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**CITY OF SEATTLE**  
**ORDINANCE** 126377  
**COUNCIL BILL** 120101

AN ORDINANCE relating to housing for low-income households; adopting the Housing Levy Administrative and Financial Plan for program years 2021-2023; adopting Housing Funding Policies for the 2016 Housing Levy and other fund sources; authorizing actions by the Director of Housing regarding past and future housing loans and contracts; and ratifying and confirming certain prior acts.

WHEREAS, pursuant to Ordinance 125028, in 2016 Seattle voters approved the levy of property taxes for the purpose of financing and supporting housing for low-income households (“Housing Levy”); and

WHEREAS, Ordinance 125028 provides for periodic adoption by the City Council of an Administrative and Financial Plan for programs funded by the 2016 Housing Levy; and

WHEREAS, related market conditions and policies and funding at the federal, state, and local levels change rapidly, requiring reasonably flexible approaches to affordable housing development and rehabilitation; and

WHEREAS, in 2017 City Council adopted an Administrative and Financial Plan for program years 2017 and 2018, by Ordinance 125308; and

WHEREAS, in 2019 City Council adopted an Administrative and Financial Plan for program years 2019 and 2020, by Ordinance 125852; and

WHEREAS, the Office of Housing, with the Housing Levy Oversight Committee, has developed policies for Housing Levy programs for 2021-2023; NOW, THEREFORE,

**BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:**

Section 1. The City Council adopts the 2016 Seattle Housing Levy Administrative and Financial Plan for program years 2021-2023, attached to this ordinance as Exhibit A (“A&F

1 Plan”). The A&F Plan incorporates the Housing Funding Policies attached to this ordinance as  
2 Exhibit B (“Funding Policies”), except those policies that specifically apply only to fund sources  
3 other than the 2016 Housing Levy and except as otherwise stated in the A&F Plan or Funding  
4 Policies.

5 Section 2. The City Council adopts the Funding Policies attached to this ordinance as  
6 Exhibit B. The Funding Policies supersede the Housing Funding Policies adopted by Ordinance  
7 125852 (“2019-2020 Policies”) except as provided in Section 4 of this ordinance. The Funding  
8 Policies authorize certain actions and approvals by the Housing Director regarding loans and  
9 contracts made under the Funding Policies and those made under prior plans, policies, and  
10 ordinances. That authority is granted in addition to, and not in limitation of, any authority under  
11 prior plans, policies, and ordinances.

12 Section 3. The A&F Plan and Funding Policies are intended to provide policy direction  
13 for the implementation of programs funded by the 2016 Housing Levy, and for the use of other  
14 housing funds to the extent provided in Exhibit B to this ordinance, and to provide authority for  
15 the Office of Housing and the Human Services Department, but not to confer any legal rights or  
16 entitlements on any persons, groups, or entities.

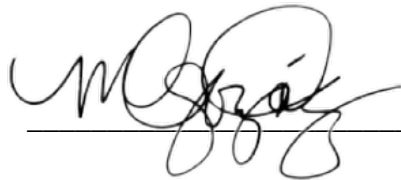
17 Section 4. The A&F Plan and Funding Policies are effective as of January 1, 2021, and  
18 shall remain in effect until amended or superseded by ordinance, except as provided in this  
19 section. Any actions on or after January 1, 2021, conforming to the A&F Plan and Funding  
20 Policies, as applicable, are ratified and confirmed. The terms of the A&F Plan and Funding  
21 Policies shall not require changes to the terms, or to the implementation, of any contract in effect  
22 prior to the effective date of this ordinance. The Director of Housing may implement funding  
23 awards made prior to January 1, 2021, in a manner consistent with policies in effect when the

1 related notice of funding availability was issued or the application was submitted, whether or not  
2 there is a binding agreement prior to the effective date of this ordinance, anything in the A&F  
3 Plan or Funding Policies notwithstanding. However, with the agreement of the borrower or  
4 applicant, the Director of Housing may apply provisions of the A&F Plan, or Funding Policies,  
5 that are not specific to the 2016 Housing Levy, to agreements implementing such previous  
6 funding awards, and any provisions of any agreement or amendment conforming to those  
7 provisions are ratified and confirmed.

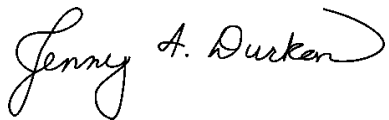
8           Section 5. The provisions of this ordinance are declared to be separate and severable. The  
9 invalidity of any clause, sentence, paragraph, subdivision, section, or portion of this ordinance or  
10 any exhibit to this ordinance, or the invalidity of the application thereof to any person or  
11 circumstance, shall not affect the validity of any other provisions of this ordinance or its exhibits,  
12 or the validity of their application to other persons or circumstances.

1 Section 6. Subject to Section 4 of this ordinance, this ordinance shall take effect and be in  
2 force 30 days after its approval by the Mayor, but if not approved and returned by the Mayor  
3 within ten days after presentation, it shall take effect as provided by Seattle Municipal Code  
4 Section 1.04.020.


5 Passed by the City Council the 21st day of June, 2021,  
6 and signed by me in open session in authentication of its passage this 21st day of  
7 June, 2021.

8   
9 \_\_\_\_\_  
President \_\_\_\_\_ of the City Council

10  Approved /  returned unsigned /  vetoed this 25th day of June, 2021.

11   
12 \_\_\_\_\_  
Jenny A. Durkan, Mayor

13 Filed by me this 25th day of June, 2021.

14   
15 \_\_\_\_\_  
Monica Martinez Simmons, City Clerk

16 (Seal)

- 1 Attachments:
- 2 Exhibit A – Seattle Housing Levy Administrative & Financial Plan Program Years 2021-2023,
- 3 as amended
- 4 Exhibit B – Housing Funding Policies, as amended

# SEATTLE HOUSING LEVY ADMINISTRATIVE & FINANCIAL PLAN

Program Years 2021-2023

(As adopted by Ordinance 125308  
and amended by Ordinance 125852 in 2019  
and amended by Ordinance \_\_\_\_\_ in 2021)



**Seattle**  
Office of Housing

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# 1. INTRODUCTION

The 2016 Seattle Housing Levy authorizes an estimated \$290 million over a 7-year period to provide, produce, and/or preserve affordable housing in Seattle and to assist low-income Seattle residents. The Levy funds five programs:

1. Rental Production and Preservation
2. Operating and Maintenance
3. Homeownership
4. Acquisition and Preservation (NOTE: there is not a separate allocation for this program; uses funds not yet required for disbursement for other Levy programs)
5. Homelessness Prevention and Housing Stability Services

The 2016 Housing Levy, approved by Seattle voters in August 2016, authorized increased property tax levies authorized for seven years, from 2017 through 2023. The Office of Housing (OH) administers all 2016 Seattle Housing Levy programs except the Homelessness Prevention and Housing Stability Program, which is administered by the Human Services Department.

Ordinance 125028, passed by City Council on May 2, 2016, placed the Levy proposition on the August ballot and directed OH to prepare a Levy Administrative and Financial Plan (A & F Plan) every two years beginning in 2017. The ordinance calls for the A & F Plan to include, among other things, amounts allocated to programs, criteria for selecting projects, guidelines for loans or grants, and requirements for project sponsors. The A & F Plan may also include other information as the Mayor or Housing Director may deem appropriate or the City Council may request.

The Levy A & F Plan is adopted by City Council by ordinance, with such modifications as the City Council may require. A draft A & F Plan is first developed by OH with input and assistance of working groups that include representatives of housing providers, the Seattle Housing Authority, business, groups addressing homeless and other human service issues, and other interested community members. The Housing Levy Oversight Committee reviews the draft and makes recommendations to the Mayor and City Council.

This A & F Plan governs implementation of Housing Levy programs in 2017 and 2018 and will remain in effect until amended or superseded by ordinance. This A & F Plan incorporates policies for the Housing Levy Homelessness Prevention and Housing Stability Services Program that were adopted by City Council in Ordinance 125217, passed on November 28, 2016. It incorporates the Housing Funding Policies (Funding Policies), except to the extent that provisions of the Funding Policies apply only to fund sources other than the 2016 Housing Levy. The contents of this A & F Plan are not intended to confer any legal rights on actual or potential project borrowers, applicants, or other persons.

Capitalized terms used in this A & F Plan that are defined in the Funding Policies have the meanings set forth in the Funding Policies unless the context otherwise requires. The terms of this Plan are subject to revision by ordinance and to the effect of applicable laws, regulations, and ordinances. To the extent



that the terms of this A & F Plan, including incorporated terms of the Housing Funding Policies, may be considered to add to or change any of the programs as described in Exhibit A to Ordinance 125028, the adoption of this A & F Plan makes those additions to and changes in programs.

The 2016 Housing Levy provides critical resources to address City housing priorities:

- It provides funding for homelessness prevention and housing stability services, as well as capital and operating funding for supportive housing and other affordable housing serving households who are homeless or at risk of homelessness, to implement Seattle's Pathways Home Initiative.
- It provides funding for affordable housing that helps prevent displacement of low-income residents and is an essential component of equitable development in Seattle communities.
- It is a cornerstone of the Housing Affordability and Livability Agenda (HALA) implementation, helping the City to meet the goal of producing or preserving 20,000 affordable units.
- It provides opportunities to foster greater collaboration between community groups and housing developers to achieve the City's race and social equity goals.

## 2. LEVY FUNDING PLAN

All revenues collected from the additional taxes levied for housing are deposited in the Low-Income Housing Fund and may be placed in subfunds or accounts created by the Director of Finance and Administrative Services as needed to implement the purposes of the 2016 Levy. Table 1 below shows annual amounts allocated to each program based on projected revenues from additional taxes levied pursuant to the Levy. If revenues collected in any year are lower than the amounts levied, that does not affect the amount that may be committed from the allocation to any program unless OH determines that the availability of funds when required to meet commitments might reasonably be impaired. The Acquisition and Preservation Program is not separately funded; funds allocated to other levy programs that are not yet needed for projects may be used for short-term Site Acquisition loans or directly for Site Acquisition, which may include acquiring options. In addition, funds allocated to the Rental Production and Preservation, Operating and Maintenance, and Homeownership programs may be used for short-term bridge loans as described in Chapters 2 and 4 of the Funding Policies, subject to limits in those Chapters.

Administration funding shown on Table 1 is intended to be used for administration of the use of Levy proceeds. Administration funds shall be utilized based on staffing and other operating costs needed to administer the programs, as approved in the City budget. Due to inflation, OH staffing costs will increase over the life of the Levy. Revenue is expected to be received evenly over the seven years, but expenditures for administration will be slightly lower in the early years of the Levy and slightly higher in the later years. The unspent balance in the early years will be preserved in the fund balance of OH's Operating Fund.

On a quarterly basis, the Human Services Department will submit a reimbursement request to OH for expenses related to the Homelessness Prevention and Housing Stability Services program, including funding for HSD's administration of the program.

**TABLE 1  
 ANNUAL FUNDING PLAN, 2017 - 2023**

Program	Annual Funding
Rental Production and Preservation <sup>1</sup>	28,714,285
Operating & Maintenance	6,000,000
Homelessness Prevention and Housing Stability Services	1,642,857
Homeownership	1,357,143
Acquisition and Preservation <sup>2</sup>	NA
Administration <sup>3</sup>	3,714,286
<b>Total</b>	<b>\$41,428,569</b>

**NOTES:**

1. Funds are used for the Rental Housing Program as described in Chapter 2 of the Funding Policies, except that up to \$2 million annually may be used for Rental Rehabilitation Loans as described in Chapter 6 of the Funding Policies.
2. Funds allocated to other Levy programs may be used for short-term Site Acquisition loans or directly for Site Acquisition, up to \$30 million in outstanding loan balances. Loans for the acquisition of one or more buildings with a federal rental assistance contract are also authorized and excluded from the \$30 million loan cap. See Housing Funding Policies Acquisition and Preservation Program section for more information on program policies.
3. Includes \$147,857 for HSD administrative costs.

**BUDGET AUTHORITY**

The budget allocation for OH does not include amounts specifically for Acquisition and Preservation loans or for any forward commitments of Rental Production and Preservation Program funds. OH is authorized to make such loans and forward commitments, consistent with the Funding Policies, in advance of a specific budget allocation. In the event that Acquisition and Preservation loans and/or advance funding commitments require additional budget authority in a given year, OH will request additional authority through a supplemental budget ordinance in the year that the funding award is made.

**PROGRAM INCOME AND INVESTMENT EARNINGS (2016 AND PRIOR LEVIES)**

The provisions of this section govern the use of Program Income and investment earnings to the extent consistent with provisions that remain in effect of applicable City ordinances submitting housing levy measures to the voters and with state Law.

Program Income received during the term of this A & F Plan from any of the 1986, 1995, 2002, or 2009 Housing Levy programs in the table below will be used consistent with current policies for the respective programs shown in Table 2 below. Investment earnings on any fund balances or Program Income from

prior levies, and from the current levy, will also generally be used consistent with Table 2 below, except that:

- Earnings received from the 2002 and 2009 Homebuyer Assistance programs and the 2016 Homeownership program will be used consistent with the current Rental Production and Preservation Program. In each of these three levies, the ownership and rental housing programs share a subfund.
- At the end of each calendar year, OH will calculate investment earnings on the 2016 Levy Rental Production and Preservation Program fund balance. OH shall allocate such earnings to the Homelessness Prevention and Housing Stability Services Program in an amount not to exceed \$250,000, unless during the annual budget process it is determined by Council that investment earnings should be retained in the Rental Production and Preservation Program.
- Investment earnings for O&M programs authorized in the 1986, 1995, 2002, 2009 and 2016 levies are accumulated and will remain along with the original Levy allocation in discrete O&M subfunds to support 20-year subsidy awards, as well as any short-term loans as authorized in the Funding Policies or otherwise by ordinance.

Anything in this section notwithstanding, Program Income and investment earnings derived from taxes levied under RCW 84.52.105 pursuant to the 1995 and 2002 Levies shall be used only to finance affordable housing for Very Low-Income households.

**TABLE 2  
 APPLICABLE POLICIES FOR PROGRAM INCOME FROM PRIOR LEVIES**

<b>Original Levy Program</b>	<b>Program policies that apply to Program Income</b>
1986 Levy	
• Small Family Program	• 2016 Levy Rental Preservation and Production
• Large Family Program	• N/A - Units in SHA's inventory
• Downtown Preservation	• 2016 Levy Rental Preservation and Production
• Special Needs Housing	• 2016 Levy Rental Preservation and Production
1995 Levy	
• Rental Production	• 2016 Levy Rental Preservation and Production
• Homeowner Rehabilitation	• Home Repair and Weatherization
• Homebuyer Assistance	• 2016 Levy Homebuyer Program
2002 Levy	
• Rental Preservation and Production	• 2016 Levy Rental Preservation and Production
• Homebuyer Assistance	• 2016 Levy Homebuyer Program
• Neighborhood Housing Opportunity	• 2016 Levy Rental Preservation and Production
• Rental Assistance	• N/A - 2002 Levy funds spent, do not revolve
2009 Levy	
• Rental Preservation and Production	• 2016 Levy Rental Preservation & Production
• Homebuyer Assistance	• 2016 Homeownership Program
• Rental Assistance	• N/A - 2009 Levy funds spent, do not revolve

### **3. LEVY PROGRAM POLICIES**

Each Levy-funded program is administered according to program policies, which include goals and priorities, fund allocation process, allowable use of funds, and other requirements. These policies are contained in the Housing Funding Policies. However, policies for the Homelessness Prevention and Housing Stability Services Program are included in this section.

#### **RENTAL PRODUCTION AND PRESERVATION**

**Goal: Produce or Preserve 2,150 affordable apartments, Reinvest in 350 affordable apartments**

The Levy Rental Production and Preservation Program funds acquisition, construction, and rehabilitation of property to provide housing that serves Low-Income households, including seniors, people with disabilities, formerly homeless individuals and families, and people working for low wages. Over the term of the Levy, at least 60% of the sum of program funds, combined with Operating and Maintenance Program funding, will support housing with rents affordable to individuals and families with incomes at or below 30% of Median Income; remaining funds may serve households up to 60% of Median Income. Program funds may be used according to the Housing Funding Policies, Chapter 2, and Chapter 7 where applicable. As provided in the Levy Funding Plan section above, program funds may be used for Rental Rehabilitation Loans as described in the Housing Funding Policies, Chapter 6.

#### **OPERATING AND MAINTENANCE**

**Goal: Support operations for 510 affordable apartments**

The Operating & Maintenance (O&M) Program funds building operations in Levy-funded housing, supplementing rental income in buildings that serve households with incomes at or below 30% of Median Income. Fund awards are for 20 years, subject to appropriations and annual reviews, and O&M funds are matched with tenant paid rent, other operating funding and, in most cases, services funding. Funding for this Program will support housing developed with 2016 Levy funding, except that Program funds may also be used to extend O&M contracts for projects receiving O&M funds under prior levies, as described in the Housing Funding Policies, Chapter 3.

#### **HOMEOWNERSHIP**

**Goal: Assist 280 low-income homeowners**

The Levy Homeownership Program assists Low-Income, First-Time Homebuyers to purchase a home in Seattle and Low-Income Seattle homeowners to maintain stable housing. Loans are also made to housing organizations that will sell homes to First-Time Homebuyers with incomes at or below 80% of Median Income, which homes have restriction on resale prices and may be sold only to eligible buyers

for 50 years or longer. Low-Income homeowners can receive assistance in the form of home repair grants or one-time mortgage loans to prevent foreclosure.

## **ACQUISITION AND PRESERVATION**

The Acquisition and Preservation (A&P) Program may provide short-term loans for strategic Site Acquisition. A&P Program loans can be made for acquisition of land or buildings for low-income housing preservation and development consistent with the objectives and priorities of the Levy Rental Production and Preservation and Homeownership programs. 2016 Housing Levy funds that are not yet needed for other Levy programs may also be used for strategic Site Acquisition by OH to secure long-term low-income housing use and, if it is not already in use as housing, development for that use will be feasible within a reasonable time. Upon repayment of loans or receipt of proceeds for property acquired, the funds and any interest earned return to the initial Levy program.

## **HOMELESSNESS PREVENTION AND HOUSING STABILITY SERVICES**

**Goal: Assist 4,500 individuals and households**

The Homelessness Prevention and Housing Stability Services Program serves vulnerable families and individuals who are at risk of homelessness or experiencing homelessness. The program addresses housing-related barriers through a combination of housing stabilization support services and financial assistance. A housing stability assessment is required at the onset of services to determine the level of need and the amount of assistance required. Stabilization services typically include but are not limited to assistance with housing search, landlord negotiations, budget and financial coaching, assistance applying for mainstream benefits, reviewing leases, and meeting with participants to assess their ongoing level of need.

This program is structured to be flexible to meet the different financial and service needs of those at risk of homelessness and people experiencing homelessness using a progressive engagement framework. This approach is consistent with current national promising practices and local experience that point to the need for a holistic and flexible approach. In serving households at risk of homelessness, the program targets resources for households at greatest risk of homelessness including formerly homeless households and households experiencing extreme overcrowding.

Contractors are required to enter data in the Homeless Management Information System for the purpose of overall program planning as well as performance review. A key outcome measure is ongoing housing stability: the number of households who do not enter or return to homelessness 12 months after assistance to the household ends.

## **A. Eligible households**

To be eligible to apply for program funds, households must meet all the following requirements:

- Homeless or at risk of homelessness
  - Households at risk of homelessness must have a documented housing crisis. For the purposes of this program, couch surfing or doubled up households with limited resources may be considered at risk of homelessness. Households must reside in Seattle at the time of program intake.
  - Homeless households must be literally homeless households staying in a place not meant for human habitation and must be referred through King County's regional Coordinated Entry for All system.
- 50% of Area Median Income or below
- Inadequate financial resources to secure or maintain stable housing without assistance
- Financial assistance may not exceed 12 months in a 36-month period

## **B. Eligible use of funds**

Financial assistance is available for:

- Rent payments
- Rent or utility arrears needed to obtain or retain secure, stable housing
- Security and/or utility deposits and other move-in costs (background check fees, first and last month's rent)
- Legal and language interpretation fees needed to stop an eviction action
- Agency staffing and associated service delivery costs required to provide housing stabilization services
- Transportation assistance

## **C. Program requirements**

Levy funds will be administered by contractors who demonstrate ability to do the following:

- Provide housing stabilization services
- Provide financial assistance to prevent or address homelessness using a progressive engagement framework
- Enter data directly into the region's Homelessness Management Information System (HMIS) for program planning and performance review

## **D. Program reporting**

The Human Services Department will provide an annual program progress report to the Office of Housing to be included in the Housing Levy annual report due to the City Council no later than March

31st of each year. The annual data will be provided separately for homelessness prevention assistance to households at risk of homelessness, and for assistance to households who are experiencing homelessness. The data will include but not be limited to:

- Demographic data for program participants such as race, gender, disability status, household income, and household composition,
- Program financial information such as average amount of assistance per household,
- The number of households served; and
- Program performance outcomes including the following:
  - 1) The number and percent of households exiting to permanent housing at program exit;
  - 2) The number and percent of households exiting to other (homelessness, shelter, etc.) at program exit;
  - 3) The number and percent of households stably housed at 12 months;
  - 4) The number and percent of households stably housed at 24 months.



