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City of Chattanooga

Department of Economic Development

Housing & Community Development Division

**UNDERWRITING AND SUBSIDY LAYERING**

**POLICIES AND PROCEDURES**

**HOME INVESTMENT PARTNERSHIPS PROGRAM**



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**CITY OF CHATTANOOGA**

**UNDERWRITING AND SUBSIDY LAYERING**

**POLICIES AND PROCEDURES – HOME INVESTMENT PARTNERSHIPS PROGRAM**

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1. **OVERVIEW**

The City of Chattanooga (City) as a participating jurisdiction administers federal funds received from the U.S. Department of Housing and Urban Development (HUD) Home Investment Partnerships Act, as authorized under Title II of the Cranston-Gonzalez National Affordable Housing Act, as amended, 42 U.S.C. 12701 et seq. (HOME). HOME funds may be used for the acquisition, new construction, or rehabilitation of affordable housing. Activities funded with HOME funds are required to comply with all regulatory provisions of the HOME program as codified in 24 CFR Part 92.

24 CFR 92.250 addresses maximum per-unit subsidy amounts, underwriting requirements, and subsidy layering review requirements as they apply to the home-assisted acquisition, construction, or rehabilitation of affordable housing. These requirements dictate that:

1. Maximum per-unit subsidy amount

The total amount of HOME funds funds that a participating jurisdiction may invest on a per-unit basis in affordable housing may not exceed the per-unit dollar limitations established under section 221(d)(3)(ii) of the National Housing Act (12 U.S.C.17151(d)(3)(ii)) for elevator- type projects that apply to the area in which the housing is located. HUD will allow the per-unit subsidy amount to be increased on a program-wide basis to an amount, up to 240 percent of the original per-unit limits, to the extent that the costs of multifamily housing construction exceed the section 221(d)(3)(ii) limit. *(Please note that as a result of the discontinuation of the Section 221(d)(3) mortgage insurance program, HUD published a Notice establishing an interim policy that Field Office staff and participating jurisdictions (PJs) must follow directing PJs to use the Section 234-Condominium Housing basic mortgage limits, for elevator-type projects, as an alternative to the Section 221(d)(3) limits in order to determine the maximum amount of HOME funds a PJ may invest on a per-unit basis in HOME-assisted housing projects. This interim policy remains in effect until the effective date of the new final rule provisions, amending the existing provisions of 24 CFR 92.250(a)).*

1. Subsidy layering

Before committing funds to a project, the participating jurisdiction must evaluate the project following guidelines that it has adopted for determining a reasonable level of profit or return on the owner's or developer's investment in a project and must not invest any more HOME funds, alone or in combination with other governmental assistance, than is necessary to provide quality affordable housing that is financially viable for a reasonable period (at minimum, the period of affordability in § 92.252 or § 92.254) and that will not provide a profit or return on the owner's or developer's investment that exceeds the participating jurisdiction's established standards for the size, type, and complexity of the project. The participating jurisdiction's guidelines must require the participating jurisdiction to undertake:

(1) An examination of the sources and uses of funds for the project and a determination that the costs are reasonable; and

(2) An assessment, at minimum, of the current market demand in the neighborhood in which the project will be located, the experience of the developer, the financial capacity of the developer, and firm written financial commitments for the project.

(3) For projects involving rehabilitation of owner-occupied housing according to §92.254(b):

(i) An underwriting analysis is required only if the HOME-funded rehabilitation loan is an amortizing loan; and

(ii) A market analysis or evaluation of developer capacity is not required.

(4) For projects involving HOME-funded downpayment assistance according to §92.254(a) and which do not include HOME-funded development activity, a market analysis or evaluation of developer capacity is not required.

In conjunction with the requirements of 24 CFR 92.250, HUD has issued additional guidance in CPD Notice 15-11, December 22, 2015, entitled “Requirements for the Development and Implementation of HOME Underwriting and Subsidy Layering Guidelines.”

