



City of Oakland
Housing and Community Development Department

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April 30, 2020

Notice of Funding Availability
for New Construction of Multifamily Affordable
Housing

New Construction of Multifamily Affordable Housing

2020 Pipeline NOFA

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NOFA Addenda (See Separate Table of Contents)

#1: Minimum Developer Qualifications

#2: Affordable Homeownership Development Program

#3: Guidelines for Developer Fees on Housing Development Projects

#4: Affirmative Fair Marketing Procedures

#5: Income, Rent and Housing Payments Limits

#6: Census Tracts with Poverty Rates Below City Average

#7: Census Tracts with Homeownership Rates Below City Average

#8: *Everyone Home Property Management Guidelines*

#9: *Insurance Requirements*

#10: *Oakland Displacee, Neighborhood Resident, Oakland Resident and Oakland Worker Preference Regulation for Multifamily Affordable Housing*

NOFA Application Instructions (See Separate Table of Contents)

City of Oakland
New Construction of Multifamily Affordable Housing Program
April 30, 2020

NOTICE OF FUNDING AVAILABILITY

(PIPELINE PROJECTS ONLY)

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

To encourage developers to apply for the total amount of local gap funding needed from the City of Oakland, the city will be awarding funds available for the current budget cycle (2020-2021). A minimum of \$4,350,000 is available in local affordable housing funds which may include *Affordable Housing Trust Funds, HOME Funds, Low & Moderate Income Housing Funds, & Redevelopment Agency Bond Funds*.

Please Note: The 2020 Pipeline NOFA for new construction will be restricted to the following projects that applied for funding in the 2019-2020 New Construction of Multifamily Affordable Housing NOFA and did not receive an award of funds during that NOFA cycle:

- Friendship Senior Housing
- Fruitvale Transit Village IIB
- 3050 International Boulevard
- MacArthur Project
- The Phoenix
- Dr. Kenneth Anderson Senior Housing
- Agnes Memorial Senior Housing
- Filbert Promise

The City is not accepting new proposals for new construction projects at this time. Applicants are required to submit a complete application, which is described in detail in the “Application Form and Instructions for Housing Development Financing” document that accompanies the NOFA.

A complete application will include sections of the application that remain exactly as they were when presented in the application submitted pursuant to the NOFA dated August 9, 2019. Please notate those sections that remain exactly as they were on the Housing Development Financing Application Checklist where indicated.

Applicants are advised that projects should be structured to be eligible for HOME funding in case HOME funds are awarded. Applicants should request the **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 the NOFA will be ranked based on scoring criteria described in the NOFA. Staff will request 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. Oakland 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, homeownership, 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 2020 Pipeline NOFA for New Construction of Multifamily Affordable Housing process:

- Readiness of new affordable rental & ownership housing developments to commence construction
- Assistance for housing projects targeting people experiencing homelessness and extremely low-income households including Permanent Supportive Housing projects

NOFA PROCESS AND TIMELINE

Applications must be received no later than 4:00 p.m. on Thursday, May 28, 2020.

FOR THIS APPLICATION ROUND, ALL APPLICATIONS MUST BE SUBMITTED VIA THUMBDRIVE AND HAND DELIVERED TO 250 FRANK OGAWA PLAZA GROUND FLOOR LOBBY, BETWEEN THE HOURS OF 1:00 AND 4:00 PM.

Applications submitted after this deadline will not be accepted.

Should alternative submission arrangements be requested, please contact Christia Katz Mulvey at cmulvey@oaklandca.gov no later than May 22, 2020 at 4:00 p.m.

Applicants are strongly encouraged to attend the NOFA pre-application meeting to be held as a video conference on May 7, 2020 at 10:00 a.m. TO PARTICIPATE, PLEASE EMAIL HARMAN GREWAL AT hgrewal@oaklandca.gov TO RECEIVE A ZOOM LINK FOR THIS MEETING.

Planning staff will explain CEQA and 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.

