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**City of Oakland  
Oakland Redevelopment Agency  
Community and Economic Development Agency**

250 Frank Ogawa Plaza, 5<sup>th</sup> Floor  
Oakland, CA 94612  
Ph: (510) 238-3502

*September 4, 2009*

**Notice of Funding Availability**  
**for Affordable Rental and Ownership Housing**

# 2009 Housing Development NOFA Table of Contents

<b>NOTICE OF FUNDING AVAILABILITY .....</b>	<b>3</b>
NOFA PROCESS AND TIMELINE .....	3
STEPS PRIOR TO APPLICATION.....	5
<b>CHANGES AND NEW REQUIREMENTS IN THE 2009 NOFA.....</b>	<b>7</b>
<b>SCORING CRITERIA.....</b>	<b>8</b>
<b>PROGRAM DESCRIPTION AND UNDERWRITING REQUIREMENTS.....</b>	<b>15</b>
ELIGIBILITY .....	15
Eligible Applicants.....	15
Eligible & Ineligible Projects, Activities, and Costs.....	15
AFFORDABILITY TARGETING .....	16
Minimum Affordability - Rental Projects .....	16
Minimum Affordability - Ownership Projects .....	17
FINANCING GUIDELINES .....	18
Minimum and Maximum Loan Amounts.....	18
Reasonable Development Costs .....	19
Construction Contingency.....	19
Developer Fee Policy .....	19
Minimum Equity Requirements .....	19
GENERAL LOAN TERMS .....	20
Timeline of City/Agency Commitments .....	20
Monthly Updates.....	20
Subordination.....	20
Loan Terms - Rental Projects.....	20
Loan Terms - Ownership Projects.....	21
One Percent Loan Fee.....	21
Disbursement of Funds .....	21
ADDITIONAL FINANCING GUIDELINES FOR RENTAL PROJECTS.....	21
Preservation Projects.....	21
Operating Budget.....	22
Cash Flow/Incentive Management Fee .....	22
Replacement and Operating Reserve Requirements .....	22
DESIGN GUIDELINES.....	23
Project Size and Unit Type Requirements .....	23
Livability Standards .....	23
Sustainable Development.....	24
Inclusion of Computer Technology.....	25
OTHER GUIDELINES AND CITY REQUIREMENTS.....	26
Site Control .....	26
Appraisals .....	26
Donated Property .....	26

Phase I and II .....	26
Brownfield Sites.....	26
Management and Marketing .....	26
Cost Certification .....	27
Relocation .....	27
Resident Services and Special Needs Units .....	27
Units for Homeless Households or Those At Risk of Homelessness.....	28
Evidence of Community Outreach.....	28
Mixed-Use Projects.....	28
Mixed-Income Projects .....	29
Contract Compliance – Employment Programs and Requirements.....	29
Oakland Resident and Worker Preference .....	30
Displacee Preference.....	30
Review and Approval of Plans.....	30
Planning and Zoning .....	31
Insurance .....	31
Payment and Performance Bonds .....	31
Environmental Review and Assessment (CEQA & NEPA) .....	31
Federal Requirements .....	33
Disabled and Senior Accessibility.....	33
Lead-Based Paint .....	33
Restriction on Condominium Conversions .....	34
Limitation on Campaign Contributions.....	34
Nondiscrimination.....	34

**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, Utility Allowance, and Housing Payments Limits
- #6: Areas of Low and High Concentrations of Poverty
- #7: Census Tracts with Homeownership Rates Below City Average
- #8: Central City East PAC Redevelopment Area Housing Goals
- #9: West Oakland PAC Redevelopment Area Goals and Guidelines

**NOFA APPLICATION INSTRUCTIONS** (See Separate Table of Contents)

**City of Oakland/Redevelopment Agency  
Housing Development Financing Program  
September 4, 2009**

***NOTICE OF FUNDING AVAILABILITY***

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The Community and Economic Development Agency (CEDA), on behalf of the City of Oakland and the Oakland Redevelopment Agency, is pleased to announce that it is accepting loan applications for affordable rental and ownership housing development.

Approximately \$4 to \$10 million is expected to be available for this NOFA from two sources: HOME funds and Oakland Redevelopment Agency affordable housing funds. Applicants are advised that projects should be structured to be eligible for HOME funding.

**NOTE: the state of California's budget take of redevelopment funds may result in a significantly decreased amount of Redevelopment Agency affordable housing funds this year.** As of the date of publication of this NOFA, the full impact on housing funds is not yet determined. Please check Oakland's Housing and Community Development website for any updates, <http://www.oaklandnet.com/government/hcd/projects/NOFA.html/>.

**Also note that Redevelopment Agency affordable housing funds cannot be spent this year on senior housing** since the Agency has exceeded its proportionality requirement. HOME funds (of approximately \$4 million) may be available for senior housing projects.

City/Agency loans are provided for substantial rehabilitation or new construction of affordable rental, homeownership, and permanent supportive housing projects and are intended to 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. Priority will be given to projects with high leveraging ratios that reduce the amount and percentage of City/Agency funds required. Applicants are encouraged to contact CEDA's Housing Development Unit at (510) 238-3502 with questions regarding program requirements and the application process.