Additionally, 24 CFR 92.254(f) requires that the City have and follow written policies for:

1. Underwriting standards for homeownership assistance that evaluate housing debt and overall debt of the family, the appropriateness of the amount of assistance, monthly expenses of the family, assets available to acquire the housing, and financial resources to sustain homeownership;
2. Responsible lending, and
3. Refinancing loans to which HOME loans are subordinated to ensure that the terms of the new loan are reasonable.

This document provides the City of Chattanooga’s Policies and Procedures relative to the performance of its underwriting and subsidy layer review obligations for HOME-assisted acquisition, construction, or rehabilitation of affordable housing.

**PROJECT UNDERWRITING**

Underwriting is the performance of due diligence by the City to evaluate the critical elements of a development or rehabilitation proposal and assess any risk factors. The evaluation entails a multi-level review of key aspects of the decision-making process to determine the eligibility and viability of the proposed project to ensure that:

1. The development proposal meets all of the submission requirements of the Request for Proposal or other call for projects.
2. The submitted project is consistent with Consolidated Plan Strategic Plan goals.
3. The funding request is feasible.
4. There is market demand for the proposed development.
5. The proposal meets Site and Neighborhood Standards requirements.
6. The developer has the experience and capacity to complete the proposed development.
7. The proposal conforms to the HOME requirements.
8. The costs associated with the development portion of the proposal are necessary, reasonable, and financially feasible.
9. The projected operational costs are necessary and reasonable, and the proposed development is sustainable for the duration of the affordability period.
10. A sales plan is provided for homebuyer projects.
11. The sources and uses of funds statements and lender commitments reflect sufficient resources to complete the proposed development.
12. The total amount of government assistance is not more than is necessary to produce the project.

The City will perform its underwriting review responsibilities and document its actions in the project file through review memoranda, project review checklists and templates, and determination summaries.

1. **Project Submission Review**

The City will review all development proposals to ensure that they comply with the submission requirements in the Request for Proposals or other call for projects.

1. **Consolidated Plan Review**

The City will review proposals to ensure that the proposed project is consistent with the City’s adopted Consolidated Plan Strategic Plan goals.

1. **HOME Funding Feasibility**

The developer is required to submit a narrative describing their HOME funding needs for the proposed project, inclusive of the amount of funding being requested, the proposed use of the HOME funds, as well as the proposed implementation schedule and manner in which the funding will be disbursed. The City will review the funding request to determine if sufficient funding is available to meet the proposal needs based on the submitted documentation.

1. **Market Study/Market Assessment**

The developer must submit a market study that evaluates market conditions and neighborhood conditions for the proposed development site and demonstrate sufficient demand for the proposed housing, both HOME-assisted and any un-assisted housing developed. The market study must provide a quantitative analysis that documents the marketability of the proposed units, utilizing rental and sales data as appropriate. The City requires that the supporting data for the market study be aged six (6) months or less.

The City will review the market study to determine if it contains the required review factors for the proposed housing at its specified location:

1. An evaluation of the general demographic, economic, and housing conditions in the neighborhood.
2. A mapping of the market area that identifies the geographic area from which the majority of a project’s anticipated tenants or buyers are likely to come.
3. A quantification of eligible tenants or buyers that identifies the household size, age, income, tenure (homeowner or renter), and other relevant profile factors.
4. An analysis of competitive housing opportunities in the market area, inclusive of a review of comparative project amenities, with an emphasis on other affordable rental developments or sales opportunities, including those financed through either the HOME program or other federal programs.
5. An assessment of the market for the proposed units and a determination that there is sufficient demand to sell the HOME-assisted housing within nine months of construction completion, or to rent the HOME-assisted housing within 18 months of project completion.
6. An evaluation of the effective demand and the capture rate (proposed units ÷ total applicant pool).
7. An estimate of the absorption period, with a monthly schedule and projection of completion of the initial lease-up or sale of the HOME-assisted units and stabilized occupancy for any rental project.
8. Inclusion of the date the study was completed, identification of the supporting data used to support the analysis, and the person and organization conducting the market assessment, including their statement of qualifications.

Additionally, the City will review the market study to determine if the supporting data is sound and if the findings are conclusive relative to the level of demand for the proposed housing and the ability of the housing to be rented or sold (the absorption rate) within the regulatory timeframes of the HOME program.

