

AFFORDABLE HOUSING AND COMMUNITY DEVELOPMENT FINANCIAL INVESTMENT POLICIES & APPLICATION INSTRUCTIONS



City of Boulder Planning, Housing and Sustainability

1300 Canyon Boulevard
Boulder, Colorado 80302
303/441-3157
<https://bouldercolorado.gov/housing>

Adopted April 2018

INTRODUCTION

The City of Boulder, esteemed for its natural beauty, educational opportunities, and thriving business pursuits, has seen rapid growth of its resident population. Planning initiatives evolving over the past half century have desired to strike a deliberate balance ensuring protection of our shared open spaces, while providing a range of housing opportunities and amenities to support a diverse and thriving community.

Ambition for such a sustainable community is a worthy effort and government alone cannot accomplish it. We welcome, invite and rely upon our community partners to guide Boulder's development in a manner that affirms our shared values and extends opportunities for our diverse resident population.

This document provides an overview of the *City of Boulder's Affordable Housing and Community Development Financial Investment Policies and Application Process*. 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:

[Rental Compliance Manual](#)

[Community Development Project Compliance Manual](#)

Applicants requesting federal funding through the City of Boulder must also comply with all applicable federal rules and regulations including but not limited to the following: Accessibility (Design and Construction), Environmental Review, Fair Housing, Historic Preservation, Labor Standards, Lead Based Paint, Property Standards, Relocation and Site Reviews.

OVERVIEW

The Division of Housing is part of the [City of Boulder's Planning, Housing + Sustainability Department \(PH+S\)](#). The mission of the PH+S is to collaborate with our community and colleagues to create a sustainable, resilient and inclusive city, worthy of its setting, where we can all thrive together. The department does this by:

- Working with the Boulder community to articulate a shared vision for the city's future;
- Promoting long-term sustainability, resilience and inclusiveness through comprehensive, strategic planning and application of the community's values and sustainability principles in guiding preservation, new development and redevelopment in the city;
- Preserving and providing safe, quality affordable housing opportunities that help build and sustain community through long-range planning, application of land use and regulatory tools, investment, regional collaboration, and funding of programs;
- Engaging the community to promote education and facilitate action for community sustainability, resilience and inclusiveness; and
- Supporting others in the city organization and community to carry out their mission in service of the community's planning, housing and sustainability goals.

The [Division of Housing](#)'s mission is to create and preserve housing in a variety of types and affordability levels to support and foster a community that is economically and culturally diverse. We do this by:

- Collaborating with the community including residents, employers, nonprofits and developers to determine and respond to the housing needs of a socially and economically diverse community;
- Managing local and federal funds to create and preserve quality permanently affordable rental and ownership opportunities while maximizing and leveraging financial resources;
- Expanding affordable housing opportunities by developing and implementing regulatory and other policy requirements;
- Ensuring affordable housing assets are managed and maintained over time to provide long-term benefit to the community and to comply with local, state and federal requirements;
- Developing innovative policies and practices designed to meet city affordable, special needs and other housing goals not met by the market; and
- Continuously improving the integrity of policies and programs by adopting best practices, developing, and implementing innovative policies.

CITY OF BOULDER'S AFFORDABLE HOUSING GOALS AND GUIDING DOCUMENTS

[10% Affordable Housing Goal](#). The City of Boulder has long identified and pursued affordable housing goals. Currently, this goal asserts the city will secure 10% of all housing units as permanently affordable serving low- and moderate-income households.

[Middle Income Goal](#). In 2016, the City of Boulder expanded the 10% affordable housing goal to build or preserve 3,500 middle income homes by 2030 including 2,500 market-rate middle income units and 1,000 deed restricted permanently affordable units.

[Permanent Supportive Housing Goal](#). In 2017, the City of Boulder City Council adopted the Homelessness Strategy to reduce and prevent homelessness. The strategy includes a goal of creating an additional 75 units of permanent supportive housing by the end of 2019. To support the strategy, the Division of Housing encourages all housing developments to evaluate the feasibility of providing permanently supportive housing (PSH) units that integrate permanent affordable housing with flexible, voluntary support services. All permanently affordable housing units are required to accept housing vouchers and projects featuring PSH units and/or accepting housing vouchers will receive preference in funding allocations.