A **NOFA for Preservation and Rehabilitation of Existing Affordable Rental Housing** is also being released by the City of Oakland, with applications due on October 22nd. The Preservation and Rehabilitation NOFA is intended to facilitate emergency repairs and capital improvements to strengthen the financial and physical condition of existing affordable rental housing regulated by the City of Oakland. Funding of approximately \$4 to \$8 million is anticipated for the Preservation and Rehabilitation NOFA.

**NOFA PROCESS AND TIMELINE**

**Each sponsor will be permitted to submit only one project application for this NOFA. Exceptions are only provided for sponsors submitting applications for projects from the Oakland Community Housing, Inc. (OCHI) affordable rental property portfolio, in which case sponsors may submit a total of two applications.** Projects requesting additional funds count as part of this cap. (This does not include applications submitted in response to the

Preservation and Rehabilitation NOFA). The Application Form requests information on what additional projects would have been submitted if this limit was not in place.

**Applications must be received at CEDA's office located at 250 Frank Ogawa Plaza, Suite 5313, no later than 4:00 p.m. on Thursday, November 5th, 2009. Applications submitted after this deadline will not be accepted.**

Applicants are strongly encouraged to attend a meeting on the City's employment and contracting programs on **Thursday, October 1<sup>st</sup> at 10:00 a.m.** at City Hall, 2<sup>nd</sup> Floor, Hearing Room 4. Time will also be available for general questions and answers on the NOFA.

Applicants should review the entire NOFA package, as the application includes a certification that they 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 <http://www.oaklandnet.com/government/hcd/projects/NOFA.html/>.

Applicants must submit:

- **One original** of a complete Application for Housing Development Financing with all required supporting materials.
- Applications should be in three-ring binders of good quality and appropriate size, with numbered dividers that correspond with the Housing Development Financing Application Checklist.
- To reduce the size of applications, large application exhibits (Appraisal, Phase I, etc) should be double-sided. Please do not include full copies of Environmental Impact Reports (EIRs) or all of the backup documentation on Phase I reports (these may be requested later if needed). Cover pages for application exhibits (other than the numbered divider tabs) are not needed.
- The Checklist should be used as the Table of Contents for the application.
- **Some materials must be submitted electronically.** These forms/templates may be obtained from CEDA upon request via email to [ddownton@oaklandnet.com](mailto:ddownton@oaklandnet.com) or downloaded from the City's website at <http://www.oaklandnet.com/government/hcd/projects/NOFA.html>.

Once the staff review is complete a staff report will be prepared for presentation, first to the City Council's Community and Economic Development Committee and then the full City Council. The approval of the staff report and authorizing resolutions will take a minimum of five to seven weeks from the time the report is drafted. Final funding approval by the City Council and Redevelopment Agency is expected in late February or early March, 2010.

Once a loan is approved, 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**

**Zoning compliance:** Applicants must receive confirmation of the current land use designations for the project site from the City's Zoning Division. Request for the required "Zoning Summary" letter is required no later than **Wednesday, October 7th**. For more information, see Planning and Zoning information in the *Program Description* and *Application Instructions* sections.

**If the project site is located in the Broadway/MacArthur/San Pablo, Central City East, or West Oakland Redevelopment Areas**, the Project Area Committee (PAC) for the area should be given at least one presentation. This will allow the PAC to provide informed advice to City Council on NOFA proposals. The City Council, acting as the Redevelopment Agency, must seek the advice of the PACs before making funding decisions. *Applicants should contact Housing staff at 238-3502 immediately to discuss scheduling a presentation at the earliest possible PAC meeting.* **For projects in Central City East and West Oakland Redevelopment Areas, applicants should contact staff by September 14<sup>th</sup>** in order to be scheduled on the PAC meeting agenda.

**Contract compliance:** Applicants should review and understand the City of Oakland's Contract Compliance requirements. See the *Program Description – Contract Compliance* section for more information. **Applicants are strongly encouraged to attend a meeting on the City's employment and contracting programs to be held on Thursday, October 1<sup>st</sup> at 10:00 a.m.** at City Hall, 2<sup>nd</sup> Floor, Hearing Room 4. Time will also be available for general questions and answers on the NOFA.

**Applications become public records:** Applicants should understand that, under the California Public Records Act and the City's Sunshine Ordinance, all documents that they submit in response to this NOFA are considered public records and will be made available to the public upon request following the application deadline.

**Environmental Review:** **If you are seeking readiness points for the first round of tax credits or other financing that requires National Environmental Policy Act (NEPA) clearance for application**, please contact Jeff Angell at 238-6158 as early as possible prior to submitting your NOFA application to discuss the timely completion of the federal environmental review process. Applicants should assume that projects will receive HOME funds and therefore will require NEPA review. The City has retained consultants that may be available to coordinate Environmental Assessments for projects receiving HOME funds.

California Environmental Quality Act (CEQA) review must also be completed before a project's funding commitment can be finalized. Staff expects to go to Council with funding recommendations in February or March, 2010, and CEQA review should be completed by that time. A CEQA Preliminary Study is required as part of this application.

