



HOUSING AND COMMUNITY DEVELOPMENT DEPARTMENT

**Bond Measure KK 1-4 Unit Acquisition and Rehabilitation
Program**

**Applications Accepted Starting January 7, 2019
Funds Available January 7, 2019**

On November 8, 2016, City of Oakland voters approved Bond Measure KK to fund affordable housing projects and programs and infrastructure improvements. The program guidelines set forth below are in accordance with the City’s Affordable Housing and Infrastructure Bond Law adopted by Oakland City Council in City Ordinance 13403 C.M.S., dated November 29, 2016, and codified in Chapter 4.54, Article IV, of the Oakland Municipal Code.

The purpose of the Bond Measure KK Site 1-4 Unit Acquisition and Rehabilitation Program is to provide loans for acquisition-related and rehabilitation costs associated with developing, protecting and preserving long term affordable housing throughout the City of Oakland.

I. Eligibility

A. Eligible Rental Projects

- Acquisition and rehabilitation of properties with 1-4 unit structures, occupied or unoccupied, but excluding vacant lots and properties that require demolition/reconstruction unless such lots are adjacent to an existing structure being acquired.
- If occupied, no tenants may be displaced upon acquisition.
- Funds will be awarded on a first-come, first serve basis for properties that meet the threshold eligibility criteria, with additional consideration for projects meeting priority criteria. See “Prioritization” for more details.

B. Eligible Ownership Projects

- Acquisition and rehab of unoccupied properties with 1-4 unit structures, but excluding vacant lots and properties that require demolition/reconstruction. Homes made available for sale should give preference to existing Oakland residents in danger of displacement.
- Occupied properties with current tenants who have provided written notice of their desire to become owners and are willing to participate in a lease-purchase arrangement and/or form a limited equity cooperative. Acquisition and rehabilitation will be pursued to stabilize the tenancies of existing occupants, with the goal of converting to ownership for the household within an identified timeframe so that their purchase meets the City’s Affordable Homeownership guidelines.



C. Eligible Borrowers

- Funds are available to non-profit and for-profit affordable housing developers.
- LLCs and LPs controlled by a nonprofit corporation
- Community Land Trusts
- For profit developers providing permanent affordable housing in accordance with bond regulations.
- Completed buildings may be transferred to limited equity cooperatives if all members will occupy the property as their primary residence.

D. Eligible Uses of Funds

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

- Purchase costs.
- Holding costs associated with the property such as taxes, insurance and debt service.
- Option fees, to be repaid no later than the date of the purchase of the property.
- Due diligence reports, including environmental assessments and property inspections.
- Architectural, engineering expenses, predevelopment expenditures as applicable.
- Appraisals.
- All other costs associated with acquisition of the site, as approved by the City.

E. Ineligible Use of Funds

Ineligible uses of funds include costs associated with demolition and reconstruction, new construction, mortgage assistance, rental subsidy or legalizing any non-conforming uses.

II. Loan Requirements

A. Loan Terms

- Loan amount: up to one hundred fifty thousand (\$150,000) per unit
- Loan term: minimum of 55 years, up to permanent if there are permanent affordability restrictions
- Acquisition loans and loans for predevelopment activities are to be repaid in full as soon as projects secure permanent financing, or three years from the date of loan closing, whichever is sooner.
- Interest rate :0%
- Will subordinate to senior debt when need is demonstrated
- Non-recourse
- Repayment



- Ownership:
 - Projects will carry 1% origination fee.
- Rentals:
 - Payments from residual receipts, deferred
- Affordability agreements or regulatory agreements will be recorded on the property at the time the loan is closed, and will restrict the property to low-income renters at certain income limits for a period of fifty-five (55) years, regardless of whether the loan is repaid.
 - For acquisition of vacant land or rehabilitation of existing restricted affordable housing projects, all existing or future units must be restricted to households or individuals at or below sixty percent (60%) of AMI.
 - For acquisition of properties without long-term affordability restrictions, units that become available for rent after the date of the loan must be restricted to serve households or individuals at or below sixty percent (60%) of AMI until rents reach an average of eighty percent (80%) of AMI for the property.
- At the time that the property is ready for construction or rehabilitation, or three years from the date of the loan, whichever is later, the City Administrator, or his or her designee, may, in his or her discretion, convert the loan to a long-term deferred loan, or consolidate the loan with other City development financing for the project.
- If the project is unsuccessful in securing financing and entitlements or unable to make the full loan repayment within three years, the City Administrator, or his or her designee, will determine if the property is likely to be developed and if so, may at his or her discretion, authorize an extension of the loan term.

B. Loan Disbursement

Proper back-up documentation as outlined in the Measure KK Acquisition Rehab Checklist will be required to support disbursement requests.

C. Loan Documentation and Security

Each loan shall be documented by a loan agreement, promissory note, and recorded regulatory agreement or affordability agreement. Each loan will be secured in a manner that adequately protects the interest of the City. Security may include but is not limited to a deed of trust or other lien on the property.

