



**City of Oakland**  
**Housing and Community Development Department**

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November 16, 2021

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**Notice of Funding Availability**  
**for New Construction of Multifamily Affordable**  
**Rental Housing**

**2021 NOFA**

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- #1: Minimum Developer Qualifications
- #2: Guidelines for Developer Fees on Housing Development Projects
- #3: Affirmative Fair Marketing Procedures
- #4: Income, Rent and Housing Payments Limits
- #5: Insurance Requirements

NOFA Application Instructions (See Separate Table of Contents)

**City of Oakland**  
**New Construction of Multifamily Affordable Rental Housing Program**  
**November 16, 2021**

***NOTICE OF FUNDING AVAILABILITY***

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On behalf of the City of Oakland, the Housing and Community Development Department (HCDD) is pleased to announce that it is accepting applications for the new construction of multifamily affordable rental housing development.

To encourage developers to apply for the total amount of local gap funding needed from the City of Oakland, the City will award funds available for the current budget cycle (2021-2022). Approximately \$15,000,000 - \$20,000,000 is available in local affordable housing funds from some or all of the following sources: *Affordable Housing Trust Funds, HOME Funds, HOME-American Rescue Plan (ARP) Funds, Low and Moderate Income Housing Asset Funds, Excess Redevelopment Bond Funds, and Redevelopment Agency Bond Funds.*

Applicants are advised that projects should be structured to be eligible for HOME funding in case HOME funds are awarded. Applicants should request the **entire amount needed to ensure feasibility** of their project, up to the maximum amount described on page 21, regardless of the amount of funds available through this process.

Projects that apply to this NOFA will be ranked based on scoring criteria described in the NOFA. Staff will recommend that the City Council approve the ranked list of projects and a total amount of funds to be awarded. Top ranking projects will be awarded from current fiscal year funds.

Additionally, the NOFA may be used to determine which projects the City will focus its resources to support, including City support for applications to the Strategic Growth Council's Affordable Housing and Sustainable Communities (AHSC) Grantmaking Program. City staff resources will be available to selected applicants to support some aspects of grant writing and to facilitate the identification of Oakland Transportation Related Infrastructure (TRI) projects if needed for the AHSC grant application.

City loans are provided for new construction of affordable rental and permanent supportive housing projects and are intended to partially or fully fill the gap between development costs and financing available from private and other public sources. Applicants are expected to pursue financing from all available sources and are encouraged to contact the City's Housing Development Services Unit with questions regarding program requirements and the application process.

The City will take the following priorities into account for the 2021 NOFA for New Construction of Multifamily Affordable Housing process:

- Readiness of new affordable rental housing developments to commence construction;
- Assistance for housing projects targeting people experiencing homelessness and extremely low-income households including Permanent Supportive Housing projects;
- Projects located in neighborhoods that are experiencing displacement and gentrification; and
- Projects that include an "emerging developer", as part of the development team (an "emerging developer" is defined as a developer who has less than five (5) years of experience as a developer and/or less than 5 completed projects).

### **NOFA PROCESS AND TIMELINE**

**Applications must be received no later than 5:00 p.m. on Friday, January 7, 2022. Applications submitted after this deadline will not be accepted.**

**FOR THIS APPLICATION ROUND, ALL APPLICATIONS MUST BE SUBMITTED THROUGH CITY DATA SERVICES (CDS), HCDD's on-line database system.**

**PLEASE NOTE: Paper applications will no longer be accepted.**

Applicants should review the entire NOFA package, as the application includes a certification that the applicant will comply with all requirements. Prior to the application deadline, please check the HCDD website regularly for any updates, corrections, or posted questions and answers regarding this NOFA at: <https://www.oaklandca.gov/documents/2021-pipeline-new-construction-of-multifamily-affordable-housing-nofa>

Applicants must submit:

- All application materials must be submitted through City Data Services (CDS), HCDD's on-line database system.
- Applicable City forms/templates may be downloaded from the City's website at <https://www.oaklandca.gov/documents/2021-new-construction-of-multifamily-affordable-housing-nofa>
- Please submit an original signed Certifications Form (Checklist Item #18 and is located beginning on Page 34 of the Application and Instructions for Housing Development Financing document). It may be downloaded from the City's website at <https://www.oaklandca.gov/documents/2021-nofa-exhibit-18-certification-and-campaign-contribution-limit-acknowledgement>
- **Applications that are deemed substantially incomplete may be rejected.**

Once the staff review is completed, an agenda report will be prepared for presentation, first to the City Council's Community and Economic Development Committee and then to the full City Council. Final funding approval by the City Council is anticipated in March 2022; however, staff cannot guarantee this timeline.

Once a loan commitment is approved and the developer has secured its remaining gap funding sources, staff and the City Attorney's Office will draft loan documents for review by the developer. All items required at this stage must be submitted and approved by the City before the loan can close. Construction may not start until all required items have been received and approved, and the City has issued a Notice to Proceed.

### **STEPS PRIOR TO APPLICATION**

**NOFA Pre-Application Meeting:** Applicants are strongly encouraged to attend the NOFA pre-application meeting to be held via video conference on November 18, 2021 at 10:30 a.m. Staff will also hold "Office Hours" via video conference to address additional questions on Thursday, December 16<sup>th</sup> at 1:00 p.m.

At the Pre-Application Meeting, Planning staff will explain California Environmental Quality Act (CEQA) and National Environmental Policy Act (NEPA) requirements, the City's required employment and contracting programs will be presented, and applicants will have an opportunity to ask questions about the NOFA.

**Planning/Zoning Review:** If land use approvals have been submitted for the development but not yet received, include evidence of Planning application submission. For more information, see Planning and Zoning information in the *Program Description* and *Application Instructions* sections.

**Environmental Review:** If you are seeking readiness points for tax credits or other State funding that requires environmental review, please notify Planning staff and start the NEPA process early. You should assume that, if funded, your project will receive HOME funds and therefore will require NEPA review.

The Planning application and CEQA review process must also be completed before a project's funding commitment can be finalized; see the *Program Description, Environmental Review and Assessment*, for more information. Staff's intent is to go to Council with funding recommendations in March 2022, although this timeline is not guaranteed. Please note that CEQA determination **must** be completed by the time staff presents a recommendation to Council in order to receive a funding award.

**Choice-Limiting Actions are prohibited prior to NEPA review:** Applicants must refrain from undertaking activities, including acquisition, that would have an adverse environmental impact or would otherwise limit the choice of reasonable alternatives between the time of application submittal and when the City has completed its environmental review process. Failure to comply with this requirement may result in cancellation of funding commitments. If the applicant has entered into a purchase agreement or other contract prior to applying for NOFA funds, the actions pursuant to that contract are allowed prior to completion of the NEPA review. But that contract may not be amended and no new contracts may be entered into.

**Applications become public records:** Applicants should understand that all documents submitted in response to this NOFA, including financial information, become a matter of public record, and shall be regarded by the City as public records disclosable upon request under the California Public Records Act and/or the City of Oakland Sunshine Ordinance after the application deadline, unless specifically exempted under the law. The City shall not in any way be liable or responsible for the disclosure of any such records or portions thereof if the disclosure is made pursuant to a request under the California Public Records Act or the City of Oakland Sunshine Ordinance.

**City reservation of rights:** The City reserves the right to:

1. Withdraw, suspend, or modify this NOFA at any time without prior notice;
2. Waive any irregularities in the NOFA process, and reject any or all submissions not in the best interest of the City;
3. Negotiate directly with an applicant, or request additional information and material from an applicant;
4. Award less than the full amount of funding available; and/or
5. Retain all submitted applications as property of the City.

Selection or rejection of an applicant's proposal does not affect these rights. Please be advised that the City makes no representation that any contract will be approved or that funds will be awarded to any respondent to this solicitation. In addition, it must be understood that no binding action is in effect until the required City approval process is completed, including approval by the City Council in its sole discretion after a public hearing. This NOFA does not commit the City to pay any costs incurred in the preparation of any proposal.

*The City of Oakland is an Equal Housing Opportunity and Accessible Housing provider.*





## SCORING CRITERIA

Complete applications will be scored in the following categories. Maximum points in each category are noted. The discussion following contains a more detailed description of the criteria. Some categories are not applicable for certain types of projects. As a result, scores are calculated as the percentage of points attained out of the total points possible for each project type. Please note that points will be rounded to the nearest ¼ point. **In all cases, points are awarded for exceeding, rather than meeting, the threshold requirements for the category.** See Discussion for further information.