## 4. REPORTING

OH will provide an annual program progress and performance report to the Mayor and City Council no later than March 31<sup>st</sup> of each year, covering activity for the previous year and cumulative performance for the 2016 Housing Levy. Reports will be reviewed in draft by the Housing Levy Oversight Committee. The annual report will include, but not be limited to:

- Accomplishments / production for each Levy program, including actual unit production and households assisted compared to goals:
  - Rental Production and Preservation -- units funded and funding reserved for those units, location of funded projects, populations served by projects
  - Operating and Maintenance -- units funded and their funding level
  - Homeownership -- number and value of loans approved; number, value and location of closed loans; income and demographics of assisted homeowners; average length of repaid and outstanding loans; and number and term of affordability for land trust and other housing units with resale restrictions. Foreclosure Prevention Program: number and value of loans approved; income and demographics of those assisted; reasons assistance needed; housing status at 12 and 24 months post assistance.
  - Acquisition and Preservation – properties and options (if any) acquired along with funding amounts approved and due dates or expected timing for repayment of funds, as applicable, amount and source of funding repaid, projected units to be produced and preserved
  - Home Repair Program – number and value of loans and grants approved; income and demographics of those assisted; types of repairs funded with program.
  - Rental Rehabilitation Loans – number and value of loans approved; number, value and location of closed loans; number and affordability of units funded by program.
  - Rental Assistance -- number of households provided housing assistance and success at stabilizing households
- Affordability levels of housing produced with program funds, actual compared to goals;
- Demographic information for those served by Levy programs;
- Leverage achieved for each Levy program;
- The extent that Section 8 vouchers are linked to Levy-funded projects;
- Administrative costs and revenues available to cover such costs;
- Any additional information that the Housing Levy Oversight Committee believes should be included.

# HOUSING FUNDING POLICIES

(As adopted by Ordinance 125308  
and amended by Ordinance 125852 in 2019  
and amended by Ordinance \_\_\_\_\_ in 2021)



**Seattle**  
Office of Housing

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# 1. INTRODUCTION

The Housing Funding Policies contain funding priorities and guidelines for the following programs administered by the Office of Housing (OH):

- Rental Housing Program
- Operating and Maintenance Program
- Homeownership Program
- Acquisition and Preservation Program
- Home Repair, Rental Rehabilitation, and HomeWise Weatherization Programs

Prior to 2014, policies governing most of these programs were primarily contained in the Administrative and Financial Plans for prior Housing Levies and in the Seattle Consolidated Plan for Housing & Community Development. Program funding policies are now combined in this document to improve accessibility and consistency. The Administrative and Financial Plan for Program Years 2017 – 2018 (A & F Plan) contains the funding allocations for 2016 Housing Levy programs and the allocation of Program Income and investment earnings from prior levies, and annual reporting requirements.

The Housing Funding Policies apply to the 2016 Seattle Housing Levy as specified in the A & F Plan; to earnings and repayments derived from earlier housing levies as specified in the A & F Plan; to OH-administered federal HOME and CDBG funds and earnings and repayments derived from such federal funds; and to other City funding and grant funding as identified for each program in this document. For convenience, all fund sources are referred to as a single program, although, for example, an affordable housing incentive program under the City Land Use Code is legally a separate program.

The use of certain fund sources must also comply with requirements that are not included in this document. HOME and CDBG funds, including Program Income, are subject to federal and other requirements, including those in the Consolidated Plan, as applicable depending on the proposed use of funds. Any funds derived from bonds issued by the City will be subject to state law requirements and those of ordinances authorizing the bonds. Funds received by the City under land use code provisions (including Incentive Zoning and Mandatory Housing Affordability provisions) are subject to requirements in applicable ordinances, laws and any related agreements or permit documents. In addition, special federal grants, prior housing levies, and other fund sources may be subject to legal requirements that are not reflected in these Housing Funding Policies. Use of any funds may be subject to requirements based on constitutional provisions, statutes, regulations, and court decisions. In case of any conflict with these Policies, the other requirements referred to in this paragraph control.

## 2. RENTAL HOUSING PROGRAM

The policies for this Program generally apply to these sources used by the Office of Housing (OH) to fund the development and preservation of affordable rental housing in Seattle: Housing Levy Rental Production and Preservation Program funds, Rental Production and Preservation funds from earlier housing levies, federal HOME and CDBG funds, funds received through land use code provisions for incentive zoning and mandatory housing affordability, earnings and repayments derived from earlier housing levies and other OH-administered housing funds, proceeds from City-issued bonds, and other fund sources if authorized by ordinance. Bridge loans authorized in this Chapter also may use funding derived from the 2009 and 2016 levies. The following program objectives and policies apply to all fund sources for the Rental Housing Program, subject to the requirements described in Chapter 1 and unless otherwise indicated below in these Policies.

Funds are made available annually through one or more Notices of Funds Available (NOFAs) for new housing production or preservation projects, and for existing housing preservation or rehabilitation projects. In addition, funds may be made available through a competitive Request for Proposal (RFP) process as authorized in Chapter 7. The published NOFA or RFP will include additional funding priorities and requirements. Funding may be awarded outside the NOFA or RFP process for emergency repairs to previously funded projects as described in these Policies.

### Program Objectives and Priorities

The following objectives will guide the Rental Housing Program:

- Provide a mix of affordable rental housing, serving a range of households and income levels consistent with income limits and affordability requirements for each fund source, to promote housing opportunity and choice throughout the City.
- Contribute to countywide efforts to make homelessness rare, brief, and one-time by providing housing that serves individuals and families who are homeless or at risk of homelessness, including those with long or repeated periods of homelessness, chronic disabilities, criminal records, or other significant barriers to housing.
- Provide a stable and healthy living environment where Low-Income individuals and families can thrive, with culturally relevant and linguistically competent services, and with access to education, employment, affordable transportation, and other opportunities and amenities.
- Promote preservation of affordable housing, and prevent displacement of Low Income residents, through purchase and rehabilitation of existing housing.
- Contribute to the City's equitable development goals through the development and preservation of affordable housing in low-income neighborhoods where underserved groups have historic ties, including neighborhoods where low income individuals and families are at high risk of displacement.

- Contribute to the development of sustainable, walkable neighborhoods, particularly near high-capacity transit, giving Low Income residents access to transportation, services, and economic opportunity.
- Working collaboratively with other funders of affordable rental housing to ensure that the greatest number of quality affordable housing units are preserved or produced each funding round.
- Promote cost-effective sustainable design, construction, rehabilitation, and operations of affordable housing.
- Reinvest in low-income housing when necessary to upgrade major building systems, improve operations, energy efficiency, and safety, and extend the life of the building.

To meet these objectives, the Rental Housing Program will apply the following priorities to project funding decisions.

## **I. RESIDENT POPULATION PRIORITIES**

The following funding priorities relate to the resident populations intended to be served in Rental Housing Program projects. A project may propose to serve residents who fall into more than one population group – for example, seniors who are formerly homeless – and therefore may address several priorities.

### **A. Housing for homeless families, adults, and youth and young adults, including chronically homeless individuals with disabling conditions**

Priority will be given to projects that will dedicate units to serve homeless people and will meet the following conditions:

- Applicants must demonstrate a high likelihood of securing operating subsidies as well as funds to provide appropriate levels of supportive services. For permanent supportive housing that will serve chronically homeless people with disabling conditions, including substance use disorder, serious mental illness, developmental disability, or chronic physical illness or disability, such housing will have appropriate services that generally will include on-site case management, mental health, health care, and chemical dependency services.
- Homeless housing projects must be aligned with the City's Pathways Home Initiative and the All Home strategic plan. Permanent supportive housing or other housing with a homeless services funding contract must receive tenant referrals through a coordinated entry system approved by service funders. Homeless housing that does not have a homeless services funding contract will make units available through agreements with homeless services providers and through the Housing Resource Center once established. Such housing will generally receive tenant referrals from homeless service providers participating in King County's Coordinated Entry for All system, who will provide stabilization services for the formerly homeless residents. OH may approve homeless housing that is set-aside for other identified homeless groups, consistent with City and All Home

priorities, such as homeless families with students attending Seattle Schools, people exiting or diverted from institutional settings, and residents moving from permanent supportive housing to housing with less intensive on-site services.

Consistent with Housing First principles, all housing owners will increase access to housing opportunities for people with significant barriers to housing, such as criminal records, through their tenant admissions policies, and tenant screening criteria included in approved management plans referred to in Section IX. In addition, owners will provide housing for homeless residents through voluntary referral relationships. Housing owners who have units that do not receive referrals from a coordinated entry system will affirmatively market units to provide access to homeless applicants and other underserved groups as well as other eligible applicants. "Housing First" is as defined in Chapter 10.

### **B. Housing for seniors and people with disabilities**

OH-funded housing is generally available to seniors and people with disabilities; all projects should be designed to include accessible housing units and accessible common areas.

OH will give priority to projects that provide housing units set-aside for senior or disabled residents, particularly projects designed to provide support for underserved groups. These projects must show that proposed building design and services support independent, healthy living and social interactions that benefit these populations. Projects that are proposing to provide on-site services for Extremely Low-Income seniors, people with disabilities and/or people who require supportive services to live independently must demonstrate high likelihood of obtaining appropriate levels of operating and services funding for the intended residents. OH will prioritize projects that will provide culturally appropriate services to create welcoming and safe home environments for immigrant seniors, LGBTQ seniors, and other underserved groups.

### **C. Housing affordable to low-wage working families and individuals**

OH will prioritize projects that will serve low-wage households by providing a mix of unit sizes and a range of income levels, generally up to 60% of median income, and that include units serving households at 30% of median income. A mix of unit sizes and amenities to accommodate families, including large families, is a priority for new construction projects. Projects serving families should consider design features such as play areas, direct sight lines to play areas, and adequate space within units. Projects should be located near transportation and local services and amenities, giving low-wage workers the option to forgo a vehicle, and providing safe access to schools, parks, transit, and community facilities serving families with children. Projects should take into consideration the diversity of the neighborhood and the anticipated tenant population, and should plan for culturally appropriate services at the site, including childcare, and health and human services provided through community partnerships.

## II. PROJECT LOCATION PRIORITIES

The City encourages production and preservation of affordable housing throughout the city. OH's investment in affordable housing in all City neighborhoods is intended to maximize choice for low-income residents of Seattle and to promote City goals to affirmatively further fair housing.

OH will prioritize locations that:

- **Provide Access to Transit:** Access to transit is a priority for all housing projects, as transportation costs are second only to housing costs for most low-income households and many low-income households do not own a car. In particular, OH will prioritize locations near high capacity transit and light rail station areas, both existing and planned.
- **Provide Access to Opportunity:** OH will prioritize housing project locations that afford low-income residents the greatest access to opportunities such as jobs, quality education, parks and open space, and services. To achieve development throughout the City, including in high cost markets, OH will accept acquisition costs reflecting neighborhood level market conditions.
- **Advance Equitable Development Goals and Address Displacement:** OH will prioritize housing projects that support community development, including those proposed by local, community-based, non-profit organizations that are culturally relevant and historically rooted, particularly when the project site is in an area that is at high risk for displacement. Additional consideration will be given to projects already receiving funding through the Equitable Development Initiative.
- **Serve Needs of Residents:** Proposed projects should demonstrate that the proposed location is appropriate. This will vary depending on the project. OH will prioritize, for example, locations near schools and parks for projects with large units that will serve families and locations near senior centers for senior housing.

In addition, for purposes of investing payment funds from the Mandatory Housing Affordability program, OH shall consider a location's proximity to where development has generated payment contributions.

## III. COST-EFFECTIVENESS AND SUSTAINABILITY

The Rental Housing Program emphasizes efficient, cost-effective, and sustainable housing development. To meet Levy production goals, projects must leverage other public and private fund sources: capital funding for housing development and, for homeless and special needs housing, ongoing funding for building operations and supportive services. OH will continue to prioritize leverage of other public and private investment, both capital funding for housing development and operating and supportive services funding for residents with special needs. Proposed projects will be prioritized if they will preserve existing housing subsidies and/or prevent displacement of Low Income residents.

OH will encourage project design and construction that promotes efficient, cost-saving and energy-conserving operations over the life of the building. All new construction and most renovation projects



must meet Washington's Evergreen energy efficiency standards for new construction and renovations, respectively. OH will support efforts to exceed standards with energy and water saving features that provide long-term public benefit as well as lower cost building operations. For existing low-income housing projects seeking funding for building improvements, OH will prioritize investments that extend the useful life of the building, improve health and safety, provide energy conservation, and reduce operating costs.

## **Rental Housing Program Policies**

### **I. AFFORDABILITY REQUIREMENTS**

#### **A. Housing Levy Fund Allocation**

The following fund allocation policy applies to the total of all awards of 2016 Housing Levy funds under this Program and the O&M Program, except for bridge loans, and not on a project-by-project basis.

- At least 60% of the sum of Program funds and Operating & Maintenance Program funds shall be used for housing affordable to households with incomes at or below 30% of Median Income.
- The balance of Program funds shall be used for housing affordable to households with incomes at or below 60% of Median Income.

#### **B. Federal HOME and CDBG Funds**

This policy is applied to federal HOME and CDBG funds that are available for rental housing projects each program year, consistent with the Consolidated Plan's Annual Action Plan and federal requirements:

- HOME funds shall be used for housing affordable to households with incomes at or below 60% of Median Income. A portion of units, generally 20%, will be affordable to households at or below 50% of Median Income as required by HOME regulations.
- CDBG funds shall be used for housing affordable to households with incomes at or below 60% of Median Income, except that CDBG funds used for acquisition of occupied residential buildings may follow CDBG regulations which generally require a minimum of 51% of units affordable to households at or below 80% of Median Income.

### **II. ELIGIBLE AND INELIGIBLE ACTIVITIES AND COSTS**

Program funds shall be used to fund the preservation and production of rental housing. Funds may be used to finance entire developments, individual units, or residential portions of a development. Different portions of the same development may be funded by separate Program loans, but for purposes of these Policies, including limits on OH funding for Eligible Total Development Costs, OH may consider them as a single project, and may consider funds lent to the owner or developer of one portion

of the project as supporting units in another portion, including for purposes of policies allocating funds based on affordability levels or income limits.

### **A. Eligible costs**

Eligible costs include, but are not limited to:

- Appraisals
- Architectural/engineering fees
- Capitalized Operating Reserves
- Capitalized Replacement Reserves
- Closing costs
- Construction
- Contingency
- Developer fees
- Environmental Assessment
- Financing fees
- Hazardous materials abatement
- Inspections & Surveys
- Insurance
- Interest
- Option costs
- Permits
- Reimbursement of pre-development costs\*
- Professional Fees
- Purchase price
- Relocation
- Title insurance

\*Nonprofit borrowers are encouraged to use other cost-effective sources for pre-development funding, such as Impact Capital.

Program funds may refinance debt incurred for acquisition or for any eligible costs, and if necessary to finance a rehabilitation project, program funds may refinance other existing secured debt.

### **B. Residential spaces**

Program funds may be used to fund housing units, residential spaces, and common areas to the extent they serve the low-income housing and not other uses. The Director may set standards for bedrooms in residential units for the purpose of establishing unit size and associated rent restrictions. Examples of eligible residential spaces include:

- Areas for cooking, eating, bathing
- Building Lobby
- Areas for resident use such as television or reading rooms
- Corridors, stairwells, storage areas
- Management and service office space that is accessory to the housing
- Spaces used for on-site social services

### **C. Mixed-use and mixed-income developments**

Program funds can be used for projects that combine Low-income rental housing with market-rate housing and/or commercial or other nonresidential spaces. However, costs associated with non-

residential uses and market-rate housing are not eligible for Program funding. Common areas and office space may be eligible for funding if OH determines they will serve residents of the affordable rental housing.

Borrowers must demonstrate that Program funding is attributable to eligible residential spaces and that costs of other parts of the project are paid by funds eligible for that purpose. Where it is impractical to segregate costs between Program-funded units and other portions of a mixed-use or mixed-income project, the Director may permit such costs to be pro-rated between Program funding and other funding sources based on a reasonable formula.

In order to facilitate development of the eligible residential spaces, OH may allow Program funds to be disbursed for the full amount of a shared cost item if:

1. Documentation is provided prior to expenditure of Program funds that assures sufficient funding from other sources will be provided prior to project completion equal to the full amount allocable to space that is not eligible for Program funds, and that the other space is an eligible use of the other sources; and
2. The loan documents require that the final cost certification confirms the allocation of appropriate non-Program funds for such other spaces.

#### **D. Leases**

Ownership of a property is preferred to site control through a long-term lease. A long-term lease will be permitted in cases where the City or another public agency is lessor, or the lessor and the lessee agree to accept the loan conditions in Section VI and the City receives security in both leasehold and fee interests. Projects involving a borrower that is a lessee (except from the City) where the lessor and lessee do not both accept these terms and conditions will be permitted only if the project represents an unusual cost-effective opportunity or furthers community development objectives in low income neighborhoods. At a minimum, the following conditions will apply to properties where the borrower is the lessee and the owner (other than the City) does not agree to subject its interests to the City's deed of trust and regulatory agreement:

1. Repayment: Loans involving leases must be structured to provide for repayment over the life of the lease. The Director may modify the normal repayment terms, as appropriate, by requiring different terms from or in addition to those generally specified in this chapter.
2. Lease term: Leases will generally be 75 years or longer. Minimum lease term is 50 years with a preference for longer terms when feasible. The lease term must exceed the City loan term by at least five years.
3. Security: Security for the City loan should be appropriate to protect the City's interest in repayment of the loan.

## **E. Replacement housing conditions**

Program funds shall not be used to finance development of replacement housing units developed as a condition to a tax exemption through the Multifamily Tax Exemption program, as a condition to a Major Institution Master Plan boundary expansion, or otherwise required as mitigation for demolition of existing housing.

## **III. PROJECT REQUIREMENTS**

### **A. Eligible Borrowers**

An applicant and/or proposed borrower must demonstrate ability and commitment to develop, own, and manage affordable housing, including a stated housing mission in its organizational documents. OH will evaluate the experience of an applicant's development team, management team, Executive Director, staff, and Board of Directors (if applicable) to determine there is sufficient capacity to sustainably develop, own and operate housing on a long-term basis. Applicants that lack direct experience in these areas may demonstrate capacity by partnering with an entity or entities that provide essential expertise to the project. In these cases, OH will evaluate the proposed partnership to ensure it meets the needs of the project and is sustainable for an appropriate length of time. The applicant, proposed borrower, and all Affiliated Entities of each of them (whether or not involved in the proposed project) must be in Good Standing on all existing loans and subsidy contracts administered by OH. Good Standing is defined in Section X Project Monitoring.

Eligible applicants and borrowers are:

1. Nonprofit agencies with charitable purposes. Private nonprofit agencies will be required to submit articles of incorporation and an IRS letter as proof of nonprofit status.
2. Any corporation, limited liability company, general partnership, joint venture, or limited partnership.
3. Public Development Authorities.
4. Seattle Housing Authority (SHA), except that housing to be developed at Yesler Terrace must be authorized in the Yesler Terrace Cooperative Agreement approved by City Council.
5. Private for-profit firms.

### **B. Cost-effective long-term investments**

Proposals for quality affordable housing must demonstrate a cost effective, sustainable investment of public funding. OH will apply the following policies to determine whether a proposal satisfies this requirement.

1. Land acquisition costs should be justified and not exceed a competitive market price for the location. OH recognizes that land cost will be higher in some market areas within the city.
2. Design for new construction should clearly promote efficient use of space and utilities.