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 Housing and Community Development website regularly for any updates, corrections, or posted questions and answers regarding this NOFA at: <https://www.oaklandca.gov/documents/2020-pipeline-new-construction-of-multifamily-affordable-housing-nofa>

Applicants must submit:

- All application materials loaded on to a thumb drive
- The Checklist should be used as the Table of Contents for the application.
- City forms/templates may be downloaded from the City's website at <https://www.oaklandca.gov/documents/2020-pipeline-new-construction-of-multifamily-affordable-housing-nofa>
- Please submit an original signed Certifications Form (Checklist Item #20 and is located beginning on Page 41 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/2020-pipeline-nofa-exhibit-19-certification-and-campaign-contribution-limit-acknowledgement>
- **Applications that are deemed substantially incomplete may be rejected.**

Once the staff review is completed, a staff 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 July 2020; however while staff's intent is to go to the City Council with funding recommendations prior to their August recess, please note that current closures and meeting cancellations due to the COVID-19 pandemic make it difficult at this time to have a firm timeline for funding approvals.

Once a loan is approved and the developer has secured its remaining gap funding sources, staff will draft loan documents for review by the developer and the City Attorney. 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

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.

NOFA Pre-Application Meeting: Applicants are strongly encouraged to attend a NOFA pre-application meeting to be held via video conference on May 7, 2020 at 10:00 a.m. TO PARTICIPATE, PLEASE EMAIL HARMAN GREWAL AT hgrewal@oaklandca.gov TO RECEIVE A ZOOM LINK FOR THIS MEETING.

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 California Environmental Quality Act (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 prior to the City Council's August recess, although please note that current closures and meeting cancelations due to the Covid-19 pandemic make it difficult at this time to have a firm timeline for funding approvals. Please note that CEQA determination must be completed by the time staff is prepared to present a recommendation to Council as to what projects should receive funding.

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, under the California Public Records Act and the City's Sunshine Ordinance, all documents submitted in response to this NOFA are considered public records and will be made available to the public upon request following the application deadline.

The City reserves the right to suspend, amend or modify the provisions of this NOFA, to reject all proposals, to negotiate modifications of proposals, or to award less than the full amount of funding available.

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. Projects scoring less than 50% of possible points are unlikely to be awarded funding. **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>Owner</i>	<i>Self Score</i>
I. Readiness	43 pts	43 pts	
A. Leveraging	8	8	
B. Funding Commitments	15	15	
C. Discretionary Land Use Approvals	20	20	
II. Location	25 pts	25 pts	
A. Geographic Equity	5	5	
B. Educational Quality	5	5	
C. Neighborhood Revitalization	5	5	
D. Proximity to Public Transit	5	5	
E. Proximity to Grocery or Drug Store	5	5	
III. Target Population and Project Attributes	30 pts	19 pts	
A. Income Targeting	10	10	
B. Unit Size	5	9	
C. Units for People with Special Needs	5	N/A	
D. New Permanent Supportive Housing Units for Homeless Individuals and Families	10	N/A	
IV. Developer Experience and Capacity	33 pts	32 pts	
A. Developer Experience Exceeds Minimum	10	10	
B. Developer Capacity	8	8	
C. Developer Financial Strength	6	6	
D. Strength of the Development Team	3	2	
E. Bonus Point Category	6	6	
V. Sustainability	10 pts	10 pts	
VI. Penalty for Nonperforming Previously Funded Projects	-10 pts	-10 pts	
Total Possible Points	141	129	

DISCUSSION – SCORING CRITERIA

I. **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 each commitment of long-term operating subsidy (e.g. Project-Based Section 8 vouchers).

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 will be eligible for up to 5 points.

II. Location (25 points)

A. Geographic Equity (5 points)

Rental Projects:

- 5 points will be awarded for rental projects located in census tracts with poverty rates below the City average (18.7%), as shown in Addendum *Census Tracts with Poverty Rates Below the City Average*.