Where a market study is provided for other lenders, a copy may be utilized for this analysis provided that it contains the required review factors and meets the six (6) month data aging requirement. Acceptance of an existing study requires that the City review the study in a manner similar to an analysis that would be performed for a study prepared specifically for the City.

*The market assessment can take different forms, including independent market studies, waiting lists and other market information assembled by the applicant, or market data compiled by the PJ. A PJ is not required to pay for an external, independent market study or to perform a full, formal market study. The scope of the assessment should be relative to the project scope.*

1. **Site and Neighborhood Standards Review**

The City will review the project for conformance with the City’s zoning and development requirements, in addition to HUD-specified review factors, which include:

1. The adequacy of the site for the proposed improvements.
2. The adequacy of utilities to service the site.
3. The availability of streets to service the site.
4. The suitability of the development in meeting the City’s housing goals and policies.
5. The proposed project’s conformance with the City’s development and design standards for assisted housing.
6. The suitability of the site and neighborhood for furthering compliance with Title VI of the Civil Rights Act of 1964, the Fair Housing Act, Executive Order 11063, and their implementing HUD regulations.
7. The site must not be located in an area of minority concentration, except as permitted under “8a” and “8b” below, and must not be located in a racially mixed area if the project will cause a significant increase in the proportion of minority to non-minority residents in the area.
8. A project may be located in an area of minority concentration only if:

Sufficient, comparable opportunities exist for housing for minority families, in the income range to be served by the proposed project, outside areas of minority concentration.

The project is necessary to meet overriding housing needs that cannot be met in that housing market area.

The site must promote greater choice of housing opportunities and avoid undue concentration of assisted persons in areas containing a high proportion of low-income persons.

The neighborhood must not be one which is seriously detrimental to family life or in which substandard dwellings or other undesirable conditions predominate unless there is actively in progress a concerted program to remedy the undesirable conditions.

The housing must be accessible to social, recreational, educational, commercial, and health facilities and services, and other municipal facilities and services that are at least equivalent to those typically found in neighborhoods consisting largely of unassisted, standard housing of similar market rents.

Except for new construction housing designed for elderly persons, travel time and cost via public transportation or private automobile, from the neighborhood to places of employment providing a range of jobs for lower-income workers, must not be excessive.

To assist in determining compliance with the site and neighborhood standards, the City will require that the developer submit a Site and Neighborhood Standards Analysis with their proposal, performed in conformance with the requirements of 24 CFR 986.57(e). The City will review the analysis to determine compliance with HUD project siting requirements.

1. **Developer Underwriting**

The developer underwriting review is performed to assess the developer’s capacity to undertake the proposed development. This evaluation includes a review of the developer’s:

1. Experience and references.
2. Development team qualifications.
3. Property Management Staff.
4. Financial statements.
5. Status of current projects and holdings.
6. Debarment Status.

Developer Experience and References

In evaluating the development team’s skills, capacity, and experience, the City will review accomplishments and references to determine if the developer has completed projects of similar scope and size, target population, and geographic setting and market. This evaluation will include consideration of whether the development team has experience developing, building, and operating affordable rental housing using HOME, and if necessary combined with Low-Income Housing Tax Credits. Where the development team has experience in only one program, the developer will be required to provide details regarding how they plan to gain expertise in the other program, to ensure that the team is competent in developing and managing the property in compliance with both sets of program requirements. Additionally, when feasible, site visits will be scheduled to view the developer’s completed projects and determine the quality of their developments.

The City requires that the developer has successfully developed and owned at least one project of approximately similar scope, type, size, scale, tenure, complexity, and target population within the last 5 years and that the total development value of the current proposed project does not exceed their highest completed similar development value and owned project by more than 20%.

Development Team Qualifications

The resumes and references of the development team will be reviewed to determine if they demonstrate sufficient expertise to complete the proposed development. References will be contacted to obtain insight into the quality and timeliness of work performed by development team members. The City’s review will also include verification of any required licensing, certifications, or other available professional competency measures.