	<i>Rental</i>	<i>Self Score</i>
<b>I. Readiness</b>	<b>43 pts</b>	
A. Leveraging and Readiness	8	
B. Funding Commitments	15	
C. Discretionary Land Use Approvals	20	
<b>II. Location</b>	<b>28 pts</b>	
A. Geographic Equity	7	
B. Educational Quality	5	
C. Neighborhood Revitalization	6	
D. Proximity to Public Transit	5	
E. Proximity to Grocery or Drug Store	5	
<b>III. Target Population and Project Attributes</b>	<b>38 pts</b>	
A. Income Targeting	18	
B. Unit Size	5	
C. Units for People with Special Needs	5	
D. New Permanent Supportive Housing Units for Homeless Individuals and Families	10	

<b>IV. Developer Experience and Capacity</b>	<b>41 pts</b>		
A. Developer Experience Exceeds Minimum	20		
B. Developer Capacity	8		
C. Developer Financial Strength	6		
D. Strength of the Development Team	3		
E. Bonus Point Category	4		
<b>V. Sustainability</b>	<b>10 pts</b>		
<b>VI. Penalty for Nonperforming Previously Funded Projects</b>	<b>-10 pts</b>		
<b>Total Possible Points</b>	<b>160</b>		

## SCORING CRITERIA

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### I. Leveraging and Readiness (43 points)

#### A. Leveraging: Degree to which outside funding will be pursued (8 points).

- Points will be awarded for projected permanent financing **excluding** City of Oakland resources and tax credit equity as a percentage of the total development costs.  $[(\text{leveraged financial resources}/\text{TDC}) * 100]$
- City resources include loan and grant funds received by or committed to the project and land donations.
- Failure to be awarded funds from proposed resources after two rounds of application shall require reevaluation of feasibility. If the project's feasibility is in question, it may lose City funding upon expiration of the City's commitment.
- The higher the percentage of leveraged funding sources, the higher the score. Points will be awarded based on the following table:

Leveraged Financial Resources as a Percent of TDC Greater than	Points
20%	2
25%	3
30%	4
35%	5
40%	6
45%	7
50%	8

#### B. Funding Commitments: Degree to which outside funding has been committed (15 points)

- Points will be given based on non-City financing currently committed to the project, as follows:

Committed Financial Resources as a Percent of TDC Greater than:	Points
5%	1
10%	2
15%	3
20%	4
25%	5
30%	6
35%	7
40%	8
45%	9
50%	10

- Up to 5 points will be awarded for Project- Based Section 8 vouchers and each commitment of long-term operating subsidy.

C. Discretionary Land Use Approvals (20 points)

- Maximum points are awarded for sites that have obtained discretionary land use approvals (obtaining building permits is not necessary to score points).
- Projects that have submitted their application for Planning approvals at the time of the NOFA application due date will be eligible for up to 5 points.

**II. Location (28 points)**

A. Geographic Equity (7 points)

Rental Projects:

Points will be awarded for projects located in the following tiers of the Urban Displacement Project’s Gentrification and Displacement Urban Displacement Map:

- 7 points will be awarded if the project is within the "BLUE" Tiers of *Low-Income/Susceptible to Displacement* or *On-Going Displacement of Low-Income Households* or the “PURPLE” Tier of *At Risk of Gentrification*.
- 3 points will be awarded if the project is within the "PURPLE” Tiers of *Early/On-Going Gentrification* or *Advanced Gentrification*.

- Provide census tract number and Urban Displacement Map tier with the property clearly identified by using the map at <https://www.urbandisplacement.org/maps/sf-bay-area-gentrification-and-displacement>

**B. Educational Quality** (5 points, not applicable for 100% senior or special needs properties not targeted to families)

- 5 points will be awarded if the project is located within the assigned neighborhood boundaries of an Oakland Unified School District public elementary school with a 2019 School Report Card showing a high performance (green and blue color coded) in Academics for English Language Arts or Mathematics for the Academic Status Tier.
- 3 points will be awarded if the project is located within the assigned neighborhood boundaries of an Oakland Unified School District public elementary school with a 2019 School Report Card showing a mid-level performance in Academics for English Language Arts or Mathematics (yellow color coded) for the Academic Status Tier.
- Use the Oakland Unified School District’s school finder tool at: <https://ousdapply.schoolmint.net/school-finder/home> to identify which elementary school boundary the project is in, and provide this information on the application form.
- Use the Oakland Unified School District’s Dashboard Guide for 2019 School Report Cards at: <http://www.ousddata.org/oakland-public-school-report-cards.html> to determine the Academic Status Tier of the school. Scroll to “Fall 2019 Release” to access the elementary school information.

C. Neighborhood Revitalization (6 points)

- Points will be awarded to projects which include or combine the following, as evidenced in the Neighborhood Narrative and Revitalization Description of the Application.
- 3 points - Is consistent with an existing or in-progress neighborhood-specific revitalization plan, such as the Oakland Sustainable Neighborhoods Initiative (OSNI) and San Pablo Avenue Revitalization Coalition (SPARC), which was developed with community participation.
- 3 points - Contributes to an existing or planned pattern of targeted redevelopment such as a Specific Plan Area or Priority Development Area (housing or commercial development, streetscape improvements, etc.) occurring within 1/4 mile of the project site.

D. Proximity to public transportation (5 points)

- Full points require a project location within 1/3 mile of multiple bus lines, ferry terminal station, and/or a BART station.
- Up to 2 points will be awarded for a project location within 1/3 mile of a single bus line or shuttle.

E. Proximity to grocery, farmers' market or drug store (5 points)

- A project location within 1/2 mile of a full-service grocery store (where staples, fresh meat, and fresh produce are sold), farmers' market, or drug store will score full points.
- A project location within 1 mile of such a business will score 1 point.

**III. Target Population (38 points)**

A. Income Targeting: (18 points)

Rental Projects: Points are awarded for rental projects providing more extremely low income rental units than the threshold requirement. For the threshold requirement, 20% of units must be set aside serving extremely low income households with rents no more than 30% of 30% of AMI.

- 3 points will be awarded for each additional full one-percent of affordable units with restricted rents at or below 30% of 20% of AMI.
- 2 points will be awarded for each additional full one-percent of affordable units with restricted rents at or below 30% of 30% of AMI.

- To score points for units with Project Based Section 8 or other rental subsidy contracts, it is assumed that those units will be kept affordable at or below 30% of AMI for the full 55-year loan term, regardless of whether the rental subsidy contract is renewed.

B. Unit Size: Number of larger units (5 points )

Points are awarded for the number of units provided with 2, 3, or more bedrooms. Family projects are required to include a threshold minimum 15% of 3+ bedroom units.

- ½ point will be awarded for each 20% of units that have 2 bedrooms.
- 1 point will be awarded for each additional 5% of units with 3 bedrooms or larger (above the minimum threshold).

C. Housing for Households with Special Needs (5 points)

- One point awarded for each 5% of the affordable units set aside for households with special needs, up to a maximum of 5 points (see definition of Special Needs in the *Other Guidelines and City Requirements section*).
- To receive points, a Resident Services Plan must be submitted that demonstrates how essential supportive and social service needs of the population will be provided and funded. Providing accessible units will not in and of itself be sufficient to score points.
- To receive points, an executed MOU with a service partner that will deliver the services described in the Resident Services Plan must accompany the Resident Services Plan. If the owner is providing direct services, a commitment letter or a board resolution will satisfy this requirement.

D. Permanent Supportive Housing for Homeless Households (10 points)

- One point awarded for each 5% of the affordable units set aside for new permanent housing units for homeless families and individuals, up to a maximum of 10 points (see definition of Permanent Supportive Housing and Homeless in the *Program Description-Other Guidelines and City Requirements*).
- Units must be Permanent Supportive Housing (not transitional) to receive points in this category.
- To receive points, a Resident Services Plan must be submitted that demonstrates how essential supportive and social service needs of the population will be provided and funded. Providing accessible units will not in and of itself be sufficient to score points.

- To receive points for Permanent Supportive Housing projects that commit to using Alameda County’s Home Stretch Coordinated Entry System in their tenant selection process to fill designated permanent supportive housing units for homeless individuals with disabilities.
- To receive points, an executed MOU with a lead service provider that will deliver the services described in the Resident Services Plan must accompany the Resident Services Plan. If the owner is providing direct services, then a commitment letter or a board resolution will satisfy this requirement.
- To qualify as Permanent Supportive Housing and to receive points:
  - A Supportive Services Plan must be submitted that demonstrates how essential supportive service needs of the population will be provided and funded.
  - The Lead Service Provider must be identified and have at least three years of experience providing supportive services in supportive housing across at least two projects and serving at least twenty households in total.
  - The Property Manager must be identified and have at least three years of experience managing supportive housing units in at least two projects of no fewer than ten units each.
  - Developer must agree to follow the State of California’s housing first principles, Welfare and Institutions Code (WIC), Division 8, Miscellaneous [sections 8255 (d)(1) and (2)(A) and (B)].

**IV. Developer Experience and Capacity (41 points)**

Applicants should refer to the Addendum *Minimum Developer Qualifications* for minimum requirements to qualify for funding.

