

# **AFFORDABLE HOUSING AND COMMUNITY DEVELOPMENT FINANCIAL INVESTMENT POLICIES & APPLICATION INSTRUCTIONS**

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## **City of Boulder Housing & Human Services**

PO Box 791

Boulder, Colorado 80306

[www.bouldercolorado.gov/government/departments/housing-human-services](http://www.bouldercolorado.gov/government/departments/housing-human-services)

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Boulder aspires to be a complete community with a diverse and integrated population. Supporting that aspiration, the range of available housing opportunities helps to define a community. The social, economic, and environmental well-being of the community is enhanced when individuals and families are retained, workforce housing is available and residents with changing or special housing needs are served.

### – Boulder Valley Comprehensive Plan

City of Boulder Department of Housing and Human Services (HHS) is committed to providing resources to ensure diverse households can afford to live and thrive in Boulder and everyone can experience Boulder as a just, inclusive, and equitable community. HHS commits to achieving this mission by:

- Building relationships with those we serve
- Fostering collaborative partnerships
- Addressing systemic inequities
- Investing in and implementing effective, sustainable and solution- based policies and programs
- Creating and preserving a diversity of affordable housing options

This vision and commitment are realized through the city's investment of local and federal resources to create and preserve housing options to meet the diversity of housing needs, improve community facilities and support programs serving low- and moderate-income persons.

### **CITY OF BOULDER'S AFFORDABLE HOUSING GOALS AND GUIDING DOCUMENTS**

Benefiting from city investment requires a commitment to furthering the goals and guiding principles adopted by the city and compliance with city ordinances and federal regulations, as applicable.

[City of Boulder Housing Goal](#). The City of Boulder is committed to securing 15 percent of all residential development within the city of Boulder as permanently affordable serving low- to middle-income households, including 1000 units serving middle income households, by 2035 with an eventual goal of 20% of all residential development.

[Homelessness Strategy](#). In 2017 Boulder City Council adopted the Homelessness Strategy to reduce and prevent homelessness. A core component of the Homelessness Strategy is to create housing options serving individuals exiting the Homeless Solutions for Boulder County (HSBC) System. To ensure the availability of housing units, HHS requires all housing partners benefitting from city investment to support the strategy. Support of the city's Homelessness Strategy includes the creation of permanently supportive housing units and/or acceptance of housing vouchers, including permanent supportive housing (PSH) vouchers which are accompanied by case management services, across the residential portfolio of the development partner. Placement of PSH units and/or use of PSH vouchers will take into consideration the location and size of the residential project, amount of funding awarded and economies of scale. Other options to support the strategy will be considered by city staff.

[City of Boulder Human Rights Ordinance](#) The City of Boulder Human Rights Ordinance is a local law that protects against illegal discrimination within the city limits of Boulder. The Ordinance specifically affords protection against discrimination in three areas - Housing, Employment and Public Accommodation.

The ordinance prohibits discrimination based on ancestry, color, creed, gender variance, genetic characteristics, immigration status, marital status, mental disability, national origin, physical disability, race, religion, sex, sexual orientation, and source of income (including housing vouchers). In housing, it also prohibits discrimination based on custody of a minor child, parenthood, and pregnancy.

[Boulder Valley Comprehensive Plan](#). The city's investments to create and preserve affordable housing is guided by the Boulder Valley Comprehensive Plan (BVCP). The BVCP policies guide decisions about growth, development, preservation, environmental protection, economic development, affordable housing, culture and arts, urban design, neighborhood character and transportation.

The Boulder County Regional Housing Partnership's [Regional Housing Strategy](#) has been adopted by communities across Boulder County committing to collaborate to respond to the rising need for housing affordability across the region.

[Boulder-Broomfield HOME Consortium 2020-2024 Consolidated Plan](#). As a Participating Jurisdiction (PJ), the city is eligible to receive federal funds (Community Development Block Grant and HOME Investment Partnerships Program) from the U.S. Department of Housing and Urban Development (HUD). To be eligible for these resources, a PJ must complete a Consolidated Plan approved by HUD. The Consolidated Plan is designed to help local jurisdictions to assess their affordable housing and community development needs and market conditions, and to make data-driven, place-based investment decisions. As the lead agency for the Boulder-Broomfield HOME Consortium, the City of Boulder facilitates the completion and adoption of the Consolidated Plan.

[Community Development](#). The Department of Housing and Human Services provides Community Development Block Grant (CDBG) funds to agencies serving low- and moderate-income individuals to support capital needs and improvements to properties supporting their programming.

## **FUNDING SOURCES**

To achieve these goals, the HHS Community Investment Team (CIT) partners with housing providers and community agencies to create and preserve affordable housing, improve community facilities, and support programs serving low- and moderate-income persons. This is achieved through the provision of technical assistance and the investment of federal and local financial resources. These funds are also used, as permitted, to support the city's administrative costs, annual set-asides for affordable housing programs (e.g., down payment assistance, owner-occupied home repair) and city-operated programs.