At the development stage, the City may agree to subordinate its deed of trust, if it becomes necessary to do so for project feasibility. The City will not subordinate its regulatory agreement or affordability agreement to private lenders.

D. Loan Termination



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

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

E. Repayment

- Target of 1% of total program rewards to be repaid
- Repaid funds stay within Measure KK 1-4 Unit Acquisition Rehab Program with the purpose of supporting future projects and/or already-awarded projects in need of additional investment.
- Repayment comes in different forms for rental and ownership properties:
 - Rentals: Payment from residual receipts, deferred 10-15 years.
 - Ownership: 1% origination fee on the front end (that would be in addition to 5% for administrative costs)

F. Other

- Developer Experience
 - Developer must have experience successfully completing similar affordable housing development projects
 - Acquisition expertise
 - Property management expertise.
 - Project management expertise
 - Construction management expertise
- Soft costs (penalties and interest) associated with code enforcement and other violations of City regulations may be waived for properties being converted to permanently affordable housing. Costs should not have already been budgeted and cooperation with Planning and Building is needed.
- Over-income tenants:
 - Rent stays at original rate until tenant income exceeds 80% AMI, at which point rents would be raised to 30% of current incomes at next income recertification.
 - When tenants are “over income” at time of acquisition, a progressive rent escalation plan will be established to raise rent to 30% of tenant’s income.
 - No tenant shall pay more than 50% of their income towards rent.



III. Application Requirements

Applicants must submit one hard copy of the City of Oakland *Bond Measure KK Site Acquisition Program application form* and all supporting documentation to:

**Housing and Community Development Department
250 Frank H. Ogawa Plaza, Suite 5313
Oakland, CA 94612
Attn: Residential Lending Services**

Applicants must also submit one electronic copy to Loyd Ware at lware@oaklandca.gov.



Supporting documentation includes the following materials:

A. Narrative Description of Site and Proposed Development

Applicants must provide a narrative cover letter that describes the site to be acquired or rehabilitated including basic information about the site and potential development. The cover letter should include but not limited to the following:

Site Information

- Location of site/project.
- Number and size of housing units (if acquiring an existing building).
- Target population served (if identified).
- Expected affordability levels.
- Current condition of site/project (occupied vs. vacant).
- Any environmental, safety or hazardous issues.

Financing Activities

- Amount of loan requested.
- Total acquisition costs.
- Description of other funds being considered for the acquisition

B. Developer Experience and Capacity

The development entity applying for funding must have experience successfully completing at least three similar affordable housing development projects. Developers must submit the following information concerning completed projects:

- The type of project developed (number of units, funding sources, total development cost, new construction, preservation or rehabilitation).
- Location of project.
- Date of project start and completion.
- List of staff members involved in the development of the project.
- Income level of the households that are served.
- Name, title, email and telephone number of staff member of local governing body most familiar with the project.
- Whether project was on time and on budget (relative to schedule and budget at start of construction).
- Resumes of key staff members (executive director, project manager, director of real estate development, architect, etc.) who will be involved in the proposed project.

1. Joint Ventures

A developer that does not meet the criteria for experience must joint-venture with a developer that does meet the criteria. Prior to funding approval, the City must review and approve all joint venture agreements. A majority interest and control must be held



by the development entity meeting the City requirements for experience as described above.

2. Limited Partnerships or LLCs

For development entities proposed as limited partnerships or limited liability companies, the City reserves the right to approve the limited partnership agreement or operating agreement.

C. Articles of Incorporation, Articles of Organization, Bylaws, Tax-Exempt Determination from the I.R.S., List of Board Members and Corporate Borrowing Resolution, if applicable

D. Financial Statements

Submit borrower’s financial statements for the two most recent years. If possible, financial statements should be audited by an independent or certified public accountant.

E. Location Map of Proposed Site

Provide a map clearly identifying the location of the project in the City of Oakland.

F. Budget (Sources and Uses)

Provide a detailed sources and uses budget which includes all items to be paid from the City loan and other fund

G. Rent Roll

For existing occupied buildings, provide rent and family size information for current tenant population.

H. Preliminary Holding Cost Budget (Acquisition Projects)

Provide a three year budget of holding costs for the site: real estate taxes, insurance, maintenance, etc. Include a buyer estimated closing statement.

I. Preliminary Title Report

Provide a preliminary title report for the site which must be dated not more than 60 days prior to the date of submission of the application. Prepare a narrative of a plan to remove all appropriate liens with a timetable for the removal.

J. Prioritization

- “Prioritization” means that if multiple applications meeting the eligibility threshold are received within the same two-week period, the application(s) demonstrating priority will be funded first, as described below.



