

**City of Oakland, Housing & Community Development**

**Notice of Funding Availability New Construction 2024 - NOFA Pre-Application Meeting and Office Hours Questions & Answers, Response #1 (10/11/24)**

**Q1: How are the NOFA Office Hours meeting structured? Are participants gathered in a waiting room and admitted one-by-one for questions or is this a group meeting with multiple participants?**

**A1:** NOFA Office Hours are open drop-in sessions. Any interested attendees can attend as long as they want, but the Q/A is open to all, and responses will be shared out. Not everything will be applicable to every project, but HCD will try to ensure everyone has the same baseline info.

**Q2: What is the application NOFA due date?**

**A2:** Applications must be received **no later than 5:00 p.m. on Monday, November 4, 2024**, via CITY DATA SERVICES (CDS), HCDD's on-line database system. Applications submitted after this deadline will not be accepted.

**Q3: Will a recording of this Bidders Meeting be made available to applicants?**

**A3:** Yes, a copy of the Bidders Meeting is available to view on the City's Housing and Community Development website page: <https://www.oaklandca.gov/resources/2024-25-new-construction-of-multifamily-rental-affordable-housing-notice-of-funding-availability-nofa>

**Q4: How should an applicant calculate the 4%/9% LIHTC tiebreaker score for their project? How will the City ensure that tiebreaker scores are calculated consistently project-to-project?**

**A4:** Applicants must calculate their tiebreaker score pursuant to CTCAC guidelines and applicants must submit supporting documentation with their NOFA application, as appropriate, either CTCAC's 2024 4% Application (Attachment 40) or CTCAC's 2024 9% Application in support of their tiebreaker score calculation.

**Q5: Regarding the scoring for commitment of public rental/operating subsidies, is City aware that there is a financing model where in projects can provide Special Needs and PSH without public operating subsidies (using CalAIM)?**

**A5:** If the applicant is committed to providing Special Needs and Homeless Permanent Supportive Housing projects there are still points available under target population. The commitment of public rental/operating subsidy points are intended to be awarded for additional long-term commitments to the project for rental and operating subsidies.

**Q6: When is the deadline to request a Zoning Conformance Letter and the expected turn around to receive it?**

**A6:** An applicant should submit a request for a Zoning Conformance Letter as time permits since approval timing may vary from project to project. To obtain a Zoning Summary letter, applicants must submit a written request to the Planning Bureau for a “Zoning Summary for Affordable Housing NOFA Application” letter. Requests should be submitted at this url: <https://www.oaklandca.gov/services/online-permit-center> will require applicants to create a record (ZW - Zoning Worksheet). Please contact Planning staff at 510-238-3911 if you have any question.

**Q7: Is a letter of conformity with zoning requirements needed if the project is fully entitled?**

**A7:** It depends on if the proposed project has changed in size/scope/design from what was approved in the current Conditions of Approval for your entitlements. If the proposed project has not changed, you wouldn't need to submit the letter of conformity with zoning requirements.

**Q8: Can an applicant evidence cost of discretionary approval process to show lower costs for approval to receive full points if the project has already received all discretionary approval?**

**A8:** No.

**Q9: Is the City of Oakland's by-right residential approval process for 100% affordable projects for land use approvals secured at a staff level from the City (no planning commission or city council) acceptable for scoring points?**

**A9:** Yes, HCD encourages the use of projects applying through the ministerial process as a policy to reduce time for approvals and reduce entitlement costs in order to lower total project cost. Cost containment is a benefit to the City by requiring less capital subsidy. The NOFA is awarding points for projects that have obtained land use approval through the ministerial (“By Right Residential Approval”) (S13-14, and SB35/SB423 or other State ministerial) approval processes.

**Q10: Projects that have all construction and perm funding commitments and do not require operating subsidy cannot receive the maximum score in the Funding Commitments category because it does not qualify for operating subsidy points. Is this the City's intent to advantage projects that have operating subsidy commitments from public sources over those that do not need subsidies for financial feasibility?**

**A10:** Yes. Projects serving more deeply affordable units with a potential for special needs and/or homeless population with a commitment of long-term operating subsidy have greater long term financial stability than those projects without long term subsidy commitments.

**Q11: Can Property Management experience qualify and be evidenced through Principal PM Experience to score points for the Special Needs Households scoring criteria?**

**A11:** For units with Special Needs the Property Manager must be identified and have at least three years of experience managing supportive housing units. This can also be evidenced through the developer team's property management staff with the relevant experience.