The city's affordable housing investments are prioritized to maximize the number of units produced and residents housed. This approach values partners and projects which meet developer fees or developer fees that are re-invested directly back towards new housing projects. High minimized

The following table lists the investment tools employed by the city. Please visit the city's website for the most current information regarding funding amounts, application schedules, and income limits.

## Affordable Housing Financial Resources

	Fund	Source	Estimated Annual Revenue	Income Levels*	Uses
<b>Local Funding Sources</b>	Affordable Housing Fund (AHF)	Inclusionary Housing Cash-In-Lieu, Commercial Linkage Fee, General Fund	\$1M-\$12M Dependent on development activity. Annual average = approx. \$5M	Rental: 60% Area Median Income (AMI) or below Homeownership: HUD Low Income + 10% AMI	Variety of uses creating and preserving affordable housing outcomes.
	Community Housing Assistance Program (CHAP)	Property Tax (8/10ths of a mil)	\$2M-\$3M	15-60% AMI	Variety of uses creating and preserving affordable housing outcomes.
<b>Federal Funding Sources</b>	Community Development Block Grant (CDBG)  More information <a href="#">here</a>	U.S. Department of Housing and Urban Development	\$800K	HUD Low Income	Affordable housing and community development activities.
	HOME Investment Partnerships Program (HOME)  More information <a href="#">here</a>	U.S. Department of Housing and Urban Development	\$800K Shared among Boulder-Broomfield HOME Consortium members	HUD Low Income	Affordable housing production and preservation.
	Private Activity Bonds  More information <a href="#">here</a>	Tax-exempt bonds issued by or on behalf of local or state government	\$5M cap	60% AMI or below	Developments offering public benefit. HHS prioritizes creation and preservation of rental housing.

\*Income levels are adjusted annually. Visit City website for current requirements.

## ELIGIBILITY REQUIREMENTS

All financial requests must demonstrate adherence to minimum eligibility standards. These standards are designed to align and complement standards required by other financial resources, including Low-Income Housing Tax Credits.

Eligibility Requirement	Housing	Community Development (CDBG Funds Only)
<b>Permanent Affordability</b>	Permanent affordability required by all projects and secured by a covenant recorded against the real property.	Application varies
<b>Target Populations/ Income Limits</b>	Projects must primarily benefit individuals or households with documented household income: Rental: 30/40/50/60% AMI Homeownership: HUD Low + 10%	Demonstrate direct beneficial impact to low- and moderate-income persons, households, or neighborhoods.
<b>Eligible Applicants</b>	<ul style="list-style-type: none"> <li>• 501(c)(3) nonprofit organization</li> <li>• Private Developer</li> <li>• Public Housing Authority</li> </ul>	<ul style="list-style-type: none"> <li>• 501(c)(3) nonprofit organization</li> <li>• Public Housing Authority</li> </ul>
<b>Types of Projects/Activities</b>	<ul style="list-style-type: none"> <li>• City investment <u>must</u> directly support permanently affordable units</li> <li>• Variety of activities supporting the city's goal to create and preserve a diverse housing stock (e.g., income levels, construction types, tenure, housing types, etc.)</li> <li>• Rental Projects: Households earning 60% AMI and below</li> <li>• Homeownership Projects: Households earning HUD Low Income + 10% AMI</li> <li>• Mixed Income Properties (only permanently affordable units)</li> <li>• Preservation (priorities include health and safety improvements including fire suppression, major system repairs/replacement, energy efficiency upgrades, accessibility)</li> <li>• Capital Improvement Projects serving permanently affordable housing units (requires capital needs assessment and capital reserve)</li> <li>• Housing Related Services/ Programs (e.g., down payment assistance, owner-occupied</li> </ul>	<ul style="list-style-type: none"> <li>• Preservation of existing housing</li> <li>• Transitional Housing – Capital needs only, not services</li> <li>• Special Needs; Capital needs only, not services</li> <li>• Services or Programs supporting low-and moderate-income persons' access to and maintaining of housing including housing preservation</li> <li>• Capital Improvements to public facilities used by agencies serving low-income residents of Boulder</li> </ul>

