

CITY OF OAKLAND

PREDEVELOPMENT LOAN AND GRANT PROGRAM

**PROGRAM GUIDELINES AND
LOAN APPLICATION PACKAGE**

May 2002

GENERAL

The purpose of the Predevelopment Loan and Grant Program is to provide loans and grants to nonprofit housing development corporations for housing earmarked for low and moderate income households. Loan and grant funds may be used to cover predevelopment costs (feasibility analysis and preparation of loan applications) and to cover costs of preparing projects for syndication. It is expected that costs financed by the program will be eligible for reimbursement from project financing sources.

All questions regarding the program should be directed to:

**Community and Economic Development Agency
Housing Development Unit
250 Frank H. Ogawa Plaza, Suite 5313
Oakland, CA 94612-2034
238-3502**

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ELIGIBILITY

1. Applicant Eligibility:

Eligibility for the Housing Predevelopment Loan and Grant Program is limited to nonprofit organizations and limited partnerships controlled by a nonprofit general partner. **All applicants must attach evidence that they meet the City's Minimum Developer Qualifications. This requirement may be met by providing a brief narrative describing the applicant's previous experience in developing housing similar to the housing proposed for assistance. For more information, please contact City staff at (510) 238-3502.**

Priority will be given to organizations that can demonstrate:

- a. A stable administrative structure.
- b. Prior housing development experience.
(Organizations without significant housing development experience are required to enter into joint ventures with more experienced organizations.)
- c. A development team with good technical expertise.
- d. A satisfactory record of performance and payments under any previous loan and grant agreements with the City.

2. Project Eligibility:

- a. Projects must be located in the City of Oakland and must have at least forty percent (40%) of the units reserved for lower income persons (households with incomes at or below 80% of Area Median Income as defined by HUD). Annual rents or mortgage payments for these reserved units cannot exceed 30% of 80% of the median annual income for the area, adjusted for household size. Projects intended for tax credit syndication must adhere to the applicable rent guidelines set forth by the Tax Credit Allocation Committee. Specific rent guidelines can be obtained from the Community and Economic Development Agency. **Projects must meet the City's Project Development Guidelines.**
- b. Applicants must secure funding commitments for matching predevelopment funds from other non-City sources. Applicants must provide at least \$1.00 in matching funds for every \$2.00 of City funds (for example, to qualify for a \$20,000 loan, an applicant must provide \$10,000 in matching funds). Evidence of cash grants, service donations or irrevocable commitments from these sources must be submitted at the time of application. Such matching funds must be earmarked for specific, eligible predevelopment costs of the project, and must be available to the applicant at the same time as the City loan funds.

- * This matching requirement may be waived for applications for financing to prepare projects for syndication, at the option of the City.

- c. Applicants should identify potential sources for financing the development of the project. Preference will be given to projects that demonstrate a high probability of obtaining funding from the identified funding sources.
- d. Applicants for loan funds for syndication expenses will be given priority if, in the opinion of the City, there is a high probability that the project can be syndicated successfully.
- e. Priority will be given to projects, which meet the following standards:
 - * Projects with substantial community support and resources.
 - * Projects that already have control of the site; or have the likelihood of gaining control of the site. Site control may be established via ownership, purchase contract, or option agreement.
 - * Projects that meet housing priorities established in the City's Consolidated Plan, and the City Council adopted Housing Policy and attendant implementation strategies.
 - * Projects with a substantial number of units earmarked for low and moderate income persons.
 - * Projects in which the number of units assisted by the loan is high relative to the loan amount.
 - * Projects that have a high likelihood of obtaining financing that can be used to repay the Predevelopment Loan.

LOAN LIMITS

1. The maximum loan amount is \$35,000 per project.
2. Loans are limited to the amount that is necessary to conduct feasibility assessments and prepare applications for project financing.
3. Applicants must provide at least \$1.00 in matching funds for every \$2.00 of City funds (for example, to qualify for a \$20,000 loan, an applicant must provide \$10,000 in matching funds).

ALLOWABLE USES OF FUNDS

1. Appraisal fees.
2. Financial packaging fees.
3. Architectural fees for preliminary architectural design work (site and floor plans, elevations, renderings). Fees for working drawings are ineligible.
4. Engineering fees.
5. Fees for toxics and asbestos assessment studies.
6. Legal fees.
7. Permit fees (those necessary to apply for financing).
8. Consultant fees.
9. Option agreements.
10. Syndication expenses, including:
 - * Tax credit application fees
 - * Legal fees
 - * Consultant fees
11. Administrative costs of the borrower are generally not an eligible use of funds. However, at the City's discretion, such funds may be made available up to a total predevelopment budget maximum of \$5,000, only to the extent that the costs are necessary and are directly associated with the predevelopment activities and that no other funding is available to cover these expenses.
12. Title, recording and escrow charges associated with closing the Predevelopment Loan.
13. Other costs as approved by City.