- Additional priority will be given to projects that demonstrate the following characteristics, with priority determined based on total additional “points”:
 - Properties where tenants are at a high risk of displacement, as evidenced by a no-fault eviction notice, a substantial rent increase for at least one household (i.e. where new rents would consume 50% or more of household income), or other documentable indicators of displacement pressure. [1 point]
 - Property is in poor condition, which may be supported by photos of the property, a history of code complaints/violations, or written statements signed by current tenants. [1 point]
 - Property owner is in violation of, or has multiple complaints related to, documentable housing/building code deficiencies filed pursuant to Oakland rental housing laws, including the Tenant Protection Ordinance, Just Cause for Eviction Ordinance and Rent Adjustment Ordinance, including on other Oakland properties owned by the same owner. [1 point]
 - Current tenants include vulnerable populations: families with minor children, elderly, disabled, extremely low-income, and catastrophically-ill persons. [1 point, would need further clarification]
 - For unoccupied properties, proposals to serve homeless and/or extremely low-income households will be prioritized. [1 point]
- Projects that demonstrate priority characteristics but contain errors or are deemed incomplete may be given a “grace period” of one additional week to make amendments.



Documents required within ninety (90) days of application submittal:

(If applicant fails to provide the documents within ninety (90) days, the project application will be moved to the end of the application queue and funds could be awarded to another project.)

A. Evidence of Site Control

Provide evidence of site control including one of the following:

- Grant deed evidencing fee title ownership.
- Purchase agreement, including evidence that the agreement is of a term sufficient to hold the property until the anticipated date of purchase.
- Option to purchase or lease, including evidence that options are renewable until the start of construction.
- Long term lease agreement.
- Executed land sales contract or other enforceable agreement for acquisition.

B. Environmental Assessment

Provide a copy of the Phase I Environmental Assessment for the site. Applicants may be required to complete a Phase II Environmental Assessment and remediate potentially hazardous materials, if found on the site (sites must be free of significant contamination at loan closing). The City may reimburse for these costs upon acquisition, subject to prior approval. Depending on the conditions at the site, proposed projects may be subject to review under the California Environmental Quality Act (CEQA).

C. Planning and Zoning Information

Provide a letter from the City’s zoning division (510-238-3911) on current zoning for the project site, and any zoning or land use requirements for the development of the project, such as conditional use permits and design review. (These letters are currently taking at least 30 days to process.)

D. Appraisal

Provide a copy of an “as is” appraisal, with no presumed condition like rezoning or cleanup, in order to determine the fair market value. Appraisals must conform to the Uniform Standards of Professional Appraisal Practice (USPAP), in particular Standards 1 and 2. In addition, appraisals must comply with the appraisal requirements of the Appraisal Institute’s Regulation 3. All appraisers must be California State Licensed/Certified. “Letter appraisals” are not acceptable. A self-contained appraisal report, per current USPAP guidelines, is the minimum acceptable form of appraisal, provided the evaluation includes both improvements and environmental issues, if either is present. The appraisal must include a separate as-is



value for any improvements to be retained, or a demolition cost for any to be removed. Similarly, the estimate of environmental costs must be discussed in the appraisal.

E. Site Plan

Provide preliminary drawings for the proposed project or existing drawings, including a site plan that identifies all areas and project amenities (laundry, recreational, common space facilities, etc.), building elevations and unit floor plans. These drawing must include square footages and scale.

F. Insurance

Document the ability to obtain, at purchase, comprehensive general liability insurance coverage of at least \$2 million. Property (hazard) insurance at value of structure is required for sites with buildings or other improvements. (All future policies must name, as additional insureds, “the City of Oakland, its Councilmembers, directors, officers, agents, and employees.” Property insurance must have a lenders loss payable endorsement naming the City of Oakland.)

G. Community Acceptance

This program is intended to provide developers with additional time to build community acceptance. Include a discussion and rough schedule of how you will receive input on and develop community acceptance for the proposed project. (The process should begin immediately after loan approval.)

City staff reserves the right to require additional information for the project, as deemed necessary throughout the review or closing process.

Applicants should be aware that under the California Public Records Act and the City’s Sunshine Ordinance, all documents that they submit in response as part of their application, including financial information, are considered public records and will be made available to the public upon request.

IV. Application Review Process

- The process is non-competitive. Applications will be accepted at any time beginning **[insert date]** on an “over-the counter” basis until all funds are expended or committed. If more than one application is received within one day of each other and sufficient Bond Measure KK funds are not available to finance all projects, applications will be prioritized based on funding priorities established by the Residential Lending Services.



- Applications will be reviewed and assessed for completeness and project feasibility. If the application is not complete, additional information will be requested from the applicant.
- If the application is approved, a commitment letter will be prepared and sent to the applicant for acceptance. After acceptance, funds will be reserved for a period of three months, subject to extension at the discretion of the Director of the Housing and Community Development Department.
- Loan documents will be drafted and reviewed by City staff, the City Attorney's Office, and the applicant.
- Loan documents will be executed and recorded, as necessary.
- Loan funds will be disbursed upon receipt of satisfactory documentation. Borrowers should consult with the City Housing Development staff about requirements for submitting payment requests.

For questions or additional information, please contact Loyd Ware, Manager, Residential Lending, at 510-238-6197 or lware@oaklandca.gov.