



**City of Phoenix**

HOUSING DEPARTMENT

# **Affordable Housing Loan Program and Underwriting Guidelines**

Revised November 2022

**This document is also available online at:**

**<http://www.phoenix.gov/housing/building/index.html>**

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## **INTRODUCTION**

### **Program Overview**

The City of Phoenix Housing Department (Department) administers a variety of programs designed to foster housing choice and affordability for lower income residents while advancing important neighborhood revitalization and community development goals. The Department also carries out the City's responsibilities as a Public Housing Authority and provides staff support to the Phoenix Residential Investment Development Effort (PRIDE), a 501(c)(3) corporation created by the City of Phoenix.

Critical to the success of these programs is a shared understanding among the Department's stakeholders about the program goals, funding availability, and procedures used to evaluate and allocate the use of City resources. Key stakeholders include:

- Mayor and City Council
- The Department and its funding partners
- Other City, county, state, and federal agencies involved with affordable housing development
- Non-profit and for-profit real estate developers, owners, and social service organizations
- Private sector lending institutions
- Local neighborhood, community, and advocacy groups

The purpose of the *Affordable Housing Loan Program and Underwriting Guidelines* is to describe the Department's housing policy objectives, the range of programs available to advance these objectives, and the manner in which transactions will be evaluated and selected for funding. The overall goal of these guidelines is to ensure prudent underwriting and achieve compliance with applicable Federal, State, and City laws, ordinances, regulations, and policy objectives.

Important policy objectives include:

- Preserve and create quality, sustainable affordable housing
- Ensure that resources promote affordable housing opportunities throughout all areas of the community
- Assist geographically-based neighborhood revitalization efforts
- Further “smart growth” goals of the City including environmentally sensitive development and transit-oriented development
- Leverage other available private, City, and federal funds in conjunction with Department gap financing
- Assure that each development will be professionally managed
- Minimize City risks by encouraging high performing, sustainable projects that ensure future Department subsidies are available for additional projects

The City of Phoenix provides financing for a range of housing programs utilizing funds from different sources including Federal HOME and CDBG funds, Federally authorized tax-exempt private activity bonds, and locally issued City of Phoenix Taxable General Obligation Bonds. Each funding source is subject to specific regulatory restrictions and requirements.

## **Types of Development Financial Assistance**

### *Affordable Multifamily Rental:*

Acquisition, rehabilitation, and new construction of multifamily rental housing.

### *Special Needs Housing:*

Acquisition, rehabilitation, and new construction of supportive housing for special needs populations such as victims of domestic violence, persons recovering from substance abuse and developmentally disabled persons.

### *Homeownership:*

New construction of affordable single-family homes.  
Homeownership assistance for low-income first-time homebuyers.  
Acquisition and rehabilitation of affordable single-family homes

### *Rehabilitation Loans for Non-Profit Developers of Affordable Housing*

Rehabilitation of affordable units previously funded by the City in partnership with a non-profit developer whose mission is to develop and maintain affordable housing.

City funding for affordable housing development is derived from various sources which have different funding cycles. Most federal funding is subject to the annual federal budget appropriations process and is allocated to the City through one or more block grants from the U.S. Department of Housing and Urban Development (HUD). Fifteen percent of HOME funds are set aside for affordable housing projects developed by Community Housing Development Organizations (CHDO). The Phoenix City Council approves federal grant funding to specific projects. In addition, City of Phoenix funds may be available for affordable housing development from the proceeds of General Obligation (GO) Bonds approved by the voters in bond elections and from other City sources allocated for that purpose by the Phoenix City Council.

## Defined Terms

The following are defined terms that have the following meanings when used in this document:

Accessible Units – As defined by Section 504 of the Rehabilitation Act of 1973, accessible units are units located on an accessible route and can be approached, entered, and used by individuals with physical disabilities.

ADOH – Arizona Department of Housing

AMI – Area Median Income

CDBG – Community Development Block Grant, HUD funds reserved for community development through the Housing and Community Development of 1974.

City – City of Phoenix

Community Housing Development Organization (CHDO) -- A private nonprofit, community-based service organization whose primary purpose is to provide and develop decent, affordable housing for the community it serves. CHDOs must be certified by the Phoenix Housing Department that they meet certain HOME Program requirements and therefore are eligible for HOME funding. Certification takes place at time of application for loan funds. For more information contact Jesus Gonzalez, 602-495-7190.

CNA – Capital Needs Assessment describing, in depth, the rehabilitation activities required to bring a building(s) up to date with City construction code requirements and other standards as required by HUD

DSCR – Debt Service Coverage Ratio

HOME – HUD funds reserved for the development of affordable housing created through the National Affordable Housing Act of 1990

HUD – U.S. Department of Housing & Urban Development

LIHTC – Low Income Housing Tax Credits

NOFA – Notice of Funding Availability

NSP – Neighborhood Stabilization Program, HUD funds reserved for community development through the Housing and Economic Recovery Act of 2008.

Period of Affordability – HUD imposed rent and occupancy requirements for a period of time, dependent upon the amount of HOME funding invested in the project

QAP – Qualified Annual Plan governing the award of LIHTC and published annually by ADOH

RDA – Redevelopment Area

RFP – Request for Proposals

Section 3 – A federal requirement requiring that developers who receive certain HUD financial assistance, must, to the greatest extent possible, provide job training, employment, and contract opportunities for low- or very-low income residents.

Section 504 – Section 504 of the Rehabilitation Act of 1973 prohibits discrimination on basis of disability in any program or activity that receives financial assistance from any federal agency including HUD. This law governs accessibility requirements in affordable housing development.

Soft Second Loan – loan in which no payment is required except upon transfer of property or other specified defaults

## **Policy Background**

The City has adopted policy guidelines for program development. Two key documents that embody the objectives and goals of the City are the General Plan and the Consolidated Plan. The City's [General Plan](#) can be viewed on line at the Planning Department website. The 2020-2024 [Consolidated Plan](#) and related Annual Action Plans are available for review on the Neighborhood Services Department website. The [Annual Agency Plan](#) which sets goals for the City's Public Housing Authority is located on the Housing Department website. Additionally, the City Council Adopted Affordable Housing Development Community Priorities can be found there, as well. All four of these documents are described in the following paragraphs

### **General Plan: Housing Element Goals -- Summary**

Goal 1            Housing Development: All housing should be developed and constructed in a quality manner.

All housing, including affordable housing, should be designed and developed in a quality, sustainable manner consistent with the Department's Minimum Property Standards. Quality housing development means: i) utilizing durable construction materials that promote the health and safety of the residents, ii) constructing housing in accordance with building codes and the zoning ordinance to ensure a safe structure for the occupants, and

iii) designing housing and subdivisions that are attractive, safe, functional, and energy efficient.

Goal 2      Housing Choice: A diverse choice of housing should be provided in all Villages of the City to meet the needs of all households.

A mix of housing choices needs to be provided in each Urban Village to allow people to live near where they work, as well as to support each village’s economic viability. Housing choice also provides greater economic and educational opportunities for lower-income households. Housing choice involves a mix of quality housing types, sizes, and prices for owners and renters.

Goal 3      Special Needs Housing: The City should encourage development of housing units suitable to residents with special needs such as, but not limited to, the disabled, elderly, and homeless persons.

Persons with special needs often have a difficult time finding suitable housing. Special needs populations are primarily those persons needing some level of supportive housing and services that enable the person/household to live as independently as possible.

Goal 4      Fair Housing: Members of the community should not be denied or limited in their choice of housing because of unlawful discrimination.

The City of Phoenix Fair Housing Ordinance prohibits housing discrimination on the basis of race, color, religion, sex, national origin, familial status, and disability. The City of Phoenix Equal Opportunity Department (EOD), the Arizona Office of Equal Opportunity and the U.S. Department of Housing and Urban Development (HUD) enforce this ordinance. EOD has also been designated a “Substantial Equivalency” by HUD and, therefore, handles all Phoenix complaints made to HUD.

Goal 5      Housing Conditions: All housing in the community should be maintained in a decent, safe, and sanitary condition for its useful life.

Goal 6      Housing Development and Community Character: Housing development of all types and prices in each Urban Village should enhance the character of the Urban Village and facilitate orderly neighborhood and community development.

**General Plan: Conservation, Rehabilitation & Redevelopment Element Goals – Summary**

Goal 1      Historic, Cultural and Character Preservation: Our rich heritage should be preserved and protected.

Historic and cultural preservation, along with conservation of unique neighborhoods and development patterns, contribute to community pride, investment and redevelopment. Older and obsolete buildings that contribute to neighborhood character can often be rehabilitated or adapted to new uses.

Goal 2      Property Preservation: Preservation, maintenance, and improvement of property conditions should be promoted to ensure Phoenix neighborhoods are attractive and desirable places to live.



Good property conditions make for more livable, attractive and identifiable neighborhoods, which are better able to support private reinvestment. The City's Neighborhood Services Department administers a variety of programs including Target Area Redevelopment, Historic Preservation, Neighborhood Fight Back, and Rental Renaissance that can be readily coordinated with the affordable housing development programs.

Goal 3 Comprehensive Neighborhood Revitalization: Comprehensive and sustainable economic and community development should be implemented.

The Neighborhood Initiative Areas program provides a concentrated and comprehensive focus of resources to address social, economic and physical needs and revitalize targeted neighborhoods. Components include code enforcement, blight abatement, housing rehabilitation and development, neighborhood economic development, Graffiti Busters, neighborhood capacity building and training, and coordination with programs of various city departments and private agencies.

Goal 4 Adaptive Reuse of Obsolete Development: Encourage reuse of vacant structures and substantial rehabilitation of obsolete buildings.

While much of this program focus is the rehabilitation of commercial properties, it provides an opportunity for the adaptive reuse of obsolete nonresidential structures and their conversion to housing.

Goal 5 Elimination of Deterioration and Blight: Prevention or elimination of deterioration and blight conditions should be promoted to encourage new development and reinvestment.

To aid local redevelopment efforts, the federal government established the Community Development Block Grant program which requires an emphasis on low- and moderate-income neighborhoods. The Phoenix City Council has adopted 15 redevelopment plans which aid efforts to revitalize Target Areas. Programs include the acquisition of vacant, underutilized and blighted parcels for appropriate redevelopment, infrastructure upgrades, and public transit improvements.

Goal 6 Leverage Public Resources: Business and community-based efforts to stabilize and enhance neighborhoods should be promoted.

Public resources should be strategically used as a catalyst to improve confidence and encourage others to participate in conservation, rehabilitation, and redevelopment efforts. Community partnerships with City departments are encouraged to access City programs and solve neighborhood problems. A key policy is to provide assistance to non-profit and community development corporations whose missions are consistent with neighborhood revitalization.

### **Consolidated Plan Housing Priorities**

The Housing Department's Underwriting Guidelines address four of the six Priority Needs focused on housing specified in the City's Consolidated Plan and Annual Action Plan filed with HUD as listed below.

1. Increase and reserve affordable rental and homeowner housing opportunities to improve access to housing which reflects community needs, including but not limited to, opportunities near transit, employment, and community services. Fair Housing testing and services.
2. Services and housing for persons experiencing or at-risk of homelessness. Providing appropriate housing and service solutions grounded in best practices for individuals and families to regain stability after experiencing homelessness or a housing instability.
3. Improve and increase facilities and services to create suitable living environments for non-homeless persons with special needs. These include facilities and their programs that service the young, seniors, large families, and persons with disabilities.
4. Housing and services that, meet the needs of persons with HIV/AIDS and their families.

### **City of Phoenix Public Housing Agency Plan**

The Housing Department carries out the City's responsibilities as the Public Housing Authority for the City of Phoenix, administering Section 8 Housing Choice Program, public housing capital and operating funds. The Agency Plan defines the strategies by which the Housing Authority may increase affordable housing opportunity and choice for public housing residents. From time to time, the Housing Department, on behalf of the Housing Authority, may release an RFP or NOFA for development projects that may enhance other developments sponsored through the Public Housing and Indian Division of HUD.

### **City Affordable Housing Development Community Priorities**

The Phoenix City Council originally adopted the Affordable Housing Development Community Priorities in December 2013, they were amended in November 2018 and approved annually thereafter are a proactive measure in communicating the City's affordable housing needs to developers competing for shrinking federal and city funds. Current City Council-adopted affordable housing priorities can be found at Housing Priorities in Attachment I. The Department requires services to be provided to the identified community priorities that are outlined in the developer's application.

# **CHAPTER 1: Affordable Multifamily Rental Housing – Gap Loan Program**

In recognition of the potential that varying market conditions and opportunities will impact Phoenix communities in different ways, the Department assists projects that meet a variety of Housing Production Strategies. Projects meeting general goals may be further restricted for occupancy by a range of lower income residents, seniors, or a specifically identified special needs population.

## **1.1 Citywide Affordability Projects**

### **1.1.1 Acquisition of Existing Rental Properties**

- A. **Program Objective:** This strategy targets the acquisition of existing, good-quality, apartment complexes throughout the City and the imposition of affordability restrictions.
- B. **Eligibility:** Projects should meet the Department’s Minimum Property Standards and provide amenities appropriate for continuing marketability, as determined by the Housing Department.
- C. **Financial Guidelines:** Qualifying properties should demonstrate that the total development cost (purchase price, closing costs, necessary rehabilitation, and allowable developer fee) per City assisted unit and Department financial participation (City dollars invested per City assisted unit) are less than the investment that would be required for a new construction or acquisition / rehabilitation project. Additionally, the proposed project will be evaluated according to underwriting requirements described in **Attachment A – Standard Underwriting Requirements for Affordable Multifamily Rental and Special Needs Project Loans.**

### **1.1.2 New Construction – Affordable Rental Housing**

- A. **Program Objective:** This strategy targets the construction of new, strategically located, affordable rental developments. The program seeks to add new affordable units in areas not already saturated with new rental units where affordable housing is needed, to avoid negative impacts to existing market dynamics.
- B. **Eligibility:** Qualifying properties may be located throughout the City but must fit within the various policy guidelines described on pages 5-6 of this document: the General Plan, the Consolidated Plan/Annual Action Plan; the City’s Public Housing Authority Agency Plan (if applicable) and the City Council Adopted Affordable Housing Development Community Priorities. Those projects most aligned with these policies will receive highest consideration.
- C. **Financial Guidelines:** Projects should demonstrate that the City funding requested does not exceed the amount of subsidy that would be necessary to acquire an existing comparable property. Exceptions to this guideline may be warranted in cases where no comparable properties exist. Additionally, the proposed project will be evaluated according to underwriting requirements described in **Attachment A – Standard Underwriting Requirements for Affordable Multifamily Rental and Special Needs Project Loans.**

### 1.1.3 Acquisition/Rehabilitation or Rehabilitation

- A. Program Objective: This strategy targets stand-alone rehabilitation, or rehabilitation in conjunction with the purchase of properties that require significant levels of repair in order to eliminate blight or contribute to neighborhood redevelopment objectives.
- B. Eligibility: The project must include renovations necessary to meet the Department's Minimum Property Standards and have amenities that will allow it to compete effectively in the local market area. Additionally, upon completion, the project will need to pass the Uniform Physical Condition Standards as set forth in 24 CFR 5.705 of the HOME regulations. The development proposal must include a third party Capital Needs Assessment (CNA) of the necessary rehabilitation, adhering to the Arizona Department of Housing (ADOH) requirements for a CNA as described in the annual Low Income Housing Tax Credit (LIHTC) Qualified Allocation Plan (QAP). The City's underwriting will take into account the funding of reserves as specified in the CNA to assure that operating costs and capital improvement needs are predictable, funded, and are at a reasonable level throughout the term of the City's loan.
- C. Financial Guidelines: Qualifying projects should be feasible with a total development cost that compares favorably with the cost of New Construction or Acquisition alternatives stated above. Additionally, the proposed project will be evaluated according to underwriting requirements described in **Attachment A – Standard Underwriting Requirements for Affordable Multifamily Rental and Special Need Project Loans**.

### 1.1.4 Affordability Objectives

The Department seeks to promote the creation and retention of affordable rental housing units and projects for low-income individuals and families throughout the City and encourages mixed income development. Affordability will be obtained through the following strategies:

- A. Affordability Requirements. The City will require that Projects assisted with public funds be subject to restrictive covenants that assure that the specified number of units meet certain affordability restrictions for the specified Period of Affordability. When federal funds are made available for a Project the Period of Affordability will be split into two component parts: the HUD-required Period of Affordability and the Extended City Period of Affordability. The Period of Affordability must survive the foreclosure of any senior lien on the Project, and will be determined as follows:
  - 1. 40 years Period of Affordability for loans repayable only from a portion of residual cash flow rather than on a fixed schedule.
  - 2. 30 years Period of Affordability for loans payable on a fixed schedule.
  - 3. 40 years Period of Affordability when the City provides two loans: one payable on a fixed schedule and the other paid from a portion of surplus cash.
- B. To assure long-term affordability in neighborhoods throughout the City, housing programs will:
  - 1. Provide assistance for units in areas that have proportionately fewer affordable housing choices,

2. Assist only properties that are, or upon rehabilitation, will be high quality, sustainable, attractive and competitive properties and will be maintained in a way that contributes to neighborhood stability.
- C. Affordable units receiving City assistance may not exceed the Housing and Urban Development Department (HUD) maximum rents established annually. (See [HOME Unit Fact Sheet](#))
  - D. The measure of this program and of City investment is the number of high-quality rent-restricted units that the City can make available for residents with incomes at or below 50% of the area median income as determined by HUD, taking into account family size (AMI).
  - E. The Citywide affordability program should encourage the most efficient use of City funds (e.g., lowest City cost per unit while achieving affordability goals) to obtain long-term affordability for tenants with incomes at or below 50% of AMI in higher quality, well-maintained buildings.

The Department also seeks to create and retain affordable housing opportunities in City-designated comprehensive development efforts.

## 1.2 City-Designated Comprehensive Development Efforts

- A. Program Objective: This strategy targets the development or rehabilitation of properties that address specific community development objectives, including blight elimination, neighborhood revitalization, targeted infill “smart growth” projects, transit oriented development, adaptive re-use of historical property, etc. Projects may be either new construction or acquisition with rehabilitation, may be mixed-use, and will most often provide mixed-income housing that serves a variety of income levels.
- B. Eligibility: Qualifying properties must align with the City Council approved Affordable Housing Development Community Priorities established periodically.
- C. Financial Guidelines: The applicant must demonstrate that the project is financially viable and will promote the above mentioned priorities. Competing proposals for the same site or objective will be compared based on the costs, overall benefit provided to the City, City funding required, strength of the development team, extent to which the project is likely to achieve City goals, overall soundness of the project proposal, compliance with applicable funding requirements, extent to which City loan funds are leveraged with other funding sources, and other factors determined to be relevant and important, in the City’s discretion.
- D. Projects may be solicited for specific neighborhoods, priority areas, or sites. Success for these projects is measured by whether the project significantly enhances neighborhood revitalization and encourages spin-off reinvestment efforts nearby or furthers City goals for transit-oriented or “smart” growth.
- E. While mixed-income projects are encouraged, City funds are limited to units set aside for residents at or below 50% of area median income.
- F. Key qualifying criteria will include:
  1. Certification by a collaborating City department that the project proposal will contribute to a comprehensive development effort for the area or site.

2. Input by community groups and neighborhood organizations during the project planning process.

### **1.3 Availability of Funds**

The Department provides a variety of funds for the Affordable Multifamily Rental Housing Loan Program in amounts established annually by the City for each fiscal year. Decisions regarding which type of funding to utilize for a specific loan will be made by the Department and the available funding sources may be subject to different regulatory requirements as described below.

Federal funds require more extensive environmental review to comply with Federal National Environmental Policy Act (NEPA) requirements; require compliance with Uniform Physical Condition Standards (UPCS) as well as Phoenix Housing Minimum Property Standards and trigger the requirement that the borrower comply with the Davis-Bacon Act wage requirements if 12 or more HOME units or 8 or more CDBG units are assisted. Further, HOME regulations require the City of Phoenix to repay the funds to HUD if HOME affordability restrictions are eliminated during the minimum HUD compliance period. Thus, the Department will decline HOME funding for projects where the Department's affordability restrictions must be subordinated to a senior mortgage lender, such as the FHA program.