**Q12: What is considered affordable housing?**

**A12:** An affordable housing project for the purposes of this NOFA is a multifamily housing project whose rent is restricted to be affordable to those with a household income at/or below 60% Area Median Income with deed-recorded long-term affordability restrictions. Please see Addenda #4 Income Limits, Rent Payment Limits, and Utility Allowance for required regulated rent and income levels associated with this NOFA.

**Q13: What does an "equivalent in size, scale, level of amenities, occupancy" project mean?**

**A13:** Affordable Rental Housing Developments that are equivalent to the proposed Affordable Rental Housing Development in size, scale, level of amenities, and occupancy means the proposed project should be **similar** to the project you are submitting an application for. For example, a four-unit townhouse project targeted to families would not be similar to a five-story 50 unit podium building serving formerly homeless residents.

**Q14: Can we use the same definition of Special Needs from the newest MHP guidelines? Can you confirm target populations that are included under Special Needs populations and whether or not frail and elderly populations would be included?**

**A14:** The City intends the NOFAs definitions of Special Needs population and Homelessness to be consistent with current the MHP Guidelines dated May 18, 2023. The NOFA Program Description will be revised accordingly. Special Needs Populations do not include seniors unless they otherwise qualify as a Special Needs Population`

**Q15: How many similar projects need to be shown in order to receive maximum points?**

**A15:** To receive maximum points, in addition to the threshold requirements, an applicant should show at least 6 similar projects (1 project for 3 points and 5 projects for 1 additional point each) from the previous 10 year period. Showing more projects would help in the event the City determines some are not qualified.

**Q16: Are Furnishings an eligible use for Special Needs Units in a Family Project? Are common area and office furnishings an eligible cost?**

**A16:** Furnishings are an eligible use where required/applicable for special needs projects. See the Ineligible Costs/Use section in the NOFA. Common area and office furnishings are not an eligible cost, and another source should be used to cover that.

**Q17: How does the 10% vacancy requirement for special needs units apply to a project with a set aside of special needs units? Is the 10% requirement applied to the whole building or just the special needs units?**

**A17:** The vacancy loss percentage factors in the Operating Budget portion of the NOFA are consistent with 4%/9% tax credit application requirements which are applied to the entire project based on the project's "Housing Type Selection" in their tax credit application.

If a project's financing plan does not include tax credits, then applicant should still consider the 4%/9% application Housing Types as a guide and apply the appropriate vacancy loss factor to the project.

**Q18: Can scores be updated when future funding is made available? For example, if the percentage of PSH units committed increases or if streamlined entitlements are achieved ahead of potential funding availability in the spring, would scores be updated accordingly?**

**A18:** No.

**Q19: Are only the past two years of Audited Financial Statements needed at the time of application submittal?**

**A19:** A minimum of two years of audited financial statements are required. City Staff may require additional years to be provided if the financial strength is not supported by the 2 years of statements or more analysis is needed. It's best to provide four years for underwriting and evaluation purposes.

**Q20: What is the requirement if the market study is older than 9 months?**

**A20:** If the market study is older than 9 months, please provide a summary of the updates to your existing market study. If the study was performed by a third-party consultant, the consultant must provide a letter stating the information is still accurate or the consultant must provide an updated market study.

**Q21: Is a market study required at the time of the application submittal? What are the requirements for a market study and/or market comps?**

**A21:** Yes, all projects must provide a market study or survey of rental comparables, as described below. Please reference the NOFA Application Instructions on Page 18, Section 5 for additional market study information. The NOFA allows for submission of either a market study to be uploaded to CDS or the applicant can use the template in CDS to enter the survey of rental comparables.

**Rental Projects:** A market study or rental survey must be submitted via CDS upload that is no more than nine months old. Rental surveys do not need to be completed by a third-party consultant and can be completed in lieu of a market study at the time of application. Include on the following worksheet, a summary of the closest three affordable and three market rate comparables, including their distance from the project, population served, number of units by bedroom size, rent by unit size, service and on-site amenities.

**Mixed Use Projects:** In addition to the above, also provide:

- a. Evidence of demand for commercial/retail space and marketability of space, or at least half the commercial/retail space pre-leased;
- b. Information from brokers on vacancy rates, turnover rates, and market rents in the neighborhood; and
- c. Evaluation of the neighborhood's retail environment and relative merits of the newly proposed commercial space.

**Q22: Projects on public land can provide an LDDA rather than an ENA to document they are being provided a long-term ground lease. Must the LDDA have already been recorded, or is it sufficient if it has been fully executed?**

**A22:** Yes, a fully executed LDDA can be provided at the time of application submittal. No, the LDDA does not need to be recorded.

**Q23: What is "nominal sale price"? For example, is land at 15% of appraised value nominal?**

**A23:** A nominal sale price is a purchase price well below the market value or offered under a long-term ground lease paid only to the extent of available surplus cash. We would consider 15% of appraised value a nominal sales price.

