



HOUSING & ECONOMIC DEVELOPMENT COMMITTEE

DATE: Tuesday, February 1, 2022

TIME: 5:30 PM

LOCATION: This meeting will take place remotely using Zoom.

This meeting will be held remotely pursuant to the Remote Meeting Policy adopted by the Portland City Council and as authorized under 1 M.R.S. 403-B because of the existence of an emergency or urgent issue that requires the Committee to meet by remote methods. Allow your computer to install the free Zoom app to get the best meeting experience. If you are not able to attend live, a recording will be available following the meeting.

For public comment, you will need to use the "raise your hand" feature. To raise your hand via the telephone, please hit *9. You will be unmuted by the host when it is time for public comment.

1. Zoom Public Meeting Information

- a. Please click the link below to join the webinar:

<https://us06web.zoom.us/j/88182387763?pwd=dkxVMWVORGhsdDc4Z2d0bDhXL1Z2UT09>

Passcode: 102943

Or One tap mobile :

US: +16465588656,,88182387763# or +13017158592,,88182387763#

Or Telephone:

Dial(for higher quality, dial a number based on your current location):

US: +1 646 558 8656 or +1 301 715 8592 or +1 312 626 6799 or +1 720 707 2699 or +1 253 215 8782 or +1 346 248 7799

Webinar ID: 881 8238 7763

International numbers available: <https://us06web.zoom.us/j/88182387763>

2. Review and vote to accept Minutes of January 18, 2022, Committee meeting.

- a. See attached draft meeting Minutes.

3. (Public Hearing): Review and vote to recommend to the City Council the FY2023 Housing Program Budget.

- a. See attached Memo and Proposed FY2023 Housing Program Budget.

4. (Public Hearing): Review and vote to recommend to the City Council the 2022 Jill C.

Duson Housing Trust Fund Annual Plan.

- a. See attached Memo for Items #4 and #5 on Agenda.
- b. See attached draft Annual Plan.

5. (Public Hearing): Review and vote to approve the issuance of Affordable Housing TIF CEA and Affordable Housing Development Fund Application for City Housing Trust and Home Funds.

- a. See attached Memo for Items #4 and #5 on Agenda.
- b. See attached draft Affordable Housing and TIF Application for FY2023

6. Any other items that Committee and/or staff may want to discuss.

Next Meeting Date: February 15, 2022

Minutes

Remote Housing and Economic Development Committee

January 18, 2022

NOTE: This meeting was held via Zoom and can be viewed at this link:

<http://www.portlandmaine.gov/1695/Economic-Development-Committee> These

Minutes provide a record of those in attendance, general discussion taking place, and motions made.

A remote meeting of the Housing and Economic Development Committee (HEDC) of the Portland City Council was held on Tuesday, January 18, 2022, at 5:30 p.m. via Zoom. Present from the Committee were Chair Pious Ali, and members Councilors Tae Chong, Roberto Rodriguez, and Councilor Andrew Zarro. Also present from the City Council was Councilor April Fournier. Present from the City staff were Acting Housing and Economic Development Department Director Mary Davis, Corporation Counsel Michael Goldman, City Tax Assessor Christopher Huff, Compliance Officer Heidi McCarthy, Principal Administrative Officer Lori Paulette, and Housing Program Manager Victoria Volent.

Item #1: Zoom Meeting Information – no Committee action required.

Item #2: Review and vote on January 4, 2022, draft meeting Minutes.

On motion made by Councilor Chong, seconded by Councilor Zarro, the Committee voted unanimously (4-0) to accept the Minutes as amended.

Item #3: Review and vote to recommend to the City Council the HUD Citizen Participation Plan

Mary Davis introduced this item by noting the City is required to provide a Citizen Participating Plan that outlines the methods and procedures by which the City will communicate with the public regarding the federal programs administered by the Housing and Community Development. Heidi McCarthy provided the most recent changes to the Citizen Participation Plan. Those five changes are; more comprehensive procedures and methods for providing outreach to

individuals who need accommodation or translation for meetings and documents, including a translation page; specific due dates outlined for important and vital documents to ensure compliance; streamlined definition of substantial amendment; generic language for future national emergency or disaster in Section 10; and updated methods for disseminating plans and documents. Staff recommended the changes to the Citizen Participation Plan be forwarded to the City Council with a recommendation to approve.

Councilor Ali thanked staff for their presentation and asked if Committee members had any questions. Seeing none, a motion for recommendation was introduced.

Chair Ali opened the meeting to public comment. Seeing none, the public comment period was closed

On motion made by Councilor Zarro, seconded by Councilor Rodriguez, the Committee voted unanimously (4-0) to forward the recommendations to the City Council with a recommendation for approval.

Item #4: Finalize Housing and Economic Development Committee priorities for 2022

Councilor Ali noted he plans to work with staff to bring forward a final Work Plan that includes priority items from each Committee member to be include during each upcoming meeting of the Committee. Committee members are asked to continue to bring forward items for discussion during future meetings.

The Committee held a discussion regarding the priority list. Members were asked to email their priorities to the Chair and cc Mary Davis. Councilor Ali will then bring back the Work Plan for the Committee's review during the next meeting of the HEDC.

Mary Davis noted staff is looking for direction from the HEDC regarding any changes to the Affordable Housing Development Application. The Committee held a discussion regarding the investment priorities for 2022 and agreed to adhere to the same priorities from 2021. Staff will bring the Affordable Housing Development Application to the Committee during their February 1 meeting for a vote for approval.

Item #5: Executive Session: Pursuant to 1 M.R.S.A. 405(6)(C), the Committee will go into executive session to provide staff guidance related to Fort McKinley Hospital property sale opportunity

The Committee will go into executive session to discuss providing guidance to staff related to Fort McKinley Hospital property sale opportunity pursuant to 1 M.R.S.A. § 405 (6) (C).

Councilor Ali asked if Committee members had any questions or comments. Seeing none, Councilor Ali requested a motion to enter into executive session.

On motion made by Councilor Zarro, seconded by Councilor Chong, Councilor Ali noted the Housing and Economic Development Committee would vote to go into executive session after public comment.

Councilor Ali opened the meeting to public comment, noting that after the executive session the meeting would be adjourned and no actions taken. Seeing none, the public comment period was closed. The Committee voted unanimously (4-0) to enter into executive session at approximately 6:21 p.m. At approximately 6:55 p.m., the Committee came out of executive session, and on motion made by Councilor Chong, seconded by Councilor Rodriguez, the Committee voted 4-0 to adjourn the meeting.

Respectively submitted, Victoria Volent

CITY OF PORTLAND
Housing and Economic Development Department
Housing and Community Development Division

TO: Councilor Ali, Chair
Members of the Housing and Economic Development Committee

FROM: Mary Davis, Interim Director
Housing and Economic Development Department

DATE: January 28, 2022

SUBJECT: Agenda Item 2022-2023 Housing Program Budget

SUMMARY OF ISSUE

Review and recommendation to the City Council of the 2022-2023 Housing Program Budget.

REASON FOR SUBMISSION

The Housing and Economic Development Committee recommends the Housing Program Budget to the City Council for final approval.

HOME Program: The Home Investments Partnerships Program (HOME) was established by Congress in 1992. Since 1992, the City of Portland and the Cumberland County HOME Consortium have received almost \$24 million dollars in HOME funding. In 2009 the City became the lead entity in the Cumberland County HOME Consortium (CCHC). The Consortium is a partnership of the communities in Cumberland County that administers HOME Program funds in Cumberland County. The creation of the consortium expanded the financial resources for affordable housing activities in the region. The City retains independent operation of its HOME program. Because the City serves as the “Lead Entity” and City staff administers the County portion of the funding, all administrative funds are retained by the City. The County’s Municipal Oversight Committee controls the allocation of the County’s portion of the HOME funds.

When the Consortium was formed in 2009, it included a “hold harmless” clause to ensure that the City, as an existing HOME grantee, would continue to receive funding equal to its allocation prior to the formation of the consortium. The “hold harmless” formula was based on a comparison ratio to the HOME funding for the Lewiston/Auburn (L/A) Consortium. The formula identified Portland’s “hold harmless” amount at 118% of the HOME allocation for the L/A Consortium. The Cumberland County HOME Agreement did allow for adjustments to be made if the current level of funding to the L/A HOME

Consortium varied from historic levels. Over the years the L/A allocation has decreased which has resulted in the Portland “hold harmless” amount to decrease. As a result, by agreement with the other members of the CCHC, the annual allocation is divided with 57% of the allocation, after the administrative set-aside, to the City and 43% of the allocation to the County.

As a point of reference, if the City were a stand-alone grantee, the estimated HOME allocation for Portland (using a HUD HOME Allocation estimated calculation) would be approximately \$528,440. Of that amount 10% would be set aside for administrative costs (\$52,844) leaving \$475,596 for program funding. Under the current consortium agreement, the city receives the administrative set-aside (\$99,168) along with approximately \$508,731 in program funds. Participation in the HOME consortium benefits Portland as well as the county as a whole.

HUD has not announced the allocation amount for FY 2022-2023. Since we do not have the final allocation amounts, we are estimating the HUD HOME allocation at the same level as the previous year (\$991,679). \$383,780 is reserved for County projects. The budget proposal was developed after a historical review of HOME funding allocations, previous year's budget allocations, program expenditures and program income (loan repayments) received. Currently, the City's HOME Program is divided into three funding categories:

1. Administration
2. Tenant Based Rental Assistance (TBRA)
3. Affordable Housing Development [including the required Community Housing Development Organization (CHDO) set-aside mandated by HUD]

HOME Program Budget	FY 2021-2022 Budgeted (entitlement + program income)	FY 2022-2023 Budget proposal (entitlement + program income)
Administration	\$107,368	\$115,362
Tenant Based Rental Assistance	\$136,392	\$136,392
Affordable Housing Development includes CHDO requirement	\$509,718	\$458,270

LEAD SAFE HOUSING (Program Income): Lead Safe Housing Program Income is generated through repayment of loans given under prior Lead Safe Housing Grants. These funds can only be used for lead safe housing eligible activities. The City also has a Lead Hazard Reduction Grant of \$2,038,041 (over 42 months 1/2/2020-6/30/2023) in funding for lead paint remediation and \$503,655 in funding to assist with code and life safety improvements

Lead Safe Housing Program Income	FY 2021-2022 Budgeted	FY 2022-2023 Budget Proposal
	\$147,923	\$45,397

HOUSING TRUST FUND: Revenue for the Housing Trust Fund is generated from fees triggered by the City's Housing Preservation and Replacement Ordinance, fee-in-lieu contributions from the Inclusionary Zoning Ordinance and Hotel Inclusionary Zoning fee. Including the current balance of the Housing Trust Fund in the Housing Program Budget gives budget authority for the use of the funds. There are no projects or activities currently identified for these funds. The amount budgeted is the maximum that might be expended in

FY23. However, staff continues to recommend a minimum balance in the Trust, so the *effective budget would be \$1,911,107* (\$2,411,107 less \$500,000.) If additional funds are allocated to the Trust based on current discussions, this number might be adjusted based on the outcome.