[Boulder Valley Comprehensive Plan](#). In addition to these goals, the city's investments to create and preserve affordable and attainable 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 2015-2019 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 Division of Housing 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 requests to support human service programming and services is available through the [City of Boulder Human Services Fund](#).

FUNDING SOURCES

To achieve the goals of the city and abide by the vision and plans set forth in the documents mentioned above, the Division of Housing's 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.

The city provides financial resources and technical assistance to partners to achieve the city's goals. Partners use the city's investment to leverage other financial resources (e.g. low-income housing tax credits, private activity bonds, grants, conventional financing, etc.).

To achieve the city's goals, the city employs regulatory requirements and federal and local financial resources to support housing creation and preservation projects and programs as well as capital needs of agencies serving persons with low incomes. In addition, as permissible, these revenues 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.

Affordable Housing Financial Resources

	Fund	Source	Estimated Annual Revenue	Target Populations	Uses
Local Funding Sources	Affordable Housing Fund (AHF)	Inclusionary Housing Cash-In-Lieu (amount varies), General Fund (amount varies)	\$1M-\$12M Dependent on residential development activity. Annual average = approx. \$5M	Rental: 60% Area Median Income (AMI) or below Homeownership: HUD Low Income + 10% AMI (Adjusted annually. Current, 79.2%)	Construction, purchase, and capital improvements of affordable housing and the costs of administering programs
	Community Housing Assistance Program (CHAP)	Property Tax (8/10ths of a mil)	\$2M	15-60% AMI	Acquisition, preservation, and redevelopment
	Commercial Linkage Fee	Fee charged on new commercial square footage developed within city limits	\$1M Dependent on commercial development activity	Rental: 60% AMI or below Homeownership: HUD Low Income + 10% AMI (Adjusted annually. Current, 79.2%)	Construction, purchase, and maintenance of affordable housing and the costs of administering programs
Federal Funding Sources	Community Development Block Grant (CDBG) More information here	U.S. Department of Housing and Urban Development	\$800K	HUD Low Income (Adjusted annually. Current, 69.2%)	Affordable housing and community development activities
	HOME Investment Partnerships Program (HOME) More information here	U.S. Department of Housing and Urban Development	\$800K Shared among Boulder-Broomfield HOME Consortium members	HUD Low Income (Adjusted annually. Current, 69.2%)	Affordable housing production and preservation
	Private Activity Bonds More information here	Tax-exempt bonds issued by or on behalf of local or state government	\$5M cap	60% AMI or below	Developments offering public benefit. Division of Housing prioritizes creation and preservation of rental housing.

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)
Permanent Affordability	Permanent affordability required by all projects and secured by a covenant recorded against the real property.	Application varies
Target Populations	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.
Eligible Applicants	<ul style="list-style-type: none"> • 501(c)(3) nonprofit organization • Private Developer • Public Housing Authority • Community Housing Development Organizations (CHDO) – HOME funding only 	<ul style="list-style-type: none"> • 501(c)(3) nonprofit organization • Public Housing Authority • Community Based Development Organizations (CBDO)
Types of Projects/Activities	<ul style="list-style-type: none"> • City investment must directly support permanently affordable units • New Construction, Acquisition and Redevelopment • Multifamily, single family, cooperative, co-housing properties, other • Permanent Supportive Housing, Transitional Housing, other • Rental Projects: Households earning 60% AMI and below • Homeownership Projects: Households earning HUD Low Income + 10% AMI (76.2% in 2017, adjusts in May of each year) • Mixed Income Properties (only permanently affordable units) • Preservation (priorities include health and safety improvements including fire suppression, major 	<ul style="list-style-type: none"> • Preservation of existing housing • Transitional Housing – Capital needs only, not services • Special Needs Housing including housing serving persons with AIDS, or persons who are physically or mentally disabled, chronically mentally ill, chronically homeless, etc. Capital needs only, not services • Services or Programs supporting low-and moderate-income persons’ access to and maintaining of housing including housing preservation • Capital Improvements to public facilities used by agencies serving low-income residents of Boulder and certain related programs

