

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

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Notice of Funding Availability (NOFA)

Acquisition and Conversion to Affordable Housing (ACAH) Program

All-Affordable Housing Developers Subprogram

Release Date: December 21, 2022

Revised: January 4, 2023



Table of Contents

- I. ACAH Program Overview and Notice of Funding Availability 1
 - A. Program Overview..... 1
 - B. Funding Availability 2
- II. Funding Priorities and Changes from City’s prior ACAH NOFAs 3
 - A. Funding Priorities 3
 - B. Changes from Prior NOFAs..... 3
 - C. Eligible Applicants..... 4
- III. NOFA Timeline and Applications Due Date..... 5
- IV. Application Submission Process 6
 - A. Virtual Pre-Bidders’ Conference..... 6
 - B. On-Line Application Requirement..... 7
 - C. Application Organization and City Required Forms 8
 - D. Revisions to RFP..... 8
 - E. Public Records 8
 - F. Reservation of Rights..... 8
 - G. Multiple Applications 9
 - H. Frequently Asked Questions and General Contact Information..... 9
- V. Review and Funding Process 10
- VI. ACAH Program Guidelines – All-Developer Pool..... 11
 - A. Eligible Projects 11
 - B. Maximum City Subsidy 12
 - C. Income Requirements 12
 - D. Maximum Affordable Housing Costs..... 12
 - E. Eligible Uses of ACAH Funds..... 13
 - F. Ineligible Use of Funds 13
 - G. Eligible Borrowers..... 14



H. Developer Experience Requirements..... 14

I. Emerging Developers Program..... 14

J. Maximum Developer Fee 15

VII. Neighborhood Stabilization Program Requirements 15

 A. Background..... 15

 B. Oakland NSP1 Priorities through this NOFA..... 16

 C. NSP Requirements..... 16

 D. Environmental Review Requirements..... 17

 E. Other Federal Cross Cutting Requirements 18

 F. Disabled Accessibility 18

VIII. ACAH Loan Terms, City Contracting, and Insurance Requirements..... 19

 A. Loan Terms 19

 B. Loan Disbursement..... 19

 C. Loan Documentation and Security..... 19

 D. Loan Termination 20

 E. Contract Compliance – Employment Programs and Requirements 20

 F. City Insurance Requirements 21

LIST OF EXHIBITS:

- EXHIBIT A: ACAH NOFA SCORING CRITERIA - ALL DEVELOPER POOL
- EXHIBIT B: ACAH TERM SHEET – ALL DEVELOPER POOL
- EXHIBIT C: APPLICATION ORGANIZATION AND REQUIREMENTS
- EXHIBIT D: DOCUMENTATION REQUIRED BEFORE LOAN CLOSING
- EXHIBIT E: CITY OF OAKLAND INCOME AND RENT LIMITS, 2022
- EXHIBIT F: MAXIMUM AFFORDABLE HOUSING COST AND SALES PRICES
- EXHIBIT G: NSP1 ELIGIBLE AREAS MAP
- EXHIBIT H: CITY OF OAKLAND INSURANCE REQUIREMENTS



I. ACAH Program Overview and Notice of Funding Availability

A. Program Overview

On behalf of the City of Oakland, the Housing and Community Development Department (HCDD) is pleased to release this Notice of Funding Availability (NOFA) for the **Acquisition and Conversion to Affordable Housing (ACAH) Program** and announce that it is accepting applications through the two subprograms of ACAH -- the ***Permanent Affordability Program for Community Land Trusts/Limited Equity Housing Cooperatives*** and the ***All-Affordable Housing Developers subprogram (All-Developer Pool)***.

This NOFA concerns the All-Affordable Housing Developers subprogram (All-Developer Pool)

On November 8, 2016, City of Oakland voters passed Measure KK, the Affordable Housing and Infrastructure Bond, to fund affordable housing projects and programs and infrastructure improvements. The program guidelines and requirements set forth within this NOFA are in accordance with the City's Affordable Housing and Infrastructure Bond Law adopted by Oakland City Council in City Resolution 13403 C.M.S., dated November 29, 2016, and codified in Chapter 4.54, Article IV, of the Oakland Municipal Code (OMC). Applicants may visit the City's website at https://library.municode.com/ca/oakland/codes/code_of_ordinances?nodeId=OAKLANDMUCO to review the City code references.

Through the adoption of City Ordinance No. 13119 C.M.S. and its implementing regulations at OMC 2.29.170.1., the City of Oakland made a commitment to intentionally integrate, on a Citywide basis, the principle of "fair and just" in all that the City does in order to achieve equitable opportunities for all people and communities. Providing affordable housing to those most impacted by racial disparities, and which has been built by developers from these communities, will help advance the City's mandate. HCD's commitment to advancing racial equity is outlined in the following equity approach for all programs: disaggregate data by race and ethnicity whenever possible; target resources to Oakland's most vulnerable residents; and identify and remove barriers for Black, Indigenous and People of Color (BIPOC) Oaklanders.

The purpose of the ACAH Program is to protect and preserve long-term affordable housing options throughout the City by providing loans to eligible borrowers to acquire and rehabilitate market rate rental properties, and then convert the properties to long-term affordable housing through recorded affordability restrictions.