**A. Developer Experience Exceeds Minimum (20 points)**

- Points are awarded for completing more than three affordable housing projects on time and within budget within the last ten years (by the Developer, not other team members). 2 points will be awarded for each additional project (up to 6 points).
- Points will be given for completing more than one project similar to the proposed project by the Developer within the last ten years. 2 points will be awarded for each additional similar project (up to 4 points).
- Points will be awarded to projects that include an “emerging developer,” as part of the development team. An “emerging developer” is defined as a developer who has less than five (5) years of experience as a developer and/or less than five (5) completed projects (5 points).



- If the Developer is a joint venture, projects will be scored based on the experience of the lead developer. Five (5) points will be awarded if within a joint venture, the less experienced member is allowed first right of refusal to purchase the land and/or building after the 15-year tax credit compliance period.

B. Developer Capacity & Staffing (8 points)

- Points are awarded based on evidence that the lead staff, including the Project Manager and supervisory staff, proposed to work on the current proposal have the necessary experience and that the organization has adequate staffing capacity to undertake the project.

C. Developer Financial Strength (6 points)

- Points are awarded based on evidence that the Developer is financially sound and will be able to sustain the costs of effectively following through with the current proposal, based on review of current interim and previous years audited financial statements. **The lead applicant must provide a non-consolidated financial statement.** Financial statement review will evaluate the organization's net assets, debt equity ratio, current assets and liabilities ratio, and other factors, using the Organizational Underwriting tool developed by Alameda County.

D. Strength of Development Team (3 points)

- Points are awarded based on evidence that the Development Team members (Developer Principals, Property Manager, Attorney, Architect, Financial Consultant, etc.) exceed the minimum requirements.

E. Bonus Point Category (a maximum of 4 points)

- 2 points will be awarded for committing ground floor commercial space at below market rates to non-profit organizations and arts and cultural users.
- 2 points will be awarded where more than 50% of the project is set aside for live-work units for artists and/or teachers.

**V. Sustainability (10 points)**

- Maximum points will be awarded to new construction projects scoring higher than 110 points (Gold standard) on the Build It Green - GreenPoint Rated Checklist or at the Gold or above level for LEED (see the *Application Instructions*).
- Three (3) points will be awarded to new construction projects scoring between 80-109 points (Silver standard) on the Build It Green – GreenPoint Rated Checklist or at the Silver standard for LEED.
- New construction projects are required to score at least the minimum points in each required category of GreenPoint Rated or LEED and must certify the project during the design and construction process according to the chosen method.

**VI. Penalties for Nonperforming Previously Funded Projects (-10 points)**

Within 24-months preceding a funding application, events occurring in connection with projects with City funding under the control of the sponsor will be used as the basis for penalties. Events will not result in negative points if they have been fully resolved as determined by, or to the satisfaction of, the City as of the date of application.

Points may be deducted at the City's discretion for each occurrence below with a maximum deduction of 10 points for the following reasons:

- Failure to properly maintain a project as determined by the City's property site inspections.
- Failure to comply with prevailing wage/Davis-Bacon, living wage, or other City contracting and employment programs.
- Unresolved defaults under any City agreement or on any agreement for a project that has City funding.
- Failure to comply with City Data Service project reporting obligations for Sponsor projects with a funding commitment.

Points may also be deducted for other significant violations of requirements of the City's housing development programs, programs of other public agencies, or agreements with private lenders (such as inadequately maintaining books and records; failure to comply with fair housing requirements; failure to achieve sustainability criteria; failure to properly certify tenant income eligibility; failure to adequately qualify prospective first-time homebuyers, etc.) that have not been cured within a reasonable time period as determined by the City.

## ***PROGRAM DESCRIPTION AND UNDERWRITING REQUIREMENTS***

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The City of Oakland provides financial assistance to developers of low and moderate income housing. These programs are administered by Oakland's Housing and Community Development (HCD) Department.

City requirements are generally consistent regardless of the original source of funding. However, for certain requirements, one source of funds may allow greater flexibility than others (e.g., Affordable Housing Trust Fund compared to HOME). Applicants should assume that federal requirements will apply. If the use of federal funds creates a significant feasibility problem, this should be explained in the application cover letter.

In addition to NOFA-offered development loans, the City operates a Predevelopment Loan Program for eligible developers of affordable housing. A separate application is required. Please contact Vanessa Kennedy ([vkennedy@oaklandca.gov](mailto:vkennedy@oaklandca.gov)) for more information on the Predevelopment Loan Program.

### **ELIGIBILITY**

#### **ELIGIBLE APPLICANTS**

- ♦ For-profit or non-profit corporations, individuals, general or limited partnerships, or limited liability companies with demonstrated experience and capacity in the development and management of affordable rental housing may apply. Applicants without the necessary experience must enter joint venture agreements with experienced developers. Applicants should refer to the Addendum *Minimum Developer Qualifications* for specific requirements.

#### **ELIGIBLE & INELIGIBLE PROJECTS, ACTIVITIES, AND COSTS**

- ♦ New construction of rental property, including permanent supportive housing and transitional housing, intended for occupancy by lower income households are eligible. Development of emergency shelters for the homeless is not eligible. Projects must be at least 10 units in size, although in special cases, projects of less than 10 units will be considered.
- ♦ Mixed use projects (containing both residential and non-residential space) are eligible. Generally, living space should make up the majority of the development.

In any case, only the affordable housing portion of the project will be assisted and commercial costs need to be split out from the residential costs.

### ***Ineligible Projects/Activities***

- ♦ Public housing modernization or operations; and
- ♦ Emergency homeless shelters.

### ***Eligible Costs***

- ♦ Property acquisition;
- ♦ Demolition;
- ♦ On-site improvements;
- ♦ Off-site utility connections;
- ♦ Construction costs necessary to construct a non-luxury project with suitable amenities in accordance with the property standards described below;
- ♦ Soft costs associated with the development and financing of the project;
- ♦ An initial operating reserve during the period in which the project is initially marketed (not to exceed 18 months after completion);
- ♦ Reasonable developer fees (see Addendum *Developer Fee Guidelines*); and
- ♦ Relocation costs.

### ***Ineligible Costs/Uses***

- ♦ Costs associated with construction items or materials of a luxury nature;
- ♦ Furnishings (except where required for special needs projects);
- ♦ Most off-site improvements (utility connections into the adjacent street are eligible costs);
- ♦ Developer/sponsor administrative costs (other than included in the developer fee);
- ♦ Marketing events such as groundbreakings and grand openings;
- ♦ Substitution of City funds for any source of funds that has been previously committed to the project, or represented to any other funding source as being available for the project, is not permitted; and
- ♦ Capitalized replacement reserve.

## **AFFORDABILITY TARGETING**

See Addendum, *Income, Rent and Housing Payment Limits* for current rent and income levels. For purposes of the application, maximum rents must be adjusted downward by an allowance for tenant-paid utilities in accordance with the HUD Utility Schedule Model. Those instructions may be found at [www.huduser.org/portal/resources/utilallowance.html](http://www.huduser.org/portal/resources/utilallowance.html). If HOME funds are not awarded to a project, an allowance for tenant paid utilities in accordance with the federal Section 8 program published by the Oakland Housing Authority; or another method for calculating utility allowance may be used, subject to the City's review and approval of the alternative methodology and calculations.

The Area Median Income (AMI) range for household income can be higher than the rent restrictions to ensure a range of household income levels are served. Rents and tenant incomes will be annually reviewed for compliance by the City's Asset Monitor.

### **MINIMUM AFFORDABILITY - RENTAL PROJECTS**

#### ***Project Requirements***

- ◆ One hundred percent (100%) of City-assisted units must be restricted to low income households, with rents no greater than 30% of 60% of AMI.
- ◆ Rents for affordable units must be the lessor of the designated restricted rent limit or ten percent (10%) below market rate within a one-mile radius.
- ◆ At least twenty percent (20%) of the affordable units must have annual rents plus utility allowance of no more than 30% of 30% of AMI, and be reserved for extremely low income households.
- ◆ No more than fifteen percent (15%) of unassisted affordable units may be designated for moderate-income households.

#### ***HOME Restricted Units***

- ◆ Ninety percent (90%) of designated HOME-assisted affordable units must have annual rents plus utility allowance of no more than 30% of 60% of AMI and be reserved for households earning no more than 60% of AMI ("high HOME rent units"). Up to ten percent (10%) of designated HOME-assisted affordable units may be rented to households at or below 80% of AMI, and must have annual rents plus utility allowance of no more than 30% of 60% of AMI.

- ♦ Twenty percent (20%) of designated HOME-assisted affordable units must have annual rents plus utility allowance of no more than 30% of 50% of AMI and be reserved for households earning no more than 50% of AMI (“low HOME rent units”).