Housing Trust Fund (HTF) Budget	FY 2021-2022 Budgeted	FY 2022-2023 Budget Proposal
	\$1,455,975	\$1,911,107

STAFF ANALYSIS AND RECOMMENDATION – The proposed Housing Program Budget will be adjusted when HUD announces the fiscal year allocation for the HOME Program. The budget is brought forward at this time to facilitate the release of the City’s Affordable Housing Development and TIF Application on a schedule that works with the Low Income Housing Tax Credit Program at MaineHousing. This budget will be forwarded to the full City Council for two Public Hearings (tentatively scheduled for March/April), as part of the overall HCD budget. The final budget allocations and Annual Action Plan are submitted to HUD 45 days in advance of the start of the fiscal year (May 15 for the fiscal year beginning July 1, 2022).

At this time staff is requesting Committee approval and recommendation to the City Council of the FY 22/23 Housing Program Budget as outlined above and summarized in the attached spreadsheet. If the HUD allocation amount is different from the estimate used in this budget, program budgets will be adjusted proportionately.

FY 22/23 Housing Program Budget - Attached

2022-2023 HOUSING PROGRAM BUDGET

01.28.2022

Total HUD HOME Entitlement Allocation	991,679
Portland Program Portion	508,731
Portland Admin Portion	99,168
County Program Portion	383,780

Recommended by HEDC (x-x) 02.XX.2022
Approved by Council TBD
HUD Allocation Date: TBD

REVENUES- Housing Programs

2022-23 HOME Consortium Admin (10% of allocation)
2022-23 HOME Consortium Programming
2021-22 HOME Estimated Program Income*
2021-22 HOME Estimated Program Income Recaptured Funds*
2021-22 HOME Estimated Program Income and Recapture Deduction for County*
2022-2023 Housing Trust Fund
2021-22 Lead Safe Housing Program Income**

REVENUE TOTALS (Portland)

HOME	LEAD Safe Housing Program Income**	Housing Trust Fund	TOTAL BUDGET
99,168			99,168
508,731			508,731
161,944			161,944
85,931			85,931
-145,750			-145,750
		1,911,107	1,911,107
	45,397		45,397
710,024	45,397	1,911,107	2,666,528

** Includes previous unallocated program income FY20 + program income estimate FY21

2022-23 HOUSING Budget by Activity (Portland)

Administration 243023QQ01 (includes 10% of PI)
Tenant-Based Rental Assistance 443023QT01
Affordable Housing Development 243023QA00
CHDO 243023QA00
Lead Safe Housing 243019PLL1 (PLL036)

EXPENDITURE TOTALS (Portland)

HOME	Housing	Trust Fund	BUDGET
115,362			115,362
136,392			136,392
373,481		1,911,107	2,284,588
84,789			84,789
0	45,397		45,397
710,024	45,397	1,911,107	2,666,528

* July -Dec PI & Recapture Actuals FY 21

For FY23 budget PI & Recapture based on actuals from Jan -Dec 2021

2022-23 HOME Consortium COUNTY - approved by MOC on XX.XX.2022

County HOME Program budget provided for reference only; **adjusted for final HUD Allocation XX.XX.2022**

Allocation of County funds is done by the County's Municipal Oversight Committee

REVENUES- Housing Programs

2022-23 HOME Consortium Non-Portland Programming
2021-22 HOME County Program Income and Recapture

County
383,780
145,750
529,530

2022-23 HOUSING Budget by Activity

Affordable Housing Development 243023QC00
CHDO 243023QC00

County
465,566
63,963
529,530



CITY OF PORTLAND
Housing and Economic Development Department
Housing and Community Development Division

TO: Councilor Ali, Chair
Members of the Housing and Economic Development Committee

FROM: Victoria Volent, Housing Program Manager
Housing and Community Development Division

DATE: January 28, 2022

SUBJECT: Agenda Item 4: 2022 Jill C. Duson Housing Trust Fund Annual Plan
Agenda Item 5: 2022 Affordable Housing TIF CEA and Affordable Housing
Development Fund Application

Introduction

Staff is seeking direction from the Housing and Economic Development Committee regarding guidelines and priorities for the allocation of city resources (i.e. HOME, Jill C. Duson Housing Trust Fund, and Affordable Housing Tax Increment Financing) as outlined in the attached *July 1, 2022 – June 30, 2023 Affordable Housing Development and Tax Increment Financing Application*, and the *Jill C. Duson Housing Trust Fund 2022 Annual Plan*. Additionally, staff is requesting that the Committee vote to recommend that the City Council adopt the 2022 *Jill C. Duson Housing Trust Fund Annual Plan*, as required under the Housing Trust Fund Ordinance and the *2022 Affordable Housing Development and AHTIF Application*.

Background

The *Affordable Housing Development and Tax Increment Financing Application* is amended on an annual basis to reflect the City Council's housing policy goals. The City Council 2022 goals include "increase access to rental and home ownership housing that is safe, affordable, and accessible, with emphasis on the unhoused". Since 2002, the City of Portland has utilized an annual application and/or RFP process for the allocation of city resources budgeted for the development of affordable housing. In 2013, with the approval of the City Council's Housing Committee, the current application format was implemented. The application establishes the goals for distribution of funds and/or the designation of an affordable housing TIF.

The *Jill C. Duson Housing Trust Fund Annual Plan* also reflects the Council's 2022 housing policy goal and is also amended annually by the City Council's Housing and Economic Development Committee during public hearings with a referral to the council for action (per Section 18.3 of the Land Code). The plan establishes the priorities in which the current balance

of the Housing Trust Fund would be allocated.

The chart below identifies the affordability restrictions associated with the each of the financial resources available to the City for investment in housing development.

	at or below 60% AMI		over 60% to 80% AMI		over 80% to 100% AMI		over 100% to 120% AMI	
	Homeowner	Rental	Homeowner	Rental	Homeowner	Rental	Homeowner	Rental
HOME	X	X	X					
Jill C. Duson Housing Trust Fund	X	X	X	X	X	X	X	X
Affordable Housing TIF	X	X	X	X	X	X	X	X

2022 Housing Investment Priorities

The priorities below, from the *Jill C. Duson Housing Trust Fund 2022 Annual Plan*, and General Information (Section B) of the *2022 Affordable Housing Development and Tax Increment Financing Application* are for Committee review to ensure agreement with the City Council 2022 housing goal to “increase access to rental and home ownership housing that is safe, affordable, and accessible, with emphasis on the unhoused”

Priority for the use of Jill C. Duson Housing Trust Funds will be to support public/private partnerships that create workforce housing units that are affordable to households earning 60% to 100% of the area median income.

Priority for the use of HOME Program funds will be given to developments that provide rental housing units to households earning 60% of the area median income and below. Projects with mixed income targeting and a mix of bedroom size are strongly encouraged.

Priority for the use of the Affordable Housing Tax Increment Financing Program (AHTIF) will be to support projects receiving assistance through the Low Income Housing Tax Credit Program or projects that create housing units that are affordable to households earning 60% to 100% of the area median income. To comply with the AHTIF Statute’s requirements, at least 33% of the housing units in the district shall be affordable housing.

Priority for housing development that supports the Comprehensive Plan goal for development projects that create contextually appropriate housing density in and proximate to neighborhood centers, concentrations of services, and along transit nodes and corridors as a means of supporting complete neighborhoods.

Goals for the Distribution of HOME and Housing Trust Funds or the Designation of an Affordable Housing TIF District

The goals below, from the *Jill C. Duson Housing Trust Fund 2022 Annual Plan* and General Information (Section E) of the *2022 Affordable Housing Development and Tax Increment Financing Application*, are for Committee review to ensure agreement with the City Council

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2022 housing goal to “increase access to rental and home ownership that is safe, affordable, and accessible, with emphasis on the unhoused”

The City of Portland seeks development projects that create contextually appropriate housing density in and proximate to neighborhood centers, concentrations of services, and transit nodes and corridors as a means of supporting complete neighborhoods. Projects should not require a contract or conditional zone (although other rezoning consistent with the City’s Comprehensive Plan may be considered). Resolution of any zoning issues is required before City Council approval of the applicants funding request. Developments should incorporate quality, sustainable design.

Eligible Project Guidelines

The guidelines below, from the Scope of Work (Section A General Specifications- Eligible Projects) portion of the 2022 *Affordable Housing Development and Tax Increment Financing Application*, and Eligible Projects section from the *Jill C. Duson Housing Trust Fund 2022 Annual Plan* are for Committee review to ensure agreement with the City Council 2022 housing goal to “increase access to rental and home ownership that is safe, affordable, and accessible, with emphasis on the unhoused”

*Projects receiving HOME funding must create **rental** housing units which promote economic diversity within the development and within the neighborhood in which the development is located.*

Projects receiving HTF funds or an AHTIF District Credit Enhancement Agreement must create housing units that promote economic diversity within the development and within the neighborhood in which the development is located.

Staff Recommendation

Staff is seeking Committee approval to establish the 2022 affordable housing investment priorities, goals for distribution of funds, and eligible project guideline for incorporation into the 2022-2023 *Affordable Housing Development and Tax Increment Financing Application* and *Jill C. Duson Housing Trust Fund Annual Plan*. Additionally, staff is requesting that the Committee vote to recommend that the City Council adopt the 2022 *Jill C. Duson Housing Trust Fund Annual Plan*, as required under the Housing Trust Fund Ordinance.

Attachments

Agenda Item 4 2022 Jill C. Duson Housing Trust Fund Annual Plan

Agenda Item 5 2022 Affordable Housing Development and Tax Increment Financing Application

JILL C. DUSON HOUSING TRUST FUND
2022 ANNUAL PLAN

The Jill C. Duson Housing Trust Fund (also referred to as Housing Trust Fund or HTF) is established by Section 18.3 of the City's Code of Ordinances. Section 18.3.4 states that "each fiscal year the city council shall adopt a housing trust fund annual plan" and that the "housing committee of the city council or such other committee as the council shall designate shall conduct public hearings on the recommended plan and refer the matter to the council for action."

The Annual Plan establishes the priorities in which the current balance of the Housing Trust Fund would be allocated and should be in conformity with the 2022 City Council Goal *"increase access to rental and home ownership housing that is safe, affordable, and accessible, with emphasis on the unhoused."*

2022 ANNUAL PLAN

City Ordinance requires that the Jill C. Duson Housing Trust Fund Annual Plan include a description of funding priorities, the amount of funds budgeted, and a description of how funds will be distributed among very-low, low, and moderate income households.

Funding Budget

The funding budget is based on the balance of \$2,411,107.89 in the Housing Trust Fund as of February 1, 2022. The Housing Trust Fund designs to maintain a minimum balance of \$500,000 in order to have resources to act quickly when there is an emergency, such as a need to cure a potential mortgage default that could result in loss of an affordable unit. This right to cure will be included in the affordable housing covenants that are recorded in the Cumberland County Registry of Deeds for each affordable unit.