On December 6, 2022, the Oakland City Council approved a funding allocation of a minimum of \$12,265,543 and a maximum of up to \$22,265,543 from the City’s Affordable Housing funds for the ACAH Program and authorized the City Administrator to fund loans under the ACAH Program without returning to the City Council.¹ In the event that eligible project applications submitted through this NOFA exceed the available allocation of funds for the ACAH Program, the City may elect to, but is not obligated to, allocate additional funds to the ACA Program to fund such eligible ACAH projects.

In addition to the funds approved by Council on December 6, 2022 for this NOFA, on June 15, 2021, the Oakland City Council authorized the reprogramming of funds it had received from the United States Department of Housing and Urban Development (HUD) under the federal **Neighborhood Stabilization Program (NSP)** to the ACAH Program, for the purpose of converting market-rate units into restricted affordable housing to protect low-income tenants at-risk of displacement. In addition, the City Council authorized the remapping of the existing NSP Target Areas to the Community Development Block Grant (CDBG) Community Development Districts to facilitate the expenditure of the remaining balance of NSP1 program funds and closure of the NSP1 grant. As of the date of the release of this NOFA, there are unexpended NSP1 funds in the amount of approximately \$295,900 that the City may utilize for eligible ACAH projects. NSP requirements are described in greater detail in Section VIII below.² Developers are encouraged to visit the HUD Exchange website at <https://www.hudexchange.info/programs/nsp/> to learn more about specific NSP requirements.

B. Funding Availability

The amount of funds available for this NOFA will range from a minimum of approximately \$12,265,500 to a maximum of \$22,265,500 (*maximum amount available only if the City does not receive all of the State of California Homekey award in 2023 – see footnote below*) from the following sources of affordable housing funds: Affordable Housing Impact Fees, Jobs/Housing Impact Fees and “Boomerang Funds,” Low and Moderate Income Housing Asset Funds, Excess Redevelopment Funds and Bond Measure KK Funds. An additional amount of approximately \$295,900 may be available from NSP1 funds. The City intends to divide the funds between the two ACAH subprograms using the percentage allocations as noted below, with the City reserving

¹ Contingent funds of up to \$10,000,000 from Affordable Housing Trust Funds and Excess Redevelopment Bond Funds will be available to the ACAH Program only if, and in the amount that, the City does not receive State of California Homekey Program Round 3 awards in 2023.

² In the event HUD converts the remaining NSP1 program funds of approximately \$295,900 to Community Development Block Grant (CDBG) funds, the funds will be subject to CDBG requirements. See 42 U.S.C. §5301 *et seq.* and 24 CFR Part 570 for CDBG laws and regulations.



the right to reallocate funds between the two subprograms based on submitted proposals, and to maximize the goals of the ACAH program:

- Permanent Affordability Program for Community Land Trusts/Limited Equity Housing Cooperatives subprogram - a minimum of \$4.9 million, or 40 percent of total funds available in funding will be made available. A portion of this funding may be allocated to the acquisition and rehabilitation duplex opportunity discussed in Section III below.
- All Affordable Housing Developers subprogram - a minimum of \$7.3 million, or 60 percent of total funds available in funding will be made available.
- Potentially available to both subprograms – approximately \$295,900 in NSP1 funds may be made available to eligible projects in either subprogram, with a preference to the Permanent Affordability Program for Community Land Trusts/Limited Equity Housing Cooperatives subprogram. The NSP1 funds may be eligible for use in the acquisition and rehabilitation duplex opportunity discussed in Section III below.

Note: Projects can receive an NSP1 funding commitment only if they meet the federal NSP requirements and the requirements of this NOFA. NSP generally utilizes the regulations for the federal Community Development Block Grant (CDBG) Program but there are specific NSP considerations. Projects awarded NSP1 funds will be required to enter into loan documents with the City that contain NSP terms and any other requirements of this federal funding source.

II. Funding Priorities and Changes from City’s prior ACAH NOFAs

A. Funding Priorities

Project applications submitted in response to this NOFA will be evaluated on the degree to which the projects incorporate the following City housing values and priorities, which guide the scoring priorities for this NOFA:

- A commitment to advancing racial equity; and
- A commitment to assisting housing projects in which the tenants are at risk of displacement and in neighborhoods experiencing heightened levels of gentrification.

B. Changes from Prior NOFAs

The City released its most recent ACAH NOFA in December 2020. HCDD staff held several listening sessions with members of the Community Land Trust and affordable housing developer community working in Oakland to help inform the ACAH program design and its implementation. In response to these informative sessions, HCDD developed comprehensive term sheets for each ACAH subprogram (the Term Sheet for the ACAH All-Affordable Housing Developers subprogram may be found in **Exhibit B** to this NOFA). The ACAH NOFA scoring



criteria may be found in **Exhibit A** to this NOFA. Applicants are strongly encouraged to review the Term Sheet and scoring criteria in detail. Key changes reflected in the ACAH Program Guidelines as well as scoring changes include, but are not limited to, the following:

- **ACAH Program Terms**
 - Per unit maximum subsidy levels have been increased for all project unit sizes, and the City’s maximum loan amount has increased.
 - Applicants that are not able to demonstrate the minimum developer experience requirements of the NOFA must demonstrate bringing on additional capacity to meet the requirements – this can include entering a joint venture or memorandum of understanding with a more experienced developer or bringing on experienced project development and construction management consultation for the project predevelopment and rehabilitation phases.
 - Rehabilitation must prioritize health and safety hazards, accessibility, and structural rehabilitation needs.
 - The developer fee formula is a base amount of \$80,000 plus \$10,000 per unit, up to a maximum of 5% of total development costs (excluding the developer fee).
 - Projects are required to include replacement reserve deposits in their budgets, based on the higher of the amount necessary to pay replacement costs for the next 10 years as specified in an approved Physical Needs Assessment/Capital Needs Assessment (PNA/CNA), or \$500 per unit per year. The deposits may be updated every seven years based on a revised PNA/CNA acceptable to the City.
- **Scoring Changes**
 - New scoring criteria have been developed for projects that have previously been awarded ACAH funds and are seeking additional ACAH funds through this NOFA;
 - Greater points are available for projects submitted by an Emerging Developer in the Permanent Affordability Program for CLTs/LEHCs subprogram; and
 - Updated scoring criteria have been developed for projects located in areas identified in The Urban Displacement Project’s California Estimated Displacement Risk Model Map. Visit <https://www.urbandisplacement.org/maps/california-estimated-displacement-risk-model/> to access the model.

C. Eligible Applicants

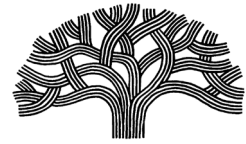
The City will accept applications from new projects that have not received a prior ACAH funding award, as well as from projects that have received a prior award of ACAH funding through the City’s Residential Lending 1-4 Unit Program and/or one of the past two ACAH NOFA funding rounds (2019 and 2020). Existing ACAH project awardees are eligible to apply for funding through this 2022 ACAH NOFA if the applicant submits a complete application and demonstrates



the additional funding need in the City’s sole review and discretion. The City encourages applications from both new and existing ACAH project applicants so that an ACAH pipeline can be developed; however, the City will prioritize existing projects in this 2022 ACAH NOFA, reviewing existing ACAH-funded projects first, followed by review of the new ACAH project requests. Projects with existing awards may only apply for funding up to the maximum per unit subsidy amounts included in this 2022 ACAH NOFA. The combined amount of the existing award and new ACAH funding request may not exceed the per unit maximum subsidy limits for ACAH as outlined in the ACAH Term Sheet for the applicable ACAH subprogram. See **Exhibit A** for information on the scoring priorities and criteria for both new and existing projects.

III. NOFA Timeline and Applications Due Date

Date	Event
Wednesday, 12/21/22	City of Oakland ACAH NOFA Release Date
Wednesday, 1/4/23	Virtual Pre-Bidders’ Conference and CDS Electronic Application Training from 11:00am to 1:00 pm
Wednesday, 1/4/23	Outside date for when CDS application will be “live”
Wednesday, 1/11/23*	City will release FAQ #1 based on questions raised at the Pre-Bidders' Conference
Friday, 1/13/23 by 4:00 pm	Deadline to submit questions for FAQ #2 to mhorl@oaklandca.gov
Monday, 1/16/23 by 5:00 pm	Deadline for new projects to submit 3-R Application
Friday, 1/20/23*	City will release FAQ #2
Friday, 1/27/23 by 4:00 pm	Deadline to submit questions for FAQ #3 to mhorl@oaklandca.gov
Wednesday, 2/1/23	Deadline to initiate contact with the Planning and Building Department for new ACAH Project Applicants
Friday, 2/3/23*	City will release FAQ #3
Friday, 2/10/23	Deadline to submit questions for FAQ #4 to mhorl@oaklandca.gov
Wednesday, 2/15/23*	City will release FAQ #4



Friday, 2/17/23 by 4:00 pm	Application Due Date through City’s website application portal at http://www.citydataservices.net
Through 3/24/23*	Application Review and Scoring
Week of 3/27/23*	Funding Award Announcements
April 2023*	City Funding Award Commitment Letters to be Issued
<i>*Tentative dates; subject to change pending number of questions, application submittals and City’s review of application submittals.</i>	

IV. Application Submission Process

A. Virtual Pre-Bidders’ Conference

Applicants are strongly encouraged to attend a pre-bidders’ conference via Zoom video conference on **Wednesday, January 4, 2023 from 11:00 am to 1:00 pm**. City Housing staff will present an overview of the ACAH NOFA and be available for questions. Planning staff will explain the pre-application planning and building review process and CEQA/NEPA requirements and review process. Contracts and Compliance staff will review the City's required employment and contracting programs. City Data Services (CDS) (the City’s 3rd party application management company that provides housing, community development and human services database management to cities and counties) will provide training on using the City’s online application portal and will review the online application process.