### ***HOME-ARP Restricted Units***

Projects that receive HOME-ARP funds must meet the following affordability requirements:

- ♦ Not less than 70 percent of the total number of rental units that are assisted with HOME-ARP funds must be restricted to occupancy by households that are “qualifying households,” which are defined as households that are: (1) homeless; (2) at risk of homelessness; (3) fleeing, or attempting to flee domestic violence, dating violence, sexual assault, stalking, or human trafficking; (4) part of other populations where providing supportive services or assistance would prevent a family's homelessness or would serve those with the greatest risk of housing instability; or (5) veterans and families that include a veteran family member that meet the criteria in one of (1)-(4) above.
- ♦ Not more than 30 percent of the total number of rental units assisted with HOME-ARP funds may be restricted to low-income households (households at or below 80% of AMI) that do not meet one of the “qualifying households” definitions.
- ♦ Comprehensive information about HOME-ARP requirements may be found at HUD Notice: CPD-21-10: (<https://www.hud.gov/sites/dfiles/OCHCO/documents/2021-10cpdn.pdf>)

Information about the HOME-ARP rental requirements may be found at:

<https://www.hud.gov/sites/dfiles/CPD/documents/HOME-ARP-Rental-Fact-Sheet091321.pdf>

### ***City Funding in Combination with Section 8***

Projects may not increase rents above the City formula rents for tenants with tenant-based rental assistance (such as Section 8 vouchers). Units with project-based rental assistance (such as Project-Based Section 8), however, can rent for the maximum rent allowed under the rental assistance program provided they are rented to an extremely low income household and the tenant contribution to rent is no more than 30% of household income.

### ***Additional Information***

Priority will be given to projects that exceed the threshold affordability minimums. Affordability restrictions apply for the full term of the regulatory agreement, regardless of whether another subsidy source (such as Project-Based Section 8 subsidy) continues to be available.

### ***Annual Recertification of Tenant Income***

Owners are required to re-examine tenant incomes annually for all restricted units to ensure that tenants continue to meet the income requirements of this and other applicable funding programs. Rent schedules and utility allowances, including any increases, must be reviewed and approved annually by the City. In the event that a tenant's income exceeds the applicable HUD income limits for lower income households, the tenant's rent must be increased to an amount equal to 30% of the tenant's adjusted income, less an allowance for tenant-paid utilities. Projects that are also assisted with Low Income Housing Tax Credits or other state sources such as MHP will be subject to those relevant rules regarding over-income tenants.

### **FINANCING GUIDELINES**

#### **MINIMUM AND MAXIMUM LOAN AMOUNTS**

- The maximum City loan amount is forty percent (40%) of the total residential development cost of the project's *affordable units* (those units subject to long term affordability restrictions).
- If applicable, the value of any City land donations will be counted as part of the maximum allowable subsidy total.
- **Please round requested loan amounts to \$1,000 increments.**
- Other sources of appropriate financing must be identified, but not necessarily committed, at the time of application. Projects will be reviewed to ensure that only the minimum level of City subsidy needed will be provided. All other sources of funding must be committed before closing of the City loan.
- HOME-assisted units are subject to the following per unit subsidy limits:

Bedrooms	Per-unit maximum
0	\$153,314
1	\$175,752
2	\$213,718
3	\$276,482
4	\$303,490

### **REASONABLE DEVELOPMENT COSTS**

Projects with abnormally high costs – generally defined as being more than 15% above the median development cost per unit, per bedroom, or per square foot for similar projects must provide justification for the costs. If staff does not approve the justification for higher costs or the revised budget the application may be deemed incomplete or the City could require a reduction in the development budget.

### **CONSTRUCTION CONTINGENCY**

A minimum of 10% construction cost contingency for new construction projects is required.

### **DEVELOPER FEE AND OTHER ALLOWABLE FEES POLICY**

See Addendum, *Developer Fee and Other Allowable Fees Policy for Housing Development Projects* for a detailed breakdown of partnership, asset, incentive management fees, and other allowable fees and the developer fee disbursement schedule.

### **MINIMUM EQUITY REQUIREMENTS**

Profit-motivated sponsor/owners (except for limited partnerships whose general partner is a nonprofit corporation) must provide equity equal to at least 10% of total project costs. The value of the project site may be used to meet the equity requirement. If the site has been owned for more than three years, the equity will be calculated based on the current appraised value of the property, less outstanding debt. For sites which have been owned for less than three years, the equity contribution will be calculated on the basis of the actual acquisition cost of the property, less outstanding debt. Equity investments generated by syndication of tax credits or deferred developer fees will not be considered as an equity contribution.

Non-profit sponsor/owners are not required to provide equity.



## **GENERAL LOAN TERMS**

If loan terms other than those listed below are sought for a project, the cover letter must explicitly state the requested terms with a detailed explanation of the reasons you are requesting such terms. Such requests are granted at the sole discretion of the City.

### **TIMELINE OF CITY COMMITMENTS**

City financing commitments are made for 24 months from date of City Council approval. All other sources of funds must be committed within that time frame. A one-year extension can be requested with sufficient justification and are due no less than three months prior to the commitment expiration date. If necessary, please state the request to extend the timeline of the City's commitment in the cover letter. Housing Development staff will review the project for feasibility and assess the likelihood of receipt of proposed funding. Contact Housing Development staff for more information about what is required for an extension request. If the extension period elapses without the commitment of full project financing, the City funding commitment will be revoked and the project must re-compete for funds through the NOFA. Further extensions will only be granted in extraordinary circumstances. The inability to meet a project schedule may also result in negative points for future NOFA applications.

**Projects funded with HOME must complete construction within four years of signing loan documents with the City.**

**Rental units assisted with HOME funds and HOME-ARP funds must be occupied within 12 months of project completion.**

### **MONTHLY UPDATES**

Upon commitment of funds from the City, the borrower must provide written monthly updates to City staff. Monthly updates will allow City staff to anticipate upcoming approvals needed and to stay informed about efforts to move the project forward on schedule. If HOME funds are awarded, monthly updates should include a schedule projection related to the four-year completion deadline required by HUD.

## **SUBORDINATION**

The City will not subordinate the priority of the City's regulatory agreement to the deeds of trust of private lenders, and will require in subordination agreements that private lenders agree to subordinate the priority of their deeds of trust to the City's regulatory agreement. The City's Regulatory Agreement controls, among other things, the maximum income of tenants occupying specific project units, and the maximum rents allowed for each project unit.

## **LOAN TERMS - RENTAL PROJECTS**

Loans for rental projects are typically provided at a simple interest rate of three percent (3%) per annum, for a term of fifty-five (55) years. Applicants may request a reduction in the interest rate upon submission of financial projections indicating that the 3% rate is not feasible for the true debt test and/or results in a negative capital account for 4% tax credit projects. The City must approve any reduction in interest rate below 3% on its loans. Payments of interest and principal will be due from excess cash flow from operations after payment of operating costs, senior debt, reserves, and deferred developer fee. To the extent payments cannot be made in any year, they will be deferred for the term of the loan. All loans are due on sale, refinancing, transfer (except to a related entity, such as a limited partnership, subject to City approval) or at the end of the fifty-five (55) year term.

City loans will be evidenced by a promissory note and secured by a deed of trust on the project. A loan agreement will specify all development obligations. Post-occupancy use restrictions will be enforced through a regulatory agreement recorded against the project – including both the land and the improvements. The minimum term for affordability restrictions is 55 years.

**LOAN FEES (SUBJECT TO CHANGE ANNUALLY PER THE CITY’S MASTER FEE SCHEDULE)**

- Origination fee: A fee of two percent (2%) of the loan amount will be charged for all loans. Ordinarily, this fee will be collected from loan proceeds at the initial funding. This fee may be waived for projects receiving only HOME funds or Measure KK bond funds.
- Monitoring Fee: After project completion, all projects will be required to pay a monitoring fee as established by the Master Fee Schedule, as amended from time to time. Per the City of Oakland Master Fee Schedule for 2021-2022, a \$140 per unit per year monitoring fee must be factored into the annual operating budget.
- Subordination Fee: \$1,400 subordination fee if after project completion, the owner requests subordination of the City’s deed of trust.
- Modification Fee: \$3,200 modification fee if after project completion, the owner requests modification of the City’s deed of trust or regulatory agreement and lender’s title policy insuring the continued priority of the City’s deed of trust.
- Resale Fee: \$1,600
- Assumption Fee: \$2,000

**DISBURSEMENT OF FUNDS**

Funds will be disbursed to borrower only for costs incurred. Payment for construction costs will be made on a progress payment basis, subject to approval of each draw request by the City. The City will retain \$200,000 (if the loan amount is under \$5 million) or \$300,000 (if the loan amount is \$5 million or more) as a performance retention, to be released upon recordation of a Notice of Completion, release of all liens, and satisfactory compliance with any other City requirements, including City contracting programs. Additionally, the developer fee will be disbursed per *Addendum Guidelines for Developer Fees on Housing Development Projects*.