	housing rehabilitation, tenant-based rental assistance) are eligible for annual set aside	
<b>Use of Funds</b>	<ul style="list-style-type: none"> <li>• Activities resulting in the creation and preservation of affordable housing</li> <li>• Acquisition (site control) of real property (eligible for Opportunity Fund request)</li> <li>• Gap Financing (approval requires demonstrated secured primary financing required and city development review approvals)</li> <li>• Predevelopment (expenses necessary to prepare a project incurred after receiving funding approval; limited to nonprofits and housing authorities; limited to \$5000/unit with a maximum of \$250,000. No more than one predevelopment award per project)</li> </ul> <p>At the city's discretion, financing may be structured as a loan.</p> <p>Financial commitments prior to submittal of a funding application and prior to a funding decision are not an eligible use of funds.</p>	<ul style="list-style-type: none"> <li>• Activities resulting in the creation or preservation of affordable housing</li> <li>• Activities resulting in new or increased access to public facilities</li> <li>• Activities resulting in new or increased access to public services</li> </ul>
<b>Compliance with City Regulations and Requirements</b>	<ul style="list-style-type: none"> <li>• Boulder Municipal Code</li> <li>• Boulder Valley Comprehensive Plan</li> <li>• Inclusionary Housing Ordinance*</li> <li>• Annexation Agreements*</li> <li>• Boulder Broomfield Consolidated Plan</li> <li>• Affordable Housing Design Review</li> <li>• Livability Standards</li> <li>• Housing Inspection Requirements</li> <li>• Homelessness Strategy</li> <li>• Human Rights Ordinance</li> <li>• Rental Licensing</li> <li>• Rental Compliance Manual</li> <li>• Community Development Policies and Procedures Compliance Manual</li> </ul>	<ul style="list-style-type: none"> <li>• Boulder Municipal Code</li> <li>• Boulder Valley Comprehensive Plan</li> <li>• Boulder Broomfield Consolidated Plan</li> <li>• Community Development Policies &amp; Procedures Compliance Manual</li> </ul>

	*Projects proposing outcomes exceeding city requirements or targeting lower AMLs may be eligible for city financing	
<b>Compliance with Federal Regulations</b>	If federal funds are awarded, the following regulations may apply: Accessibility, Environmental Review, Fair Housing, Historic Preservation, Labor Standards, Lead Based Paint, Property Standards, Relocation and Site Reviews	Compliance with all applicable federal regulations.
<b>Change in Use</b>	Use defined by land use regulations, funding agreement and covenant.	Cannot occur within five years of execution of the funding agreement.
<b>Compliance with Previous Financial Awards</b>	Compliance with previous funding agreements and affordability covenants including timely reporting.	
<b>Minimum Fund Amount</b>	\$10,000	
<b>Maximum Fund Amount</b>	Financial award amounts vary and are proportional to the number of permanently affordable units secured that are above and required by Inclusionary Housing or Annexation, the level of affordability, and community benefits provided.	
<b>Property Standards</b>	New construction and capital improvements must comply with all local requirements and the city's <a href="#">Livability Standards</a> . Application of the city's Livability Standards will be evaluated on a case-by-case basis.	
<b>Source of income</b>	Accept housing vouchers including Permanently Supportive Housing vouchers.	
<b>Accessibility</b>	All projects must meet the Fair Housing Act, Section 504 and any local requirements.	
<b>Energy Standards</b>	Projects must comply with the minimum energy efficiency and conservation standard prescribed in the City of Boulder's <a href="#">Energy Conservation Code</a> .	
<b>Housing Construction Inspections</b>	Funding recipients must permit housing construction inspections of the affordable units to assess the quality of construction, finishes, materials and workmanship per manufacturer guidelines and to ensure compliance with city affordability requirements. The city will retain the Housing Construction Inspector.	
<b>Capital Needs Assessment</b>	Projects seeking financial resources to purchase an existing building or for capital improvements and preservation activities require the completion of a Capital Needs Assessment. The Assessment must be undertaken by a Third party and completed within the past 12 months and covering a period of no fewer than 15 years for rehabilitation projects (not required for projects consisting of fewer than 26 units if applicant can demonstrate in-house capacity and experience to perform 15-year needs assessment).	

<b>Appraisal</b>	Acquisition activities (real property) require submission of a certified appraisal.
<b>Fire Suppression</b>	In the case of rehabilitation, capital improvements must include upgrading or installation of fire protection, detection and suppression systems.
<b>Affordable Housing Vouchers</b>	Rental properties benefitting from city investment are required to accept residents using Housing Choice Vouchers or any other subsidy. The subsidy must cover the difference between the actual monthly rental charged and the amount of the tenant rent based upon tenant income.



## EVALUATION CRITERIA

In addition to meeting the eligibility requirements listed above, all funding applications are evaluated using the following criteria.