### **1.4 Loan Requirements**

#### **A. Loan Limits:**

- Loans are limited up to \$2,000,000 per project citywide but determined by the department in each Call for Interest process.
- HOME program loans are further limited in accordance with Federal regulations based on unit mix and project size (including per unit limits).
- Any single Applicant (including affiliated entities) may receive no more than two program loans each year. Existing loan performance, compliance with terms of past Affordable Housing Loan Agreement Contracts, risk, and the organization's financial capacity will all be taken into consideration before a decision to award a loan is made.
- Applicants must demonstrate that they have structured projects to maximize other available financing sources (e.g., conventional mortgage debt, other public subsidies, tax credits, etc.) thereby limiting Department funding to the lowest amount necessary to close the funding gap and assure project feasibility.
- Applicants must demonstrate that rent proceeds or other funding sources will allow for adequate reserves to meet capital needs for at least 40 years.
- Applicants must demonstrate an expectation that any City loan can be repaid within its scheduled term or at the end of the term in the case of a surplus cash loan consistent with the Department's underwriting assumptions described below and found in Attachment A. Per HUD regulations, additional HOME funding will not be loaned to a project once Certificate of Completion has been issued and recorded.

B. Term:

- City loan will not mature prior to the maturity of any permitted permanent senior debt, to a maximum of 42 years (In City’s discretion commencement of the repayment period may be deferred for a period of time to allow for completion of acquisition and construction activities and lease-up).
- Specific loan terms will be determined based on project requirements

C. Repayment:

- In the City’s discretion payments may not be required during the acquisition, construction and lease-up phase.
- City loans may be repaid as an amortized loan, a cash flow loan based on available cash flow or a combination of both types of loan called a “Split Loan.” In the case of a Split Loan, there will be two notes, each having different repayment terms. Any accrued but unpaid interest and principal is due in full at loan maturity. Disinvestment by owner or investor is discouraged but will be considered on a case-by-case basis. The City will only allow pay back of a Carry Back Note out of borrower’s share of surplus cash. Upon completion of construction/lease-up (or other fixed date), loans shall begin to accrue interest and shall be subject to repayment under one or both of the following loan notes:

Amortized Loan

The City will determine what portion of its loan can be paid on an amortized schedule using a 1.15 minimum debt service coverage ratio (DSCR) inclusive of the City’s loan and all senior debt. Loan payments will be amortized monthly or according to some other agreed upon installment payment schedule, over the approved term.

Surplus Cash Loan

If full amortization is not feasible due to limited cash flow, funds shall be repaid from an agreed upon percentage split of surplus cash on an annual or bi-annual basis. Borrowers must provide an Annual Cash Flow Analysis Report that demonstrates the calculation and accrual of applicable surplus cash funds.

- Definition of Surplus Cash

Surplus cash means for the fiscal year period ending prior to the annual installment date, the sum of gross rent revenues (less rental taxes and tenant security deposits) and other income (other income includes, but is not limited to, proceeds from the sale of the Property or transfer of ownership and withdrawal of equity) received from the operation of the project including amounts withheld from security deposits returned to tenants, less (a) annual accrued debt service for approved permanent senior loan(s); (b) actual operating expenses (including but not limited to utilities, supplies, repair and maintenance costs, property taxes, property management fees, asset management fees, and insurance escrows and reserves, and amounts deposited in any replacement reserve account) and excluding allowed or allowable depreciation, and (c) payments of an asset management fee pursuant to an Asset Management Services Agreement as required in a Low Income Housing Tax Credit (LIHTC) project.

Specifically excluded expenses include any payments or disbursements to the project owner and/or borrower of City funds, tax credit adjustors, depreciation, or payments pursuant to developer guarantees. Surplus cash will be calculated based on an audited annual cash flow analysis report for the fiscal year period ending prior to the annual installment date.



- Reserves and Operating Expenses

The amount of required reserves must be specifically approved by the Department in the final loan agreement or through the annual budget review and approval process and will typically match reserve requirements imposed by state housing programs when those programs are utilized. Operating expenses shall be determined on a GAAP accounting basis and shall not include any payments to parties affiliated with the borrower, to the extent that such payment exceeds the typical cost of procuring equivalent services from an unrelated third party. The Department may update this definition from time to time. See **Attachment A -- Standard Underwriting Assumptions for Affordable Multifamily Rental or Special Needs Project Loans**.

D. Interest Rate:

- A. 0% during construction and lease-up phase up to 24 months
- B. 2% upon conversion to permanent phase (if loan is fully amortized)
- C. 4% upon conversion to permanent phase (if loan is paid from surplus cash)

- E. Affordability Restrictions: All projects are subject to affordability restrictions meaning an established “Period of Affordability” during which City funded rental units must remain affordable (i.e., rents must be restricted according to a prescribed formula). Federal funding regulations require a minimum Period of Affordability and the City requires an Extended Period of Affordability beyond the federal Period of Affordability in order to meet the City’s public purpose requirements for allocation of federal funds. Therefore, the City’s loan agreement will state two periods of Affordability: The HOME Program Period of Affordability and the Extended Period of Affordability. The Extended Period of Affordability will commence after expiration of the HOME restrictions. Please refer to Section 1.1.4 for more information.

The City calculation for the required number of City-restricted affordable units per project is the greater of (1) the ratio of City loan funds to total eligible development costs or (2) the number of set-aside rental units calculated by dividing the City loan by the “maximum per unit investment of funds” as published by the Housing Department in the HOME Unit Fact Sheet.

Affordability restrictions further restrict the rental of rent-restricted units to tenants whose incomes are less than the AMI. At least 20% of the units receiving Department financial assistance must be reserved for households whose income does not exceed 50% AMI and remaining assisted units must be reserved for households whose income does not exceed 60% AMI.

The Department establishes maximum City of Phoenix rents for tenants whose incomes are at or below 40%, 50% and 60% of (AMI) adjusted for bedroom size and reviews the rents annually. The City’s current AMI levels are adjusted for family size and change annually as published by HUD. City of Phoenix maximum rents are listed on the Department’s website at the HOME Unit Fact Sheet.

City will require all City restricted affordable units in a Low Income Housing Tax Credit (LIHTC) project to be at 50% of AMI if all units in the project are already restricted to 60% of AMI as a condition of the tax credit and other funding requirements. The City may impose varying levels of affordable rents on certain projects based on demonstrated community need.

The Period of Affordability will begin upon issuance of a Certificate of Completion typically issued at completion of the project.



- F. Security: A Deed of Trust, UCC Financing Statement, Promissory Note, contract assignments, and Declaration of Affirmative Land Use Restrictions will be required for every loan and personal guarantees as required by the Department.
- G. Subordination to Senior Debt: The City's loan may be subordinated to another lender's mortgage lien if subordination is required as a condition of that lender's loan approval. Senior debt must be provided on a fully amortizing basis with a term of at least 18 years. All debt on the property must be subordinate to the City's Declaration of Affirmative Land Use Restrictions. The Department will decline HOME funding for projects where the Department's affordability restrictions must be subordinated to a senior mortgage lender, such as the FHA program.
- H. Loan-to-Value Limits: A loan-to-value limit is not applicable. However, the property purchase price must not exceed fair market value, as substantiated by an independent appraisal performed according to USPAP standards and acceptable to the City. Appraisals must conform to the Uniform Relocation Act guidelines if relocation is involved in the project. The appraisal cannot be a "restricted" report prepared solely for the developer or another entity. Additionally, the City will only accept a summary or self-contained appraisal report which includes the City of Phoenix as an intended user. There should be enough data and analysis in the report for the reviewer to analyze the information and arrive at the same conclusions as the appraiser. Appraisals will be reviewed by the City's Appraisal Section.
- I. Borrower Contribution: At least 10% of the total development cost must be funded by borrower equity or other grant funds.
- J. Debt Service Coverage Ratio (DSCR): Repayment terms for City loans will be calculated as described above under Repayment.
- K. Recourse: Acquisition, Construction, and Permanent Loans are provided on a non-recourse basis and are secured by collateral as noted above in Paragraph F. Loans may be cross-collateralized against properties included in the same financing transaction.
- L. Allowable Use of Funds: All costs necessary for site acquisition, construction, energy conservation, landscaping, and/or rehabilitation attributable to the City-restricted affordable units of the project are allowable subject to HUD guidelines. Costs associated with commercial space, childcare, or social service space in mixed-use projects may be included in the total development cost budget, may require eligibility review to be paid with Department funds. Generally, a borrower may not take equity or cash flow from the project at a time when the City is not receiving loan payments, whether fixed installments or surplus cash payments. Costs reimbursed through the City loan are those costs included in the line item budget agreed upon by the borrower and the City and attached to the City's Loan Agreement.
- M. Disbursements/Reimbursements: Requests for reimbursement must include back-up documents such as invoices, cancelled checks and/or receipts. The disbursement schedule will occur in 3 draw requests, at 60% construction completion, 90% construction completion and the 10% retention payment at certificate of occupancy and after all other contractual requirements are met. This schedule applies to all loan products unless prior written approval from the City is obtained. Unspent loan funds are retained by the City, thus reducing the borrower's note. Unspent loan funds are not available to the project once construction is completed.

- N. Funding Conditions – Predevelopment Phase: Funds are not available for predevelopment loans.
- O. Funding Conditions – Acquisition Phase: Loans for site acquisition will not be funded unless all pre-conditions to the Construction Phase funding have been achieved. Exceptions may be considered for HUD 811/202 program loans and Community Priority Projects in redevelopment areas where there is a policy related to land assembly. Acquisition loans must record in first lien position.
- P. Funding Conditions – Construction Phase: Prior to, or concurrently with Construction Phase funding, the borrower must provide evidence that all other necessary construction funding sources have been committed and closed, that binding commitments are in place for all sources of permanent “take out” financing on terms satisfactory to the Housing Department, that building permits have been approved and are ready to issue, and that a bonded, fixed price general contract has been executed and is based on the final approved plans and specifications.
- Q. Assignment: Loans or loan commitments are not assignable without the prior written approval of the Department. Generally, Acquisition and Construction Phase loans are not assignable, but the Department will consider the assignment of Permanent Phase loans upon confirmation that the property is operating in accordance with all regulatory agreements, remains financially viable, and the capacity and creditworthiness of the proposed assignee is demonstrated. If the assignment is approved, the assignee must assume all loan obligations including, but not limited to, the affordability requirements.
- R. Construction: Housing or site construction may begin only with the express written approval of the Department (a preconstruction conference must be held among the Department, developer, and contractor and the Department must issue a Notice to Proceed).
- S. Fair Housing and Affirmative Marketing: The Developer must comply with Department policies and all applicable federal, state, and local laws, codes and ordinances regarding nondiscrimination in the rental, sale, and occupancy of the units.
- T. Prevailing Wage Policy: All applicants receiving City funded acquisition or construction funding from HOME funds that assist 12 or more HOME units or construction funding from CDBG funds that assist a project with 8 or more units must comply with Federal Davis-Bacon wage requirements. Davis-Bacon compliance also may be required in connection with other federal funding sources, such as HOPE VI grants and NSP funding.
- U. Section 3 Requirements: All applicants receiving \$100,000 in federal funding from HUD via the City for affordable housing development will be subject to Section 3 contractual requirements. Section 3 refers to the Housing and Community Development Act of 1968. The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD assisted projects shall “to the greatest extent feasible,” be directed to low- and very-low income persons, particularly persons who are recipients of HUD assistance for housing and to business concerns that provide opportunity for employment for low- and very-low income persons. Section 3 reporting will be required in acquisition, rehabilitation, and new construction loan agreements over \$100,000 between the Department and the borrower.
- V. Crime Free Multi-Housing: The Borrower, management staff, and maintenance supervisor must obtain certification that they have completed Phase I training from the Phoenix Crime Free Multi-Housing Program. The property must be certified as being in compliance with Phases II and III of the Phoenix Crime Free Multi-Housing Program within six months of the close of escrow of the

City's loan unless otherwise extended by the City. Access to the property by the City must be permitted for purposes of annually recertifying the property as being in compliance with the Phoenix Crime Multi-Housing Program.

- W. In the fall of 2013, the Housing Department created A Minimum Property Standards Manual as required by federal regulations. The Manual has been designed to ensure that all properties acquired, constructed or rehabilitated with federal funds can pass the Uniform Physical Conditions Requirements as set in the revised HOME regulation. Energy efficiency, construction materials useful life of major systems, accessibility and lead based paint requirements are also discussed in the Manual.

## **1.5 Avoiding and Dealing with Project Performance Problems**

Program funds are designed to create new or additional affordable rentals. The City, at its sole discretion, may consider the allocation of additional funding to non-profit developers experiencing extraordinary cost increases realized between the date of initial City Council funding approval and end of construction. However, the City will look for additional public benefit and/or greater return on its investment. The City will not consider requests to cover cost overruns or change orders. Increased costs should be discussed with staff before adjusting the project's budget as the City's Loan Agreement is predicated on a budget agreed to at the time the City's Loan Agreement was executed. Additionally, all increases in funds to a project require City Council approval.

As one of several lenders, the City may consider forbearance agreements on the same or similar terms provided by senior lenders. Consideration of forbearance to a project with an existing City loan requires an application, new set aside units, City Council Approval, and a new review of the project.

The City may consider funding requests for troubled projects it has not previously assisted due to project performance, whereby additional affordability will be required in exchange for the City loan. If a troubled project will continue to be owned by the current owner, it must demonstrate at least a 1.20 debt service coverage ratio for all project loans based on actual rents and expenses and the terms of all debt after the proposed restructuring.

## **1.6 Application Processing and Predictability**

In order to be responsive to critical dates for other public financing and leveraging of resources while at the same time assuring City loan program predictability and efficiency, the City will publish a Notice of Funding Availability (NOFA) at least annually on the City's website at [Solicitations](#), announcing funds available for affordable housing. This and all department notices will be sent to subscribers of the Housing Department's [Community Partners List Serve](#).

City review, recommendation, and City Council authorization, if approved, typically occurs within 90 calendar days from receipt of a completed application. Detailed instruction is contained in the NOFA.

The purpose of this approach is to enable a thorough review of major loan requests prior to the time a commitment letter is needed from the City for other funding applications. This approach also allows the City to compare project costs, per unit loan requests, project readiness and other information among projects in order to select those that best achieve City objectives.

## 1.7 Basic Requirements for All Applications

The purpose of City loans is to assist qualifying projects, i.e., the City will only make loans that are part of a specific City-approved project. The City will not make loans that are unsecured or lack sufficient collateral. A loan application will be reviewed based on the merits and economics of the project and the full capability of the development team. The City may choose to not financially participate in the refinancing of a project where there is cash out to the borrower and/or developer, particularly in an acquisition/rehab development project where a member of the development team has held title and operated the rental property. The City may not approve a loan transaction in which an owner receives cash back in the refinancing or sale of property for a profit or gain. This restriction applies to other transactions with similar results. Requests for such transactions will be reviewed on a case-by-case basis.

The following basic requirements apply to all the loan programs and will be considered during the evaluation:

- *Feasibility Assessment:* Due to market location, prevailing economic conditions, low income rent targeting, or property operating costs, the typical affordable housing development is economically infeasible without some degree of public financial assistance. The Department may provide assistance to projects in the amount minimally required to create financial feasibility.
- *Affordability Targets for Rental Housing:* All proposed projects should provide housing to a mix of incomes, with a minimum of 20% of the units set aside for households with incomes at or below 60% of AMI. All units **assisted by the City** must not exceed the Housing and Urban Development Department (HUD) maximum rents established annually. At least 20% of the **City-assisted** units must serve households with incomes at or below 50% AMI, and all remaining **City-assisted** units must serve households with incomes at or below 60% AMI. In a 100% Low Income Housing Tax Credit project all City-assisted units will serve families with incomes up to 50% of AMI.
- *Utility Allowances:* Individual utility allowances for each rental project (new or major rehabilitation) must be determined either 1) by using the [HUD Utility Schedule Model](#) or 2) ADOH LIHTC Utility Model or 3) by otherwise determining the allowance based upon the specific utilities used at the project, such as in the case of a proposed minor rehabilitation project which has historical data by which to determine utility allowances, or 4) other City Approved Model.
- *Affordable Units Standard:* The affordable units must be scattered throughout the project and have the same proportional mix, sq. ft., and amenities as non-restricted units.
- *Leverage Objective:* Prior to submitting a funding application to the Department, the developer shall demonstrate efforts to effectively leverage the use of public and private funds for the proposed project by identifying other available programs and designing the project to qualify for relevant sources of assistance.
- *Loan Security:* Department financial participation shall be in the form of loans and shall be secured by a recorded Deed of Trust and UCC Financing Statement and personal guarantees, as required by the department.
- *Continuing Affordability:* A Declaration of Affirmative Land Use Restrictions will be recorded to ensure compliance with applicable regulatory and affordability restrictions. The Period of Affordability will be determined independent of the amount or length of the City's loan and may

exceed the loan term. Generally, required affordability will range up to 40 years from project completion and will survive foreclosure.

- *Economic Viability:* Development proposals shall appropriately consider prevailing market conditions such as vacancy levels, rent comparability, and neighborhood impact to ensure that projects are well located and contribute to neighborhood stability and vitality.
- *Environmental Assessment (EA) and Clearance:* All projects must undergo an environmental assessment before funds may be released. If federal funds are involved in the project through a City loan or other source, no project acquisition (exempting reasonable down payment costs) or construction activities may take place after application submittal and prior to the completion of the environmental clearance process, regardless of the source of funds being utilized for the activity. Funds expended prior to contract execution are at the risk of the borrower. **Expenditure of funds after making application to the City and before clearance is completed may make the entire project ineligible for federal funds.**
- *Consolidated Plan Consistency:* The programs and projects must serve a balance of families, senior citizens, and special needs populations. The specific weight given to each program and project will be consistent with the Housing Element of the City’s General Plan and Consolidated Plan.
- *Readiness:* Federal subsidies often require that funds committed be expended within a fixed time period. Therefore, projects submitted must demonstrate their readiness to begin implementation.
- *Development Standards:* After rehabilitation or development, all properties must meet the Department’s Minimum Property Standards, these standards ensure long term viability of the property, and accessibility standards under Section 504 of the Rehabilitation Act of 1973. These standards ensure long term viability of the property.
- *Design Requirements:* Must adhere to [Housing Department’s Minimum Property Standards](#) revised in November 2016.
- *Energy Efficiency:* The City of Phoenix Housing Department encourages construction methods that encourage energy efficiency and low-cost utilities for renters of affordable housing projects. Scoring of applications includes a review of the project’s energy efficient strategies.
- *Waiver Requests:* Waivers of the Underwriting Guidelines requirements are discouraged and will only be considered where waiving the guideline or policy will better serve program objectives or the City’s Affordable Housing Development Community Priorities. The applicant must demonstrate that unique circumstances apply to the project in order to be considered for a waiver.
- *Site and Neighborhood Standards:* 24 CFR 983(e)(2) and (3) which assess the overall impact of HUD-assisted housing on the availability of housing choices for low-income minority families in and outside areas of minority concentration.

## 1.8 Threshold Application Requirements

Affordable Multi-Family Rental Gap Loans are designed to provide funds during the acquisition, construction and/or permanent financing phase of a development, in an amount equal to a project’s feasibility gap. The feasibility gap is the amount of funding required to create a financially viable transaction after considering the impacts of affordability restrictions, location, identifying other private

financing programs available, and market conditions. The project should reflect full repayment of the loan through debt service and compliance with the affordability period.