Topic: ACAH NOFA Bidders' Meeting

Time: Jan 4, 2023 11:00 AM Pacific Time (US and Canada)

Join Zoom Meeting

<https://us02web.zoom.us/j/86538855524>

Meeting ID: 865 3885 5524

One tap mobile

+16694449171,,86538855524# US

+16699009128,,86538855524# US (San Jose)

Dial by your location

+1 669 444 9171 US

+1 669 900 9128 US (San Jose)

+1 253 205 0468 US



- +1 253 215 8782 US (Tacoma)
- +1 346 248 7799 US (Houston)
- +1 719 359 4580 US
- +1 301 715 8592 US (Washington DC)
- +1 305 224 1968 US
- +1 309 205 3325 US
- +1 312 626 6799 US (Chicago)
- +1 360 209 5623 US
- +1 386 347 5053 US
- +1 507 473 4847 US
- +1 564 217 2000 US
- +1 646 558 8656 US (New York)
- +1 646 931 3860 US
- +1 689 278 1000 US

Meeting ID: 865 3885 5524

Find your local number: <https://us02web.zoom.us/j/86538855524>

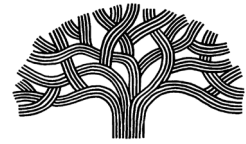
B. On-Line Application Requirement

Paper applications will not be accepted. Applicants will apply directly through the City’s online application portal through City Data Services. CDS will provide a training on the electronic application as part of the Virtual Pre-Bidders’ Conference held on Wednesday, January 4, 2023 from 11:00 am to 1:00 pm. All materials pertaining to this NOFA may be downloaded from the City’s website at www.oaklandca.gov/resources/2022-acquisition-conversion-preservation-nofa including the NOFA and all Exhibits, City forms to be completed, the Certifications, and the Excel-based ACAH Financial Model.

Applicants must complete the online application and submit it by no later than 4:00 pm on Friday, February 17, 2023 through this link: <http://www.citydataservices.net>. Late applications will not be considered. Applications that are deemed substantially incomplete may be rejected. Applicants are encouraged to submit applications in advance of the deadline to avoid technical issues. The CDS electronic application will be “live” no later than the date of the Virtual Pre-Bidders' Conference. Applicants can begin to enter information in the electronic application at this time.

Log-In Instructions:

New CDS users – New users who do not have CDS login credentials for City of Oakland projects must visit <https://citydataservices.net/> and use **OAK2023** as both the username and password,



then fill out a short form that will create a unique user account and login credentials need to submit an application. There will be a button to start the application.

Existing CDS users – Visit <https://citydataservices.net/> and use your current username and password to submit an application. There will be a button to start the application.

Technical Questions:

Please direct CDS technical questions by email to citydataservices@yahoo.com or by phone to (650) 533-5933.

C. Application Organization and City Required Forms

The ACAH application submittal requirements are described in **Exhibit C** to this NOFA. Applicant is required to provide information directly into the CDS online application. In addition, Applicant will upload supplemental documentation to the CDS application as listed in Exhibit D, and Applicant must complete the City-provided forms also found as **Attachments to Exhibit C**. This includes a Self-Scoring Worksheet, Certification Forms, Developer Experience Worksheet, Developer Capacity Worksheet, Project Schedule, Excel-based ACAH Financial Proforma worksheets, Required City Certifications and disclosure of campaign contributions form, and the City’s Combined Contract Compliance Schedules.

D. Revisions to RFP

If it comes necessary to modify any aspect of this NOFA, HCDD will provide an addendum to each organization that attended the Pre-Bidders’ Conference and will post the addendum to the City’s website at www.oaklandca.gov/resources/2022-acquisition-conversion-preservation-nofa.

E. Public Records

Applications become public records. Applicants should understand that, under the California Public Records Act, all documents that are submitted in response to this NOFA are considered part of the public record and will be made available to the public, upon request, following the application deadline. Applications in whole or in part, are NOT to be marked confidential or proprietary.

F. Reservation of Rights

The City reserves the right to suspend, amend, or modify the provisions of this NOFA, to reject applications, to negotiate modifications of applications, or to award less than the full amount of funding available. The City reserves the right to require additional information for the project, as deemed necessary, throughout the review or closing process. The City of Oakland is an Equal Opportunity Housing Provider and an Accessible Housing Provider.



G. Multiple Applications

New ACAH Projects: Developers seeking ACAH funding for new projects that have not previously received ACAH funding may submit a maximum of two (2) applications through the Permanent Affordability Program for Community Land Trusts/Limited Equity Housing Cooperatives or a maximum of two (2) applications through the All-Developer Pool, as applicable. If developer is partnering with an Emerging Developer, one (1) additional application may be submitted.

Existing ACAH Projects: Developers seeking additional ACAH funding for a project previously awarded ACAH funds may submit a maximum of two (2) applications through the Permanent Affordability Program for Community Land Trusts/Limited Equity Housing Cooperatives or a maximum of two (2) applications through the All-Developer Pool, as applicable. If developer is partnering with an Emerging Developer, one (1) additional application may be submitted. The existing funding commitment and new ACAH funding requests in total may not exceed the per unit maximum subsidy limits for ACAH as outlined in the ACAH Term Sheet for the applicable ACAH subprogram.

Applicants may submit applications for both new ACAH projects and existing ACAH projects. The maximum number of applications that may be submitted is six (6): up to three (3) applications for new ACAH projects (if at least one is a joint application with an Emerging Developer) and up to three (3) applications for existing ACAH projects (if at least one is a joint application with an Emerging Developer).

Applicants with multiple applications must state their preferences for funding priority in their application cover letter. A project may consist of one building or scattered sites, but the applicant must intend to manage the properties as one project with one property manager. Note that the City is prioritizing funding for existing ACAH projects. If funds remain after awarding commitments to existing ACAH projects, then staff will review and score the new ACAH projects.