NON-ALLOWABLE USES OF FUNDS

1. Costs of property acquisition (other than option agreements).
2. Costs related to displacement and relocation.
3. Refinancing of existing debt.
4. Administrative expenses of the applicant except as approved by the City.
5. Costs related to preparation of construction plans and specifications.
6. Site preparation, environmental clean-up or construction costs.
7. Holding costs associated with the property, such as taxes, insurance and debt service.
8. Other costs not approved in advance by the City.

**** Note:** Both loan program funds **and** matching funds must be allocated to allowable predevelopment costs. Funds will not be counted as a predevelopment loan program match if they are not so allocated.

RATES AND TERMS

Predevelopment loans are to be repaid as soon as project financing is available. Borrowers should ensure that their development budgets include an allowance for all costs paid with predevelopment loan funds, as well as allowing for interest and fees.

1. Loans carry a simple interest rate of 6% per annum. Interest will be charged only on funds actually advanced to, or on behalf of, the borrower.
2. Loans are made for a term of up to eighteen (18) months.
3. Repayment of interest and principal will be deferred until the earliest of (1) receipt of project financing or syndication proceeds, or (2) the end of the eighteen-month term. Loans may be prepaid in whole or in part at any time with no penalty.
4. If the project is unsuccessful in obtaining project financing, borrowers are expected to repay the loan from other sources. Loans may be forgiven only at the discretion of the City. (Note: Loans for syndication will not be forgiven.)
5. If a project successfully obtains permanent project financing, the borrower shall pay a success fee, equivalent to 1% of the loan amount, to the Housing Predevelopment Loan and Grant Fund in recognition of the high-risk nature of predevelopment financing.

LOAN DISBURSEMENTS

Loan funds will be disbursed to, or on behalf of, the borrower as the need for funds arises. Invoices or receipts must support disbursement requests.

If funding for administrative expenses is approved, such funds will be disbursed as invoices are submitted by the borrower in proportion to the percentage of the total predevelopment budget that has been expended to date. For example, if 5% of the total predevelopment budget has been expended, loan funds may be disbursed for up to 5% of the administrative portion of the approved budget.

Loan funds are disbursed in tandem with the borrower's use of matching funds. The ratio of City funds disbursed to matching funds expended by borrower may not exceed the ratio approved at the time the application was approved.

LOAN SECURITY

1. 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. Deeds of Trust or other liens on real property;
 - b. Liens on personal property;
 - c. Escrow Agreements;
 - d. Assignment of securities and/or other financial instruments.
2. Unsecured loans may be granted where the borrower does not have any resources to secure the loan. Under such situations, the project and the borrower will be rigorously screened to ensure a high potential for project feasibility.

LOAN TERMINATION

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

- a. One or more conditions of commitment, agreement, or disbursement have not been, or will not be met;
- b. The borrower has violated program guidelines;
- c. The City's security is jeopardized;
- d. Predevelopment is not progressing or is anticipated not to progress within a reasonable time;

- e. Anticipated project financing sources are not awarded, and no alternative financing plan acceptable to the City is presented; or
- f. Predevelopment expenses are less than projected. In this case, the amount of the loan will be reduced to the amount required to meet actual expenses.

OTHER REQUIREMENTS

1. Non-Discrimination and Affirmative Action:

Borrowers must agree not to discriminate on account of race, color, ancestry, sex, marital status, physical handicaps, age, creed, religion, national origin, Acquired Immunity Deficiency Syndrome (AIDS), AIDS related conditions (ARC), or sexual orientation and to abide by all local, State and federal regulations precluding such discrimination. The City of Oakland's contracting programs will apply to all activities financed under the program.

2. Liability Insurance:

Borrowers must carry comprehensive liability insurance policies affording coverage for bodily injury in the amount of \$1,000,000 for each person and an aggregate amount of \$2,000,000. Borrower must also hold automobile insurance. All policies must name the City of Oakland as an additional insured. Applicants are encouraged to contact City staff regarding specific insurance requirements.

3. Predevelopment Loan Closing Costs

Borrowers must pay for all title, recording and escrow costs associated with the closing of a secured loan. These fees may be paid with loan proceeds. Applicants should consult with City staff to determine appropriate cost estimates for these fees.

4. Business Tax

All firms contracting with borrower must obtain a City of Oakland business license, if so required, and must not be in default of payment of business taxes.