**Q24: Will priority be given to projects that exceed the threshold affordability minimums?**

**A24:** See page 16 of the NOFA Guidelines, (III) Target Population (40 points max) and Income Targeting: (Maximum 20 points).

**Q25: Livability Standards (Parking) - Does a Level 2 charger need to be installed in every parking space or at least 50% of EV ready parking spaces?**

**A25:** No, the City's EVSE requirement for new construction requires set percentages of parking spaces to have certain types of infrastructure in place. Level 1 spaces that aren't equipped with Level-2 chargers should have L-1 charging capability available. Where spaces have L2 chargers, they can be lower amperage and/or have the ability to reduce amperage as needed (i.e. for slower charging / reduced peak electricity demand). Please see <https://www.oaklandca.gov/projects/zero-emission-vehicle-action-plan> for additional information.

**Q26: Can you confirm that prior Oakland Housing Authority funding commitments count as non-City funding?**

**A26:** If the commitment is still active and enforceable with the Oakland Housing Authority it will count as non-City funding.

**Q27: Are points offered for projects in locations where there is a higher displacement risk? But not to projects with a low displacement risk?**

**A27:** Correct. Consistent with Oakland HCD's 2023-2027 Strategic Action Plan, HCD seeks to protect residents from displacement. The Displacement Risk scoring category is intended to incentivize the production of new affordable housing in neighborhoods where very low-income residents are experiencing displacement pressures.

**Q28: Developer Experience Worksheets – Do we complete the information requested on the provided form, or do we also need to add items requested in Addendum #1 but not included on the form?**

**A28:** Applicants are advised to submit all requested information per the NOFA Program Description, Application Instructions and Addenda.

**Q29: If the project is not able to utilize the previously awarded funds from the City, we will need to include the additional gap amount to our new NOFA application request?**

**A29:** Yes, an applicant will need to submit a new NOFA application for the total funding being requested from the city.

**Q30: Can a recorded and executed ground lease with a 99-year term be acceptable documentation to claim land donation points?**

**A30:** Yes, with supporting documentation that shows the land was offered at a nominal sales price to the project or offered under a long-term ground lease paid only to the extent of available surplus cash.

**Q31: Are Homekey projects available for funding in this New Construction NOFA round?**

**A31:** No, Homekey applicants will not be awarded through this New Construction NOFA. Applicants with projects seeking Homekey+ and/or R2H2 funding are encouraged to apply through the City's Homekey/R2H2 RFP. For more information on the City's Homekey/R2H2 process please visit: <https://www.oaklandca.gov/topics/city-homekey>

**Q32: Will the City consider allowing a higher cash developer fee in a situation in which no deferred fee is allowed?**

**A32:** The City would need to review the regulations that prohibit the no deferred fee before considering a higher cash developer fee.

**Q33: Asset Management and Partnership Management fees can only be paid through the incentive management fee from the operating cash flow. HUD will not size its PRAC subsidy to allow the cash flow to pay these fees. Instead, developers must fund capitalized reserves to fund these fees for at least 15 years. Will HCD allow this structure?**

**A33:** The City would need to review the PRAC subsidy regulations regarding the funded capitalized reserve before considering this structure.

**Q34: If the Phase I is older than one year, but the Phase II is current, does the Phase I still need to be updated?**

**A34:** If you have a current Phase II and the Phase I is representative and thorough, then an updated Phase I is not required.

**Q35: If a Phase II has been completed, does the Phase II have to be dated within 1 year (and if so, is an assurance or reliance letter acceptable)?**

**A35:** This varies depending on the environmental professional that prepared the report and who is responsible for determining if the data is still valid. If the site hasn't changed use during the year (e.g. a vacant site) and the contaminants aren't likely to have been significantly affected by

the site use, then the Phase II may still be representative of the site conditions. Alternatively, if a lender requires a one-year time frame for their transactions or if a regulatory agency says the data is no longer valid then that would determine the timing. If you have additional questions, please contact Mark Arniola, Environmental Services Division, at [marniola@oaklandca.gov](mailto:marniola@oaklandca.gov). T

**Q36: Can multiple lines combined at one bus stop have a combined headway of 15 minutes or less or if each bus line individually must have 15 minute intervals or less to score points?**

**A36:** Frequency of service interval will be evaluated by individual bus line.

**Q37: Does the City consider 'peak hours' to align with TCAC's 7-9am and 4-6pm M-F definition?**

**A37:** The City will consider either the TCAC definition or the AHSC definition of peak hours. The project application should indicate which definition is being used for their submittal.