The funding available from the Jill C. Duson Housing Trust Fund is \$2,411,107.89 less \$500,000 or **\$1,911,107.**

Funding Priorities

Housing Trust Fund resources should focus on opportunities where other funding sources do not work or are not effective, such as projects designed to create housing affordable to households earning at or below 50% of the area median income, or projects designed to create housing affordable to households earning 60% to 120% of the area median income.

Priority for the use of Housing Trust Funds will be to support public/private partnerships that create workforce housing units that are affordable to households earning 60% to 100% of the area median income. Projects with mixed income targeting and a mix of bedroom size are strongly encouraged.

Funding Distribution

Housing Trust Funds will be distributed through a competitive application process. A Notice of Funding Availability will be issued at a minimum on an annual basis to notify potential applicants that the application is available. Applications will be reviewed by an evaluation team of City of Portland staff who will evaluate and score each application utilizing the scoring factors outlined in Attachment #1 in order to recommend the most qualified application based on the information submitted. This information will also be included in the annual *Affordable Housing Development and Tax Increment Financing Application*.

Recommendations will be forwarded to the City Council's Housing and Economic Development Committee for review. Housing and Economic Development Committee recommendations will be forwarded to the City Council for final review and approval.

Goals for Distribution

The goal for the distribution of these funds is for the “promotion, retention, and creation of an adequate supply of housing, particularly affordable housing, for all economic groups and to limit the net loss of housing units in the city”. Development should be consistent with the City of Portland's Comprehensive Plan and the HUD Five-Year Consolidated Plan. The City of Portland seeks development projects that create contextually appropriate housing density in and proximate to neighborhood centers, concentrations of services, and transit nodes and corridors as a means of supporting complete neighborhoods. Projects should not require a contract or conditional zone (although other rezoning consistent with the City's Comprehensive Plan may be considered). Resolution of any zoning issues is required before City Council approval of the applicants funding request. Developments should incorporate quality, sustainable design.

Eligible Projects

Projects receiving Housing Trust Funds must create housing units that promote economic diversity with the development and within the neighborhood in which the development is located. New construction, conversion of non-residential property to housing and rehabilitation of existing units that creates or maintains affordable units is eligible

In this Plan, adaptive reuse is defined as creating housing in an existing building that was originally built or designed for a use other than housing.

Housing Trust Fund resources are also intended to promote the retention of affordable housing. Housing Trust Fund resources should also be made available, if necessary, to exercise the City's right of first refusal in connection with potential foreclosure issues with affordable homeownership units. The City shall have a right of first refusal if an affordable unit is forced to sell due to increased fees or has become delinquent in its payments and is in risk of foreclosure or any other legal threats to the Unit's affordability restrictions. The City shall also have the option of using Housing Trust Funds to support affordable units facing large special assessments that may pose a risk to the owner household's ability to maintain their unit's affordability. The City of Portland shall have the right of first refusal to purchase any affordable unit that is in jeopardy of losing its

affordability restrictions due to foreclosure, delinquency of condominium fee payments, or any other cause outside of the agreed upon term of restriction. The City's Right of First Refusal is not intended to infringe upon the ability of a mortgage lender to recapture any money owed by the affordable unit owner. The intent is to ensure affordability of the unit for eligible households.

Financing Parameters

Housing Trust Funds should be a resource of last resort and should be focused on opportunities where other funding sources do not work or are not effective. Applicants requesting financial assistance from the Housing Trust Fund must provide documented efforts made to obtain other private, federal, state or local resources for the project.

Form of Awards

A variety of funding mechanisms will be utilized including no-interest loans, below-market loans, forgivable loans, and grants. Type of funding will be determined after review of a number of factors including amount necessary to make the project feasible, the project type, income targeting, number of affordable units, and duration of the affordability period.

Maximum Award Amount

Awards will be determined on a per affordable unit basis. The average City investment per unit, excluding TIF financing, is approximately \$10,000. The City contribution per unit will not exceed \$18,000. This amount may be adjusted at the discretion of the City Council, only for unusual circumstances where a larger amount is the only way a project that meets other City goals is needed. In those cases, the higher cost per unit ratio must be tied into the goals outlined in the City's Comprehensive Plan.

Affordability Restrictions

Affordability restrictions are required. In the case of rental or cooperative units, the units must remain affordable for the life of the housing unit, which is presumed to be a minimum of thirty (30) years but may be longer. In the case of ownership housing, the units must remain affordable for the longest feasible time while maintaining an equitable balance between the interests of the owner and the interest of the City of Portland. These restrictions must be secured by a declaration of covenants and restrictions recorded in the Cumberland County Registry of Deeds

Affordable Housing Agreement

In the case of ownership housing, the owner of each affordable unit will be required to sign and record in the Cumberland County Registry of Deeds an Affordable Housing Agreement (AHA) with the City and to include the affordability restrictions as a covenant to the project's deed. The Affordable Housing Agreement shall be referenced directly in the property's deed unless

prohibited by federal, state, or local law. In order to guarantee affordability in homeownership units, this recorded covenant will limit increases in sales price according to the calculation defined by the City as defined in the implementation regulations. It will limit the incomes of subsequent buyers to the same income limits initially applied. It will also provide a right of first refusal and other purchase rights to the City or its designee (e.g. another eligible household, or a nonprofit corporation).

Sales must be made through an arms-length arrangement. No employee, agent, stockholder, officer, director, servant, or family member of the Owner or its Management Company, or its employees, agents, or servants thereof, related either by blood, marriage, or operation of law may qualify for a unit financed with Housing Trust Funds or receive any benefit related in any way to the administration or compliance with the conditions contained therein.

Affordability

Affordable means that the percentage of income a household is charged in rent and other housing expenses, or must pay in monthly mortgage payments (including insurance and taxes), does not exceed 30% of a household's income, or other amount established in city regulations that does not vary significantly from this amount.

Right of First Refusal

The City of Portland shall have the right of first refusal to purchase any affordable unit that is in jeopardy of losing its affordability restrictions due to foreclosure, delinquency of condominium fee payments, or any other cause outside of the agreed upon term of restriction. The City's Right of First Refusal is not intended to infringe upon the ability of a mortgage lender to recapture any money owed by the affordable unit's owner. The intent is to ensure affordability of the unit for eligible households.

Implementing Regulations

Regulations to further specify the details of the parameters outlined in this Annual Plan, maybe developed, including, but not limited to:

1. Specific methodology for income verification; and
2. Underwriting criteria.

Attachments

- 1) Point System for Evaluating and Scoring Applications
- 2) Sources and Uses of Jill C. Dusen Housing Trust Fund

Attachment 1

Point System for Evaluating and Scoring Applications (Max 100)

Policy Objectives: Total 50 Points

Proposed use of funds to achieve the City of Portland's goals and address demonstrated need. **26 points**

Maximum points will be awarded for those applications that:

1. Market Demand - 4 points
 - a. 4 points - high demand, meets the City's income targeting priority,
 - b. 1 point - moderate demand, sufficiently meets the City's income targeting priority
 - c. 0 points - does not demonstrate sufficient market demand, does not meet the City's income targeting priority
2. Zoning - 8 points
 - a. 8 points - development requires no zoning amendments or contract or conditional zone
 - b. 5 points - development requires a zoning amendment which is consistent with the City Comprehensive Plan
 - c. 0 points - development requires rezoning that is not consistent with the City's Comprehensive Plan
3. Economic diversity - 6 points
 - a. 6 points - creates housing options which promote economic diversity within the development **and** within in the neighborhood in which the development is located
 - b. 5 points – creates housing options which promote economic diversity within the neighborhood in which the development is located
 - c. 4 points – creates housing options which promote economic diversity within the development (a mixed-income development)
 - d. 0 points does not promote economic diversity
4. CHDO - 2 points
 - a. 2 points - developer and owner are both controlled by CHDO
 - b. 1 points - either developer or owner are controlled by CHDO
 - c. 0 points neither developer nor owner are controlled by CHDO
5. City Subsidy - 6 points
 - a. 6 points - investment from City is <\$10,000/unit
 - b. 5 points - investment from City is > or = \$10,000 and <\$12,000/unit
 - c. 4 points - investment from City is > or = \$12,000 and <\$14,000/unit
 - d. 3 points - investment from City is > or = \$14,000 and <\$16,000/unit
 - e. 2 points - investment from City is > or = \$16,000 and <\$18,000/unit
 - f. 0 points - investment from City is > or = \$18,000/unit

Impact on surrounding neighborhood, including design compatibility and environmental issues. **24 points**

Maximum points will be awarded for those applications where:

1. Site Selection - 7 points
 - a. 7 points – fully appropriate for use, project supports Comprehensive Plan goal for development along transit nodes and corridors

- b. 5 point – appropriate, some concerns
 - c. 0 points – significant concerns, project does not support Comprehensive Plan goal for development along transit nodes and corridors
- 2. Exterior Design - 5 points
 - a. 5 points - the design is fully consistent with neighborhood design characteristics,
 - b. 3 points - the design is an adequate fit with the neighborhood design,
 - c. 0 points - the design is a significant outlier
- 3. Amenities and unit design - 7 points
 - a. 7 points -amenities & unit design are well thought out and appropriate for residents,
 - b. 5 points - amenities & unit design are adequate,
 - c. 0 points -amenities and unit design raise significant concerns that resident needs will not be adequately addressed
- 4. Environmental - 5 points
 - a. 5 points – Phase I identifies no environmental issues
 - b. 3 points - Phase I identifies an environmental issue, but a Phase II shows a feasible, economically viable resolution which is included in the budgets;
 - c. 0 points - there are significant unresolved environmental issues, or no Phase I has been received.