3. For acquisition and rehabilitation of existing buildings, building improvements should address energy efficiency and related health and safety benefits, as feasible and appropriate, and utilize funding through OH's Weatherization program if available.
4. Per-square foot and per-unit costs should reflect current market rates for the type of housing being produced.
5. Low per-square-foot land acquisition costs should not be sought at the expense of considerable site work challenges.
6. Fees for contractors and professional services should be competitive.
7. Unnecessary costs should be avoided whenever possible.

### **C. Maximizing production and preservation**

The City strives to leverage non-City resources for capital, operating, and supportive services to the greatest extent possible. OH works collaboratively with other funders of affordable housing including, but not limited to: the Washington State Housing Trust Fund, King County's Community and Human Services Division, the City's Human Services Department, the Washington State Housing Finance Commission, equity syndicators and investors, and private lenders. OH and its borrowers are expected to maximize these capital resources to ensure that the greatest number of quality affordable housing units are preserved or produced by the public funders each funding round, consistent with adopted priorities and funding allocation policies for the Housing Levy and other housing fund sources. Funds will generally not be used to replace existing housing for extremely low income households, unless the Director determines the housing is nearing the end of its useful life and would be more cost effective to replace than to renovate, or replacement facilitates a net gain in the number of extremely low income housing units.

### **D. Leveraging and maximum percentage of capital funds**

In general, OH will award funds up to a maximum of 40% of the eligible residential total development costs ("Eligible TDC") of a project. The City's maximum percentage of project financing includes any capital funding from document recording fee revenues awarded by King County. Eligible TDC includes all components of the development budget, including site acquisition and development, construction costs, and soft costs, attributable to the housing units that are eligible for City funding and any common areas to the extent that OH has determined they are eligible for funding.

The Director may allow up to a total of 50% of Eligible TDC to be financed with City funds for projects that meet at least one of the following criteria:

1. Project is located in a high cost area with access to appropriate services and amenities for the intended population and little or no existing low-income housing opportunities are available.
2. OH determines that additional funding is needed to increase the number of units that have Affordable Rent for Extremely Low-Income tenants.
3. Projects that provide special amenities and/or unique design features for the proposed tenant population such as large units for families; units requiring reconfiguration to meet the needs of

the proposed population; or special design features resulting from the participation of potential tenants and/or community members in project development.

## **E. Additional policies**

Projects must also comply with policies contained in Chapter 9, as applicable:

- Development Siting Policy
- Community Relations
- Relocation, Displacement, and Real Property Acquisition
- Affirmative Marketing
- Fair Contracting Practices, WMBE Utilization, and Section 3

Additional or different requirements may apply to fund sources other than the Housing Levy, including federal requirements for HOME and CDBG funds, and some requirements may be applied to projects not using HOME funds in order to satisfy federal matching conditions.

## **IV. CONSTRUCTION REQUIREMENTS**

OH strives to ensure fair contracting methods and competitive pricing in the construction and rehabilitation of affordable housing. Borrowers receiving permanent financing shall generally meet the following minimum construction requirements. OH may include additional requirements in a NOFA or RFP, but may reserve the right to waive or modify any such additional requirements. Borrowers are responsible for the compliance of all documents, plans and procedures with all applicable laws, regulations, codes, contracts and funding requirements.

### **A. Competitive selection of contractors**

Borrowers must make every reasonable and practical effort to competitively select their general contractor, unless an alternative selection process is approved by the Director. Borrowers must propose a competitive process that clearly meets the City's requirements as published in each NOFA or RFP. The borrower shall submit a summary of the proposed competitive selection process for OH approval. OH may require modifications to the process prior to implementation.

### **B. Contracting types and project delivery methods**

Borrowers may propose to use a Cost Plus a Fee with a Guaranteed Maximum Price, a Stipulated Sum contract, or an alternative contract type that meets the City's requirements as published in each NOFA or RFP. The borrower's construction contract with the general contractor and any amendments to the contract shall be submitted to OH prior to execution.

### **C. Construction management**

If borrowers do not have sufficient in-house construction management capacity, they will be required to contract for this service. Borrowers proposing to manage their own construction projects must demonstrate such expertise to OH. Such borrowers must have prior experience managing a construction project and have staff available to coordinate necessary work. In addition, the scope of work should appropriately match the sponsor's construction management experience and staff expertise.

### **D. Wages**

State Residential Prevailing Wage Rates shall be the minimum rates applicable to all projects, unless a higher minimum rate applies or an exception is made as allowed in this paragraph. When federal funds in a project require prevailing wages to be determined under the Davis-Bacon Act, the higher of either the state residential prevailing wage rates (unless modified as stated below) or Davis-Bacon wage rates will apply to each job classification, unless applicable law requires otherwise. The Director may approve a change in these prevailing wage requirements if necessary to achieve compatibility with a state or federal funding source. OH shall establish procedures regarding payment of appropriate wages, in consultation with the City's Department of Finance and Administrative Services which monitors compliance. In cases where Davis Bacon wages are triggered, Davis Bacon monitoring procedures are followed as required by HUD and administered through the Human Services Department.

### **E. Apprenticeship programs**

All borrowers are encouraged to require contractors to participate in state-approved apprenticeship programs.

Housing projects developed by the Seattle Housing Authority receiving \$5 million or more of City funding shall include a goal of one out of five apprentices hired for such projects to have graduated from a pre-apprenticeship program recognized by the Washington State Labor and Industries. This is in addition to HUD's 14 percentage apprentice utilization goal for SHA projects over \$1 million in value.

### **F. Workforce diversification**

In a published NOFA or RFP, OH may include expectations for contractors to establish and achieve workforce diversification goals. Such expectations will be modeled on the City's existing Priority Hire goals and will apply to projects that the Director deems suitable for such goals. In a housing project where workforce diversification goals are applied, OH may determine that these goals supersede certain requirements in Chapter 9 below.

### **G. Sustainability requirements**

Projects must comply with requirements of the state's Evergreen Sustainable Development Standard ("ESDS") applicable at the time of OH's funding award. These requirements apply to all projects, regardless of whether state funding is used, except that OH may approve a limited scope of work that

does not include all ESDS requirements for rehabilitation of a previously funded housing project as provided in Section VIII below. Details are available through the State Department of Commerce.

## **H. Broadband Technology**

New construction projects generally must include broadband infrastructure to facilitate internet access for residents of low-income housing.

## **V. PROJECT SELECTION**

### **A. Notice of Funds Available**

At least once per year, OH will issue a Notice of Funds Available (NOFA), which will provide application requirements, details on specific fund sources available, application forms, and deadlines. The NOFAs will announce, together or separately, opportunities to apply for permanent financing for new housing production, preservation and rehabilitation of housing, or supplemental funding for rehabilitation of existing OH-funded housing, and for bridge loans for site and building acquisition for future development. As provided in Chapter 7, OH may separately announce funding for housing development on a publicly owned site through a competitive RFP process.

To the extent consistent with a Council-approved redevelopment plan or Cooperative Agreement, OH may review and approve funding applications separate from the selection process described in subsection C of this section for housing developments at the Fort Lawton Army Reserve Center or Yesler Terrace. OH shall not award funds for housing at Fort Lawton or Yesler Terrace until a detailed funding application including cost estimates is submitted and reviewed by the OH and determined by the Director to be in accordance with these Policies. OH may expend funds directly on the lease or acquisition of property at Fort Lawton, prior to adoption of the redevelopment plan and separate from a funding award for development of affordable housing.

All applicants are required to attend a project pre-application conference with OH staff prior to submitting an application for funding. OH will allow minor deficiencies to be corrected and clarifications to be made by applicants during the review process. Otherwise, incomplete applications will not be considered for funding.

### **B. Application components**

OH uses the Washington State Combined Funder Application for Affordable Housing. At minimum, applications must contain the following:

1. Project description: location, number of units, rent levels, need, and special characteristics.
2. Applicant and borrower capacity in the development, ownership, and management of affordable multifamily housing and capacity to serve the focus population. For homeless housing proposals, if the applicant currently operates homeless housing, OH will consider any available information provided by services funders and the applicant regarding the applicant's performance in meeting homeless contract standards.



3. Tenant profile: a description of proposed and existing tenants and their needs, projected household sizes, estimated amounts and sources of tenant income, any tenant referral arrangements and eligibility as required by proposed services fund sources.
4. Evidence of site control: fee simple ownership, an option to purchase, an earnest money agreement, or a lease (or option to lease) with a minimum term of 50 years, will constitute site control. OH will consider projects where the underlying ownership is through a real estate contract if the contract holder is willing to subordinate his/her interest to the OH loan or if there is adequate provision for the applicant to discharge the underlying contract and obtain fee title.
5. Appraisal: If the project involves property acquisition, an appraised value based on the highest and best use at the time of site control will be used to assess whether a fair price is paid for land, including any structures. Project applicants should make acquisition offers subject to verification by appraisals acceptable to the City and subject to the outcome of environmental review.
6. Construction description: Proposed contractor selection plan; scope of work; outline specifications; cost estimates; contract type and project delivery method; Evergreen standards; reports and evidence of early design guidance from the City's Department of Planning and Development if the proposed project will be subject to Design Review.
7. Project schedule.
8. Zoning: Zoning must be appropriate for the proposed project at the time of application or within a timeframe approved by the Director.
9. Phase I site assessment including asbestos/lead paint/hazardous materials survey—a survey to identify the presence and amount of asbestos/lead paint and/or any other hazardous materials or underground tanks within the building or elsewhere on site and a description of proposed abatement measures. A Phase II assessment will be required if recommended in the Phase I assessment.
10. Development budget and proposed sources: Budget shows reasonable leverage of other fund sources and demonstrates that the requested OH funding amount is necessary to complete the project. Projects with capital campaigns proposed as a source of financing must provide documentation that at least 50% of the total campaign amount has been pledged, unless a lower threshold is approved by the Director.
11. Relocation Plan, if applicable.
12. Operating Pro Forma: a 30-year operating pro forma with proposed rents and required rental assistance or operating subsidy, taxes, insurance, utilities, salaries, management fees, replacement and operating reserves, maintenance supplies and services. Borrowers using low income housing tax credits should anticipate a 50% of cash flow payment on the City loan after the tax credit compliance period in projects that can support such payment.
13. Support services: budget and support services plan, if applicable

14. Draft Community Relations Plan: description of neighborhood notification process completed prior to submitting the application and plans for ongoing community relations activities, consistent with the Community Relations policy in Chapter 9. Proposal must describe how community issues or concerns raised will be addressed.

### **C. Proposal review**

Funding applications are reviewed and evaluated in detail by OH staff based on the requirements listed in these Policies, specific fund source requirements, and additional criteria published in the NOFA. OH staff works closely with the other public funders that have been requested to fund each project. The public funders collaborate on proposal evaluations and financing strategies that meet the requirements of each fund source while maximizing the number of affordable housing units that can be produced and/or preserved each funding round.

When projects have been evaluated, staff makes funding recommendations to the Director. The Director may request review by a Credit Committee composed of persons appointed by the Director and staff members of the Mayor's Office and City Council who have expertise in affordable housing financing and/or public policy. The Director, whose decisions on funding shall be final, shall make funding awards based on his or her judgment as to the merits of the proposed projects; the projects' strengths in meeting the objectives and priorities stated in applicable plans and policies and the NOFA; the overall mix of projects funded by the City; and leveraging of public and private resources to preserve or produce the highest number of quality affordable housing units each funding round. Results are reported to the Housing Levy Oversight Committee and made public.

### **D. Fund reservation**

The Director authorizes a fund award for each selected project, which provides information about fund source requirements, funding levels, and conditions that must be met prior to closing and prior to occupancy. Fund awards are not binding on the City until contract documents are signed by both the Director and the owner.

The Director may reduce or revoke funding to any project based on failure to meet funding conditions; decrease in costs from the preliminary cost estimate submitted in the application; failure of the applicant to obtain other funding; noncompliance by the applicant with City policies; determination of inaccuracies in the information submitted; increased costs or other factors affecting feasibility; results of environmental or other reviews; changes in the Good Standing of the applicant, borrower, or Affiliated Entities; or failure to the applicant to agree to loan conditions.

If a project continues to be eligible for OH funding throughout the development process, OH will take into account, in considering any reduction in a funding award, whether it would eliminate the project's ability to utilize another critical funding source. The Director also may increase funds to a project after the initial fund reservation if reasonably necessary to assure success of the project or maximum public benefit, based on new information not available at the time of the initial decision.

## **E. Forward Commitments**

At the discretion of the Director, one or more forward commitments of up to \$15 million of the following year's allocation of 2016 Levy Rental Production and Preservation funds, CDBG, HOME, Incentive Zoning and Mandatory Housing Affordability Funds may be awarded to a rental housing project or projects applying for funds through a NOFA, consistent with program policies and subject to future appropriation and to the allocation of tax revenues to the program. A forward commitment of Levy funds under this policy will allow OH to respond to special circumstances such as large and/or significant housing development opportunities that are ready to proceed, may become infeasible or incur significant cost due to delay, and cannot be fully funded using the current year's resources.

## **VI. LOAN CONDITIONS**

Financing shall generally be in the form of long-term loans. In addition, OH may approve short-term loans as provided in Section VII. Bridge Loans, Section VIII. Supplemental Funding and Chapter 5, Acquisition and Preservation Program.

Loan conditions are meant to promote and encourage long-term use of properties for low-income housing. The Director may deviate from the loan terms and conditions contained in these Policies in the following cases:

1. For tax credit entities, where such loan terms may impair the availability of tax benefits
2. When the borrower expects to receive other funding sources from which full or partial repayment of the City loan can be made prior to the normal maturity date
3. To enable a project to secure other financing, including HUD-insured loans and HUD capital grant

### **A. Loan terms**

Permanent loan terms will be a minimum of 50 years. OH may provide an acquisition or construction loan for a much shorter term that is eligible for conversion to a permanent loan upon satisfaction of conditions.

### **B. Interest rate**

The interest rate for projects not using low-income housing tax credits will generally be 1%. The interest rate for projects using low-income housing tax credits will be a minimum of 1% simple interest and a maximum of the Applicable Federal Rate for the purposes of Section 42 of the Internal Revenue Code, depending in part on the project's projected capacity for repayment. The actual interest rate for projects using low-income housing tax credits will generally be 1% and can range from 1% to 3%. The interest rate may exceed 1% where there is a benefit to the project's development financing. One purpose of establishing a range for the interest rate on Program funds is to provide flexibility in financial structuring to maximize tax credit equity contributions and to help preserve long-term affordability.

### **C. Repayment**

OH will generally make deferred payment loans that are payable in full on sale, on change of use, or at the end of the loan term. Terms generally will permit borrowers to further defer payment of principal, deferred interest, and contingent interest by extending the loan term. Cash flow payment loans, or loans requiring periodic payment of some or all interest, will generally be required if project proformas indicate that the borrower will be able to make payments and meet expenses consistent with rent limits. Required payments may be set to begin at a future date, such as after a tax credit compliance period. Terms of repayment will be established in the award letter and subject to revision at the time the regulatory agreement is executed. OH may agree to an owner's request to modify repayment terms at a future date, such as after a tax credit compliance period, if the Director finds that the change is necessary in order to obtain favorable refinancing terms for senior debt, or that the owner is unable to make scheduled payments without an undue adverse effect on operations or necessary reserves, or that an alternative use of building income will benefit Low-Income residents or will enhance or protect the City's investment in the Property.

### **D. Transfer and assumption**

OH may permit the assumption of the loan, and the transfer of the property acquired, constructed or rehabilitated with the proceeds of the loan, without requiring repayment of principal, interest or other amounts owing under the loan at the time of the transfer, under the following circumstances:

- The loan is assumed by a tax credit entity and the entity makes a substantial equity investment in the low-income housing;
- The property is transferred by a tax credit entity to a nonprofit corporation or public agency approved by the Director, or to an entity controlled by such a nonprofit corporation or public agency, including without limitation a transfer to the general partner or manager pursuant to the terms of an option agreement made in connection with the formation of the tax credit entity; or
- The property is transferred, with the approval of the Director, to a qualified nonprofit corporation or public agency, without substantial consideration to the transferor other than assumption by the transferee of outstanding obligations.

Prospective new owners must complete a transfer of ownership application and meet the guidelines established for transfer of ownership.

### **E. Refinancing of private debt**

OH may allow refinancing of private debt in cases that result in additional capital investment in the project; that result in a lower interest rate and reduced debt service; or that produce some other long-term project benefit. OH shall review the proposed new financing terms; proposed transaction costs; a capital needs assessment; and the adequacy of reserve accounts. OH may define additional submittal requirements.

## **F. Covenant (Regulatory Agreement)**

A covenant will be recorded against the property that requires continued use of the units funded by the City as low-income housing for the stated term of the loan, and for any period for which the loan is extended or remains outstanding. Unless otherwise agreed by the Director, the covenant shall continue in effect if the loan is repaid or discharged before the maturity. The Director may release the covenant, wholly or in part, in connection with a sale of the property approved by the Director, including any foreclosure, if the Director determines that under all the circumstances, including any proposed substitution of other units, the release will likely result in a net benefit to the City's efforts to achieve low-income housing goals, compared to maintaining the covenant. The Director may release a covenant, consistent with this section, on housing loans made under prior A & F Plans for any housing levies, Consolidated Plans, or other City policies or ordinances governing the use of housing fund sources, subject to any applicable requirements of federal or state law, or of grant agreements with the City's fund sources.

## **G. Supportive housing**

Loan terms may include requirements specific to dedicating units for people who have been homeless or who have special needs. Borrowers whose projects have units restricted to persons with particular special needs may propose to change the special needs or target population group being served in a project sometime during the loan term. If an event occurs requiring a change in population group served, borrowers with special needs projects will first be required to serve another special needs population. If OH determines that it is not feasible or appropriate, OH may allow for any households within incomes at or below a specified income level to be served.

## **H. Contingent interest**

Contingent interest shall be required for all projects at maturity, except as described below, or in the event of change of use or sale of property before the loan maturity date. Upon maturity, sale, change of use, or acceleration or prepayment of the loan, loan principal plus the greater of either deferred interest or contingent interest shall be due. Contingent interest shall be calculated according to a formula established by OH.

The City's contingent interest should reflect the amount of City funds contributed as permanent financing to a project and should be modified by any additional funds contributed during the loan term, such as capital contributions approved by the City or borrower subsidy necessary to cover operating losses. For example, if City funds are 50% of total project costs, the City should receive, in addition to repayment of its principal, 50% of proceeds remaining after repayment of approved project debt (but not including contingent interest owing to other project lenders). Contingent interest may be limited,

however, to a maximum effective rate of interest on the City loan, determined by the Director to be reasonable in light of the City's relative priority to other lenders on the project and any other relevant factors. Contingent interest may also be subject to cancellation or reduction as described in Sections J and K below.

### **I. Prepayment premium**

Prepayment in full of loans will be subject to OH approval. Such approval shall not be unreasonably withheld if the borrower provides adequate assurances of future compliance with the affordability and occupancy restrictions in the regulatory agreement. If a borrower repays the City loan (principal plus the greater of interest or contingent interest) during the first 15 years of the loan term, a prepayment premium shall also be due.

The prepayment premium shall be 50% of the original loan principal if the loan is repaid during the first five years of the loan term. The prepayment will decline by 5% per year in years 6 through 15. There will be no prepayment premium after 15 years.

Prepayment premiums shall not be due in the event of involuntary prepayment, due to casualty where there are insufficient insurance proceeds or other sources reasonably available to complete the repairs or condemnation.

### **J. Loan term extension**

Any unpaid principal balance and accrued, but unpaid, interest on OH loans will be due and payable at the end of the initial approximately 50-year loan term. Loan documents may provide borrowers with an option of extension, or, in certain circumstances described below, satisfaction of some or all of the amounts owing through extended provision of affordable housing. At the end of the loan term, borrowers will be encouraged to extend the loan term and continue to extend the period of affordability restrictions for an additional 25 years, provided the property continues to be in compliance with OH requirements. If the loan documents do not allow the option to extend, such encouragement may take the form of provisions that would result in the cancellation of any contingent interest if the borrower requests extension but the City determines to require repayment of principal and ordinary interest. Loan terms also may provide that if the City denies or conditions a request to extend the loan at maturity, payment of Contingent Interest will not be required.

