City of Napa

Affordable Housing Development
Notice of Funding Availability

Updated: March 2023

Contact:
Molly Rattigan, Deputy City Manager
m rattigan@cityofnapa.org
and
Stephanie Gaul, Housing Manager
sgaul@cityofnapa.org
I. Overview

The City of Napa (the “City”) is pleased to issue this Notice of Funding Availability (NOFA) for affordable housing development.

The City will make Affordable Housing Impact Fee (“Impact Fee”) funding and Transient Occupancy Special Tax for Affordable and Workforce Housing (“1% TOT”) funding available on a rolling basis and will award these funds to projects meeting qualifying criteria as described in this NOFA on a first come-first served basis. As part of the transition to a rolling basis, the City will withhold awarding funds to allow any current projects to submit applications for equal consideration by 5pm on April 28, 2023. Applications received after April 28, 2023, will be considered in the order received, if funding is available. It is recommended you contact mrattigan@cityofnapa.org and sgaul@cityofnapa.org before preparing an application to verify what, if any, funds may be available.

Impact Fee funding must be used to create affordable housing. This can include rental or ownership housing. Housing produced under this funding source must serve households at or below 80% of area median income, adjusted for family size.

1% TOT funding must be used to increase, improve, or preserve the availability of housing affordable to households at or below 120% of area median income, adjusted for family size. While households at or below 80% of area median income can be served with both funding sources, under this NOFA, 1% TOT funds shall be primarily targeted to those populations serving 81% to 120% of area median income, adjusted for family size.

To be eligible for an award of funds under this NOFA, the project must be located within the Napa city limits.

Impact Fee Fund loans issued under this NOFA shall be leveraged to the greatest extent possible with other resources. This may include Low Income Housing Tax Credits (LIHTCs), Tax-Exempt Multi-Family Housing revenue Bonds, loans and/or grants that may be available from the State of California Housing and Community Development (HCD), loans and/or grants that may be available from the United States Department of Housing and Urban Development (HUD), loans from commercial lending institutions, and loans and/or grants from other federal, State, and local funding programs.

Although the City encourages applicants to leverage 1% TOT funds with other funding sources, because there are fewer government funding sources available for moderate-income housing (81% AMI to 120% area median income), applications for 1% TOT funding that target “missing middle” (81%-120% area median income) households will automatically receive full points for leverage.

The funding available under this NOFA will be awarded on a first come, first served basis. Applications deemed complete and meeting threshold requirements and
minimum scoring will be awarded funding in the order the application was deemed complete.

The funds provided under this NOFA are to be used to fill the financing gap between the projected total development costs of the project and other available funding sources. Applications are required to be completed on the City's online participant (applicant) portal at https://portal.neighborlysoftware.com/NAPACA/Participant. Each applicant must register with the software site in order to complete and submit an online application.

A. **Objective.** Impact Fee funding and 1% TOT funding is required to be used to finance the development of workforce and affordable rental or ownership housing. Impact Fee funding is restricted to units that are occupied by low-income households (80% area median income or below), while 1% TOT funding is restricted to units that are occupied by low- or moderate-income households (120% area median income or below) with a priority on projects targeting the "missing middle" of 81% area median income and above. While proposed developments may be mixed income, proposed developments that do not contain 100% affordable units may only be funded for the proportional amount of affordable units in the development, subject to additional conditions discussed in Section III, below. Current area median income data is published annually by the State of California Department of Housing and Community Development for Napa County.

To be eligible under this NOFA, projects must include affordable units that can be counted toward the City’s Regional Housing Needs Allocation (RHNA). This includes new construction and adaptive reuse (conversion from non-residential to residential) projects. There are very specific provisions in State Law under which substantially rehabilitated units can be counted towards a jurisdiction’s RHNA. Therefore, an applicant contemplating a rehabilitation project, or any other project which would result in a lower total RHNA credit to the City than would be generated by a typical new construction project, should consult with the Housing Division prior to submitting an application to ensure the proposed project is eligible.