**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 or new contracts entered into.

All further references to the City are understood to refer to both the City of Oakland and the Redevelopment Agency. The City and Agency reserve 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 and the Redevelopment Agency are Equal Housing Opportunity and Accessible Housing providers.*



## ***CHANGES AND NEW REQUIREMENTS IN THE 2009 NOFA***

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The following summarizes significant changes in this year's NOFA, but is not an exhaustive list of all changes. Please make sure to completely review the NOFA.

- 1. Limit on Application Submissions:** Each sponsor will be permitted only one project application for this NOFA. Exceptions to this limit are provided only for sponsors submitting an application for an affordable rental property previously owned by Oakland Community Housing, Inc. (OCHI) or an OCHI affiliate, in which case sponsors may submit a total of two applications. Projects requesting additional funds count as part of this cap. This cap does not include applications submitted in response to the Preservation and Rehabilitation NOFA.
- 2. Project Based Section 8 Not Available:** Oakland Housing Authority Project-Based Section 8 will not be available through the NOFA process this year due to a lack of available vouchers.
- 3. Funding Commitment Period:** Initial funding commitments will be for 24 months from City Council approval. Projects may apply for one extension, which must be received by the NOFA deadline and must demonstrate that the project is still financially feasible. If full funding commitments have not been achieved after the extension period has elapsed, the commitment will be withdrawn and projects must re-apply and compete for NOFA funds. Additional extensions will only be granted in exceptional circumstances.
- 4. Redevelopment Funds Not Available for Senior Housing:** The Redevelopment Agency has exceeded its proportionality requirement for senior housing units. Therefore, Agency funds cannot be spent on senior housing projects this year. HOME funds (of approximately \$4 million) can still be used for senior housing projects.
- 5. Application Preparation:** Only one original application (rather than one original and one copy) is required this year to reduce our environmental impact. Please double-side large exhibits. Cover sheets in addition to the numbered tabs separating application exhibits are not necessary. Supplemental information for Phase I and Environmental Impact Reports do not need to be included in the application, but may be requested at a later date.
- 6. Sustainability/Green Building Requirements:** All NOFA projects are now required to be GreenPoint rated and certified. If a project cannot verify it has achieved the score range for which the project originally received points for under this NOFA, the project sponsor will be assessed negative points on the next NOFA application submitted.
- 7. Homeownership Affordable Sales Prices:** Assumed interest rate for calculating the Maximum Affordable Sales Price has been reduced to 6.5% from 7.5%, based on ten year average rates for 30-year mortgages.
- 8. Scoring Changes:** The method for scoring the below categories has changed. Please review the Scoring Criteria section below for a detailed description.
  - a. Leveraging Funds
  - b. Funding Commitments
  - c. Readiness – Planning Approvals (note that this is a new scoring category)
  - d. Sustainability

## **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. 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>
<b>I. Financial Characteristics</b>	<b>15 pts</b>	<b>15 pts</b>	
A. Leveraging	8	8	
B. Funding Commitments	7	7	
<b>II. Location</b>	<b>18 pts</b>	<b>18 pts</b>	
A. Geographic Equity	6	5	
B. Neighborhood Revitalization	5	6	
C. Proximity to Public Transit	5	5	
D. Proximity to Grocery or Drug Store	2	2	
<b>III. Target Population</b>	<b>35 pts</b>	<b>21 pts</b>	
A. Income Targeting	15	12	
B. Unit Size	5	9	
C. Special Needs Units	5	N/A	
D. Homeless Units	5	N/A	
E. Resident Services Plan	5	N/A	
<b>IV. Developer Experience and Capacity</b>	<b>32 pts</b>	<b>30 pts</b>	
A. Developer Experience Exceeds Minimum	10	10	
B. Developer Capacity	8	8	
C. Developer Financial Strength	6	6	
D. Strength of the Development Team	8	6	
<b>V. Readiness – Planning Approvals</b>	<b>3 pts</b>	<b>3 pts</b>	
<b>VI. Preserves and Improves Existing Affordable Housing</b>	<b>10 pts</b>	<b>N/A</b>	
<b>VII. Sustainability</b>	<b>12 pts</b>	<b>13 pts</b>	
<b>VIII. Penalty for Nonperforming or Previously Funded Projects</b>	<b>-10 pts</b>	<b>-10 pts</b>	
<b>Total Possible Points</b>	<b>125</b>	<b>100</b>	

## **DISCUSSION – SCORING CRITERIA**

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### **I. Financial Characteristics (15 points)**

A. **Leveraging**: Degree that subsidy requested is below 40% (rental projects) or 50% (ownership projects) of total development cost for assisted units (8 points).

- *Rental Projects*: Two points will be awarded for each five percentage points below 40% of total development cost.
- *Ownership Projects*: One point will be awarded for each one percentage point below 50% of total development cost.
- All funds from the Community and Economic Development Agency for the residential portion of the project are considered as part of the subsidy. For rehabilitation projects previously funded by the City/Agency, existing City and other financing will be taken into account in this calculation (see *Program Description, Financing Guidelines* for more information).