### **K. Debt satisfaction through extended affordability**

As an inducement to serve Extremely Low-Income households, OH may agree to terms in loan documents, for projects in which 50% or more of the units serve these households, by which, if the loan term is extended for 25 years and the borrower and the property remain in compliance with OH loan documents, the debt will be deemed satisfied at the end of that extension period or ratably over the extension period.

For any other projects, loan terms will not provide for any forgiveness of principal debt or ordinary interest, but if the period of affordability restrictions is extended after the initial approximately 50-year term for an additional 25 years, then the terms may provide that contingent interest will be deemed satisfied at the end of that extension period or the contingent interest percentage reduced ratably over the extension period.

#### **L. Use of funds owing to the City**

Sale of projects during the loan term requires OH consent. Loan payments to the City will be deposited in the Low-Income Housing Fund unless otherwise required by the fund source for the loan. Payments will be reallocated by OH to low-income housing projects according to priorities established in the currently applicable City policy plans as determined by OH, subject to any specific requirements applicable to Program Income from particular fund sources.

#### **M. Deed of Trust; Non-recourse**

Loans shall generally be secured by a deed of trust on the property where the City-funded units are located and generally shall be made on a non-recourse basis, with the City's remedy limited to its security in the project, project rents, and project reserves, except in cases of fraud, waste, or other circumstances determined by the Director to justify recourse against the borrower. OH may require recourse to the borrower or a guarantor, or both, if for any reason a loan is not secured by the real property or otherwise would not be adequately secured in the opinion of the Director, or may require recourse for a specific amount of time or until certain conditions are satisfied when the City's security in the property may be inadequate.

#### **N. Use of OH-funded projects as security for other low-income projects**

Borrowers may use OH-funded projects as security for financing other low-income housing projects if borrowers receive advance written approval from the OH Director. OH may give such approval if the borrower demonstrates that using an OH-funded project as security for financing another project will achieve benefits for the City and not jeopardize the viability of the OH-funded projects.

#### **O. Conduit financing**

To take advantage of opportunities to respond to requirements of particular projects, OH may provide funds to a project indirectly, for example by a loan to a borrower that then re-lends the funds to a project owner or lessee. Such financing may include, without limitation, acquisition of tax-exempt bonds from a conduit financing agency where the proceeds are used for an eligible project. In general, the project owner or lessee in such cases must agree to OH's regulatory terms and must provide a deed of trust for the benefit of the City or assigned to the City.

#### **P. Management Plan**

Prior to completion of construction, the borrower must submit for OH's approval a management plan for operations of the building, consistent with the requirements of Section IX below, with the exception of the capital needs assessment, which must be submitted to OH for approval within six months after completion of construction. For projects that do not include construction, a management plan and capital needs assessment shall be submitted when required by OH. The borrower must make any corrections required by OH and must operate the property in accordance with the management plan and not materially modify the plan or management policies without the prior written consent of OH.

## **VII. BRIDGE LOANS**

OH may provide bridge loans, either directly or through an agreement with another lender or lenders, as short-term financing to assist in the development of projects that would further the objectives of the Rental Housing Program. The total outstanding principal balance of bridge loans under this Section must not exceed \$7 million. This limit does not include Acquisition and Preservation Program funding for rental housing projects or any convertible loans as authorized in Section VI above. OH may use funds derived from the 2009 and/or 2016 Housing Levies and any other funds authorized for this program, for bridge loans. Repayments on bridge loans and any interest earnings will be allocated to the subfunds from which the loans were made.

Bridge loans must be used for the acquisition of improved or unimproved property, or both, to assist in the production or preservation of low-income rental housing. Once completed, the housing development must provide affordable housing consistent with Program policies. Project sponsors must demonstrate that bridge financing is necessary for the proposed project to proceed, and that there is a high likelihood of obtaining permanent financing within two years.

To be eligible for a bridge loan, the borrower must meet the eligibility requirements for the Rental Housing Program. In addition, the borrower or sponsor must have successfully developed and operated at least three affordable housing projects, and must have demonstrated capacity to secure permanent financing for the proposed project before the loan maturity date.

For bridge loans made directly by OH, the interest rate generally shall be 3% simple interest, provided that the Director may authorize a lower rate if the bridge loan is made in conjunction with a bridge loan from another lender, and that the loans together achieve blended interest rate of 3%. Accrued interest shall be paid in full when the loan is repaid. Loans may be made on a nonrecourse basis, but OH may require recourse to the borrower or a guarantor when, for example, a loan is not fully secured by the real property or the loan to value ratio does not fully support OH's investment.

A 20-year covenant will be recorded against the property, unless a longer term is required by the fund source, which will require use of the property wholly or in part for low-income housing. The covenant shall continue in effect when the loan is repaid or discharged. However, the Director may release the covenant, wholly or in part, in connection with a sale of the property approved by the Director, if the property is not in housing use and the Director determines that development of low-income housing is infeasible and that the loan must be repaid.



The maximum term of the loan shall be 2 years. The Director shall have the option to allow extensions, or to convert the bridge loan to permanent financing if permanent financing is awarded through a NOFA. Any extensions may be conditioned on the borrower submitting an updated proposal for approval by OH. Borrowers must agree to terminate a use other than low-income housing upon OH request.

## **VIII. SUPPLEMENTAL FUNDING**

OH may provide supplemental funding for projects that address capital needs of existing City-funded housing projects. For over 30 years the City has been funding affordable housing development, and many projects involved acquisition of older buildings. In recent years OH has encouraged owners to prepare detailed capital needs assessments of their housing portfolio, strengthen replacement reserves, and identify available fund sources for necessary upgrades. City funds may be used to assist with capital improvement projects which will improve living environments for residents, reduce building operating costs, achieve energy savings, and extend the life of the building.

Unless otherwise stated in this Section, Rental Housing Program policies will apply. Consistent with Section V, OH will issue a NOFA at least once a year, which will be the primary opportunity for project owners to apply for supplemental funding. The Director may approve a supplemental funding award outside the annual NOFA process to address emergency or time-sensitive needs where the health and wellbeing of the residents are at risk. Consistent with Section III, project owners must demonstrate that they have operated the housing in accordance with their loan and regulatory agreements, and either that they have the ability to complete the rehabilitation work and effectively manage the housing or that they propose an appropriate relationship with an entity that will provide the necessary capabilities.

Project sponsors must demonstrate that the housing has capital needs that cannot be addressed through the property's cash flow, reserves or other available resources. OH will give priority to proposals that meet at least one of the following additional criteria:

- Projects that are at or near the end of their existing City loan terms, if the owner would consider discontinuing the use as affordable housing unless the property can be rehabilitated.
- Proposals that present leverage opportunities that would allow a substantial rehabilitation of an existing project.
- Proposals whose scope of work includes items that, in addition to extending the useful life of the building by 20 years or more, will also improve the operational efficiency of the building.

### **A. Eligible and ineligible activities and costs**

The project scope of work generally shall be limited to activities that address unmet capital needs and/or improve operational efficiencies. Eligible costs include, but are not limited to:

- Architectural/engineering fee
- Inspections & Surveys
- Insurance

- Capitalized Replacement Reserves in an amount approved by OH in the NOFA
- Closing costs
- Construction
- Contingency
- Construction management
- Environmental Assessments
- Hazardous materials abatement
- Permits
- Professional Fees
- Relocation
- Title insurance
- Condominium association assessments imposed for capital purposes
- Owner project management costs

Supplemental funding may be used to fund housing units, other residential spaces, and structural elements or common areas to the extent they support the low-income housing and not other uses in the building. Examples of acceptable uses include:

- Areas for cooking, eating, bathing
- Building Lobby
- Areas for resident use such as television or reading rooms
- Roofs, facades, corridors, stairwells, storage areas
- Management and service office space that is accessory to the housing
- Spaces used for on-site social services that are required to serve the residents of the housing

Costs associated with market-rate residential units or commercial spaces are not eligible for supplemental funding.

## **B. Cost-effective long-term investments**

Supplemental funding proposals must demonstrate a cost effective, sustainable investment of public funding. Following are minimum requirements:

- Capital needs assessment must demonstrate that the proposed scope of work will extend the useful life of the building by at least 20 years, unless otherwise approved by the Director for specific building components.
- Project scope must address energy efficiency and related health and safety benefits, as feasible and appropriate, and should utilize funding through OH's Weatherization program if available.
- Per-square foot and per-unit costs must be reasonable given the type of housing, scope of work and market conditions.
- Fees for contractors and professional services must be competitive.

## **C. Leveraging and maximum percentage of capital funds**

In general, OH will allow a maximum of 40% of Eligible Total Development Costs (Eligible TDC) of the project to be financed with Program funds. Eligible TDC includes all components of the development budget, including rehabilitation and soft costs, attributable to the housing units that are eligible for City funding, and any common areas to the extent that OH has determined they are eligible for funding. The

maximum percentage of project financing includes capital funding from document recording fee revenues awarded by King County. For purposes of this section, “project” is defined as those housing units that have previously received City funding and are rent-regulated, any additional housing units proposed to be rent-regulated, and common areas to the extent they serve those housing units. The Director may allow for up to 100% of Eligible TDC to be financed with City funds for a project serving extremely low income households or a project at risk of foreclosure.

The owner is expected to contribute financially to the project. Existing project reserves may be included as an owner contribution only if a post-rehabilitation capital needs assessment approved by OH demonstrates a 20-year useful life of the building. Owner contribution requirements will not apply to projects where at least 75% of units are restricted by OH to serve households at or below 30% of Median Income.

#### **D. Construction requirements**

Section IV Construction Requirements policies will apply to supplemental funding with the following exceptions:

1. Competitive selection of contractors. The Borrower must make every reasonable and practical effort to competitively select its general contractor, unless an alternative selection process is approved by the Director. Borrowers must propose a competitive process that clearly meets the City’s requirements as published in the NOFA. The Borrower shall submit a summary of its proposed competitive selection process. OH shall review the process and may require modifications prior to implementation. Depending on the scope of work in the supplemental funding proposal and the Borrower’s demonstrated ability, OH may allow the Borrower to act as its own general contractor.
2. Sustainability requirements. Projects generally must follow the requirements of the Washington State Evergreen Sustainable Development Standard. Details are available through the Washington State Department of Commerce. OH may waive certain requirements in instances where application of the standard would unnecessarily expand the scope of work of the proposed capital improvement project.

#### **E. Loan conditions**

Section VI Loan Conditions policies will apply to supplemental funding with the exception of the following areas:

1. Loan maturity. Supplemental funding loans will generally be a minimum of 50 years. OH may make a supplemental funding loan for a shorter term if the scope of work is relatively limited or if modification of the existing loan provides increased public benefit as described in paragraph 3 below. OH may provide short-term financing, for example, to address an urgent capital need or health or safety concern.

2. Interest rate. The interest rate for supplemental funding loans will generally be one percent (1%). If the project serves households with incomes at or below 30% of Median Income in at least half of the units, the Director may set the interest rate at zero percent (0%).
3. Loan terms. OH may modify existing loan terms and conditions to conform with current Rental Housing Program policies. OH may change the income limits or affordability level for units within the project if required by the fund source used for the supplemental loan or to provide increased public benefit by serving lower income and/or special needs residents. A loan modification will not result in higher Income or Rent limits for City-funded units, except where the Director determines that such a modification is required to sustainably operate the project and capital fund sources permit higher limits.

## **IX. MANAGEMENT AND OPERATIONS**

Good management is critical to the overall success of projects. Project owners will be required to submit a management plan to OH for approval prior to completion of construction.

### **A. Management plan**

Management plans must include the following:

1. Occupancy standard (# of persons per unit) that is consistent with applicable law, including Seattle Housing Code and federal, state and City fair housing standards.
2. Rent standard (household income and rents) that complies with contract restrictions.
3. A management philosophy that is appropriate for the target population.
4. Affirmative Marketing Plan that complies with federal, state and City laws and the Affirmative Marketing policy in Chapter 9. Borrowers must demonstrate cultural competency.
5. Community Preference policy and procedures, with prior approval by OH and SOCR, if applicable.
6. Roles and Responsibilities of key staff and contracted management.
7. Maintenance Plan including a schedule of routine and preventative maintenance; a schedule of inspections; and the long-term maintenance plan.
8. A Capital Needs Assessment (CNA) that includes a 20-year schedule of major replacements with a corresponding schedule of replacement reserve account deposits.
9. Budget: Annual projection of income, expenses, capital improvements, and reserve accounts.
10. Operating Policies and Procedures for the following management functions, at a minimum:
  - a. Admissions Policies: Income qualification procedures; tenant referral agreements if applicable; screening criteria, including procedures for individual assessment of applicants if applicable; and a copy of the lease or program agreement. Owners will provide notice of screening criteria as required by law. Except as required by federal law, criminal background checks are prohibited.
  - b. Rent: Rent collection, deposits, late payments, addressing damage to units, rent increases
  - c. Commitment to the City's Just Cause Eviction Ordinance.

- d. If mutual termination agreements are used, a written policy must allow mutual terminations to be used only in circumstances when an eviction would otherwise be filed or if requested in writing or verbally by a tenant. OH will review the mutual termination policy as part of its review and approval of the management plans submitted by project owners.
  - e. Management of tenant files and records
  - f. Work order and Repair process
  - g. Unit turnaround: filling vacancies
  - h. Building security and emergency plan
  - i. Community education and involvement plan for addressing complaints or issues raised by tenants and neighbors about the building or tenants.
11. Management plans for special needs housing and housing with support services should also include the following:
- a. Description of service support program to be provided to tenant households including funding commitments and contracts.
  - b. Identification of key staff roles and responsibilities related to service delivery including written agreements that describe relationships with other agencies.
  - c. A description of any tenant referral arrangement required by operating and/or services funding, including participation in King County's Coordinated Entry for All system.
  - d. For permanent supportive housing or other housing with a homeless services funding contract, screening criteria consistent with service funder requirements.
  - e. Involvement of tenants in project governance and house rules.
  - f. Description of performance or outcome measures.

## **B. Tenant income and rent requirements**

Housing units are restricted to tenants who are income eligible at time of initial occupancy by the household, or at time of funding by the City, if later. Consistent with Program objectives and priorities, and affordability requirements to specific fund sources, housing units may be restricted to households with income up to 30%, 40%, 50%, 60%, or 80% of median income. Tenants must be income qualified prior to move in or prior to City funding for acquisition of occupied units. A maximum restricted rent is established for each housing unit, no higher than Affordable Rent for the income eligibility category and based on the number of bedrooms.

The Director may allow a housing unit restricted to Extremely Low-Income households to be rented to a household with income up to 40% of Median Income, on a case-by-case basis, if the household is homeless or if OH determines that the owner made a reasonable but unsuccessful effort to find an income-eligible tenant, and the unit has been vacant for at least 90 days or the building is undergoing initial lease up and may fail to meet occupancy requirements. This determination will be made upon review of the owner's advertising of available housing, including affirmative marketing, and data about income of applicants turned away. This waiver is available only to housing funded in 2017 or later, for units restricted to Extremely Low-Income households up to 30% of Median Income that are not receiving operating subsidy, such as Section 8 housing choice vouchers or Levy O & M funding. The

Director shall include information on waivers granted and denied during the past year in the annual

Housing Levy report. The requirement of Affordable Rent for Extremely Low-Income tenants for the unit will remain in effect, except as allowed in Section C below.

Where an occupied housing project is acquired or rehabilitated with Program funds, and rehabilitation does not require that existing tenants move out of units, OH may waive the unit affordability and occupancy restrictions for an incidental number of units occupied by existing over-income tenants. The waiver will be limited to a specified period, generally two years, and OH will require an extension of the regulatory term for an equal period for the units occupied by over-income tenants. At or before the end of the waiver period, over-income tenants must be relocated.

To the extent consistent with the Yesler Terrace Cooperative Agreement, OH may waive the income and rent restrictions for Yesler Terrace Replacement Housing units that are occupied, or to be occupied, by Yesler Terrace residents who must relocate due to public housing demolition and who are eligible to return pursuant to the Yesler Terrace Relocation Plan, provided that the income of the relocated tenant household does not exceed 60% of Median Income. Rents for City-funded Replacement Housing units will not exceed those allowed by HUD's Low Income Public Housing rent regulations and limits established in agreements with OH, which shall generally limit Rent to 30% of the tenant's income. Because Replacement Housing units will be occupied by relocated Yesler Terrace residents whose incomes are predominantly below 30% of Median Income, or by other households with incomes at or below 30% of Median Income, OH may count Levy and other funds used for development of Yesler Terrace Replacement Housing as funding serving households at or below 30% of Median Income for the purposes of the Levy Funding Allocation Policy in Section I of the Rental Housing Program Policies in this Chapter, above.

### **C. Rent increases**

Rents generally may be adjusted annually to the maximum allowable rent based on number of bedrooms and affordability level. To avoid displacement of Low Income tenants, owners should avoid sudden, sizable Rent increases that could cause undue financial hardship or displace residents, particularly for existing tenants immediately after rehabilitation or acquisition. If Rent will increase as a result of acquisition and/or rehabilitation of housing, the initial post-rehabilitation or post-acquisition Rent increases for existing tenants will be subject to OH review to determine that Rent adjustments are reasonably necessary to ensure adequate project operating funds.

Tenants who are income-eligible at the time of their initial occupancy or the time of City funding, whichever is later, are not required to be relocated solely because their income later exceeds the restriction of their unit. However, upon recertification such over-income tenants may be subject to separate mandatory or optional rent increases, as follows.

- The owner must charge the maximum restricted rent for the unit if a tenant's income surpasses 140% of the maximum income limit for that unit.
- For units with any federal operating subsidy, or occupied by a tenant using a rental voucher, the tenant may pay up to 30% of income for housing costs when the tenant's income exceeds the

maximum income limit for the unit, consistent with requirements of the subsidy program and as approved by OH.

- For units that do not have any rent or operating subsidy, the owner is strongly encouraged to increase rent to 30% of the tenant's income if 1) the tenant's income surpasses 140% of the maximum income limit for the unit and/or 2) the tenant's income surpasses 65% of Median Income.
- If an agreement with HUD requires a higher Rent for a Yesler Terrace Replacement Housing unit than this section would permit, SHA may increase Rent for any tenant whose income exceeds the restriction of their unit (generally 30% of Median Income) up to the level required by HUD and as approved by OH.

All Rent increases are subject to other funder restrictions, and state and local law.

#### **D. Floating units**

OH may approve a "floating unit" regime that allows affordability levels in specific units to change so long as the total number of units at each affordability level in the development is maintained. In such cases, owners will be strongly encouraged to change the affordability level in a unit occupied by an over-income household when a unit at a higher affordability level becomes available in the building. The tenant will not physically move, but a lower affordability level will be assigned to the vacant unit, which would be made available to an income-eligible tenant.

#### **E. Special populations**

Owners who have committed to serve specific populations, and who sustain a loss of services funding that affects service delivery to such populations, shall consult with OH concerning alternatives.

### **X. PROJECT MONITORING**

Owners must report annually on the status of their projects each year by June 30<sup>th</sup>, or on an alternative date specified by OH upon reasonable advance notice. OH coordinates its monitoring, site visits and inspections with other funders to help reduce administration time and disturbance to residents. Owners will submit written reports on a combined funders' annual report form, and OH supplemental reporting forms.

#### **A. Compliance and performance evaluation**

OH's compliance and performance assessments include, but are not limited to, the following compliance and performance areas. Additional, project-specific requirements may be included in loan documents.

1. Sound borrower fiscal health: The project borrower and its general partner, managing member or other owner when applicable are in sound fiscal health.



2. Management Plan: The project is operated according to the owner's original or amended management plan for the property.
3. Affordability: borrower must provide an annual report that demonstrates that tenant income determinations and rent levels complied with affordability requirements.
4. Affirmative marketing and nondiscrimination: The housing is affirmatively marketed, including advertisements in OH-identified listing sites that reach the general population and underserved groups; the population served is diverse; and the borrower can demonstrate nondiscriminatory treatment for all applicants and occupants, consistent with federal, state, and local fair housing laws and regulations.
5. Occupancy: The tenant family sizes are appropriate for the unit sizes and projects designed for particular populations are appropriately serving those populations with housing and, if applicable, services.
6. Unit Turnover and Vacancy: Vacant units are turned over quickly and vacancies are minimized.
7. Physical conditions: The property must be maintained in good and tenantable condition and repair that ensures safe, secure and sanitary conditions. Spaces must be used for their intended purposes (housing units, common areas, storage, accessibility etc.). The project's sustainable 'green' features are maintained and operating as designed.
8. Capital needs assessments: Long-term replacement needs and capital improvements are adequately planned for and completed on schedule according to capital needs assessment (CNA) schedule of replacements. Preventive maintenance and repairs are completed according to maintenance plan and schedule.
9. Sound project fiscal management: The project is operated according to sound fiscal management practices, and all reserves, taxes, utilities and debt service including any amounts due to the City are paid on schedule and reported as required.
  - a. Revenue management: The borrower collects rents in a timely manner and in a way that ensures adequate income to the property; ensures compliance with contracts for operating subsidy and rental assistance.
  - b. Expense management: The borrower manages expenses by re-evaluating and re-procuring goods and services from time to time.
10. Community relations: The housing project is a good neighbor, which is measured by good maintenance, street appearance, and responsiveness to neighborhood concerns and complaints.