Ownership Projects:

- 5 points will be awarded for ownership projects located in census tracts with homeownership rates below the City average (40.7%), as shown in Addendum *Census Tracts with Homeownership Rates Below the City Average*.

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 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 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 to identify which elementary school boundary the project is in <https://oaklandfinder.schoolmint.net/school-finder/home> and provide this information on the application form.
- Use the Oakland Unified School District’s Dashboard Guide for School Report Cards at: <http://www.ousddata.org/oakland-public-school-report-cards.html> to determine the Academic Status Tier of the school.

C. Neighborhood Revitalization (5 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.
 - a. Are consistent with an existing or in-progress neighborhood-specific revitalization plan such as Oakland Sustainable Neighborhoods Initiative (OSNI) and San Pablo Avenue Revitalization Coalition (SPARC) which was developed with community participation (other than a Redevelopment Plan);
 - b. Contribute 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 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 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) or drug store will score full points.
- A project location within 1 mile will score 1 point.

III. Target Population (30 points rental, 19 points ownership)

A. Income Targeting: (10 points rental, 10 points ownership)

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.

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

Ownership Projects: Points are awarded for ownership projects providing units for households earning less than 80% of AMI (all projects are required to have an average affordability level of 100% of AMI).

- One point awarded for each one full percentage point of units with affordable sales prices based on an annual housing payment of 30% of 70% of AMI (targeted to households up to 80% of AMI).
- B. Unit Size: Number of larger units (5 points rental, 9 points ownership)
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, rental projects only)
- 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, rental projects only)
- 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, 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 experience managing supportive housing units in at least two projects of no fewer than ten units each.
- The owner/property manager must agree to incorporate the *EveryOne Home Property Management Guidelines* into the Management and Marketing Plans for the property only for projects with homeless units (see Addendum #8, *EveryOne HOME Property Management Guidelines*).
- Developer must agree to follow the State of California’s housing first principles, Welfare and Institutions Code (WIC), Division 8, Miscellaneous [8255 (d)(1) and (2)(A) and (B)]:

https://leginfo.ca.gov/faces/codes_displayText.xhtml?lawCode=WIC&division=8.&title=&part=&chapter=6.5.&article=

IV. Developer Experience and Capacity (33 points rental, 32 points ownership)
Applicants should refer to the Addendum *Minimum Developer Qualifications* for minimum requirements to qualify for funding.

A. Developer Experience Exceeds Minimum (10 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).
- If the developer is a joint venture, projects will be scored based on the experience of the lead developer. Where partners have approximately equal participation, the individual scores of each partner will be averaged.

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 rental, 2 points ownership)

- 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 6 points)

- 2 points will be awarded if within a joint venture partnership, the less experienced partner is allowed first right of refusal to purchase the land and/or building after the 15-year tax credit compliance period;
- 2 points will be awarded 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;
- 2 points will be awarded for committing ground floor commercial space at below market rates to non-profit organizations and arts & cultural users.
- 2 points will be awarded where more than 50% of the project is set aside for live-work units for artists.

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.

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 haven't been cured within a reasonable time period as determined by the City.

PROGRAM DESCRIPTION AND UNDERWRITING REQUIREMENTS

The City of Oakland (the City) 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) 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 or ownership 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.
- The 2020 Pipeline NOFA is restricted to projects that applied for funding under the 2019-2020 New Construction of Multifamily Affordable Housing NOFA and did not receive an award of funds. The City will not accept new proposals for new construction.

ELIGIBLE & INELIGIBLE PROJECTS, ACTIVITIES, AND COSTS

- New construction of rental or ownership 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

- New project proposals for new construction not considered a pipeline project (*until further notice*)
- Public housing modernization or operations
- 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*)
- 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.
- Capitalized replacement reserve

AFFORDABILITY TARGETING

See Addendum, *Income, Rent and Housing Payment Limits* for current rent and income levels. Maximum rents must be adjusted downward by an allowance for tenant-paid utilities in accordance with the HUD Utility Schedule Model where instructions may be found at www.huduser.org/portal/resources/utilallowance.html.