B. **Funding Commitments**: Degree to which outside funding has been committed (7 points).

- Points will be given based on non-City/Agency financing currently committed to the project, as follows:
  - a. Up to 5 points will be awarded for each commitment of construction and/or permanent soft loans, grants, or tax credit financing of \$500,000 or more (e.g. TCAC, TOD/Infill, AHP, Oakland Housing Authority);
  - b. Up to 3 points will be awarded for commitments of construction and/or permanent mortgage financing of \$500,000 or more;
  - c. Up to 2 points will be awarded for each commitment of predevelopment or acquisition bridge loans of \$100,000 or more;
  - d. Up to 2 points will be awarded for other grant or soft loans of less than \$500,000.
- Other previously committed City/Agency funds, developer equity, homebuyer sales proceeds, or deferred developer fee will not be counted for points.
- Enforceable funding commitments must be provided to receive points. Letters of Interest are not sufficient.
- Enforceable loan commitments from private financing sources that require subordination of the City/Agency Regulatory or Affordability Agreement will not be counted for points.
- Projects that have received City/Agency development funding within the last five years and are returning for additional gap financing will only be eligible for half the points they would otherwise have achieved in this category.

## II. Location (18 points)

A. Geographic Equity (6 points rental, 5 points ownership, not applicable for rehabilitation of existing affordable housing).

### Rental Projects:

- 6 points will be awarded for rental projects located in low-poverty census tracts, as listed in Addendum #6 *Areas of Low and High Concentration of Poverty*.
- 3 points will be awarded for rental projects located in moderate-poverty census tracts, as listed in Addendum #6.

### Ownership Projects:

- 5 points will be awarded for ownership projects located in census tracts with homeownership rates below the City average (41.4%), as shown in Addendum #7 *Census Tracts with Homeownership Rates Below the City Average*.

B. Neighborhood Revitalization (5 points rental, 6 points ownership).

- 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 neighborhood-specific revitalization plan which was developed with community participation (other than a Redevelopment Plan);
  - b. Are on a major thoroughfare that transverses residential communities and is in need of infill housing due to the decline of local retail and/or commercial uses;
  - c. Contribute to an existing or planned pattern of redevelopment (housing or commercial development, streetscape improvements, etc.) occurring within 1/2 mile of the project site;
  - d. Substantially rehabilitates an existing property with code enforcement problems and that constitutes a neighborhood nuisance or blight;
  - e. Are located in a Redevelopment Project Area.

C. Proximity to public transportation (5 points).

- Full points require a project location within ¼ mile of multiple bus lines and a BART station.
- Up to 3 points will be awarded for a project location within ¼ mile of multiple bus lines, including at least one with direct connection to BART.

D. Proximity to grocery or drug store (2 points).

- A project location within ¼ 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 ½ mile will score 1 point.

### III. **Target Population** (35 points rental, 21 points ownership)

#### A. **Income Targeting:** (15 points rental, 12 points ownership)

**Rental Projects:** Points are awarded for rental projects providing more very-low income rental units than the threshold requirement that 10% of units have rents no more than 30% of 35% of AMI.

- One-half point will be awarded for each additional full one-percent of units with restricted rents at or below 30% of 35% of AMI.
- To score points for units with Project Based Section 8 or other rental subsidy contracts, those units must be kept affordable at or below 35% 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% 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 (if the project is a rehab, the threshold minimum is 10%, if feasible).

- 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. **Special Needs Units** (5 points, rental projects only).

- One point, up to a maximum of 5 points, awarded for each 10% of units set aside for households with special needs (see definition of Special Needs in the *Program Description*).
- To receive points, the Resident Services Plan must demonstrate 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.

#### D. **Homeless Units** (5 points, rental projects only).

- One point, up to a maximum of 5 points, awarded for each 5% of units set aside for formerly homeless families or individuals or those at risk of homelessness (see definition of Homeless and At Risk of Homelessness in the *Program Description*).
- Units must be permanent supportive housing (not transitional) to receive points in this category.
- To receive points, the Resident Services Plan must demonstrate how essential supportive and social service needs of the population will be provided and funded.

- E. Resident Services Plan (5 points, rental projects only).
- Full points require a Resident Services Plan which is well defined, has committed funding, has an identified provider, and shows evidence of consultation with established service providers.
  - Plans without clearly committed funding will only be eligible for up to 3 points.
  - Services may include free or sliding-scale services such as computer classes and the provision of a common computer room, credit counseling, child care, after school programs, individual case management, counselors, health services, or other services relevant for the community served.
  - Projects reserving units for Special Needs populations must demonstrate in their Services Plan that specific supportive service needs of the target population will be met, that the potential costs and funding sources have been considered, and that service providers have been contacted.

**IV. Developer Experience and Capacity** (32 points rental, 30 points ownership)

- A. Developer Experience Exceeds Minimum (10 points).
- Points are awarded for completing more than three affordable housing projects on time and within budget in the last five years (by the Developer, not other team members). 2 points will be awarded for each additional project completed within the last 5 years (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 five years. 2 points will be awarded for each additional similar project completed within the last 5 years (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 Project Manager has the necessary time availability. Up to 5 points will be awarded for staff experience, and up to 3 points will be awarded for time availability.
- C. Developer Financial Strength (6 points).
- Points are awarded based on evidence that the Developer is financially sound, based on audited financial statements from the past two years, and will be able to sustain the costs of effectively following through with the current proposal.
- D. Strength of Development Team (8 points rental, 6 points ownership).
- Points are awarded based on evidence that the Development Team members (Property Manager, Attorney, Architect, Financial Consultant, etc.) exceed the minimum requirements.