<b>City Goals and Priorities</b>	Furtheres the City of Boulder goals and priorities (pages 2-3).
<b>Community Benefit</b>	Offers tangible and cost-effective benefit to the community as well as the intended beneficiaries. Includes the leveraging of outside resources (e.g., Low-Income Housing Tax Credits).
<b>Number of Units</b>	Maximize the number of permanently affordable units produced/preserved and residents housed.
<b>Readiness to Proceed</b>	Varies by activity: Site control; third party capital needs assessment completed within past 12 months; scope of work identifying critical repairs; expected planning and zoning approval within 90 days of funding approval; construction/acquisition start (within 12 months of application); construction cost estimate; substantial amount of other financial resources committed; and relocation and/or replacement housing plan and budget identified
<b>Deepest Affordability</b>	Provide a mix of affordability levels prioritizing lowest income residents.
<b>Consistency</b>	<p>Consistent with the Boulder Valley Comprehensive Plan.</p> <p>In the case of federally funded projects, the project must also be consistent with the Boulder Broomfield Consortium Consolidated Plan.</p> <p>See links in Overview section above.</p>
<b>Development Team's Capacity</b> (Developer, Architect, Financing Partners, General Contractor, Construction Management)	Demonstrated development team experience and capacity (skills, experience, resources) to achieve proposed activity.
<b>Management Capacity</b> (Owner, Property Management, Financial Partners, Service Provider)	Demonstrated organizational experience and capacity (skills, experience, resources) to achieve proposed activity including organization's financial health. The organization may not have any unresolved financial audit findings. Include applicant monitoring and reporting record, previous project experience and property management experience.
<b>Leverage and Reinvestment</b>	Maximize leverage opportunities including other financing, in-kind contributions to match city investment, and/or commitment to minimize or reinvest developer fees to further city housing goals. The city prefers not to be the sole source of funding for a project or program.

<b>Per Unit Subsidy (PUS)</b>	Recognizing the cost per residential unit will vary per project due to a variety of factors, there is no specific PUS. Reasonable PUS includes evaluation of the target population, project type and cost effectiveness (cost per person, externalities, reserves, leveraging).
<b>Community Housing Development Organizations (CHDO) and Community-Based Development Organization (CBDO)</b>	HOME funding requires the set aside of 15% of HOME funds to support specific activities of Community Housing Development Organization (CHDO). To learn whether your agency might qualify as a certified CHDO or CBDO, please contact the Housing Investment Manager.
<b>Energy Standards</b>	To encourage energy efficient affordable housing to decrease energy consumption and provide financial benefit to low- and moderate-income households, projects that exceed the City of Boulder's Energy Conservation Code requirements may be considered for additional city investment.

### MINIMUM PRO FORMA UNDERWRITING ASSUMPTIONS

All housing applications are required to submit a 15-year proforma utilizing [CHFA's LIHTC Application](#).

<b>Debt Coverage Ratio (DCR)</b>	Minimum 1.15			
<b>Per Unit Per Annum Expenses (P.U.P.A)</b>	Minimum \$3,900 excluding replacement reserves, higher for projects that are providing additional services, and \$5,000 for project-based Section 8 developments. For senior-only projects, a lower P.U.P.A. is acceptable if documentation of actual expenses from an existing senior-only deal is made available. A lower P.U.P.A. is acceptable for projects that are exempt from real estate taxes if evidence of the exemption and county estimates of per unit taxes is provided.			
<b>Replacement Reserve</b>	\$300/unit (\$250/senior units)			
<b>Operating Reserve</b>	At least 4 months of projected annual operating expenses and 4 months of debt service payments.			
<b>Vacancy Rate</b>	Reflect current Boulder rental vacancy rate			
<b>Allowable Developer or Administrative Fee</b> Deferred Developer Fee allowed up to 50% of total fee. <b>NOTE:</b> If project is using LIHTC, the city will defer to CHFA limits as published in the QAP in effect at the time of the award	<i>Rehabilitation</i> <25 units = 10% >25 units = 5%	<i>New Construction</i> <25 units = 15% >25 units = 10%	<i>Acquisition</i> With improvements = 10%  Without improvements = 5%	<i>Capital Improvement Projects (Community Development only)</i> 2.5% project costs. Requires 1 to 1 financial match.

<b>Compliance</b>	<p>Agencies and organizations seeking the city's financial investment in a project or program are required to commit to long-term compliance guidelines as outlined in the following documents:</p> <p style="text-align: center;"><a href="#"><u>Rental Compliance Manual</u></a></p> <p style="text-align: center;"><a href="#"><u>Community Development Policies &amp; Procedures Compliance Manual</u></a></p>
<b>HUD Environmental Review</b>	<p>All federally funded projects require an environmental review as a condition of funding. Environmental clearance must be received before any funds (federal, local and/or private) can be expended.</p> <p><b>NOTE:</b> Recipients of federal funds must not take any Choice Limiting Action prior to environmental clearance. Taking any of the following actions will result in a regulatory or statutory violation which eliminates the option to use federal funds in the project: Acquisition, Disposition, Rehabilitation, Demolition, Conversion, Transfer/Remove/Lease, Construction</p>

## FUNDING OPPORTUNITIES

The City of Boulder Department of Housing and Human Services distributes funds using a competitive *Bi-Annual Funding Cycle*. In addition to the set funding cycle, funding requests may be accepted through one of the following processes given the parameters written below:

***Opportunity Funding Requests:*** Only permissible for time-sensitive funding requests such as an acquisition opportunity, emergency repair, or unanticipated cost overrun. May be submitted to the city anytime throughout the year with consideration limited by the availability of funds. Due to rapid action and the confidential nature of real estate transactions, Opportunity Fund requests may not exercise the same level of public notice/engagement as requests considered through the Bi-Annual Funding Cycle.