Developers and their proposed projects must meet the following threshold criteria:

A. Threshold Criteria for the Borrower

- Application must be submitted on or before the specified application deadline.
- Developer and all members of the development team must be in good standing with City i.e. current on loan obligations, good past performance, contract compliance and current on tax obligations to the City.
- No member of the development team may be on the HUD Debarment List
- Property Management Experience, minimum 3 years' experience managing federally assisted properties with comparable size and resident type (special population). Properties must have federal affordability restrictions and income requirements of tenants.
- The application must be complete. Incomplete applications will be returned to the applicant.
  - Complete Application shall consist of:
    - Application form completely filled out:
      - *All pages, check boxes, and narrative sections complete*
    - Signed Application Certification
    - Completed Pro-forma workbook:
      - *Operating Budget, Development Budget, Construction Budget, and Pro-forma Development Budget- must include 10% match from outside sources*
    - Financials
    - Relocation Plan and signed GIN's (if applicable)
    - Project Timeline
    - Community Outreach:
      - *One meeting: provide agenda, sign-in sheets, meeting minute and document all outreach efforts;*
    - Proof of Zoning:
      - *Zoning Application in-process (demonstrated through Application and Timeline)*
    - Proof of Site Control:
      - *Deed or valid and current Purchase Agreement*

### **1.9 Additional Information Required for All Applications**

- Applicant Certification
- Authorizing Resolution
- Organizational Documentation Indicating Eligibility
- Occupied Building(s) and Relocation Information
- Consistency with Consolidated Plan
- Financial Statements
- Development and Management Experience
- Development Team Forum
- Property Management Experience
- Property Management Plan and Affirmative Fair Housing Marketing Plan
- Site Area Attractions
- Market Study (if available)
- Energy Efficiency Accreditation information
- Energy Efficiency Components

- Site Plans and Elevations
- On-site Amenities
- Section 504
- General Contractor Experience
- Timeline
- Zoning
- Community Outreach
- Phase I and Appraisal (if available)
- Financial Commitments
- Identified Risks
- Contingency
- Match Funds
- Project Impact
- References
- Fully completed and signed offer page
- Fully completed and signed disclosure form
- Fully completed and signed proposer certification and affidavit signature
- Fully completed Identities of Interest Disclosure Form



## 1.10 Evaluation Criteria

Applications received pursuant to an RFP will be evaluated in accordance with the RFP criteria and Department project objectives. Thereafter, applications that meet program thresholds will be scored based on the extent to which they address Department affordable housing policies as described on page 3 of this document under Policy Background. In the event that insufficient funds are available to meet the requirements of all qualifying applications, the highest scoring applications that are ready to proceed will be funded first.

Evaluation Criteria Applicable to All Applications:

### **Experience**

Developer Capacity: Each applicant must demonstrate that its organizational and staffing capacity is sufficient to complete the proposed project without reliance on Department staff. The firm's direct experience being the lead developer for affordable housing development including the number of projects completed and years of experience for projects that are equal to or larger will be considered.

Property Management & Management Plan: Applicants must describe the experience of the proposed property management firm in successfully managing properties of similar size and resident type for a minimum of 3 years. A management plan must be included that describes significant management policies including but not limited to security, marketing programs, eviction process, and any financial considerations (i.e., affordable rent levels, resident income, sources of project operating subsidy required) that have an impact on project operating policies.

Proposal Presentation: Applicants will be evaluated on the presentation of their application, how well their application is organized to align with the RFP and the thoroughness of the application.

### **Project Merits**

Project Need: Applicants must identify via market study the housing need being fulfilled by the proposed project. Applicants are to identify in their application the site area attractions that are located within 1-mile radius of the project site.

Energy Efficiency: Consideration will be given to projects that have incorporated energy efficiency components, and look to obtain LEED certification (or other energy efficiency accreditation).

Construction & Design: Applicants must include a proposed site plan identifying the location of residential units, commercial uses, and community facilities and amenities. An elevation rendering and floor plans of the proposed development must also be included, accompanied by a written narrative describing design considerations such as: unit mix, unit size, amenities provided, construction type, energy conservation and accessibility features, architectural style, site plan layout, security and access issues, parking plan, and relationship of the scale, setbacks, and proposed design to adjoining properties. Scoring will weight favorably on projects with the most number of "accessible" units, and on-site amenities. Evaluation will also consider the general contractors experience and capacity to complete the project scope.

Project Readiness: Applicants must submit a development timeline identifying major development activities, responsible staff, deadlines, funding application dates, etc. to demonstrate the viability of the proposed development and assist the Department in evaluating the likelihood that the project will succeed. The developer should indicate that the site is properly zoned or has submitted an application to begin the re-zoning process. Applicants must provide proof that community meetings were held; documentation must include an agenda, location, list of attendees, and meeting minutes. Point will be awarded to applicants that include a current Phase I/ and appraisal in their submission.



## **Financial Feasibility**

Development Financing Plan: Applications should include the Department's *Standard Underwriting Assumptions* contained in Attachment A. Applications must include documentation of financial commitments in the amount covering the Total Development Cost. Pro-formas must demonstrate the ability to fund operations for the extent of the HUD affordability period.

Identified Risks: All development projects are subject to elevated levels of risk at the early stage of the predevelopment process. To assist both the applicant and Department in reasonably assessing and mitigating these risks, applications must identify any significant issues that could delay or prevent the proposed transaction (e.g., zoning actions required, environmental issues, site control issues, neighborhood or market conditions, unusual funding assumptions, etc.). Projects are required to include 5% contingency for new construction projects and 10% contingency for rehabilitation projects.

Leverage of City Funds: Applicants are required to include 10% match funding from equity, grants, or loans. Additional points will be awarded to agencies with HOME eligible match funds. Proposals that best leverage City funds with the lowest HOME cost per HOME unit.

### **Project Impact**

Project Impact: Applicants will be rated on how likely their project is to succeed, accomplish its goals on time, successfully serve the identified population, and demonstrate financial feasibility.

## **1.11 Overall Application and Loan Agreement Processing Procedure**

Processes are described in the following phases:

- Pre-Application Review
- Application
- Evaluation
- Loan Documents
- Loan Funding
- Project Development
- Compliance & Monitoring
- Annual Reporting
- Loan Servicing

### Pre-Application Review Phase

Prior to receipt of a loan application, Department staff is available to address questions from potential developers and provide pre-submittal consultations regarding specific project concepts. While such consultations do not commit the Department to fund a particular proposal, they provide valuable insight into the prospective benefits, funding availability, and issues associated with a potential development. Discussion of proposed projects cannot take place during the solicitation period.

**IMPORTANT NOTE:** If federal funds are required to make a project feasible, environmental clearance must be obtained and a Release of Funds received from HUD prior to any activity or expenditure of funds from any source dedicated to the project.

All projects must undergo environmental clearance before funds may be released. If federal funds are involved in the project through a City loan or other source, no project acquisition (except reasonable down payment costs) or construction activities may take place after application submittal and prior to the completion of the environmental clearance process, regardless of the source of funds being utilized for the activity. Funds expended prior to a Release of Funds by HUD are at the risk of the borrower and may not be eligible for reimbursement through the City loan. Additionally, federal funds may not become available for the project if an environmental mitigation is required and the project has developed to such an extent that the mitigation will cause extreme costs or delays to the project, thereby making the project unfeasible.

### Application Phase

Annually, the Department accepts applications through a competitive process such as a Request For Proposals (RFP) or Notice of Funding Availability (NOFA). However, the department will accept applications throughout the fiscal year (in which the RFP or NOFA occurs) for consideration as funding becomes available due to a variety of reasons. The funding cycle typically occurs prior to the Arizona Department of Housing Low Income Housing Tax Credit (LIHTC) cycle to allow adequate time for the Department to determine which projects will be supported by Council for the LIHTC round.

### Evaluation Phase

Upon receipt, each application is assigned to the Procurement Manager for review. Applications are first reviewed for completeness, then for compliance with all applicable threshold requirements, and then scored by a department-appointed selection committee made up of representatives from city departments and community partners with housing development expertise but have not competed in the current City federal funding application round.

During the process of application evaluation, the department-appointed committee will review all proposals and prioritize according to the City's most urgent affordable housing needs approved by Phoenix City Council as the Community Priorities. They will prepare a recommendation to the City Council through the Housing Department Director. Applicants will be notified of the committee's decision within ten business days following the decision date. Final loan approvals will be issued as soon as possible thereafter, using one of the following methods:

1. Projects ready for immediate funding will go to City Council for final approval.
2. Projects with longer lead times may be issued a Notice of Intention to Fund that can be used for purposes of leveraging funding from other sources to complete the project financing requirements. The support letter will serve as a conditional funding reservation for a specified period of time. The Department may decline to fund applications whose funding reservations have expired.

Prior to expiration of the conditional reservation, and upon receipt of evidence from the applicant that other necessary funding has been obtained and the project is ready to proceed, Department staff will review the transaction to ensure that it remains consistent with the original application. Projects consistent with their original applications will be presented to City Council for approval. Projects materially inconsistent with their original application or not feasible will not be recommended for funding.

Applicants will be notified of all City Council hearings in advance.

## **1.12 Loan Documents**

Once applicants have been notified that a City loan has been approved, the assigned Housing staff member will coordinate with the City Law Department in drafting the City's loan documents, incorporating regulatory requirements and any special conditions. The Department will also complete any necessary regulatory review and the required site specific environmental review, and will provide notice of any required mitigation measures as a condition of the loan commitment. Applicants will be provided a copy of the draft loan documents for review and comment.

A City Loan Agreement includes: Loan Agreement, Promissory Note, Deed of Trust, UCC Financing Statements, Declaration of Affirmative Land Use Restrictions and collateral assignments.

Developers that are required to comply with prevailing wage regulations as a condition of their commitments should schedule a pre-construction meeting with the department's Davis Bacon Compliance officer to ensure that the development team and contractor understand the implication of prevailing wage monitoring on the construction process and that appropriate provisions are included in construction contracts.

Projects assisted with federal funds may be subject to the requirements of Section 3 of the Housing and Community Development Act of 1968 which requires employment and other economic opportunities generated by HUD assistance or HUD assisted projects shall "to the greatest extent feasible," be directed to low- and very low- income persons, particularly persons who are recipients of HUD assistance for housing and to business concerns that provide opportunity for employment for low- and very low- income persons. Section 3 reporting will be required in acquisition, rehabilitation, and new construction loan agreements over \$100,000.

The requirements of the Section 3 regulation include, but are not limited to, development and implementation of an affirmative action plan for utilizing business concerns located within, or owned in substantial part by persons residing in, the area of the Project; the making of a good faith effort, as defined by the regulations, to provide training, employment and business opportunities required by Section 3; and incorporation of the "Section 3 clause" specified by 24 C.F.R. Part 75 in all contracts for work in connection with the Project.

Section 3 requirements will be a part of the City loan agreement and must be incorporated into the general contractor's agreement and sub-contractor agreements.

### **1.13 Loan Funding**

In preparation for loan funding, the designated staff member will perform the following:

- A. **Verification of Closing Conditions:** Review all pre-funding conditions of the Loan Agreement to ensure that the borrower has complied with conditions and provided necessary documentation.
- B. **Fund Escrow:** The recording of loan documents and satisfaction of closing conditions generally will be handled through an escrow. If funds are to be disbursed to a borrower at closing those funds may be disbursed through the escrow. Other loan funds will be disbursed by the Housing Department to pay or reimburse project expenses in accordance with the procedures described in the loan agreement.

Before signing loan documents applicants may request a meeting with Department staff to review the Department's escrow instructions, conditions for disbursement of any funds, recordation of documents, title insurance policy requirements, and post-closing reporting and compliance expectations.

- A. **Scheduling the Closing:** Borrower will be responsible for opening escrow, scheduling the closing, collecting, and reviewing final loan documents and working with Department staff to set a closing date.
- B. **Loan Funding:** Prior to disbursement of loan funds the Borrower must comply with all conditions set forth in the loan agreement and provide the Department with the following:
  - Original or certified copies of executed loan documents,
  - Proof of current property tax payments,
  - Proof of insurance meeting City insurance requirements,
  - Proof of Payment and Performance Bond
  - UEI Number (DUNS Number)
  - Title insurance meeting Department standards,
  - Proof of compliance with prevailing wage requirements, if applicable.

Additionally, the Department must have, on file, a Release of Funds from HUD.

### **1.14 Project Development**

Borrowers must comply with various provisions of the loan agreements that typically begin prior to construction. These provisions may include timely submission of construction progress reports, copies of draw requests, project and/or developer financing statements, prevailing wage compliance reports, and other compliance issues. Assigned staff will be the borrower's principal contact during the development process; this person will also serve as the focal point for coordinating between the borrower and City departments responsible for the enforcement of Federal, State and Local regulations such as NEPA, Section 3, prevailing wages and other compliance issues.

### **1.15 Compliance & Monitoring**

Upon project completion, a Department compliance section staff member will be assigned to the project. This individual will serve as the borrower's primary contact during the operating phase of the development and is responsible for reviewing continuing compliance with regulatory agreements, affordability restrictions, the Uniform Physical Condition Standards Inspection and general compliance with the Loan Agreement. Each, project's financial performance and verification of timely payment of mortgage payments and any surplus cash payments may be monitored by City or a City-contracted loan servicing agency.

### **1.16 Annual Reporting**

Borrowers, as stated in the loan agreements, will be required to make periodic reports to the Housing Department regarding project financials, project cash flow and borrower's compliance with applicable requirements of City and other funding. The required reports shall provide information on the beneficiaries (homebuyers, renters, special needs populations) of federal funding and the financial condition of the project. If borrowers have not responded timely to the Department's requested annual or periodic reporting, the project will be found in default of the City loan and borrower contractual obligations. Reports include: Annual Audited Financial Statements, Performance Report (July of each year), Tenant Information Report if City funds were used in the creation of the City's loan, and A-133 Audit if the borrower received more than \$500,000 in total federal funds.

### **1.17 Loan Servicing**

All Affordable Multi-Family Rental Housing loans will be administered by the City or a City-contracted loan servicing agency that will collect payments, review annual audited financials of projects with a cash flow note; report delinquency to the City and who will conduct other typical loan servicing activities.

## Summary of Multifamily Rental Loan Program

	<b>Gap – Rental Housing</b>
<b>Funding Sources</b>	HOME, CDBG, GO Bonds, HOPE VI or other special federal grants,
<b>Eligible Borrowers</b>	For-Profit & Non-Profit 501(c)(3)
<b>Loan Size / Quantity</b>	Up to \$2,000,000 per loan to select Community Priority Projects. Max 2 loans per year per developer
<b>Term</b>	Acquisition/Construction/Lease-up: to 24 months City Loan: up to 42 years
<b>Interest Rate</b>	0% Acquisition/Construction/Lease-up 2% Amortizing Loans 4% Cash Flow Note – based on Surplus Cash
<b>Maximum Loan to Value Ratio</b>	Not Applicable; however, at least 10% of the development cost must be funded by non-City sources and property purchase price may not exceed appraised fair market value
<b>Minimum Debt Service Coverage Ratio</b>	1.15 combined on all amortizing debt including City's note
<b>Type of City Loans Available</b>	Deferred until completion of project or other negotiated milestone.  Amortized Note: Based on 1.15 DSCR for City note and all senior debt  Cash Flow Note: Repayment from negotiated % of surplus cash  Split Loan Note containing 2 promissory notes: 1) an Amortized Note for that portion of the loan (based on a 1.15 DSCR) that can be paid on a monthly basis and 2) a Cash Flow Note for the remaining portion of the loan

	<b>Gap – Rental Housing</b>
<b>Security</b>	Construction & Permanent loans are secured by a promissory note, deed of trust, and Declaration of Affirmative Land Use Restrictions
<b>Leveraging</b>	Developer must provide 10% of Total Development Costs (TDC) with equity or other non-City funds and property purchase price may not exceed appraised fair market value
<b>Affordability Requirement</b>	<p>Non-LIHTC projects: At least 20% of assisted units are rented to and affordable by families with incomes below 50% AMI and all remaining assisted units rented to and affordable by families with incomes below 60% AMI</p> <p>LIHTC projects: All assisted units are rented below 50% AMI</p> <p>Affordability covenant is 30 years for Amortized Loans and 40 years for Cash Flow Loans and Split Loans</p>
<b>Allowable Uses of loan proceeds</b>	Site acquisition, construction, soft costs, etc. associated with affordable units within conventional multifamily developments Allowable uses may be affected by the fund source.
<b>Forbidden Uses of loan proceeds</b>	City loans are intended as “gap” financing and therefore cannot be used for re-financing, loan guarantees or developer fee
<b>Selection Method</b>	NOFA, RFP
<b>Application Deadlines</b>	Applications must be submitted by NOFA/RFP deadlines
<b>Staff Review Processing Timeline</b>	Up to 90 days following the close of the application period

## **CHAPTER 2: Special Needs Housing Loan Program**

### **2.1 Availability of Funds**

The Department provides a variety of funds for this program in amounts established annually by the City for each fiscal year. Decisions regarding which type of funding to utilize for a specific loan will be made by the Department. Different funding sources may have different regulatory requirements.

For purposes of this loan program, Special Needs Housing is defined as: Properties that are (i) uniquely designed and/or financed to meet the housing and service needs of a target special needs population and (ii) provides supportive services for residents. It does not refer to traditional rental properties that serve special needs residents in a mixed residency environment (such properties are eligible for funding through the Affordable Rental Housing Loan Program). Examples of Special Needs Housing include homeless and transitional shelters, housing for disabled persons, HUD 811 or 202 properties, etc. Additional information regarding City of Phoenix assistance for homeless programs is available through the City's Human Services Department.

- A. **Program Goal:** This strategy targets the development of properties that serve residents with special needs by providing housing that is specifically linked to supportive services. Projects may be either new construction, acquisition with rehabilitation, or rehabilitation.
  
- B. **Eligibility:** Qualifying properties:
  - must be located within the City
  - must be developed by non-profit organizations
  - must not be a Low Income Housing Tax Credit (LIHTC) Project
  - must be specifically designed to serve the needs of a special needs population. (Examples include but are not limited to homeless and transitional shelters and housing for the disabled. Housing for the elderly is not considered in this category unless extensive support services will accompany the housing.)
  - must provide or link appropriate supportive services to residents as evidenced by a contractual agreement, such as a Letter of Support or Memorandum of Understanding.
  - must meet the [Minimum Property Standards](#) established by the Housing Department and pass the Uniform Physical Conditions Standards as set forth in 24 CFR 5.705 of the HOME regulations.
  
- C. **Financial Guidelines:** The applicant must demonstrate that there is sufficient annual funding for ongoing operations. As rental revenue from operations is often minimal due to the fact that beneficiaries of these projects have little to no income, these properties rely heavily on operating subsidies from sources other than the Department to remain viable. *The Department does not provide operating funds.* An analysis of the availability and reliability of the operating revenue, and any unique operating or supportive service costs, is a key component of the Department's financial feasibility analysis. Department loans for special needs housing will typically be forgiven without mandatory debt service due to limited cash flows. Unpaid interest and principal will be forgiven at the scheduled maturity date contingent on continuing compliance with contract requirements. However, the Department will analyze the project's ability to repay debt including all income sources.



1. The City makes assistance available for Special Needs Housing where household incomes are typically at or below 60% of AMI or residents meet the definition of homelessness and supportive services are provided.
2. Because many such projects cannot afford debt service, the City loan will often be a deferred payment loan which is only payable in the event of sale of the property, termination of use of the property as special needs housing, or other default as provided in the City's loan documents.
3. An affordability period of 40 years will be required on all assisted units.

Additionally, the proposed project will be evaluated according to underwriting requirements described in **Attachment A – Standard Underwriting Requirements for Affordable Multifamily Rental and Special Needs Project Loans**.

## 2.2 Loan Requirements

### A. Loan Limits:

- Loans are limited to \$2,000,000 per project citywide, but determined by the department in each Call for Interest process.
- Only properties that meet the Department's definition of Special Needs Housing may be assisted under this program.
- Applicants must demonstrate that rent proceeds or other funding sources will allow for adequate reserves to meet capital needs for at least 40 years.
- Applicants may receive no more than one program loan each year.

### B. Term:

- City loan maturity will coincide with the term of any permitted permanent senior debt, to a maximum of 42 years (In City's discretion commencement of the repayment period may be deferred for up to 24 months to allow for completion of acquisition and construction activities and lease-up).
- Specific loan terms will be determined based on project requirements.