**V. Readiness** (3 points) *(not applicable for rehabilitation of existing affordable housing)*

- Points are awarded for sites that have obtained discretionary public land use approvals (obtaining building permits is not necessary to score points).
- Projects that have received City/Agency development funding within the last five years and are returning for additional gap financing will not be eligible for points in this category.

**VI. Preserves and Improves Existing Affordable Housing** (10 points, rental only)

- Full points for proposals that extend, to 55 years, the affordability period for projects at risk of conversion to market rate within 3 years of application submission through prepayment of a federally-insured mortgage, non-renewal of a project-based Section 8 contract, expiration of tax credits or termination of other governmental subsidies or regulatory restrictions.
- Half points will be awarded for projects at risk of conversion to market rate within 4 to 5 years of application.
- Points may also be awarded for projects that provide needed capital improvements to existing affordable housing, especially where units are at risk of becoming unusable. Points may be awarded only to projects that are 15 years old or more and that have not been substantially rehabilitated within 15 years. Applicants must clearly demonstrate that no other source of funds is available for this purpose and that the rehab is substantial.

**VII. Sustainability** (12 points rental, 13 points ownership)

- Points will be awarded to new construction projects scoring higher than 80 points on the Green Points Checklist (see the Application Instructions to complete the Checklist). Projects are required to score at least the minimum points in each category of the Checklist (energy, community, health, water, resources) totaling at least 50 points.
- New construction projects are required to use a GreenPoint Rater to rate and certify the project during the design and construction process.

<b>RENTAL</b>	<b>OWNERSHIP</b>	<b>Score Range from Green Points Checklist</b>
3 points	3 points	80-99
6 points	7 points	100-119
9 points	10 points	120-139
12 points	13 points	140 and above

**Rental Rehabilitation Projects:**

Applicants are required to fill out only the “Systems” and “Finishes & Furnishings” sections of the Green Points Project Tool. Applicants planning major gut rehabilitations should assume the standards for new construction projects above will apply.

<b>RENTAL REHAB</b>	<b>Score Range from Green Points Checklist (Systems and Finishes and Furnishings sections)</b>
3 points	20-34
6 points	35-50
9 points	51-75
12 points	76-90

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

Within 24-months preceding a funding application, events occurring in connection with projects with City/Agency 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.

Two points may be deducted at the City/Agency's discretion for each occurrence below with a maximum deduction of 10 points.

- The submitted project has previously received City or Agency development funding (not including City/Agency Site Acquisition or Predevelopment Loans) and is returning for additional development funds. This penalty applies for projects currently under development or in operation for less than ten years.
- 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/Agency agreement or on any agreement for a project that has City/Agency funding.
- Unjustifiable increases in City subsidy after the initial funding commitment or demonstrable failure to maximize non-City funding sources.
- Significant delays to a project schedule, as proposed in the initial application or per the schedule set forth by the City funding commitment or loan documents, that are under the control of the sponsor.
- 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***

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The City of Oakland and the Redevelopment Agency of the City of Oakland (City/Agency) provide financial assistance to developers of low and moderate income housing. These programs are administered by the Community and Economic Development Agency (CEDA).

City/Agency 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., Agency 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 non-profit housing development corporations. A separate application is required.

### **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 into joint venture agreements with experienced developers. Applicants should refer to the Addendum *Minimum Developer Qualifications* for specific requirements.

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

New construction and substantial rehabilitation (with or without acquisition) 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***

- 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 or rehabilitate 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
- Reasonable developer fees (see Addendum *Developer Fee Guidelines*)
- An initial operating reserve during the period in which the project is initially marketed (not to exceed 18 months after completion)
- 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)
- Refinancing of existing debt, except in extraordinary cases
- 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.

## **AFFORDABILITY TARGETING**

See Addendum, *Income, Rent, Utility Allowance, 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 effective schedule published by the Oakland Housing Authority (OHA).

The Area Median Income (AMI) range for household income is generally 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.

Note that projects which have received funding under the Redevelopment Agency's Site Acquisition Program must, under that program, have at least 25% of project units affordable to households earning less than 80% of AMI.

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

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

- At least twenty percent (20%) of project units must be restricted as affordable, with annual rents (less utility allowance) of no more than 30% of 60% of the Area

Median Income, as defined by HUD, and be reserved for low-income households earning less than 80% AMI.

- ♦ At least ten percent (10%) of the affordable units must have annual rents (less utility allowance) of no more than 30% of 35% AMI, and be reserved for very low income households earning less than 50% AMI.

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

- ♦ One hundred percent (100%) of designated HOME-assisted affordable units must have annual rents (less utility allowance) of no more than 30% of 60% AMI and be reserved for households earning no more than 60% AMI (“high HOME rent units”).
- ♦ Twenty percent (20%) of designated HOME-assisted affordable units must have annual rents (less utility allowance) of no more than 30% of 50% AMI and be reserved for households earning no more than 50% AMI (“low HOME rent units”).