Underwriting Criteria: Total 50 Points

Financial feasibility, including cost, development budget operating pro forma and the provision of secured and leverage funds. 20 points

Maximum points will be awarded for those applications that:

- 1. Development budget & sources and uses - 10 points
 - a. 10 points - EVERY development budget line item for which there is a City of Portland guideline complies with that guideline AND all other line items are reasonable and customary;
 - b. 8 points - ONE budget line item falls outside City guidelines or outside the standard of “reasonable & customary”;
 - c. 6 points - TWO budget line items item falls outside City guidelines or outside the standard of “reasonable & customary”;
 - d. 0 points - more than two budget items fail to meet City guidelines or fall outside “reasonable and customary”
- 2. Operating pro forma – 10 points
 - a. 10 points - EVERY operating pro forma line item for which there is a City of Portland guideline complies with that guideline AND all other line items are reasonable and customary;
 - b. 8 points - ONE budget line item falls outside City guidelines or outside the standard of “reasonable & customary”;
 - c. 6 points - TWO budget line items item falls outside City guidelines or outside the standard of “reasonable & customary”;
 - d. 0 points - more than two budget items fail to meet City guidelines or fall outside “reasonable and customary”

Applicant's ability to complete project, including development team experience, capacity, project readiness and timeframe for completion. 30 points

Maximum points will be awarded for those applications that:

1. Readiness to proceed - 10 points
 - a. 10 points - at least one letter of commitment or interest is included and ALL projected sources are projected at terms and conditions consistent with the City's prior experience with the funder.
 - b. 5 points - ALL projected sources of funding include letters of commitment, letters of interest, or, if no letter is included, are projected at terms and conditions consistent with the City's prior experience with this funder.
 - c. 0 points - one or more sources are projected on terms that are not consistent with the City's prior experience with the funder and are not documented by letter(s) from funder(s).
2. Track record of development team - 10 points
 - a. 10 points - every development team member has a successful track record with this type of project and at this scale
 - b. 7 points - all but one development team members have a successful track record with this type of project and at this scale; one development team member has relevant experience but at a smaller scale or not of this project type
 - c. 3 points - two development team members, while having relevant experience, are new to this type of project or this scale of development
 - d. 0 points - the development team does not meet the criteria above
3. Current Capacity of development team - 10 points
 - a. 10 points - development team members have exceptional depth of human and financial resources to complete this project;
 - b. 8 points - development team members have the human and financial resources to complete this project;
 - c. 3 points - development team has a staffing gap in a significant role and a plan to address that gap, OR there are some concerns about the financial resources of the team to move the development forward;
 - d. 0 points - the development team does not meet the criteria described above

Attachment 2

Sources and Uses of Jill C. Duson Housing Trust Fund

YEAR	DEPOSITS	YEAR	EXPENDITURES
2002/03	Maine Medical Center HRO	2011	Avesta Oak Street Lofts
2002	Sportsman's Grill HRO	2014	Housing First Pre-Development RFP
2009	Berlin City Auto HRO	2015	65 Hanover & 52 Alder Sts Feasibility Study
2010	Stop n Shop HRO 2010	2017	65 Munjoy Street
2012	Rockbridge/Eastland Park HRO	2019	60 Parris Terr. Downpayment Assistance
2012	Riverwalk/Ocean Gateway HRO	2018	37 Front Street (not yet spent)
2012	118 Congress LLC Easement	2018	63 Front Street (not yet spent)
2017	91 & 97 Belfort Street (sale of TAP)	2018	977 Brighton Avenue
2017	116 Upper A Street (sale of TAP)	2019	83 Middle Street (not yet spent)
2017	443 Congress Street IZ	2019	18 Luther Street
2018	62 India Street IZ	2020	200 Valley Avenue (not yet spent)
2018	Short Term Rental Fee transfer	2020	337 Cumberland Avenue (not yet spent)
2018	0 Thames Street (WEX) sale	2020	Affordable Rental Housing Incentive Program
2019	20 Thames Street IZ & Easement	2021	91 Winter Street (not yet spent)
2019	20 Thames Street (for balcony overhang)	2021	66 State/155 Danforth (not yet spent)
2019	Short Term Rental Penalties		TOTAL EXPENDITURES
2019	Short Term Rental Fee transfer		
2019	56 Hampshire Street Easement fee		
2019	17 Sumac Street (sale of TAP)		
2019	121 Middle Street (HOTEL IZ)		
2020	99 Capisic Street (sale of TAP)		
2020	Short Term Rental Penalties		
2020	Short Term Rental Fee transfer		
2020	22 Bramhall (MMC overhang)		
2020	50 Monument Square IZ		
2020	121 Middle Street (HOTEL IZ)		
2020	Order 89 20/21 Appropriation		
2021	40 Free Street (IZ)		
2021	56 Hampshire Street (IZ)		
2021	1 Center Street (HOTEL IZ)		
2021	Short Term Rental Fee transfer		
2021	Newell Street sale		
2021	10 Hammond Street (IZ)		
2021	22 Hope Avenue (IZ)		
	Previous INTEREST EARNED		
	Total Deposits		BALANCE
	\$ 5,669,941.89		\$ 2,411,107.89

HRO - Housing Replacement Ordinance; IZ = Inclusionary Zoning Fee-in-lieu; TAP = Tax Acquired Property as of 2-1-2022



CITY OF PORTLAND
Housing and Economic Development Department
Housing and Community Development Division

TO: Councilor Ali, Chair
Members of the Housing and Economic Development Committee

FROM: Victoria Volent, Housing Program Manager
Housing and Community Development Division

DATE: January 28, 2022

SUBJECT: Agenda Item 4: 2022 Jill C. Duson Housing Trust Fund Annual Plan
Agenda Item 5: 2022 Affordable Housing TIF CEA and Affordable Housing
Development Fund Application

Introduction

Staff is seeking direction from the Housing and Economic Development Committee regarding guidelines and priorities for the allocation of city resources (i.e. HOME, Jill C. Duson Housing Trust Fund, and Affordable Housing Tax Increment Financing) as outlined in the attached *July 1, 2022 – June 30, 2023 Affordable Housing Development and Tax Increment Financing Application*, and the *Jill C. Duson Housing Trust Fund 2022 Annual Plan*. Additionally, staff is requesting that the Committee vote to recommend that the City Council adopt the 2022 *Jill C. Duson Housing Trust Fund Annual Plan*, as required under the Housing Trust Fund Ordinance and the *2022 Affordable Housing Development and AHTIF Application*.

Background

The *Affordable Housing Development and Tax Increment Financing Application* is amended on an annual basis to reflect the City Council's housing policy goals. The City Council 2022 goals include "increase access to rental and home ownership housing that is safe, affordable, and accessible, with emphasis on the unhoused". Since 2002, the City of Portland has utilized an annual application and/or RFP process for the allocation of city resources budgeted for the development of affordable housing. In 2013, with the approval of the City Council's Housing Committee, the current application format was implemented. The application establishes the goals for distribution of funds and/or the designation of an affordable housing TIF.

The *Jill C. Duson Housing Trust Fund Annual Plan* also reflects the Council's 2022 housing policy goal and is also amended annually by the City Council's Housing and Economic Development Committee during public hearings with a referral to the council for action (per Section 18.3 of the Land Code). The plan establishes the priorities in which the current balance

of the Housing Trust Fund would be allocated.

The chart below identifies the affordability restrictions associated with each of the financial resources available to the City for investment in housing development.

	at or below 60% AMI		over 60% to 80% AMI		over 80% to 100% AMI		over 100% to 120% AMI	
	Homeowner	Rental	Homeowner	Rental	Homeowner	Rental	Homeowner	Rental
HOME	X	X	X					
Jill C. Duson Housing Trust Fund	X	X	X	X	X	X	X	X
Affordable Housing TIF	X	X	X	X	X	X	X	X

2022 Housing Investment Priorities

The priorities below, from the *Jill C. Duson Housing Trust Fund 2022 Annual Plan*, and General Information (Section B) of the *2022 Affordable Housing Development and Tax Increment Financing Application* are for Committee review to ensure agreement with the City Council 2022 housing goal to “increase access to rental and home ownership housing that is safe, affordable, and accessible, with emphasis on the unhoused”

Priority for the use of Jill C. Duson Housing Trust Funds will be to support public/private partnerships that create workforce housing units that are affordable to households earning 60% to 100% of the area median income.

Priority for the use of HOME Program funds will be given to developments that provide rental housing units to households earning 60% of the area median income and below. Projects with mixed income targeting and a mix of bedroom size are strongly encouraged.

Priority for the use of the Affordable Housing Tax Increment Financing Program (AHTIF) will be to support projects receiving assistance through the Low Income Housing Tax Credit Program or projects that create housing units that are affordable to households earning 60% to 100% of the area median income. To comply with the AHTIF Statute’s requirements, at least 33% of the housing units in the district shall be affordable housing.

Priority for housing development that supports the Comprehensive Plan goal for development projects that create contextually appropriate housing density in and proximate to neighborhood centers, concentrations of services, and along transit nodes and corridors as a means of supporting complete neighborhoods.

Goals for the Distribution of HOME and Housing Trust Funds or the Designation of an Affordable Housing TIF District

The goals below, from the *Jill C. Duson Housing Trust Fund 2022 Annual Plan* and General Information (Section E) of the *2022 Affordable Housing Development and Tax Increment Financing Application*, are for Committee review to ensure agreement with the City Council

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2022 housing goal to “increase access to rental and home ownership that is safe, affordable, and accessible, with emphasis on the unhoused”

The City of Portland seeks development projects that create contextually appropriate housing density in and proximate to neighborhood centers, concentrations of services, and transit nodes and corridors as a means of supporting complete neighborhoods. Projects should not require a contract or conditional zone (although other rezoning consistent with the City’s Comprehensive Plan may be considered). Resolution of any zoning issues is required before City Council approval of the applicants funding request. Developments should incorporate quality, sustainable design.

Eligible Project Guidelines

The guidelines below, from the Scope of Work (Section A General Specifications- Eligible Projects) portion of the *2022 Affordable Housing Development and Tax Increment Financing Application*, and Eligible Projects section from the *Jill C. Duson Housing Trust Fund 2022 Annual Plan* are for Committee review to ensure agreement with the City Council 2022 housing goal to “increase access to rental and home ownership that is safe, affordable, and accessible, with emphasis on the unhoused”

*Projects receiving HOME funding must create **rental** housing units which promote economic diversity within the development and within the neighborhood in which the development is located.*

Projects receiving HTF funds or an AHTIF District Credit Enhancement Agreement must create housing units that promote economic diversity within the development and within the neighborhood in which the development is located.

Staff Recommendation

Staff is seeking Committee approval to establish the 2022 affordable housing investment priorities, goals for distribution of funds, and eligible project guideline for incorporation into the 2022-2023 *Affordable Housing Development and Tax Increment Financing Application* and *Jill C. Duson Housing Trust Fund Annual Plan*. Additionally, staff is requesting that the Committee vote to recommend that the City Council adopt the 2022 *Jill C. Duson Housing Trust Fund Annual Plan*, as required under the Housing Trust Fund Ordinance.

Attachments

Agenda Item 4 2022 Jill C. Duson Housing Trust Fund Annual Plan

Agenda Item 5 2022 Affordable Housing Development and Tax Increment Financing Application

City of Portland

Affordable Housing Development and Tax Increment Financing Application



July 1, 2022 – June 30, 2023

Applications will be accepted until all budgeted funds have been allocated.

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I. GENERAL INFORMATION

A. *Availability of Funding*

The City of Portland has made the development of affordable housing a priority, as identified in the City of Portland's draft 2022-2026 HUD 5-year Consolidated Plan, City Council Common Goals, and the Comprehensive Plan. To accomplish this priority, the City of Portland will accept applications for financial assistance that facilitate the development of affordable housing in the City of Portland.

Certified Community Housing Development Organizations (CHDO's) or organizations eligible for CHDO certification are strongly encouraged to apply. The HUD definition of a CHDO organization is attached as Exhibit #1 entitled Definition of a Community Housing Development Organization (CHDO).

The City of Portland's Division of Housing and Community Development uses an application process to ensure that public funds are utilized for maximum public benefit to accomplish specific objectives and provide fair access to all applicants. Applications for the development of affordable housing utilizing HOME and or Housing Trust Funds will be accepted until all budgeted funds are allocated. The City of Portland reserves the right to partially fund application requests or deny any application that does not meet the application criteria.

