



Jesse Arreguín
City Councilmember, District 4

CONSENT CALENDAR
December 15, 2015

To: Honorable Mayor and Members of the City Council
From: Councilmember Jesse Arreguín
Subject: Referral to City Manager: Establishment of Affordable Housing Small Sites Program

RECOMMENDATION

Refer to the City Manager to:

- 1) Look into the feasibility of creating a Small Sites Program to allow non-profits to purchase small multi-family buildings (5-25 units) to create and preserve affordable housing, with an emphasis on properties with a high potential for conversion to cooperative homeownership.
- 2) Develop an inventory of City-owned land and other land owned by public agencies in the City of Berkeley which could potentially be used to create below-market rate housing.

FINANCIAL IMPLICATIONS

Staff time to develop a Small Sites Program and an inventory of City-owned land which could be used for low-income housing. Establishing a Small Sites Program would require the expenditure of Housing Trust Fund or General Fund dollars to support land/building acquisition.

BACKGROUND

Speculation of the real estate market has led to record breaking and skyrocketing rents. Since Costa-Hawkins created vacancy decontrol in 1995, rents have risen from around \$525 a month to roughly \$1,400 in 2014. If rents rose only at the rate of inflation, today the average rent would be closer to \$800 a month. Many units in Berkeley have a high turnaround, leading to many rent controlled units having rents close to or at market rate.

During this unprecedented housing crisis, it is critical that the City support the preservation and expansion of affordable housing. Berkeley has a limited number of opportunity sites, thereby increasing land costs and making it unaffordable for non-profit affordable housing developers to acquire sites to build low-income housing. Non-profit developers have stated that land costs are one of the biggest obstacles to creating new affordable housing. The City has funded the construction of hundreds of new affordable units. However given that land is limited it is also important that we invest in the

acquisition of existing multi-unit buildings to preserve affordability. Also the City has supported the creation of limited equity cooperatives and has provided funding to the Bay Area Community Land Trust for technical assistance to tenants interested in creating cooperatives. The 2015-2023 Housing Element also includes policies supporting limited equity housing cooperatives. Providing dedicated funding for the acquisition of small rental properties would be an important tool in expanding cooperative housing in Berkeley.

In August 2014, San Francisco Mayor Ed Lee introduced the Small Sites Program (SSP). This program creates permanently affordable rental units by acquiring and rehabilitating of existing properties that are most vulnerable to real estate speculation and tenant evictions. The goals of this program are to:

- 1) Protect and stabilize housing for current tenants in buildings where at least 75% of tenants have an average AMI of 80% or less.
- 2) Remove SSP properties from the speculative market while increasing the supply of permanently affordable housing by restricting SSP properties to serve households with average incomes of 80% AMI.
- 3) Create financially stable housing that serves multiple generations by ensuring SSP properties operate with sufficient cash flow to adequately care for the property and repay debt obligations.

SSP properties would serve tenants or mixed-income, ranging from 50% AMI to no higher than 120% AMI, with an average of 80% AMI. Priorities would be given to properties that are in immediate risk of Ellis Act evictions, located in areas with high Ellis Act eviction rates, where tenants are a part of a vulnerable population (families with children, the elderly, disabled, etc), and buildings housing tenants with the lowest incomes.

Berkeley should explore creating a similar Small Sites Program to assist non-profit developers in acquiring small multi-unit properties which are vulnerable to real estate speculation and tenant evictions. This will expand the affordable housing portfolio and keep people in their homes. This program could also be an important tool to establish limited equity cooperatives, by providing capital to purchase buildings, or to buy remaining units in a property to allow conversion of the entire building to a limited equity cooperative.

ENVIRONMENTAL SUSTAINABILITY

No adverse effects to the environment.

CONTACT PERSON

Jesse Arreguin, Councilmember, District 4 510-981-7140

Attachments:

1: San Francisco Small Sites Program

NOTICE OF FUNDING AVAILABILITY

Acquisition and Rehabilitation Financing for Small Sites Program Properties

*Issued by the Mayor's Office of Housing and Community Development
of the City and County of San Francisco*

Currently Available Funds: \$3,000,000¹

A. Introduction

The Small Sites Program (SSP) is an acquisition and rehabilitation loan program for multi-family rental buildings of 5 to 25 units. The program has been created to protect and establish long-term affordable housing in smaller properties throughout San Francisco that are particularly vulnerable to market pressure resulting in property sales, increased evictions and rising tenant rents. In the face of this increasing pressure on tenants, the City developed the Small Sites Program in order to support non-profit and for-profit entities to successfully remove these sites from the market and restrict them for the long-term. The overarching program goals are to:

- 1) Protect and stabilize housing for current tenants at a range of income levels, so long as at least 75% of the building's tenants have an average area median income (AMI) at or below 80%;
- 2) Remove SSP properties from the speculative market while increasing the supply of permanently affordable rental housing by restricting SSP properties to serve households with average incomes at 80% AMI;
- 3) Create financially stable, self-sustaining housing that serves multiple generations of low to moderate income households by ensuring that SSP properties operate with sufficient cash flow to adequately care for the property and repay debt obligations, including SSP loans, which the City will reinvest into future SSP properties.

B. Project Eligibility and Prioritization

The Small Sites Program is available to residential buildings with 5-25 conforming “dwelling units”, as defined by the SF Planning Department, throughout San Francisco. Mixed-use properties, group housing, and nonconforming units will not be considered.

The SSP funds available through this NOFA are available on a first-come, first-serve basis to sites that meet the threshold eligibility criteria, as defined in Section H, below, and the attached Small Sites Program Underwriting Guidelines. If there is more than one project competing at

¹ The City's implementation of SSP will consist of multiple funding rounds, with timing subject to the availability of funds.

any given time, MOHCD will give additional priority points to proposals with the following characteristics:

- 1) Building is at immediate risk for Ellis Act eviction or in the process of an Ellis Act eviction
- 2) Building is located in a neighborhood with a high level of Ellis Act evictions, as listed below per 2009-2013 Rent Board data:
 - a. Inner Mission
 - b. Russian Hill/Polk Gulch
 - c. Castro/Eureka Valley
 - d. Outer Richmond
 - e. Inner Richmond
 - f. North Beach
 - g. Haight-Ashbury/Western Addition tied with Twin Peaks/Glen Park
 - h. Sunset
 - i. Ingleside/Excelsior
 - j. SOMA
- 3) Existing tenants include vulnerable populations: families with minor children, elderly, disabled, and catastrophically-ill persons
- 4) Building houses tenants with the lowest incomes
- 5) Building requires the lowest amount of subsidy per unit

C. Target Population: Low- and Moderate-income Tenants

The Small Sites Program is a mixed-income affordable rental program, serving households at a variety of income levels up to a maximum of 120% of AMI while maintaining a building-wide average of 80% AMI. In certain cases, as explained below, households earning more than 120% AMI may be included in the program. There is no minimum income threshold, provided that a tenant can afford to pay the rent applied to his or her unit.

- 1) At acquisition, existing tenant incomes are expected to range from very low-income (at or below 50% of AMI) to above-moderate income (at or above 120% of AMI). In order to qualify for the program, a minimum of 75% of existing tenants must income certify, and, among those 75%, the average household income for the building must not exceed 80% of AMI. Up to 25% may be over-income (above 120% AMI) or refuse to certify without rendering the property ineligible. Regardless of whether a unit's occupant(s) complete the income certification process or are over-income at acquisition, all units will be restricted for the life of the project.
- 2) Upon vacancy, SSP owners are required to ensure that SSP buildings achieve an 80% AMI average rent. This is accomplished at unit turnover by placing incoming tenants at rent levels that are as high or low as necessary to bring the building as close as is mathematically possible to an 80% AMI average. Vacant units may be rented up to a maximum of 120% AMI in order to achieve the required 80% AMI rent average.

D. Eligible Uses of Funds

Funding that is awarded through this NOFA may be used for acquisition and acquisition take-out, including pre-acquisition due diligence costs, as well as for rehabilitation. Specific eligible uses include:

- property acquisition and holding costs, including take-out of financing sources that have less favorable terms
- due diligence reports, including environmental assessments and property inspections,
- appraisals
- legal costs
- architectural and engineering expenses, as applicable
- relocation costs, as applicable
- project management or developer fees
- rehabilitation costs
- all other soft costs associated with acquisition or rehabilitation of the site

Ineligible Use of Funds

Soft costs associated with legalizing any non-conforming uses.