## **B. Annual performance letters; actions to resolve Findings**

OH will provide performance letters each year to all borrowers specific to their projects that have at least one full year of operation. The performance letter will:

1. Summarize OH's review of compliance and performance in the project monitoring areas described above;
2. Identify any instances of major or chronic non-compliance with terms of the loan agreement, subsidy contract or other loan documents ("Findings");
3. Specify actions required to resolve Findings that must be performed and documented by the borrower by a certain deadline, and/or specify a date by which the borrower must submit a plan to resolve Findings for OH review and approval.

OH may accept, accept with conditions, or reject a proposed plan to resolve Findings. If a borrower's plan includes a proposal for City funding, the borrower must make a significant financial contribution and satisfy all other requirements of Section VIII.

A borrower that disputes a Finding may submit a written protest to OH within 30 days of receipt of the performance letter. A protest must state the reasons why OH's determination of Findings was unjustified, provide copies of any supporting documents, and include affidavits or declarations as to any facts rebutting the basis for the OH determination that are not established by other supporting documents. The Director or another OH employee designated by the Director shall make a written decision on a protest within 30 days of receipt. That decision shall be the final administrative decision of the City for purposes of determining whether a borrower is in "Good Standing" as described below.

### **C. Good Standing**

A borrower is in Good Standing if (a) the borrower has no Findings identified in its most recent performance letter; (b) OH determines that the borrower has remedied all Findings in its most recent performance letter; (c) the borrower is diligently pursuing a plan accepted by OH to remedy Findings as promptly as feasible; or (d) the borrower's timely protest of the Findings is upheld by OH. The borrower has the responsibility to provide timely documentation to OH to demonstrate that it has remedied Findings, or complied with the terms and conditions of the OH accepted plan.

In January of each year, the Director will notify borrowers that OH has determined are not in Good Standing. A notice that a borrower is not in Good Standing shall identify the Findings that the borrower has not demonstrated are remedied, and/or the actions or conditions in the OH accepted plan that the borrower has not diligently pursued or satisfied. Such notice shall also state that the borrower and its Affiliated Entities are ineligible to apply for Program funding until after a determination of Good Standing in the following year.

No determination of Good Standing, or failure to make a Finding, or determination with respect to a finding, or acceptance of any plan to remedy Findings or actions thereunder, shall constitute a waiver or modification of any terms or requirements of loan documents or any other legal obligations of any borrower or other person, unless expressly so agreed in writing by OH. For example, OH may pursue remedies for any default under loan documents even though the default is not considered a Finding.

### **3. OPERATING & MAINTENANCE PROGRAM**

The Operating & Maintenance (O&M) Program provides operating support for Levy funded housing affordable to households with incomes at or below 30% of the Median Income. O&M funds are used to fill the gap between eligible operating and enhanced property management costs, and project income from rent and any other subsidies. OH may make a contingent commitment of up to 20 years of operating support, which assists owners to secure project financing.

#### **O & M Program Priorities**

Priority will be given during the project review process to Levy funded projects for which significant non-City operating or service funds have been secured and that will serve homeless or other special needs populations requiring supportive services to maintain safe, stable living arrangements.

#### **O & M Program Policies**

These policies apply to all initial commitments of 2016 Housing Levy O&M funds and annual renewals made under any of the housing levies, except to the extent there is a binding contract in effect providing that the City will renew an agreement on specific terms or the policies are inconsistent with a provision of a prior levy ordinance that is still in effect. If there are terms still in effect governing renewals in a binding contract, renewals shall be based upon the terms of the contract, except to the extent that OH and the project owner agree to substitute different terms consistent with these policies.

##### **A. Eligible projects; Project selection for initial commitments**

Rental projects funded with 2016 Levy Rental Production and Preservation funds are eligible for 2016 Levy O&M Program funding. In addition, OH may use 2016 O&M funding to extend the contract of a project that received O&M funding from a prior levy if O&M funding provided by the prior levy has been fully disbursed.

At least once per year, OH will issue a Notice of Funds Available (NOFA) for the O&M Program. Application requirements will be included in the NOFA.

The application review process considers the following project characteristics:

- The reasonableness of the proposed operating budget;
- The amount of operating and supportive service funds leveraged by the project;
- The experience and capacity of the owner in serving similar populations as well as the owner's general affordable housing development and management experience;

- The adequacy of the management plan for the proposed tenant population and building;
- The scope of any rehabilitation and whether the work minimizes operating expenses;
- The adequacy of the maintenance plan in maintaining the building and preventing long-term maintenance problems; and
- The commitment and reasonableness of support services, if necessary, for the proposed tenant population.

## **B. Eligible households**

To be eligible for O&M subsidy, units must be occupied by households with incomes at or below 30% of Median Income. Households must be income qualified prior to moving into the unit or at the time of funding for occupied buildings.

## **C. Funding limits for initial commitments**

O&M funding is intended to be a shallow subsidy that is combined with tenant paid rent and/or other operating subsidies to cover building operating costs attributable to the O&M-funded units. In order to provide opportunities for as many projects as possible, the maximum funding award is \$2,500 per unit per year, for the initial full year of occupancy. In addition, funding will generally be limited to no greater than 25% of effective gross income of the building, except as approved by the Director, for the initial full year of occupancy. Section 8 subsidy and O&M subsidy may be combined for the same project to increase the number of Extremely Low-Income units, but subsidies from the two programs generally may not be combined to support the same unit. OH may approve O&M to support permanent supportive housing units with Section 8 subsidy if additional operating subsidy is necessary to cover enhanced property management costs and no other fund source is available. Enhanced property management costs must be reasonable and necessary costs of operating the housing in light of the population to be served, such as 24-hour staffing.

Projects will be eligible for annual increases in O&M subsidy, subject to OH approval and availability of funds, to cover increases in the annual funding gap.

## **D. Rents and occupancy**

Eligible households generally shall be required to pay 30% of monthly income for Rent. As part of the rent calculation, OH will allow adjustment of monthly income for certain allowable expenses as contained in 24 CFR Section 5.611. Owners may request alternate Rent schedules to meet unique program objectives. For example, OH may permit exceptions if tenants are directing their income to other program goals such as education or saving for transition to permanent housing (e.g., first month rent, deposits). Specific program requirements will be outlined in subsidy contracts. Occupancy rates are expected to be maintained at 95% or better or a rate determined optimal for the specific project and housing program. Annual project budgets should reflect estimated rental income based on type of occupancy.

For housing units where Program funding is combined with other operating subsidy sources, household income shall be reviewed annually and the tenant's rent payment may be adjusted by the owner, but may not exceed 30% of monthly income. For housing units where Program funding is the primary source of operating subsidy, OH may approve tenant-paid rents no higher than the Affordable Rent for a household at 30% of Median Income. If a household's income changes prior to the annual review (due to loss of a job, addition of a household member, death of a household member, etc.), rents can be adjusted.

Some households may have little or no income when first moving into O&M-subsidized housing. In these instances, OH may allow the minimum tenant share of income paid for Rent to be waived or reduced until the household qualifies for public assistance or becomes employed. Owners must include any plan to temporarily reduce the share of tenant income required for Rent in their application, and must demonstrate that the housing units will be financially viable.

### **E. Ineligible units**

When a household in an O&M subsidized unit has a change in income or household composition that results in income greater than 30% of Median Income, the household is determined to be "over-income" and the unit is no longer eligible to receive subsidy. In such cases, the O&M subsidy amount would be adjusted from the date the unit was determined ineligible based upon a revised calculation of income and expenses for eligible units. The household may have an adjustment in Rent depending on the terms of the City regulatory agreement or conditions of other funding.

### **F. Management plan**

A management plan is required for each application for O&M subsidy. The plan must be consistent with Rental Housing Program policies and local laws and regulations.

### **G. Maintenance plan**

Each project must have a maintenance plan that describes how the building will be managed and maintained. It should describe the acceptable standard for each room, common space (hallways, stairs, lobby), building systems and exterior. The Plan should include a schedule for inspections and regular and preventive maintenance of the building. The plan must also describe how long-term replacements and maintenance will be accomplished.

### **H. Operating budget and use of funds**

Each year, owners with O&M subsidy contracts will be invited to apply for an annual renewal of subsidy. Applicants will submit actual financial statement for the previous year and a proposed operating budget, in the required format, based on the actual expenses from the previous 12-month period plus a reasonable adjustment for inflation. The budget and the annual award follow the City's fiscal year, which begins January 1, unless OH allows an alternate subsidy period.

Eligible uses of O&M subsidy include operating expenses attributable to O&M-supported units:

- On-Site Management: Operations and maintenance costs directly associated with operating the building. This includes on-site management salaries, benefits and personnel costs; utilities; contracted building services such as elevator, pest control, landscaping, fire safety, security; repair and maintenance expenses such as materials, janitorial supplies, unit turnover costs and other repairs. Enhanced property management costs directly related to managing the Levy-funded units, including, to the extent they are reasonably necessary, costs of operating the housing in light of the population the owner has committed to serve (e.g. 24 hour resident manager).
- Off-Site Management: Property management and personnel costs directly associated with operating the building.
- Administration: Property taxes, insurance, legal, marketing, accounting, financial statements and audits, and other costs directly associated with administration in the building.
- Replacement and Operating Reserves: Replacement reserve deposits are an eligible operating expense. O&M funds can be used to fund replacement reserves to a maximum set by OH, with disbursements from reserves restricted to repairs and replacement of major building components as approved by OH. The amount added to the reserve will be based on OH loan conditions and periodic Capital Needs Assessments to be prepared by owners.

Operating reserve deposits to cover unforeseen operating costs are an eligible expense. The operating reserve account is considered adequate when the balance is equal to 50% of a year's operating budget. The operating reserve may also be used to pay for building improvements that cannot be entirely funded by the replacement reserve. As part of the management plan, each owner must provide their policy and procedures for managing reserve accounts. The requirements and limits on replacement and operating reserves for specific projects may be adjusted periodically by the Office of Housing based on a review of the capital needs and operating risks of projects and of other public funder standards.

The program will not subsidize debt service. O&M subsidies may be provided to a portion of units in a mixed-income project that has debt service, provided that all debt service costs are carried by the income from the non-O&M supported portion of the building and the building owner demonstrates a shortfall between income and expenses attributable to the O&M supported units. O&M subsidy will not be granted to support a shortfall on the non-O&M supported portion of the building.

## **I. Subsidy term**

O&M awards have a maximum contract term of 20 years from the date that the O&M units are complete and occupied. Subsidy is subject to availability of funding and to annual reviews that may result in adjustments to subsidy amounts or discontinuance of subsidy, in the discretion of OH. For example, subsidies may be reduced or discontinued if increasing revenues from other housing units,

commercial space, or alternative subsidy sources are available to a project, or if shortfalls in funding resources require OH to prioritize O&M-eligible projects.

O&M contracts may provide that if, during the term of commitment for O&M subsidy, the subsidy is discontinued or reduced, and if the owner therefore cannot meet operating expenses of the O&M units with rents affordable to Extremely Low-Income households, the owner may rent the units to any Very Low-Income households who can pay rents sufficient to cover operating costs of the units, but not to exceed Affordable Rents for Very Low-Income households. The owner must prepare a plan acceptable to OH prior to any change in occupancy or program focus. The plan must give preference to the lowest income households who can pay such rents.

## **J. Expiring contracts**

For most of the properties supported by 1986 Levy O&M Program funding, the initial program contracts have expired and owners have received contract extensions. OH may continue to grant extensions to expiring O&M subsidy contracts originally funded under the 1986 and 1995 Housing Levies, provided there are available funds in the 1986 and 1995 Levy O&M program reserves. If the program funding has been fully expended, OH may award 2016 Levy funds to extend contracts for a portion or all of the O&M-supported units. Projects will be required to demonstrate:

- Need for continued subsidy.
- Housing meets current City housing priorities.
- Project meets applicable performance measures and housing outcomes.

## **K. Annual reviews**

OH will conduct financial, management, operations, and maintenance reviews of projects receiving subsidy each year. OH will determine the subsidy amount on a year to year basis for the term of the contract.

For the annual review, the owner must provide:

- An annual report according to the terms of the OH loan agreement.
- Operating Budget projected for the next year based on current year 'actuals'.
- An actual financial statement for the project compared with the operating budget. The statement must include cumulative balances for replacement and operating reserves.
- Audit, if applicable, in a form acceptable to OH
- Tenant Rent Roll including household incomes and rents charged for each unit.
- Capital Needs Assessment updates and details on major repair and maintenance work planned for the next year, if any including an estimate of the work and source of funds.
- Examination of services outcomes and copies of service contracts.

- A narrative report explaining how the subsidy received in the prior year and the subsidy requested for the next year will allow the owner to meet its commitment to serve Extremely Low Income households.

#### **L. Subsidy payments and adjustments**

O&M subsidy will generally be paid to projects on a quarterly basis. The amount and the conditions for providing subsidy will be negotiated between OH and the owner, and established in an annual contract amendment. The amount of subsidy paid each quarter will depend on the operating budget and cumulatively cannot exceed the approved annual amount. Owners will be required to provide quarterly financial reports. Owners may request subsidy readjustment at any time; however, except for unusual circumstances, OH will review just one adjustment request per project annually.

Increases to the subsidy amounts prior to the annual review will only be made when it is determined by OH to be reasonable due to unforeseen circumstances and only if in the judgment of OH, there are sufficient uncommitted O&M funds to provide an increase.

A project that is showing a surplus at the end of the year may be required to make repayment to OH or make additional contributions to replacement reserves in the amount of the surplus.



## **4. HOMEOWNERSHIP PROGRAM**

### **I. Homebuyer Assistance**

The Office of Housing uses funds from various sources to help create affordable homeownership opportunities for low income homebuyers in Seattle. The following program policies apply to funds awarded by OH for homeownership, including 2016 Levy Homeownership Program funds, 2009 Levy uncommitted Homebuyer Assistance Program funds; funds received through land use code provisions; program income and investment earnings derived from Housing Levies and other OH-administered homeownership fund sources, subject to the limitations described in Chapter 1.

#### **PROGRAM OBJECTIVES**

The Program assists Low-Income First-Time Homebuyers to purchase a home in Seattle. The following objectives are variously met through two basic models of assistance: subordinate mortgage loans, also known as down payment assistance; and acquisition or development subsidy, which increases the supply of Resale Restricted Homes affordable to the initial and successive homebuyers.

The following objectives guide the Program:

- Enable qualified low-income families and individuals to become homeowners and achieve housing stability and other benefits of homeownership.
- Promote socioeconomic diversity among homeowners in Seattle neighborhoods.
- Create an ongoing resource to assist future Low-Income homebuyers through either resale restrictions that will maintain an affordable home price or loan repayment terms that will generate Program Income with which to assist future homebuyers or other Low-Income households.
- Promote the expansion of programs that achieve long-term homeownership affordability.
- Increase the supply of for-sale housing affordable to Low-Income homebuyers.
- Combine with other sources of homebuyer assistance funds (Washington State Housing Finance Commission, State Housing Trust Fund, Federal Home Loan Bank, etc.) to leverage City dollars and capitalize on existing service delivery systems.
- Promote homebuyer education as a best practice by requiring households using City homebuyer assistance to complete a pre-purchase homebuyer education program.

- Promote a mix of unit sizes and amenities to accommodate families, including large families, for new construction projects.

## PROGRAM POLICIES

### A. Eligible use of funds

Housing Levy funds may be used for any of the following, and other Program funds may be used for the following to the extent authorized for the fund source used:

1. **Subordinate Mortgage Loans:** Also known as down payment assistance, loans to assist eligible homebuyers by filling all or part of the gap between the cost to purchase an eligible home and an affordable first mortgage amount plus the buyer's down payment.
2. **Development Loans for Resale Restricted Homes:** Loans to assist qualified developers acquire or develop homes to be sold to eligible homebuyers. Such homes are resale-restricted to preserve affordability, and to limit resales to successive Low-Income First-Time Homebuyers.
3. **Bridge Loans:** Short term loans to purchase land or building(s) to develop homes to be sold to eligible buyers as Resale Restricted Homes. Bridge loans are intended to be repaid with permanent financing.

### B. Eligibility requirements

**1. Homebuyer eligibility.** Homebuyers must be First-Time Homebuyers with household incomes at or below 80% of Median Income, adjusted for household size. A "First-Time Homebuyer" is defined as a household that does not include any person who has owned and occupied a primary residence at any time in the 3 years preceding the home purchase for which Program assistance is provided.

The first mortgage, or share loan in the case of cooperative housing, or other financing that the homebuyer uses to purchase the home is subject to OH approval. Homebuyers may use any first mortgage product approved by OH, including FHA and Fannie Mae products, and portfolio loans. FHA 203(k) purchase-rehabilitation loans are also eligible, provided the rehabilitation amount exceeds \$5,000.

Homebuyer households must successfully complete a pre-purchase homebuyer education program and one-on-one homebuyer counseling conducted by an OH-approved agency.

A homebuyer purchasing a Resale Restricted Home developed using financing from OH is ineligible for a subordinate mortgage loan from OH, but if the developer takes a subordinate mortgage as seller financing, OH may require that it be assigned to the City either absolutely or as security for repayment of a City loan to the developer.

**2. Homebuyer contribution.** Homebuyers must provide a minimum of \$2,500 or 1% of the purchase price, whichever is greater, of their own funds toward the home purchase, except as provided in this

paragraph. The homebuyer contribution must include all liquid assets, except that the homebuyer may retain \$10,000 or six months of housing payments, whichever is greater. Homebuyers may receive gifts of funds towards their portion of the down payment; however, gifts must not exceed 25% of the homebuyer's total down payment requirement. Homebuyers may provide a lower financial contribution as follows: (1) for eligible buyers participating in an OH-approved, nonprofit-sponsored, sweat equity housing program that requires significant participation by the homebuyer, the homebuyer's contribution of volunteer time may be accepted in lieu of the minimum cash contribution; and (2) for eligible buyers who have a long-term disability and whose household income includes SSI or similar public income support, gifts may constitute up to 75% of the homebuyer's total down payment requirement.

**3. Minimum housing payment.** The homebuyer's annual housing payments as projected, subject to OH approval, prior to closing of the purchase, shall not be less than 25% of the household's annual income. Housing payments include principal, interest, property taxes, homeowner's insurance and, if applicable, homeowners association dues or lease payments, and do not include utility payments. A homebuyer with sufficient liquid assets so that, after the required down payment, the mortgage financing needed on normal terms would result in housing payments below 25% of household income, generally would not be eligible, including for subsequent purchases of a Resale Restricted Home.

**4. Property requirements.** All types of for-sale units are eligible for funding consideration, including single-family residences, condominium units, limited equity cooperatives, co-housing, and homes on leased land. Homes must be located in Seattle, and have a purchase price no greater than a maximum amount established by OH and published annually. Properties must be the homebuyer's principal residence and remain owner-occupied through loan maturity or payoff. The Director may waive the owner-occupancy requirement for a limited period of time under certain circumstances, such as military service. Purchases of properties for investment are not allowed under this program. Homes with an accessory dwelling unit are eligible, provided that the buyer will be an owner-occupant of the home. A lease-to-own contract or long-term lease may be considered a purchase.

### **C. Subordinate mortgage loans**

**1. Amount of assistance.** Assistance to enable homebuyers to purchase a home will be limited to gap financing of homebuyers, up to a maximum of \$55,000 for any assisted household except as stated below. "Gap" is defined as the difference between the cost to purchase the home and the buyer's down payment plus an affordable mortgage amount for the homebuyer. Generally, an affordable mortgage is one that results in total housing payments in the range of 25% to 35% of the household's income, depending on the buyer's individual circumstances. OH will establish the gap formula used by homebuyer agencies receiving program awards, and will review the gap analysis for each individual loans for compliance with these policies and requirements published in a NOFA.