The Area Median Income (AMI) range for household income can be higher than the rent or sales price 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 units **funded** with City of Oakland loan funds must be restricted as affordable at or below 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 very low income households earning less than 30% of AMI.
- ♦ No more than fifteen (15%) of the affordable units can have annual rents plus utility allowance between 30% of 80% of AMI and 30% of 120% of AMI (Moderate-Income Units).

HOME Restricted Units

- ♦ One hundred percent (100%) 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”).
- ♦ 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”).

City Funding in Combination with Alameda County A1 bond funds

Projects that applied for Alameda County A1 bond funds must comply with affordability targets established by Alameda County. See <http://www.acgov.org/cda/hcd/bond.htm>

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 the 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.

MINIMUM AFFORDABILITY - OWNERSHIP PROJECTS

- ♦ One hundred percent 100% of units **funded** must be restricted as affordable.
- ♦ The affordable units must have an average affordability level of 100% of AMI or less. For example, in a 26-unit project, 10 units could be targeted to households at 120% of AMI, 10 units at 80% of AMI, and 6 units at 100% of AMI.
- ♦ Priority will be given to projects targeting some units to households at 80% of AMI or below.
- ♦ Households with incomes up to 120% of AMI are eligible for assisted units, *provided the average affordability level* of the affordable units is 100% of AMI or less (see example provided above).
- ♦ HOME funds, a major portion of available NOFA funds, are limited to units assisting households at less than 80% of AMI.
- ♦ Affordable Sales Prices are calculated based on a formula. See Addendum, *Affordable Homeownership Development Program*, for further information including sales price assumptions to use for this NOFA.

A unit affordable to households earning less than 80% of AMI is one sold at an affordable sales price based on an annual housing cost of no more than 30% of 70% of AMI. The elements of an annual housing cost include principal, interest, taxes, hazard and private mortgage insurance, utilities, homeownership association dues, and maintenance.

A unit affordable to households earning less than 100% of AMI is one sold at an affordable sales price that is based on an annual housing cost of no more than 35% of 90% of AMI. The elements of an annual housing cost include the costs listed above.

A unit affordable to households earning less than 120% of AMI is one sold at an affordable sales price that is based on an annual housing cost of no more than 35% of 110% of AMI. The elements of an annual housing cost include the costs listed above.

FINANCING GUIDELINES

MINIMUM AND MAXIMUM LOAN AMOUNTS

- For rental projects, 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).
- For ownership projects, the maximum City loan amount is fifty percent (50%) 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:

<u>Bedrooms</u>	<u>Per-unit maximum</u>
0	\$149,868
1	\$171,802
2	\$208,913
3	\$270,266
4	\$296,666

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 3 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 3 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 a written agreement with the City.

For homeownership projects, any unit that does not have an executed purchase contract with an eligible homebuyer within nine months of construction completion must be converted to a HOME rental unit that complies with all HOME requirements.

Rental units assisted with HOME funds must be occupied within 18 months of project completion.

MONTHLY UPDATES

Upon commitment of funds from the City, 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 does not subordinate its affordability covenants to the deeds of trust securing other lenders' financing, with the exception of County, State, and Federal funding sources (subject to staff approval and to the ratio of loan to total development cost). The affordability covenants control, among other things, the maximum income of tenants of project units, and the maximum rents allowed for project units. The City deed of trust may be subordinated to private financing on a case-by-case basis.

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. 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 TERMS - OWNERSHIP PROJECTS

The City intends for its investment to enable new homeownership projects to remain permanently affordable. Under the terms of the City funding, all assisted units must be sold to qualified first-time homebuyers at an affordable housing cost. This requires that the

assisted unit be sold at an affordable sales price. Each time the assisted unit is sold, it must be sold at no more than the affordable sales price, which is set by formula and is dependent on the Area Median Income (as determined by HUD) and prevailing interest rates for first mortgages at the time of sale.