Property Management

The designated property management company must have successfully managed projects of similar scope and scale within 5 years of the project proposal date.

Financial Statement Review

Examination of the developer’s financial statements is a critical element in the City’s proposal review process. Financial stability and strength are key indicators of a developer’s ability to finance the development and weather unanticipated project costs. The City will examine the developer’s audited income statements, balance sheets, and cash flow statements for the last year, to determine if there are any indications of potential weaknesses in their financial structure, and their ability to complete the proposed development. The City will also review the developer’s financial statements to determine net worth, portfolio risk, liquidity, and funding commitments and obligations of the developer.

A review of the developer’s cash and cash equivalent reserves, in combination with available letters of credit will be undertaken by the City to determine if sufficient capital is available to address all of the developer’s existing obligations, the proposed development, and any known risk factors. Upon coverage of all existing commitments, a minimum of 30% above the developer’s proposed equity position in the development should be available to address potential additional financial project needs.

Additionally, a review of the credit rating and debt position of the developer may also provide information regarding their financial strength. Where projects require minimum developer equity positions, the financial review shall verify that sufficient funds exist to meet the equity requirements.

Status of Current Holdings and Projects

The developer is required to include a listing of all projects that are currently in development and a listing of all properties that the developer operates and manages. The City will review the status of the developer’s current holdings to determine if projects of similar scale have been completed, whether projects in development are progressing as scheduled or will conflict with the proposed development, and if staffing and resources are sufficient to address the proposed development.

The City will conduct a review of the developer’s current housing projects that have been in operation for over three years, based on the submission of a certificate from a third-party certified public accountant that the projects have maintained a positive operating cash flow from operating income alone, for the year in which each development’s last financial statement has been prepared and have funded reserves following the partnership agreements and any applicable loan documents.

Debarment Status

HOME Funds may not be used to directly or indirectly employ, award contracts to, or otherwise engage the services of any contractor or subrecipient during any period of debarment, suspension, or placement of ineligibility status. Before entering into any HUD-funded agreement, the City will check all known contractors, subcontractors (including sub-tier contractors), consultants, and subrecipients against the System for Award Management (SAM), found at [**https://www.sam.gov**](https://www.sam.gov).

The debarment/suspension status will be checked in the SAM system for the following entities:

1. Developer Entity.
2. Developer Entity’s Board of Directors.
3. Managing and/or General Partner.
4. All known third-party entities.
5. **HOME Requirements**

The HOME Program is designed to provide affordable housing to low-income and very low-income families and individuals. Therefore, the program has some key restrictions that are designed to foster HUD’s commitment to quality long-term affordable housing provided at a reasonable cost. These key restrictions include:

1. Income eligibility and verification.
2. Occupancy and rent requirements.
3. Subsidy limits.
4. Affordability periods.
5. Property standards
6. Cost Allocation.

Income Eligibility and Verification

Beneficiaries of HOME funds—homebuyers, homeowners, or tenants—must be low-income or very low-income. A “low-income household” has an annual gross income that does not exceed 80 percent of area median income (AMI), as adjusted by household size. A “very low-income household” has an annual gross income that does not exceed 50 percent of AMI, as adjusted by household size. In addition, for HOME-assisted rental units, not less than 90% of the beneficiaries at initial occupancy must have annual incomes that do not exceed 60 percent of AMI. The City will review the income targeting for proposed developments to ensure that they are consistent with HOME requirements.

Occupancy and Rent Requirements

In projects assisted with HOME funds, the HOME-assisted units must meet the occupancy and rent requirements of the HOME Program. The City will review the proposed development occupancy targets to ensure that the income targeting requirements of 24 CFR 92.216 are met for rental units, and 24 CFR 92.217 for homeownership. In addition, the review will also ensure conformance with the “project requirements” of 24 CFR 92.252 for HOME-assisted rental units and 24 CFR 92.254 for ownership housing units.

Subsidy Limits

HOME establishes minimum and maximum amounts of HOME funds that may be invested in any project. The minimum amount of HOME funds is $1,000 multiplied by the number of HOME-assisted units in the project. The minimum relates only to the HOME funds, and not to any other funds that might be used for project costs.

