



Health, Housing &
Community Services Department

City of Berkeley Housing Trust Fund Key Loan Terms

Updated May 3, 2018

The City of Berkeley's Housing Trust Fund (HTF) was established in 1990 and pools a variety of local and federal funds to support the development and preservation of affordable housing in Berkeley. The City offers two types of loans to further the HTF goals: predevelopment loans and development loans. A general summary of key loan terms follows. Variations from the standard loan terms may require approval by the City Manager or action by City Council.

Please reference the City's HTF Guidelines for additional information concerning HTF requirements, borrower eligibility and the process for requesting funds. [Housing Trust Fund](#)¹

Predevelopment Loans

Item	Description
Term	Up to 5 years
Maximum Loan Amount	Lesser of \$50,000 or \$5,000 per assisted unit. The Housing Advisory Commission may recommend higher amounts. Loans in excess of \$50,000 require City Council approval.
Interest	3% simple interest
Security	• Deed of Trust, if Borrower has site control • Assignment of Work Product if no site control
Repayment	Due upon the earlier of five years or the date of closing the project's permanent financing. If the project receives a permanent loan from the City, the predevelopment loan principal and accrued interest may be rolled into the permanent loan.
Contract Documents (number of wet-signed documents needed):	• Predevelopment Loan Agreement (3) • Deed of Trust (4, at least one single-sided for recording) • Promissory Note (at least 1) • Assignment of Work Product (3)

¹ <https://berkeleyca.gov/search?search=Housing%20Trust%20Fund>

Development Loans

Item	Description
Term	55 years
Maximum Loan Amount	40% of the project's total development cost, unless Council makes a finding that more is required
Interest	3% simple interest
Security	Deed of Trust
Repayment	May be repaid through a proportionate share of residual receipts. Determined annually based on review of project's cash flow.
Prepayment	No penalties, though the regulatory restrictions and Deed of Trust remain for the full term.
Subordination	The DOT and/or RA may be subordinated to other project financing, but only when the senior lien(s) meet the conditions outlined in the DLA, subject to City review.

Contract Requirements

Item	Description
Affordability Levels	At least 60% of all units must have restricted rents: • Not less than 40% of all units must be affordable to households with incomes not exceeding 60% of Area Median Income (AMI) • Not less than 20% of all units must be affordable to households with incomes not exceeding 30% of AMI Rents for the remaining 40% of units are not restricted.
First Source Agreement	Requires that borrower make a concerted effort to hire Berkeley residents for the project. Executed along with the DLA.
Prevailing Wage Requirements	All HTF-funded projects are required to pay California prevailing wage rates. Projects with federal funding may also be subject to Davis-Bacon prevailing wage rates.
Federal Requirements	If the loan includes federal funds, the project must comply with all relevant federal requirements, including, but not limited to: MBEWBE, Section 3, procurement requirements.
Relocation requirements	Projects must comply with local and federal relocation requirements, as applicable.

Item	Description
Reporting	City requires periodic reporting during the construction period and loan term, including annual occupancy reports
Commitment and expenditure/completion deadlines	If the contract has federal funds, the DLA will include any construction start, expenditure, and project completion deadlines relevant to that funding source.
CHDO funds	Borrower must be certified or recertified as a CHDO prior to contract execution, if CHDO funds are included in the loan.
Commitment of other financing	Prior to closing the City loan, Borrower must submit sufficient documentation that all other funding sources have been committed.

Housing Trust Fund Underwriting Guidelines (updated March 8, 2018)

Item	Description
Retention	10% of the loan amount budget to construction will be retained by the City until all project closing conditions are met.
Construction Contingency	Minimum 10% for new construction or 15% for renovations
Construction Monitoring	City requires Developer to budget \$1,000/month during the construction period for construction monitoring.
Developer Fee (including any deferred portion)	Tax credit projects: cannot exceed TCAC limits Non-tax credit projects: lesser of 10% of total development costs or \$2 million
Partnership management fee/asset management fee	Up to a combined total of \$30,000 per year
Replacement Reserves	Not to exceed six tenths of one percent (0.6%) of the project's total development cost
Operating Reserves	Deposits may not exceed 3% of annual operating expenses. Reserve capped at 6 months gross rent.

Contract Documents

Item	Description
Contract Documents (Number of wet-signed documents needed):	• Development Loan Agreement (3) • Regulatory Agreement (4, incl. 1 single-sided for recording) • Deed of Trust (4, incl. 1 single-sided for recording) • Promissory Note (at least 1) • First Source Agreement (3)

Required Documentation for Development Loans and Predevelopment Loans

Item	Description
Evidence of Insurance	Certificates of liability and property insurance. Must include all endorsements and language required by the predevelopment or development loan agreement.
Authorizing Resolution	From Borrower's governing body, authorizing Borrower's execution of the loan.
Debarment Status (federal funds)	City staff will check www.sam.gov to confirm eligibility of Borrower, Borrower's key staff, and contractors to contract for federal funds.
One wet-signed set of the following documents must be submitted with the contract package:	• Non- Discrimination/Workforce Composition Form • Living Wage Certification • Certification of Compliance with Equal Benefits Ordinance • Nuclear-Free Berkeley Disclosure • Oppressive States Compliance Statement • Anti-Lobbying Certification (federal funds only) • Drug-Free Workplace Certification (federal funds only)