H. Frequently Asked Questions and General Contact Information

HCDD will prepare responses to questions submitted in writing by email through a Frequently Asked Questions (FAQ) document. FAQs will be emailed to all participants of the Pre-Bidders' Conference and posted to the City's website at www.oaklandca.gov/resources/2022-acquisition-conversion-preservation-nofa. Please send questions under the deadlines shown below to Meghan Horl at mhorl@oaklandca.gov and include "2022 ACAH NOFA" in the title. FAQs will be issued on an as-needed basis.



Date	Event
Wednesday, 1/11/23*	City will release FAQ #1 based on questions raised at the Pre-Bidders' Conference
Friday, 1/13/23 by 4:00 pm	Deadline to submit questions for FAQ #2 to mhorl@oaklandca.gov
Friday, 1/20/23*	City will release FAQ #2
Friday, 1/27/23 by 4:00 pm	Deadline to submit questions for FAQ #3 to mhorl@oaklandca.gov
Friday, 2/3/23*	City will release FAQ #3
Friday, 2/10/23 by 4:00 pm	Deadline to submit questions for FAQ #4 to mhorl@oaklandca.gov
Wednesday, 2/15/23*	City will release FAQ #4
<i>*Tentative dates; subject to change pending number of questions, application submittals and City's review of application submittals.</i>	

V. Review and Funding Process

Applications are due **no later than 4:00 pm on Friday, February 17, 2023**. All applications submitted after that deadline will not be considered for funding. Applications that are deemed substantially incomplete may be rejected.

Applications will be reviewed by HCDD staff and assessed for completeness, project feasibility and developer capacity. If the application is not complete, additional information may be requested from the applicant. Applications will be evaluated, rated and ranked based on the scoring criteria found in **Exhibit A** to this NOFA. Please note that developers with existing ACAH funding awards must still submit a completed new application, with the exception of certain items that are not required for re-submittal and which are noted in **Exhibit C** to this NOFA.

HCDD anticipates making award announcements to all applicants in late March/Early April 2023 via email. If a project is recommended for ACAH funding approval, a commitment letter will be prepared and sent to the applicant for acceptance. After an applicant's written acceptance of the funding commitment, funds will be reserved for a period of eighteen (18) months from the date of the commitment letter, subject to extension at the discretion of the Director of the Housing and Community Development Department.



A complete list of documentation required to be uploaded prior to loan closing, should a project be awarded funding, may be found in **Exhibit D** to this NOFA.

Section VIII below describes ACAH Loan Terms, City Contract Compliance Requirements, and Insurance Requirements.

The ACAH Program is administered by the City of Oakland Housing Development Services unit within HCDD. All questions concerning this NOFA should be directed to Meghan Horl, Housing Development Coordinator, by email to mhorl@oaklandca.gov.

The following two sections provide an overview of the ACAH Program Guidelines and the NSP Guidelines. Projects must meet these Program Guidelines in order to be considered for funding through the ACAH and/or NSP1 program funding, as applicable. The guidelines are summarized in the **ACAH Term Sheet: CLT/LEHC Subprogram**, provided in **Exhibit B** to this NOFA.

VI. ACAH Program Guidelines – All-Developer Pool

A. Eligible Projects

- Acquisition only or Acquisition/Rehabilitation of unsubsidized buildings of any size. Rehabilitation-only projects are not eligible.
- Project tenure may be affordable rental, affordable homeownership, or affordable rental-to-homeownership (lease to own).
- Project type may be permanent affordable (multifamily, senior, etc.) or permanent supportive housing. *Transitional housing is not eligible.*
- Projects may be occupied or vacant. Projects may include the conversion of existing space or structures on the property to an Accessory Dwelling Unit (ADU), such as the conversion of a room or rooms in the home, conversion of existing space within the home like an attic or basement, conversion of an attached garage space, or conversion of an existing detached accessory structure to an ADU, such as an existing backyard cottage or detached garage. *New construction of an attached or detached ADU is not eligible.*
- Projects that have previously received a funding commitment through the Acquisition and Conversion to Affordable Housing (ACAH) NOFA dated December 6, 2019, the Measure KK 1-4 Unit Acquisition and Rehabilitation Program, which started accepting applications on January 7, 2019, or the Acquisition and Conversion to Affordable Housing (ACAH) NOFA dated December 17, 2020, are eligible for additional funds through this NOFA, which, in the aggregate, may not exceed the **Maximum City Subsidy** described in **Section VI.B.**



B. Maximum City Subsidy

- \$400,000 per unit for buildings with 1-4 units
- \$375,000 per unit for buildings with 5-9 units
- \$300,000 per unit for buildings with 10–25 units
- \$7.5 million project maximum

C. Income Requirements

- Rental Units
 - Maximum tenant incomes at or below 80% of Area Median Income (AMI)
 - If the average income of existing tenants is greater than eighty percent (80%) of AMI upon acquisition, then vacancies are required to be filled with households with incomes at or below sixty percent (60%) of AMI, with rents no higher than thirty percent (30%) of sixty percent (60%) of AMI, until the average household income for the project reaches eighty percent (80%) of AMI.
- Homeownership Units
 - Units must be sold to households at or below 80% of AMI; households are qualified at initial tenancy in lease-to-own projects
- All existing tenants may stay in their home regardless of income. Permanent relocation of tenants is not allowed in the ACAH Program.
- The City of Oakland Income and Rent Limits for 2022 may be found in **Exhibit E** to this NOFA and on the City's website <https://www.oaklandca.gov/resources/rent-and-income-limits-for-affordable-housing>.