Eligible unit types under the NOFA include multifamily, single family, Accessory Dwelling Units, mobile homes, and Single Room Occupancy (SRO) units. Eligible costs under this NOFA include, but are not limited to, the acquisition of real property for new housing, the construction of new housing, and the renovation of non-residential units to create housing units.

B. **Funding.** Funding under this NOFA will be provided as a low or no interest deferred loans, as outlined in the City’s Underwriting Guidelines.

C. **Timeline.** Applications will be accepted on an ongoing basis until June 30, 2024 or until all funding is allocated, whichever is sooner.

D. **Application Fee.** An original cashier’s check payable to the City of Napa in the
amount of $5,000 must be submitted to the City of Napa Housing Division, 1115 Seminary Street, Napa, CA 94559. A copy of the cashier’s check must also be submitted as part of the pre-application. Applications selected for funding awards shall submit an additional amount of $5,000 upon award recommendations. The total application fee is 1% of the requested loan amount with a minimum fee of $10,000 for any loan request under $1 million. An applicant with loan fees in excess of $10,000 shall remit the final balance at the close of escrow.

E. Public Records. As a general rule, all documents received by the City are considered public records and are subject to disclosure to the public under the California Public Records Act (California Government Code Sections 6250, et seq.). There are two exceptions to the general rule that are relevant to this NOFA that authorize the City to refuse to disclose City records to the public for: (1) the “deliberative process;” and (2) “Confidential – Official Information.”

Deliberative Process: Each team submitting proposal packages is hereby informed that, upon submittal of its package to the City in accordance with this NOFA, the package contents are the property of the City.

Unless otherwise compelled by a court order, the City will not disclose any submission under this NOFA while the City conducts its “deliberative process” of reviewing the submissions. However, when staff submits a recommendation to the City Manager, the City shall consider all application materials to be subject to public disclosure, unless there is a legal exception to disclosure. (See, Michaelis v Superior Court (2006) 38 Cal.4th 1065).

Confidential – Official Information: One potential exception from public disclosure is “official information” submitted to the City in confidence, where the necessity for preserving the confidentiality of the information outweighs the necessity for disclosure in the interests of justice. (See California Government Code Section 6254(k) and Evidence Code Section 1040). The City anticipates that some portions of the application will be appropriately designated as exempt from disclosure based on their status as “official information”.

1) If an applicant asserts that any portion of its submission is subject to a legal exception to public disclosure, the applicant must: (1) clearly mark the relevant portions of its application “Confidential – Official Information” (using the separate envelope described in Section Part II.D); (2) provide the legal basis for exception from disclosure under the Public Records Act, including citations to state or federal law; and (3) the applicant shall defend, indemnify, and hold harmless the City regarding any claim by any third party for the public disclosure of the “Confidential” portion of the submission.

2) If the City receives a request for disclosure of records identified by an applicant as “Confidential – Official Information,” the City shall take one of the following actions:
a) If the City determines there is a legal basis to withhold the records from disclosure, the City shall not disclose those records unless compelled by a court order; provided that, upon request by the City, the Applicant shall defend, indemnify, and hold harmless the City regarding any claim or litigation by any third party for the public disclosure of the “Confidential – Official Information” portion of the submission.

b) If the City does not identify a legal basis to withhold the records from disclosure, the City shall provide written notice of the request for disclosure to the Applicant, and the Applicant shall be given an opportunity to seek a protective order from the court prior to the City’s disclosure of the documents.

II. Award Process

1. Awards. Complete applications will be recommended for funding in the order they are deemed complete. All applications must meet threshold requirements and minimum scoring to be recommended for funding.

2. Point System. Points will be awarded in accordance with the Scoring Criteria described in Section IV of this NOFA.

III. Threshold Eligibility

A. Eligible Activities. Funding provided shall be utilized for the development of new affordable rental or ownership units. This may include new construction, conversion of property not previously used as housing into housing, or rehabilitation that qualifies for RHNA credits.