### C. Repayment:

Because many special needs projects cannot afford debt service, the City loan will often be a deferred payment loan which is only payable in the event of sale of the property, termination of use of the property as special needs housing, or due to a loan default as provided for in the City's loan documents. If a developer clearly demonstrates the unavailability of revenue sources for debt service, the loan may be forgivable in whole or in part if specified conditions are met. There would be no forgiveness until the loan has matured.

However, when there is significant cash flow to pay back the City Loan, the following terms will apply:

- In the City's discretion payments may not be required during the acquisition, construction and lease-up phase.
- City loans may be repaid as an amortized loan, a cash flow loan based on available cash flow or a combination of both types of loan called a "Split Loan." In the case of a Split Loan there will be two notes, each having different repayment terms. Any accrued but unpaid interest and

principal is due in full at loan maturity. Disinvestment by owner or investor is discouraged but will be considered on a case-by-case basis. The City will only allow pay back of a Carry Back Note out of borrower's share of surplus cash. Upon completion of construction/lease-up (or other fixed date), loans shall begin to accrue interest and shall be subject to repayment under one or both of the following loan terms:

Amortized Loan

The City will determine what portion of its loan can be paid on an amortized schedule using a 1.15 minimum debt service coverage ratio (DSCR) inclusive of the City's loan and all senior debt. Loan payments will be amortized monthly or according to some other agreed upon installment payment schedule, over the approved term.

Surplus Cash Loan

If full amortization is not feasible due to limited cash flow, funds shall be repaid from an agreed upon percentage split of surplus cash on an annual or bi-annual basis. Borrowers must provide an Annual Cash Flow Analysis Report that demonstrates the calculation and accrual of applicable surplus cash funds.

- Repayment terms of the loan will be determined upon review of the sources available to the developer for operations and services.
- Definition of Surplus Cash

Surplus cash means for the fiscal year period ending prior to the annual installment date, the sum of gross rent revenues (less rental taxes and tenant security deposits) and other income (other income includes, but is not limited to, proceeds from the sale of the Property or transfer of ownership and withdrawal of equity) received from the operation of the project including amounts withheld from security deposits returned to tenants, less (a) annual accrued debt service for approved permanent senior loan(s); (b) actual operating expenses (including but not limited to utilities, supplies, repair and maintenance costs, property taxes, property management fees, asset management fees, and insurance escrows and reserves, and amounts deposited in any replacement reserve account) and excluding allowed or allowable depreciation, and (c) payments of an asset management fee pursuant to an Asset Management Services Agreement as required in a Low Income Housing Tax Credit (LIHTC) project.

Specifically excluded expenses include any payments or disbursements to the project owner and/or borrower of City funds, tax credit adjustors, depreciation, payments pursuant to developer guarantees. Surplus cash will be calculated based on an audited annual cash flow analysis report for the fiscal year period ending prior to the annual installment date.

- Reserves and Operating Expenses

The amount of required reserves must be specifically approved by the Department in the final loan agreement or through the annual budget review and approval process, and will typically match reserve requirements imposed by the Arizona Department of Housing when Low Income Housing Tax Credit (LIHTC) Program is utilized. Operating expenses shall be determined on a GAAP accounting basis and shall not include any payments to parties affiliated with the borrower, to the extent that such payment exceeds the typical cost of procuring equivalent services from an unrelated third party. The Department may update this definition from time to time. **See Attachment A – Standard Underwriting Assumptions for Affordable Multifamily Rental or Special Needs Project Loans.**

D. Interest Rate:

- 0%

- E. Affordability Restrictions: All Special Needs Projects are subject to affordability restrictions which limit resident incomes and rents paid based on levels of AMI established annually by HUD. All units in the project serving the same target population and all units receiving City loan proceeds must be reserved for households whose income does not exceed 60% AMI or who are homeless. For this purpose, a “Period of Affordability” is established during which time the Special Needs Project must remain affordable and restricted. Federal funding regulations require a minimum Period of Affordability and the City requires an Extended Period of Affordability in order to meet the City’s public purpose requirements for allocation of federal funds. Therefore, the City’s loan agreement will state two periods of Affordability: The HOME/CDBG Program Period of Affordability and the Extended Period of Affordability. The City’s restrictions will commence after expiration of the HOME/CDBG restrictions. A minimum combined 40-year Period of Affordability will be required.

The Period of Affordability will commence upon recording of a “Certificate of Completion.”

AMI levels and applicable rents which are adjusted for family size and change annually can be found on Attachment F – Rent, Affordability & Occupancy Limits. However, AMI limits and restricted rents may not be applicable to some projects targeting certain exempt populations. An example would be a shelter serving homeless persons and/or families.

- F. Security: A Deed of Trust, UCC Financing Statement, Promissory Note, Declaration of Affirmative Land Use Restrictions and Collateral Assignments will be required for every loan.
- G. Subordination to Senior Debt: The City’s loan may be subordinated to another lender’s mortgage lien only if subordination is required as a condition of that lender’s loan approval. Senior debt must be provided on a fully amortizing basis with a term of at least 18 years.
- H. Loan-to-Value Limits: A loan-to-value limit is not applicable. However, property purchase price must not exceed current fair market value, as substantiated by an independent appraisal performed according to USPAP standards and acceptable to the City. Appraisals must conform to the Uniform Relocation Act guidelines if relocation is involved in the project. The appraisal cannot be a “restricted” report prepared solely for the developer or another entity. Additionally, the City will only accept a summary or self-contained appraisal report which includes the City of Phoenix as an intended user. There should be enough data and analysis in the report for the reviewer to analyze the information and arrive at the same conclusions as the appraiser. Appraisals will be reviewed by the City's Appraisal Section.
- I. Borrower Contribution: At least 10% of the total development cost must be funded by borrower equity or other grant funds.
- J. Debt Service Coverage Ratio: Typically, a DSCR is not a factor when structuring City loans for special needs projects. However, when rental income is available, the Department may consider an amortized loan. The combined DSCR on all amortized loans shall be at least 1.15. For projects that do not utilize amortized loans, this DSCR requirement does not apply, but financial projections must demonstrate the likelihood of a reliable positive cash flow to support operations.

- K. Recourse: Acquisition, Construction and Permanent Loans are provided on a non-recourse basis and are secured by the collateral as noted above in Item F. Loans may be cross-collateralized against properties included in the same financing transaction.
- L. Allowable Use of Funds: All costs necessary for site acquisition, construction, energy conservation, and/or rehabilitation attributable to the housing. Ancillary supportive services space such as counseling rooms may be considered. Costs associated with commercial space in mixed-use projects may be included in the total development cost budget, but cannot be paid with City funds.
- M. Funding Conditions – Predevelopment Phase: Funds are not available for predevelopment loans.
- N. Funding Conditions – Acquisition Phase: Loans for site acquisition will not be funded unless all pre-conditions to Construction Phase funding have been achieved. Exceptions may be considered for HUD 811 / 202 program loans. Acquisition loans must record in first lien position.
- O. Funding Conditions – Construction Phase: Prior to, or concurrently with, Construction Phase funding, the borrower must provide evidence that all other necessary construction funding sources have been committed and closed, that binding commitments are in place for all sources of permanent “take out” financing, that building permits have been approved and are ready to issue, and that a bonded, fixed price general contract has been executed and is based on the final approved plans and specifications.
- P. Operating Subsidies: Most special needs projects rely heavily on operating subsidies for their financial viability, as rents are often restricted to very low income residents and do not provide sufficient revenue to fully offset operating costs and prudent reserve funding. The Department will evaluate the expected reliability of any proposed subsidy sources to verify that the project’s financing structure and capital reserve funding is likely to be successful over the long term.
- Q. Assignments: Loans or loan commitments are not assignable without the prior written approval of the Department. Generally, Acquisition and Construction Phase loans are not assignable, but the Department will consider the assignment of Permanent Phase loans upon confirmation that the property is operating in accordance with all regulatory agreements, remains financially viable, and the capacity and creditworthiness of the proposed assignee is demonstrated. If assignment is approved, the assignee must assume all loan obligations including, but not limited to, the affordability requirements.
- R. Construction: Housing or site construction may begin only with the express written approval of the Department (a preconstruction conference must be held among the Department, developer, and contractor and the Department must issue a Notice to Proceed).
- S. Fair Housing and Affirmative Marketing: The Developer will be obligated to comply with Department policies and all applicable federal, state and local laws, codes and ordinances regarding nondiscrimination in the rental or operations of the property.
- T. Prevailing Wage Policy: All applicants receiving City funded acquisition or construction funding from HOME funds that assist 12 or more HOME units or construction funding from CDBG funds that assist a project with 8 or more units must comply with Federal Davis-Bacon wage requirements. Davis-Bacon compliance also may be required in connection with other federal funding sources, such as HOPE VI grants and NSP funding.

- U. Certification of Compliance with the Phoenix Crime Free Multi-Housing Program: is not required, however, the borrower should provide evidence that it utilizes strategies to deter criminal activity and provide a safe environment as obtained through adherence with the Crime Free Multi-Housing Program.
- V. Section 3 Requirements: All applicants receiving \$100,000 in federal funding from HUD via the City for affordable housing development will be subject to Section 3 contractual requirements. Section 3 refers to the Housing and Community Development Act of 1968. The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD assisted projects shall “to the greatest extent feasible,” be directed to low- and very-low income persons, particularly persons who are recipients of HUD assistance for housing and to business concerns that provide opportunity for employment for low- and very-low income persons. Section 3 reporting will be required in acquisition and rehabilitation and new construction loan agreements over \$100,000 between the Department and the borrower.
- W. Minimum Property Standards: In the fall of 2013, the Housing Department created A Minimum Property Standards Manual as required by federal regulations. The Manual has been designed to ensure that all properties acquired, constructed or rehabilitated with federal funds can pass the Uniform Physical Conditions Requirements as set in the revised HOME regulation. Energy efficiency, construction materials useful life of major systems, accessibility and lead based paint requirements are also discussed in the Manual.

### **2.3 Avoiding and Dealing with Project Performance Problems**

#### **Problems During Construction**

Program funds are designed to create new or additional affordable units. The City, at its sole discretion, may consider the allocation of additional funding to non-profit developers experiencing extraordinary cost increases realized between the date of initial City Council funding approval and end of construction. However, the City will look for additional public benefit and/or greater return on its investment. The City will not retroactively consider such requests.

#### **Problems During Operations**

As one of several lenders, the City may consider a forbearance agreement or other loan modification on the same or similar terms provided by senior lenders. Consideration of forbearance to a project with an existing City loan requires an application, new set aside units, and a new review of the project.

### **2.4 Application Processing and Predictability**

In order to be responsive to critical dates for other public financing and leveraging of resources while at the same time assuring City Loan Program predictability and efficiency, the City will publish a Notice of Funding Availability (NOFA) at least annually on the City’s website at [Solicitations](#) announcing funds available for Special Needs Projects. This and all Department Notices will be sent to subscribers of the Housing Department’s [Community Partners List Serve](#).

City review, recommendation and City Council authorization, if approved, typically occurs within 90 calendar days following approval of a completed application. Detailed instruction is contained in the NOFA.

The purpose of this approach is to enable a thorough review of major loan requests prior to the time a commitment letter is needed from the City for other funding applications. This approach also allows the City to compare project costs, per unit loan requests, project readiness and other information among projects in order to select those that best achieve City objectives.

## 2.5 Basic Requirements for All Applications

The purpose of City loans is to assist qualifying projects, i.e., the City will only make loans that are part of a specific City approved project. The City will not make loans that are unsecured or lack sufficient collateral. Loan request will be reviewed based on the merits and economics of the project and the full capability of the development team. The City may choose to not financially participate in the refinancing of a project where there is cash out to the borrower and/or developer. The City may choose to not participate in a transaction where an owner receives cash back in the refinancing or sale of property for a profit or gain. The includes other transactions with similar results.

The following basic requirements apply to all the loan programs and will be considered during the evaluation:

- *Feasibility Assessment:* Due to market location, prevailing economic conditions, low income rent targeting, or property operating costs, the typical affordable housing development is economically infeasible without some degree of public financial assistance. The Department may provide assistance to projects in the amount minimally required to create financial feasibility.
- *Affordability Targets for Rental Housing:* All units assisted by the City must offer rents at or below the HUD maximum rents established annually. At least 20% of the **City-assisted** units must serve households with incomes at or below 50% of AMI, and all remaining City-assisted units must serve households with incomes at or below 60% AMI. In a 100% LIHTC project all City-assisted units will serve families with incomes at or below 50% of AMI.
- *Utility Allowances:* Individual utility allowances for each rental project (new or major rehabilitation) must be determined either 1) by using the [HUD Utility Schedule Model](#) or 2) ADOH LIHTC Utility Model or 3) by otherwise determining the allowance based upon the specific utilities used at the project, such as in the case of a proposed minor rehabilitation project which has historical data by which to determine utility allowances, or 4) other City Approved Model.
- *Affordable Units Standard:* The affordable units must be scattered throughout the project and have the same proportional mix, sq. ft., and amenities as non-restricted units.
- *Leverage Objective:* Prior to submitting a funding application to the Department, the developer shall demonstrate efforts to effectively leverage the use of public and private funds for the proposed project by identifying other available programs and designing the project to qualify for relevant sources of assistance.
- *Loan Security:* Department financial participation shall be in the form of loans, and shall be secured by a recorded Deed of Trust and UCC Financing Statement and personal guarantees, as required by the department.
- *Continuing Affordability:* A Declaration of Affirmative Land Use Restrictions will be recorded to ensure compliance with applicable regulatory and affordability restrictions. The Period of Affordability will be determined independent of the amount or length of the City's loan, and may



exceed the loan term. Generally, affordability requirements are 40 years from project completion and survives foreclosure.

- *Economic Viability:* Development proposals shall appropriately consider prevailing market conditions such as vacancy levels, rent comparability and neighborhood impact to ensure that projects are well located and contribute to neighborhood stability and vitality.
- *Environmental Assessment (EA) and Clearance:* All projects must undergo an environmental assessment before funds may be released. If federal funds are involved in the project through a City loan or other source, no project acquisition (exempting reasonable down payment costs) or construction activities may take place after application submittal and prior to the completion of the environmental clearance process, regardless of the source of funds being utilized for the activity. Funds expended prior to contract execution are at the risk of the borrower. **Expenditure of funds after making application to the City and before clearance is completed may make the entire project ineligible for federal funds.**
- *Consolidated Plan Consistency:* The programs and projects must serve a balance of families, senior citizens, and special needs populations. The specific weight given to each program and project will be consistent with the Housing Element of the City’s General Plan and Consolidated Plan.
- *Readiness:* Federal subsidies often require that funds committed be expended within a fixed time period. Therefore, projects submitted must demonstrate their readiness to begin implementation.
- *Development Standards:* After rehabilitation or development, all properties must meet the Department’s Minimum Property Standards, these standards ensure long term viability of the property, and accessibility standards under Section 504 of the Rehabilitation Act of 1973.
- *Design Requirements:* Must adhere to the Department’s [Minimum Property Standards](#) revised in November, 2016.
- *Waiver Requests:* Waivers of the City Council approved Underwriting Guidelines are discouraged and will only be considered where the waiver will better serve program objectives or the City’s Affordable Housing Development Community Priorities. The applicant must demonstrate that unique circumstances apply to the project in order to be considered for a waiver.
- *Site and Neighborhood Standards:* 24 CFR 983(e)(2) and (3) which assess the overall impact of HUD-assisted housing on the availability of housing choices for low-income minority families in and outside areas of minority concentration.

## 2.6 Threshold Application Requirements

Affordable Multi-Family Rental Gap Loans are designed to provide funds during the acquisition, construction and/or permanent financing phase of a development, in an amount equal to a project’s feasibility gap. The feasibility gap is the amount of funding required to create a financially viable transaction after considering the impacts of affordability restrictions, location, identifying other private financing program available, and market conditions. The project should reflect full repayment of the loan through debt service and compliance with the affordability period.

Developers and their proposed projects must meet the following threshold criteria:

### A. Threshold Criteria for the Borrower

- Application must be submitted on or before the specified application deadline.
- Developer and all members of the development team must be in good standing with City i.e. current on loan obligations, good past performance, contract compliance and current on tax obligations to the City.
- No member of the development team may be on the HUD Debarment List
- Property Management Experience, minimum 3 years' experience managing federally assisted properties with comparable size and resident type (special population). Properties must have federal affordability restrictions and income requirements of tenants.
- The application must be complete. Incomplete applications will be returned to the applicant.
  - Complete Application shall consist of:
    - Application form completely filled out:
      - *All pages, check boxes, and narrative sections complete*
    - Signed Application Certification
    - Completed Pro-forma workbook:
      - *Operating Budget, Development Budget, Construction Budget, and Pro-forma*
      - *Development Budget- must include 10% match from outside sources*
    - Financials
    - Relocation Plan and signed GIN's (if applicable)
    - Project Timeline
    - Community Outreach:
      - *One meeting: provide agenda, sign-in sheets, meeting minutes and all outreach efforts;*
    - Proof of Zoning:
      - *Zoning Application in-process (demonstrated through Application and Timeline)*
    - Proof of Site Control:
      - *Deed or valid and current Purchase Agreement*

## **2.7 Additional Information required for All Applications**

- Applicant Certification
- Authorizing Resolution
- Organizational Documentation Indicating Eligibility
- Occupied Building(s) and Relocation Information
- Consistency with Consolidated Plan
- Financial Statements
- Development and Management Experience
- Development Team Forum
- Property Management Experience
- Property Management Plan and Affirmative Fair Housing Marketing Plan
- Site Area Attractions
- Market Study (if available)
- Energy Efficiency Accreditation information
- Energy Efficiency Components
- Site Plans and Elevations
- On-site Amenities
- Section 504



- General Contractor Experience
- Timeline
- Zoning
- Community Outreach
- Phase I and Appraisal (if available)
- Financial Commitments
- Identified Risks
- Contingency
- Match Funds
- Project Impact
- References
- Fully completed and signed offer page
- Fully completed and signed disclosure form
- Fully completed and signed proposer certification and affidavit signature
- Fully completed Identities of Interest Disclosure Form

## 2.8 Evaluation Criteria

Applications received pursuant to an RFP will be evaluated in accordance with the RFP criteria and Department project objectives. Thereafter, applications that meet program thresholds will be scored based on the extent to which they address Department affordable housing policies as described on page 3 of this document under Policy Background. In the event that insufficient funds are available to meet the requirements of all qualifying applications, the highest scoring applications that are ready to proceed will be funded first.

Evaluation Criteria Applicable to All Applications:

### **Experience**

Developer Capacity: Each applicant must demonstrate that its organizational and staffing capacity is sufficient to complete the proposed project without reliance on Department staff. The firm's direct experience being the lead developer for affordable housing development including the number of projects completed and years of experience for projects that are equal to or larger will be considered.

Property Management & Management Plan: Applicants must describe the experience of the proposed property management firm in successfully managing properties of similar size and resident type for a minimum of 3 years. A management plan must be included that describes significant management policies including but not limited to security, marketing programs, eviction process, and any financial considerations (i.e., affordable rent levels, resident income, sources of project operating subsidy required) that have an impact on project operating policies.

Proposal Presentation: Applicants will be evaluated on the presentation of their application, how well their application is organized to align with the RFP and the thoroughness of the application.

### **Project Merits**

Project Need: Applicants must identify via market study the housing need being fulfilled by the proposed project. Applicants are to identify in their application the site area attractions that are located within 1-mile radius of the project site.

Energy Efficiency: Consideration will be given to projects that have incorporated energy efficiency components, and look to obtain LEED certification (or other energy efficiency accreditation).

Construction & Design: Applicants must include a proposed site plan identifying the location of residential units, commercial uses, and community facilities and amenities. An elevation rendering and floor plans of the proposed development must also be included, accompanied by a written narrative describing design considerations such as: unit mix, unit size, amenities provided, construction type, energy conservation and accessibility features, architectural style, site plan layout, security and access issues, parking plan, and relationship of the scale, setbacks, and proposed design to adjoining properties. Scoring will weight favorably on projects with the most number of “accessible” units, and on-site amenities. Evaluation will also consider the general contractors experience and capacity to complete the project scope.