**ADDITIONAL FINANCING GUIDELINES FOR RENTAL PROJECTS**

**SECTION 8 PROJECT-BASED VOUCHER ASSISTANCE**

Please do not assume that your project will have access to Project-Based Section 8. The City of Oakland New Construction Notice of Funding Availability (NOFA) projects financial budgets should not include Project-Based Vouchers (PBVs). The City does not award PBVs. The Oakland Housing Authority (OHA) awards and administers PBVs. The City will notify OHA of projects successfully awarded through the New Construction NOFA, and OHA will evaluate projects for potential funding awards based on its priorities, established process, and funding availability. If PBVs or other resources are available, OHA may rely on this NOFA process to award them.

## OPERATING BUDGET

Operating budgets and 30-year proformas must meet the following criteria:

- The operating budget must show positive cash flow inclusive of all fees within 18 months of initial rent-up and first year Debt Service Coverage ratio shall not be less than 1.10:1. Ideally, the budget should show sufficient cash flow to make a modest payment to residual receipt loans.
- Include operating and replacement reserves (See Replacement and Operating Reserve Requirements below).
- Include Asset Monitoring Fee of \$140 per unit per year (per City of Oakland Schedule of Fees for 2021-2022).
- 5% annual vacancy/collection loss for family, senior, and preservation projects and 10% annual vacancy/collection loss for SRO or special needs projects.
- 3.5% annual increase for expenses (other than property taxes and replacement reserves deposits) and 2.5% annual increase for income.
- The operating budget will be reviewed to ensure it is sufficient for proper maintenance and management but is not excessive compared to other similar properties.
- If the project has a commitment for rental assistance, two operating proformas must be provided, one assuming rental assistance will be renewed and one assuming rental assistance will expire after the initial contract term. Rents must remain restricted per City requirements even if the rental assistance is no longer available.
- For non-tax credit projects, asset management fees may not exceed \$12,500 annually. Tax credit projects are allowed a combined partnership/asset management fees, including fees paid to investors, of no more than \$25,000 with a no escalation are only allowed to the extent cash flow is available after payment of operating expenses, debt service, and deposits to reserves. The general partner will be required to pay the cost for an annual audited financial statement for the project.

## **CASH FLOW/INCENTIVE MANAGEMENT FEE**

If a project has no monitoring findings or other violations of City or other agreements, and reserves are fully funded, residual receipts (after payment of operating costs, reserves, senior debt, , and current partnership/asset management fee) will be split between the developer/sponsor and the City, with 60% of residual receipts paid to the City as a residual receipts loan payment and 40% for the developer/sponsor as an Incentive Management Fee. If the project is owned by a partnership, the partnership agreement should clearly indicate that the Incentive Management Fee will be paid to the developer/sponsor. This fee shall be used for projects and activities contributing directly to the developer's (or its affiliate's) affordable housing programs and community development activities. If other lenders also require residual receipts payments, the 60% of residual receipts will be split with these lenders based on relative loan amounts. Staff should be included in any negotiations of residual receipts loan payments. Deferred developer fees and partnership/asset management fee can only be paid from the developer sponsor's portion of the Incentive Management Fee.

## **REPLACEMENT AND OPERATING RESERVE REQUIREMENTS**

City financing is generally in place far longer than other financing sources. As a result, the owner's ability to maintain and repair the project over the long term is extremely important to the City. Exceptions to the stated requirements will be granted in rare cases only. Use of replacement and operating reserves is subject to prior review and approval by the City.

- ♦ Replacement Reserves: 0.5% of the replacement cost of the structure annually, up to \$500 per unit. For rehabilitation projects, developers will be required to submit a third-party replacement cost analysis in which the lifecycle and cost of major building systems is estimated and amortized over the number of units and years. Gut rehab projects should use reserve standards for new construction projects. The City reserves the right to request an updated replacement reserve analysis every five years.
- ♦ Operating Reserves: An upfront capitalized operating reserve is required in an amount equal to at least three months of estimated operating expenses and must-pay debt service under stabilized occupancy. Annual deposits of no less than 2% of annual gross rental income are required until an operating reserve has been capitalized. The operating reserve must be maintained at the level of three months of operating costs and must-pay debt service during the term of the City regulatory agreement.

If a rental subsidy transition reserve is included in the project budget, that transition reserve shall be in addition to the operating reserve minimum described above. The amount of any transition reserve shall be subject to approval by City staff.

## **DESIGN GUIDELINES**

### **PROJECT SIZE AND UNIT TYPE REQUIREMENTS**

Projects must be at least 10 units in size. In special cases, projects of less than 10 units will be considered.

For family new construction projects, at least 15% of the units must be provided for larger families (3 and 4 bedrooms) unless it can be demonstrated that such a unit mix is not feasible.

### **MARKET DEMAND**

Projects should be planned and designed according to market demand. Demand for the type, location, and size of units at the proposed rents or sales prices must be documented at the time of application. Projects that receive HOME funds (or other projects as requested) are also required to submit a complete market study prior to loan closing, according to HUD requirements. Market studies should be prepared at the sponsor's expense by an independent individual or firm and follow the guidelines of the California Tax Credit Allocation Committee or of the state Department of Housing and Community Development.

### **LIVABILITY STANDARDS**

The City's provision of affordable housing financing is a long-term investment. Underwriting includes assuring that each development will be well-designed and well-constructed to provide decent, safe affordable housing over the long term for a population that does not have a wide range of housing choices.

The quality and marketability of any housing unit is affected by its size and the livability of the space including the space's ability to accommodate the potential number of occupants and the necessary furniture. A larger unit does not guarantee the successful accommodation of a particular furniture layout over a more efficiently laid out smaller one. The project must meet all Zoning Code requirements imposed by the Planning Bureau, but it may be appropriate to exceed these requirements for certain projects.

- ♦ Unit layout and size – Housing Development staff will carefully review unit size and layout for livability.
- ♦ Windows/Lighting/Ventilation – Units must be designed so that there is adequate natural light and ventilation.
- ♦ Parking – In general, the minimum number of spaces required for the particular site shall be provided. Any reductions in that number must be approved by Planning Bureau staff and the Housing Community Development staff. Secure resident bicycle parking should be provided to meet or exceed the City's bicycle parking ordinance.

- Building Shape and Appearance – The structure should respond to its context, enhance the neighborhood, and create a pride of place for its residents.
- Landscaping – The design should be appropriate for the intended use of all the residents.
- Quality of Building Materials – Materials must be of a quality and durability to assure long term viability of the structures.
- Open Space/Storage Space - The project must address adequate levels of the following, based on the type of project, location and target group. Examples of acceptable open space/storage space include:
  - common space (e.g. community room);
  - secure, on-site laundry facilities;
  - children's play area (family projects);
  - storage space (both inside and outside of the unit); and
  - open space (public and private space within the housing complex).

#### **SUSTAINABLE DEVELOPMENT**

In 1998, Oakland adopted a Sustainable Development Initiative to direct attention to sustainable development principles for environmental, economic, and social equity considerations. The initiative applies to any NOFA project receiving over \$100,000. Sustainable development issues are often described as encouraging the Three E's:

- Environmental sustainability guidelines address site and design, construction waste, water impacts, materials selection, waste reduction, reuse and repair initiatives, indoor air quality, energy impacts, carbon sequestration, and alternative transportation solutions.
- Economic dimensions address affordable housing, employment, food access, and local ownership.
- Equity considerations address the relationship, both physical and social, of the project to its community and neighborhood.

## **DECARBONIZATION AND CARBON NEUTRALITY:**

In 2020, Oakland adopted its 2030 Equitable Climate Action Plan (ECAP) as well as a carbon neutrality target of 2045. For additional information and to read the ECAP and Carbon Neutrality Resolution, please visit <https://www.oaklandca.gov/topics/sustainable-oakland-1>. The ECAP outlines critical and steps to equitably fight the climate crisis and increase resilience. Requirements in support of these goals taken to date include:

- Plug-in electric vehicle infrastructure requirements for all new construction (<https://cao-94612.s3.amazonaws.com/documents/PEV-Installation-2017-08-04-FINAL.pdf>)
- Requirements that all new construction be all-electric. Induction stoves are recommended but any electric cooktop is allowed. (<https://cao-94612.s3.amazonaws.com/documents/13632-CMS.pdf>)

To support the City's climate equity and resilience goals, in addition to compliance with these adopted requirements, new affordable housing projects should include the following decarbonization measures:

- Car-share: If on-site parking is included, provide at least one parking space with a DC Fast Charger installed that will remain dedicated to electric carshare vehicles for use by tenants when such vehicles or carshare programs are available. Provide a "right of first refusal" to all "Qualified Car Share Operators (QCSO)" operating in Oakland to provide electric car sharing services at no parking cost to the car share operator (the Operator may be billed for electricity). The list of QCSOs can be obtained by emailing: [carshare@oaklandca.gov](mailto:carshare@oaklandca.gov). If more than one car share Operator is willing to provide the service, the housing provider may choose the QCSO.
- Level 2 (240-V) electric vehicle chargers installed in at least 50 percent of EV-Ready (i.e. "Full Circuit") parking spaces.
- Dedicated charging space for tenant-owned electric bikes and electric scooters.