D. Maximum Affordable Housing Costs

- Rental Projects:
 - 30% of 30% of AMI for extremely low-income units (households at or less than 30% AMI); 30% of 50% of AMI for very low-income units (households at or less than 50% AMI); and 30% of 60% of AMI for low-income units (households at or less than 80% AMI)
 - For households with incomes between 60-80% of AMI, City's rent standard allows rents based on 30% of the household's actual income
- Homeownership Projects:
 - For low-income households (households at or less than 80% AMI) - 30% of 70% of AMI. The City's requirements for maximum affordable housing costs and sales prices are found in **Exhibit F** to this NOFA.

NOTE: Applicant understands that properties acquired through funding awarded by the City through this NOFA may already be occupied by existing tenant households. Owners



who are awarded funds through this NOFA will be required to enter into a regulatory agreement with the City that stipulates the terms and conditions of the City’s loan, including the following provision: Existing tenant households shall remain subject to the terms of their existing lease agreement, and the provisions of the City’s Rent Adjustment Program Ordinance, if applicable, unless or until they choose to opt in to the affordable housing program covered by the City’s deed restriction. The City will provide Owners with a template notice to be completed and distributed to tenants that provides a comparison of policies and rent regulations under their existing lease and the affordable housing program. The purpose of this notice is to enable existing tenant households to make an informed choice about whether or not to opt into the affordable housing program. Existing tenant households shall not be compelled or required by Owners to opt into the program if they do not wish to participate. Owners are strongly encouraged to perform outreach and due diligence to existing tenant households to build rapport and gauge tenant support for the affordable housing program.

E. Eligible Uses of ACAH Funds

Generally, most costs associated with acquisition and rehabilitation are eligible uses of ACAH program funds, including the following:

- Pre-acquisition due diligence costs
- Option fees, to be repaid no later than the date of the purchase of the property
- Purchase Costs
- Holding costs associated with the property such as taxes, insurance, and debt service
- Due diligence reports, including environmental assessments, construction estimates, and property inspections
- Legal costs
- Architectural and engineering expenses
- Appraisals
- Gap financing costs
- Construction costs associated with rehabilitation – rehabilitation must address and prioritize health and safety hazards, accessibility, and structural rehabilitation needs – See Term Sheet in **Exhibit B** for additional detail.
- Temporary relocation (up to 60 days maximum)
- Developer Fee, subject to the requirements described below in **Section VI.J**
- Other costs associated with acquisition and rehabilitation of the site, as approved by the City at its sole discretion.

F. Ineligible Use of Funds

Ineligible uses of funds include costs associated with the following:



- New construction
- Mortgage assistance to individual homebuyers
- Rental operating subsidies
- Service provision
- Capitalized operating reserves
- Furnishings
- Permanent tenant relocation

G. Eligible Borrowers

- This NOFA Subprogram is for all affordable housing developers that meet the developer experience requirements described in Section VI.H. An applicant that does not meet the developer qualifications must joint-venture with an organization that does meet the developer experience requirements.
- Applicants must meet the **Developer Experience Requirements** described in **Section VI.H.**

H. Developer Experience Requirements

- Development entity must have acquired or rehabilitated at least one (1) residential development project of similar size and scope.
- If rehabilitation is proposed, development entity must have completed at least one (1) rehabilitation project.
- Project Manager assigned to project must have experience with at least one (1) comparable, successfully completed project, or be assisted by consultant or other staff with experience with at least three (3) comparable, successfully completed projects.
- Construction/Rehabilitation Management experience must be demonstrated either through internal staffing or 3rd party consultation.
- Alternative experience may be proposed subject to City staff review and approval.

I. Emerging Developers Program

- Applicant is considered an “emerging developer” by meeting the following criteria: applicant has less than five (5) years of experience as a developer and/or five (5) or fewer acquisition, rehabilitation or new construction projects completed in the last 10 years. Emerging Developers qualify for priority points in the ACAH NOFA.
- An applicant that does not meet the NOFA Developer Experience Requirements may be considered for ACAH funding if they meet one of the following requirements, subject to City review and approval:
 - Entering a joint venture agreement or memorandum of understanding with an organization that does meet the Developer Experience criteria (MOU is



acceptable at time of application; joint venture agreement is required prior to loan closing);

- Entering a contractual agreement with an experienced housing development consultant with experience with at least three (3) acquisition or rehabilitation residential projects for the predevelopment and rehabilitation phases; or
 - Providing to City an actionable and budgeted staffing plan demonstrating that qualified staffing will be added to the developer's organization during the predevelopment and rehabilitation phases.
- See **Exhibit C** for detail on application submittal requirements.

J. Maximum Developer Fee

- The maximum allowable developer fee is \$80,000 plus \$10,000 per unit, up to a maximum of 5% of total development costs (excluding the developer fee).
- Applicant may request all or a portion of the developer fee at their discretion. It is not a requirement.
- Please note that the developer fee is expected to include any funds disbursed to the Borrower for costs including, but not necessarily limited to, the following: project administration costs; payment of fees for net worth guarantees or operating deficit guarantees; staff costs including the cost of development consultants performing work that borrower would normally perform (unless developer is an emerging developer as noted below), but not including consultants for construction management, historic preservation, environmental, or project syndication; marketing/lease up supervision fees; and overhead and profit.
- Developer may include third-party project management consultant costs as an eligible cost (outside of the developer fee) if they are an Emerging Developer only.
- Third-party construction management consultants are an eligible cost (outside of the developer fee) for all developer types, up to \$30,000 per project. Developer is expected to share construction monitoring reports with City and to negotiate the most competitive fee possible.