5. Status Reports

Written status reports will be required at regular intervals, describing progress towards securing project financing. At a minimum, status reports must be included with each request for payment.

APPLICATION MATERIALS

The application package to be submitted for review must include the following items. Each section should be clearly labeled.

1. Cover Letter:

The cover letter should provide a brief narrative description of the proposed project, including the location of the site, the number of units to be developed or rehabilitated, the scope of predevelopment or syndication work to be undertaken, and the proposed loan amount. The letter should be used to identify any special circumstances or conditions regarding the application.

2. Application Checklist:

The checklist should be attached to the front of the application form. Application materials should be clearly labeled and arranged in the order shown on the checklist.

3. Loan Application Form:

The loan application form requires information regarding the background and experience of the borrower, site information, a description of the proposed development, and proposed sources of permanent financing for the project.

The application form should be completed in its entirety and signed by person(s) authorized to act on behalf of the applicant.

4. Copy of Applicant's Articles of Incorporation and Bylaws.

5. 501(c)(3) determination.

6. List of Names of Governing Body of Applicant.

List should include a brief description of their background, experience and qualifications.

7. Authorizing Resolution:

Resolution of applicant's governing body authorizing application for loan and execution of loan documents.

8. Evidence of Required Insurance.

An insurance certificate or binder showing coverage in the required amounts.

9. Financial Statements:

Financial statements for the two most recent years should be submitted. If possible, financial statements should be audited by an independent or certified public accountant.

10. Location Map of Proposed Site:

Applicants should provide a map clearly identifying the location of the project in the City of Oakland.

11. Site Plan.

12. Preliminary Title Report:

Title reports must be dated not more than 60 days prior to the date of submission of the application.

13. Evidence of Site Control:

Acceptable evidence includes a deed to the property, a signed purchase agreement, or a signed option agreement. In the absence of site control, applicants should provide information regarding the likelihood of obtaining site control. Purchase agreements and option agreements should have a term sufficient to allow adequate time to apply for and secure project financing.

14. Total Development Budget and Description of Identified Funding Sources:

The total development budget should estimate the cost for the complete development of the proposed project. It is expected that the applicant will identify funding sources that would provide adequate funding for the entire project. The description of each source should include the amount expected to be provided, the terms and any other conditions likely to be attached to the funding. The description should indicate the status of any applications for funding that have already been submitted and the anticipated date of submittal for all applications which will be made in the future.

15. Predevelopment Budget (Sources and Uses)

This must be a detailed budget which includes all items to be paid from both the City loan and the matching funds.

16. Evidence of Approval of Matching Funds:

Borrowers must provide matching funds equal to at least one-half of the requested loan amount. For example, if a loan of \$35,000 is requested, the minimum matching funds required is \$17,500. Acceptable evidence includes executed loan documents or letters of commitment. Pro bono work by development team professionals is an acceptable program match. These donations must be evidenced by an itemized invoice from the donor with an indication that the service has been performed for the project at no charge.

17. Evidence of Community Support:

Letters of support or copies of resolutions from neighborhood and community organizations should be furnished. At a minimum, applicants should include a description of completed and proposed outreach activities to residents of the project neighborhood.

APPLICATION, REVIEW AND DISBURSEMENT PROCESS

1. Applications will first be reviewed by City staff for completeness. If the application is not complete, the borrower will be asked to provide the additional information.
2. Once complete, the application is reviewed for compliance with guidelines and assessment of project feasibility.
3. If the application is approved, a commitment letter is prepared and sent to the applicant for acceptance.
4. Loan documents are drafted and reviewed by the City Attorney and the Borrower.
5. Loan documents are executed and recorded, as necessary.
6. Predevelopment activities commence.
7. Loan funds are disbursed on a reimbursement basis, upon presentation of satisfactory documentation. Borrowers should consult with the City about requirements for submitting payment requests.
8. Principal, interest and success fees are due and payable upon receipt of project financing.

APPENDIX A

PLANNING FOR PREDEVELOPMENT

** Note: This Appendix has been provided to offer assistance in planning for prospective applicants. The guidelines provided are not City requirements.

APPENDIX A PLANNING FOR PREDEVELOPMENT

Before a project even enters the predevelopment phase, initial planning must be done which allows a developer to determine whether or not to begin spending money for further feasibility analysis. This initial planning may be described in three steps:

- I. Identifying the Project
- II. Assembling the Development Team
- III. Budget Planning

I. IDENTIFYING THE PROJECT

The developer must define the basic parameters of the project. A project should be selected that meets the overall mission of the organization. The group the project will serve should be identified according to the income levels and special characteristics of the population (e.g. very low income seniors). Developers should also give consideration to any population which may be injured by the project. Will there be displacement? What other projects will not be completed if the organization's resources are focused on this project?