The approval process to establish an Affordable Housing Tax Increment Financing (AHTIF) District involves three steps. First, the City Council's Housing and Economic Development Committee provides a recommendation to the City Council regarding the establishment of an Affordable Housing TIF district. If the City Council approves the recommendation, the City submits an application to the Maine State Housing Authority. MaineHousing reviews the application from the City to ensure compliance with the Affordable Housing Tax Increment Financing Statute. The process begins with the submittal of a completed Affordable Housing Development and Tax Increment Financing application to the City of Portland. The City of Portland reserves the right to deny any application that does not meet the application criteria.

The City of Portland is making available a combination of FY 2022-2023 HUD Home Investment Partnership Program (HOME) funds (which includes a mandatory set-aside for CHDO organizations or organizations eligible for CHDO certification) and local funds from the Jill C. Duson Housing Trust Fund (HTF) for Affordable Housing Development. City staff will determine which funding source is best for each project and then make funding recommendations to the City Council for final approval.

Estimated Total Funding Available: \$509,718 (HOME) + \$1,911,107 (HTF) = 2,420,825

B. *General Guidelines*

Developments shall provide decent, safe and sanitary dwellings such as single-family homes, apartments, condominiums, or other living accommodations for households whose income does not exceed 120% of the median income for the area as defined by the U.S. Department of Housing and Urban Development (HUD). Affordable housing does not include facilities such as shelters, nursing homes, convalescent homes, hospitals, residential treatment facilities, correctional facilities, student dormitories, or unattached mobile homes, regardless of income level. Projects must show that the development meets an identified

community housing need, the City's participation is financially necessary in order for the project to proceed, and the applicant has the financial capacity to support their project.

Priority for the use of HOME Program funds will be given to developments that provide rental housing units to households earning 60% of the area median income and below. Priority for the use of Housing Trust Funds will be to support public/private partnerships that create workforce housing units that are affordable to households earning 60% to 100% of the area median income. Projects with mixed income targeting and a mix of bedroom size are strongly encouraged. The minimum term of affordability depends on the funding source, but is not generally less than 30 years, and in some cases may be 90 years. The affordability term is to be secured by a declaration of covenants and restrictions recorded in the Cumberland County Registry of Deeds.

Priority for the use of the Affordable Housing Tax Increment Financing Program (AHTIF) will be to support projects receiving assistance through the Low Income Housing Tax Credit Program or projects that create housing units that are affordable to households earning 60% to 100% of the area median income. To comply with the AHTIF Statute's requirements, at least 33% of the housing units in the district shall be affordable housing. The ongoing affordability period will match the length of the term of the district. The affordability term is to be secured by a declaration of covenants and restrictions recorded in the Cumberland County Registry of Deeds. A minimum of \$500,000 in new taxable investment property value for affordable housing development is needed to qualify for an Affordable Housing TIF.

For purposes of this application and the use of Housing Trust Funding or the AHTIF, affordable means that the percentage of income a household is charged in rent and other housing expenses including utilities, or must pay in monthly mortgage payments (including real estate taxes, mortgage insurance, condominium/HOA fees, insurance and utilities), does not exceed 30% of a household's gross income, or other amount established in city regulations that does not vary significantly from this amount. See Exhibit #2 Minimum Housing Size and Maximum Allowable Rent or Purchase Price Calculation.

C. Federal Requirements

The following requirements apply for any project that is awarded HOME or other federal funding.

Environmental Review Requirements

Projects receiving HOME funding are subject to environmental review, clearance and release of funds by the U.S. Department of Housing and Urban Development. Once an application has been submitted, to the City of Portland, the applicant cannot take any ***"choice limiting actions"*** prior to receiving notification from the City that the environmental review process, including historic preservation review and clearance, has been completed and a release of funds has been received from the U.S. Department of Housing and Urban Development. ***A Phase I ESA along with a lead and asbestos testing report is required before HUD Environmental Review Requirements can be completed.***

Choice limiting actions include, ***but are not limited to***, (1) actions having an adverse impact – e.g. demolition, dredging, filling, excavation, including soliciting bids for these activities; (2) actions limiting the choice of reasonable alternatives – e.g. execution of a legally binding agreement, signing a purchase and sale agreement, signing an option agreement that does not allow the purchaser to elect to terminate

the option agreement if the property is not desirable; entering into real property acquisition (including making bids on auctioned properties), leasing, rehabilitation, demolition, environmental remediation, related site improvements, relocating buildings or structures, conversion of land or buildings/structures (including soliciting bids to undertake these activities).

Federal Labor Standards

As may be applicable, projects receiving HOME funding must ensure that they and all contractors and subcontractors meet requirements for federal prevailing wage rates specified under the Davis-Bacon Act. The Act requires all laborers and mechanics employed by contractors or subcontractors in the performance of construction work over \$2,000, financed in whole or in part with assistance received under HUD programs, shall be paid the prevailing wage as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a-5). Projects that include 12 or more HOME-assisted units must meet the requirements of the Davis-Bacon Act.

Notice: Any project approved for a site-specific tax increment financing district utilizing a credit enhancement agreement must ensure that any firms employed in the construction phase of a TIF-assisted project compensate all employees the current wage rates and fringe benefits as required under applicable state prevailing wage law under 26 M.R.S. §1306, or Portland City Ordinance Ch. 33 §33-1 to 33-12, whichever is greater. STATE PREVAILING WAGE RATES MAY EXCEED DAVIS-BACON WAGE RATES.

Section 3

All HOME projects must comply with Section 3 of the Housing and Urban Development Act of 1968. Contractors and subcontractors performing work on Section 3-covered projects must provide, to the greatest extent feasible, opportunities for the employment of low- and very low-income residents of the local community and the businesses that substantially employ these persons.

Minority and Women Owned Business (MWBE) Participation

All HOME projects must complete, track and report on outreach and contracts given to women- and minority-owned businesses to ensure their inclusion, to the maximum extent possible, in the procurement of property and services. Applicants are encouraged to utilize firms certified as a Minority Business Enterprise or Woman's Business Enterprise as part of the development team. The development team members include the developer, architect, attorney, general contractor and management agent.

Lead-Based Paint

All HOME funded residential rehabilitation, adaptive re-use and construction activities must comply with 24 CFR Part 35 and Section 401(b) of the Lead-Based Paint Poisoning Prevention Act.

Access to the Internet

All new construction and substantial rehabilitation projects of multifamily rental housing will be required to provide the installation of broadband internet access to its residents to help narrow the digital divide for households in need.

Fair Housing and Equal Opportunity

[Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000d et seq.) (HUD implementation regulations 24 CFR Part 1); The Fair Housing Act (42 U.S.C. 3601-3620)(24 CFR Part 100-115); Equal Opportunity in Housing (Executive Order 11063, as amended by Executive Order 12259)(24 CFR Part 107); Age Discrimination Act of 1975, as amended (42 U.S.C. 6101)(24 CFR Part 146).]

The Fair Housing Act prohibits discrimination in all housing-related transactions based on race, color, national origin, religion, sex, disability, age or familial status. It also includes minimum accessibility design requirements for all new construction and rehabilitation projects and requires that reasonable accommodations be made in rules, policies, practices, services and reasonable structural modifications. Section 504 of the Rehabilitation Act of 1973 prohibits discrimination based on disability and requires that everyone have equal opportunity to obtain housing built with federal funds.

Affirmative Marketing

Developers must have tenant selection policies and criteria to ensure that tenants are selected for occupancy at the property in a fair and equitable manner. Tenant selection policies must be based on objective criteria that expressly prohibit bias. Tenant selection procedures should be clear and easily understood by prospective tenants. An affirmative marketing plan is required to ensure that the property serves a diverse cross-section of the population of the market area, must consist of actions to provide information and otherwise attract eligible persons in the housing market area that might not otherwise apply without special outreach, and ensure that the housing is available to qualified applicants without regard to race, color, national origin, religion, sex, disability, or familial status.

Violence Against Women Act

Developers must comply with the Violence Against Women Act (VAWA) requirements in 24 CFR §92.359 and 24 CFR Part 5, subpart L. VAWA provides protections and options for victims of domestic violence, dating violence, sexual assault and stalking.

D. Conditions for Approval

Designation of an Affordable Housing Development TIF District is subject to the following conditions.

- i. Projects must comply with the City of Portland's Tax Increment Financing Policy.
- ii. At least 25%, by area, of the real property within an Affordable Housing Development district must be suitable for residential use; be a blighted area; or in need of rehabilitation or redevelopment.
- iii. The Affordable Housing Development program must show that the development meets an identified community housing need.
- iv. The district must be primarily a residential development on which at least 33% of the dwelling units are affordable for households at or below 120% of Area Median Income (AMI) and that may be designed to be compact and walkable and to include internal open space, other common open space and one or more small-scale nonresidential uses of service to the residents of the development.

- v. *Projects approved for a site-specific tax increment financing district utilizing a credit enhancement agreement must ensure that any firms employed in the construction phase of a TIF-assisted project compensate all employees the current wage rates and fringe benefits as required under applicable state prevailing wage law under 26 M.R.S.A. §1306, or Portland City Ordinance Ch. 33, §33-1 to 33-12, whichever is greater. State prevailing wage rates may exceed Davis-Bacon wage rates. Projects that are required to meet the local TIF policy wage rate requirements and federal Davis-Bacon wage requirements must use the higher wage rate based on job classification.*

E. Goals for the Distribution of HOME and Jill C. Duson Housing Trust Funds (HTF) or the Designation of an Affordable Housing TIF District

The goal for the distribution of HOME and HTF funds, and the designation of an Affordable Housing TIF district, is to increase, preserve, and modify the overall supply of housing citywide to meet the needs, preferences and financial capabilities of all Portland residents. Development should be consistent with the City of Portland's Comprehensive Plan and the HUD Five-Year Consolidated Plan. The City of Portland seeks development projects that create contextually appropriate housing density in and proximate to neighborhood centers, concentrations of services, and transit nodes and corridors as a means of supporting complete neighborhoods. Projects should not require a contract or conditional zone (although other rezoning consistent with the City's Comprehensive Plan may be considered). Resolution of any zoning issues is required before City Council approval of the applicants funding request. Developments should incorporate quality, sustainable design.

II. SCOPE OF SERVICES

A. General Specifications

All applications submitted for this funding must meet the following selection criteria to be considered further in the review process.

Eligible Projects

- 1) Projects receiving HOME funding must create *rental* housing units which promote economic diversity within the development and within the neighborhood in which the development is located. New construction, conversion of non-residential property to housing and rehabilitation of existing rental units that creates accessible or maintains affordable units is eligible. Projects that have previously received HOME funds are not eligible for additional HOME assistance.
- 2) Projects receiving HTF Funds or an AHTIF District Credit Enhancement Agreement must create housing units that promote economic diversity within the development and within the neighborhood in which the development is located. New construction, conversion of non-residential property to housing and rehabilitation of existing units that creates or maintains affordable units is eligible.