To help accomplish this, the City will provide a forgivable construction loan to the developer to be used for a portion of the development costs. The loan cannot exceed 50% of the total development cost of the affordable units. Loans for ownership projects are typically provided at a simple interest rate of three percent (3%) per annum, for a term of four (4) years. The City will forgive and convert to a grant that portion of its development loan equal to the difference between the total development cost and the total sales proceeds plus any other subsidies to the project. An Affordability Agreement will be recorded against the project at the beginning of construction, to be re-conveyed and replaced by a Declaration of Resale Restrictions signed by each buyer as each unit is sold. See Addendum, Affordable Homeownership Development Program, for a detailed description of the program.

LOAN FEES

- Origination fee: A fee in the range two to three percent (2-3%) 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 2019-2020, 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: \$1,000 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: \$895
- 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 ten percent (10%) of the amount budgeted for construction 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

The Oakland Housing Authority (OHA) *may* utilize the City of Oakland's 2020 Pipeline NOFA as the competitive selection process required to award Section 8 Project-Based Vouchers (PBV) provided that the project proposal presented in response to the NOFA did not involve any consideration that the project would receive such PBV assistance. Due to the uncertainty of available federal funding, however, please note that Project-Based Vouchers may be limited or unavailable at the time of the NOFA Awards. OHA reserves the right to suspend, amend or modify the provisions of this Project-Based Voucher offering. OHA may negotiate modifications, award more or less than the full amount of PBV funding originally requested by a project, or reject all proposals entirely.

Projects selected for HCD's 2020 Pipeline NOFA funding must be located within the Oakland Housing Authority's jurisdiction and the units must be subject to City of Oakland oversight and regulation to be eligible to request PBV's from OHA. Eligible projects must be either new construction projects that are currently in the City of Oakland's Affordable Housing Pipeline or acquisition and/or substantial rehabilitation projects that are "At-Risk" as defined by the California Tax Credit Allocation Committee regulations.

Projects that have received a previous award of Project Based vouchers are not eligible.

OHA may choose to target available vouchers first to units designated for twenty (20) and thirty (30) percent AMI households and below and those providing service enriched housing for special needs populations, such as homeless veterans. OHA will limit the number of dwelling units in a project that may receive PBV assistance to 25% of the total units within a project. If awarded a City funding commitment, the project may be issued a Letter of Invitation to request Section 8 Project Based Vouchers from OHA. The project must then submit a request in response to and in accordance with instructions provided in the Invitation. OHA will then review responses and based on guidelines and priorities outlined in the OHA Development Policy, make provisional awards subject to available funding. The Oakland Housing Authority Development Policy can be found on OHA's website at: <http://www.oakha.org/AboutUs/ReportsPolicies/Pages/default.aspx>.

OHA's Board of Commissioners must approve an award of Section 8 Project-Based Vouchers to a project. Projects must be an eligible housing type for PBV assistance (24 CFR 983.52 and 983.53) and meet accessibility requirements in accordance with the regulations implementing Section 504 of the Rehabilitation Act of 1973. Projects must also complete an Environmental Review under the National Environmental Policy Act (NEPA), a Subsidy Layering Review (SLR), and are subject to HUD Section 3 hiring goals and Davis-Bacon labor standards. Projects completing all applicable OHA and HUD reviews may then execute a Section 8 Project-Based Voucher Housing Assistance Payments (HAP) contract with OHA for up to an initial 20-year contract term. The OHA may also agree to an extension of up to an

additional 20 years for an aggregate 40-year term. A project may utilize a site-based waiting list to select applicants for PBV assisted units and OHA reserves the right to require local preferences in determining the order of selection from an owner administered site-based waiting list.

Projects that request PBVs should also understand that the Fair Market Rents shown in the Income, Rent, Utility Allowance, and Owner-Occupied Housing Payment Limits addendum are published by HUD annually and are the basis for which public housing agencies set their voucher payment standards. It is the OHA Voucher Payment Standard that establishes the maximum approvable contract rent for a PBV program unit. The OHA will rely upon a rent comparability survey and the rent schedule authorized in the HUD approved Subsidy Layering Review to determine initial PBV contract rents for the project.