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

Projects may not increase rents above the City/Agency 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 that they are rented to a very 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 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 MHP will be subject to those relevant rules regarding over-income tenants.

#### **MINIMUM AFFORDABILITY - OWNERSHIP PROJECTS**

- ♦ At least 20% of units in the project must be restricted as affordable.
- ♦ The affordable units must have an average affordability level of 100% AMI or less. For example, in a 26 unit project, 10 units could be targeted to households at 120% AMI, 10 units at 80% AMI, and 6 units at 100% 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% AMI.
- Affordable Sales Prices are calculated based on a formula set forth by redevelopment law. 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/Agency 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/Agency 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/Agency 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/Agency loan.

- HOME-assisted units are subject to the following per unit subsidy limits

Bedrooms	Per-unit maximum
0	\$126,869
1	\$145,433
2	\$176,846
3	\$228,780
4	\$251,131

- Rehabilitation projects that don't include acquisition and that have existing City or Agency debt should include existing debt as part of the 40% calculation. In order to account for previously completed construction/rehabilitation costs and existing City debt, the below formula will be used to calculate the 40% loan limit.

$$\frac{\text{NOFA request} + \text{existing City/Agency debt}}{\text{Rehab TDC} + \text{total of all existing debt, City and other}}$$

#### **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 10% construction cost contingency for new construction projects or a 15% construction cost contingency for rehabilitation projects is required.

#### **DEVELOPER FEE POLICY**

See Addendum, *Developer Fee Policy for Housing Development Projects* for a detailed breakdown of allowable fees and the disbursement schedule. Previously funded projects requesting additional funds must adhere to the Developer Fee Policy in place at the time of the original funding award.

#### **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 on the basis of 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, this must be explicitly stated in the cover letter and a separate explanation provided in the application. Such requests are granted at the sole discretion of the City/Agency.

### **TIMELINE OF CITY/AGENCY COMMITMENTS**

City/Agency 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 by the NOFA deadline. 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, projects will have their funding commitments revoked and 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.

### **MONTHLY UPDATES**

Upon commitment of funds from the City/Agency, 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 monthly updates are not provided in a timely manner, decreased developer capacity points may be assessed for the next NOFA application submitted by the project sponsor.

### **SUBORDINATION**

The City/Agency will no longer subordinate its affordability covenants to the deeds of trust securing other lenders' financing, except in extraordinary circumstances. The affordability covenants control, among other things, the maximum income of tenants or buyers of project units, and the maximum rents or sales prices allowed for project units. The City and Agency deeds 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, they will be deferred for the term of the loan. All loans are due on sale, refinancing, or transfer (except to a related entity, such as a limited partnership, subject to City/Agency approval).

City/Agency loans will be evidenced by a promissory note 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. If an Agency Site Acquisition Loan is already in place for a project, it will be consolidated with the development loans.

## **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 and by State law, 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 not 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/Agency 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/Agency 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 reconveyed 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.

## **ONE PERCENT LOAN FEE**

A fee equal to one percent (1%) 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.

## **DISBURSEMENT OF FUNDS**

Funds will be disbursed to borrower only for costs actually 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 City will retain an amount equal to the portion of the developer fee to be paid upon receipt and approval of a cost certification.

## **ADDITIONAL FINANCING GUIDELINES FOR RENTAL PROJECTS**

### **PRESERVATION PROJECTS**

Applicants seeking to preserve existing affordable housing in danger of conversion to market-rate rents as a result of the non-renewal of expiring federal subsidies or tax credits must show that the project will remain financially feasible, with all income and rent restrictions met, throughout the term of the regulatory agreement. If a rental or operating subsidy is currently part of the financing plan, applicants must show that the project will still be feasible if that rental or operating subsidy contract is not renewed.

## **OPERATING BUDGET**

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

- The operating budget must show at least break-even cash flow within 18 months of initial rent-up.
- Include operating and replacement reserves (See Replacement and Operating Reserve Requirements below).
- 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. The Affordable Housing Operating Cost Database is a useful resource for comparables which can be found on the Community Development Exchange website of the Bay Area Local Initiatives Support Corporation (LISC) at <http://www.cdexchange.org/>.
- If rental assistance is assumed, 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 according to City/Agency requirements even if the rental assistance is no longer available.

## **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 partnership/asset management fee) will be split between the developer and the City/Agency, with 50% of excess cash flow paid to the City/Agency as a residual receipts loan payment and 50% for the borrower as an Incentive Management Fee. 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.

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 or Agency loans.

## **REPLACEMENT AND OPERATING RESERVE REQUIREMENTS**

City/Agency 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/Agency. 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/Agency.

- **Replacement Reserves:** 0.6% of the replacement cost of the structure annually, up to \$600 per unit for family developments and \$500 per unit for senior developments. 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 not 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 or Redevelopment Agency 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. For family rehabilitation projects, at least 10% 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.