- 3) All projects must meet the affordability targets referenced in Section I.B. along with all applicable income and rent restrictions of the City's funding source (HOME, HTF or AHTIF Programs).
- 4) Projects must ensure that the affordable units within a mixed income development will be equal in square footage and comparable to the market rate units.
- 5) *Housing First* developments are encouraged.
- 6) Single Room Occupancy (SRO) and other supportive housing projects specifically for special needs populations are eligible under this application.
- 7) Projects receiving funding through this application must include a written occupancy policy that prohibits smoking in the units and the interior common areas of the project in addition to including a non-smoking clause in the lease for every household and making educational materials on tobacco treatment programs available to residents through the residence service coordinator, occupancy specialist, or property manager, such as the phone number for the statewide Maine Tobacco HelpLine.
- 8) HOME eligible projects receiving funding through this application must set aside 10% of the units in the project for individuals or families residing in a Portland shelter. The City's Health and Human Services Department would be responsible for providing referrals, providing or coordinating supportive services and financial resources to assist with monthly rent payments. A Supportive Housing Agreement between the City and the Developer would document the services and expectations. At the time of loan closing or prior to disbursement of the City's funding, the requirements would be secured by a Declaration of Covenants which will be recorded in the Cumberland County Registry of Deeds.
- 9) Projects receiving assistance through this application are encouraged to participate in the Public Housing Authority Family Self Sufficiency Program.

B. Site Information and Criteria

- 1) Site Control: Land or buildings proposed as part of a project under this application must have site control at the time the application is submitted in the form of title, purchase and sale agreement, option, long-term lease for a minimum of 90 years, or other acceptable method. At a minimum, site control must extend through December 31, 2022.
- 2) Local Approvals: Local land use approval is not required prior to submittal of the application, however approval is required before the City Council will approve the funding request or Affordable Housing TIF request. The applicant must submit an analysis of the project in relation to local land use regulations and site feasibility, which analysis must include the completion of the Site Information and Criteria Table attached as Exhibit #3.
- 3) Applications must not require a contract or conditional zone. Resolution of any zoning issues is required before City Council approval of the applicants funding request or Affordable Housing TIF request.

C. Financial Feasibility

- 1) Financial applications must be developed in accordance with the underwriting guidelines of the primary funding source, including adequate cash flow and debt coverage ratio, and conform to the City of Portland's underwriting criteria.
- 2) Use of Funds: All projects will be reviewed for the proposed use of funds compared to other resources. Applicants must describe the proposed mortgage and security position for the City of Portland's funding. The average City investment per unit, excluding TIF financing, is approximately \$10,000. The City contribution per unit will not exceed \$18,000. This amount may be adjusted at the discretion of the City Council, only for unusual circumstances where a larger amount is the only way a project that meets other City goals is needed. In those cases, the higher cost per unit ratio must be tied to the goals outlined in the City's Comprehensive Plan.

D. Market Demand

Applicants must show that the development meets an identified community housing need, and provide an analysis and discussion of market demand justifying the need for the proposed project.

E. Applicant Capacity

All applicants must demonstrate capacity to develop, own and manage the proposed project. All applications must provide evidence of a development team with the capacity to successfully complete the project including:

- 1) Key staff members assigned to the project with the abilities and experience to successfully complete the project within the proposed timeframe.
- 2) An architect, general contractor and professionals on the team with the experience and capacity to complete the project.
- 3) A management team with qualified personnel and the capacity and experience to operate, manage and maintain the affordable rental property of size and mix of the proposed project.
- 4) Qualified staff with the capacity to perform ongoing property ownership requirements such as budgeting, tax accounting and oversight of management and maintenance.
- 5) A portfolio of current affordable housing projects that are financially sound and meeting their established goals.
- 6) Support Services: Applications containing rental units targeted to special needs populations must include commitments for support services to be provided to the residents and have in place a policy to make accessible units available when needed if units are occupied by someone that does not need the accessible features.

F. Term of Affordability

Rental housing projects funded with HOME and/or Housing Trust Funds must have a minimum affordability period of 30 years, secured by a land use restriction covenant in the deed.

Projects receiving HOME funding may be charged an annual fee to cover the actual costs of federally required HOME monitoring, per 24 CFR 92.214(b)(1)(i).

Affordable Housing TIF projects must have an affordability period that matches the term of the district and is secured by a declaration of covenants and restrictions recorded in the Cumberland County Registry of Deeds

G. Financing Terms

The following are general guidelines and the City reserves the right to adjust the terms of funding on a case-by-case basis based on changes in conventional lending and other financing sources.

The City's funding is generally in the form of soft "gap" financing. To allow for future investment in affordable and workforce housing, the City seeks to achieve a reasonable return of capital and where possible a return on investment based on the financing features of each funding request. The City allows flexibility for creativity by development teams by establishing funding terms based on the financial structure of each development project.

Funding in the form of loans may range from 30 years non-amortizing, deferred at 0% interest, to 30 year, amortizing loans based on a financial analysis of the development project. A key tool used to perform the financial analysis is the Debt Coverage Ratio (DCR). Projects with a DCR greater than or equal to 1.25 will be considered for a fully amortizing loan with a corresponding rate that either achieves a DCR of 1.15. Other DCR features are as such:

- Projects that have a DCR of less than 1.25 will be considered for interest only loans. The interest rate will be set at a percentage rate that will achieve a DCR of 1.15.
- Projects that are submitted at a DCR of 1.15 will be considered for a deferred cash flow loan.
- Grants may be considered when a project serves a substantially underserved population.
- A project with a sustained DCR greater than 1.5, after the application of a fully amortizing loan will be considered over subsidized. The funding request will be reduced to achieve a sustained DCR of no more than 1.4. This may result in the funding request being reduced to zero. Projects of this nature are candidates for private financing.

Affordable Housing TIF: During the term of the Affordable Housing District and the Development Program, tax increment revenues from the Affordable Housing District claimed by the City as captured assessed value may be used to pay authorized project costs. Authorized project costs are noted in 30-A M.R.S.A. §5249, a list of which is attached. Tax increment revenues will be paid by the City to the Project owner pursuant to a Credit Enhancement Agreement to be entered into by and between the City and the Project owner.

H. Design Compatibility

Projects must be designed to contribute to the character of their neighborhood and adhere to the following general guidelines.

Project designs:

- 1) **MUST** comply with all applicable City Codes and Ordinances, including but not limited to the City's Green Building Code (Chapter 6, Article VII, Sec. 6-165, as amended by Referendum, 11-3-2020) and the [Affordable Housing Section](#) of the City's Land Use Ordinance (Chapter 14 Article 18.2, as amended by Referendum, 11-3-2020). **Please note** that the Green Building Code may be more restrictive than the requirements in Maine Housing's Quality Standards and Procedure Manual. Applicants must provide evidence reasonably satisfactory to the City of Portland demonstrating that the project was designed, constructed and rehabilitated in accordance with the Green Building Code.

PLEASE NOTE: An application for a building permit must include the documentation outlined in the Green Building Code Section 6-168. A Certificate of Occupancy will not be issued until the terms of Section 6-169 of the Green Building Code have been met.

- 2) Should establish a building form, scale, massing and rhythm appropriate for the surrounding neighborhood.
- 3) Should provide a quality design that, where possible, reinforces the public realm of open space, sidewalks and streets through appropriately scaled entries that orient to the street instead of interior blocks or parking lots, and incorporate porches, fenestration, landscaping, and architectural details.
- 4) **MUST** meet the accessibility requirements of the Fair Housing Act and Section 504 of the Rehabilitation Act of 1973, and the Maine Human Rights Act for multi-family housing. Provide for universal accessibility to the extent possible.
- 5) Should provide visual and acoustical privacy between units while maximizing natural light and ventilation within units.

I. Timeframe

The applicant must describe projected dates by which commitments will be obtained; the closing will take place, construction start-up, substantial completion, final completion and occupancy. Timeframes must be realistic and achievable. All funded projects must be able to start construction within 12 months of notice of award.

III. APPLICATION REQUIREMENTS

Complete responses to this application, should be submitted via email. Applications must be signed by an officer or employee having authority to bind the organization.

Applications must be submitted electronically to:

City of Portland: Housing and Community Development Division
 Attention: Victoria Volent
 389 Congress Street, Room 312
 Portland, ME 04101
Vvolent@portlandmaine.gov
 207-482-5028

All applicants are encouraged to apply by March 31, 2022. Those who require a conditional commitment of funds as part of other financing applications, such as the Low Income Housing Tax Credit Program, must apply no later than March 31, 2022. The City of Portland will consider applications received after March 31, 2022 if funds are available. Applicants applying after March 31, 2021 should contact the City of Portland to confirm the availability of funds prior to submitting an application.

Planning Board approval will be required before a funding award can be made. Applicants are ***highly encouraged*** to file the required Major Site Plan and Subdivision application with the Planning Department by April 1, 2022, in order to provide sufficient time for the local land use approval process to occur. Applicants should budget approximately four months from the date of application filing to Planning Board approval and submit all materials accordingly. Please be advised that timelines may be impacted based on the quality of application materials received and reviewed by the Planning Department. Please contact James Rather, Development Review Manager, at jrather@portlandmaine.gov for additional specifics on the land use approval process.

A. Project Summary

A narrative description of the project that includes:

- Property address;
- Tax chart, block and lot number;
- Total acreage;
- Zoning designation, including allowed uses in that zone;
- Description of municipal housing need and how the development addresses that need;
- Requested amount of Affordable Housing Development Funding;
- Description of how City's participation is financially necessary in order for the project to proceed;
- Number and type of units to be constructed or rehabilitated; (level of affordability, type of units (rental, homeownership, single-family home, condominium unit, cooperative housing, etc.), number of bedrooms in each unit with corresponding AMI level);
- Description of residential and non-residential uses in the area;
- Description of accessory uses relating to residential use, if any;
- Description of relocation plan for persons temporarily or permanently displaced by development activities;
- Description of how the development is consistent with the Comprehensive Plan
- Description of how housing and facilities in the development will be operated after completion;
- Description of planned uses of tax increment revenues from the district (AHTIF projects only);

Photographs and maps of the site and area are required.

Note: All respondents should investigate legal and zoning requirements for proposed projects prior to submission of application.

