



**BAY AREA HOUSING FINANCE AUTHORITY
REAP 2.0 Priority Sites Pilot Program
DRAFT Terms and Underwriting Guidelines, 3/22/23**

Program Description

To be funded with an anticipated \$28M in Regional Early Action Planning (REAP 2.0) Grant funding from the California Department of Housing and Community Development (HCD), the Priority Sites Program provides low-interest loans to developers and public agencies for predevelopment activities necessary to advance development projects that provide deed-restricted affordable homes on sites identified by the Metropolitan Transportation Commission and Association of Bay Area Government as Priority Sites.

For more information on eligibility requirements for Priority Sites and nomination procedures, go to the Priority Sites website. Typically, a Priority Site will be nominated in advance of an application for predevelopment funding, but sites can also be nominated concurrently with an application.

In accordance with HCD's REAP 2.0 Objectives, projects funded through this program will:

- Accelerate infill development that facilitates housing supply, choice, and affordability
- Affirmatively further fair housing
- Reduce vehicle miles traveled

Eligible Borrowers

Eligible borrowers include:

- Project sponsor with an entitled development project with at least 100 new housing units on an eligible Priority Site, with the following provisions:
 - For mixed-income projects, inclusion of a non-profit partner able to secure a welfare tax exemption for all eligible affordable units. Applicants must demonstrate active participation of the non-profit partner in the

development process documented by a Memorandum of Understanding (MOU) that specifies the non-profit partner's role (e.g. responsibility for community outreach, participation of a project manager in financing and entitlements).

- For 100% affordable housing projects, applicants must demonstrate the experience necessary to submit competitive applications for all proposed sources of permanent funding and compliance with Article XXXIV of the California Constitution, if applicable.
- Public agency that owns land on which project will be built.

Eligible Uses

All funds must be used to advance an affordable housing project that meets the eligibility criteria. Eligible expenditures include:

- Architectural and engineering services, entitlement and permitting fees, legal expenses, environmental review and other approved predevelopment activities required to accelerate construction commencement
- Construction of affordable housing or infrastructure required to complete the affordable housing described in the application
- Acquisition of land required for an affordable housing project

Eligible Projects

All the following:

Location. Project must be located on a Priority Site that has been previously nominated or is nominated concurrently with the project application. A nomination portal for Priority Sites will be established prior to the release of a NOFA for the funding associated with this Term Sheet.

Site Control. Lead applicant must have one of the following forms of control over project site:

- Fee simple ownership
- An executed lease agreement or lease option for the duration of the proposed term of the permanent financing
- An executed disposition and development agreement between the borrower and a public agency
- A valid, current, enforceable purchase and sale agreement (PSA) or option agreement (Option), with terms that provide transactional control for the

Applicant. Predevelopment funding for PSA or Option transactions may be committed but not disbursed until acquisition closing.

- Exclusive Negotiating Rights Agreement (ENRA), with ENRA terms both within the control of the Applicant and subject to a milestone schedule that the Executive Director or designee determines in their sole discretion reasonably enables construction commencement within 5 years.

Entitlements. One of the following:

- Entitlements secured. The affordable housing component of the project, and any other components of the project seeking funding, have been fully entitled; or
- If the project has not been fully entitled, both of the following:
 - Eligibility for, and demonstrated commitment to submit an application for entitlements pursuant to permit streamlining; and
 - Conformance with zoning or is eligible for concessions or waivers under local/state legislation, e.g., State Density Bonus Law.

Financing Plan. Financing plan with demonstrated financial feasibility, including, as applicable:

- Competitiveness for proposed state funding applications;
- Commitments of financing from local jurisdictions;
- Equity contribution commitments;
- Reasonable terms for proposed debt leveraging; and
- Feasible assumptions regarding market conditions, development timeline, and affordability levels

Affordability. A minimum of 25% of housing units shall be deed-restricted affordable to low- income households, at or below 80% of the area median income (AMI).

Accessibility and Mobility. The deed-restricted affordable housing shall include:

- Mobility features for a minimum of 15% of units
- Communications features for a minimum of 10% of units

Developers must prioritize leasing of accessible units to households in need of those features.

Loan Terms

Maximum Loan Amount: Up to \$3,000,000, depending on need and the availability of other funds. Borrowers demonstrating financial need coupled with the ability to commence construction within 24 months may borrow up to \$5 million.

Interest Rate: 3.0% simple per year. However, the Executive Director or designee will evaluate project-specific loan terms with the intent of maximizing financing leveraging (see below for additional information regarding potential permanent financing terms).

Lien priority. BAHFA requires first lien priority for its occupancy deed restriction. In their sole discretion, the Executive Director or designee may agree to subordinate the restriction if Borrower demonstrates and the Executive Director or designee finds that subordination is necessary to secure financing and if such subordination furthers the goal of creating permanent affordable housing.

Loan Term: 3-5 years, with repayment due at construction loan closing, with the following additional provisions:

- For 100% affordable projects, including those that are individual developments:
 - Projects able to repay the loan in full at construction loan closing will be prioritized; or
 - For Projects demonstrating need, readiness, and beneficial community impact, funding may be converted to permanent financing, with the term co-terminus with other leveraged sources term restrictions, such as Low Income Housing Tax Credits (LIHTC).
 - Loans BAHFA approves as permanent financing will be structured as residual receipts debt with a 3% simple interest rate, though BAHFA may adjust the rate as appropriate depending on capital account and residual debt analysis needs.
- For Mixed-income projects:
 - For projects where more than 25% but less than 40% of all units are deed-restricted affordable, and where the predevelopment funding will assist both affordable and market-rate housing, repayment of principal and interest is due at construction loan closing; or
 - For projects where more than 40% but less than 100% of all units are deed-restricted affordable, BAHFA will consider structuring the loan as permanent financing, with additional terms such as interest rate and

repayment obligations to be established in the Executive Director or designee's sole discretion, provided there is a demonstrated furtherance of the goals of this Program.