Annually, HUD determines the maximum amounts, which are currently, on an interim basis, determined utilizing the Section 234 basic mortgage limit. The City will perform an analysis of the proposed development to ensure conformance with the per-unit subsidy limits for HOME-assisted units in effect at the time of approval.

Affordability Periods

To ensure that HOME investments yield long-term affordable housing, HOME imposes rent and occupancy requirements for the duration of an affordability period. For rental projects, the length of the affordability period is dependent on the amount of HOME assistance to the project, and the nature of the activity funded. Throughout the affordability period, income-eligible households must occupy the HOME-assisted housing. The City will review development proposals to ensure that an affordability period commitment is provided, at a minimum, in compliance with HOME standards.

Property Standards

The City will undertake a review of the proposed development to ensure that it complies with minimum property standards for HOME-funded properties:

1. State and local codes and ordinances apply to any HOME-funded project regardless of whether the project involves acquisition, rehabilitation, or new construction.
2. Uniform Federal Accessibility Standards. The UFAS standards apply to new construction and substantial rehabilitation, in accordance with Section 504 of the Rehabilitation Act of 1973.
3. International Energy Conservation Code and Site and Neighborhood Standards, for new construction projects.

Sufficient replacement reserves must be maintained for rental developments to ensure compliance with the property standards of 24 CFR 92.251 for the duration of the affordability period.

Cost Allocation

Following the requirements of 24 CFR 92.205(d)(1) and additional guidance provided in CPD Notice 16-15, dated August 2016, when fewer than 100% of the project’s units are designated as HOME-assisted units, using the [***HOME Cost Allocation Tool***](https://www.hudexchange.info/resource/5190/home-cost-allocation-tool/) the City will conduct a cost allocation determination to identify the number and characteristics of units to be designated as HOME-assisted in multi-unit or homebuyer projects. The results of this determination will be maintained in the project file with the development proformas and will be integrated into the development agreement.

1. **Development Proforma**

To ensure uniformity in proposal submissions, the City will require that development proposal proformas be submitted on the [HOME Multi-Family Underwriting Template](https://www.hudexchange.info/resource/2468/home-multifamily-underwriting-template/) (HUD Template). All amounts specified in the “Construction Costs” tab shall be verified by the City utilizing recent construction cost data derived from similarly assisted projects. In the absence of the availability of current construction cost data, or substantiating documentation from the developer, a qualified third-party resource will be utilized.

The City review of the development proforma will be based on the following standards:

1. The City strives to have the maximum debt coverage ratio allowed in new construction projects to be limited to the ratio required by other lenders providing financing as reflected in their commitment of funds, with the City’s standard maximum debt service coverage a minimum of 1.15. Debt coverage shall be calculated after accounting for all reserve deposits. For subordinate amortized loans, the debt coverage should be calculated using cash flow remaining after debt service on the 1st mortgage. The debt coverage for all proposals will be evaluated by the City in the context of this standard.
2. The construction proforma must reflect a minimum 10% contingency amount, which must be fully addressed in the Sources and Uses of Funds financing statement.
3. The City’s standard developer fee allowance is 15% of total development costs. Amounts in excess of this standard are subject to City consideration upon receipt of acceptable justification from the developer, including a justification that the higher developer fee is due to the greater developer fee amounts allowed.. Funds disbursed to the developer for administrative costs, provision of guarantees, or fees for services, and payment of fees for guaranteeing against operating deficits will be considered a portion of the developer fee. Payments into reserves required by lenders or investors will not be included as part of the developer fee. Specific examples of items to be treated as developer fees (in addition to any fees charged by the developer) include administration; staff costs, including development consultants (but not historic preservation, environmental, or syndication consultants); net worth guarantee fees; marketing and/or rent-up supervision fees; tax credit compliance guarantee fees; real estate brokerage fees paid to a related party; loan brokerage fees paid to a related party; processing agent fees; developer profit and overhead; compensation for construction management oversight provided by the developer; the cost of any personal guarantees; and reserves above those customarily required by multi-family housing lenders. Developer return on equity should typically not exceed a reasonable rate over the HOME affordability period. Development fees and operating returns shall be evaluated by the City in the context of the risk factors associated with the development, as well as the developer’s equity contribution.
4. The City limits the following builder charges:
5. Builder General requirements limited to 6% of construction hard costs
6. Builder Overhead is limited to 2% of hard construction costs
7. Builder Fee limited to 6% of hard construction costs