B. All Applications Must Provide The Following:

- 1) Evidence of site control
- 2) A zoning opinion from an attorney or land use professional indicating if the project meets current zoning, or if zoning amendments will be required.
- 3) Conceptual architectural and site plans
- 4) A project schedule showing critical path events and their timeframe for completion;
- 5) Map showing location of site
- 6) Corporation/partnership articles and by-laws
- 7) Organizational Chart
- 8) Organization's DUNS Number
- 9) Applicant's audits for 3 most recent years. (If audits are not available, applicant must submit 3 years of internally prepared or CPA compiled statements AND 3 years of tax returns WITH attachments).
- 10) Most recent quarterly income and expense report (management prepared)
- 11) Documentation demonstrating certification or eligibility to obtain certification as a CHDO (if seeking the CHDO funds)
- 12) A brief development team summary, including:
 - The type of organization/ownership structure and organization chart if developer is not the same legal entity as the ultimate owner of the project
 - The names of Board of Directors, Corporate Officers, or Owners, as appropriate
 - Name, title and relevant experience of individuals involved in managing the business entity and this proposed project. A copy of the 501(3)(c) exemption certification
 - Brief description of similar projects completed for developer, architect, and General Contractor (if selected)
 - A list of all projects currently in development with status and projected timeframe
- 13) A sources and uses funding statement *

- 14) A detailed development budget including all acquisition, construction, and soft costs, including any prefunded reserves and developer fee*. The detailed development budget should match the cost estimates for construction, signed by architect or GC, noted below.
- 15) Cost estimates for construction, signed by architect or GC that matches the amount in the detailed development budget.
- 16) **Applicant must provide evidence reasonably satisfactory to the City of Portland demonstrating that the project was designed, constructed and rehabilitated in accordance with the City's Green Building Code ([Chapter 6, Article VII, Sec. 6-165](#)).**
- 17) For renovation projects, a capital needs assessment completed by an independent party, including their qualifications to perform such assessment.
- 18) Preliminary operating budget identifying rents and expenses for the first year*
- 19) Projected prefunded project reserves and annual contributions to reserves*Debt service coverage ratio over the 20-year operating pro forma timeline*
- 20) A 20-year operating pro forma for the project with inflators of 2% on income and 3% on expenses
- 21) Evidence of financial commitments, or explanation of the ability and timing to secure those commitments. A statement describing the applicant's capacity for and experience in raising the type of capital needed to finance projects of this size and type.
- 22) Projects serving special needs populations must provide evidence of commitments of support services, and a description of the service provider and funding cycle for those services
- 23) Applicant must include a management plan for the long-term management of the project including manager's experience and capacity.
- 24) An analysis and discussion of market demand justifying the need for the proposed project.
- 25) **For Renovation of Operational Projects (or projects with operational components), the following items are also required:**
 - Relocation plan for persons temporarily or permanently displaced by the development activities
 - Relocation budget
 - Description of all current debt, operation subsidies, and services provided (as applicable)
 - Current rent roll
 - 2 years of audits for project property (if available) OR 2 years of management income and expense statements for project property
 - Most recent Quarter internally prepared income and expense statement.

*Please use the Maine Housing Underwriting spreadsheet or its tax credit equivalent, if applicable.

IV. SELECTION PROCESS:

Selection criteria will be used in reviewing and scoring the applications.

A. Point System for Evaluating and Scoring Applications (Max 100)

Policy Objectives: Total 50 Points

Proposed use of funds to achieve the City of Portland's goals and address demonstrated need. 26 points

Maximum points will be awarded for those applications that:

1. Market Demand - 4 points
 - a. 4 points - high demand, meets the City's income targeting priority,
 - b. 1 point - moderate demand, sufficiently meets the City's income targeting priority
 - c. 0 points - does not demonstrate sufficient market demand, does not meet the City's income targeting priority
2. Zoning - 8 points
 - a. 8 points - development requires no zoning amendments or contract or conditional zone
 - b. 5 points - development requires a zoning amendment which is consistent with the City Comprehensive Plan
 - c. 0 points - development requires rezoning that is not consistent with the City's Comprehensive Plan
3. Economic diversity - 6 points
 - a. 6 points - creates housing options which promote economic diversity within the development **and** within in the neighborhood in which the development is located
 - b. 5 points – creates housing options which promote economic diversity within the neighborhood in which the development is located
 - c. 4 points – creates housing options which promote economic diversity within the development (a mixed-income development)
 - d. 0 points does not promote economic diversity
4. CHDO - 2 points
 - a. 2 points - developer and owner are both controlled by CHDO
 - b. 1 points - either developer or owner are controlled by CHDO
 - c. 0 points neither developer nor owner are controlled by CHDO
5. City Subsidy - 6 points
 - a. 6 points - investment from City is <\$10,000/unit
 - b. 5 points - investment from City is > or = \$10,000 and <\$12,000/unit
 - c. 4 points - investment from City is > or = \$12,000 and <\$14,000/unit
 - d. 3 points - investment from City is > or = \$14,000 and <\$16,000/unit
 - e. 2 points - investment from City is > or = \$16,000 and <\$18,000/unit
 - f. 0 points - investment from City is > or = \$18,000/unit

Impact on surrounding neighborhood, including design compatibility and environmental issues. 24 points

Maximum points will be awarded for those applications where:

1. Site selection- 7 points

- a. 7 points - fully appropriate for use, project supports Comprehensive Plan goal for development along transit nodes and corridors
- b. 5 points - appropriate, some concerns
- c. 0 points - significant concerns, project does not support Comprehensive Plan goal for development along transit nodes and corridors
- 2. Exterior Design - 5 points
 - a. 5 points - the design is fully consistent with neighborhood design characteristics,
 - b. 3 points - the design is an adequate fit with the neighborhood design,
 - c. 0 points - the design is a significant outlier
- 3. Amenities and unit design - 7 points
 - a. 7 points - amenities & unit design are well thought out and appropriate for residents,
 - b. 5 points - amenities & unit design are adequate,
 - c. 0 points - amenities and unit design raise significant concerns that resident needs will not be adequately addressed
- 4. Environmental - 5 points
 - a. 5 points - Phase I identifies no environmental issues
 - b. 3 points - Phase I identifies an environmental issue, but a Phase II shows a feasible, economically viable resolution which is included in the budgets;
 - c. 0 points - there are significant unresolved environmental issues, or no Phase I has been received.

Underwriting Criteria: Total 50 Points

Financial feasibility, including cost, development budget operating pro forma and the provision of secured and leverage funds. 20 points

Maximum points will be awarded for those applications that:

- 1. Development budget & sources and uses - 10 points
 - a. 10 points - EVERY development budget line item for which there is a City of Portland guideline complies with that guideline AND all other line items are reasonable and customary;
 - b. 8 points - ONE budget line item falls outside City guidelines or outside the standard of “reasonable & customary”;
 - c. 6 points - TWO budget line items item falls outside City guidelines or outside the standard of “reasonable & customary”;
 - d. 0 points - more than two budget items fail to meet City guidelines or fall outside “reasonable and customary”
- 2. Operating pro forma – 10 points
 - a. 10 points - EVERY operating pro forma line item for which there is a City of Portland guideline complies with that guideline AND all other line items are reasonable and customary;
 - b. 8 points - ONE budget line item falls outside City guidelines or outside the standard of “reasonable & customary”;
 - c. 6 points - TWO budget line items item falls outside City guidelines or outside the standard of “reasonable & customary”;
 - d. 0 points - more than two budget items fail to meet City guidelines or fall outside “reasonable and customary”

Applicant's ability to complete project, including development team experience, capacity, project readiness and timeframe for completion. 30 points

Maximum points will be awarded for those applications that:

1. Readiness to proceed - 10 points
 - a. 10 points - at least one letter of commitment or interest is included and ALL projected sources are projected at terms and conditions consistent with the City's prior experience with the funder.
 - b. 5 points - ALL projected sources of funding include letters of commitment, letters of interest, or, if no letter is included, are projected at terms and conditions consistent with the City's prior experience with this funder.
 - c. 0 points - one or more sources are projected on terms that are not consistent with the City's prior experience with the funder and are not documented by letter(s) from funder(s).
2. Track record of development team - 10 points
 - a. 10 points - every development team member has a successful track record with this type of project and at this scale
 - b. 7 points - all but one development team members have a successful track record with this type of project and at this scale; one development team member has relevant experience but at a smaller scale or not of this project type
 - c. 3 points - two development team members, while having relevant experience, are new to this type of project or this scale of development
 - d. 0 points - the development team does not meet the criteria above
3. Current Capacity of development team - 10 points
 - a. 10 points - development team members have exceptional depth of human and financial resources to complete this project;
 - b. 8 points - development team members have the human and financial resources to complete this project;
 - c. 3 points - development team has a staffing gap in a significant role and a plan to address that gap, OR there are some concerns about the financial resources of the team to move the development forward;
 - d. 0 points - the development team does not meet the criteria described above

B. Evaluation and Selection Process and Timeframe:

Applications will be reviewed by an evaluation team that will include City of Portland staff. The following process will be used:

- 1) All applications will be reviewed for completeness. Only complete applications will be reviewed under the scoring factors in order to recommend the most qualified applications based on the information submitted. The application review team may confer with the applicants and/or third parties to clarify or verify information and request additional information.

- 2) Recommendations, along with all applications and scoring information, will be forwarded to the City Council's Housing Committee for review and approval. Their recommendations will be forwarded to the City Council for final review and approval.
- 3) Applicants will be kept informed throughout the review process, specifically in regard to recommendations and funding levels.
- 4) The evaluation and review process should be substantially complete within 30 days of receipt of complete application. Applicants will be notified of their application status as soon as possible.
- 5) Based on City Council approval, successful applicants will receive a letter of funds reservation. A letter of funds reservation is not a commitment letter but an agreement to set aside budgeted funds for up to six months, to allow the project sponsor to proceed with securing other commitments.

V. Instructions and Other Information

The City of Portland reserves the right, at its sole discretion, to award all, a portion, or none of the available funding from this application, as well as reject any and all applications for city funding, based on the quality and merits of the applications received, or when it is determined to be in the public interest to do so. Furthermore, the City of Portland may extend deadlines and timeframes, as needed.

Confidentiality: Applications received by the City of Portland shall become a matter of public record subject to public inspection, except to the extent, which an applicant designates in writing, proprietary data to be confidential and submits that data under separate cover, such information may be held from public inspection, as provided in Maine law: 5 MRSA Sections 13119-A and 13119-B.

Compliance with Federal Law: The selected applicant will be required to certify that the development and management of the proposed housing will be in compliance with all applicable laws, executive orders, OMB Circulars and federal regulations, including but not limited to: Fair Housing Act, Equal Opportunity and Non-discrimination, National Environmental Policy Act (NEPA), the Uniform Relocation Assistance and Real Property Acquisition Policies Act, the Davis-Bacon Act, the Lead-Based Paint Poisoning Prevention Act, Flood Disaster Protection Act, Conflict of Interest, Contractor Debarment and Cost Principles.

Projects funded through HOME must meet the rules and regulations of the HOME Program as noted in 24 CFR Part 92, as amended, and the requirements of the Consolidated and Further Continuing Appropriations Act of 2012 and 2013. Any costs incurred by the City to meet HOME Program regulations, such as newspaper advertisements, underwriting fees, etc., shall be passed along to the selected applicant.

VI. Equal Employment Opportunities

Vendor shall comply fully with the Nondiscrimination and Equal Opportunity Provisions of the Workforce Investment Act of 1998, as amended (WIA, 29 CFR part 37); the Nontraditional Employment for Women Act of 1991; title VI of the Civil Rights Act of 1964, as amended; section 504 of the Rehabilitation Act of 1973, as amended; the Age Discrimination Act of 1975, as amended; title IX of the Education Amendments of 1972, as amended; and with all applicable requirements imposed by or pursuant to regulations implementing those laws, including but not limited to 29 CFR part 37.