E. Loan Terms

All SSP applicants must leverage City debt with a first mortgage. A list of preferred lenders who are familiar with the Small Sites Program is on MOHCD's website; however, applicants are free to select a lender who is not on the preferred lender list if the applicant is able to find better terms elsewhere. Understanding the need for a range of loan terms that are dependent on a myriad of underwriting standards by outside lenders, MOHCD has established the following preferred loan terms for the SSP and will be evaluating each SSP applicant's first mortgage for similar terms:

- acquisition loans that automatically convert to permanent with a 15-year minimum term
- 30-year amortization schedule
- 1.10 to 1.15 debt service coverage ratio
- nonrecourse to the borrower
- low interest rates
- no more than 1.5% lender fees

The SSP offers a blended interest rate well below market by combining a first mortgage bearing a competitive interest rate with City funds bearing a very low interest rate. This strategy ensures that SSP properties can afford to repay their loans from cash flow while maintaining below market rate rents for their current and future tenants. Additionally, the City's role as a subordinate (gap) lender allows for minor rehabilitation of the acquired sites and, consequently, a higher loan-to-value ratio (LTV) than would be available in its absence. The following is a synopsis of key SSP loan terms:

- \$250,000 maximum City subsidy per unit
- 3% annual simple interest
- 30-year term
- subordinate to the first lender
- repayment due to the extent that residual cash flow is available and at expiration of the loan term
- rents restricted at an average of 80% AMI for the life of the project, regardless of City loan payoff or expiration of the loan term
- restrictions must be recorded in first position on title

Please review the attached Small Sites Program Underwriting Guidelines for full loan terms and program policies.

F. Financing Plan and Affordability Restrictions

Applicants should incorporate the loan terms outlined above into their financing plans and submit a detailed Sources and Uses budget that includes construction cost estimates identified in a current capital needs assessment or similar document. Construction cost estimates should exclude escalation assumptions. The Sources and Uses budget must adhere to the SSP Underwriting Guidelines. Applicants must use MOHCD's form of Sources and Uses, as provided with this NOFA.

Applicants must submit two separate financing scenarios with their application, as follows:

- 1) As Currently Rented - Submit a 1-Year Operating Budget and 20-Year Cash Flow based on the current rents being charged at the property (and all other current building income, as applicable) and expected operating expenses. Expected operating expenses and cash flow assumptions must adhere to the SSP Underwriting Guidelines.
- 2) As Restricted - Submit a 1-Year Operating Budget and 20-Year Cash Flow based on the restricted rents projected for the property and expected operating expenses. For the purpose of modeling, restricted rents should be set at 80% AMI and escalate by 2.5% per year. Expected operating expenses and cash flow assumptions must adhere to the SSP Underwriting Guidelines.

MOHCD reserves the right to fund all or a portion of the acquisition and rehabilitation of the property and/or to require the applicant to apply for another capital source of funds. All proposed financing will be subject to the attached Small Sites Program Underwriting Guidelines. Applicants must use MOHCD's form of operating budget and 20-year cash flow, as provided with this NOFA.

G. Rent Roll

Applicants must submit a rent roll reflecting the current unit mix, rents charged, any rent subsidies received, tenant household composition and tenant income level. As explained in the

SSP Underwriting Guidelines and Section C, above, no less than 75% of the building's current tenants must complete income certification forms and meet the average 80% income requirement of the program. Tenant information will be confirmed a second time at the end of construction and on an annual basis, thereafter, to ensure ongoing compliance with the program. Applicants must use MOHCD's form of rent roll, as provided with this NOFA.

H. Threshold Eligibility Criteria

Only applicants who meet all of the following criteria will be considered eligible for funding under this NOFA.

Eligible Applicants

- 1) Must be a duly formed non-profit or for-profit corporation.
- 2) May not have initiated an Ellis Act eviction in the last 3 years. Applicants must complete the attached SSP Landlord Background Check Form to be verified by the San Francisco Rent Board.
- 3) Must demonstrate the technical capacity and experience to successfully acquire, own, rehabilitate and manage affordable housing, either through staff, contracted services, or in collaboration with other organizations, including:
 - a. Acquisition Experience: The applicant must have acquired at least one "Qualifying Project" in the past 5 years (subject to satisfactory performance review by an appropriate public finance agency). A "Qualifying Project" is defined as a rental housing property that includes at least 5 units of affordable housing affordable to low- and moderate-income households.
 - b. Property Management Experience: The applicant or the applicant's management agent must have managed at least one Qualifying Project for at least 24 months (subject to satisfactory performance review by any City agency from which the Project received funding).
 - c. Project Management Experience: The applicant's project manager must have experience with at least one Qualifying Project or be assisted by a consultant or other staff person with greater experience and the demonstrated capacity to oversee the project. When using a consultant, the consultant's resume should demonstrate that the consultant has successfully managed all aspects of at least two (2) comparable development projects in the recent past.
 - d. Construction Management Experience: Applicant must identify specific staff or consultant(s) who will provide construction management functions on behalf of the owner, including: permit applications and expediting, cost analysis, completion evaluations, change order evaluations, scope analysis and schedule analysis. The applicant's construction manager must have experience with at

least one Qualifying Project.