Project Readiness: Applicants must submit a development timeline identifying major development activities, responsible staff, deadlines, funding application dates, etc. to demonstrate the viability of the proposed development and assist the Department in evaluating the likelihood that the project will succeed. The developer should indicate that the site is properly zoned or has submitted an application to begin the re-zoning process. Applicants must provide proof that community meetings were held; documentation must include an agenda, location, list of attendees, and meeting minutes. Point will be awarded to applicants that include a current Phase I/ and appraisal in their submission.

### **Financial Feasibility**

Development Financing Plan: Applications should include the Department’s *Standard Underwriting Assumptions* contained in Attachment A. Applications must include documentation of financial commitments in the amount covering the Total Development Cost. Pro-formas must demonstrate the ability to fund operations for the extent of the HUD affordability period.

Identified Risks: All development projects are subject to elevated levels of risk at the early stage of the predevelopment process. To assist both the applicant and Department in reasonably assessing and mitigating these risks, applications must identify any significant issues that could delay or prevent the proposed transaction (e.g., zoning actions required, environmental issues, site control issues, neighborhood or market conditions, unusual funding assumptions, etc.). Projects are required to include 5% contingency for new construction projects and 10% contingency for rehabilitation projects.

Leverage of City Funds: Applicants are required to include 10% match funding from equity, grants, or loans. Additional points will be awarded to agencies with HOME eligible match funds. Proposals that best leverage City funds with the lowest HOME cost per HOME unit.

### **Project Impact**

Project Impact: Applicants will be rated on how likely their project is to succeed, accomplish its goals on time, successfully serve the identified population, and demonstrate financial feasibility.

## **2.9 Overall Application Processing Procedure**

Processes are described in the following phases:

- Pre-Application Review
- Application
- Evaluation
- Loan Documents
- Loan Funding
- Project Development
- Compliance & Monitoring
- Annual Reporting

- Loan Servicing

#### Pre-Application Review Phase

Prior to receipt of a loan application, Department staff is available to address questions from potential developers and provide pre-submittal consultations regarding specific project concepts. While such consultations do not commit the Department to fund a particular proposal, they provide valuable insight into the prospective benefits, funding availability, and issues associated with a potential development. Discussion of proposed projects cannot take place during the solicitation period.

This process is mutually beneficial to the Department and developer and is encouraged. Early knowledge of the project enables staff to begin performing a variety of regulatory reviews (including archaeology, environmental impacts, flood, Sec. 404, etc.) and avoid undesirable delays at a later point in the development cycle. Developers are encouraged to notify the Department by submitting a written “Interest Letter” as early as possible in the development process – please refer to Attachment C regarding the Environmental Review process.

**IMPORTANT NOTE: If federal funds are required to make a project feasible, environmental clearance must be obtained and a Release of Funds received from prior to any activity or expenditure of funds from any source dedicated to the project.**

All projects must undergo an environmental clearance before funds may be released. If federal funds are involved in the project through a City loan or other source, no project acquisition (except reasonable down payment costs) or construction activities may take place after application submittal and prior to the completion of the environmental clearance process, regardless of the source of funds being utilized for the activity. Funds expended prior to a Release of Funds from HUD are at the risk of the borrower and may not be eligible for reimbursement through the City loan. Additionally, federal funds may not become available for the project if an environmental mitigation is required and the project has developed to such an extent that the mitigation will cause extreme costs or delays to the project, thereby making the project unfeasible.

#### Application Phase

Annually, the Department accepts applications through a competitive process such as a Request for Proposals (RFP) or Notice of Funding Availability (NOFA). However, the department will accept applications throughout the fiscal year (in which the RFP or NOFA occurs) for consideration as funding becomes available due to a variety of reasons. The funding cycle typically occurs prior to the Arizona Department of Housing Low Income Housing Tax Credit (LIHTC) cycle to allow adequate time for the Department to determine which projects will be recommending by Council for the LIHTC round.

#### Evaluation Phase

Upon receipt, each application is assigned to a Department staff member for review. Applications are first reviewed for completeness, then for compliance with all applicable threshold requirements, and then scored by a department-appointed selection committee made up of representatives from city departments and community partners with housing development expertise but have not competed in the current City federal funding application round.

During the process of application evaluation, Department staff will perform a range of underwriting tasks and create a summary of the project per Evaluation Criteria discussed above in 2.8. This summary will be presented to the department-appointed committee. The committee will review all proposals and prioritize

according to the City's most urgent affordable needs. They will prepare a recommendation to the City Council through the Housing Department Director.

Applicants will be notified of the committee's decision within ten business days following the decision date. Final loan approvals will be issued as soon as possible thereafter, using one of the following methods:

1. Projects ready for immediate funding and will go to City Council for final approval.
2. Projects with longer lead times may be issued a Notice of Intention to Fund that can be used for purposes of leveraging funding from other sources to complete the project financing requirements. The support letter will serve as a conditional funding reservation for a specified period of time. The Department may decline to fund applications whose funding reservations have expired.

Prior to expiration of the conditional reservation, and upon receipt of evidence from the applicant that other necessary funding has been obtained and the project is ready to proceed, Department staff will review the transaction to ensure that it remains consistent with the original application. Projects consistent with their original applications will be presented to City Council for approval. Projects materially inconsistent with their original application or not feasible will not be recommended for funding.

Applicants will be notified of all City Council hearings in advance.

## **2.10 Loan Documents**

Once applicants have been notified that a City loan has been approved, the assigned housing staff member will coordinate with the City Law Department in drafting the City's loan documents, incorporating regulatory requirements and any special conditions. The Department will also complete any necessary regulatory review and the required site-specific environmental review and will provide notice of any required mitigation measures as a condition of the loan commitment. Applicants will be provided a copy of the draft loan documents for review and comment.

A City Loan Agreement includes Loan Agreement, Promissory Note, Deed of Trust, UCC Financing Statements, Declaration of Affirmative Land Use Restrictions and collateral assignments).

Developers that are required to comply with prevailing wage regulations as a condition of their commitments should schedule a pre-construction meeting with the department's Davis Bacon Compliance officer to ensure that the development team and contractor understand the implication of prevailing wage monitoring on the construction process and that appropriate provisions are included in construction contracts.

Projects assisted with federal funds may be subject to the requirements of Section 3 of the Housing and Community Development Act of 1968 which requires employment and other economic opportunities generated by HUD assistance or HUD assisted projects shall "to the greatest extent feasible," be directed to low- and very low- income persons, particularly persons who are recipients of HUD assistance for housing and to business concerns that provide opportunity for employment for low- and very low- income persons. Section 3 reporting will be required in acquisition, rehabilitation, and new construction loan agreements over \$100,000.

The requirements of the Section 3 regulation include, but are not limited to, development and implementation of an affirmative action plan for utilizing business concerns located within, or owned in

substantial part by persons residing in, the area of the Project; the making of a good faith effort, as defined by the regulations, to provide training, employment and business opportunities required by Section 3; and incorporation of the “Section 3 clause” specified by 24 C.F.R. Part 135 in all contracts for work in connection with the Project.

Section 3 requirements will be a part of the City loan agreement and must be incorporated into the general contractor’s agreement and subcontractor agreements.

## **2.11 Loan Funding**

In preparation for loan funding, the designated staff member will perform the following:

- A. **Verification of Closing Conditions:** Review all pre-funding conditions of the Loan Agreement to ensure that the borrower has complied with conditions and provided necessary documentation.
- B. **Fund Escrow:** The recording of loan documents and satisfaction of closing conditions generally will be handled through an escrow. If funds are to be disbursed to a borrower at closing those funds may be disbursed through the escrow. Other loan funds will be disbursed by the Housing Department to pay or reimburse project expenses in accordance with the procedures described in the loan agreement.

Before signing loan documents applicants may request a meeting with Department staff to review the Department’s escrow instructions, conditions for disbursement of any funds, recordation of documents, title insurance policy requirements, and post-closing reporting and compliance expectations.

- C. **Scheduling the Closing:** Borrower will be responsible for opening escrow, scheduling the closing, collecting, and reviewing final loan documents and working with Department staff to set a closing date.
- D. **Loan Funding:** Prior to disbursement of loan funds the Borrower must comply with all conditions set forth in the loan agreement and provide the Department with the following:
  - Original or certified copies of executed loan documents
  - Proof of current property tax payments
  - Proof of insurance meeting City insurance requirements
  - Payment and Performance Bond
  - DUNS Number
  - Title insurance meeting Department standards
  - Proof of compliance with prevailing wage requirements, if applicable

Additionally, the Department must have, on file, a Release of Funds from HUD.

## **2.12 Project Development**

Borrowers must comply with various provisions of the loan agreements that typically begin prior to construction. These provisions may include timely submission of construction progress reports, copies of draw requests, project and/or developer financing statements, prevailing wage compliance reports, etc.

Assigned staff will be the borrower’s principal contact during the development process; this person will also serve as the focal point for coordinating between the borrower and City departments responsible for the enforcement of Federal, State and Local regulations such as NEPA, Section 3, prevailing wages, and other compliance issues.

### **2.13 Compliance & Monitoring**

Upon project completion, a Department Compliance Section staff member will be assigned to the project. This individual will serve as the borrower's primary contact during the operating phase of the development and is responsible for reviewing continuing compliance with regulatory agreements, affordability restriction, the annual or semi-annual Uniform Physical Condition Standards Inspection and general compliance with the Loan Agreement. Each project's financial performance and verification of timely payment of mortgage payments and any surplus cash payments will be monitored by the City or a City-contracted loan servicing agency.

### **2.14 Annual Reporting**

Borrowers, as stated in the loan agreements, will be required to make periodic reports to the Housing Department to ensure compliance with applicable requirements of City and other funding. The required reports shall provide information on the beneficiaries (homebuyers, renters, special needs populations) of the federal funding and the financial condition of the project. If borrowers have not responded timely to the Department's requested annual or periodic reporting, the project will be found in default of the City loan and borrower contractual obligations. Reports include: Annual Audited Financial Statements, Consolidated Annual Performance and Evaluation Report (July of each year), HOME report if HOME funds were used in the creation of the City's loan, and A-133 Audit if the borrower received more than \$500,000 in total federal funds.

### **2.15 Loan Servicing**

All Special Needs loans will be administered by the City or a City-contracted loan servicing agency that will collect payments, review annual audited financials of projects with a cash flow note; report delinquency to the City and who will conduct other typical loan servicing activities.

## Summary of Special Needs Housing Loan Program

<b>Gap – Special Needs Housing</b>	
<b>Funding Sources</b>	HOME, GO Bonds, HOPWA, CDBG or other special grants
<b>Eligible Borrowers</b>	Non-Profit 501(c)(3) Non-LIHTC Project
<b>Loan Size / Quantity</b>	Up to \$2,000,000 per loan 1 loan per year per developer
<b>Term</b>	Acquisition & Construction: to 24 months Permanent: to 42 years
<b>Interest Rate</b>	0%
<b>Maximum Loan to Value Ratio</b>	Not Applicable
<b>Minimum Debt Service Coverage Ratio</b>	1.15 combined on all amortizing loans including City's note
<b>Type of City Loans Available</b>	<p>Deferred until completion of project or other negotiated milestone</p> <p>No payment if demonstrated inability to pay debt service, loan may be forgiven in whole or in part at end of term</p> <p>Amortized Note: Based on 1.15 DSCR for City note and all other debt</p> <p>Cash Flow Note: If ability to pay, repayment made from 50% of any surplus cash</p> <p>Split Loan Note containing 2 promissory notes: 1) an Amortized Note for that portion of the loan (based on a 1.15 DSCR) that can be paid on a monthly basis and 2) a Cash Flow Note for the remaining portion of the loan</p>

	<b>Gap – Special Needs Housing</b>
<b>Security</b>	Construction & Permanent loans are secured by a promissory note, deed of trust, and Declaration of Affirmative Land Use
<b>Leveraging</b>	Developer must provide 10% of TDC with equity or other non-City funds and property purchase price may not exceed appraised fair market value
<b>Affordability Requirement</b>	All assisted units rented and affordable to families with incomes at or below 50% AMI or homeless persons  Affordability covenant is 40 years
<b>Allowable Uses</b>	Site acquisition, construction, soft costs, etc. associated with affordable units within defined Special Needs facilities. Allowable uses may be affected by the fund source.
<b>Forbidden Uses</b>	City loan proceeds cannot be used for re-financing; loan guarantees or developer fee
<b>Selection Method</b>	NOFA, RFP
<b>Application Deadlines</b>	Applications must be submitted by NOFA/RFP deadlines
<b>Staff Review Processing Timeline</b>	90 days following the close of the application period



## **CHAPTER 3: Homeownership Assistance Loan Programs**

The City of Phoenix Housing Department offers programs described below which are designed to expand homeownership opportunities for families at or below 80% Area Median Income (AMI). They are funded primarily with HOME funds. The City provides construction loans to non-profit organizations that develop homeownership projects, as well as down payment and closing cost assistance programs for qualified homebuyers. The Department may consider other innovative homeownership assistance proposals from non-profit agencies that promote the concept of long-term affordable homeownership.

The following two categories of homeownership programs are available:

- Homebuyer assistance for down payment and closing costs (DPA), and
- Development/Developer assistance.

In all programs, **first-time homebuyers** must meet the following criteria:

- A. Has not owned their principal residence during the previous three years, unless ownership in a home was dissolved due to a divorce.
- B. Household median income does not exceed 80% of the AMI for household size
- C. Family must contribute a minimum of \$1,000 of their own funds towards the purchase.
- D. The property must be the family's principal residence for the entire period of affordability.
- E. The Department does not provide assistance for "Rent to Own" or "Lease-Purchase" transactions.
- F. The purchase price may not exceed 95% of HOME Homeownership Value Limits established for the Phoenix-Mesa-Scottsdale MAS. The limit, set by HUD, can be found at <https://www.hudexchange.info/resource/2312/home-maximum-purchase-price-after-rehab-value/>
- G. The prospective homebuyer's front-end ratios shall be between 28%-31% of household income. The back-end debt ratio must be equal to or less than 45% of household income.
- H. Families must complete pre-purchase homeownership counseling through a HUD certified counselor, as evidenced by a certification of completion.
- I. Property must be located within the Phoenix city limits.

City assistance cannot be combined with any other form of City financial assistance except as specifically approved by the Housing Department.

### **3.1 Homebuyer Assistance Programs**

The Department has structured one first-time homebuyer DPA program:

The Open Doors Down Payment Assistance Program

Applications will be evaluated according to underwriting requirements described in **Attachment B – Standard Underwriting Requirements for Homeownership Assistance Loans**. The City will determine at time of underwriting which of these programs will be offered to a borrower.

#### **3.1.1. The Open Doors Down Payment Assistance Program**

The Open Doors Down Payment Assistance Program offers assistance to eligible families up to 10% of purchase price in a soft second loan, depending on need and eligibility of homebuyer. It is administered by public agencies and/or non-profits who are awarded contracts through a competitive process. The public agency and/or non-profit determine applicant eligibility, and process all loan documents for the closing. The 0% interest soft second loan may be used towards closing costs and down payment assistance. Loans are made on an “as needed” basis. No cash back is allowed to the homebuyer. Families must complete pre-purchase homeownership counseling through a HUD certified counseling agency by a HUD-certified housing counselor, as evidenced by a Certificate of completion.

Loans are secured through a contractual agreement between the City and the homebuyer (borrower) including a Promissory Note, Deed of Trust, and Declaration of Land Use Restrictions. The family must own and occupy the home as their primary residence for the Period of Affordability (POA), which varies based on loan amount.

- For loans \$15,000 and higher
  - 15-year period of affordability.
  - 10% of the loan forgiven annually beginning on the sixth anniversary/year of the recording of the City Deed of Trust.
- For loans of \$14,999 or less:
  - 5-year period of affordability.
  - 25% of loan value forgiven annually beginning on the second anniversary/year of the recording of the City Deed of Trust.
- If there is no disqualifying event, this loan is fully forgiven when the period of affordability is met. A “Disqualifying Event” means the occurrence of any one (or more) of the following:
  - An event of default
  - The property ceases to be occupied by Borrower as Borrower’s principal residence, or
  - All or any portion of Borrower’s interest in the Property is transferred or conveyed by any means whatsoever, whether voluntary or involuntary, including by sale, gift, encumbrance, conveyance, lease, assignment, or foreclosure.

Upon sale, refinancing and/or evidence of default as defined in the loan agreement, the pro rata loan amount will be due and payable to the Department. If at any time during the affordability period, the buyer defaults on the primary mortgage and triggers foreclosure, the City will recapture the entire loan amount to the degree possible. Buyers may refinance without triggering recapture if refinance is only for better rate and term with no cash out. Prior City approval is required.

Environmental rules may limit the number of loans that may be awarded by the same nonprofit for a newly constructed house in any new subdivision or housing development or within 2,000 contiguous feet of each other in an infill project without a City environmental clearance assessment (which may take 3-4 months).

Program Requirements:

- Homes may be existing or new construction and must be located within Phoenix city limits.
- Homes must pass a Uniform Physical Condition standards (UPCS) inspection.

- The purchase price must not exceed 95% of the Area Median Sales Price as set for the City of Phoenix. The limit, as set by HUD, can be found at <https://www.hudexchange.info/resource/2312/home-maximum-purchase-price-after-rehab-value/>
- The purchase price of the home cannot exceed the appraised value.
- Homes must pass an appropriate environmental review for down payment assistance.
- Homebuyer must obtain a minimum two-year home warranty from a qualified entity. Fees for the home warranty may be paid at close of escrow.
- Borrower(s) must sign a City of Phoenix loan agreement for the soft second loan.
- Borrower(s) must qualify for a loan term no greater than 30 years.
- No sub-prime loans are permitted.
- Loan terms cannot include the following:
  - Adjustable-rate mortgages (ARMs); Negative amortization; Balloon payments; Interest-only payments; Rates exceeding double the industry standard; Prepayment penalties; Closing costs exceeding 3% of the loan amount; cash out.

### 3.2 Homeownership Development Assistance Program

Through a NOFA or RFP the department from time to time will consider affordable homeownership projects involving new construction or rehabilitation of existing housing stock. An additional component of the NOFA or RFP can include the offer of down payment and closing cost assistance for the end buyer. If the down payment assistance is linked to a development project or is geographically targeted, it will be administered by the nonprofit developer for use by the eligible borrower. The City's Loan Agreement will outline the down payment/closing cost assistance loan terms, eligibility requirements for the borrower and loan amount. These terms will be based on the proposed project and housing market conditions.

Assistance to the developer may be offered in one of two types of loans as described below.

- Down Payment Program with Acquisition/Construction Loan for Developer
- Second Mortgage Buyer Assistance Loan (Anti-Windfall Note)

The Proposed project will be evaluated according to underwriting requirements described in Attachment B – **Standard Underwriting Requirements for Homeownership Development Assistance Loans**. The City will determine at time of underwriting which of the two Developer Assistance program (described below) should be used in the development and sale of affordable units.

#### 3.2.1 Down Payment Program with optional Acquisition/Construction Loan for Nonprofits

The City provides construction loans to non-profit organizations that develop homeownership projects, as well as down payment and closing cost assistance programs for qualified homebuyers.

The City provides loans to non-profit developers, working independently or in partnership with a for profit developer, for new construction. Upon completion, a loan of up to \$40,000 (based upon need) may be provided to eligible families purchasing the homes. The developer must be a nonprofit agency and contract with a HUD-certified non-profit counseling agency to determine the eligibility of families.

##### A. Program Requirements:

- Homes must be located within the city of Phoenix.
- If a development is planned, no more than 51% of the dwellings may receive Department assistance; or, be restricted to lower income homebuyers, unless otherwise approved by the Department.
- The department encourages mixed income development in all housing types.
- Must have a minimum of 3 bedrooms. Four or more bedrooms will be permitted only if needed to accommodate family size. Exceptions may be approved by Department staff for town home and condominium properties where fewer bedrooms are more typical.
- Homes meet the City's Minimum Property Standards.
- The purchase price must not exceed 95% of the Area Median Sales Price as set for the City of Phoenix.
- The net purchase price/mortgage must not exceed the greater of appraised value or the total development cost, as approved by the Department.