For additional information about the Oakland Housing Authority's PBV program, interested parties can review OHA's Administrative Plan, Chapter 17 on OHA's website- www.oakha.org or contact Ahmed Karimi, Oakland Housing Authority, Sr. Management Analyst at (510) 587-2115, or by email at akarimi@oakha.org with a copy to LHD@oakha.org.

Please note that applicants are required to submit their applications and project budgets assuming no Section 8 PBV assistance will be available. In the event that: 1) federal funding is available, and 2) OHA issues an invitation for applicants to apply, and 3) if a project receives a PBV award and is able to leverage additional permanent financing that reduces the need for City funding, the City's funding commitment may be reduced based on the amount of additional funds leveraged.

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 2019-2020).
- 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 \$34,000 with an escalation of 3.5% per year and are only allowed to the extent cash flow is available after payment of operating expenses, debt service, and deposits to reserves.

CASH FLOW/INCENTIVE MANAGEMENT FEE

For nonprofits, if a project has no monitoring findings or other violations of City or other agreements, and reserves are fully funded, excess cash flow (after payment of operating costs, reserves, senior debt, deferred developer fee, and current partnership/asset management fee) will be split between the developer/sponsor and the City, with 50% of excess cash flow paid to the City as a residual receipts loan payment and 50% 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 developer/sponsor's proportion of the excess cash flow will be reduced to 25%. The lenders will receive distributions of the remaining 75% of the excess cash flow based on relative loan amounts. Staff should be included in any negotiations of residual receipts loan payments. Deferred partnership/asset management fee can only be paid from the developer sponsor's portion of the Incentive Management Fee.

For for-profit applicants, the maximum cash on cash return on equity (annual Before Tax Cash Flow/equity) shall be 15%. The Before Tax Cash Flow is to be limited to the stated amount and excess funds must be used to repay City loans.

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: Annual deposits of no less than 2% of annual gross rental income are required until an operating reserve has been capitalized at a level equal to six

months operating costs and debt service. The operating reserve must be maintained at the level of six months of operating costs 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.

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 & 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 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 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 Development staff. Secure resident bicycle parking should be provided that meets or exceeds 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)
 - 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 will apply 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, indoor environmental quality, energy impacts and alternative transportation solutions.
- Economic dimensions address affordable housing, employment, and local ownership.
- Equity considerations address the relationship, both physical and social, of the project to its community and neighborhood.

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:

<https://www.oaklandca.gov/documents/city-of-oakland-guide-to-green-building-ordinance>

Multi-family Recycling Program:

All multi-family buildings (5+ units) are required by state and local law to arrange for recycling services for residents and provide information at least annually to employees, tenants, and contractors describing how to properly use the recycling and garbage containers. All residents in multi-family buildings or complexes may recycle bottles, cans, jars, rigid plastic containers, paper and cardboard. For information about your recycling rights and requirements under both state and local law, go to the following websites:

www.RecyclingRulesAC.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
- Build It Green, at 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 2019 NOFA application submission (September 27, 2019). 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.

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.

MANAGEMENT AND MARKETING

A Preliminary Management Plan and Marketing Plan or Marketing and Sales Plan must be submitted in the application. For rental projects, a Final Management and Marketing Plan will be required 180 days prior to construction completion and a Management Contract must be submitted to the City 90 days prior to construction completion. The final Marketing Plan must be approved prior to beginning rent-up activities, including marketing flyers and application materials.

All projects with units targeted to households or individuals experiencing homelessness, must incorporate the *EveryOne HOME Property Management Guidelines* and all projects must incorporate *the Oakland Displacee, Neighborhood Resident, Oakland Resident and Oakland Worker Preference Regulation for Multifamily Affordable Housing* (see Addendum) into their management and marketing practices. Projects must be marketed in accordance with the City's Affirmative Fair Marketing Procedures.