VII. Neighborhood Stabilization Program Requirements

A. Background

The federal Neighborhood Stabilization Program (NSP) was created to respond to the 2007-2008 foreclosure crisis in the United States. The first round of NSP funding (NSP1) was created under Title III of Division B of the Housing and Economic Recovery Act of 2008 (Emergency Assistance for the Redevelopment of Abandoned and Foreclosed Homes) and funds were provided to the



City of Oakland from NSP1 at that time through the U.S. Department of Housing and Urban Development (HUD). NSP funds were originally intended to acquire and rehabilitate foreclosed residential properties for the purpose of establishing permanently affordable rental or homeownership for lower income households. The City has a remaining balance of approximately \$295,900 in NSP1 funds. In June 2021, the Oakland City Council authorized the reprogramming of these funds to the ACAH Program for the purpose of converting market-rate units into restricted affordable housing to protect low-income tenants at-risk of displacement. The funds must be utilized to acquire and rehabilitation properties in the City's Community Development Block Grant (CDBG) Community Development Districts. A map showing these districts may be found in **Exhibit G** to this NOFA. Projects awarded NSP1 funds will enter into a set of loan documents which contain NSP1 terms and any other requirements of this federal funding source. If projects are awarded a combination of NSP1 and ACAH funding, the requirements of both sources may be combined into one set of loan documents, at the City's discretion.

B. Oakland NSP1 Priorities through this NOFA

Through this NOFA, the City has established the following priorities for the NSP1 funding:

- Project must demonstrate that it will be able to meet NSP and other federal program requirements.
- Project will provide affordable rental or homeownership opportunities for households with incomes at or less than 80% AMI.
- Project may involve rehabilitation and can include scattered site units.
- Funding may be supplemented with ACAH funding, up to the maximum per unit subsidies outlined in **Section VI.B**.

C. NSP Requirements

Projects will only be considered for the allocation of the remaining City of Oakland NSP1 funds if the project proposal meets NSP requirements. Key provisions are outlined below, but applicants are encouraged to visit the HUD website to learn more about the NSP program at <https://www.hudexchange.info/programs/nsp/> and at https://www.hud.gov/program_offices/comm_planning/nsp/faqs.

Income Restrictions

Households proposed to be served have incomes equal to or less than 80% of the Area Median Income (AMI), pursuant to the 2022 City of Oakland annual income limits:



	One Person	Two Person	Three Person	Four Person	Five Person	Six Person	Seven Person	Eight Person
80% of AMI	\$76,750	\$87,700	\$98,650	\$109,600	\$118,400	\$127,150	\$135,950	\$144,700

Homeownership Requirements

Homebuyers assisted through NSP must demonstrate income eligibility, agree to occupy the residence as their principal residency, demonstrate ability to pay the mortgage and maintain the home, and complete 8 hours of housing counseling by a HUD-certified counseling agency. Homebuyers do not need to be first-time homebuyers.

Rental Housing Development

If the NSP funds are allocated to an affordable rental project, the NSP program utilizes the HOME Program rental requirements at 24 CFR Part 92.252(a), requiring that rents are the lesser of (a) fair market rents established by HUD or (b) a rent that does not exceed 30% of 65% AMI with adjustments for the number of bedrooms in the unit.

D. Environmental Review Requirements

NEPA: If the proposed project is financed with NSP1 funds, the project must also be assessed in accordance with the National Environmental Policy Act of 1960 (NEPA) prior to loan closing. NEPA review should be completed after project approval but coordinated with the CEQA review to the extent possible. Projects must receive funding or have conditional awards for funding prior to submittal of a NEPA application.

Choice-Limiting Actions Prohibited During NEPA Review. Applicants seeking an award of NSP1 funds 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 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 except for option agreements or conditional sales contracts that meet the requirements of 24 CFR 58.22. NSP1 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.

For additional information, see HUD Exchange FAQ:

<https://www.hudexchange.info/faqs/programs/neighborhood-stabilization-program-nsp/environmental-review/what-nsp-activities-are-non-choice-limiting-and-therefore-do-not-need-an/>

For additional information, see 24 CFR 58.22: <https://www.ecfr.gov/current/title-24/subtitle-A/part-58/subpart-C/section-58.22>

Applicants must sign a certification that they understand this restriction and the NSP requirements (see Required City Certifications on the City’s website link to the NOFA). 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 HCDD 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.

If awarded NSP funds, applicants may be required to hire a NEPA consultant to work with City Planning staff to complete a NEPA review.

E. Other Federal Cross Cutting Requirements

If the applicant is awarded NSP1 funds, they will be required to comply with other applicable federal statutes and laws, which may include, but are not limited to:

- Section 3 of the U.S. Housing Act of 1968, as amended, applies to rehabilitation activities
- 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 Davis-Bacon prevailing wage requirements (Please note that projects will be required to meet the higher of Federal or State prevailing wage requirements).