Loans in excess of \$55,000 are allowed under one circumstance: In order that single-source subordinate mortgages may be provided for the convenience of borrowers, in lieu of assistance from Levy or other City funds and non-City sources to the same borrower, OH may allow a higher amount of City-funded homebuyer assistance, not to exceed \$70,000, for a borrower that receives assistance made as part of a project or lending program for which a nonprofit lending agency has obtained commitments of non-City homebuyer subsidy funds, but only if all of the following conditions are satisfied:

- a. Non-City subsidy funds provided to such project or program must be used for deferred subordinate mortgages or other assistance that assists Low Income households to purchase a home in Seattle.
- b. The average amount of City homebuyer assistance, of loans made between January 1, 2017 and December 31, 2023 for all eligible households assisted by the project or program to purchase a home in Seattle, including buyers who do not receive any City-administered funds, may not exceed \$55,000.

**2. Loan terms.** Proceeds of subordinate mortgage loans may be applied to purchase price, closing costs, counseling fees, and interest rate write-downs of the first or subordinate mortgages. Subordinate mortgage loans will generally be 30-year deferred loans. Loan repayment terms shall specify the interest rate, which generally shall not exceed 3% simple interest; loan term; period of payment deferral; and any contingent interest or share of appreciation, which may be reduced and/or eliminated over time. The terms of the subordinate mortgage loans shall provide that the entire principal balance is due upon sale, other transfer or refinancing of the home, at the lender's option, to the extent permitted by applicable law. However, OH may permit assumption of the loan by another eligible buyer household in lieu of repayment and may subordinate its deed of trust or other security to substitute senior loan financing.

**3. Notice of Funds Available.** OH will provide subordinate mortgage funds via qualified homebuyer assistance agencies. Homebuyer agencies are responsible for affirmative outreach, identifying and screening potential borrowers, and submitting borrowers' loan packages to OH for approval. OH will issue a Notice of Funds Available (NOFA) at least once per year to solicit applications from such agencies. The NOFA will provide application requirements, applicant eligibility criteria, details on specific fund sources available, application forms, and deadlines. OH may allow minor deficiencies to be corrected and clarifications to be made by applicants during the review process. Otherwise, incomplete applications will not be considered for funding. The applicant and Affiliated Entities must be in Good Standing on all existing loans, program agreements and contracts administered by OH as defined in Section H below.

#### **D. Development loans for Resale Restricted Homes**

**1. Resale Restricted Homes.** Program funds may be used to assist in the Site Acquisition and/or development of land and homes to be sold to eligible homebuyers as Resale Restricted Homes. “Resale Restricted Homes” are homes that are subject to recorded restrictions intended to require that, for a period of at least 50 years, upon resale, the homes must be sold to eligible homebuyers at a sales price that is likely to be affordable to a Low-Income homebuyer. Resale restrictions must be in the form of a ground lease, covenant, or other recorded document approved by OH. The applicant’s methodology for establishing maximum initial and resale prices is subject to approval by OH.

**2. Initial Purchase Price and resale price formula.** The Initial Purchase Price and the formula to be used to determine resale price limits are subject to OH approval. The “Initial Purchase Price” is the value that will be entered into the instrument restricting the resale price and is the value to which the resale formula will be applied. The Initial Purchase Price and the resale price limit may exclude or provide adjustments for subsidies to the buyer or junior mortgage financing that is subject to forgiveness or may be assumed upon resale. The terms of any junior mortgages and/or other subsidy shall be subject to approval as well as their potential impact on current and future affordability. OH may provide development subsidy to allow for an Initial Purchase Price to be affordable to households with incomes between 65% and 75% of Median Income to improve the likelihood that homes will continue to be affordable to income-eligible homebuyers for a minimum of 50 years.

The applicant must demonstrate that the Initial Purchase Price is affordable at an income level approved by OH and the resale formula is likely to keep the home affordable to Low-Income households at subsequent resales over the course of the affordability period. Generally, an affordable price is one that results in total housing payments in the range of 25% to 35% of the household’s income. OH will assess the affordability of the Initial Purchase Price assuming the minimum required homebuyer contribution and a household size equal to the number of bedrooms plus one. OH may allow or require exceptions to the assumed household size, for example for shared housing or limited equity cooperatives. Other assumptions used to determine the Initial Purchase Price, including but not limited to housing payment ratios, interest rates and property taxes, are subject to OH approval.

The resale price formula shall be applied to the Initial Purchase Price and shall establish restrictions on future purchase prices in order to provide for continued affordability to Low-Income homebuyers over a reasonable range of future changes in median incomes and interest rates. The resale price formula may allow for limited annual increases in resale prices, generally between 1% and 3% per year, with possible adjustments based on junior financing terms as described above or others approved by OH.

**3. Financing.** Assistance shall generally be in the form of long-term financing. Long-term assistance shall generally be made available through 0% to 1% interest loans with payments deferred for 50 years. Short-term acquisition funding shall generally be through the Acquisition and Preservation Program; however, OH may make a bridge loan under the policies set forth below.

**4. Eligible and Ineligible Costs and Activities.** Program funds shall be used for costs associated with Site Acquisition and/or development of Resale Restricted Homes. Funds may be used to finance entire developments, individual units, or residential portions of a development. Nonprofit borrowers are encouraged to use other cost-effective sources for pre-development funding such as Impact Capital.

Eligible costs include but are not limited to:

- Appraisals
- Architectural/engineering fees
- Closing costs
- Construction
- Contingency
- Counseling fees
- Developer fees
- Environmental Assessment
- Financing fees
- Hazardous materials abatement
- Insurance
- Interest
- Inspection and survey
- Option costs
- Permits
- Reimbursement of pre-development costs
- Professional Fees
- Purchase price
- Relocation
- Title insurance

Program funds may be used to fund housing units, residential spaces, and common areas to the extent they serve the low-income housing and not other uses. Program funds can be used for projects that combine affordable Resale Restricted Homes with market-rate housing and/or commercial or other nonresidential spaces. However, costs associated with market-rate housing and commercial spaces are not eligible for Program funding.

Borrowers must demonstrate that proposed uses of Program funding are attributable to eligible residential spaces only and that costs of other parts of the project are paid by funds eligible for that purpose. Where it is impractical to segregate costs between Program-funded units and other portions of a mixed-use or mixed-income project, the Director may permit such costs to be pro-rated between Program funding and other funding sources based on a reasonable formula. The Director may set standards for a bedroom for the purposes of OH funding amounts and setting initial purchase prices.

## **5. Project requirements**

**a. Eligible borrowers.** An applicant and/or proposed borrower must demonstrate the ability and commitment to develop, sell and steward affordable homeownership units, including a stated housing mission in its organizational documents. OH will evaluate the experience of an applicant's development team, management team, Executive Director, staff, and Board of Directors (if applicable) to determine if there is sufficient capacity to sustainably develop, own and steward affordable homeownership units on a long-term basis.

Applicants that lack direct experience in these areas may demonstrate capacity by partnering with an entity or entities that provide essential expertise to the project. In these cases, OH will evaluate the proposed partnership to ensure it meets the needs of the project and is sustainable for an appropriate length of time.

The applicant, proposed borrower, and all Affiliated Entities of each of them (whether or not involved in the proposed project) must be in Good Standing on all existing loans and contracts administered by OH, as defined in Section H below.

Eligible applicants and borrowers are:

- Nonprofit agencies with charitable purposes. Private nonprofit agencies will be required to submit articles of incorporation and an IRS letter as proof of nonprofit status.
- Any corporation, limited liability company, general partnership, joint venture, or limited partnership.
- Public Development Authorities.
- Seattle Housing Authority, except that funds for housing developed at Yesler Terrace must be consistent with the Yesler Terrace Cooperative Agreement.
- Private for-profit firms.

**b. Maximum amount per unit, leverage and cost-effective investments.** The City will award up to \$100,000 per unit, except that, in order to encourage the development of family-sized units, the Director may approve funding up to \$130,000 per unit for development of units with 3 or more bedrooms. This maximum amount does not include any short-term acquisition and/or bridge loan that has been repaid. The development subsidy award will be based on the demonstrated development gap, defined as the difference between total projected initial sale prices of the homes and eligible total development cost. Total development costs are all components of typical development budgets, including Site Acquisition, construction costs and soft costs.

The City strives to leverage non-City resources for capital to the greatest extent possible. Borrowers are expected to maximize other capital resources to help ensure that the greatest number of quality affordable homeownership units are produced, taking account of policies and factors affecting cost, including family-sized units.

Proposals for quality affordable housing must demonstrate a cost effective, sustainable investment of public funding. Minimum requirements for cost-effectiveness may be set in the NOFA.

**c. Additional policies.** Development projects must also comply with the following policies contained in Chapter 9, General Policies for Capital Development, where applicable:

- Community Relations
- Relocation, Displacement, and Real Property Acquisition
- Affirmative Marketing (applies to projects where developer is selling units to homebuyers)
- For projects involving construction, Fair Contracting Practices, WMBE Utilization, and Section 3

Additional requirements apply to fund sources other than the 2016 Housing Levy, including federal requirements for HOME and CDBG funds. Applicants should contact OH to determine applicable policies.

## 6. Project selection

**a. Notice of Funds Available.** OH will issue a Notice of Funds Available (NOFA), at least once per year, which will provide application requirements, details on specific fund sources available, application forms, and deadlines. As provided in Chapter 7, OH may separately announce funding available for affordable housing development on a publicly owned site. In addition, OH may separately review and approve applications for funding for housing developments at the Fort Lawton Army Reserve Center consistent with a Council-approved redevelopment plan. OH may also expend funds directly on the lease or acquisition of property at Fort Lawton, prior to adoption of the redevelopment plan and separate from a funding award for development of affordable housing. Applicants and Affiliated Entities must be in Good Standing on all existing loans, program agreements and contracts administered by OH as defined in Section H below.

All applicants are required to attend a project pre-application conference with OH staff prior to submitting an application. OH may allow minor deficiencies in funding applications to be corrected and clarifications to be made by applicants during the review process. Otherwise, incomplete applications will not be considered for funding.

OH strives to ensure fair contracting methods and competitive pricing in the construction of affordable housing. OH may include minimum construction requirements in the NOFA, including but not limited to standards around selection of contractors, contracting and project management capacity. Borrowers are responsible for the compliance of all documents, plans and procedures with all applicable laws, regulations, codes, contracts, and funding requirements.

Other information may also be requested or required in the NOFA, including but not limited to project description, borrower capacity to develop, own and steward permanently affordable homeownership units, buyer profile, evidence of site control, appraisal, and community notification.

**b. Proposal review.** Funding applications are reviewed and evaluated in detail by OH staff based on the requirements listed in this Section and additional criteria published in the NOFA.

When projects have been evaluated, staff makes funding recommendations to the Director. The Director, whose decisions on funding shall be final, shall make funding awards based on his or her judgment as to the merits of the proposed projects; the projects' strengths in meeting the objectives and priorities stated in applicable plans and policies and the NOFA; the capacity of the applicant to attain and sustain long-term homeownership affordability and other factors as detailed in the NOFA or offering documents.

**c. Fund award.** The Director authorizes a fund award for each selected project, which provides information about fund source requirements, funding levels, and conditions that must be met prior



to closing. Fund awards are not binding on the City until contract documents are signed by both the Director and the owner.

The Director may reduce or revoke funding to any project based on failure to meet funding conditions; decrease in costs from the preliminary cost estimate submitted in the application; failure of the applicant to obtain other funding; noncompliance by the applicant with City policies; determination of inaccuracies in the information submitted; increased costs or other factors affecting feasibility; results of environmental or other reviews; changes in the Good Standing of the applicant, borrower, or Affiliated Entities; or failure to the applicant to agree to loan conditions.

**7. Loan conditions.** Loan conditions, including but not limited to repayment, covenant terms, interest rate, extensions and/or deed of trust will be covered in the NOFA, other offering documents and/or in loan documents.

A covenant or other acceptable legal restriction, such as a ground lease, will be recorded against the property that makes the units funded by the City Resale Restricted Homes. Unless otherwise agreed by the Director, the restriction shall continue in effect if the loan is repaid or discharged before the maturity. The Director may release the restriction, wholly or in part, if there is recorded a substitute covenant or other legal restriction such as ground lease at the time homes are sold to eligible homebuyers so that they are Resale Restricted Homes. The Director also may release the restriction, wholly or in part, in connection with a sale of the property approved by the Director, including any foreclosure, if the Director determines that under all the circumstances, including any proposed substitution of other units, the release will likely result in a net benefit to the City's efforts to achieve low-income housing goals, compared to maintaining the covenant.

## **G. Bridge loans**

OH may provide bridge loans as short-term financing to assist in the development of projects that would further the objectives of the Program. The principal balance outstanding on bridge loans authorized in this section must not exceed \$2 million in Program funds. This limit does not include any 2016 Housing Levy Acquisition and Preservation Program funding for homeownership housing. OH may use funds from the 2009 Levy Homebuyer Assistance Program or the 2016 Levy Homeownership Program, alone or together with other funds. Repayments on bridge loans and any interest will be allocated to the subfund from which the loan was made.

Bridge loans must be used for Site Acquisition, which includes the acquisition of improved or unimproved property, or both, to assist in the production or preservation of low-income homeownership housing. Once completed, the housing development must provide affordable housing consistent with Homeownership Program policies. Bridge loans may be made available through a rolling NOFA in which the applicant can apply at any time. A pre-application meeting is required before applying for a bridge loan.

Project sponsors must demonstrate that bridge financing is necessary for the proposed project to proceed, and that there is a high likelihood of obtaining development financing within two years. To

be eligible for a bridge loan, the borrower must meet the eligibility requirements defined in Section D and be in Good Standing as defined in Section H. In addition, the borrower or sponsor must have successfully developed and operated at least three affordable housing projects, and must have demonstrated capacity to secure development financing for the proposed project before the loan maturity date.

The interest rate on bridge loans generally shall be 3% simple interest. The Director may authorize a lower rate in order to leverage other funds that, together with OH funds, create a blended rate of approximately 3%. Accrued interest shall be paid in full when the loan is repaid. Loans generally will be made on a non-recourse basis. OH may require recourse to the borrower or a guarantor, or both, if for any reason the Director deems it necessary or prudent in order to minimize risk.

The Director shall have the option to allow extensions, or to convert the bridge loan to permanent development financing if permanent financing is awarded through a NOFA. Any extensions may be conditioned on the borrower submitting an updated proposal for approval by OH. Borrowers must agree to terminate a use other than low-income housing, upon OH request.

OH will require a covenant or other acceptable legal restriction to be recorded against the property which will require use of the property wholly or in part for Resale Restricted Homes. The restriction shall continue in effect when the loan is repaid or discharged. The Director may release the restriction, wholly or in part, if as a substitute there is recorded a covenant or other legal restriction such as a ground lease at the time of closing of development financing or at the time homes are sold to eligible homebuyers, so that the homes supported by OH funding will be Resale Restricted Homes. The Director also may release the restriction, wholly or in part, in connection with a sale of the property approved by the Director, if the property is not in housing use and the Director determines that development of low-income housing is infeasible and that the loan must be repaid.

## **H. Good Standing**

An applicant or borrower must meet the following conditions to be in Good Standing:

- The applicant or borrower is not in default of the terms of any outstanding loan, contract or program agreement with the Office of Housing, or if in default has reached resolution with OH on remedy.
- Any project for which the applicant or borrower, or its Affiliated Entity, has received OH development, acquisition, or bridge financing is proceeding without substantial concerns (such as construction delays, budget overruns or inability to sell units); or, if substantial concerns exist, an appropriate mitigation plan has been proposed by the applicant or borrower and accepted by OH.

## **II. Foreclosure Prevention Program**

The Foreclosure Prevention Program provides loans to eligible low-income homeowners who are at risk of foreclosure. Funds can be used to pay for housing-related costs, such as mortgage payments and property tax arrears, necessary to prevent foreclosure. The program will operate as a pilot program to provide the City an opportunity to judge its viability on an ongoing basis. The program is funded solely with 2016 Housing Levy funds.

### **PILOT PROGRAM OBJECTIVES**

- Decrease the number of foreclosures in Seattle and the subsequent displacement of low-income homeowners from Seattle, which disproportionately impact homeowners of color and senior.
- Assist low-income homeowners to remain successfully in their homes and communities.
- Explore and create effective partnerships with housing counselors, other City departments, and King County to determine how and when to appropriately intervene with financial or other assistance to assist low-income homeowners to successfully remain in their homes.

### **PILOT PROGRAM FUNDING POLICIES**

#### **A. Homeowner eligibility**

Homeowners with household incomes at or below 80% of Median Income who own and occupy their homes may be eligible for assistance. Homeowners must have experienced an identifiable hardship, such as job loss or medical crisis, that resulted in delinquent housing payments and must demonstrate the ability to afford the housing payments after receiving assistance. Homeowners must be working with and referred by an OH-approved homeownership counseling agency, and must fully explore alternatives, including workout options, prior to or in conjunction with applying for the Foreclosure Prevention Loan. OH will allow the homeowner to retain financial reserves up to a maximum amount.

#### **B. Eligible uses**

Funds can be used for housing-related costs that are necessary to avert foreclosure. Such costs may include costs required to obtain a mortgage modification, delinquent mortgage payments, overdue property taxes, delinquent homeowner association dues, and interest and fees associated with late payments on the above.

#### **C. Loan terms**

Loan amounts will not exceed an amount that OH determines the borrower needs to avoid foreclosure. Additional underwriting criteria such as loan to value ratio established by OH will apply. The maximum loan amount will be \$30,000. The minimum loan amount will be \$2,000.

Interest rates may range between 0% and 3%. Loans may be amortized or deferred. Deferred loans will be due in 30 years or upon sale or transfer, and deferred loans may require monthly payments after the senior mortgage loan has been paid off. For amortizing loans, the amortization period can extend up to 20 years, but the payment must be at least \$50 per month and must cover interest.

A lien will be recorded against the home. The Director may forgive all or part of the loan if the home sells for less than existing liens against the home and repayment of the loan would cause significant hardship to the Low-Income homeowner.

#### **D. Program Administration**

OH will issue a competitive Request for Proposals (RFP) to select a program administrator with the necessary experience in underwriting, originating and/or servicing loans. The RFP will require a strong track record of lending services, working successfully with the network of Seattle area housing counseling agencies, and service to the community. The RFP will also require demonstrated experience and capacity for affirmative marketing, record keeping and reporting, customer service, fair lending and portfolio management. The selected administrator will be responsible for compliance with all applicable laws, regulations, codes, contracts, and funding requirements.

The RFP will include an administration fee structure for the program administrator to underwrite and provide origination services for loans to be made by the City after review and approval by OH. This fee may include a counseling fee that may be paid to a third-party counseling agency, subject to approval by OH.

## 5. ACQUISITION AND PRESERVATION PROGRAM

The Acquisition and Preservation (A&P) Program provides short-term funding for strategic property acquisition for low-income housing development and preservation. A&P Program loans can be made for acquisition of land or buildings, with a priority for acquisition of occupied buildings, and can support development of rental or ownership housing. This program provides resources that could be used to purchase buildings identified through Seattle's Notice of Intent to Sell ordinance. Loans are intended to be repaid with permanent project financing, which may or may not include City fund sources. Bridge loans of up to two years are authorized under separate policies in the Rental Housing and Homeownership programs. The A&P Program may also provide funding for strategic Site Acquisition by OH to secure long-term opportunities for implementation of program objectives. Unless otherwise approved by the City Council, the policies for Housing Development on Publicly Owned Sites apply to City property acquired or funded through the A&P Program. The OH Director may propose use of funds directly for Site Acquisition when in the OH Director's judgment the property involved is suitable for long term low-income housing use and, if it is not already in use as housing, development for that use will be feasible within a reasonable time. The OH Director may use A&P funds to acquire an option to purchase or lease property that the Director considers likely satisfy those standards, and if the OH Director finds that there is a need to obtain site control without delay. The total outlays under the A&P Program, assuming the City exercises the option and any others then in effect, may not exceed the dollar limit on the A&P Program over the term of the 2016 Housing Levy. Exceptions to this cap may be made at the discretion of the OH Director when new resources have become available, balancing OH's available cash balance/needs, and considering factors such as long-term financing options, project size, urgency, and overall impact of the project.