For Impact Fee loans, funds may only be used for the development of units to be occupied by households at or below 80% of area median income adjusted for household size. For 1% TOT loans, funds may only be used for the development of units to be occupied by households at or below 120% of area median income adjusted for household size.

The units funded under this NOFA must provide permanent housing. Transitional housing and emergency shelters are not eligible for funding under this NOFA. Additionally, proposed housing must comply with federal and State Fair Housing laws to be eligible for assistance.

Developments may include market rate units or non-residential uses. However, funds may only be used to develop affordable residential units (as defined by the funding source) within the development.

Scattered site developments are eligible provided the applicant can demonstrate it has the ability to adequately supervise and maintain the properties.
B. Eligible Applicants. Applications will be accepted from non-profit and for-profit housing corporations, joint ventures, limited liability companies, partnerships, and local governmental entities that meet the Applicant Thresholds.

C. Applicant Thresholds. An applicant applying for funding under this NOFA must meet the following qualifications listed below. If the applicant is a joint venture, the leading developer must meet these qualifications. If the developers equally share the partnership interest, both developers must qualify.

1. For applicants applying for Impact Fee funding, the applicant must have demonstrated experience within the last five (5) years in developing and, for rental projects, owning, affordable housing projects that are similar in size, scale, tenure, type, target population and complexity (both from a physical and financial standpoint) to the one being proposed.

2. The applicant shall disclose whether it, any of its principals, or any affiliated entity, has been an adverse party in litigation involving any county, city, redevelopment agency or other public entity within the past ten years.

3. The applicant shall disclose all judgments and outstanding claims against it, its principals or any affiliated entity, involving, but not limited to, defaults on financial obligations, construction safety, landlord/tenant disputes, or negligence.

4. The applicant shall disclose whether it, any of its principals, or any affiliated entity has filed for bankruptcy at any time within the past ten years.

5. The applicant shall have demonstrated experience in gaining support from respective communities for its affordable housing projects.

6. The applicant shall be in compliance with its current obligations on any loans issued by the City. Noncompliance, at the discretion of the City, may consist of failure to comply with any monetary or non-monetary provisions, such as failure to submit required financial statements in a timely manner, failure to comply with the requirements of the regulatory agreement, including but not limited to resident service and property management obligations, and failure to correct in a timely manner any building deficiency noted by any government agency.

7. The entities comprising the applicant must not have received negative points from the California Tax Credit Allocation Committee (CTCAC) or the California Debt Limit Allocation Committee (CDLAC) within the past three (3) years.

8. If the applicant is seeking 9% tax credits, the applicant entity must meet the standard for maximum general partner experience points under California Qualified Allocation Plan.

9. The applicant is willing to designate a principal available through the entire course of development and construction of the project if the applicant track record relies on that principal.

The City reserves the right to deny funding assistance to any applicant based on the information provided in the applicant’s disclosures.
D. **Minimum and Maximum Project Size.** The minimum project size is one unit. There is no maximum project size.

E. **Minimum and Maximum Funding Awards.** The minimum funding award shall be $100,000. There is no set maximum award.

F. **Eligible Project Types.** To be eligible for funding, a project must create new workforce or affordable rental or ownership units. This may include new construction, conversion of property not previously used as housing into housing, or rehabilitation that qualifies for RHNA credits.

G. **Site Control.** Applicants must demonstrate site control of the property at the time of application. This may be demonstrated by a grant deed, purchase agreement, purchase option, or long-term lease agreement or option with a term of at least 55 years.

