



HOUSING AND COMMUNITY DEVELOPMENT DEPARTMENT

**Guidelines for Site Acquisition, Rehabilitation and
Naturally Occurring Affordable Housing (NOAH) Preservation Program**

The purpose of the Site Acquisition, Rehabilitation and Naturally Occurring Affordable Housing (NOAH) Preservation Program is to provide loans for acquisition, rehabilitation and preservation related costs associated with developing, protecting and preserving long term affordable housing, including the preservation of NOAHs at risk of losing their affordability throughout the City of Oakland.

I. Eligibility

A. Eligible Projects

- Acquisition, rehabilitation and preservation loans are limited to acquiring vacant land or vacant buildings, for acquiring existing multi-family rental buildings, and rehabilitating existing buildings, with the goal of preserving regulated housing and converting existing unregulated housing into long-term regulated housing.
- Proposed new projects should be at least five units.
- Funds are available to developments that will serve households or individuals at or below sixty-percent (60%) of the area median income (AMI).
- For NOAH projects, units that become available for rent after the date of the loan must be restricted to serve households or individuals at or below eighty percent (80%) of AMI.



B. Eligible Borrowers

- Funds are available to non-profit and for-profit affordable housing developers.
- Developers must meet the experience requirements outlined in Section III.B below. A developer that does not meet the criteria for experience must joint-venture with a developer that does meet the criteria.

C. Eligible Uses of Funds

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

- Pre-acquisition due diligence 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.
- Legal costs.
- Architectural and engineering expenses, as applicable.
- Appraisals.
- Gap financing costs.
- Hard construction costs associated with rehabilitation.
- All other costs associated with acquisition, rehabilitation and preservation of the site as approved by the City.

Costs are capped at a cumulative amount not to exceed \$500,000 per project.



D. Ineligible Use of Funds

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

II. Loan Requirements

A. Loan Terms

- Acquisition, rehabilitation and preservation loans are to be repaid as soon as projects secure permanent financing, at construction loan closing, or three years from the date of loan closing, whichever is sooner.
- Loans carry a simple interest rate of three percent (3%) per annum for a maximum amount of \$500,000.
- A loan origination fee equal to three percent (3%) of the loan amount will be charged for all loans.
- Affordability agreements or regulatory agreements will be recorded on the property at the time the loan is closed, and will restrict the property to low-income renters at certain income limits for a period of fifty-five (55) years, regardless of whether the loan is repaid.
 - For acquisition as a single transaction and the acquisition & rehabilitation of existing restricted affordable housing projects, all units must be restricted to households or individuals at or below sixty percent (60%) of AMI.
 - For NOAH projects, units that become available for rent after the date of the loan must be restricted to serve households or individuals at or below eighty percent (80%) of AMI.



- 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 in his or her discretion, authorize an extension of the loan term.

B. Loan Disbursement

Funds will be disbursed to, or on behalf of, the borrower only for costs incurred. Invoices or receipts must 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 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. If a developer comes in with an application for another source of funding for partial acquisition costs, the Director of the Department of Housing and Community Development may agree, at his or her discretion, to subordinate the City's deed of trust to this financing. 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:

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

III. Application Requirements

Applicants must submit the City of Oakland *Site Acquisition, Rehabilitation and NOAH Preservation Program application form*, and all supporting documentation to:

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

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, rehabilitated or preserved, including basic information about the site and potential development. The cover letter should include but not limited to the following:

Site Information

- Location of project.
- Number and size of units.
- Target population served (if identified).
- Expected affordability levels.
- Current condition of site/project.
- Any environmental, safety or hazardous issues.

Rehabilitation Plan

- Summary of scope of work.
- Acquisition and rehabilitation work completed within the last 10 years (describe scope of work and dates of work).

Financing activities

- Amount of loan requested.
- Total acquisition, rehabilitation or preservation budget costs.
- Description of other (non-City) funds that are being considered for the acquisition, rehabilitation or preservation.



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, 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. 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 and on the rehabilitation scope, proposed projects may be subject to review under the California Environmental Quality Act (CEQA).

E. 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.

F. Appraisal

Provide a copy of an "as is" appraisal, with no presumed condition like rezoning or cleanup, 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.

G. Relocation Plan

Provide a copy of the plan for relocating current tenants if relocation is necessary. Current tenants must be notified in writing about the overall plan to perform construction or rehabilitation work. The notification should include the scope of work, schedule for the work, whether or not temporary relocation is likely to be required, and the length of time of any relocation. It is important that the notice to tenants reassures them that if temporary relocation is required, tenants will be moved to vacant units in the building to the greatest extent possible. Otherwise, the property owner is responsible for providing temporary relocation assistance and benefits at its own expense in accordance with relocation laws for the extent of the tenant's temporary displacement.



H. 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.

I. Location Map of Proposed Site

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

J. Site Plan

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

K. 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.

L. Evidence of 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. Attach 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.

M. 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 policies must name, as additional insureds, "the City of Oakland, its Council members, directors, officers, agents, and employees." Property insurance must have a lenders loss payable endorsement naming the City of Oakland.

N. 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 develop community acceptance for the proposed project. (The process should begin immediately after loan approval.)

O. Budget (Sources and Uses)

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



P. Rent Roll

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

Q. Preliminary Holding Cost Budget

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

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 following the publication of this notice on an "over-the counter" basis until all funds are expended or committed.

- 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 Department of Housing and Community Development.

- 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 such as invoices. Borrowers should consult with the City Housing Development staff about requirements for submitting payment requests.

For questions or additional information, please contact Meghan Horl, Housing Development Coordinator, at 510-238-6171 or mhorl@oaklandnet.com.

Guidelines updated as of June 2019.