- 4) Must demonstrate site control with appropriate documentation.

Eligible Projects

- 1) 5-25 residential unit buildings
- 2) Buildings with 100% of the units meeting the San Francisco Planning Department’s definition of “dwelling unit” and fully conform with Planning Code requirements applicable to the site, including zoning, General Code compliance, and any relevant neighborhood plan controls.
- 3) Buildings with purchase prices that are reasonable in comparison to other sites in the neighborhood, as documented in a City-approved appraisal
- 4) Buildings that can demonstrate positive cash flow under current rents for a minimum ten-year period and positive cash flow for a minimum 20-year period with projected, restricted rents, per Section F(1) and F(2), above.

Note:

Shortly after application, Applicants must indicate general tenant approval of the proposed building purchase and the tenants’ willingness to participate by providing income certifications for a minimum of 75% of existing tenants. The average income of participating households must not exceed 80% of AMI, as described in Section G, above. The City will not move forward with the application processing without this documentation.

Ineligible Projects

- 1) Buildings with commercial space/mixed uses
- 2) Group housing with shared cooking and/or restroom facilities
- 3) Master leased hotels

I. Evaluation Criteria and Scoring Summary

All applications that meet the Threshold Eligibility Criteria above will be scored and ranked according to the following scoring criteria (see “Small Sites NOFA Scoring Criteria” attachment for details):

Category	Potential Points
Acquisition Experience exceeding threshold requirement	15
Property Management Experience exceeding threshold requirement	15
Project Management Experience exceeding threshold requirement	15
Construction Management Experience exceeding threshold requirement	15
Building is at immediate risk for Ellis Act eviction or in the process of an	8

Ellis Act eviction	
Building is located in a neighborhood with a high level of Ellis Act evictions	8
Existing tenants include vulnerable populations: families with minor children, elderly, disabled, and catastrophically-ill persons	8
Building houses tenants with the lowest incomes	8
Building requires the lowest amount of subsidy per unit	8
TOTAL POSSIBLE POINTS	100

J. Funding Requirements and Guidelines

Funding Terms

Funds will be provided as a residual receipts loan. Rehabilitation/permanent loans will bear a 3% simple interest rate. For all loans, however, in the event of uncorrected default under the loan agreement, interest shall be charged at the minimum rate of 10% per year from the date of the loan agreement and shall become immediately due and payable.

Equal Employment Opportunities

Project sponsors selected under this NOFA will be required to comply with local procurement requirements, including the provision of equal employment opportunities for disadvantaged business consultants, architects, contractors, and other potential development team members to participate in projects funded under this NOFA. To ensure that equal opportunity plans are consistent with local procurement requirements, applicants should meet with MOHCD and San Francisco Contract Monitoring Division staff prior to hiring their development team to develop a plan for such compliance.

Environmental Review

Depending on conditions at the site and on the rehab scope, proposed SSP projects may be subject to review under the California Environmental Quality Act (CEQA) and the National Historic Preservation Act (NHPA) and specifically the Section 106 historical resources preservation review. Depending on the location of the proposed project, review by the Department of City Planning may also be required. Applicants to this NOFA must not undertake activities, including acquisition, which would have an adverse environmental impact or limit the choice of reasonable alternatives between the time of application submittal and completion of the CEQA/NHPA/Section 106 review process, if applicable.

Accessibility Requirements

Project sponsors may be responsible for meeting applicable accessibility standards related to publicly-funded multifamily housing development under Section 504 of the Rehabilitation Act of 1973, the Architectural Barriers Act, the Americans with Disabilities Act, and certain statutes and regulations of the City and County of San Francisco. Applicants should strive to make 5% of all rehabilitated units accessible in conformance with Section 504, and provide an additional 2% of units for the hearing and/or vision impaired. Applicants should submit accessibility details with their proposed rehabilitation scopes of work, including any requests for hardship waivers.