Projects should include the following additional sustainability measures:

- Minimize impervious surfaces in outdoor areas;
- Maximize native, drought-tolerant planting ;
- Ensure ½" of compost is applied to all landscaped areas; and
- Design and built projects with deconstruction in mind, to reduce demolition waste and maximize material reuse.



### **Green Building Ordinance:**

The City of Oakland has adopted a Green Building Ordinance that will apply to all projects. For more information about the Ordinance, go to the following website: [City of Oakland | Green Building \(oaklandca.gov\)](http://CityofOakland.org/GreenBuilding).

#### ***Multi-family Recycling Program:***

- ♦ All multi-family buildings (5+ units) are required by state and local law to arrange for recycling and compost collection services for residents and provide information at least annually to employees, tenants, and contractors describing how to properly use the recycling, composting and trash containers. All residents in multi-family buildings or complexes may recycle bottles, cans, jars, rigid plastic containers, paper, cardboard, and they may compost yard waste, food scraps, and food-soiled paper. For information about your recycling rights and requirements under both state and local law, go to the following websites: [State and Local Organics & Recycling Law | StopWaste - Home, Work, School](http://StateandLocalOrganicsandRecyclingLaw.org).

#### **Certification Programs:**

**New Construction:** As a minimum threshold for funding, new construction projects are required to be certified under either the Build It Green-GreenPoint Rated or LEED certification systems. Other rating or certification systems may also be acceptable, but the equivalency of the proposed system and the score to be achieved must be reviewed and approved by City staff. Applications must include a preliminary checklist for either GreenPoint Rated or LEED and the sponsor must confirm in the application that they will be certified under the selected program.

It is understood that most proposals are in early stages of design development, and therefore, the applicants are asked to complete the GreenPoint or LEED checklist based on their intent to incorporate green building components. However, projects awarded City funding will be evaluated for the actual design prior to start of construction.

The projects will be required to achieve the same GreenPoint score range as was achieved for NOFA scoring, and to have compliance certified by the appropriate entity at construction completion. If the project does not achieve the score range initially proposed, the developer may be assessed negative points on the next NOFA application submitted.

### **Green Building Guidelines and Technical Assistance:**

A wealth of information regarding green building techniques can be found from the following resources:

- Oakland's Green Building Resource Center (2nd Floor, 250 Frank Ogawa Plaza), or <https://www.oaklandca.gov/topics/green-building>
- StopWaste, at [www.stopwaste.org](http://www.stopwaste.org)
- Build It Green, at [www.builditgreen.org](http://www.builditgreen.org), especially for information about the GreenPoint Rated program.

### **INCLUSION OF COMPUTER TECHNOLOGY AND TUTORING SPACE**

Projects must provide the capacity for high-speed internet access in each unit by a means that does not impede use of the primary telephone line. Projects are strongly encouraged to go beyond this minimum by providing and maintaining computers in a common area, providing computer training, or providing free high-speed internet access to all units as an element of their Resident Services Plan. Designing spaces to make available for tutoring programs is also highly encouraged.

### **OTHER GUIDELINES AND CITY REQUIREMENTS**

#### **SITE CONTROL**

At the time a development proposal is submitted, the developer must demonstrate that it has, and will maintain until the land is acquired, site control of the property for which funding is being requested. See the Application Instructions for acceptable documentation.

#### **APPRAISALS**

If acquisition is included in the development budget, applicants are required to submit a recent appraisal of the project site and any existing improvements as part of the application. Appraisals must have been completed within six months of the 2021 NOFA application submission (January 7, 2022). If the property is already owned by the sponsor, appraisals must have been completed within 6 months of its purchase.

See the *Application Instructions* for more specific guidelines.

## **DONATED PROPERTY**

If land or buildings have been donated for the project, the value of the donated property should be included in the total development cost both as an acquisition cost and as a source of funds. If the property was donated by the City, the value of the donated property will be included when calculating the percentage of City subsidy. The value of the donated property should be documented in, and consistent with, the appraisal. The appraisal must have been completed within 90 days of the date of donation, contribution or transfer.

## **PHASE I AND II**

Applications must include a Phase I Environmental Assessment. If recommended by the Phase I, a Phase II must be provided before a project will be recommended to the City Council. With the Phase II, applicants must also provide a discussion of mitigation measures, the impact of any recommendations on the project budget, design, etc.

## **CITY COUNCIL MEMBER MEETINGS**

City of Oakland staff should attend and be included in the planning of all meetings with City Council members or their staff regarding affordable housing development projects. Please ensure enough advance notice is given to housing development staff prior to scheduling any meeting with a member of the City Council or their staff.

## **MARKETING AND MANAGEMENT**

Basic information about the project's marketing and management must be completed in the application form. A Marketing and Management Plan is not required the time of application; such plans must be submitted to the City for review 180 days prior to construction completion, and a Management Contract (for rental projects) must be submitted to the City 90 days prior to construction completion. The Marketing and Management Plan must be approved by the City prior to commencement of leasing activities, including advertisement of the Project.

Applicants may be required to lease vacant units through the housing portal administered by the Alameda County Department of Housing & Community Development, available at <http://housing.acgov.org>. If the City adopts a fee in connection with the administration of the housing portal, applicant may be required to pay such fee as shall be specified in the City's Master Fee Schedule.

By submitting the application, the applicant acknowledges that its Marketing and Management Plan will meet, at a minimum, the following requirements:

- Name and contact information for the Management Agent;
- The role and responsibility of the Sponsor and its delegation of authority, if any, to the Management Agent;
- Staffing arrangements and personnel policy;
- Marketing and management procedures for consistent with Affirmative Fair Marketing Procedures outlined in Addendum #3;
- Tenant selection criteria;
- Lottery and waitlist procedures, including Oakland preferences;
- Acknowledgement of City of Oakland Fair Chance Housing Ordinance;
- Income certification procedures;
- Plans for carrying out maintenance and repair of the Project;
- Procedures for addressing lease violations;
- Procedures to prevent conflicts of interest by and among staff and tenants;
- Table of rent/income restrictions from all funding sources identifying most restrictive requirements and final rent schedule;
- Identification of all application fees, move-in fees, refundable deposits, required utilities, and optional fees;
- Sample advertisements and flyers;
- Sample application; and
- List of outlets and community organizations to receive marketing materials.

If the project includes housing for homeless or special needs households, the Marketing and Management Plan must also incorporate the following:

- If vacancies are filled through a third-party referral system, name of system, referral procedures, and preferences to be applied by referral agency;
- Homelessness verification procedures;
- Tenant selection and property management criteria consistent with Housing First principles;
- Credit and tenant history screening criteria appropriate to homeless or special needs households;
- Procedures for consideration of mitigating circumstances; and

- Appropriate rent-to-income standards that take into consideration factors such as in-kind payments.

For more information about how to adopt Housing First principles, please refer to the following resources:

[EveryOne HOME Property Management Partner Guidelines](http://www.everyonehome.org) - <http://www.everyonehome.org>.

[CSH Housing First Fact Sheet](http://www.csh.org) - <http://www.csh.org>

A market study, rental survey, recent sales comparables, or an alternative acceptable to the City must also be submitted, according to the guidelines in the Application Instructions. For projects funded by HOME funds, a complete market study for the project must be reviewed and approved by the City of Oakland prior to loan closing. Projects must be marketed in accordance with the City's Affirmative Fair Marketing Procedures.

#### **COST CERTIFICATION**

Developers must arrange for an independent cost certification on completion of a project. Approval of this certification is a requirement for the City's release of a substantial portion of the developer fee. This likely will require additional information from what is provided in a CTCAC cost certification. At a minimum, the City Cost Certification should include:

- **Cost Reconciliation Schedule:** The analysis must include a final sources and uses budget based on all the line items of the original City approved budget. The borrower must show all sources in lien order and include limited and general partner contributions, if applicable. This should include loans or equity contributions that were spent and expenses that were incurred during the development period. The borrower must show the total proposed initial sources and uses and the actual sources and uses by line item. The analysis must explain any difference for line items that are over or below 10% of the original sources and uses budget. Please note that the City's approved budget must be used for this analysis. For HOME projects, ensure that all the City's final uses were spent on eligible costs.
- **Analysis of Reserve Accounts:** The borrower must show the total proposed initial reserve amounts and the actual initial reserve deposit. The analysis must explain any difference between the proposed reserve amount and the deposited amount.

It is recommended that project sponsors check with City staff to ensure the format and information provided will be acceptable to the City prior to starting the Cost Certification.