- Homes must be modest in design (i.e.; no pools, dens, fireplaces, premium lots, or upgrades from basic model.) The Department must approve the development design, home plans and specifications.
- The Department will perform the appropriate environmental review.

B. Eligible Borrowers: Development Assistance Loans are provided only to non-profit developers that provide evidence of IRS Section 501(c)(3) status. Developers must demonstrate experience in the successful development and sale of single-family homes.

C. Loan Terms:

- Loan terms of up to 24 months
- Interest rate of 0%
- Maximum loan size is the lesser of \$2,000,000 per project or \$100,000 per dwelling unit

D. Repayment: Payments are not required during the construction phase. A prorated share of the principal of any construction phase loan is payable upon sale/closing of each home.

E. Developer Fee: A developer fee of 10% of hard and soft costs may be included in the development budget for each dwelling unit assisted by the City. There is no limit on the developer fee for non-assisted units.

F. Security: A Deed of Trust, Promissory Note, Declaration of Affirmative Land Use Restrictions, and Collateral Assignments will be required for every loan.

G. Recourse: Construction Phase loans are provided on a recourse basis and are also secured by collateral. Loans may be cross-collateralized against properties included in the same financing transaction.

H. Funding Conditions: Prior to, or concurrently with, Construction Phase loan funding, the borrower must provide evidence of the following:

- All other necessary construction funding sources have been committed and closed.
- Binding commitments are in place for all sources of permanent “take out” financing.
- Qualified homebuyers have been identified and have entered into purchase contracts for all the units that will begin construction.
- Building permits have been approved and are ready to issue.
- A fixed price general contract has been executed and is based on the final approved plans and specifications.

I. Transfer: Development loans or loan commitments are not assignable or transferable.

J. Construction: Construction may begin only with the express written approval of the Department (a preconstruction conference must be held with the Department, the developer, and the contractor, and the Department must issue a Notice to Proceed).

K. Affirmative Marketing: The Developer will be obligated to comply with Department policies and all applicable federal, state and local laws, codes and ordinances regarding nondiscrimination in the sale and occupancy of the units

L. Prevailing Wage Policy: All applicants receiving acquisition or construction financing from HOME funds that assist 12 or more units or construction funding from CDBG funds that assist a project with eight or more units must comply with Federal Davis-Bacon wage requirements.

M. Requirements for Sale of Homes: All homebuyer units must be acquired by an eligible household and the home must remain their principal residence for the period of affordability. If there is no ratified sales contract with an eligible homebuyer within nine months of the date of completion of construction or rehabilitation, the developer must execute a provisional plan to rent the housing to an eligible tenant. Therefore, all applications proposing single family development or rehabilitation must submit with their application, a contingency rental plan to be executed if sales are delayed.

Example 1 demonstrates sources as to how a developer is reimbursed construction costs at the time of closing.

Example 1	
Total Purchase Price (including closing costs)	\$145,000
City Construction Loan	\$80,000
Funding at Closing	
First Mortgage	\$129,000
Downpayment from Buyer's funds	\$1,000
City DPA	\$15,000
Total Sources	\$145,000
Pay-off at Closing	
Developer	\$88,000 (includes developer fee of 10%)
City of Phoenix	\$57,000

### 3.2.2 The Second Mortgage Buyer Assistance Loan (Anti-Windfall Note)

The Second Mortgage Buyer Assistance Loan is available to first-time home buyers as part of the Development Assistance Program. The down payment assistance loan is available through the non-profit developer, whether or not the developer also utilizes the funds for development (acquisition or construction) purposes.

An additional note will be required when there is a difference between the sales prices and a higher appraised value; this is referred to as the anti-windfall note. On the City-assisted units, this value must be captured in a note recorded to the City's benefit. For units in the development that are not City-assisted, the developer may require payment in cash, take a note to its own benefit, allow the buyer to realize this immediate equity, or some combination of these options. Loans are secured by a Deed of Trust.

The following Second Mortgage Down Payment Loan calculation will be utilized when the Department has a contractual relationship with the developer:

<i>Example 2:</i>	
<b>Sale Calculation</b>	
<i>Total Acquisition Cost (incl. closing cost)</i>	\$205,000
<i>Less Closing Cost (to be included in Buyer Assistance)</i>	\$ 5,000
<i>Sales Price/Appraisal</i>	\$200,000
<i>Total Development Cost (TDC)</i>	\$150,000
<i>Difference (Anti-Windfall Loan)</i>	\$ 50,000
<b>Buyer DPA Loan Calculation</b>	
<i>TDC</i>	\$150,000
<i>Closing Costs (CC)</i>	5,000
<i>TDC + CC</i>	\$155,000
<i>Mortgage</i>	\$129,000
<i>Buyer Down Payment (min 1,000)</i>	\$ 1,000
<i>Total Buyer Investment</i>	\$130,000
<i>Buyers Assistance Loan (Shortfall)</i>	\$25,000
<i>Anti-Windfall Loan</i>	\$50,000

### 3.3 Assistance to Projects

The purpose of City loans is to assist qualifying projects, i.e., the City will only make loans that are part of a specific project transaction. The City will not make loans that are unsecured or lack sufficient collateral. Loan requests will be reviewed based on the merits and economics of the project and the full capability of the borrower and development team with successful past experience with similar type and scale of projects.

The City may choose to not financially participate in the refinancing of a non-profit owned project where there is cash out to the non-profit agency. The City may choose to not participate in a transaction where an owner receives cash back in the refinancing or sale of a property for a profit or gain. This includes other transactions with similar results. Requests for such transactions will be reviewed on a case-by-case basis.

### 3.4 Avoiding and Dealing with Project Performance Problems

The City will not advance additional funds for projects it has previously assisted. Program funds are designed to create new or additional affordable units. Any additional funds or write-offs are the responsibility of the developer, investors, tax credit partners or the first mortgage lender. The City will not be subordinated to these additional investments.

The City, at its sole discretion, may consider the allocation of additional funding to non-profit developers experiencing extraordinary cost increases realized between the date of initial City Council funding approval and end of construction. However, the City will look for additional public benefit and/or greater return on its investment. The City will not retroactively consider such requests after substantial completion of a project has been reached.

### 3.5 Application Processing and Predictability



In order to be responsive to critical dates for other public financing and leveraging of resources while at the same time assuring City loan program predictability and efficiency, the City may publish a Notice of Funding Availability (NOFA) annually on the Department's website announcing funds available for affordable housing development and solicitation of development applications.

City review, recommendation, and City Council authorization, if approved, typically occurs within 90 calendar days from receipt of an application. Detailed instructions are contained in the NOFA.

The purpose of this approach is to enable a thorough review of major loan requests prior to the time a commitment letter is needed from the City for other funding applications. This approach also allows the City to compare project costs, per unit loan requests, project readiness and other information among projects in order to select those that best achieve City objectives.

### 3.6 Loan Requirements

The following basic requirements apply to the Homeownership Development Assistance loan programs, however, for projects that only utilize down payment assistance, some of these terms may not apply:

- *Feasibility Assessment:* Due to market location or prevailing economic conditions the typical affordable housing development is economically infeasible but for some degree of public financial assistance. The Department may provide assistance to projects in the amount minimally required to create financial feasibility.
- *Leverage Objective:* Prior to submitting a funding application to the Department, the developer shall demonstrate efforts to effectively leverage the use of public and private funds for the proposed project by identifying other available programs and designing the project to qualify for relevant sources of assistance.
- *Loan Security:* Department financial participation shall be in the form of loans, and shall be secured by a recorded Deed of Trust and the Uniform Commercial Code (UCC) Financing Statement and possibly, personal guarantees, as required by the department.
- *Continuing Affordability:* A Declaration of Affirmative Land Use Restrictions or Covenants will be recorded to ensure compliance with applicable regulatory restrictions. The Period of Affordability will be determined based on the amount of the City's loan. Generally, the Period of Affordability will be 10 years for a loan up to \$10,000 and 20 years for a loan greater than \$10,000.
- *Economic Viability:* Development proposals shall appropriately consider prevailing market conditions such as sales comparability and neighborhood impact to ensure that projects are well located and contribute to neighborhood stability and vitality.
- *Environmental Assessment (EA) and Clearance:* All projects must undergo an environmental assessment before funds may be released. If federal funds are involved in the project through a City loan or other source, no project acquisition (except reasonable down payment costs) or construction activities may take place after application submittal and prior to the completion of the environmental clearance process, regardless of the source of funds being utilized for the activity. Funds expended prior to contract execution are at the risk of the developer and may not be eligible for reimbursement through the City loan. **Expenditures of funds after making application to the City and before clearance is completed may make the entire project ineligible for federal funds.**

- *Consolidated Plan Consistency:* Programs and projects must serve a balance of families, senior citizens, and special needs populations. The specific weight given to each program and project will be consistent with the City of Phoenix Housing Element of the City’s General Plan and Consolidated Plan.
- *Readiness:* Federal subsidies often require that funds committed be expended within a fixed time period. Therefore, projects submitted must demonstrate their readiness to begin implementation.
- *Development Standards:* After rehabilitation or development, all properties must meet the Department’s standards. The standards ensure long term viability of the property.
- *Mixed Income:* Mixed income subdivisions are encouraged.
- *Affordable Units Within the Project:* The affordable units must be scattered throughout the project and have the same proportional mix, sq. ft., and amenities as non-restricted units.
- *Minimum Unit Size:* Single Family Construction shall contain a minimum of 3 bedrooms.
- *Quality:* Project amenities and construction must meet the Housing Department’s Minimum Standards for New Construction and Rehabilitation and must be at least comparable to good quality rental units or single family dwellings in the surrounding areas, as determined by a market study.
- *Waiver Requests:* Waivers are discouraged and will only be considered where waiving the technical guideline will better serve program objectives or the City’s affordable housing community priorities as listed on Page 5 of the Affordable Housing Loan Program and Underwriting Guidelines. The applicant must demonstrate that unique circumstances apply to the project in order to be considered for a waiver to the Underwriting Guidelines.
- *Site and Neighborhood Standards:* 24 CFR 983(e)(2) and (3) which assess the overall impact of HUD-assisted housing on the availability of housing choices for low-income minority families in and outside areas of minority concentration.

### **3.7 Threshold Application Requirements**

Affordable Housing Gap Loans are designed to provide funds during the acquisition, construction and/or permanent financing phase of a development, in an amount equal to a project’s feasibility gap. The feasibility gap is the amount of funding required to create a financially viable transaction after considering the impacts of affordability restrictions, location, and market conditions. The project should reflect full repayment of the loan through debt service and compliance with the affordability period.

Developers and their proposed projects must meet the following threshold criteria:

#### **A. Threshold Criteria for the Borrower**

- Developer and all members of the development team must be in good standing with City i.e. current on loan obligations, good past performance, contract compliance and current on tax obligations to the City.
- No member of the development team may be on the HUD Debarment List
- Developer must be able to demonstrate ability to contribute 10% of total development costs either through equity contribution or grants

The application must be complete. Incomplete applications will be returned to the applicant.

**B. Threshold Criteria for the Proposed Project**

- Must address one of the Phoenix City Council-approved Affordable Housing Development Community Priorities.
- The proposer must have adequate site control that will allow time for the environmental review process and application process to take place

**3.8 Additional Information Required for All Applications**

- Applicant Certification
- Authorizing Resolution
- Organizational Documentation Indicating Eligibility
- Environmental Assessment Narrative
- Program Description & Community Service and Site Area Distractions
- Consistency with Consolidated Plan
- Development and Management Experience
- Occupied Building(s) and Relocation Information (if applicable)
- Architectural Floor Plans and Elevations
- Site Control Documentation
- Appraisal no older than 6 months from date of purchase agreement
- Environmental and Inspection Reports
- Project Zoning Confirmation Letter
- Capital Needs Assessment (Rehabilitation Projects only)
- Direct Construction Cost Breakdown
- Market Analysis Describing Need/Demand
- Commitments for Financing
- Affirmative Fair Housing Marketing Plan & HOA Plan
- Financial Statements
- Budget
- Statement of Community Outreach
- Project Timeline

**3.9 Evaluation Criteria**

Applications received pursuant to an RFP or NOFA will be evaluated in accordance with the RFP/NOFA criteria and Department project objectives. Thereafter, applications that meet program thresholds will be scored based on the extent to which they address Department affordable housing policies as described on pages 3-5 of this document under Policy Background. Applications that achieve the minimum threshold score established by the Department will be considered for funding. In the event that insufficient funds are available to meet the requirements of all qualifying applications, the highest scoring applications that are ready to proceed will be funded first.

Evaluation Criteria Applicable to All Applications:

Experience

- Developer Capacity: Each applicant must demonstrate that its organizational and staffing capacity is sufficient to complete the proposed project without reliance on

Department staff. Prior experience of the organization, its staff members, and consultants in planning and completing projects of a similar type and size will be considered. Experience with federal funds is a plus. The applicant should also demonstrate that it possesses sufficient working capital or donated funds and services to advance the project through the predevelopment phase.

- 
- **Property Management & Management Plan:** Applicants must describe the experience of the proposed HOA management firm in successfully managing properties of similar size and resident type. Applicants that propose to self-manage their properties must demonstrate a successful track record managing comparably sized and financed projects. Experience in reporting on federally subsidized units, such as HOME units or vouchers should be demonstrated.

#### Project Merits

- **Project Need:** Applicants must identify the housing need being fulfilled by the proposed project. Local neighborhood demographics, real estate market data (comparable supply and amenities, etc.), and a description of special programs being offered or resident populations being served will be considered.
- **Energy Efficiency:** Consideration will be given to high energy efficiency, location near or in major transportation and employment corridors and proximity to amenities such as shopping, schools, hospital, etc. Projects that strive to preserve diminishing natural resources will be most favored.
- **Construction & Design:** Applicants must include a proposed site plan identifying the location of residential units, commercial uses, and community facilities and amenities. An elevation rendering and floor plans of the proposed development must also be included, accompanied by a written narrative describing design considerations such as: unit mix, unit size, amenities provided, construction type, energy conservation and accessibility features, architectural style, site plan layout, security and access issues, parking plan, and relationship of the scale, setbacks, and proposed design to adjoining properties. Consideration will be given to sturdy design techniques that will help sustain the property over time and reduce maintenance costs. Scoring will weigh favorably, projects which incorporate Universal Design features, on-site amenities (see list in RFP) and ensure accessibility to common areas of the property. The proposed project must meet the department's Minimum Property Standards.
- **Project Readiness:** Applicants must submit a development timeline identifying major development activities, responsible staff, deadlines, funding application dates, etc. to demonstrate the viability of the proposed development and assist the Department in evaluating the likelihood that the project will succeed. The developer should indicate, zoning approval, site control and percentage of plans completed or approved by the City. Consideration will be given to the degree of funding commitments made, zoning issues., Applicants are to document and provide proof the number of community meetings held by way of agenda, location, list of attendees, and meeting minutes. Applicants are encouraged to provide Phase I/ and appraisal at time of submission

#### Financial Feasibility

- **Development Financing Plan:** Applications should include the Department's *Standard Underwriting Assumptions* contained in Attachment B. Applications must demonstrate that the applicant has performed sufficient financial due diligence to cover the Total Development Cost and to minimize the likelihood that the terms of the loan must be renegotiated prior to closing the Department's loan. Pro-formas of no less than 20 yrs. must be submitted at time of application.

- **Funding Commitments:** Applications should include evidence that other necessary funding commitments (e.g., conventional construction and permanent loans, other subsidies and loans, low income housing tax credits) have been obtained. If applications to other funding programs will be required in the future, information should be included to demonstrate that the proposed structure is expected to meet relevant program requirements of the other funding and provides a high likelihood of being funded. The applicant must provide a copy of the application to be submitted to other funding sources, and must certify that consistent financial projections have been provided to each funder.
  - **Identified Risks:** All development projects are subject to elevated levels of risk at the early stage of the predevelopment process. To assist both the applicant and Department in reasonably assessing and mitigating these risks, applications must identify any significant issues that could delay or prevent the proposed transaction (e.g., zoning actions required, environmental issues, site control issues, neighborhood or market conditions, unusual funding assumptions, etc.) Applicants are strongly encouraged to provide an exhaustive analysis of the risks associated with the projects and a mitigation plan/ and contingency budget of these risks.
- **Leverage of City Funds:** Proposals that best leverage City funds and provide the most number of affordable units will score most favorably, given that all other merits of the project meet or exceed the City's expectations. Per door costs to develop/rehabilitate, the degree to which City funds are leveraged and the project's ability to cover operational costs will all be considered.
  - **HOME Cost Per Unit**  
Applicants seeking federal gap financing via HOME Partnership Investment program must demonstrate a per unit cost for HOME financing allocated to its project.

### **3.10 Overall Application and Loan Agreement Processing Procedure**

Processes are described in the following phases:

- Pre-Application Review
- Application
- Evaluation
- Loan Documents
- Loan Funding
- Project Development
- Compliance & Monitoring
- Annual Reporting
- Loan Servicing

#### Pre-Application Review Phase

Prior to receipt of a loan application, Department staff is available to address questions from potential developers and provide pre-submittal consultations regarding specific project concepts. While such consultations do not commit the Department to fund a particular proposal, they provide valuable insight into the prospective benefits, funding availability, and issues associated with a potential development. Discussion of proposed projects cannot take place during the solicitation period.

**IMPORTANT NOTE: If federal funds are required to make a project feasible, an environmental assessment must be completed and a Release of Funds obtained from HUD prior to any activity or expenditure of funds from any source dedicated to the project.**

All projects must undergo an environmental assessment before funds may be released. If federal funds are involved in the project through a City loan or other source, no project acquisition (except reasonable down payment costs) or construction activities may take place after application submittal and prior to the completion of the environmental clearance process, regardless of the source of funds being utilized for the activity. Funds expended prior to a Release of Funds by HUD are at the risk of the borrower and may not be eligible for reimbursement through the City loan. Additionally, federal funds may not become available for the project if an environmental mitigation is required and the project has developed to such an extent that the mitigation will cause extreme costs or delays to the project, thereby making the project unfeasible.

#### Application Phase

Annually, the Department accepts applications through a competitive process such as a Request for Proposals (RFP) or Notice of Funding Availability (NOFA). However, the department will accept applications throughout the fiscal year (in which the RFP or NOFA occurs) for consideration as funding becomes available due to a variety of reasons. The funding cycle typically occurs prior to the Arizona Department of Housing Low Income Housing Tax Credit (LIHTC) cycle to allow adequate time for the Department to determine which projects will be supported by Council for the LIHTC round.

#### Evaluation Phase

Upon receipt, each application is assigned to a Department staff member for review. Applications are first reviewed for completeness, then for compliance with all applicable threshold requirements, and then scored by a department-appointed selection committee made up of representatives from city departments and community partners with housing development expertise but who do not compete for federal funding.

During the process of application evaluation, Department staff will perform a range of underwriting tasks and create a summary of the project per Evaluation Criteria discussed above in 3.9. This summary will be presented to the department-appointed committee. The committee will review all proposals and prioritize according to the City's most urgent affordable housing needs. They will prepare a recommendation to the City Council through the Housing Department Director. Applicants will be notified of the committee's decision within five calendar days following the decision date. Final loan approvals will be issued as soon as possible thereafter, using one of the following methods:

1. Projects ready for immediate funding and which are not dependent upon LIHTC will be to City Council for final approval.
2. Projects with longer lead times may be issued a Notice of Intention to Fund that can be used for purposes of leveraging funding from other sources to complete the project financing requirements. The support letter will serve as a conditional funding reservation for a specified period of time. The Department may decline to fund applications whose funding reservations have expired.

Prior to expiration of the conditional reservation, and upon receipt of evidence from the applicant that other necessary funding has been obtained and the project is ready to proceed, Department staff will review the transaction to ensure that it remains consistent with the original application. Projects



consistent with their original applications will be presented to City Council for approval. Projects inconsistent with their original application or not feasible will not be recommended for funding.

Applicants will be notified of all City Council hearings in advance.