***Set Asides for Ongoing Programs:*** Affordable housing services/programs (e.g., housing rehabilitation, housing counseling, etc.) that receive funding for three consecutive years may be designated to receive a base level of financial support for subsequent years as a “set-aside” allocation for which the awardee does not need to submit a full funding application. In its place, a Letter of Request is submitted to demonstrate continued need and use of the funds. This designation will be made by staff annually and is subject to Technical Review Group recommendation. A set aside award for one year does not guarantee funding in subsequent years. Eligible set-aside awards are issued to ongoing programs only; physical projects are not eligible for set-asides. Set-aside awardees must demonstrate that no material changes to the organization or funded program have occurred to remain eligible for current year funding.

## Funding Process

Prior to submitting a funding request, applicants are required to meet with city HHS staff. Following application of a funding request staff will review the application for completeness and eligibility.

If deemed complete and eligible, staff will underwrite the project and prepare a staff analysis. The complete application and staff analysis is provided to advisory committees to review and make recommendations to the City Manager. To provide community input on city investment decisions, the City Manager appoints two volunteer advisory committees who provide a range of relevant experience and a variety of skills. The Technical Review Group reviews affordable housing applications and makes recommendations to the City Manager. The Community Development Advisory Committee reviews community development applications and makes recommendations to the City Manager.

Following review of applications, interviews with the applicants and deliberations, the review committee submits funding recommendations to the City Manager authorized under city charter to make all affordable housing and community development funding decisions.

## Funding Application Requirements

The most current application forms are available at the Department of Housing and Human Service's website (linked [here](#)) or by contacting staff. Consideration of a funding request requires the following:

1. Applications must be complete, meet all requirements and submitted according to the instructions.
2. Applicants are provided a single, time-limited opportunity to rectify any deficiencies in a submitted application.
3. Applications are to be submitted on or before the posted deadline to be eligible for consideration.
4. Applicants are required to update their applications with any material changes impacting the project or the organization that occur after the application has been submitted.

## Funding Application Schedule

After receipt of an invitation to apply for funding, the funding process follows the schedule listed below. The actual timing is dependent upon applicant responsiveness. Staff may extend the review period or document preparation in consideration of the project's readiness to proceed and receipt of a complete funding request. While Opportunity Funding requests are accepted anytime during the year, the application process follows the same, yet expedited, timeline.

ACTIVITY	TIMELINE
<b>PRIOR TO FUNDING APPLICATION</b>	
A Request for Proposals is posted on the city website and email notification is sent to partners. <i>Please contact staff to be added to the funding notice distribution list.</i>	Approximately one month prior to funding application deadline
Applicant meets with Department of Housing and Human Services staff.	Prior to funding application
If Planning Development Review is required, applicant must submit Planning Pre-Application.	Prior to funding application
<b>FUNDING APPLICATION PROCESS</b>	
Housing, Community Development and Private Activity Bond applications due per Request for Proposals.	Application due date per RFP and posted website.
CIT staff verifies eligibility, underwriting, and preparation of staff analysis.	Weeks 1-2
Applications deemed eligible are posted on city's website. All funding applications are considered public documents except in the cases of acquisition for which confidentiality may be exercised.	Following determination of eligibility
Department of Housing and Human Services provides a full staff review, with consultation with other city departments as appropriate.	End of week 3
Staff's analysis is submitted to Technical Review Group (TRG) or Community Development Advisory Committee (CDAC). In the case of HOME funds, the HOME Consortium review staff's analysis.	Week 4
TRG or CDAC convene a funding recommendation meeting, including applicant presentation, with a public meeting noticed on city website.	Week 5
Applicant is notified of funding recommendation.	Following TRG and CDAC Meeting

Appeals process is available.	Week 6 + duration of appeal process
If funding is recommended by staff, the recommendation will be submitted to City Manager for approval.	Week 7 or following Appeal Process, if pursued
All funding applicants notified of funding decision, with funding notices posted on the city website.	Week 6 or following Appeal Process, if pursued

FOLLOWING AWARD DECISION	
Funding notice sent to applicant.	Week 1 of 2 <sup>nd</sup> month
Environmental Review initiated.	Timing dependent on level of review required. Ongoing until necessary approvals received; no action can occur, or funds expended until environmental clearance is issued by staff.
Meeting with funding recipient.	Week 2 of 2 <sup>nd</sup> month
Funding Documents (Agreement, Covenant, Deed, Promissory Note, as applicable) drafted by city staff and shared with applicant for review and negotiation.	Week 3 of 2 <sup>nd</sup> month, or one month from financial closing. Duration dependent on achieving agreement by all parties.
Environmental Clearance confirmed.	Dependent on level of review
Contract signed by applicant and returned to city.	Depended on applicant action
City executes documents.	Approximately one week from receipt from applicant; Environmental clearance required
Funds available for release or reimbursement.	Following receipt of funding reimbursement request and all required documentation