H. **Affordable Rent, Affordable Sales Price and Income Requirements.** During the full affordability period listed in Section I below, maximum rents (inclusive of tenant-paid utilities) on the affordable rental units may not exceed the following:

<table>
<thead>
<tr>
<th>Area Median Income</th>
<th>Maximum Rent</th>
</tr>
</thead>
<tbody>
<tr>
<td>&lt;31% (Extremely Low)</td>
<td>30% of 30% AMI</td>
</tr>
<tr>
<td>31% - 50% (Very Low)</td>
<td>30% of 50% AMI</td>
</tr>
<tr>
<td>51% - 80% (Low)</td>
<td>30% of 60% AMI</td>
</tr>
<tr>
<td>81% - 120% (Moderate)</td>
<td>30% of 110% AMI</td>
</tr>
</tbody>
</table>

For ownership projects, the maximum purchase price shall be equal to or less than one-twelfth of 35% of the target household income level.

I. **Affordability Period.** Affordable units within the project shall remain affordable for a period of 55 years for rental projects and 45 years for ownership projects pursuant to an Affordable Housing Regulatory Agreement and Declaration of Restriction Covenants (“Regulatory Agreement”) with the City that complies with the requirements of Napa Municipal Code Chapter 15.94, which shall be recorded against the project site. The City shall monitor funded projects for compliance with the Regulatory Agreement during the period of affordability. For specific information on the City’s monitoring policies, please see Appendices 1 and 2.

J. **Underwriting Requirements.** Underwriting requirements for the Impact Fee Fund are located on the City’s website. There are not currently adopted underwriting
guidelines for the 1% TOT Fund. However, the City will generally use similar guidelines to those adopted for the Impact Fee Fund.

K. **Article 34.** For rental projects serving households at or below 80% area median income, each applicant must demonstrate, to the satisfaction of the City, that the project is exempt from Article XXXIV, section 1 of the California Constitution pursuant to one or more of the statutory carveouts set forth in California’s Public Housing Election Implementation Law (PHEIL) (Health & Safety Code, Sections 37000-37002) for Article XXXIV, section 1 of the California Constitution (“Article 34”).

Specifically, applicants must provide a legal opinion letter from an attorney which explains the legal basis for the project’s exemption. The letter must consider and discuss the legal requirements of Article 34, the PHEIL’s statutory exceptions to those requirements, and the relevant facts of the project. Importantly, the Article 34 opinion must address each “state public body” source of permanent funding demonstrating that the proposed housing development is exempt from Article 34. Blanket statements that the project is exempt will not be accepted. The opinion letter must provide specific evidence and/or specific facts supporting the conclusion.

Funds will not be issued until applicants demonstrate to the satisfaction of the City that the project is exempt from Article 34.

If the proposed project is either an ownership project or is a rental project that does not include any units restricted to 80% of area median income or below, the applicant must include a description of the project type and income restrictions to document the project is not subject to Article 34 requirements.

IV. **Application Scoring Criteria**

In order to be scored, an applicant must meet all threshold requirements. These include:

1. The application is complete including all required disclosures.
2. The applicant meets the Applicant Threshold requirements identified in this NOFA.
3. The application provides the required Article 34 exemption opinion letter. (Only required for projects which include rental units restricted to households at or below 80% area median income)
4. The applicant has demonstrated site control.
5. The project is located in the Napa city limits.

Applications meeting the above threshold requirements shall be scored. Applications that receive a minimum average score of 100 points will be recommended for funding. The following is the scoring criteria:

A. **Efficiency of Funding/Leverage** (15 points). For applications requesting Impact Fee funds, project provides the greatest number of units per dollar of funds requested. For applications targeting the “missing middle”, applicants shall automatically receive 15
points under this category. If the project is targeting both households under 80% area median income and households between 81% and 120% area median income, the application will be given two different scores based upon each funding source requested.

B. **Meets Underwriting Requirements** (15 points). Project meets the City’s underwriting guidelines or application includes explanation for any exceptions.

C. **Funding Commitments** (15 points). Project has other funding sources identified and committed. Score shall be determined based on the percentage of total development cost represented by funding commitments already received as well as funding commitments anticipated to be received within two (2) years. For commitments not yet received, points are awarded at the City’s discretion. An explanation of the funding source and the applicant’s ability to obtain the funds by this date must be provided to be considered for points.