## **RELOCATION**

State or federal relocation law will apply for projects that will temporarily or permanently displace current business or residential occupants, and relocation assistance and benefits may be required which can add substantially to the project cost. See the *Application Instructions* for more information.

## **RESIDENT SERVICES COORDINATION**

For rental projects, supportive and social service coordination reasonable for the population being served may be included as a cost paid by building operations. Costs associated with case managers providing more intensive services to the residents may not be paid by building operations.

## **SPECIAL NEEDS HOUSING**

For NOFA scoring purposes, the City will utilize the definition of "Special Needs Populations" from the MHP Regulations of the state Department of Housing and Community Development, Sections 7301 (z) and 7302 (g) (3), which can be found at

<http://www.hcd.ca.gov/grants-funding/active-funding/mhp.shtml>.

## **HOMELESSNESS DEFINITION**

For NOFA scoring purposes, the City will utilize the definition of "homelessness" from the MHP Regulations of the state Department of Housing and Community Development, Section 7301 (l), which can be found at <http://www.hcd.ca.gov/grants-funding/active-funding/mhp.shtml>.

## **PERMANENT SUPPORTIVE HOUSING**

Permanent Supportive Housing (PSH) is an evidence-based housing type that combines supportive services and housing that is affordable to families and individuals who are experiencing homelessness. Key attributes of PSH include:

- ♦ It is tenancy housing in which the tenant holds a lease or rental agreement and is responsible for payment of their rent;
- ♦ It is permanent housing, wherein the tenant has all rights of tenancy pursuant to Federal, State and local laws; and
- ♦ Services are voluntary and not a condition of tenancy.

The City encourages PSH projects that will demonstrate the following core values:

- Tenant screening and selection practices that seek to affirmatively reduce barriers to entry such as poor credit/financial history, lack of rental history, and criminal history (notwithstanding other funder requirements/criteria);
- Acceptance of referrals directly from shelters, street outreach, drop-in centers, and other parts of the crisis response system;
- Supportive services that emphasize engagement and problem solving and service plans that are highly tenant-driven; and
- Supportive services that are informed by a harm-reduction philosophy.

The Corporation for Supportive Housing's website includes useful resources regarding the development, financing, and management of permanent supportive housing, [www.csh.org](http://www.csh.org).

#### **EVIDENCE OF COMMUNITY OUTREACH**

Developer must submit evidence of community outreach to residents surrounding the proposed development and to relevant community groups. See the Application Instructions for a list of required items.

#### **MIXED-USE PROJECTS**

The City strives to create new retail space that is well-designed, marketable and well-located. Developers of mixed-use projects are encouraged to contact the City's Planning Bureau to understand Planning Code requirements and standards for ground floor spaces. Please call 510-238-3911 for more information about applicable requirements.

#### **MIXED-INCOME PROJECTS**

In mixed income properties, the affordable units must not be substantially different from the market-rate units. The affordable units must be of equal quality to other project units with equivalent amenities (including materials, finishes, fixtures, and appliances of equal quality and grade) as provided in other project units. Tenant households in affordable units must have equal access to services and facilities as tenant households in all other project units. The exterior of the affordable units must be indistinguishable from the exterior of the market rate units. Affordable units should be reasonably distributed throughout the project and should not be isolated or segregated in only one portion of the project.



## **CONTRACT COMPLIANCE – EMPLOYMENT PROGRAMS AND REQUIREMENTS**

Applicants must comply with the following City of Oakland Employment and Contracting programs:

- 50% Local and Small Local For Profit and Not For Profit Business Enterprise Program (L/SLBE);
- 50% Local Employment Program;
- 15% Oakland Apprenticeship Program;
- Payment of Prevailing Wages;
- City of Oakland Living Wage Ordinance;
- City of Oakland Equal Benefits Ordinance; and
- Electronic Certified Payroll Submittals.

More information can be found at the City of Oakland's website at <https://www.oaklandca.gov/departments/contracts-compliance> and at the meeting with Contract Compliance staff to be held prior to the NOFA deadline. It is recommended that sponsors who receive City funding awards meet with Contract Compliance staff early in the predevelopment process to ensure a complete understanding of all the options regarding how the project may meet the requirements. Submission of documentation regarding the above requirements and a meeting with the contractors and Contract Compliance staff will also be required prior to construction start.

Additional contracting requirements and instructions include:

- The use of contractors that appear on the federal government's list of suspended and debarred contractors is expressly prohibited.
- The developer must require Prime Contractors and all subcontractors to enter ALL certified payroll reports into the Labor Compliance Program (LCP) tracker in accordance with Special Provision Section 7 subsection 7-2.2.1. The LCP tracker is a web based program that monitors the payment of Davis Bacon and State of California prevailing wages. The prime contractor will be charged a monthly fee for this service (subcontractors will not be charged).
- The 50% L/SLBE requirement must be met on both the professional services and construction phases of each project. A minimum of 25% of this requirement must be met with SLBE participation.
- The general contractor selected must comply with Davis Bacon, if applicable, and the State of California Prevailing Wage as determined by the Department of Industrial Relations. Pursuant to the California Code of Regulations Section 16001(d), residential projects consist of single-family homes and apartments up to and including four stories. Applicants seeking residential wage rates must submit a request to Contract Compliance at least 90 days prior to the bid advertisement. The request for residential rates must include a description of the project, type of project (i.e. new construction or rehabilitation), the number of units, and the anticipated bid advertisement date. The residential prevailing wage determination includes those crafts(s)/classifications(s), or type of worker(s) not covered by the general determination. Special determinations are issued on a project-by-project basis and cannot be issued retroactive to the bid advertisement date of the project. In the absence of a residential prevailing wage determination, the awarding body should refer to the State of California Director's General Prevailing Wage Determinations.
- Residential prevailing wage determinations are issued based upon information provided which indicates that the contract has not been met or signed for the project. If the construction contract is not signed and work does not begin within twelve (12) months of the residential wage determination, you must inform the division of Contract Compliance so that updated rates can be obtained.

- In the absence of a special residential wage determination, the general prevailing wage determination must be used. These rates can be obtained via the internet at [www.dir.ca.gov/DLSR](http://www.dir.ca.gov/DLSR).

#### **OAKLAND DISPLACEE, NEIGHBORHOOD RESIDENT, OAKLAND RESIDENT AND WORKER PREFERENCE**

The City of Oakland has established a policy granting preference to Oakland displacees, neighborhood residents, Oakland residents and Oakland workers in the selection of tenants or homebuyers for affordable housing projects and programs assisted by City housing NOFA funds. See the Oakland Displacee, Neighborhood Resident, Oakland Resident and Oakland Worker Preference Regulation for Multifamily Affordable Housing for more detail at [Chapter 15.63 - OAKLAND RESIDENT/WORKER PREFERENCES AND REQUIREMENTS IN CITY AFFORDABLE HOUSING PROGRAMS | Code of Ordinances | Oakland, CA | Municode Library](#).

#### **FAIR CHANCE ACCESS TO HOUSING ORDINANCE**

Owners must comply with the Ronald V. Dellums and Simbarashe Sherry Fair Chance Access to Housing Ordinance set forth in City of Oakland Ordinance No. 13581, and codified at Chapter 8.25 of the Oakland Municipal Code. In accordance with this ordinance, the owner may not inquire about an applicant's criminal history, require an applicant to disclose criminal history, require an applicant to authorize the release of criminal history or, if such information is received, base an adverse action in whole or in part on an applicant's criminal history.

#### **INSURANCE**

During development, developers must obtain comprehensive general liability and property (hazard) insurance coverage of at least \$2 million. The City also requires property damage or builder's risk insurance in an amount equal to 100% of the replacement cost of the structure, with a lender's loss payable endorsement in favor of the City. Construction contractors will be required to obtain liability and builders risk insurance in an amount equal to \$2 million. Automobile insurance, professional liability, workers compensation, and employer's liability coverage are also required. See Addendum, *Insurance* for complete insurance requirements.

After completion, similar levels of liability and hazard coverage are specified by the regulatory agreement. All policies must name the City as an additional insured; property insurance must have a lenders loss payable endorsement. For more information on insurance requirements, please contact Housing Development staff.

## **PAYMENT AND PERFORMANCE BONDS**

General contractors will be required to provide payment and performance bonds equal to 100% of the construction contract amount.

## **REVIEW AND APPROVAL OF DESIGN PLANS**

Because the HCD Department may have different concerns about the physical structure than the Planning Bureau addresses, HCD staff must be involved throughout the planning/design review process. It is the obligation of the developer to provide adequate notification to HCD staff of all upcoming meetings with Planning Bureau staff and with the Design Review Committee and Planning Commission regarding the project.