For ownership projects, the final Marketing and Sales Plan must be approved prior to commencement of construction and marketing of units. Developers must include pre-

purchase homebuyer counseling, offer post-purchase counseling for at least one year, and provide one year home warranties.

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 TCAC 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, Section 7301 (z), 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;
- 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;
- 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.

EVERYONE HOME: ALAMEDA COUNTY'S PLAN TO END HOMELESSNESS

The EveryOne Home Plan to end homelessness in Alameda County aims to create affordable and available housing units for key target populations – individuals and families that are homeless or at-risk of homelessness, extremely low-income households impacted by serious mental health issues or living with HIV/AIDS. The EveryOne Home website provides additional information and resources at <http://www.everyonehome.org>.

EveryOne Home has adopted *Property Management Guidelines* (see Addendum) to ensure that screening procedures do not unintentionally exclude those who most need the housing, such as those who have struggled with disabilities, homelessness, and other difficulties in their lives. All projects with homeless units must agree to incorporate the *EveryOne HOME Property Management Guidelines* into their management and marketing practices. Companion materials, including the sample application form referenced in the Guidelines, can be found on the EveryOne Home website at <http://www.everyonehome.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 of Oakland has developed a citywide retail enhancement strategy which encourages mixed-use developments in commercial districts. To ensure new retail space is well-designed, marketable and well-located, the City has created guidelines for retail space in mixed-use development. Developers of mixed-use projects are encouraged to contact Keira Williams in the Department of Economic and Workforce Development for a copy of the guidelines, general technical assistance on the topic and review of the commercial portion of the proposed project, at kwilliams@oaklandca.gov.

Proposals for developments with housing and commercial space must include the following:

- Evidence of demand for commercial/retail and marketability of space (with a market study or a survey of comparables and vacancy rates), or at least half the commercial/retail space pre-leased.
- Letters of interest from funders of the commercial portion of the development at time of application. **A City loan will not be closed until funding for the commercial portion is secured.**
- A development budget with the costs attributable to the commercial/retail component clearly delineated from those for the residential component.

MIXED-INCOME PROJECTS

In mixed income properties, the affordable units must not be substantially different from the market-rate units. All lower income units must be of the same construction type as market rate units, but need not contain the same interior amenities or the same amount of floor space as long as livability is maintained. The exterior of the lower income units must be indistinguishable from the exterior of the market rate units. Lower income 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
- 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.

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 Addendum *Oakland Displacee, Neighborhood Resident, Oakland Resident and Oakland Worker Preference Regulation for Multifamily Affordable Housing* for more detail.

FAIR CHANCE ACCESS TO HOUSING ORDINANCE

On February 4, 2020 the City Council adopted 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, as may be amended from time to time (the “**Fair Chance Ordinance**”). In accordance with this ordinance, an owner of residential rental property (referred to in the ordinance as a “**Housing Provider**”) shall not, at any time or by any means, whether direct or indirect, 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.

REVIEW AND APPROVAL OF PLANS

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

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. If the files is small, please

submit to: permitinfo@oaklandca.gov. If the file is large, please use the digital mailbox: <https://apps.oaklandca.gov/DigitalInbox/>. 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 Zoning Division a minimum of four to six months to process a Planning entitlement request.

Developers must provide advance notice to the Housing Development unit of any meetings with the Building Division, Planning and Zoning Divisions, Design Review Committee and Planning Commission.

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.

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.

Planning applications: If land use approvals have not yet been received, it is advisable that applicants contact the Planning Bureau (510-238-3911) to submit an application **as early as possible** prior to the NOFA submittal date as the review of the development and its CEQA related documents may exceed 180 days. Please contact Planning staff 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 in

July 2020. 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: <https://www.oaklandca.gov/documents/2020-pipeline-nofa-sb-35-checklist-decision-tree>

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 1960 (NEPA) prior to loan closing. NEPA review should be 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 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.

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.

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/pubs/renovation.htm. 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.