D. **Consistency with the General Plan and Zoning** (10 points). Projects that are consistent with the proposed site’s General Plan land use designation and zoning shall be awarded 10 points. In cases where the land use designation and/or zoning would require an amendment, applicant can demonstrate that the proposed project warrants an amendment to land use and zoning designations and is compatible with surrounding land uses.

E. **Permit Readiness** (5 points). Projects that demonstrate permits have been pulled or are permit ready shall be awarded 5 points.

F. **Timeline** (10 points). Points will be awarded if the project’s timeline is reasonable and project can move from pre-development to construction quickly. Points will be awarded as follows:

1. Full points will be awarded to projects that anticipate beginning construction in less than 12 months from the time of application.
2. 6 points will be awarded for projects that anticipate beginning construction between 13 and 24 months from the time of application.
3. 4 points will be awarded for projects that anticipate beginning construction between 25 and 48 months from the time of application.
4. No points will be awarded for projects that anticipate beginning construction more than 48 months from the time of application.

G. **Experience** (15 points). Each application will start with 7 points. Points will be added for applicants with experience with similar affordable housing projects including previous experience developing affordable housing projects. Points shall be deducted if an applicant has negative findings on past awards from the City or with other local, State or federal agencies. For applicants without previous experience with the City, demonstration of successful local, state/federal funding contracts, including references,
will be required to be awarded points. The number of points deducted will be based upon the number and severity of negative findings at City’s discretion.

H. **Site and Neighborhood Standards** (15 points). The full points will be awarded to developments proposed outside of areas of minority concentration. No points will be awarded to developments proposed within areas of minority concentration unless the project is a rehabilitation or home ownership project.

I. **Project Design** (10 points). Project is well designed and is compatible with the surrounding neighborhood.

J. **Permanent Supportive Housing Units** (15 points). Points will be awarded as follows:

1. Full points will be awarded to projects that include at least 20% of the units set aside as permanent supportive housing.
2. Partial points will be awarded for projects that include some, but less than 20% of the total units, set aside as permanent supportive housing.
3. No points will be awarded if a project does not include any units set aside as permanent supportive housing.

All ownership projects shall automatically receive 15 points under this category.

K. **Highest Percentage of Affordable Units** (10 points). Points will be awarded for the highest percentage of low- and/or moderate-income persons. For rental projects, the evaluation may also consider which project provides the deepest affordability and/or greater percentage of affordable units. For rental projects, this calculation will exclude the manager’s unrestricted unit.

For projects requesting Housing Impact Fee funding:

1. Full points will be awarded if the project includes 100% of the units for households at or below 80% of area median income and at least 20% of these units are for households at or below 50% of area median income.
2. 8 points will be awarded if the project includes 100% of the units for households at or below 80% of area median income but less than 20% of these units are for households at or below 50% of area median income.
3. 6 points will be awarded if the project includes 60% to 99% of the units for households at or below 80% of area median income.
4. 4 points will be awarded if the project includes 40%-59% of the units for households at or below 80% of area median income.
5. No points will be awarded if the project includes less than 40% of the units for households at or below 80% of area median income.
Applications requesting only 1% TOT funds shall receive 10 points under this category.

L. **Workforce Units Bonus** (10 points). For applications that are requesting 1% TOT funds, points will be awarded for those projects that include units for households in the 81% to 120% area median income range. Applications only requesting Impact Fee funds shall receive full points.

V. **Award Process**

A. **Questions Regarding This NOFA.** Potential applicants may submit questions by e-mail to mrattigan@cityofnapa.org and sgaul@cityofnapa.org.

The City will respond directly to persons submitting questions and will post a Q&A with all questions asked on its website. Staff will do its best to respond to questions within five (5) calendar days.

B. **Process for Reviewing Applications.**

1. **Communication with Contact Person.** The City will communicate only with the contact person(s) listed in the application. Information received from persons other than the contact person shall be disregarded.

2. **Completeness.** The review process will begin with review for completeness. Applications that are not complete shall be rejected without further review. Applications can be revised and resubmitted at any time during the application period.