	<p>system repairs/replacement, energy efficiency upgrades, accessibility)</p> <ul style="list-style-type: none"> • Capital Improvement Projects serving permanently affordable housing units (requires capital needs assessment and capital reserve) • Housing Related Services/ Programs (e.g. down payment assistance, owner-occupied housing rehabilitation, tenant-based rental assistance) are eligible for annual set aside • While the city has adopted a middle-income strategy, the revenues have not yet been generated to support Middle Income activities 	
<p>Use of Funds</p>	<ul style="list-style-type: none"> • Activities resulting in the creation and preservation of affordable housing • Acquisition (site control) of real property (eligible for Opportunity Fund request) • Gap Financing (approval requires demonstrated secured primary financing required and city development review approvals) • 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) <p>At the city's discretion, financing may be structured as a loan.</p> <p><i>Financial commitments prior to submittal of a funding application and prior to a funding decision are not eligible use of funds.</i></p>	<ul style="list-style-type: none"> • Activities resulting in the creation or preservation of affordable housing • Activities resulting in new or increased access to public facilities • Activities resulting in new or increased access to public services

Compliance with City Regulations and Requirements	<ul style="list-style-type: none"> • Boulder Municipal Code • Boulder Valley Comprehensive Plan • Inclusionary Housing Ordinance* • Annexation Agreements* • Boulder Broomfield Consolidated Plan • Affordable Housing Design Review • Livability Standards • Housing Inspection Requirements • Rental Licensing Code • Rental Compliance Manual • Community Development Project Compliance Manual <p>*Projects proposing outcomes exceeding city requirements or targeting lower AMIs may be eligible for city financing.</p>	<ul style="list-style-type: none"> • Boulder Municipal Code • Boulder Valley Comprehensive Plan • Boulder Broomfield Consolidated Plan • Community Development Project Compliance Manual
Compliance with Federal Regulations	<p>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</p>	<p>Compliance with all applicable federal regulations.</p>
Change in Use	<p>Use defined by land use regulations, funding agreement and covenant.</p>	<p>Cannot occur within five years of execution of the funding agreement.</p>
Compliance with Previous Financial Awards	<p>Compliance with previous funding agreements and affordability covenants including timely reporting.</p>	
Minimum Fund Amount	<p>\$10,000</p>	
Maximum Fund Amount	<p>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.</p>	
Property Standards	<p>New construction and capital improvements must comply with all local requirements and the City's Livability Standards. Application of the city's Livability Standards will be evaluated on a project by project basis.</p>	
Accessibility	<p>All projects must meet the Fair Housing Act, Section 504 and any local requirements.</p>	

Energy Standards	Projects must comply with the minimum energy efficiency and conservation standard prescribed in the City of Boulder's Energy Conservation Code .
Housing Construction Inspections	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.
Capital Needs Assessment	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).
Appraisal	Acquisition activities (real property) require submission of a certified appraisal.
Fire Suppression	In the case of rehabilitation, capital improvements must include upgrading or installation of fire protection, detection and suppression systems.
Affordable Housing Vouchers	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.

City Goals and Priorities	Proposed activity furthers City of Boulder goals and priorities (pages 4-5).
Community Benefit	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).
Consistency	Consistency with the Boulder Valley Comprehensive Plan. In the case of federally funded projects, the project must be consistent with the Boulder Broomfield Consortium Consolidated Plan. See links in Overview section above.
Development Team's Capacity (Developer, Architect, Financing Partners, General Contractor, Construction Management)	The development team experience and capacity (skills, experience, resources) to achieve proposed activity.
Management Capacity (Owner, Property Management, Financial Partners, Service Provider)	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.
Readiness to Proceed	To include, <i>varying by activity</i> : 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
Leverage and Collaboration	The city encourages applicants to seek other financing and in-kind contributions to match city investment. Other things being equal, applications with greater matching sources will receive favorable consideration. The city prefers not to be the sole source of funding for a project or program.
Per Unit Subsidy (PUS)	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).
Community Housing Development Organizations (CHDO)	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, please contact the Funding Administrator.