The project site, building type (single family/multi-family, multiple building or single building, how many stories, design) and whether or not the project will be new construction or rehabilitation must be clarified.

Finally, developer staff must present the project to its Board of Directors along with a proposed project schedule. A project must have FULL Board support before proceeding.

II. STAFFING AND ASSEMBLING THE DEVELOPMENT TEAM

The organization must determine how many staff, consultants and professionals will be needed for the development. It must decide how much of the work load may be carried by in-house staff and how much the project will depend upon outside contracts or consultants. All in-house staff and outside consultants should have recent experience with a nonprofit organization and with housing development. When selecting outside team members, the developer should be certain not to select a Board member or an agency that is represented on the Board.

The project team should include:

- * A Project Coordinator A multi-talented individual who has excellent oral and written communication skills, is computer literate and has a working knowledge of computer spreadsheets. The Coordinator is the key staff person responsible for the project.
- * Assistant to Project Coordinator An individual who will spend approximately ten hours a week assisting the project director. This individual is usually the Executive Director of the organization.
- * Architect
- * Attorney

The organization should also create a committee of the Board of Directors that will be kept up to date on the project at all times. It is preferable to select a diverse committee and to include some individuals on the basis of their residence in the community and others on the basis of their technical expertise.

The organization may consider securing additional support for the project by establishing a relationship with a person who participates in the allocation of funds for a state or local agency.

III. BUDGETING FOR PREDEVELOPMENT

At this stage the developer needs to determine how much it will cost to complete a thorough feasibility analysis of the proposed project and to apply for development funding. Predevelopment costs to consider and estimate accurately include:

- * Legal services. For site acquisition, organization, other contract negotiation or miscellaneous legal expenses during the predevelopment phase. This may prove to be a significant expense if it is likely that the project will be so controversial that it may involve legal action.
- * Accounting.
- * Application fees and preparation expenses. Many lenders and agencies have an application fee. Preparation of applications may also require extensive staff time.
- * Appraisal. Often lenders will require an appraisal by an approved firm. Be sure to confirm this so that work is not duplicated or appraisal expense underestimated.

- * Preliminary Architectural Drawings. Most major funding applications require a site plan, floor plan and exterior elevations.
- * Survey.
- * Environmental Review. Jurisdictions vary as to the extent of the report that will be required. Be sure to confirm procedures and secure reliable cost estimates.
- * Purchase Options.
- * Overall staff time.

It is prudent for the developer to also estimate overall development costs at this time to determine what funding sources are appropriate and likely to provide sufficient funds to complete the project. This preliminary sketch of the overall project costs will provide for a better idea of the type of predevelopment costs which may be incurred. Finally, the developer should identify potential sources of predevelopment funds and begin preparation of applications to these sources.

APPENDIX B

POTENTIAL SOURCES OF MATCHING FUNDS FOR PREDEVELOPMENT LOANS

APPENDIX B
POTENTIAL SOURCES OF MATCHING PREDEVELOPMENT FUNDS

1. Bay Area Local Initiatives Support Corporation
369 Pine St., Suite 350
San Francisco, California 94104
(415) 397-7322

2. Corporation for Supportive Housing
1540 San Pablo Ave., Suite 600
Oakland, California 94612
(510) 251-1910

3. Low Income Housing Fund
74 New Montgomery St., Suite 250
San Francisco, California 94105
(415) 777-9804

4. Northern California Community Loan Fund
383 Rhode Island St.
San Francisco, California 94103
(415) 431-1488

5. National Cooperative Bank
1401 I Street, N.W., Suite 700
Washington, D.C. 20005
(202) 336-7683

APPENDIX C

PROPOSED PREDEVELOPMENT/SYNDICATION BUDGET

**APPENDIX C
PROPOSED PREDEVELOPMENT/SYNDICATION BUDGET**

	<u>Total</u>	<u>Predevelopment Loan</u>	<u>Other Sources *</u>
<u>Purposes:</u>			
Engineering Fees	_____	_____	_____
Architectural Fees	_____	_____	_____
Legal Fees	_____	_____	_____
Consultant Fees	_____	_____	_____
Soils/Toxics Tests	_____	_____	_____
Site Option Fees	_____	_____	_____
Syndication Fees	_____	_____	_____
Appraisal Fees	_____	_____	_____
Other	_____	_____	_____
Other	_____	_____	_____
Other	_____	_____	_____
TOTAL	_____	_____	_____
Estimated Date of Repayment	_____		
Security for Loan	_____		

*Matching funds must total at least 50% of predevelopment loan amount.