### PROGRAM OBJECTIVES

- Acquire and preserve existing affordable housing, including occupied buildings that are subsidized rental housing or affordable private market housing, particularly such occupied buildings where low-income residents may be at risk of displacement.
- Provide affordable housing opportunity in communities where low income residents and communities of color may be at risk of displacement.
- Produce or preserve low-income housing in high-capacity transit station areas and locations with high-frequency transit service, to provide access to employment and services.
- Support cost-effective housing investment, particularly where short-term acquisition financing is critical to achieve cost savings.
- Leverage significant funding for housing development, operations, and/or services, or project-related infrastructure investments, which may be lost without the availability of short-term acquisition financing.

## **PROGRAM POLICIES**

The following program policies apply to A&P loans. A loan must be used for Site Acquisition, including acquisition of improved or unimproved property, or both, to assist in the development or preservation of low-income rental or homeownership housing.

### **A. Notice of Funds Available**

OH will issue a Notice of Funds Available (NOFA) and may accept applications on a rolling basis. The NOFA will specify application requirements similar to the Rental Housing and Homebuyer Assistance program applications. Pre-application meetings with OH staff will be mandatory. A&P loans may be made only when, in the judgment of the OH Director, there is a high likelihood that permanent financing for low-income housing will be available on acceptable terms before the loan maturity date.

### **B. Eligible borrowers**

To be eligible for an A&P loan, the applicant must: have successfully developed and operated at least three affordable housing projects and demonstrate capacity to secure permanent financing within 5 years for the proposed project; or be working in partnership with one or more community-based organizations that can demonstrate capacity to secure permanent financing within 5 years for the proposed project, and one of these community-based organizations must have successfully developed and operated at least three affordable housing projects. The applicant and its Affiliated Entities must be in good standing on any OH loans. Applicants who have, or whose Affiliated Entities have, an outstanding A&P loan will generally not be eligible unless permanent financing for the outstanding loan has been secured.

### **C. Loan rate and terms**

- For vacant land, the loan to value shall generally be up to 95% and may be up to 100% subject to criteria identified in the NOFA. Loan to value shall be up to 80% on improved income producing property but may be up to 100% for properties that are not producing income sufficient to cover debt. OH will generally expect City funds to be leveraged with other acquisition sources.
- The interest rate shall be 1% to 3% simple interest. Accrued interest shall be paid in full when the loan is repaid.
- Loans generally will be made on a non-recourse basis. OH may require recourse to the borrower or a guarantor, or both, if for any reason the Director deems it necessary or prudent in order to minimize risk.
- Borrowers must agree to terminate a use other than low-income housing, upon OH request.
- The loan term shall be up to 5 years. The Director shall have the option to allow extensions, or to convert the loan to permanent financing if permanent financing is awarded through a NOFA.

Any extensions may be conditioned on the borrower submitting an updated proposal for approval by OH.

- A 20-year covenant will be recorded against the property that will require use of the property wholly or in part for low income housing. Low income rental housing shall provide an Affordable Rent for households with incomes up to 60% of Median Income. When a loan is used to acquire an occupied building, low-income rental housing may provide an Affordable Rent to existing tenant households up to 80% of Median Income and will be required to provide an Affordable Rent to households with incomes at 60% of Median Income upon unit turnover. Low-income for-sale housing shall be sold to eligible First-Time Homebuyers up to 80% of Median Income for Resale Restricted Homes.

The covenant shall continue and shall remain in first position when the loan is repaid or discharged. If OH provides permanent financing for the project, the covenant will be amended and restated to comply with Rental Housing or Homeownership program policies as then in effect. However, the Director may release the covenant, wholly or in part, in connection with a sale of the property approved by the Director, if the property is not in housing use and the Director determines that development of low income housing is infeasible and that the loan must be repaid.

## **6. HOME REPAIR, RENTAL REHABILITATION, AND WEATHERIZATION**

### **I. Home Repair Program**

The Home Repair Program provides low-interest loans and grants to address immediate health and safety issues and structural deficiencies of homes occupied by low-income homeowners. Weatherization grants also may be provided to improve energy efficiency, reduce utility costs, convert homes from oil to electric heating and address indoor air quality issues for low-income owners. Except as otherwise required for particular fund sources, the following program policies apply to all funds administered by OH for home repair purposes, including funds from prior levies, federal CDBG funds, other local sources, and Program Income from loan repayments to be used for home repair loans and grants; and 2016 Housing Levy Homeownership Program funds to be used for home repair grants.

#### **PROGRAM OBJECTIVES AND PRIORITIES**

- Assist low-income homeowners to remain in their homes and communities, especially low-income seniors on fixed incomes and other homeowners at risk of displacement.
- Assist low-income homeowners make health and safety repairs, including repairs that will enable the homeowner to access free weatherization upgrades that reduce the owner's housing costs through utility cost savings.
- Prioritize repairs that are most urgent, including those that address immediate health and safety issues, and other urgent repair needs that will result in increased repair costs and unhealthy living conditions if left unaddressed.

#### **HOME REPAIR LOAN POLICIES**

##### **A. Loan amounts**

The maximum home repair loan is \$24,000. A homeowner may apply for additional loans provided that total outstanding loans for repair of any home generally may not exceed \$45,000. If a home has additional health and safety needs that cannot be addressed within this amount, the Director may allow up to \$55,000 in total outstanding loans for repair of any home.



## **B. Homeowner eligibility**

Homeowners with incomes up to 80% of Median Income may be eligible for assistance.

The home must be owner-occupied and must be the owner's principal residence. The home may be a single-family home, duplex, triplex or fourplex, or an individual condominium unit, townhome or cooperative unit. Manufactured homes affixed permanently to a foundation may be eligible, as long as the homeowner owns the land as well as the home. Depending on structure type, some home repairs may not be eligible. If the home has a rental unit(s), funding may be used solely to pay for exterior measures and any work needed in the unit occupied by the homeowner.

## **C. Loan terms**

Interest rates generally are set at 0%. Loans may be amortized or deferred depending on borrower income, debt, and ability to pay debt service to the City in addition to other obligations. If a loan will be used to create a City-approved accessory dwelling unit, loan terms will include income and rent restrictions for the rental unit.

## **D. Priority uses of funds**

Program funds may be provided for the following activities:

- Measures that address health, life and safety concerns and/or address the structural integrity of the home. OH staff will conduct a visual inspection of the home to identify needed repairs that are eligible for assistance under the Program. OH will prioritize urgent repairs that address immediate health and safety issues or prevent increased repair costs and unhealthy living conditions. Other health and safety repairs, including repairs that will enable the homeowner to access free weatherization upgrades that reduce the owner's housing costs through utility cost savings, may also be included in the scope of work.
- Measures that improve or increase the habitable space in the home or in an accessory structure. OH may approve repairs and improvements for purposes of providing suitable living space for current or additional household members, or for generating rental income to support household stability. OH will set priorities for the scope of work, including features such as basement egress, on a case-by-case basis.

## **E. Funding process**

OH will accept homeowners' applications for home repair loans on a rolling basis. Applications must meet underwriting criteria established by OH including loan to value ratio, ability to make housing-related payments, and financial condition of the borrower. OH will also assess the immediate health and safety impact of the needed repair and/or impact of improvements to the habitable space in the home or in an accessory structure.

## **HOME REPAIR GRANT POLICIES**

### **A. Grant amounts**

OH may provide grants of up to \$10,000. A home may receive multiple home repair grants over time, but total lifetime grant amounts for repairs to any home cannot exceed \$10,000. The total amount of outstanding loans and grants to repair any home cannot exceed \$55,000. There will be no minimum grant amount, but if the repair need is small, the homeowner will be encouraged to use other existing programs if available.

### **B. Homeowner eligibility**

Homeowners at or below 50% of Median Income may be eligible for assistance. In addition to income limits, OH will generally limit liquid assets to no greater than \$25,000.

The home must be owner-occupied and must be the owner's principal residence. The home may be a single-family home, duplex, triplex or fourplex, or an individual condominium unit, townhome or cooperative unit. Manufactured homes may be eligible, as long as the homeowner owns the home itself. Depending on structure type, some home repairs may not be eligible. If the home has a rental unit(s), grant funding may be used solely to pay for exterior repairs such as roof or siding, and repairs needed in the unit occupied by the homeowner.

### **C. Recoverable grants terms**

Grant terms may require the homeowner to repay a portion or the entire grant at time of sale if the property is sold within three years of the date of the award and there are positive net proceeds from the sale.

### **D. Eligible uses of grant funding**

The program can be used to fund interior or exterior repairs to a home necessary to maintain or improve homeowner health and safety. The priority uses for the program will be:

- Emergency repairs that address an immediate threat to health and safety
- Repairs that cannot be funded by other available home repair programs, including repairs that enable the homeowner to access free weatherization grants

OH staff will conduct an inspection of the home and must approve the scope of work.

### **E. Application process**

OH will accept applications for home repair grants on a rolling basis. OH will assess a homeowner's eligibility for a home repair loan prior to considering a grant award. A grant may be approved if the homeowner is ineligible for a home repair loan from OH or if the cost of essential repairs exceeds the

amount OH determines that the homeowner is qualified to borrow. Homeowners will immediately be considered for a grant if (1) the cost of repairs is less than \$3,000 or (2) the repair need must be addressed immediately due to health or safety concerns.

## **II. Rental Rehabilitation Loans**

Rental rehabilitation loans are intended to improve the condition of low cost rental housing by providing owners with capital to make needed improvements without raising rents. Owners, who may include new owners acquiring housing, will agree to provide units at Affordable Rents for Low-Income tenants for a term determined by the amount of OH funding. The loans may be made with 2016 Housing Levy Rental Production & Preservation Program funds, to the extent authorized in the Levy A & F Plan currently in effect, and with federal CDBG funds.

### **A. Eligible properties and priorities**

- Properties must have existing multifamily rental housing. A minimum of three units, or half of all units, whichever is more, must be designated as affordable units (see Income and Rent Restrictions).
- Properties must not be subject to existing income or rent restrictions, except through a tax exemption program.
- Properties may be located throughout the city, although OH may prioritize locations identified as high risk for displacement of low-income residents in its Notice of Fund Availability.
- Priority will be given to properties with units that have rents at or below Affordable Rents for households with incomes at or below 60% of Median Income, and to properties with such households in occupancy.

### **B. Income and rent restrictions**

- In general, all units assisted with City funds shall be designated as affordable units, subject to both income and rent restrictions described below for the term of the loan. (CDBG funds may be used for work that includes units that may not serve Low-Income tenants, and those units may be subject to different affordability limits consistent with Chapter 2 and federal regulations.) OH may permit or require substitution of comparable units as affordable units. Owners must designate at least half the units in their property as affordable units.
- Affordable units must be rented to tenants with incomes at or below 60% of Median Income, at Affordable Rents, for the term of the loan. For affordable units that have rents at the time of application lower than Affordable Rents, rents may not be increased except as provided below.
- Units not designated as affordable shall not be subject to income restrictions. However, to prevent displacement of current Low-Income tenants, owners must agree to hold rents in all units occupied by Low-Income tenants at no more than their current rates (as of the time of loan application), with reasonable periodic increases limited by an index or a fixed percentage

for so long as those tenants, or successor Low-Income tenants, occupy those units during the term of the loan. When Low-income tenants who are not in affordable units move out, the owner’s criteria for new tenants may not exclude Low-Income tenants based on income if they can afford the prior Rent. To ensure that tenants are not intentionally displaced prior to application, owners must certify that rents have not been raised within the 6 months immediately prior to application, with reasonable exceptions granted at the discretion of OH, for instance for a rent increase on unit turnover. If tenancies of Low-Income tenants were terminated, or not renewed, within the prior 6 months that may result in denial of an application. OH may request copies of leases or other documentation of past rents and changes in occupancy to verify this information.

- As affordable units turn over, owners must advertise broadly to provide access to a wide range of applicants, including underserved groups.
- If a property does not initially have all of its affordable units occupied by income-qualified tenants, OH may approve a loan on the condition that rent and income restrictions are extended by the amount of time it takes for all affordable units to be occupied by such tenants, provided there is a commitment from the owner that the required number of affordable units will be occupied by such tenants within a reasonable time period. Pending occupancy by an income-qualified tenant, covenant terms may exempt a unit from Affordable Rent limits, but limits based on rents at the time of application will apply if the Unit is occupied by a Low-Income household.

**C. Loan and regulatory terms**

- The maximum loan amount shall be \$20,000 or \$30,000 per affordable unit depending on the term of affordability agreed to by the Owner. The maximum total loan amount shall be \$1 million unless the Director determines that program resources are sufficient to justify a higher amount.
- OH may require owner financial participation for projects that require more work than can be covered by the City loan amount or work not fairly allocable to affordable units, for properties with outstanding code violations, and in other circumstances where City funding of all costs is not approved.
- The term of affordability shall be determined by the actual loan amount per affordable unit in the project, as follows:

<b>Loan Amount per Affordable Unit</b>	<b>Affordability Term / Maturity</b>
Up to \$20,000	10 years
\$20,001 to \$30,000	15 years

*For example, an owner with a 7-unit building providing the minimum of 4 affordable units for 10 years could borrow a maximum of \$80,000. If an owner wished to borrow more, he/she could either provide more than 4 units as affordable, or agree to a*

*longer term of affordability (e.g., 5 units for 10 years yields up to \$100,000, or 4 units for 15 years yields up to \$120,000).*

- Loan disbursements shall be made for eligible uses of funds only.
- Interest shall generally be 3% simple interest. For non-amortizing loans, as an incentive to participation and affordability, the loan terms may reduce or eliminate the interest payable over a specified period or at the end of the loan term if the property remains in compliance with all loan and regulatory terms.
- Payments shall generally be based on amortization over 30 years, and the loan will require a balloon payment at maturity. As an incentive to participation and affordability, and based on analysis of projected property cash flow, OH may also provide borrowers with the option to defer payments until the maturity date, provided OH is satisfied that the property will have sufficient value in excess of senior liens to protect the City and/or owner has the financial capacity to make the balloon payment at maturity.
- Loans may be made on a non-recourse basis if there is sufficient owner equity, but the Director may require the owner and/or a guarantor to assume liability. The owner shall grant a deed of trust and covenant that runs with the land. The City may subordinate its interests to another loan or loans, subject to OH review and approval of senior loan documents.
- OH may approve an extension of the loan and affordability term if the project remains in compliance, if requested by the owner.
- Loan terms may provide the owners with the option to prepay the loan and obtain a release of the covenant, subject to terms established by the Director, which may include a prepayment premium and provisions for protection of then existing Low-Income tenants.
- Projects that would permanently displace tenants generally will not be funded. Provisions for the relocation of tenants must accompany any scope of work that will temporarily displace tenants; such assistance is not eligible for Program funding. Work that would cause Very Low-Income tenants to be displaced within the meaning of SMC Ch. 21.210 generally will not be funded unless the owner contributes funding to the project that at least offsets any relocation assistance payments owed by the City.
- To the maximum extent feasible, affordable units should be distributed throughout the property and include a mix of unit sizes (such as number of bedrooms) comparable to the overall property.
- Additional loan terms may be established in the NOFA.

#### **D. Eligible uses**

The scope of rehabilitation must, at a minimum, address any health and safety issues and any code violations. OH may augment the rehabilitation loan with a HomeWise weatherization grant to pay for eligible energy efficiency improvements. Eligible uses of loan funds include, but are not limited to, the following:

- Rehabilitation work, including energy efficiency improvements, accessibility improvements, and abatement of hazardous materials

- Architectural/engineering fees
- Environmental/hazardous materials assessment
- Permit fees
- Lender required builders risk insurance
- Refinancing existing debt, provided that such activity is in concert with actual rehabilitation work
- Financing costs, including title insurance, escrow fees, recording fees and loan fees

#### **E. Project selection**

Funding under the Program shall be advertised through a periodic Notice of Fund Availability (NOFA). Application requirements and selection criteria will be specified in the NOFA and generally will include the necessity of the proposed rehabilitation, the extent of benefits to the building tenants, and the credit-worthiness of the applicant.

### **III. HomeWise Weatherization Services**

The HomeWise program provides funding and project management services in support of residential energy efficiency upgrades, including converting homes from oil to electric heat. The program actively supports preservation of existing affordable housing and reduces costs for both income-qualified homeowners and affordable rental housing residents and owners.

Single-family homes and multi-family apartment buildings with income-qualified residents may receive weatherization services. Income limits vary by fund source, with most funds available for residences occupied by households with incomes at or below 60% of the state median income as published by the State of Washington based on data from the U.S. Department of Health and Human Services, or at or below 80% of Median Income as defined in Chapter 10, adjusted for household size. OH shall publish income limits in HomeWise application materials and on OH's website. HomeWise serves eligible oil and gas heated homes located in Seattle, and eligible electrically heated homes in Seattle and elsewhere in the Seattle City Light service territory.

Policies governing HomeWise weatherization services are specified in individual grant agreements between the City and the entity providing funds, including Seattle City Light and Washington State. OH receives multiple grants from the State Department of Commerce, which are subject to rules and regulations contained in the State's Weatherization Manual, including but not limited to income eligibility restrictions, project prioritization criteria, technical certifications, and restrictions on permissible weatherization, health and safety, and repair measures. OH will also receive funds to convert homes from oil to electric heat beginning in September 1, 2021 under Ordinance 125934.

## 7. HOUSING DEVELOPMENT ON PUBLICLY OWNED SITES

Publicly owned sites provide an opportunity for affordable rental and ownership housing development, including affordable housing combined with other public facilities and amenities. When a suitable site that is owned by the City or another public agency has been designated for affordable housing development, OH may follow the policies in this chapter to competitively select an affordable housing developer and award OH funding, in lieu of awarding funding from the Rental Housing or Homeownership program through an annual NOFA process.

The objectives for these developments include:

- Utilize well-located publicly owned properties for affordable rental or ownership housing, particularly properties located near transit station areas and high capacity transit service.
- Co-locate affordable housing, when feasible, with facilities providing community and public services, such as community centers, childcare centers, and health and human services, providing convenient access for low-income families, seniors, and people with disabilities.
- Achieve cost-savings for affordable housing development through favorable purchase terms, and efficient funding and disposition processes.
- Align housing funding processes with other broad City priorities and local community needs.
- Serve the priority populations described in Chapter 2, section I of these policies.
- Encourage partnerships and prioritize development proposals submitted by organizations led by and accountable to communities most impacted by displacement when available sites are located in neighborhoods with high displacement risk.

### FUNDING POLICIES

OH may award funding from the Rental Housing Program for a rental housing development, or the Homeownership Program for homeownership development, for a site specific development opportunity that utilizes publicly owned property. The following policies shall apply:

#### A. Competitive process

Funds shall be awarded through an open, competitive process such as a Request for Proposals (RFP). In addition, OH may utilize a Request for Interest (RFI) or Request for Qualifications (RFQ) process prior to an RFP to help generate interest in a property and/or define the field of interested or qualified applicants.

#### B. Funding amounts

OH may publish an “up to” funding amount that provides sufficient resources to achieve program goals for affordability and overall production, while encouraging competition based on cost effectiveness. For homeownership development, OH may approve funding of up to \$120,000 per unit, to achieve a benefit such as providing additional affordable homes by reducing the number of market rate units needed to subsidize the project or completing development and making homes available more quickly.

### **C. Coordination with other public agencies**

When allocating City funds for development on a site owned by another public agency, OH will coordinate with partner agencies to release a joint RFP or coordinated RFPs that award site control and funding, incorporating City housing goals, policies and priorities into the selection process.

### **D. Evaluation criteria**

Evaluation criteria shall be published in offering documents, and shall include factors such as conceptual soundness, financial feasibility, organizational capacity, and ability to advance affordability goals and meet program objectives. OH will prioritize projects proposed by local community-based, non-profit organizations that are culturally relevant and historically rooted, particularly when the project site is in an area that is at high risk of displacement. Additional consideration will be given to projects already receiving funding through the Equitable Development Initiative. OH may allow for consideration of other public benefits in addition to affordability as part of the evaluation process provided that OH funds are limited to eligible housing uses, and promotion of such non-housing goals is not at the expense of achieving affordable housing goals for the project.

### **E. Review panel**

Proposals shall be evaluated by a review panel that includes OH staff, and may also include other City staff, partner agency staff, and other technical advisors as deemed appropriate by the Director for the development site.

### **F. Decision-making**

Funding decisions shall be made by the Director based on his or her judgment of the strengths of each proposal in meeting the published goals, priorities and evaluation criteria specified in offering documents.