In conjunction with the construction pro forma review, the City will review the description of the proposed improvements, inclusive of a site plan depicting all proposed site improvements, proposed building elevations, and sample floor plans, proposed residential and ancillary structures, proposed parking improvements, the description of the total number of units to be constructed with unit bedroom/bath mix and a description of the proposed HOME-assisted units to be provided, and the development schedule to determine conformance with HOME funding requirements.

The City requires that an appraisal be submitted in conjunction with any proposal submission. A licensed appraiser must determine the value of the property within six months of property acquisition. If the property is to be acquired with HOME funds, it cannot be purchased for an amount above the appraised value.

1. **Operational Proforma**

The **HUD Template** provides for the submission of a 30-year operating pro forma. The City will review the operational proforma to determine the adequacy and reasonableness of the amounts entered for the proposed project.

The basis for the income reflected in the operating proforma is the unit mix and rents for the HOME-assisted and unassisted units. The City will evaluate the unit mix and their respective HOME rent limits and HOME utility allowance to determine if they conform to HOME requirements and the City’s utility allowance table; as well as the market rents, if any, for reasonableness. The key assumptions that are integrated into the HUD Template will also be reviewed by the City to ensure that the affordability period is consistent with HOME requirements. The City will also examine the inflation/trending assumptions used to project estimated increases in rents for HOME-assisted units, market-rate units, and other affordable units to ensure that they are reasonable. The underlying assumptions regarding initial lease-up rent loss, and the recurring stabilized rent loss rate will be evaluated by the City to determine their reasonableness based on market conditions for assisted housing.

Projected annual rent increases for HOME-assisted units should not exceed 2% per year, while market-rate units should not exceed 6% per year. The projected stabilized vacancy rate for all assisted standard housing developments should not exceed 7% per year, while the stabilized vacancy rate for special needs housing should not exceed 12% per year. Initial lease-up for rental housing should occur within six (6) months of project completion but in no event greater than 18 months. If the proposed development is for ownership housing, there must be a ratified sales contract within 9 months of the construction or rehabilitation completion. Failure to obtain the sales contract within the specified period will result in the conversion of the unit to HOME-assisted rental housing.

The initial reserve for replacement deposit and annual replacement reserve contribution will be reviewed by the City to determine the sufficiency of the reserve account to address all long-term capital needs of the project. A minimum of 0.8% of the replacement cost of the structure shall be funded into the replacement reserve, up to $700 per unit for standard and special needs housing, and $550 per unit for senior housing.

The HUD Template’s annual operating expense proforma will be evaluated by the City to determine that proposed charges are necessary, provide sufficient coverage, and are reasonable for the development under review. The inflation/trending assumptions for annual operating expense increases and other income will examined by the City to determine their reasonableness. This evaluation will be based on the expense structure for completed developments of similar size and configuration. The blended annual operating expense increase should not exceed 2.5% per year.

Where specified by the developer, the cost of funding an initial operating deficit reserve to meet any shortfall in project income during the period of project rent-up (not to exceed 18 months) and which may only be used to pay project operating expenses, scheduled payments to a replacement reserve, and debt service, shall be evaluated by the City to determine both need and reasonableness.

The development loans and their respective rates and terms as reflected in the HUD Template will be evaluated by the City for consistency with the loan commitment letters received.

The City’s review of the foregoing items will address the variables that contribute to the HUD Template’s operating pro forma. The resultant performance measures of the development that are derived from these variables will also be evaluated by the City to determine their consistency with City requirements for debt service coverage, cash flow, and developer return on equity over the 30-year term of the operating pro-forma review period. As a goal, all rental projects should reflect positive cash flow after 18 months of initial rent-up. Debt coverage should generally be maintained over the life of the project at a minimum of 1.15 after the 18-month project stabilization period.

