF 392 11TH STREET BY OAKLAND & THE WORLD, INC., MEMAR PROPERTIES, AND MCCORMACK BARON SALAZAR (DEVELOPMENT PARTNER) TO PROVIDE PERMANENT AFFORDABLE HOUSING TO FORMERLY INCARCERATED INDIVIDUALS;

(3) ALLOCATING, AS A LOCAL MATCH TO THE HOMEKEY FUNDS, UP TO (A) \$3.52 MILLION FROM MEASURE KK, (B) \$2.5 MILLION FROM COMMUNITY BLOCK GRANT FUNDS (CDBG-CV) AND (C) \$1.16 MILLION FROM THE AFFORDABLE HOUSING TRUST FUND (BOOMERANG FUNDS), FOR THE ACQUISITION AND REHABILITATION OF 392 11TH STREET BY DEVELOPMENT PARTNER; AND

(4) AWARDING A GRANT AGREEMENT TO DEVELOPMENT PARTNER, IN AN AMOUNT NOT TO EXCEED \$21.01 MILLION, TO ACQUIRE AND REHABILITATE 392 11TH STREET.

WHEREAS, the 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, 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).

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”) (Fund 5331); and

WHEREAS, per Resolution 87981 C.M.S., the City appropriated and allocated an additional \$1 million in Measure KK funds (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; and

WHEREAS, per Resolution 88135 C.M.S., the City Council accepted and appropriated \$4,532,841 in Community Development Block Grant Act (CDBG-CV) Funds from the United States Department of Housing and Urban Development, \$2.5 million of which total is available in HUD-CDBG Fund 2108, Organization 89949; Project (TBD-CV) for immediate housing solutions for people experiencing homelessness; and

WHEREAS, the City has partnered with Oakland & the World Enterprises, Inc., Memar Properties, Inc., and McCormack Baron Salazar (Development Partner), to apply for Homekey Funds for the Developer Partner to acquire an 82-unit building at 392 11th Street in order to provide housing to formerly incarcerated individuals at risk of homelessness (the 392 11th Street Project); and

WHEREAS, the total cost to the Development Partner for the acquisition and rehabilitation of 392 11th Street property is \$21,008,581, including the acquisition cost not to exceed \$18,250,000; and

WHEREAS, the City wishes to apply, as the local agency partner, with Development Partner for Homekey Funds for the 392 11th Street Project in a total amount not to exceed \$13,837,000 for capital expenditures; and

WHEREAS, Homekey has a matching requirement for both the aggregate acquisition and rehabilitation costs of a property and the aggregate five-year operating costs of managing a program at such property; and

WHEREAS, Homekey will award funds for acquisition costs 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, the City desires to grant additional funds to the Development Partner for the local matching requirements in a total amount not to exceed \$7.12 million, including \$3,517,588 from Measure KK Tranche 1 and/or KK Tranche 2 funds, \$2,500,000 in CDBG-CV funds, and \$1,154,799 in Boomerang funds for the acquisition and rehabilitation of 392 11th Street; and

WHEREAS, the City has submitted additional applications for Homekey funds for other projects, and there are available funds in KK Tranche 1 and KK Tranche 2, CDBG-CV, and Boomerang funds to match the 392 11th Street Project should other applications be successful, as shown on Exhibit A to this Resolution; and

WHEREAS, contingent on the grant of the requisite Homekey funds for the 392 11th Street Project, the City Administrator or his or her designee will enter into a grant agreement with the limited partnership to be formed by Development Partner in a total amount not to exceed \$21,010,000, for the acquisition and rehabilitation of 392 11th Street; and

WHEREAS, such grant agreement shall require that any contracts entered into by Development Partner for the rehabilitation, alteration, or construction of the 392 11th Street Project will not increase the footprint by more than 10 percent, and shall 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, such grant agreement shall require that a use restriction be recorded on 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 392 11th Street 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

WHEREAS, to effectuate the City's goals, the City has jointly initiated the submittal of an application for Homekey Funds with the Development Partner to the Department for review and consideration for the 392 11th Street Project (Application); and

WHEREAS, Homekey funding allocations are subject to the terms and conditions of the NOFA, the Application, the 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 a joint Application to the Department in response to the NOFA, dated July 16, 2020, and to jointly apply for Homekey grant funds for the 392 11th Street Project in a total amount not to exceed \$13,840,000 for capital expenditures (as allowed under Health and Saf. Code, § 50675.1.1, subd. (a)(1)-(6)); 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, 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 \$13,840,000 in Homekey funds and allocates the award for the 392 11th Street 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 be it

FURTHER RESOLVED: That the City Administrator or his or her designee is authorized to execute the Application and the Homekey Documents on behalf of City, as a local agency partner, in Homekey; and be it

FURTHER RESOLVED: That contingent upon the award of Homekey funds for the 392 11th Street Project, the City Council hereby allocates \$3,517,588 from Measure KK Tranche 1 funds (Fund 5331) and/or KK Tranche 2 (Fund 5333), \$2,500,000 in CDBG-CV funds (Fund 2108), and \$1,154,799 in Boomerang Funds (Fund 1870), for the acquisition and rehabilitation by Development Partner of 392 11th Street; and be it

FURTHER RESOLVED: That contingent upon the award of Homekey funds for the 392 11th Street Project, the City Administrator or his or her designee is hereby authorized to enter into a grant agreement with the limited partnership to be formed by Development Partner, in an amount not to exceed \$21,010,000, which grant agreement shall impose upon Development Partner all of the obligations set forth in the Homekey Documents, among other requirements, for the acquisition and rehabilitation by Development Partner of 392 11th Street for the purposes and with the restrictions described in this Resolution; 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 the City Administrator or his or her designee is hereby directed to file a notice of exemption with the Office of the Alameda County Recorder and the State Office of Planning and Research.

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

					City of Oakland Matching Funds		
Project Name	Total Units	Total Development Cost	Total Homekey Requested	Total Local Funds Requested	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