## **PLANNING AND ZONING**

Unless the applicant has entitlements for the project, include evidence of Planning application submission for land use approvals for the development. Planning applications must be submitted electronically to the City's Planning Bureau. For Planning applications made before November 30, 2021, all required materials should be submitted to: [permitinfo@oaklandca.gov](mailto:permitinfo@oaklandca.gov) if the file is small, or to the digital mailbox: <https://apps.oaklandca.gov/DigitalInbox/> if the file is large. For Planning applications made after December 1, 2021, applications will need to create a record (ZW - Zoning Worksheet) at this url: <https://www.oaklandca.gov/services/online-permit-center>. Please contact Planning staff at 510-238-3911 if you have any questions. See the NOFA Application and Instructions document section "Letter of Conformity with Planning and Zoning Requirements" for detailed instructions.

Successful NOFA applicants will be required to hold a meeting with the Planning Bureau to review their project. Please allow the Planning Bureau a minimum of four to six months to process a Planning entitlement request.

Developers must provide advance notice to the HCD Department of any meetings with the Building Bureau, Planning Bureau, Design Review Committee and Planning Commission.

## ENTITLEMENTS/ENVIRONMENTAL REVIEW AND ASSESSMENT (CEQA & NEPA)

**CEQA:** Prior to staff recommendation to the City Council, projects must be shown to have obtained Planning entitlement and CEQA clearance (certified EIR, or negative declaration), and must have submitted their CEQA documentation to HCDD staff.

**Planning applications:** If land use approvals have not yet been received, it is advisable that applicants submit a Planning application *as early as possible* prior to the NOFA submittal date as the Planning review of the development and its CEQA related documents may exceed 180 days. For Planning applications made before November 30, 2021, all required materials should be submitted to permit [info@oaklandca.gov](mailto:info@oaklandca.gov). For Planning applications made after December 1, 2021, applicants will need create a record ZW – Zoning Worksheet) at this url: <https://www.oaklandca.gov/services/online-permit-center>. Please contact Planning staff at 510-238-3911 if you have any question, or to discuss the appropriate CEQA determination process for the proposed project.

Please note that given the accelerated schedule for review of applications during this NOFA round, HCD staff cannot guarantee that projects that do not already have CEQA clearance will be able to receive clearance by the targeted City Council approval date for funding of March 2022. Any projects receiving funding awards must have CEQA clearance prior to City Council approval.

**California Senate Bill 35:** For project consideration of a streamlining determination per California Senate Bill 35, please download the *SB 35 Streamlining Checklist* from the City's website.

**NEPA:** If the proposed project is financed with federal funds, the project must also be assessed in accordance with the National Environmental Policy Act of 1969 (NEPA) prior to loan closing. NEPA review should be completed subsequent to project approval but coordinated with the CEQA review to the extent possible.

**Choice-Limiting Actions Prohibited During NEPA Review.** Because of the likelihood that federal funds will be awarded, applicants must refrain from undertaking activities that would have an adverse environmental impact or would otherwise limit the choice of reasonable alternatives between the time of application submittal and when the City has completed its environmental review process. Such activities include acquiring, rehabilitating, converting, leasing, repairing or constructing property, any kind of site preparation, or committing or expending HUD or non-Federal funds for HOME program activities with respect to any project eligible under this NOFA. If the applicant has entered into a purchase agreement or contract for any of the above activities prior to applying for NOFA funds, work may continue pursuant to that contract. But amendments to the contract or new contracts may not be entered into. HOME funds may not be used to reimburse an applicant for project related costs incurred after the applicant has submitted the application for funding and before the completion of the City's environmental review process except for activities that are excluded and not subject to federal environmental review requirements, and for certain relocation costs.

Applicants must sign a certification that they understand this restriction (see *Application*). The prohibition against choice-limiting actions begins on the date that the application is submitted to the City. Applicants are encouraged to check with the City's HCD staff regarding eligible expenditures after the submission of an application. Failure to comply with this requirement could result in a project being ineligible for City funding.

HCD staff will assist developers in their efforts to obtain NEPA approval in a timely manner. However, **if you are seeking readiness points for the first round of Low Income Housing Tax Credits or other sources**, please contact housing staff prior to submitting your NOFA application to discuss the NEPA timeline. Completing the NEPA review, including local and federal noticing periods, takes a minimum of 8-12 weeks after receipt of all necessary information.

**Public Art Ordinance and Documents:** In 2014 the City adopted a new requirement for .5% of residential or 1% of nonresidential private development project costs for public art. In June of 2018, the Oakland Municipal Code (OMC) was amended to adopt [Chapter 15.78, Public Art Requirements for Private Development \(13491 C.M.S.\)](#).

Applicants are encouraged to review the OMC language and Public Art supplemental checklist in planning for their project, and to consider ways to integrate art at the onset of project design: [https://library.municode.com/ca/oakland/codes/code\\_of\\_ordinances?nodeId=TIT15BUCO\\_CH15.78\\_PUARREPRDE](https://library.municode.com/ca/oakland/codes/code_of_ordinances?nodeId=TIT15BUCO_CH15.78_PUARREPRDE).

The supplemental checklist is available at: <https://www.oaklandca.gov/topics/public-art-in-oakland>

For further questions, please contact Kristen Zaremba, Public Art Coordinator, ([kzaremba@oaklandca.gov](mailto:kzaremba@oaklandca.gov)).

## FEDERAL REQUIREMENTS

If the applicant may be receiving federal funding (such as HOME funds), they will be required to comply with applicable federal statutes and laws, including, but not limited to:

- Section 3 of the U.S. Housing Act of 1968, as amended
- Equal Opportunity and related requirements in 24 CFR Section 982.53
- Section 504 of the Rehabilitation Act of 1973
- Americans with Disabilities Act of 1990
- Architectural Barriers Act of 1968
- Fair Housing Act of 1988
- National Environmental Protection Act (NEPA)
- Federal prevailing wage requirements (please note that projects will be required to meet the higher of Federal or State prevailing wage requirements).

## DISABLED AND SENIOR ACCESSIBILITY

Developments assisted by the City must meet the requirements of the Americans with Disabilities Act and the Fair Housing Act, among other local, state, and federal laws. Projects with any federal funds must also meet the more stringent accessibility requirements of Section 504 of the Rehabilitation Act of 1973 (24 CFR 100.205 and Part 8). Section 504 sets minimum percentages of accessible units, and calls for fully accessible common areas, among its numerous requirements. For projects funded with HOME, 5% of the total number of units must be accessible to people with physical disabilities, and an additional 2% of units must be accessible to people with auditory and visual disabilities, as defined in the Uniform Federal Accessibility Standards (UFAS).

**Where Section 504, the Fair Housing Act, or ADA apply, the developer and project architect must make a written certification of compliance.**

## LEAD-BASED PAINT

The use of lead-based paint on City funded projects is prohibited. Testing and abatement of lead-based paint in demolition projects may be required. Projects typically must follow the federal guidelines, which require lead-safe work practices and notification to prospective residents of potential lead-based paint hazards, among other requirements. If applicable, project sponsors should be aware of the EPA regulation that requires all renovators of pre-1978 homes and child-occupied facilities to be trained in lead-safe work practices and certified by the EPA. For more information go to [www.epa.gov/lead](http://www.epa.gov/lead). Training is available through the Alameda County Lead Poisoning Prevention Program and other EPA accredited training providers.

Alameda County Lead Poisoning Prevention Program may have funds available for lead hazard control work at family rental properties (1-bedroom units or larger) built before 1978 that are either vacant or occupied by low-income tenants. More information is available at <http://www.achhd.org>.

#### **RESTRICTION ON CONDOMINIUM CONVERSIONS**

Project owners may not convert restricted rental units to condominium or cooperative ownership or sell condominium or cooperative conversion rights for the Property during the term of the 55-year regulatory agreement. Oakland will give reasonable consideration to any proposal to convert project units to limited-equity cooperative ownership.

#### **LIMITATION ON CAMPAIGN CONTRIBUTIONS**

The Oakland Campaign Reform Act prohibits parties doing business or seeking to do business with the City of Oakland from making campaign contributions to Oakland candidates between commencement of negotiations and either 180 days after completion of, or termination of, negotiations. Applicants are required to submit the *Acknowledgement of Campaign Contributions Limits* form.

#### **NONDISCRIMINATION**

All applicants must agree not to discriminate on the basis of race, color, ancestry, national origin, religion, sex, gender, sexual orientation, gender identity or expression, creed, age (except lawful senior housing), marital status, family status (presence of child under age of 18 and pregnant women), source of income, physical or mental (including cognitive, developmental or emotional) disability, Acquired Immune Deficiency Syndrome (AIDS) or AIDS-related conditions (ARC), immigration status, any arbitrary basis, or any other status protected by federal, state or local law.

#### **CERTIFICATIONS AS TO CONFLICTS OF INTEREST**

As part of the application, applicants are required to make the certain certifications relating to their compliance with federal, state, and local conflict of interest laws. Download the Certification, sign and upload it to CDS.