### **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 Building and Planning Departments, 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 both

- the Planning/Zoning staff and the Housing Development staff. Secure resident bicycle parking should be provided per 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 of 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:***

Currently, the City is drafting a Green Building Ordinance. The Ordinance will follow the parameters of Build It Green's GreenPoint Rated program and apply to all new single and multifamily residential construction. For more information about Oakland's Green Building Ordinance, contact Heather Klein, Planner, at [hklein@oaklandnet.com](mailto:hklein@oaklandnet.com) or Garrett Fitzgerald, Sustainability Coordinator, at [gfitzgerald@oaklandnet.com](mailto:gfitzgerald@oaklandnet.com).

#### ***Green Points Project Tool and Green Building Guidelines:***

Applicants are required to complete the *Multifamily GreenPoint Checklist* or the *Single-Family GreenPoint Checklist* developed by StopWaste.org in Alameda County and Build It Green. The checklist tracks green building measures in the proposed project design and provides a preliminary GreenPoint score. The proposals will be evaluated based on the total GreenPoint score. As a minimum threshold, projects will be required to meet at least the minimum scores in each category set forth in the GreenPoint

Checklist (energy, community, health, water, and resources) and achieve at least a total score of 50 points.

It is understood that most proposals are in early stages of design development, and therefore, the applicants are asked to complete the GreenPoint checklist based on their intent to incorporate green building components. However, projects awarded City/Agency 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 verified at the end of the project by a GreenPoint Rater. If the project does not achieve the score range initially proposed, the developer may be assessed negative points on the next NOFA application submitted.

To contact a certified GreenPoint Rater, visit:

[http://www.builditgreen.org/files/uploads/CGBP/CGBP\\_Directory.pdf](http://www.builditgreen.org/files/uploads/CGBP/CGBP_Directory.pdf). Applicants may also directly contact Build It Green with a request for a Rater.

The GreenPoint Checklists are accompanied by the ***Residential Green Building Guidelines*** and are the basis for Build It Green's third party rating program. The ***New Home Construction and Multifamily Guidelines*** are available at the city's Green Building Resource Center (2nd Floor, 250 Frank Ogawa Plaza) or from [www.buildgreennow.org](http://www.buildgreennow.org). Free technical assistance is also available to multi-family housing developers. Please contact Wes Sullens at StopWaste.org ([wsullens@stopwaste.org](mailto:wsullens@stopwaste.org)) for more information. The Affordable Green Housing Coalition also has an informative website on various strategies and Bay Area resources for greening affordable housing at [www.greenaffordablehousing.org](http://www.greenaffordablehousing.org).

For rehabilitation guidelines, applicants may refer to LISC's ***Green Rehabilitation of Multifamily Rental Properties***, which includes a checklist and recommendations. The guidelines are available on LISC's website at <http://www.lisc.org/content/publications/detail/7383/>.

Build It Green also provides technical assistance for sustainable landscaping and offers the ***Bay-Friendly Landscape Guidelines***. For more information about the program and available funding, please contact StopWaste.org.

#### **INCLUSION OF COMPUTER TECHNOLOGY**

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. This requirement may be waived for rehabilitation projects if infeasible. Priority is given to projects that go beyond this minimum by providing and maintaining computers in a common area and providing computer training as an element of their Resident Services Plan.

## **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 (completed within six months of the application deadline) appraisal of the project site and any existing improvements as part of the application. If no acquisition is involved, an appraisal is not required. 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 or Redevelopment Agency, the value of the donated property will be included when calculating the percentage of City/Agency 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.

### **BROWNFIELD SITES**

The City of Oakland may have available a loan and grant pool for qualified borrowers, including eligible non-profits, to conduct environmental site assessment and cleanup of brownfield sites within the City. These funds are not awarded through this housing NOFA. For eligibility criteria and an application, please contact the CEDA Brownfields Program at 238-3741 or email [mprado@oaklandnet.com](mailto:mprado@oaklandnet.com).

### **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.

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*. 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 of 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. Developers considering projects which may result in temporary or permanent relocation are encouraged to contact City staff for assistance in relocation matters. See the *Application Instructions* for more information.

### **RESIDENT SERVICES AND SPECIAL NEEDS UNITS**

For rental projects, supportive and social service coordination reasonable for the population being served may be included as a cost paid by building operations. However, direct service provision may not be paid for from the building's operating funds. For questions about potential sources of services funding, contact Susan Shelton in the City of Oakland's Department of Human Services at [srshelton@oaklandnet.com](mailto:srshelton@oaklandnet.com).

"Special needs units" are defined as units reserved for populations including the following: developmentally disabled, survivors of physical abuse, homeless persons, persons with chronic illness including HIV/AIDS or mental illness, displaced teenage parents (or expectant teenage parents), individuals exiting from institutional settings, youth exiting foster care, chronic substance abusers, or another specific group as approved by the City of Oakland.

#### **UNITS FOR HOMELESS HOUSEHOLDS OR THOSE AT RISK OF HOMELESSNESS**

The City will utilize the definition of "homeless" and "at risk of homelessness" from the MHP Regulations of the state Department of Housing and Community Development, Section 7341(b), which can be found at <http://www.hcd.ca.gov/fa/multifamilyregs.html>.