Energy Standards	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](#) (Microsoft Excel). While the Division of Housing staff evaluates applications to be in general conformance with the following parameters, it is understood that projects vary for a number of factors. Please contact staff to discuss possible variances in the context of meeting this city's housing goals.

Debt Coverage Ratio (DCR)	Minimum 1.15			
Per Unit Per Annum Expenses (P.U.P.A)	Minimum \$3,900 excluding replacement reserves, higher for projects that are providing additional services, and \$5000 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.			
Replacement Reserve	\$300/unit (\$250/senior units)			
Operating Reserve	4-6 months debt and operating costs			
Vacancy Rate	Reflect current Boulder rental vacancy rate			
Allowable Developer or Administrative Fee Deferred Developer Fee allowed up to 50% of total fee. NOTE: 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.
Compliance	Required compliance with all applicable federal requirements, and city rules and regulations, including but not limited to Inclusionary Housing and Annexation, and the Affordable Housing Rental Compliance Manual linked in the Introduction section above.			

HUD Environmental Review	<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>NOTE: 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 Division of Housing distributes funds using a competitive **Quarterly 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 Quarterly 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 Housing 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 Division of Housing'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
PRIOR TO FUNDING APPLICATION	
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>	One month prior to funding application deadline
Applicant meets with Division of Housing staff.	Prior to funding application
If Planning Development Review is required, applicant must submit Planning Pre-Application.	Prior to funding application
FUNDING APPLICATION PROCESS	
Housing applications are submitted.	1 st Monday of January, April, August, November
Community Development Application and Set Aside Letter of Requests are submitted.	1 st Monday of June
Private Activity Bond (PAB) Request	1 st Monday of June
DOH 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

Division of Housing 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 nd 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 nd 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 nd 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 on May 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 June.

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

Property Tax Exemptions

Projects interested in seeking tax exemption status should work directly with [Boulder Housing Partners](#). Exemption status is at the discretion of Boulder Housing Partners upon reaching negotiated terms.

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 Community Investment Program 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 Community Investment Program 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 Community Investment Program Manager within two weeks of the appeal meeting.
7. Applicants may make a second and final appeal by submitting it in writing to Deputy Director of Housing within seven days of the date of staff correspondence communicating the review committee appeal recommendation. The Deputy 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 Deputy Director of Housing 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 1300 Canyon Blvd, Boulder, Colorado 80302 or emailed to the Community Investment Program Manager. If emailing, please contact the Division of Housing 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 Quarterly 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.

AFFORDABLE HOUSING

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

Affordable Housing Projects (not including HOME funded projects)

- A 40-year promissory note and deed of trust will be recorded on the real property for \$100.
- The terms of the note will be no interest and no payments.
- At the end of the 40-year term, the city will require a new note and deed of trust for the remaining \$100.

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.
- 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.

COMMUNITY DEVELOPMENT PROJECTS

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 Housing 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:
 - a) The principal amount of the for-profit loan is at least 1.5 times the amount of City funding;
 - b) The appropriate portion of the project is legally restricted to use for affordable housing through a permanently affordable covenant, acceptable to the City;
 - c) The City closing documentation will carry the same priority and are subordinated together (but remain separate instruments, which may have different terms);
 - d) 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;
 - e) 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

SUBORDINATION POLICY, CONTINUED

2. Negotiated Subordination to For-Profit Lenders

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:

- a. The number of factors listed in section 1 above which are met; and
- b. 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

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

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")

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

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. Division 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.

Cost Overruns

Division 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 division staff upon written request of the awardee. The Deputy Director of Housing 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.

Funding Policies Administration

The Division of Housing 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 Community Investment Program Manager.

Adopted April 2018



Kurt Firnhaber
Deputy Director of Housing
City of Boulder