OAKLAND REDEVELOPMENT AGENCY DISSOLUTION

According to state law, the Oakland Redevelopment Agency dissolved on February 12, 2012. The City of Oakland elected to assume the housing assets, functions, and obligations of the Redevelopment Agency. Therefore, all previous housing development loans, agreements, and obligations entered into by the Redevelopment Agency have now been assumed by the City of Oakland.

NONDISCRIMINATION

All applicants must agree not to discriminate on the basis of race, color, ancestry, national origin, religion, sex, gender, sexual orientation, gender identity, creed, age (except lawful senior housing), marital status, family status, source of income, physical or mental disability, Acquired Immune Deficiency Syndrome (AIDS) or AIDS-related conditions (ARC), or any other arbitrary basis.

CERTIFICATIONS AS TO CONFLICTS OF INTEREST

Applicant will be required to make the following certifications relating to conflicts of interest:

No Conflicts of Interest

That, to the best of its knowledge, no "covered person" (as defined below) associated with the City has or will obtain a financial interest or benefit from this loan or the Project, or has or will obtain an interest in any contract, subcontract or agreement with respect to the loan, the Project or the proceeds thereunder, either for themselves or those with whom they have immediate family or business ties, during that covered person's tenure with the City or for one year thereafter. A "covered person" for purposes of this paragraph includes any employee, agent, consultant, officer, or elected or appointed official of the City who, with respect to activities assisted with HUD funds, (a) exercises or have exercised any functions or responsibilities, or (b) is in a position to participate in a decision making process, or (c) is in a position to gain inside information. No officer, employee, agent, or consultant of Applicant

or Applicant's affiliates may occupy a Project Unit. Applicant's attention is directed to the conflict of interest rules for the HOME program codified in 24 CFR §92.356.

Applicant warrants and represents, to the best of its present knowledge, that no public official of City who has been involved in the making of this loan, or who is a member of a City board or commission which has been involved in the making of this loan, has or will receive a direct or indirect financial interest in this loan or the Project in violation of the rules contained in California Government Code Section 1090, et seq., pertaining to conflicts of interest in public contracting. Applicant shall exercise due diligence to ensure that no such official will receive such an interest. If Applicant, a general partner of Applicant, or an affiliate of Applicant or Applicant's general partner is a nonprofit corporation, Applicant warrants and represents, to the best of its present knowledge, that any such public official of City who is an employee or a non-compensated director or officer of said nonprofit corporation has disqualified himself or herself from participating in City's decision to make this loan.

Applicant further warrants and represents, to the best of its present knowledge and excepting any written disclosures as to these matters already made by Applicant to City, that (1) no public official of City who has participated in decision making concerning this loan or the Project or has used his or her official position to influence decisions regarding this loan or the Project, has an economic interest in Applicant or the Project, and (2) neither the Project nor the loan will have a direct or indirect financial effect on said official, the official's spouse or dependent children, or any of the official's economic interests. Applicant agrees to promptly disclose to City in writing any information it may receive concerning any such potential conflict of interest. Applicant's attention is directed to the conflict of interest rules applicable to governmental decision making contained in the Political Reform Act (California Government Code Section 87100, et seq.) and its implementing regulations (California Code of Regulations, Title 2, Section 18700, et seq.).

Applicant represents and warrants to the best of its present knowledge, that in addition to the State statutes, regulations, local ordinances, Oakland Municipal Code and Charter provisions referenced herein, Applicant has read and is aware of the City of Oakland Government Ethics Act (Oakland Municipal Code Chapter 2.25) (the "Act"), including, without limitation, the provisions prohibiting Conflicts of Interest and Personal Gain set forth at OMC 2.25.040, and those prohibitions applicable to Public Servants (as defined under the Act) relating to (a) the influencing of contracts with former employers and (b) nepotism, as set forth in OMC 2.25.070. Applicant shall exercise due diligence to ensure that no Public Servant will have a conflict as a result of Applicant's application, and Applicant shall immediately notify the City in writing of any real or possible conflict of interest described herein.