3. **Threshold Review.** After verifying completeness, the City will review applications to ensure all threshold requirements are met. Applications that are determined to not meet threshold requirements will be rejected without further review. Applications can be revised and resubmitted at any time during the application period.

4. **Potential Requests for Clarification.** The City may, but shall not be obligated to, follow-up with an applicant during the review process to obtain clarification if the City determines it is necessary. Applicants should provide thorough applications as they may not have the opportunity for subsequent communications.

5. **Order of Award.** During the application period, complete applications that meet threshold requirements, comply with the requirements hereof, and achieve a minimum scoring of 100 points, will be awarded funding (subject to availability of funding) in the order of applications being deemed complete. The City reserves the right to reduce requested awards and number of assisted units at its sole discretion.
C.  **Appeals Process.** The Deputy City Manager will email a notice to each applicant of the award or denial recommendation. If an applicant wishes to appeal the City’s funding recommendation, applicants will have five calendar days after the written notice is sent to submit an appeal to the City Manager. The City Manager’s action will be considered final.
Appendix 1

Summary of City’s Monitoring Procedures for Multi-Family Projects

The City’s Housing Division is responsible for annual monitoring of affordable rental projects in accordance with the terms and conditions of each project’s loan documents including the Loan Agreement, promissory note, and Regulatory Agreement (or Affordable Housing Restriction).

The specific requirements for projects vary, but typically include that the following information be submitted annually:

1. Tenant rent and income report to document compliance with the project’s affordable housing requirements
2. Audited financial statements
3. Updated insurance certificates (naming the City as additional insured)

Depending on the requirements in the loan documents, the City may perform desk monitoring or on-site monitoring.

The monitoring functions are overseen by the City’s Affordable Housing Representative with assistance from the Housing Specialist and the Housing Secretary. If the project requires unit inspections, they are coordinated by the Housing Rehabilitation Section and performed by the Housing Rehabilitation Specialist.

The City will utilize software to perform annual monitoring. Online submissions will be collected through the same software as the development funding application. The following procedures are expected:

1. Annual email reminder is sent to the property manager/property owner requesting they complete the monitoring report and submit all required documentation.
2. If the property manager/property owner does not submit the required information by the deadline, a 2\textsuperscript{nd} request is sent.
3. Once the response is received, the monitoring report and required documentation is then reviewed by staff to ensure the project is in compliance and the submission is complete.
4. Any issues discovered are documented in a monitoring response which is sent to the property manager/property owner for correction/response.
5. The property manager/property owner submits a monitoring response to correct the issues raised in the City’s monitoring response.
6. Once all issues have been addressed or corrected, the monitoring is closed, and a clearance is delivered.
7. If the property manager/property owner fails to correct significant issues, then they may be found in default of the conditions of their loan. In these situations,
the Housing staff consults with the City Attorney’s office to determine next steps, and, if necessary, declare the project in default.

The process for loans that require on-site monitoring is very similar to the above procedures except that rather than submitting the reports, the property manager/owner makes them available, along with tenant files, during the on-site monitoring visit. Additionally, if the project requires unit inspections, these are coordinated with the property manager/property owner to ensure tenants receive adequate written notice of the inspections. Inspection results are provided by the Rehabilitation Specialist to the Affordable Housing Representative and any items requiring repairs are noted in the monitoring response.
Appendix 2

Summary of City’s Monitoring Procedures for Homeownership Units

The City’s Housing Division shall annually monitor all outstanding owner-occupied units to ensure adherence to Program requirements including, but not limited to, the following:

1. Owner occupancy
2. Property tax payment
3. Hazard insurance coverage
4. Good standing on primary loans
5. General upkeep of housing units (depending on requirements of loan documents)

The City shall send an annual certification of owner occupancy to each borrower to verify the borrower’s compliance with conditions contained in the Regulatory Agreement and deed of trust. The borrower must provide all requested documentation and information within the time frame specified by the City.