F. Disabled Accessibility

Projects assisted by the City must meet the requirements of the Americans with Disabilities Act (ADA) 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 24 CFR 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 NSP1, five percent (5%) of the total number of units must be accessible to people with physical disabilities, and an additional two percent (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.

VIII. ACAH Loan Terms, City Contracting, and Insurance Requirements

A. Loan Terms

- Loans carry a simple interest rate of three percent (3%) per annum and a loan term of fifty-five (55) years.
- A loan origination fee equal to one percent (1%) of the loan amount will be charged for all loans.
- Affordability agreements or regulatory agreements will be recorded on the property at the time the loan is closed and will restrict the property to low-income occupants at certain income limits for a period of at least fifty-five (55) years, regardless of whether the loan is repaid.
 - If the average income of existing tenants is greater than eighty percent (80%) of AMI, units that become available for rent after the date of the loan must be restricted to serve households or individuals with incomes at or below sixty percent (60%) of AMI, with rents no higher than thirty percent (30%) of sixty percent (60%) of AMI, until the average household income for the project reaches eighty percent (80%) of AMI.

B. Loan Disbursement

Loan funds will be disbursed upon receipt of satisfactory documentation that will be described in City loan documents. Borrowers should consult with the City HCDD staff about requirements for submitting payment requests.

C. Loan Documentation and Security

Each loan shall be documented by a loan agreement, promissory note, and recorded regulatory agreement or affordability agreement, as applicable. Loan documents will be drafted and reviewed by City staff and the City Attorney's Office, and reviewed by the applicant, with final approved form by the City. The City may require a completion guaranty in connection with the



loan. Each loan will be secured in a manner that adequately protects the interest of the City. Security may include, but is not limited to, a deed of trust or other lien on the property. The City may agree to subordinate its deed of trust, if it becomes necessary to do so for project feasibility. The City will not subordinate its regulatory agreement or affordability agreement to private lenders.

D. Loan Termination

Loan commitments or agreements may be reduced or terminated by the City if staff determines that:

- One or more conditions of the commitment, agreement, due diligence items or disbursement terms have not been, or will not be, met;
- The borrower has violated program guidelines;
- Anticipated project financing sources are not awarded, and no alternative financing plan acceptable to the City is presented; or
- Acquisition and rehabilitation expenses are less than projected. In this case, the amount of the loan will be reduced to an amount required to meet actual expenses.

E. Contract Compliance – Employment Programs and Requirements

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

Acquisition/Rehabilitation Projects:

- **Applies to rehabilitation work valued at 2k and higher**
 - o Payment of prevailing wages (state or federal, as applicable)
 - o Electronic Certified Payroll Submittals
- **Applies to rehabilitation work valued at 25k and higher**
 - o *The above requirements, plus:*
 - o City of Oakland Equal Benefits Ordinance
- **Applies to rehabilitation work valued at 50k and higher**
 - o *The above requirements, plus:*
 - o 50% City Local Employment Program
 - o 15% City Apprenticeship Program
- **Applies to rehabilitation work valued at 100k and higher:**
 - o *The above requirements, plus:*
 - o 50% City Local and Small Local for Profit and Not for Profit Business Enterprise Program (L/SLBE)
- City of Oakland Living Wage Ordinance – as per ordinance requirements



Acquisition-Only Projects:

- L/SLBE Program, Local Employment Program, Living Wage Ordinance, and Equal Benefits Ordinance apply at amounts specified above.

More information can be found at the City of Oakland’s website at <https://www.oaklandca.gov/departments/workplace-employment-standards>.

Applicants are strongly encouraged to meet with staff of the City’s Department of Workplace and Employment Standards (DWES) before the application deadline to ensure a complete understanding of the City of Oakland Employment and Contracting program requirements and the various ways the project may meet the requirements. If a project receives a loan commitment and rehabilitation is part of the project, **developers and their contractors are required to meet with DWES staff before the loan closes**. Please contact Shelley Darensburg (sdarensburg@oaklandca.gov) or Vivian Inman (vinman@oaklandca.gov) at the City of Oakland Department of Department of Workplace and Employment Standards (DWES) for more information.

F. City Insurance Requirements

Prior to loan closing, the Borrower will be required to submit evidence of insurance coverages that meet the City’s requirements then in effect and as required for the proposed project. The City’s current minimum insurance requirements are found in **Exhibit H** to this NOFA.

[ALL EXHIBITS TO THE ACAH NOFA ARE LISTED BELOW AND AVAILABLE ON-LINE AT CITY’S WEBSITE AT www.oaklandca.gov/resources/2022-acquisition-conversion-preservation-nofa]

LIST OF EXHIBITS:

- EXHIBIT A: ACAH NOFA SCORING CRITERIA - ALL DEVELOPER POOL
- EXHIBIT B: ACAH TERM SHEET – ALL DEVELOPER POOL
- EXHIBIT C: APPLICATION ORGANIZATION AND REQUIREMENTS
- EXHIBIT D: DOCUMENTATION REQUIRED BEFORE LOAN CLOSING
- EXHIBIT E: CITY OF OAKLAND INCOME AND RENT LIMITS, 2022
- EXHIBIT F: MAXIMUM AFFORDABLE HOUSING COST AND SALES PRICES
- EXHIBIT G: NSP1 ELIGIBLE AREAS MAP
- EXHIBIT H: CITY OF OAKLAND INSURANCE REQUIREMENTS