### Projects Leveraging Low -Income Housing Tax Credits and/or Seeking a Letter of Support

If a project will be pursuing Low- Income Housing Tax Credits, either 4% or 9%, the city requires that tax credits are awarded prior to submitting a request to the city for funding. Understanding that Letters of Support are often needed to pursue project financing from other sources, applicants can submit a Notice of Interest seeking general support for the project from the City of Boulder. The Notice of Interest (NOI) is required in the following circumstances:

- Project is pursuing Low -Income Housing Tax Credits
- Applicant is seeking a letter of support for the project prior to submitting

Staff will review the NOI to determine eligibility and alignment with the city’s goals. Following staff review, the NOI will be evaluated to determine support. If support for the application is granted, staff will prepare a general letter of support stating eligibility based on the information provided at the time of the NOI, alignment with city goals and anticipation of the city receiving a future funding request from the applicant.

### Projects Applying for the City of Boulder Private Activity Bond Capacity

The Colorado Private Activity Bonds (PAB) Program provides a financing tool that can be used to fund affordable housing activities. Each year the city of Boulder receives an annual allocation from the state. The city’s authority includes issuing the bonds to an eligible project, carrying forward for a future project or assigning to another issuer for an eligible purpose. The city will announce the availability of PAB cap in June of each year. To request access to the City's annual PAB cap, please complete the Request for Annual Allocation and submit to the first Monday of July.

Private Activity Bonds allocations can be pursued through Boulder County, Colorado Housing Finance Agency, and the Colorado Department of Local Affairs/Division of Housing.

## **Appeal Process**

Applicants will be notified in writing of the review committee's recommendation and any conditions of funding. Upon notification of a funding recommendation, should an applicant have any objections to the recommendation and conditions, the appeal procedures provided below must be followed.

1. Contact the Housing Investment Manager to discuss the objections. While some funding conditions may be modified at the staff level, the funding recommendation must be formally appealed.
2. Within seven days of the date of the award notification, a written appeal must be received by the Housing Investment Manager. The appeal must provide full documentation of any material and significant circumstances that have arisen since the time of application and provide a written description of that evidence and a rationale for the appeal request.
3. The applicant will be notified if the request meets the above requirements for an appeal.
4. The Technical Review Group (TRG) or Community Development Advisory Committee (CDAC) (dependent on type of funding request/appeal) will consider all qualified appeals within seven days of receipt.
5. The TRG or CDAC will make a recommendation regarding the appeal based on the information provided by the applicant, as well as any additional information provided by staff deemed to be relevant.
6. A written notice of the appeal recommendation will be provided to the applicant by the Housing Investment Manager within two weeks of the appeal meeting.
7. Applicants may make a second and final appeal by submitting it in writing to Director of Housing and Human Services within seven days of the date of staff correspondence communicating the review committee appeal recommendation. The Director will take all previous information into consideration including additional material and significant circumstances that have arisen since the time of the appeal to the review committee.
8. A written and final recommendation of the Director of Housing and Human Services will be provided to the applicant within two weeks of the date of the second appeal request.
9. All appeal recommendations and documents will be communicated to the City Manager for final approval.

It is important to note that only written appeals, submitted within the required timeframes, documenting new circumstances for consideration and providing a rationale for changing recommendations, will be eligible for consideration through the appeal process.

Appeals may be mailed/delivered to PO Box 791, Boulder, Colorado 80306 or emailed to the Housing Investment Manager. If emailing, please contact the Department of Housing and Human Services for contact information.

## **Public Engagement**

All communications and funding documents are available for public review. All eligible funding applications received by the city are posted on the city's website. Meetings of the Technical Review Group and Community Development Advisory Committee are public meetings and include a time designated for public comment prior to funding recommendations. Interpretation and translation is available upon request.

*Due to rapid action and the confidential nature of real estate transactions, Opportunity Fund Requests may not exercise the same level of public notice/engagement as requests considered through the Bi-Annual Funding Cycle.*

Members of the public may contact city staff to request information regarding a funding request and projects under consideration. City staff and/or the applicant will respond to the inquiry in a timely manner.

Members of the public may also request a public meeting for additional information about the project. If requested, the city strongly encourages the applicant to arrange an appropriate meeting time, date and location in a public or private office that is accessible for persons with disabilities and convenient for the public, especially households who may directly benefit from the proposed development. All public meetings should have a sign-in sheet and there should be a written record of questions/comments raised by persons in attendance, along with the applicant's response. The applicant should include the results of the public comment process in the application.

## **AFTER THE AWARD**

### **Funding Notice**

Once a funding decision is made, or the Appeals process is resolved, all funding applicants will receive a Funding Notice. If awarded funds, the notice will include the award amount, source of funding, environmental review requirements and other conditions of funding.