VII. Reservation of Rights

The City of Portland reserve the right, at its sole discretion, to award all, a portion, or none of the available funding from this application, as well as reject any and all applications based on the quality and merits of the applications received, or when it is determined to be in the public interest to do so. Furthermore, the City of Portland may extend deadlines and timeframes, as needed.

The selection of a proposal through this application process does not guarantee any other City approvals. All projects will be subject to the City's standard development review process. Similarly, *selection of a proposal through this application process does not signify that the City will not request modifications to the proposed development plan or negotiate additional details, covenants or terms that are not specifically outlined in this application.*

The City of Portland reserves the right to substantiate any proposers' qualifications, capability to perform, availability, past performance records and to verify that the applicant is current in its financial obligations to the City of Portland.

All materials and equipment used as well as all methods of installation shall comply at a minimum with any and all Federal, OSHA, State and/or local codes, including applicable municipal ordinances and regulations.

The successful applicant shall agree to defend, indemnify and save the City of Portland harmless from all losses, costs or damages caused by its acts or those of its agents, and, before signing the contract, will produce evidence satisfactory to the City of Portland's Corporation Counsel of coverage for General Public and Automobile Liability insurance in amounts not less than \$400,000 per person, for bodily injury, death and property damage, protecting the contractor and the City of Portland, and naming the City of Portland as an additional insured from such claims, and shall also procure Workers' Compensation insurance.

Pursuant to City of Portland procurement policy and ordinance, the City of Portland is unable to contract with businesses or individuals who are delinquent in their financial obligations to the City of Portland. These obligations may include but are not limited to real estate and personal property taxes and sewer user fees. Applicants who are delinquent in their financial obligations to the City of Portland must do one of the following: bring the obligation current, negotiate a payment plan with the City of Portland's Treasury office, or agree to an offset which shall be established by the contract which shall be issued to the successful applicant.

The City of Portland, Maine, reserves the right to waive any informalities in applications, to accept any application or portion thereof, and, to reject any and all applications, should it be in the best in the best interest of the City of Portland to do so.

It is the custom of the City of Portland, Maine to pay its bills 30 days following the receipt of correct invoices for all items covered by the approved application.

VIII. APPLICATION SIGNATURE PAGE *THIS PAGE MUST BE INCLUDED*

The UNDERSIGNED hereby declares that he/she or they are the only person(s), firm or corporation interested in this application as principal, that it is made without any connection with any other person(s), firm or corporation submitting an application for the same.

The UNDERSIGNED hereby declares that they have read and understand all conditions as outlined in the invitation for bids, and that their application is made in accordance with same.

The UNDERSIGNED hereby declares that any person(s) employed by the City of Portland, Maine, who has direct or indirect personal or financial interest in this application or in any portion of the profits that may be derived there from, has been identified and the interest disclosed by separate attachment. (Please include in your disclosure any interest which you know of. An example of a direct interest would be a City of Portland employee who would be paid to perform services under this application. An example of indirect interest would be a City of Portland employee who is related to any officers, employees, principal or shareholders of your firm or to you. If in doubt as to status or interest, please disclose to the extent known).

The proposer acknowledges the receipt of Addenda numbered _____
If Applicable

COMPANY NAME: _____
(Individual, Partnership, Corporation, Joint Venture)

AUTHORIZED SIGNATURE: _____ DATE: _____
(Officer, Authorized Individual or Owner)

PRINT NAME & TITLE: _____

ADDRESS: _____

TELEPHONE: _____ E-MAIL: _____

FEDERAL TAX ID #: _____ DUNS #/ UEI # (SAM.gov): _____

TOTAL HOME/HTF FUNDING REQUEST: \$ _____
DOES YOUR APPLICATION INCLUDE A REQUEST FOR AFFORDABLE HOUSING TAX INCREMENT FINANCING? ☐ Yes ☐ No

Is your organization planning to apply for LIHTC for this project? ☐ Yes ☐ No

If yes, what is your expected score with:

Full HOME/HTF request: _____ \$100,000 HOME/HTF funds: _____ No HOME/HTF funds: _____

In your organizations preceding completed fiscal year, did the organization receive:

(1) 80 percent or more of its annual gross revenues in U.S. federal contracts, subcontracts, loans, grants, subgrants, and/or cooperative agreements; and

(2) \$25,000,000 or more in annual gross revenues from U.S. federal contracts, subcontracts, loans, grants, subgrants, and/or cooperative agreements? ☐ Yes ☐ No

Does the public have access to information about the compensation of the executives in the organization through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (18 U.S.C. 78m(a), 78o(d) or section 6104 of the Internal Revenue Code of 1986? ☐ Yes ☐ No

NOTE: All bids must bear the handwritten signature of a duly authorized member or employee of the organization making the bid. **This sheet must be signed and returned with the application package.**

IX. Appendices

Exhibit #1. HUD definition of a Community Housing Development Organization (CHDO)

Exhibit #2. Maximum Allowable Sale Price of affordable homeownership units

Exhibit #3. Site Information and Criteria Table

EXHIBIT #1 – DEFINITION OF A COMMUNITY HOUSING DEVELOPMENT ORGANIZATION (24 CFR §92.2 and §92.300-303)

1. Is a private nonprofit organization under State or local laws;
2. Has no part of its net earnings inuring to the benefit of any member, founder, contributor, or individual;
3. Is neither controlled by, nor under the direction of, individuals or entities seeking to derive profit or gain from the organization. A community housing development organization may be sponsored or created by a for-profit entity, but:
 - i. The for-profit entity may not be an entity whose primary purpose is the development or management of housing, such as a builder, developer, or real estate management firm.
 - ii. The for-profit entity may not have the right to appoint more than one-third of the membership of the organization's governing body. Board members appointed by the for profit entity may not appoint the remaining two-thirds of the board members; and
 - iii. The community housing development organization must be free to contract for goods and services from vendors of its own choosing;
 - iv. The officers and employees of the for-profit entity may not be officers or employees of the community housing development organization;
4. Has a tax exemption ruling from the Internal Revenue Service under section 501(c)(3) or (4) of the Internal Revenue Code of 1986 (26 CFR 1.501(c)(3)-1 or 1.501(c)(4)-1)), is classified as a subordinate of a central non-profit under section 905 of the Internal Revenue Code of 1986, or if the private nonprofit organization is a wholly owned entity that is disregarded as an entity separate from its owner for tax purposes (e.g., a single member limited liability company that is wholly owned by an organization that qualifies as tax-exempt), the owner organization has a tax exemption ruling from the Internal Revenue Service under section 501(c)(3) or (4) of the Internal Revenue Code of 1986 and meets the definition of “community housing development organization”;
5. Is not a governmental entity (including the participating jurisdiction, other jurisdiction, Indian tribe, public housing authority, Indian housing authority, housing finance agency, or redevelopment authority) and is not controlled by a governmental entity. An organization that is created by a governmental entity may qualify as a community housing development organization; however, the governmental entity may not have the right to appoint more than one-third of the membership of the organization's governing body and no more than one-third of the board members may be public officials or employees of governmental entity. Board members appointed by a governmental entity may not appoint the remaining two thirds of the board members. The officers or employees of a governmental entity may not be officers or employees of a community housing development organization;
6. Has standards of financial accountability that conform to 24 CFR 84.21, "Standards for Financial Management Systems;"

7. Has among its purposes the provision of decent housing that is affordable to low-income and moderate-income persons, as evidenced in its charter, articles of incorporation, resolutions or bylaws;
8. Maintains accountability to low-income community residents by:
 - i. Maintaining at least one-third of its governing board's membership for residents of low-income neighborhoods, other low-income community residents, or elected representative of low-income neighborhood organizations. For urban areas, "community" may be a neighborhood or neighborhoods, city, county or metropolitan area; for rural areas, it may be a neighborhood or neighborhoods, town, village, county, or multi-county area (but not the entire State); and
 - ii. Providing a formal process for low-income program beneficiaries to advise the organization in its decisions regarding the design, siting, development, and management of affordable housing;
9. Has a demonstrated capacity for carrying out housing projects assisted with HOME funds. A designated organization undertaking development activities as a developer or sponsor must satisfy this requirement by having paid employees with housing development experience who will work on projects assisted with HOME funds. For its first year of funding as a community housing development organization, an organization may satisfy this requirement through a contract with a consultant who has housing development experience and will advise and train appropriate key staff of the organization. An organization that will own housing must demonstrate capacity to act as owner of a project and meet the requirements of §92.300(a)(2). A nonprofit organization does not meet the test of demonstrated capacity based on any person who is a volunteer or whose services are donated by another organization; and
10. Has a history of serving the community within which housing to be assisted with HOME funds is to be located. In general, an organization must be able to show one year of serving the community before HOME funds are reserved for the organization. However, a newly created organization formed by local churches, service organizations or neighborhood organizations may meet this requirement by demonstrating that its parent organization has at least a year of serving the community.

EXHIBIT #2 – MINIMUM HOUSEHOLD SIZE AND MAXIMUM ALLOWABLE RENT OR PURCHASE PRICE CALCULATION

The Minimum household size for a unit is based on the number of bedrooms in the unit, as set forth in the table below. The maximum allowable rent or purchase price for a unit is based on the minimum household size less other housing related expenses such as utilities, condominium/HOA fees, mortgage insurance, insurance or real estate taxes.

	Studio/One-Bedroom Unit	Two-Bedroom	Three-Bedroom	Four-Bedroom
Minimum Household Size	1	2	3	4

The maximum monthly payment for a home ownership unit is based on 30% of gross monthly income for a household earning 110% of the Area Median Income (AMI) less housing related expenses.

The maximum monthly payment for a rental unit is based on 30% of gross monthly income for a household earning 100% of the Area Median Income less housing related expenses.

For example, utilizing 2021 100% AMI levels the maximum allowable monthly rent would be as follows:

Studio/One Bedroom Unit: $1/12(0.30 \times \$69,950) = \$1,748.75$ less housing related expenses

Two Bedroom Unit: $1/12(0.30 \times \$79,950) = \$1,998.75$ less housing related expenses

Three Bedroom Unit: $1/12(0.30 \times \$89,950) = \$2,248.75$ less housing related expenses

EXHIBIT #3 – SITE INFORMATION AND CRITERIA TABLE**Site Information and Criteria**

Project Address _____

Current Zone _____

Proposed Zone (if applicable) _____

	REQUIRED	PROPOSED
Lot Size		
Area Per Dwelling Unit		
Minimum Street Frontage		
Front Yard Minimum		
Front Yard Maximum		
Rear Yard		
Yard Right		
Yard Left		
Side Street Setbacks		
Step Back		
Maximum Lot Coverage		
Minimum Lot Coverage		
Maximum Height		
Off-Street Parking Spaces		

For mixed income development projects, please complete:

Square footage of affordable units: _____

Square footage of market rate units: _____