Relocation Requirements

If the proposed project intends to apply for rehabilitation funds from MOHCD, applicants may be subject to the provisions of state relocation law and/or MOHCD-approved relocation requirements, if the scope of the project will include rehabilitation that requires tenants to temporarily vacate their units while work is being completed. Applicants should be prepared to notify any existing residents of the plans to rehabilitate the site and that public funds are being sought for this purpose, if such notice has not already been given. No permanent displacement should occur as a result of the rehabilitation performed under this NOFA.

Sustainable Design

The Mayor's Office of Housing and Community Development seeks to maximize the overall sustainability of financed projects to the extent possible through the integrated use of "green" building elements. Programmatic goals for projects should focus on durability, energy efficiency, indoor air quality and recycling.

K. Application Process

Application Forms and Deadline

Application forms will be provided by email upon request to ruby.harris@sfgov.org or by visiting the City's website at <http://www.sfmohcd.org>.

The SSP application packet includes the following materials:

- 1) SSP Application – Word Document with applicable supporting documentation
- 2) SSP Application – Excel Spreadsheet with all tabs complete
- 3) SSP Operating Budget and 20-Year Cash Flow – Excel Spreadsheet must be completed twice, once with current rents and once with restricted rents
- 4) Landlord Background Check Form – Word Document
- 5) SSP Income Certification Form – Word Document to be completed for at least 75% of current tenants

A complete application package must be received in order to be assigned to a MOHCD project manager for review. Additional materials may be required, as appropriate for the site and requested by MOHCD staff.

MOHCD requires that applications be submitted both by email and in hard-copy (signed by an authorized representative of the applicant). Please submit two (2) hard copies of your application and one (1) electronic copy. Applications will be accepted at any time following publication of this NOFA on an "over-the-counter" basis until the earlier of the commitment of all funds under this NOFA or June 30, 2015.

If the SSP application includes property acquisition, the SSP application must be submitted no later than the 5th day of escrow in order to allow time for thorough underwriting and loan approval prior to the expiration of the applicant's finance contingency. Escrow periods may not

be shorter than 90 days. Finance and inspection contingency periods may not be shorter than 60 days.

Application Review

Applications will be reviewed in the order in which they are received for completeness and eligibility. If more than one application is received concurrently, applications will be ranked internally according to the scoring criteria described in Section I and in the attached Small Sites NOFA Scoring Criteria. Eligible application(s) will then be reviewed for compliance with relevant City policies and current Small Sites Program Underwriting Guidelines for overall feasibility, including but not limited to the following issues:

- 1) Financial Feasibility - The project must be financially feasible with both current rents and restricted rents, including realistic development and operating budget projections that conform to industry standards. There should be a reasonable likelihood that all identified funding sources will be secured in a timely manner.
- 2) Cost - Cost per unit and per square foot (gross square footage of building space) will be examined relative to comparable projects' costs. City subsidy per unit may not exceed \$250,000.
- 3) Leveraging - The project's ability to demonstrate other sources of funding.
- 4) Displacement and Relocation - Projects may not include displacement of residential tenants. If temporary relocation of residents is anticipated, the sponsor must provide a preliminary relocation plan and budget.

Once compliance has been determined, the selected project(s) will be announced by the MOHCD Director of Housing Development.

L. Other Requirements

Before executing an agreement and disbursing any funds to a successful applicant for funding under this NOFA, the City will require, among other requirements, the following:

- 1) An opinion by the applicant's legal counsel, satisfactory to the City's legal counsel, that the applicant and borrowing entity is duly formed, validly existing, in good standing under the laws of the State of California, has the power and authority to enter into an Agreement with the City, and shall be bound by the terms of the Agreement when executed and delivered, and that addresses such other matters as the City may reasonably request.
- 2) A copy of appropriate insurance policies naming the City as co-insured.
- 3) Project sponsors will be required to comply with all requirements applicable to entities contracting with the City, including, but not limited to insurance coverage, business

relationships, and domestic partners' benefits.

- 4) Audited or financially reviewed financial statements for the entity's last three fiscal years.
- 5) If the applicant is not an experienced developer, an executed development services contract with proposed development partner or development consultant.

For questions concerning this NOFA, please call Ruby Harris, Project Manager (415-701-5517; ruby.harris@sfgov.org) or Teresa Yanga, Director of Housing Development (415-701-5515; teresa.yanga@sfgov.org) at the Mayor's Office of Housing and Community Development.