### **Funding Meeting**

Following notification of the funding award, the applicant is required to meet with staff to discuss the conditions of funding, compliance requirements and the preparation of all funding documents. Presence of the legal team representing the applicant in the preparation of the funding documents is often requested at this meeting. Interpretation and translation is available upon request.

### **Funding Agreement**

The city and awardees will execute funding agreements that contain all terms and conditions of the award. Awardees must accept all terms and conditions within the specified timeframe. In the event an awardee is unable to make such commitments, funds will be redistributed through the Funding Program.

### **Security Interest**

The funding documents (Agreement, Covenant, Deed of Trust, Promissory Note, as applicable) establish city security of the public investment (federal or local funds) to ensure lasting community benefit and long-term compliance with all rules and regulations. The following security instruments protect the city's investments in cases of foreclosure, necessary recovery/repayment of funds or loss of the agreed to community benefit, with the ultimate intention to secure the permanent affordability, availability and sustainability of the units.

### **Housing**

All Affordable Housing projects require a Permanent Affordability Covenant provided by the city recorded on the real property.

#### *Affordable Housing Projects including HOME funded projects*

- A 40-year promissory note and deed of trust recorded on the real property for the full amount of the award.
- For HOME funded projects, at the end of the HOME affordability period, all but \$100 will be forgiven.
- The terms of the note will be no interest and no payments with the principal due in full upon release of the affordability covenant.



- At the end of the 40-year term, the city will request a new note and deed of trust for the remaining \$100.
- The city reserves the right to negotiate and apply different terms for small (less than \$50,000) and large (greater than \$3,000,000) awards on a case-by-case basis.

### **Community Development**

Community Development projects funded with Community Development Block Grant (CDBG) funds

- Awards issued to projects involving the acquisition of real property will have a 40-year promissory note and deed of trust recorded on the real property for the full amount of the award. The terms of the note will specify shared appreciation based on the appraised or assessed value of the property at the time of the award.
- The full appreciated amount is due upon sale, foreclosure or termination of the eligible services or program at the facility. No other payments will be required.
- Shared appreciation debt may be transferred to another property within the city limits in the event the awardee moves its program location.
- Awards issued to projects involving capital improvements to agency facilities will have a promissory note and deed of trust recorded on the real property for the full amount of the award. The term will be reflective of the amount of funds awarded.
- Projects awarded:
  - Less than \$50,000 = 5-year promissory note and deed of trust; terms of note will forgive 1/5th of the amount each year
  - Between \$50,001 and \$100,000 = 10-year promissory note and deed of trust; terms of note will forgive 1/10th of the amount each year
  - Greater than \$100,001 = 15-year promissory note and deed of trust; terms of note will forgive 1/15th of the amount each year and include a shared appreciation clause
  - For all awards, the remaining amount is due upon sale, foreclosure or termination of the eligible services or program at the facility. No other payments will be required.

### **Subordination Policy**

The City may subordinate its interests in limited circumstances to further the City's goals of encouraging the maintenance and development of permanently affordable units to eligible households.

This policy presents the situations and conditions in which the City of Boulder will subordinate its interests, including deed of trust, promissory note, and low-income restricted covenant.

#### **1) Presumptive Subordination to For-Profit Lenders**

- a) If the following conditions are met, City of Boulder HHS Funds awardees (Awardee) may presume that the City will subordinate the City's security interest (deed of trust and permanently affordable covenant) to the lien of one or more for-profit lenders funding the same project:
  - i) The principal amount of the for-profit loan is at least 1.5 times the amount of City funding;
  - ii) The appropriate portion of the project is legally restricted to use for affordable housing through a permanently affordable covenant, acceptable to the City;
  - iii) The City closing documentation will carry the same priority and are subordinated together (but remain separate instruments, which may have different terms);
  - iv) Awardee has submitted to the City term sheets, commitment letters, or other satisfactory "firm commitment to finance" documentation from all other project funders, disclosing its complete plan of finance;
  - v) The closing documentation includes the following:
    - (1) The senior lender shall grant to the City the right to notice of defaults and an assignable 90 day right to cure