Projects with units set aside for formerly homeless households or those at risk of homelessness must provide sufficient supportive services for the population served and show sufficient commitments for services.

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

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

For new construction projects or substantial rehabilitations, the 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.

This is not applicable for rehab projects unless unit count, building envelope, parking, use, or other substantial changes are planned for the property. However, occupied rehab projects must show that information regarding the planned work and its potential impacts on residents has been provided to any existing tenants.

#### **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 CEDA's Business Development Services unit for a copy of the guidelines, general technical assistance on the topic and review of the commercial portion of the proposed project, at [kwilliams@oaklandnet.com](mailto:kwilliams@oaklandnet.com).

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. **City or Redevelopment Agency 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:

- 20% Local and Small Local For Profit and Not For Profit Business Enterprise Program (4/2004)
- 50% Local Employment Program (4/2004)
- 15% Oakland Apprenticeship Program (5/2000)
- 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 <http://cces.oaklandnet.com/cceshome/> and at the meeting with Contract Compliance staff to be held prior to the NOFA deadline. Submission of documentation regarding the above requirements and a meeting with Contract Compliance will be required prior to loan closing and 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 \$80 per month for using the LCP tracker; subcontractors will not be charged for this service.

- The 20% L/SLBE requirement must be met on both the professional services and construction phases of each project.
- The general contractor selected must comply with 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 let or signed for the project. If the construction contract is not signed and work does not begin within twelve (12) months of the residential wage determination, you must inform the division of Contract Compliance so that updated rates can be obtained.

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

#### **OAKLAND RESIDENT AND WORKER PREFERENCE**

The City of Oakland has established a policy granting preference to Oakland residents and Oakland workers in the selection of tenants or homebuyers for affordable housing projects and programs assisted by City or Redevelopment Agency housing NOFA funds. All Oakland residents and workers would be eligible for the preference regardless of the length of time of residency or employment and the preference would be applied only if and to the extent that any other funding sources for the project permit the preference.

#### **DISPLACEE PREFERENCE**

Preference must be given to residents who have been displaced as a result of the City of Oakland's or the Oakland Redevelopment Agency's public projects or the City's code enforcement activities. If such a tenant household is referred to the property, the next available assisted unit must be rented to the displaced household, irrespective of waiting lists, if the household is otherwise eligible for occupancy.

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

Because Housing Development may have different concerns about the physical structure than the Planning or Building Department address, 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 and/or Building staff and with the Design Review Committee and Planning Commission regarding the project. Both Planning and Housing Development staff must approve the plans for the development.

#### **PLANNING AND ZONING**

A "Zoning Summary" is required as part of the Application. Applicants must submit a request in writing to the City's Zoning Division, at 250 Frank H. Ogawa Plaza, Suite 2114. See the NOFA Application Exhibit, "*Letter of Conformity with Planning and Zoning Requirements*" for detailed instructions.

Successful NOFA applicants will be required to hold a "Pre-Application Meeting" with Planning and Zoning to review their project. The pre-application meeting is not required to obtain the Zoning Summary letter; however, applicants may wish to arrange a review meeting before submitting their NOFA application. Please allow the Zoning Division a minimum of 4 weeks to process a pre-application conference 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/Agency 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/Agency. 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.

After completion, similar levels of liability and hazard coverage are specified by the regulatory agreement. All policies must name the City/Agency 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.

#### **ENVIRONMENTAL REVIEW AND ASSESSMENT (CEQA & NEPA)**

**CEQA:** Prior to staff recommendation to the City Council, projects must be assessed in accordance with the California Environmental Quality Act (CEQA). Applicants must submit a preliminary study addressing CEQA prepared by a 3<sup>rd</sup> party consultant. For developments likely to be exempt from CEQA, the study should verify the reasons for exemption. For developments which will need more extensive environmental review, the study should define the scope of that work and present a plan for completing it.

The study must briefly review and comment on the following areas of impact, as presented in the *Guidelines for Implementation of California Environmental Quality Act, Title 14, California Code of Regulations*:

- Traffic
- Noise
- Historic Resources
- Exposure to Hazardous Materials (consultant analysis/commentary on the Phase I Environmental Assessment, and Phase II where recommended)
- Creek, wetland, and seismic issues, when applicable

Additional studies and environmental review may be required during the entitlement process or based on significant changes to project plans.

**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 CEDA 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.

CEDA staff will seek 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 MHP**, please contact Jeff Angell at 238-6158 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/Agency 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/Agency funded projects is prohibited. Testing and abatement of lead-based paint in rehabilitation 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. In addition, Project sponsors should be aware of a new EPA regulation coming into full effect in April 2010 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/trainingproviders.htm](http://www.epa.gov/lead/pubs/trainingproviders.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.aclppp.org/leadfunding.htm>.

**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 or the Redevelopment Agency from making campaign contributions to Oakland candidates between commencement of negotiations and either 180 days after completion of, or termination of, negotiations. Applicants are required to submit the *Acknowledgement of Campaign Contributions Limits* form.

**NONDISCRIMINATION**

All applicants must agree not to discriminate on the basis of race, color, ancestry, national origin, religion, sex, sexual preference, age, 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.