### **3.11 Loan Documents**

Following final loan approval, the assigned housing staff member is responsible for coordinating with the City Law Department in drafting the City loan agreement incorporating regulatory requirements and any special conditions. The Department will also complete any necessary regulatory review and include any required mitigation measures in the commitment of funds by completing the required site-specific environmental review. Applicants will be provided a copy of a draft loan agreement for review and comment.

Developers that are required to comply with prevailing wage regulations as a condition of their commitments should schedule a meeting with Department staff to ensure that the development team and contractor understand the implication of prevailing wage monitoring on the construction process and that appropriate provisions are included in construction contracts.

Projects assisted with federal funds may be subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. § 1701u requiring that, to the greatest extent feasible, opportunities for training and employment be given lower-income persons residing within the unit of local government or the metropolitan area (or nonmetropolitan county), as determined by the Secretary, in which the project is located and contracts for work in connection with the project be awarded business concerns which are located in, or owned in substantial part by persons residing in, the same metropolitan area (or nonmetropolitan county) as the Project.

The requirements of the regulations include, but are not limited to, development and implementation of an affirmative action plan for utilizing business concerns located within, or owned in substantial part by persons residing in, the area of the Project; the making of a good faith effort, as defined by the regulations, to provide training, employment and business opportunities required by [Section 3](#); and incorporation of the “Section 3 clause” specified by 24 C.F.R. Part 75 in all contracts for work in connection with the Project.

Section 3 requirements will be a part of the City loan agreement and must be incorporated into the general contractor’s agreement and sub contractor’s agreements.

### **3.12 Loan Funding**

In preparation for loan funding, the designated staff member will perform the following:

- Document Preparation: Complete the final loan documents (Loan Agreement, Promissory Note, Deed of Trust, UCC Financing Statement, and Declaration of Affirmative Land Use Restrictions) to include any special funding conditions and mitigation measures required by an environmental review.
- Verification of Closing Conditions: Review all pre-funding conditions of the Loan Agreement to ensure that the borrower has complied with conditions and provided necessary documentation.



Applicants will be provided a copy of the formal loan commitment within 20 calendar days after the date the management and/or City Council action.

Developers that are required to comply with prevailing wage regulations as a condition of their commitments should schedule a meeting with the Department's compliance officer to ensure that the development team and contractor understand the implication of prevailing wage monitoring on the construction process and that appropriate provisions are included in construction contracts.

- Scheduling the Closing: Developer shall be responsible for scheduling the closing, collecting, and reviewing final loan documents and advising Department staff of close date.
  - i. Loan Funding: Prior to disbursement of loan funds, the Department must receive the following:
    - Original or certified copies of executed loan documents
    - Proof of current property tax payments
    - Proof of insurance meeting City insurance requirements
    - Title insurance meeting Department standards
    - Proof of compliance with prevailing wage requirements, if applicable
    - Other documents as may be stated in the contract agreement between City and Developer

Additionally, the Department will require, in its file, a Release of Funds from HUD.

### **3.13 Project Development**

Developers must comply with various provisions of the loan agreements that apply during the development period. These provisions may include timely submission of construction progress reports, copies of draw requests, project and/or developer financing statements, prevailing wage compliance reports, etc. Assigned staff will be the developer's principal contact during the development process; this person will serve as the focal point for coordinating between the borrower and City departments responsible for the enforcement of Federal, State and Local regulations such as NEPA, prevailing wages, Section 3 requirements and other compliance issues.

### **3.14 Annual Reporting**

As stated in the loan agreement, Developers will be required to periodically report to the Housing Department to ensure compliance. The required reports shall provide information on the beneficiaries (homebuyers, renters, special needs populations) of the Housing Department funding and the financial condition of the borrower/project. If developers do not timely provide required annual or periodic reports, the project will be in default of the City loan and developer contractual obligations.

### **3.15 Loan Servicing**

All down payment, closing cost loans will be administered by the City or a City-contracted loan servicing agency that will collect payments, report defaults and delinquencies and conduct other typical loan servicing activities.

### **3.16 Development Assistance in Redevelopment Areas**

Within the City's Redevelopment Areas (RDAs) and Neighborhood Initiative Areas (NIAs), various departments support community-driven plans and project objectives to rehabilitate properties and create new housing opportunities, primarily homeownership. Competitive solicitations (Requests for Proposals)

for redevelopment projects are periodically issued. The Housing Department will not provide Homeownership Development Assistance Loans for a project in an RA or NIA without the support of the lead department

**Lead Department/Contact information**

Community & Economic Development Department

<https://www.phoenix.gov/econdev/Downtown>

**Areas**

Downtown Transit overlay areas

Neighborhood Services Department

<https://www.phoenix.gov/nsd/programs/map-gallery>

(maps)

RDAs & NIAs

## **Chapter 4: Preserving Affordable Housing – Rehabilitation Loans for Non-Profit Developers of Affordable Housing**

Preserving affordable housing and protecting the City’s investment in affordable units is part of the city’s strategy to maintain an affordable, self-sustaining housing stock for Phoenix low-income residents. To this end, the Housing Department has created this loan program to assist in the rehabilitation of affordable units previously funded by the City in working with non-profit developers whose mission it is to develop and maintain affordable housing. All assumptions and requirements for this loan program are based on the use of CDBG funds. The City reserves the right to amend, add or clarify loan terms should other funding sources be used.

### **4.1 Eligible Projects**

#### **4.1.1 Rehabilitation of Affordable Housing Units Previously Funded**

- A. **Program Objective:** To preserve affordable housing stock, projects requiring repairs in order to operate efficiently may apply for funding. Such repairs may include but are not limited to repairs to essential systems; making essential structural repairs, “green” or energy saving system improvements that will reduce costs to low income tenants or other significant rehabilitation that will extend the life of the property through the existing Period of Affordability and beyond.
- B. **Eligibility:** The rehabilitation proposal must include renovations as discussed above and comply with the City of Phoenix Minimum Property Standards. Properties with outstanding Neighborhood Code Violations will not be considered unless the code violation will be cured through the proposed renovations. Upon completion, the project will need to pass a Housing Quality Standards (HQS) inspection. The development proposal may include a third party Capital Needs Assessment (CNA) of the necessary rehabilitation. The City’s underwriting will take into account the funding of reserves as specified in the CNA to assure that operating costs and future capital improvement needs are predictable, funded, and are at a reasonable level throughout the term of the Period of Affordability. Projects must be previously funded by the City of Phoenix, Arizona Department of Housing, HUD or other local jurisdiction.
- C. **Financial Guidelines:** Qualifying projects should be feasible and extend the life of the property. The proposed project will be evaluated according to underwriting requirements described in **Attachment C –Rehabilitation Loans for Non-Profit Developers of Affordable Housing**.
- B. **Affordability Objectives:** All proposals submitted to the City under this category have or had requirements to comply with a Period of Affordability as mandated by the Declaration of Affirmative Land Use or other similar document which was executed at the time of the development loan agreement. The City will require that Projects assisted through this loan program be subject to five (5) additional years of restrictive covenants that assure that the specified number of units (as determined by HOME Regulations) meet certain affordability restrictions. Through Underwriting, and to ensure that public good is met, the Housing Department will also determine if additional affordable units will be required. Except in the case of HUD 811 and 202 loans, the Period of Affordability must survive the foreclosure of any senior lien on the Project.

Affordable units receiving City assistance may not exceed the Housing and Urban Development Department (HUD) maximum rents established annually. (See [HOME Unit Fact Sheet](#))

The measure of this program and of City investment is the number of high-quality rent-restricted units that the City can preserve or create for residents with incomes at or below 60% of the area median income as determined by HUD, taking into account family size (AMI). If HOME funded the required area median income set-asides will prevail.

This program should encourage the most efficient use of City funds (e.g., lowest City cost per unit while achieving affordability goals) to obtain long-term affordability for tenants with incomes at or below 60% of AMI in higher quality, well-maintained, self-sustaining properties. If HOME funded the required area median income set-asides will prevail.

4.1.2 Rehabilitation of Affordable Housing Units Not Previously Funded

- A. Program Objective: To preserve or create affordable housing stock, projects requiring repairs in order to operate efficiently may apply for funding. Such repairs may include but are not limited to repairs to essential systems; making essential structural repairs, “green” or energy saving system improvements that will reduce costs to low income tenants or other significant rehabilitation that will extend the life of the property through the existing Period of Affordability and beyond.
- B. Eligibility: The rehabilitation proposal must include renovations as discussed above and comply with the City of Phoenix Minimum Property Standards. Properties with outstanding Neighborhood Code Violations will not be considered unless the code violation will be cured through the proposed renovations. Upon completion, the project will need to pass a Housing Quality Standards (HQS) inspection. The development proposal may include a third party Capital Needs Assessment (CNA) of the necessary rehabilitation. The City’s underwriting will take into account the funding of reserves as specified in the CNA to assure that operating costs and future capital improvement needs are predictable, funded, and are at a reasonable level throughout the term of the Period of Affordability.
- C. Financial Guidelines: Qualifying projects should be feasible and extend the life of the property. The proposed project will be evaluated according to underwriting requirements described in **Attachment C –Rehabilitation Loans for Non-Profit Developers of Affordable Housing**.
- D. Affordability Objectives: All proposals submitted to the City under this section must comply with the following sliding scale Period of Affordability parameters:

Per Unit Investment	Period of Affordability
\$5,000 - \$9,999	10 Years
\$10,000 - \$14,999	15 Years
\$15,000	20 Years

Affordability is mandated by the Declaration of Affirmative Land Use, which included restrictive covenants that assure the specified number of units (as determined by HOME Regulations) meet affordability restrictions. Through Underwriting, and to ensure that public good is met, the Housing Department will also determine the number of required affordable units. Except in the case of HUD 811 and 202 loans, the Period of Affordability must survive the foreclosure of any senior lien on the Project.

The measure of this program and of City investment is the number of high-quality rent-restricted units that the City can preserve or create for residents with incomes at or below 60% of the area median income as determined by HUD, taking into account family size (AMI). If HOME funded the required area median income set-asides will prevail.

This program should encourage the most efficient use of City funds (e.g., lowest City cost per unit while achieving affordability goals) to obtain long-term affordability for tenants with incomes at or below 60% of AMI in higher quality, well-maintained, self-sustaining properties. If HOME funded the required area median income set-asides will prevail.

## 4.2 Availability of Funds

Decisions regarding which type of funding to utilize for a specific loan will be made by the Department and based on the available funding and regulatory requirements as described below.

Federal funds require an environmental review to comply with Federal National Environmental Policy Act (NEPA) requirements; require compliance with the Housing Department's [Minimum Property Standards](#) and trigger the requirement that the borrower comply with the Davis-Bacon Act wage requirements if 12 or more HOME units or 8 or more CDBG units are assisted. Section 3 Requirements, may also apply. Further, regulations require the City of Phoenix to repay funds to HUD if HOME affordability restrictions are eliminated during the minimum HUD compliance period. Thus, the Department will decline HOME funding for projects where the Department's affordability restrictions must be subordinated to a senior mortgage lender, such as the FHA program.

## 4.3 Loan Requirements

### A. Loan Limits:

- Loans are limited to \$15,000 per door or \$350,000 (whichever is lesser) per project
- Any single Applicant (including affiliated entities) may receive no more than two program loans (of any kind) per year. Existing loan performance, compliance with terms of past Affordable Housing Loan Agreement Contracts, risk, and the organization's financial capacity will all be taken into consideration before a decision to award a loan is made.
- Applicants must contribute 10% of costs associated with the rehabilitation
- Applicants must demonstrate an expectation that any City loan can be repaid within its scheduled term or at the end of the term in the case of a surplus cash loan consistent with the Department's underwriting assumptions described below and found in Attachment A.

### B. Term:

- City loan will not mature prior to the maturity of any permitted permanent senior debt, to a maximum of 42 years. (In City's discretion commencement of the repayment period may be deferred).
- Specific loan terms will be determined based on project requirements.

### C. Repayment:

Because many special needs projects cannot afford debt service, the City loan will often be a deferred payment loan which is only payable in the event of sale of the property, termination of use of the property as special needs housing, or other default as provided in the City's loan documents.

If developer clearly demonstrates the unavailability of revenue sources for debt service, the loan may be forgivable in whole or in part if specified conditions are met. There would be no forgiveness until the loan has matured.

However, when there is significant cash flow to pay back the City Loan, the following terms will apply:

- City loans may be repaid as an amortized loan, a cash flow loan based on available cash flow or a combination of both types of loan called a “Split Loan.” In the case of a Split Loan, there will be two notes, each having different repayment terms. Any accrued but unpaid interest and principal is due in full at loan maturity. The City will not allow pay back of a Carry Back Note before full payment of the City’s loan. Upon completion of construction/lease-up (or other fixed date), loans shall begin to accrue interest and shall be subject to repayment under one or both of the following loan notes:

Amortized Loan

The City will determine what portion of its loan can be paid on an amortized schedule using a 1.15 minimum debt service coverage ratio (DSCR) inclusive of the City’s loan and all senior debt. Loan payments will be amortized monthly or according to some other agreed upon installment payment schedule, over the approved term.

Surplus Cash Loan

If full amortization is not feasible due to limited cash flow, funds shall be repaid from an agreed upon percentage split of surplus cash on an annual or bi-annual basis. Borrowers must provide an Annual Cash Flow Analysis Report that demonstrates the calculation and accrual of applicable surplus cash funds.

- Definition of Surplus Cash

Surplus cash means for the fiscal year period ending prior to the annual installment date, the sum of gross rent revenues (less rental taxes and tenant security deposits) and other income (other income includes, but is not limited to, proceeds from the sale of the Property or transfer of ownership and withdrawal of equity) received from the operation of the project including amounts withheld from security deposits returned to tenants, less (a) annual accrued debt service for approved permanent senior loan(s); (b) actual operating expenses (including but not limited to utilities, supplies, repair and maintenance costs, property taxes, property management fees, and insurance escrows and reserves, and amounts deposited in any replacement reserve account) and excluding allowed or allowable depreciation, and (c) payments of an asset management fee pursuant to an Asset Management Services Agreement as required in a Low Income Housing Tax Credit (LIHTC) project.

Specifically excluded expenses include any payments or disbursements to the project owner and/or borrower of City funds, tax credit adjustors, depreciation, and payments pursuant to developer guarantees.

Surplus cash will be calculated based on an audited annual cash flow analysis report for the fiscal year period ending prior to the annual installment date.

- Reserves and Operating Expenses

The amount of required reserves must be specifically approved by the Housing Department in the final loan agreement or through the annual budget review and approval process, and will typically

require replacement reserves that will allow for sustainability of the property up to a minimum of 40 years. Operating expenses shall be determined on a GAAP accounting basis, and shall not include any payments to parties affiliated with the borrower, to the extent that such payment exceeds the typical cost of procuring equivalent services from an unrelated third party. The Department may update this definition from time to time. See **Attachment A -- Preserving Affordable Housing – Rehabilitation Loans for Non-Profit Developers of Affordable Housing**

- If the approved project no longer has a LURA in force, the new Period of Affordability will begin upon issuance of a Certificate of Completion typically issued at completion of the rehabilitation.

D. Interest Rate If Not Forgivable:

- 0% during construction and lease-up phase up to 24 months
- 2% upon conversion to permanent phase (if loan is fully amortized)
- 4% upon conversion to permanent phase (if loan is paid from surplus cash)

E. Affordability Restrictions: Federal funding regulations require a minimum Period of Affordability. All projects funded by the City are subject to affordability restrictions. This means that an established “Period of Affordability” is created at time a Certificate of Completion is issued, during which City designated rental units must remain affordable to renters at 50% and 60% AMI. In this loan program, the City will require a minimum of 51% of the units to be affordable.

The Department establishes maximum City of Phoenix rents for tenants whose incomes are at or below 50% and 60% of (AMI) adjusted for bedroom size and reviews the rents annually. The City’s current AMI levels are adjusted for family size and change annually as published by HUD. City of Phoenix maximum rents are listed on the Department’s website at the HOME Unit Fact Sheet.

The Period of Affordability will begin upon issuance of a Certificate of Completion, issued at completion of the Rehabilitation Project.

F. Security: A Deed of Trust, UCC Financing Statement, Promissory Note, contract assignments, and Declaration of Affirmative Land Use Restrictions will be required for every loan and personal guarantees as required by the Department.

G. Subordination to Senior Debt: The City’s loan may be subordinated to another lender’s mortgage lien if subordination is required as a condition of that lender’s loan approval. Senior debt must be provided on a fully amortizing basis with a term of at least 18 years. All debt on the property must be subordinate to the City’s Declaration of Affirmative Land Use Restrictions.

H. Loan-to-Value Limits: A loan-to-value limit is not applicable.

I. Borrower Contribution: At least 10% of the total development cost must be funded by borrower or grant funds.

J. Debt Service Coverage Ratio (DSCR): If not forgivable, repayment terms for City loans will be calculated as described above under Repayment.



- K. Recourse: Acquisition, Construction, and Permanent Loans are provided on a non-recourse basis and are secured by collateral as noted above in Paragraph F. Loans may be cross-collateralized against properties included in the same financing transaction.
- L. Allowable Use of Funds: All costs related to City-approved rehabilitation will be reimbursed through loan proceeds. Costs associated with rehabilitation of community space within the affordable housing complex may be eligible. Costs reimbursed through the City loan are those costs included in the line item budget agreed upon by the borrower and the City and attached to the City's Loan Agreement. Requests for reimbursement must include back-up documents such as invoices, cancelled checks and/or receipts. Unspent loan funds are retained by the City, thus reducing the borrower's note. Unspent loan funds are not available to the project once construction is completed.
- M. Funding Conditions – Predevelopment Phase: Funds are not available for predevelopment loans.
- N. Funding Conditions – Construction Phase: Prior to, or concurrently with Construction Phase funding, the borrower must provide evidence that all other necessary construction funding sources have been committed and closed, that binding commitments are in place for all sources of permanent “take out” financing on terms satisfactory to the Housing Department, that building permits have been approved and are ready to issue, and that a bonded, fixed price general contract has been executed and is based on the final approved plans and specifications.
- O. Assignment: Loans or loan commitments are not assignable without the prior written approval of the Department. Generally, Acquisition and Construction Phase loans are not assignable, but the Department will consider the assignment of Permanent Phase loans upon confirmation that the property is operating in accordance with all regulatory agreements, remains financially viable, and the capacity and creditworthiness of the proposed assignee is demonstrated. If the assignment is approved, the assignee must assume all loan obligations including, but not limited to, the affordability requirements.
- P. Construction: Housing or site construction may begin only with the express written approval of the Department (a preconstruction conference must be held among the Department, developer, and contractor and the Department must issue a Notice to Proceed).
- Q. Fair Housing and Affirmative Marketing: The Developer must comply with Department policies and all applicable federal, state, and local laws, codes and ordinances regarding nondiscrimination in the rental, sale, and occupancy of the units.
- R. Prevailing Wage Policy: Davis Bacon may apply to rehabilitation construction.
- S. Section 3 Requirements: All applicants receiving \$100,000 in federal funding from HUD via the City for affordable housing development will be subject to Section 3 contractual requirements. Section 3 refers to the Housing and Community Development Act of 1968. The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD assisted projects shall “to the greatest extent feasible,” be directed to low- and very-low income persons, particularly persons who are recipients of HUD assistance for housing and to business concerns that provide opportunity for employment for low- and very-low income persons. Section 3 reporting will be required in acquisition and rehabilitation and new construction loan agreements over \$100,000 between the Department and the borrower.

- T. Crime Free Multi-Housing: Certification of Compliance with the Phoenix Crime Free Multi-Housing Program is not required. However, the borrower should provide evidence that it utilizes strategies to deter criminal activity and provide a safe environment as obtained through adherence with the Crime Free Multi-Housing Program.
- U. Minimum Property Standards: In the fall of 2013, the Housing Department created A Minimum Property Standards Manual as required by federal regulations. The Manual has been designed to ensure that all properties acquired, constructed or rehabilitated with federal funds can pass the Uniform Physical Conditions Requirements as set in the revised HOME regulation. Energy efficiency, construction materials useful life of major systems, accessibility and lead based paint requirements are also discussed in the Manual.