Additional Loan Terms

Affordability: As described above, BAHFA will consider projects with a range of affordability. Priority considerations include:

- Beneficial Impact: Projects that provide the highest share of affordable units and highest number of units affordable to extremely low- and very low-income households.
- Financial Feasibility: Project unit mix must demonstrate feasibility, whether through cross-subsidies, average area median income (AMI), or access to operating subsidies.

Displacement: No displacement of existing residents shall occur.

Temporary Relocation: If the borrower must temporarily relocate tenants for the purpose of developing the proposed project:

- Temporary relocation shall not exceed 12 months unless approved by the Executive Director or designee. Permanent relocation is prohibited.
- The borrower shall provide temporary housing that is decent, safe, sanitary and of comparable size to and within the vicinity of the relocated tenant's dwelling unit as determined by the Executive Director or designee.
- Tenants shall continue to pay the rent for their original unit, but shall bear no costs related to relocation, including:
 - Moving and packing expenses
 - Any costs associated with the relocation dwelling that exceed their typical housing expenses (rent, utilities, other charges)

Community Engagement

Borrowers should include a narrative regarding their community engagement efforts to date, a description of community response and support (as applicable), any identified community concerns, and plans for ongoing engagement.

Underwriting and Financing Assumptions

BAHFA will apply industry standard underwriting in its evaluation of applicant's proposed financing plan, including, but not limited to:

- The project's competitiveness for proposed but unsecured funding
- Assumptions regarding conventional debt rates, terms, coverage ratios, and other repayment obligations
- Assumptions regarding project income, including commercial income assumed to cross-subsidize residential construction; income and operating expense inflators; and rent levels proposed relative to affordable housing funding requirements and market conditions.
- Operating expense assumptions
- Reserves funding, both capitalized and cash-flow funded
- Surplus cash allocations

Compliance

Regional Early Action Planning Grant:

The applicant must agree to comply with all applicable Federal, State, and local laws, orders, and regulations prohibiting housing discrimination as well as all applicable laws and regulations governing construction, land use, and building operations.

Waivers

The Executive Director or Designee may waive any of these terms, provided the Executive Director or designee finds such waiver is necessary to achieve the Program goals.

Application Process and Loan Commitment

Projects will be selected through a competitive process subject to the release of a Notice of Funding Availability (NOFA) from BAHFA. Applications will be reviewed for completeness, project feasibility, and compliance with this Term Sheet. BAHFA will prioritize projects based on Program priorities as established in the NOFA.

Application Requirements

Applicants must submit the following information through the Priority Sites application portal:

1. Up to 3-page narrative describing the project vision, partnerships, and impact.
2. Project timeline, including dates projected for each phase of development, as applicable.
3. Development program, including but not limited to, total unit count, share of units that are deed-restricted by income level, non-residential floorspace, and any community-serving facilities.
4. Project proposal and acquisition due diligence documents, including but not limited to:
 - a. Site control documentation
 - b. As applicable, a third-party, independent appraisal of the land and/or existing improved site, with a date that provides currency of value.
 - c. Entitlement documentation, including all planning documents submitted and approved; demonstration of zoning conformity or variance application approval; density bonus application (as applicable); streamlining applications submitted and/or approved (as applicable)
 - d. Environmental review documents (e.g., Phase 1, Phase 2, and any additional environmental review)
 - e. Preliminary Title Report
 - f. ALTA Survey Building plans and specifications, as applicable
5. Project financing documents, including:
 - a. Detailed Sources & Uses Development budget indicating:
 - i. All capital costs, with commercial and residential development costs shown separately
 - ii. The status of each source of proposed funding (i.e., committed, projected, application submitted, etc.), and basic terms (e.g., projected interest rate, loan term)
 - b. 20-year cash flow projection, showing all debt service payments and surplus cash allocations
 - c. Year 1 Operating budget, including reserves funding
 - d. Additional budget documents necessary to achieve the development program, e.g., services funding and operating subsidy sources and assumptions

- e. Jurisdictional support documents, as applicable (e.g., letters of financial commitment)
6. Development Team Documents. For each principal member of the development team (e.g., managing general partner, equity partners, developer(s), include:
- a. Current year unaudited financials
 - b. Prior three years of Borrower's audited financials
 - c. Organizational documents:
 - i. Firm description
 - ii. Leadership and governance (Board, Committees, profile of leadership)
 - iii. Key staff resumes
 - iv. Strategic planning documents (if available)
 - v. Annual Report (if available)
 - vi. Schedule of real estate owned and projects under construction (if any)
 - vii. MOU with non-profit partner, if applicable
 - d. Project architect resume and sample completed projects
 - e. Additional principal design consultants' resumes and sample completed projects (e.g., landscape architect)
 - f. General contractor resume and sample completed projects
 - g. Property manager resume and sample projects under management.
7. CEQA Compliance. Documentation that the project will be exempt from review as required by the California Environmental Review Act or a CEQA determination from the lead agency.

Contact Information

For questions regarding term sheet:

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For questions regarding Priority Site eligibility and nomination:

Mark Shorett
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Priority Sites Pilot DRAFT Terms and Underwriting
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Association of Bay Area Governments & Metropolitan Transportation
Commission

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