1. **Sales Plan**

Where the project entails the provision of homebuyer units, the developer is required to provide a sales plan that provides a schedule of how the completed units will be sold, and the anticipated cash flow generated by sales.

The City will evaluate the sales plan in conjunction with the market study for the development to determine consistency. In addition, the cash flow generated by sales will be examined by the City relative to the development schedule. Where continued construction is dependent on cash generated from sales of completed units, the sales plan will examined be to determine the potential for construction delays and its effects on HOME expenditure requirements.

1. **Sources and Uses of Funds Statement**

The City will conduct a review of the Sources and Uses of Funds statement contained within the HUD Template to determine the sufficiency of resources, consistency with the development proforma, and to determine eligibility of HOME-designated expenses. In addition, the City will review and verify all written financing commitments directly with funding sources, inclusive of construction or bridge loans, any bond-issuing agency’s commitment to issue and bond purchaser’s commitment to purchase, allocating the agency’s reservation of tax credits and equity provider’s commitment to purchase, as applicable. A review of the developer’s equity commitment will also be verified to ensure the availability of funds, and where there is a partnership of a limited liability corporation, a copy of the partnership or operating agreement will be reviewed to determine their respective contribution levels.

The City’s analysis of funding will evaluate the funding sources to ensure that rates are reasonable when compared with equivalent loan products provided under similar risk conditions.

The table below provides a general summary of the eligibility of typical HOME and LIHTC charges encountered during the review of a development project.

|  |  |  |
| --- | --- | --- |
| **Development Budget**  **Line Item** | **HOME Eligible Cost** | **LIHTC Eligible Basis** |
| Acquisition | Eligible | Land is outside of basis; Improvements are in basis |
| Hard costs (construction) | Eligible (Note, onsite infrastructure costs are eligible, but off-site infrastructure costs are not) | In basis |
| Construction-related soft costs (architectural and engineering services, builder fee, soils testing, etc.) | Eligible | In basis |
| Developer fee | Eligible | In basis (may be paid in cash up-front or deferred) |
| Project reserves | Initial operating reserve to cover up to 18 months during lease-up is eligible | Outside basis |
| Financing costs | Eligible, provided they are reasonable and customary in the jurisdiction | Depends on the specific cost; fees related to the permanent loan are outside basis |
| Other soft costs (relocation, application fees, counseling fees) | Eligible, provided the cost can be specifically tied to the HOME-assisted project | Most are included in basis. Costs related to forming the LIHTC ownership entity and cost of selling tax credits to investors are outside basis |

1. **Subsidy Layering Requirements**

To ensure conformance with the subsidy layering requirements of 24 CFR 92.250(b), the City will review the identified sources of funding in the Sources and Uses of Funds Statement. In the absence of other governmental funding, the City will request that an affidavit of non-governmental funding be provided by the developer.

In the event that other public funding is utilized in addition to HOME funds, the City will utilize the HUD Template to perform its subsidy layering review. Upon verification of the reasonableness and necessity of all costs within the HUD Template, the “Sources and Uses” tab will be used to generate and determine the project subsidy layering gap. Funding more than the gap means the project is over-subsidized. Funding less than the gap means that in the absence of additional funding, the owner may have inadequate funds to complete the project successfully.

For HOME-LIHTC projects, the City is permitted to accept the subsidy determination of the state allocating agency for subsidy layering purposes; however, the City will obtain a copy of the LIHTC subsidy layering analysis and conduct its internal own review to verify its determination and determine compliance with all other HOME requirements.

1. **UNDERWRITING DIRECT HOMEBUYER ASSISTANCE**

24 CFR 92.254(f) requires that the City provide and follow written policies for:

1. Underwriting standards for homeownership assistance that evaluate housing debt and overall debt of the family, the appropriateness of the amount of assistance, monthly expenses of the family, assets available to acquire the housing, and financial resources to sustain homeownership,
2. Responsible lending, and
3. Refinancing loans to which HOME loans are subordinated to ensure that the terms of the new loan are reasonable.