- (2) City receives either an assignable purchase option for value of property as restricted for affordable housing, or an assignable option to buy the loan the City is subordinating to, or both (and any option must not be subordinate to the senior lender's lien)
  - (3) City will only subordinate to the senior lender's original principal amount, not any and all unknown future advances by the senior lender
  - (4) Unless already covered by a CHFA LURA required as part of a LIHTC transaction, certainty that tenants will be protected for three years after foreclosure on the same basis as required by a CHFA LURA
  - (5) Adequate recitals describing the flow of funds from City to awardee to the awardee's affiliate entity, if any
- 2) Negotiated Subordination to For-Profit Lenders
    - i) If an awardee's project cannot satisfy the conditions for presumptive subordination above, then upon receipt of a written request by the awardee the City will consider subordination on a case-by-case basis, using the following factors:
      - (1) The number of factors listed in section 1 above which are met; and
      - (2) The extent to which the awardee can demonstrate that subordination is required to obtain the for-profit loan(s) that results in maximum leveraging of public dollars with private funds.
- 3) Presumptive Subordination to other Governmental or Non-Profit Lenders
    - i) Where another governmental or non-profit lender is funding the same project, awardees may presume that the City will subordinate the City's security interest (deed of trust, permanently affordable covenant) to the nonprofit lender's lien if the principal amount of that loan is greater than the Affordable Housing Funding award and the governmental or non-profit lender secures a term of affordability.
  - 4) Negotiated Subordination to other Governmental or Non-Profit Lenders
    - i) If the other nonprofit lender's lien is associated with a principal amount less than the Affordable Housing Funding award, but that lender still demands that the City subordinate, the City will consider doing so on a case-by-case basis.
  - 5) Presumptive Subordination to Colorado Housing and Finance Authority ("CHFA")
    - i) In projects allocated low-income housing tax credits by CHFA, the Affordable Housing Funding awardee may presume that the City will partially subordinate its security interests (deed of trust, or permanent affordable covenant) to the CHFA Land Use Restriction Agreement ("LURA").
  - 6) Form of Subordination
    - i) The City is willing to use the senior lender's form of subordination, so long as the City's interests are adequately protected.

### **Agreement Execution**

Following the drafting and negotiation of funding documents, awardees will execute funding documents returning one document with original signature to staff. Following receipt, the documents will be routed through the city for full execution and recording (as needed). The city routing process generally requires 10 working days to allow for appropriate review, signatures, and recordation of documents. The city will provide the awardee with a copy of the fully executed document unless a duplicate original is furnished by the awardee.

### **Fund Availability**

All funding awards are contingent upon the receipt of funds from the federal and/or local sources under which the award is issued. The city assumes no liability to the awardee, its contractors, its agents, or further obligations to the awardee in the event anticipated program funds are retracted or otherwise unavailable for their intended purposes.

### **Federal Funding Requirements**

Any award of funds from federal sources may be subject to additional documentation and compliance monitoring requirements. Such requirements will be defined in the funding agreement. Federal requirements may include, but are not limited to:

- Environmental Clearance Review
- Procurement
- Uniform Relocation Act
- Davis-Bacon and Related Acts
- Lead Safe Housing
- Fair Housing & Equal Opportunity
- Affirmative Marketing
- Handicapped Accessibility
- Employment & Contracting Rules

### **Insurance**

All projects involving real property must carry hazard insurance in an amount equal to full replacement value through the full term of the funding agreement and the duration of the promissory note and deed of trust as applicable. Flood insurance may also be necessary depending on project location and environmental review.

### **Eligible Expense Modifications**

Each project is awarded funding for specific eligible activities. These activities are stated in a funding notification and the funding agreement. Awardees may request modifications to eligible expenses following the execution of the funding agreement provided such request is made in writing and includes a rationale for the request. HHS staff is authorized to consider modifications of up to 10% of the award or \$25,000, whichever is greater. Larger modification requests must be considered by the Technical Review Group and approved by the Deputy Director of Housing and Human Services.

### **Cost Overruns**

HHS staff may increase a funding award up to 10% of the original award to account for project cost overruns if the following conditions have been adequately demonstrated by the awardee:

- Cost overruns were unanticipated and outside the control of the awardee; and
- The project would be unacceptably compromised without the additional investment.

If both conditions are not met, a supplemental funding application must be submitted by the awardee.

### **Supplemental Funding**

Supplemental funding may be awarded only if the applicant can demonstrate substantial and material changes to the project design or project funding sources.

### **Funds Recovery**

In the event awarded funds exceed eligible expenses for a project or program, remaining funds will be recovered and returned to the city for redistribution.

**Extensions & Waivers**

Award agreements may be extended at the discretion of HHS staff upon written request of the awardee. The Deputy Director of Housing and Human Services has the discretion to waive all or certain conditions to an award. The extension or waiver request must provide evidence of unforeseen circumstances and adequate progress in achieving the desired outcomes.

**Ongoing Compliance**

There are local and federal rules and regulations that must be followed during each phase of a project or program. Community Investment Team (CIT) Project Managers and compliance staff will assist funding applicants by identifying the rules and regulations applicable to projects and programs. Technical assistance will be provided to ensure understanding and compliance with applicable rules and regulations.

**Funding Policies Administration**

The Department of Housing and Human Services Funding Policies are provided to clarify standards and processes and to enhance communications with partners. The city values the opinions and perspectives of its partners and will generally provide both notice of policy changes and an opportunity to comment on them prior to implementation. However, these policies are subject to change at any time and without notice if it is determined to be in the best interest of the city and/or the project to do so. The city will provide electronic notice of any finalized policy changes to its list of interested parties, to which anyone who so requests will be added. Any questions, concerns or requests for changes should be addressed to the Housing Investment Manager.