#### 4.4 Application Processing and Predictability

In order to be responsive to critical dates for other public financing and leveraging of resources while at the same time assuring City loan program predictability and efficiency, the City will publish a Notice of Funding Availability (NOFA) or Call for Interest at least annually on the City's website Solicitations announcing funds available for rehabilitation of affordable housing and soliciting applications. This and all Department notices will be sent to subscribers of the Housing Department's [Community Partner List Serve](#).

City review, recommendation, and City Council authorization, if approved, typically occurs within 90 calendar days from receipt of a completed application. Detailed instruction is contained in the NOFA.

The purpose of this approach is to enable a thorough review of major loan requests prior to the time a commitment letter is needed from the City for other funding applications. This approach also allows the City to compare project costs, per unit loan requests, project readiness and other information among projects in order to select those that best achieve City objectives.

#### 4.5 Basic Requirements for All Applications

The City will only make loans that are part of a specific City-approved project. The City will not make loans that are unsecured or lack sufficient collateral. A loan application will be reviewed based on the merits and economics of the project and the full capability of the rehabilitation team. The City may choose to not financially participate a project where there is cash out to the borrower and/or developer. The City may choose to not approve a loan transaction in which an owner receives cash back in the refinancing or sale of property for a profit or gain. This restriction applies to other transactions with similar results.

The following basic requirements apply to all the loan programs and will be considered during the evaluation:

- *Feasibility Assessment*: Due to market location, prevailing economic conditions, low income rent targeting, or property operating costs, the typical affordable housing development is economically infeasible without some degree of public financial assistance. The Department may provide assistance to projects in the amount minimally required to create financial feasibility.
- *Affordability Targets for Rental Housing*: All units **assisted by the City** must offer rents that meet the HUD published maximum rents. In this loan program, the City will require a minimum of 51% of the units to be affordable. All proposed projects must demonstrate compliance with affordability requirements of current Loan Agreements.

- *Affordable Units Standard:* The affordable units must be scattered throughout the project and have the same proportional mix, sq. ft., and amenities as non-restricted units.
- *Leverage Objective:* Prior to submitting a funding application to the Department, the owner shall demonstrate efforts to effectively leverage the use of public and private funds for the proposed project by identifying other available programs and designing the project to qualify for relevant sources of assistance.
- *Loan Security:* Department financial participation shall be in the form of loans, and shall be secured by a recorded Deed of Trust and UCC Financing Statement and personal guarantees, as required by the department.
- *Continuing Affordability:* A Declaration of Affirmative Land Use Restrictions will be recorded to ensure compliance with applicable regulatory and affordability restrictions. The Period of Affordability will be determined per section 4.1.1 or 4.1.2 as applicable and will survive foreclosure.
- *Environmental Clearance:* All projects must undergo environmental clearance before funds may be released. If federal funds are involved in the project through a City loan or other source, construction activities may take place after application submittal and prior to the completion of the environmental clearance process, regardless of the source of funds being utilized for the activity. Funds expended prior to contract execution are at the risk of the borrower. **Expenditure of funds after making application to the City and before clearance is completed may make the entire project ineligible for federal funds.**
- *Readiness:* Federal subsidies often require that funds committed be expended within a fixed time period. Therefore, projects submitted must demonstrate their readiness to begin implementation.
- *Development Standards:* After rehabilitation or development, all properties must meet the Department's Minimum Property Standards. These standards ensure long term viability of the property. New construction or rehabilitation must be in compliance with Section 504 of the Rehabilitation Act of 1973.
- *Design Requirements:* All projects must meet the City's Minimum Standards for Rehabilitation and Construction.
- *Waiver Requests:* Waivers of the Underwriting Guidelines requirements are discouraged and will only be considered where waiving the guideline or policy will better serve program objectives or the City's Affordable Housing Development Community Priorities. The applicant must demonstrate that unique circumstances apply to the project in order to be considered for a waiver.

## 4.6 Threshold Application Requirements

Developers and their proposed projects must meet the following threshold criteria:

### B. Threshold Criteria for the Borrower

- Application must be submitted on or before the specified application deadline.
- Developer and all members of the development team must be in good standing with City i.e. current on loan obligations, good past performance, contract compliance and current on tax obligations to the City.
- No member of the development team may be on the HUD Debarment List
- Property Management Experience, minimum 3 years' experience managing federally assisted properties with comparable size and resident type (special population). Properties must have federal affordability restrictions and income requirements of tenants.
- The application must be complete. Incomplete applications will be returned to the applicant.
  - Complete Application shall consist of:
    - Application form completely filled out:
      - *All pages, check boxes, and narrative sections complete*
    - Signed Application Certification
    - Completed Pro-forma workbook:
      - *Operating Budget, Development Budget, Construction Budget, and Pro-forma Development Budget- must include 10% match from outside sources*
    - Financials
    - Relocation Plan and signed GIN's (if applicable)
    - Project Timeline
    - Community Outreach:
      - *One meeting: provide agenda, sign-in sheets, meeting minutes, and all outreach efforts;*
    - Proof of Zoning:
      - *Zoning Application in-process (demonstrated through Application and Timeline)*
    - Proof of Site Control:
      - *Deed or valid and current Purchase Agreement*

### **Additional Information Required for All Applications**

- Applicant Certification
- Authorizing Resolution
- Organizational Documentation Indicating Eligibility
- Occupied Building(s) and Relocation Information
- Consistency with Consolidated Plan
- Financial Statements
- Development and Management Experience
- Development Team Forum
- Property Management Experience
- Property Management Plan and Affirmative Fair Housing Marketing Plan
- Site Area Attractions
- Market Study (if available)
- Energy Efficiency Accreditation information
- Energy Efficiency Components
- Site Plans and Elevations

- On-site Amenities
- Section 504
- General Contractor Experience
- Timeline
- Zoning
- Community Outreach
- Phase I and Appraisal (if available)
- Financial Commitments
- Identified Risks
- Contingency
- Match Funds
- Project Impact
- References
- Fully completed and signed offer page
- Fully completed and signed disclosure form
- Fully completed and signed proposer certification and affidavit signature
- Fully completed Identities of Interest Disclosure Form

#### **4.7 Evaluation Criteria**

Applications received pursuant to an RFP will be evaluated in accordance with the RFP criteria and Department project objectives. Thereafter, applications that meet program thresholds will be scored based on the extent to which they address Department affordable housing policies as described on page 3 of this document under Policy Background. In the event that insufficient funds are available to meet the requirements of all qualifying applications, the highest scoring applications that are ready to proceed will be funded first.

Evaluation Criteria Applicable to All Applications:

##### **Experience**

Developer Capacity: Each applicant must demonstrate that its organizational and staffing capacity is sufficient to complete the proposed project without reliance on Department staff. The firm's direct experience being the lead developer for affordable housing development including the number of projects completed and years of experience for projects that are equal to or larger will be considered.

Property Management & Management Plan: Applicants must describe the experience of the proposed property management firm in successfully managing properties of similar size and resident type. A management plan must be included that describes significant management policies including but not limited to security, marketing programs, eviction process, and any financial considerations (i.e., affordable rent levels, resident income, sources of project operating subsidy required) that have an impact on project operating policies.

Proposal Presentation: Applicants will be evaluated on the presentation of their application, how well their application is organized to align with the RFP and the thoroughness of the application.

##### **Project Merits**

Project Need: Applicants must identify via market study the housing need being fulfilled by the proposed project. Applicants are to identify in their application the site area attractions that are located within 1-mile radius of the project site.

Energy Efficiency: Consideration will be given to projects that have incorporated energy efficiency components, and look to obtain LEED certification (or other energy efficiency accreditation).

Construction & Design: Applicants must include a proposed site plan identifying the location of residential units, commercial uses, and community facilities and amenities. An elevation rendering and floor plans of the proposed development must also be included, accompanied by a written narrative describing design considerations such as: unit mix, unit size, amenities provided, construction type, energy conservation and accessibility features, architectural style, site plan layout, security and access issues, parking plan, and relationship of the scale, setbacks, and proposed design to adjoining properties. Scoring will weight favorably on projects with the most number of “accessible” units, and on-site amenities. Evaluation will also consider the general contractors experience and capacity to complete the project scope.

Project Readiness: Applicants must submit a development timeline identifying major development activities, responsible staff, deadlines, funding application dates, etc. to demonstrate the viability of the proposed development and assist the Department in evaluating the likelihood that the project will succeed. The developer should indicate that the site is properly zoned or has submitted an application to begin the re-zoning process. Applicants must provide proof that community meetings were held; documentation must include an agenda, location, list of attendees, and meeting minutes. Point will be awarded to applicants that include a current Phase I/ and appraisal in their submission.

#### **Financial Feasibility**

Development Financing Plan: Applications should include the Department’s *Standard Underwriting Assumptions* contained in Attachment A. Applications must include documentation of financial commitments in the amount covering the Total Development Cost. Pro-formas must demonstrate the ability to fund operations for the extent of the HUD affordability period.

Identified Risks: All development projects are subject to elevated levels of risk at the early stage of the predevelopment process. To assist both the applicant and Department in reasonably assessing and mitigating these risks, applications must identify any significant issues that could delay or prevent the proposed transaction (e.g., zoning actions required, environmental issues, site control issues, neighborhood or market conditions, unusual funding assumptions, etc.). Projects are required to include 5% contingency for new construction projects and 10% contingency for rehabilitation projects.

Leverage of City Funds: Applicants are required to include 10% match funding from equity, grants, or loans. Additional points will be awarded to agencies with HOME eligible match funds. Proposals that best leverage City funds with the lowest HOME cost per HOME unit.

#### **Project Impact**

Project Impact: Applicants will be rated on how likely their project is to succeed, accomplish its goals on time, successfully serve the identified population, and demonstrate financial feasibility.

### **4.8 Additional Information Required for All Applications**

- Applicant Certification
- Authorizing Resolution
- Organizational Documentation Indicating Eligibility
- Environmental Reports
- Program Description

- Occupied Building(s) and Relocation Information
- Title Report
- Capital Needs Assessment (Major Rehabilitation Projects only)
- Direct Construction Cost Breakdown
- Tenant Selection Policies and Criteria
- Commitments for Financing
- Affirmative Fair Housing Marketing Plan & Management Plan
- Financial Statements

#### **4.9 Overall Application and Loan Agreement Processing Procedure**

Processes are described in the following phases:

- Pre-Application Review
- Application
- Evaluation
- Loan Documents
- Loan Funding
- Project Development
- Compliance & Monitoring
- Annual Reporting
- Loan Servicing

##### Pre-Application Review Phase

Prior to receipt of a loan application, Department staff is available to address questions on potential projects and provide pre-submittal consultations regarding specific project concepts. While such consultations do not commit the Department to fund a particular proposal, they provide valuable insight into the prospective benefits, funding availability, and issues associated with the proposed project. Discussion of proposed projects cannot take place during a Housing Department solicitation period.

**IMPORTANT NOTE: If federal funds are required to make a project feasible, environmental clearance must be completed and a Release of Funds received from HUD prior to any activity or expenditure of funds from any source dedicated to the project:**

All projects must undergo an environmental clearance before funds may be released. If federal funds are involved in the project through a City loan or other source, no construction activities may take place after application submittal and prior to the completion of the environmental clearance process, regardless of the source of funds being utilized for the activity. Funds expended prior to a Release of Funds by HUD are at the risk of the borrower and may not be eligible for reimbursement through the City loan. Additionally, federal funds may not become available for the project if an environmental mitigation is required and the project has developed to such an extent that the mitigation will cause extreme costs or delays to the project, thereby making the project unfeasible.



## Application Phase

Annually, the Department accepts applications through a competitive process such as a Request for Proposals (RFP) or Notice of Funding Availability (NOFA). However, the department will accept applications throughout the fiscal year (in which the RFP or NOFA occurs) for consideration as funding becomes available due to a variety of reasons. The funding cycle typically occurs prior to the Arizona Department of Housing Low Income Housing Tax Credit (LIHTC) cycle to allow adequate time for the Department to determine which projects will be supported by City Council.

## Evaluation Phase

Upon receipt, each application is assigned to a Department staff member for review. Applications are first reviewed for completeness, then for compliance with all applicable threshold requirements, and then scored by a department-appointed selection committee made up of representatives from city departments and community partners with housing development expertise but have not competed in the current federal funding application round.

During the process of application evaluation, Department staff will perform a range of underwriting tasks and create a summary of the project per Evaluation Criteria discussed above in 4.7. This summary will be presented to the department-appointed committee. The committee will review all proposals and prioritize according to scoring. They will prepare a recommendation to the City Council through the Housing Department Director. Applicants will be notified of the committee's decision within ten business days following the decision date. Final loan approvals are contingent on City Council approval. Applicants will be notified of all City Council hearings in advance.

### **4.10 Loan Documents**

Once applicants have been notified that a City loan has been approved, the assigned Department staff member will coordinate with the City Law Department in drafting the City's loan documents, incorporating regulatory requirements and any special conditions. The Department will also complete any necessary regulatory review and the required site specific environmental review, and will provide notice of any required mitigation measures as a condition of the loan commitment. Applicants will be provided a copy of the draft loan documents for review and comment.

A City Loan Agreement includes: Loan Agreement, Promissory Note, Deed of Trust, UCC Financing Statements, Declaration of Affirmative Land Use Restrictions and collateral assignments).

Developers that are required to comply with prevailing wage regulations as a condition of their commitments should schedule a meeting with the Department's Davis Bacon Compliance Officer to ensure that the development team and contractor understand the implication of prevailing wage monitoring on the construction process and that appropriate provisions are included in construction contracts.

Projects assisted with federal funds may be subject to the requirements of Section 3 of the Housing and Community Development Act of 1968 which requires employment and other economic opportunities generated by HUD assistance or HUD assisted projects shall "to the greatest extent feasible," be directed to low- and very low- income persons, particularly persons who are recipients of HUD assistance for housing and to business concerns that provide opportunity for employment for low- and very low- income persons. Section 3 reporting will be required in acquisition and rehabilitation and new construction loan agreements over \$100,000

The requirements of the Section 3 regulation include, but are not limited to, development and implementation of an affirmative action plan for utilizing business concerns located within, or owned in substantial part by persons residing in, the area of the Project; the making of a good faith effort, as defined by the regulations, to provide training, employment and business opportunities required by Section 3; and incorporation of the “Section 3 clause” specified by 24 C.F.R. Part 75 in all contracts for work in connection with the Project.

Section 3 requirements will be a part of the City loan agreement and must be incorporated into the general contractor’s agreement and subcontractor agreements.

#### **4.11 Loan Funding**

In preparation for loan funding, the designated staff member will perform the following:

- A. **Verification of Closing Conditions:** Review all pre-funding conditions of the Loan Agreement to ensure that the borrower has complied with conditions and provided necessary documentation.
- B. **Fund Escrow:** The recording of loan documents and satisfaction of closing conditions generally will be handled through an escrow. If funds are to be disbursed to a borrower at closing those funds may be disbursed through the escrow. Other loan funds will be disbursed by the Housing Department to pay or reimburse project expenses in accordance with the procedures described in the loan agreement.

Before signing loan documents applicants may request a meeting with Department staff to review the Department’s escrow instructions, conditions for disbursement of any funds, recordation of documents, title insurance policy requirements, and post-closing reporting and compliance expectations.

- C. **Scheduling the Closing:** Borrower will be responsible for opening escrow, scheduling the closing, collecting, and reviewing final loan documents and working with Department staff to set a closing date.
- D. **Loan Funding:** Prior to disbursement of loan funds the Borrower must comply with all conditions set forth in the loan agreement and provide the Department \with the following:
  - Original or certified copies of executed loan documents
  - Proof of current property tax payments
  - Proof of insurance meeting City insurance requirements
  - Payment and Performance Bond
  - DUNS Number
  - Title insurance meeting Department standards
  - Proof of environmental clearance
  - Proof of compliance with prevailing wage requirements, if applicable

Additionally, the Department must have, on file, a Release of Funds from HUD.

#### **4.12 Project Development**

Borrowers must comply with various provisions of the loan agreements that typically begin prior to construction. These provisions may include timely submission of construction progress reports, copies of draw requests, project and/or developer financing statements, prevailing wage compliance reports, and other compliance issues. Assigned section staff will be the borrower’s principal contact during the development process; this person will also serve as the focal point for coordinating between the borrower

and City departments responsible for the enforcement of Federal, State and Local regulations such as NEPA, Section 3, prevailing wages and other compliance issues.

#### **4.13 Compliance & Monitoring**

Upon project completion, a Department compliance section staff member will be assigned to the project. This individual will serve as the borrower's primary contact during the operating phase of the development and is responsible for reviewing continuing compliance with regulatory agreements, affordability restrictions, the annual or semi-annual Uniform Physical Condition Standards Inspection and general program compliance with the Loan Agreement. Each, project's financial performance and verification of timely payment of mortgage payments and any surplus cash payments may be monitored by City or a City-contracted loan servicing agency.

#### **4.14 Annual Reporting**

Borrowers, as stated in the loan agreements, will be required to make periodic reports to the Housing Department regarding project financials, project cash flow and borrower's compliance with applicable requirements of City and other funding. The required reports shall provide information on the beneficiaries (homebuyers, renters, special needs populations) of federal funding and the financial condition of the project. If borrowers have not responded timely to the Department's requested annual or periodic reporting, the project will be found in default of the City loan and borrower contractual obligations. Reports include: Annual Audited Financial Statements, Consolidated Annual Performance and Evaluation Report (CAPER) (July of each year), HOME report if HOME funds were used in the creation of the City's loan, and A-133 Audit if the borrower received more than \$500,000 in total federal funds.

#### **4.15 Loan Servicing**

All Housing Department loans will be administered by the City or a City-contracted loan servicing agency that will collect payments, review annual audited financials of projects with a cash flow note; report delinquency to the City and who will conduct other typical loan servicing activities.

## Summary of Preserving Affordable Housing – Rehabilitation Loans for Non-Profit Developers of Affordable Housing

	<b>Gap – Rental Housing</b>
<b>Funding Sources</b>	HOME, CDBG, HOPWA
<b>Eligible Borrowers</b>	Non-Profit 501(c)(3) organizations who are previous borrowers to the City of Phoenix for affordable housing properties previously funded by the City
<b>Loan Size / Quantity</b>	\$15,000/unit up to a maximum of \$350,000 for on property (project)
<b>Term</b>	up to 42 years
<b>Interest Rate</b>	0% Acquisition/Construction/Lease-up 2% Amortizing Loans 4% Cash Flow Note – based on Surplus Cash
<b>Maximum Loan to Value Ratio</b>	Not Applicable; however, at least 10% of the development cost must be funded by non-City sources
<b>Minimum Debt Service Coverage Ratio</b>	1.15 combined on all amortizing debt including City's note
<b>Type of City Loans Available</b>	<p>Deferred until completion of project or other negotiated milestone.</p> <p>Amortized Note: Based on 1.15 DSCR for City note and all senior debt</p> <p>Cash Flow Note: Repayment from negotiated % of surplus cash</p> <p>Split Loan Note containing 2 promissory notes: 1) an Amortized Note for that portion of the loan (based on a 1.15 DSCR) that can be paid on a monthly basis and 2) a Cash Flow Note for the remaining portion of the loan</p> <p>Forgivable at end of Period of Affordability</p>

	<b>Gap – Rental Housing</b>
<b>Security</b>	Promissory note, deed of trust, and Declaration of Affirmative Land Use Restrictions
<b>Leveraging</b>	Developer must provide 10% of Total Development Costs (TDC) with equity or other non-City funds and property
<b>Affordability Requirement</b>	At least 51% of assisted units are rented to and affordable by families with incomes below 60% AMI  Affordability covenant is 5 to 20 years as applicable under section 4.1.1 or 4.1.2
<b>Allowable Uses of loan proceeds</b>	Rehabilitation
<b>Forbidden Uses of loan proceeds</b>	City loans are intended as “gap” financing and therefore cannot be used for re-financing, loan guarantees or developer fee
<b>Selection Method</b>	NOFA, RFP
<b>Application Deadlines</b>	Applications must be submitted by NOFA/RFP deadlines
<b>Staff Review Processing Timeline</b>	90 days following the close of the application period