Underwriting Criteria

For homebuyer assistance activities directly funded by the City, the following underwriting standards shall apply:

| **Eligibility Factor** | **Requirement** |
| --- | --- |
| Income Eligibility | 80% AMI |
| Front End Ratio | 33% |
| Back End Ratio | 42% |
| Primary Loan | Fixed-rate, 30-year, fully amortized loan product at a rate of interest that is commensurate with the creditworthiness of the purchaser |
| Minimum Down Payment | 3% |
| City Assistance Amount | The minimum amount of HOME assistance required to render the acquisition in conformance with the 33% front-end ratio requirement when HOME funds are combined with the buyer's down payment and the primary loan |
| Form of City Assistance | Deferred Payment Loan |
| Maximum Purchase Price | Evaluated based on primary loan commitment, buyer down payment, and City Assistance in conformance with the 33% front-end ratio, but in no event to exceed the HUD maximum 95% of median purchase price limit for newly constructed housing or for existing housing, as applicable. |
| Homebuyer Education | Buyers are required to attend an 8-hour in-classroom First Time Homebuyer Education Program from a HUD-certified trainer. |

The back-end and front-end ratios are subject to review on a case-by-case basis in instances where the applicant has an exceptional credit history or no debt obligations.

Subordination Policy

The subordination policy sets forth the terms and conditions under which the City would subordinate to a refinancing of a new First Mortgage Loan. The City will not agree to subordinate to a new First Mortgage Loan if cash is to be taken out. The City will only agree to subordinate its position one time to refinance a new First Mortgage (on a case-by-case basis) when the intent of said refinance is to achieve the following: (1) the homeowner is refinancing the First Mortgage Loan to obtain a lower fixed interest rate and the City's security is not diminished from its original position, (2) and that such refinancing decreases the homeowners monthly housing expense or the amortization schedule.

The City's policy is more fully described below:

1. If a conventional First Mortgage Loan is being refinanced and a subordination is requested, then the refinance cannot increase the amount of the then outstanding debt against the property except to cover the usual and customary fees\* related to said refinance, and provided however, in no event shall the total of all monetary encumbrances (including the City's Trust Deed(s) on the property) exceed 95% of the appraised value of the property.
2. If a refinance is an FHA streamline, which is for the purpose of decreasing the interest rate, then the refinance cannot increase the amount of debt against the property in any way whatsoever. The lender normally pays all costs associated with an FHA streamline. If there are costs that are not covered by the Lender, then the homeowner shall be responsible to pay such costs or receive written approval from the City to add such costs to the new loan.

\* Customary Fees = appraisal fees, loan points, credit report fees, recording fees, tax services, title policy, impound fees, escrow fees, notary fees, reconveyance fees, prepaid interest, and prepaid mortgage insurance.

**OWNER OCCUPIED REHABILITATION**

24 CFR 92.250(b)(3) requires that for projects involving rehabilitation of owner-occupied housing not involving acquisition, an underwriting analysis is required when the HOME-funded rehabilitation loan is an amortizing loan. In the event that the City funds an amortizing owner-occupied rehabilitation loan, the following underwriting standards shall apply

| **Eligibility Factor** | **Requirement** |
| --- | --- |
| Income Eligibility | 80% AMI |
| Back End Ratio | 42% |
| Loan to Debt Ratio | The total value of all outstanding loan obligations secured by the property shall not exceed 90% of its appraised value at the time of City loan funding |
| Form of City Assistance | 0% to 3% Amortized Loan with varying terms based on level of assistance |
| Maximum Post-Rehabilitation Value | Less than the HUD maximum 95% of the median purchase price limit for existing housing |

1. **POLICIES AND PROCEDURES CHANGES AND MODIFICATIONS**

Minor changes to these Policies and Procedures involving administrative procedures or accommodations to adapt to regulatory changes may be performed with the approval of the Community Development Division Manager. HOME regulatory requirements are not subject to modification.