### **G. Applicable funding policies**

Rental Housing Program and Homeownership Program policies shall apply to funds awarded through a site-specific RFP process, except where those policies conflict with policies stated in this section. General policies for capital funding in Chapter 9 apply under this Chapter.

### **H. Community relations**

Winning applicants shall comply with the Community Relations Policy in Chapter 9 below, except that neighborhood notification shall begin upon award of OH funding, rather than prior to application for funding.

### **I. Pre-development funding**

OH may pay for pre-development expenses such as surveys, environmental reports, appraisals, and other costs. Such funding may be expended directly by OH, either prior to or following selection of the



project developer, or may be provided to the project developer through a loan, once a developer has been selected.

## 8. INVESTMENT LOCATIONS AND OTHER REPORTING

On an annual basis, OH shall provide a report to City Council on affordable housing produced under the City's land use code programs: Seattle's Incentive Zoning Program and Mandatory Housing Affordability Program (MHA) Program. The report is due on March 31. The report shall include, by program:

- The share of projects that selected performance, off-site development, or payment options
- Total dollar amount of contributions pledged, collected, committed to affordable housing projects in last year
- The total number of units at each relevant affordability level in projects receiving commitments of payment funds
- The average number of years that each payment contribution dollar was held by the City before committing those dollars to a project.

Under MHA, the Office of Housing may receive cash contributions when an applicant elects the payment option to comply with SMC 23.58B and 23.58C. OH awards the cash contributions derived from MHA to housing development projects consistent with MHA requirements and Rental Housing and Homeownership program policies to the extent not inconsistent with legal requirements applicable to MHA.

Per SMC 23.58C.040.B3, for purposes of determining the location for use of MHA payments, the City shall consider the extent to which the housing supported by MHA payments advances the following factors:

- a. Affirmatively furthering fair housing choice
- b. Locating within an urban center or urban village;
- c. Locating in proximity to frequent bus service or current or planned light rail or streetcar stops;
- d. Furthering City policies to promote economic opportunity and community development and addressing the needs of communities vulnerable to displacement and;
- e. locating near developments that generate cash contributions.

In addition, the OH report to City Council shall show how the location of affordable housing funded by OH advances the factors set forth in SMC 23.58C.040.B3. This shall include:

- A list of OH funded affordable rental and ownership projects;
- A map or maps of such projects relative to:
  - Access to opportunity
  - Displacement risk;
  - Transit access; and
  - Urban village and urban center boundaries.

In addition, the report shall tally OH investments into the following urban centers and groupings of urban villages (investments outside urban center and urban village boundaries shall be grouped with the nearest urban center or village):

- Downtown
- South Lake Union
- First Hill/Capitol Hill
- Northgate
- University District
- Uptown & Upper Queen Anne
- West Seattle Junction; Admiral; Morgan Junction; Westwood-Highland Park; South Park
- Mt. Baker; North Beacon Hill; Columbia City; Othello; Rainier Beach
- 23rd & Union-Jackson; Madison-Miller; Eastlake;
- Wallingford; Fremont; Roosevelt; Green Lake;
- Crown Hill; Ballard; Greenwood-Phinney Ridge;
- Lake City; Bitter Lake Village; Aurora-Licton Springs

The Report shall indicate the total amount of MHA payments generated from multifamily and/or commercial development in each geographic area listed above.

A geographic area listed above shall be identified as a priority area in OH's Notice of Funds Availability (NOFA) if either: (1) At least \$4 million in MHA payments is generated from multifamily and/or commercial development in the geographic area and OH has made no investment in affordable housing projects in that geographic area, or (2) OH has made an investment in the area, but there remains a significant imbalance between the amount of MHA payments generated from multifamily and/or commercial development in the geographic area and the amount OH has invested in affordable housing projects in that geographic area.

## 9. GENERAL POLICIES FOR CAPITAL FUNDING

The following policies apply to all OH-funded affordable rental and homeownership projects except to the extent otherwise provided in these Policies, where otherwise required for use of a fund source, or where a more limited class of projects is identified below, but do not apply to projects involving only weatherization and home repair.

### I. Development Siting Policy

The Development Siting Policy is intended to promote development and preservation of housing for Seattle’s lowest-income and most vulnerable populations throughout the city, including in our most amenity-rich neighborhoods in terms of transit, schools, parks, retail and other services. The policy supports City efforts to affirmatively further fair housing for Extremely Low Income people who have disabilities and other significant barriers to housing.

#### A. General policy

OH generally will not provide funding for additional units of housing for Extremely Low-Income residents if a significant amount of such housing is located in the immediate area. OH will make an initial assessment to determine if, upon completion of the proposed development, housing units for Extremely Low-Income households would exceed 20 percent of total number of housing units in the Census block group, using the following data:

- The total number of housing units includes existing housing units and housing units for which permits have been issued (according to the latest data available from the Department of Construction and Inspections, (“SDCI”), housing units in the proposed project, any proposed new rental housing units funded by or otherwise known to OH but not yet captured in SDCI’s data;
- Housing units for Extremely Low-Income households are units in projects with capital subsidies from public agencies that are restricted to residents with incomes at or below 30% AMI, according to the latest data available from OH, which includes existing City-funded projects, any proposed new units funded by or otherwise known to OH but not yet constructed or occupied, and non-City funded projects as reported periodically by county, state and federal agencies.

#### B. Alternative conditions

OH may consider additional factors when determining consistency with this policy to ensure that funding programs affirmatively further fair housing, including but not limited to:

- The housing will be located close to significant existing or planned services needed by residents, such as health care or other supports for people with disabilities.

- Housing units for Extremely Low-Income households located in the area are restricted, such as senior-only buildings, and are therefore not available to residents of the proposed development.
- Natural or manmade barriers (e.g. a bluff, waterway, or freeway) physically separate the proposed project from existing housing for Extremely Low-Income households.
- Significant market rate housing development is expected to occur soon, for example, due to nearby transit investment.
- A different geographic area, such as an area defined by distance from the proposed development, should be considered rather than the Census block group, given the physical characteristics of the area, land use and development patterns.

### **C. Siting Determination**

A project sponsor may request a determination under this policy (“Siting Determination”), which OH will provide in the order requested if more than one sponsor is seeking a siting determination in the same area. The sponsor must not have a current Siting Determination for a project at a different location for which the sponsor has not submitted an application for funding. The request must specify a project location, a maximum number of rental housing units for Extremely Low-Income households and, if applicable, a minimum number of other proposed housing units. The Siting Determination shall be in effect for up to one year, during which time any request for a certification of the project’s consistency with these Policies and any application to OH for funding may rely on the determination, provided that the parameters of the proposed project remain consistent with the project description at the time of the determination, even if the number of housing units or other Extremely Low-Income units in the Census Block Group has changed. A sponsor may withdraw a Siting Determination prior to its expiration and request a determination for a new or revised project proposal.

This policy does not apply to proposed housing developments in the Yesler Terrace Redevelopment Area, or located within the Downtown, Uptown and South Lake Union Urban Centers. In addition, the policy does not apply to housing developments previously funded by the City or to proposed replacement housing developments or other housing that must be developed in a designated geographic area to meet community benefit requirements of a Major Institutions Master Plan.

## **II. Community Relations**

The City of Seattle supports affordable housing production and preservation in neighborhoods throughout the city. Organizations seeking OH funding for a housing development must give neighbors and local community members opportunities to learn about the project and to provide input, and maintain communication during construction and operations. The policy applies to all rental housing projects and to homeownership developments with four or more for-sale homes. It applies to applications for permanent and bridge financing for new construction and acquisition/rehabilitation projects. Applications for projects

that will renovate an existing building without a change in ownership must conduct only Neighborhood Notification and any community engagement required for Design Review.

### **A. Objectives**

- Promote open, ongoing communication between developers and neighbors. This requires cooperation by developers, the City, and neighborhood residents. A positive, open relationship between housing developers and neighbors can prevent misunderstandings, facilitate prompt resolution of any inadvertent misunderstandings, and provide a fair, thoughtful, dependable means of ironing out differences.
- Provide information about the proposed project including the design, permitting and construction schedule, opportunities to provide input and submit comments, and eligibility requirements and application process for those interested in renting or purchasing the affordable housing.
- Give neighbors and community members an opportunity to communicate any concerns about design, construction, operation and management of a project and to work collaboratively with housing developers and/or residents to identify ways to address those concerns.

The City supports affordable housing projects that will preserve and enhance the strengths of Seattle's neighborhoods. Housing developers and neighbors should keep OH informed of any issues or concerns throughout the development and operation of the project. It is the policy of The City of Seattle that OH funding of affordable housing not be refused solely on the basis of concerns expressed by neighbors and other community members. The City supports and is committed to promoting diversity in Seattle neighborhoods. Consistent with local, state and federal fair housing law, housing may not be excluded from a neighborhood based on characteristics of the persons who will live there.

### **B. Notification and community relations requirements**

The steps outlined below describe minimum notification and community relations requirements. Project sponsors should tailor community relations efforts to best serve each individual project and neighborhood. OH may make exceptions to these requirements due to the unique circumstances of a proposed project (e.g., housing for victims of domestic violence with confidential location).

1. **Consultation.** Prior to releasing purchase and sale agreement contingencies for site acquisition:
  - Consultation with OH: OH will help identify developers of other affordable housing in the neighborhood(s) being considered and suggest organizations to contact, which will include both neighborhood-based organizations and other community groups who may be interested in the project.
  - Contacts with other affordable housing owners. Housing owners in or near the neighborhood can provide information about a neighborhood's historical and current housing- and development-related concerns.

2. **Neighborhood notification.** Prior to submitting a funding application:
  - Neighborhood notification: Notify neighbors (including all residential and commercial property owners, and tenants as feasible) within at least 500 feet of the site using a written notice, letter or flyer (“notification letter”). Include basic information about the sponsor organization and proposed project (e.g., estimated schedule, contact person, and neighborhood organizations that have also been notified about the project). The neighborhood notification letter must be sent within one year before the application is submitted.
  
3. **Draft Community Relations Plan.** Included in the application for funding, a summary of completed activities and a plan for actions to be undertaken following a funding award:
  - Documentation of completed notification: include a copy of the neighborhood notification letter and a list of recipients.
  - Community outreach: Completed outreach and planned future activities for maintaining ongoing communication with immediate neighbors and community organizations throughout the project’s pre-development, design, construction, and operation phases.
  - Inclusive community engagement: strategies for engaging historically underrepresented communities, including communities of color and communities for which English is a second language. This community engagement can be designed to meet affirmative marketing requirements in Section IV below, particularly when a project is in an area at high risk of displacement.
  - Outreach for Design Review: community outreach prior to early design guidance, including outreach to historically underrepresented communities for projects located in Equity Areas. Requirements can be found at [SDCI Director’s Rule](#) and [DON website](#).

**4. Strategies for communications with neighbors and community organizations.**

The community relations plan may include presentations at regularly scheduled neighborhood organization meetings, invitation to a meeting hosted by the housing developer, formation of an advisory committee, and/or regular project updates in neighborhood organization publications or posted at local libraries, community centers, etc.

Information the housing developer should provide at meetings includes the following, to the extent that it does not compromise the safety, confidentiality, or well-being of the residents:

- Project design and intended resident population, and planned supportive services for residents if applicable
- Estimated schedule for construction and completion
- Experience of the project team in developing and operating affordable housing
- Information about eligibility, affirmative marketing and how to apply for housing
- Opportunities to provide input on the project
- Mechanisms for ongoing communication once the housing is operational

**5. Communication during construction and after opening.**

During development and, for rental housing developments, once the housing is operational, applicants must implement the Community Relations Plan and maintain communication with neighborhood organizations and neighboring residents and businesses. This may include updates on any changes to design or construction timing and invitations to any project open houses or other events. Rental housing owners should also keep OH apprised of any issues related to the building, promptly address emerging issues, and share stories of success during the operation of the building.

### **III. Relocation, Displacement, and Real Property Acquisition**

Development of affordable rental and homeownership housing, and acquisition of property for such development, should minimize displacement of households. Any temporary relocation or permanent displacement of households must comply with all applicable provisions of law and fund source requirements, including without limitation the following, as applicable: (a) Seattle Municipal Code 20.84–Relocation Assistance; (b) the City’s Just Cause Eviction Ordinance; and (c) for projects using federal funds, the federal Uniform Relocation Act (URA), section 104(d) of the Housing and Community Development Act of 1974, the City’s Residential Anti-displacement and Relocation Assistance Plan (RARAP), and any other relocation regulations and handbooks applicable to the particular funding program. This policy does not apply to acquisition of owner-occupied or vacant homes by homebuyers using Homeownership Program assistance, unless required by applicable laws or regulations.

These policies, laws and regulations contain, among other requirements, different timelines under which households must be given various notices and provided financial assistance under certain circumstances. Consultation with OH staff prior to submission of applications for funding is required for any applicant whose project will involve acquisition, demolition, rehabilitation, or temporary or permanent relocation activities. In order to reduce the risk of impairing eligibility for funding, applicants should not take any action regarding these activities prior to consultation with OH staff. Applicants are responsible for assuring and documenting compliance.

### **IV. Affirmative Marketing and Community Preference**

OH is committed to affirmatively furthering fair housing to address past discriminatory policies and practices, including government actions. Affirmatively furthering fair housing includes increasing affordable housing options, ending segregation and discrimination, and addressing displacement. Policies on Affirmative Marketing and Community Preference can advance that commitment.



Owners are required to affirmatively market affordable rental and homeownership housing, taking proactive steps to promote fair access and equal opportunity, so that individuals of similar economic levels in the same housing market area have a range of housing choices regardless of their race, familial status, disability or other protected class status. Project sponsors must submit a draft Affirmative Marketing Plan following a funding award for a rental or homeownership development, and a final Affirmative Marketing Plan prior to leasing or sales. Funded organizations will be required to maintain records of their affirmative marketing efforts. Owners may propose a community preference for a portion of the housing units to address displacement, in some cases, consistent with fair housing law. Housing owners with units with required tenant referral arrangements, including, for example King County's Coordinated Entry for All system, will continue to receive referrals through the system approved by service funders.

The objectives of the affirmative marketing policy are:

- Promote robust, effective affirmative marketing to ensure fair access to affordable housing opportunities for diverse racial and ethnic communities and other protected classes, consistent with local, state and federal fair housing laws.
- Sustain and foster integrated, inclusive communities through effective outreach and advertising of affordable housing opportunities, and through preference policies that prioritize certain housing applicants in high risk of displacement areas when determined to be consistent with fair housing law.
- Encourage early engagement with local organizations in low-income communities of color that are at high risk of displacement to help address historical housing discrimination and prevent displacement of current residents.
- Increase opportunities for people experiencing homelessness -- who are disproportionately people of color, people with disabilities, LGBTQ individuals, and others who face barriers to housing -- through voluntary agreements with service providers for set-aside units and through affirmative marketing of non-set-aside housing units.
- Promote communication and referral relationships so that accessible units are available to people with physical disabilities and units with multiple bedrooms are available to families with children.

The objectives of community preference are:

- Affirmatively further fair housing choice across the city, including by sustaining and/or restoring inclusive communities, through preference policies that prioritize certain housing applicants in high risk of displacement areas when determined to be consistent with fair housing law.
- Help address displacement in high risk of displacement communities.

Applicants are encouraged to consult with OH early in project planning about community-

based organizations and resources that may be part of an affirmative marketing effort. An Affirmative Marketing Plan must include the following:

1. Project location and populations needing targeted outreach. Analysis of the demographic make-up of the local area in comparison to citywide demographics. Determination of whether the proposed project location is in an area designated as high risk of displacement or an Equity Area for the purposes of Design Review. Identification of groups to receive targeted outreach to provide awareness and access to housing.
2. Outreach to community-based organizations. Description of completed and planned outreach to specific organizations. Description of efforts to seek input and, as appropriate, assistance with marketing, from organizations serving populations needing target outreach.
3. Lease up or sales procedures: Description of application process and how procedures provide fair access, including to populations identified for targeted outreach. Description of how demographic and other information will be used to assess the impact of affirmative marketing efforts. Projects located in areas identified as high risk of displacement may propose a community preference for a portion of the housing units, and provide data and analysis as required by OH's published guideline, to be reviewed by OH and the SORC for consistency with fair housing requirements.
4. Advertising and marketing. Description of planned marketing such as working with community-based partner organizations, nearby schools and social services agencies; targeted advertising such as local and culturally specific media; marketing through local employers with low-wage workforce; materials distributed at local and culturally specific events and locations; translated materials.
5. Other strategies to address barriers and support applicants. May include training and other support to community partners assisting with marketing, assistance with completing applications, voluntary referral agreements with organizations serving disadvantaged groups, and flexible screening criteria.

## **V. Fair Contracting Practices, WMBE Utilization, and Section 3**

Sponsors must comply with the City's Fair Contracting Practices Ordinance. Sponsors and their general contractors shall be encouraged to take actions, consistent with that ordinance, which would increase opportunities for women and minority business enterprises (WMBE). A combined WMBE aspirational goal of 14% of the total construction and other contracted services contracts shall apply for all affordable rental housing capital projects funded by OH. OH shall encourage additional efforts to increase WMBE participation including mentoring programs and participation in apprenticeship and other training opportunities.

In addition, projects that are awarded federal funds must comply with applicable regulations under Section 3 of the Housing and Urban Development Act of 1968, as amended, which is intended to ensure that employment and other economic opportunities generated by certain HUD financial assistance shall,

to the greatest extent feasible, and consistent with existing federal, state and local laws and regulations, be directed to low- and very low-income persons, particularly those who are recipients of government assistance for housing, and to business concerns that provide opportunities to low-income persons. Borrowers and their contractors on projects covered under Section 3 regulations must develop a Section 3 plan stating numerical goals for contracting and hiring that meet federal targets as well as a description of the efforts they will make to achieve these goals. OH will provide connections to agencies serving Section 3 businesses and workers to assist in these efforts.

## 10. DEFINITIONS

In the Housing Levy Administrative & Financial Plan and Housing Funding Policies, the following terms, when capitalized, shall have the following meanings unless the context otherwise clearly suggests a different meaning:

“Affiliated Entity” of a person means any organization that, directly or indirectly, is controlling, controlled by, or under common control with, that person. In this definition, “organization” includes, without limitation, any type of legal entity and any partnership, joint venture, unincorporated association, or sole proprietorship; “person” includes any natural person or organization.

"Affordable Rent" for Low-Income tenants means annual Rent not exceeding 30% of 80% of Median Income; Affordable Rent for tenants with income not exceeding 60% of Median Income means annual Rent not exceeding 30% of 60% of Median Income; Affordable Rent for Very Low-Income tenants means an annual Rent not exceeding 30% of 50% of Median Income; and Affordable Rent for Extremely Low-Income tenants means annual Rent not exceeding 30% of 30% of Median Income.

“Director” means the Director of the Seattle Office of Housing.

"Extremely Low-Income" means Income not exceeding 30% of Median Income.

“First-Time Homebuyer” is defined in Chapter 4, section 1.B.

“Housing First” means a homeless assistance approach that prioritizes providing access to low or no barrier permanent housing to people experiencing homelessness, thus ending their homelessness and serving as a platform from which they can pursue personal goals and improve their quality of life. This approach is guided by the belief that people need basic necessities like food and a place to live before attending to anything less critical, such as getting a job, budgeting properly, or attending to substance use issues. Additionally, Housing First is based on the theory that client choice is valuable in housing selection and supportive service participation, and that exercising that choice is likely to make a client more successful in remaining housed and improving their life.

“Initial Purchase Price” is defined in Chapter 4, section 1.B

"Low-Income" means Income not exceeding 80% of Median Income.

"Median Income" means annual median family income for the Seattle-Bellevue, WA HUD Metro FMR Area, as published from time to time by the U.S. Department of Housing and Urban Development (HUD) for the Section 8 or successor program, with adjustments according to household size in a manner determined by the Director, which adjustments shall be based upon a method used by HUD, and which adjustments for purposes of determining affordability shall be based on the presumed size of household considered to correspond to the size of the housing unit: for rental housing, one (1) person for studio units and one and a half (1.5) persons per bedroom for other units; for ownership housing, as stated in Chapter 4, Section I.D for Resale Restricted Homes.

“Program Income” means funds received by the City as payments on or with respect to a loan, or recovery from loan collateral, and may include interest and share of appreciation, as required under the terms of the loan.

"Rent" means all amounts charged to tenants for the use or occupancy of the housing unit (whether or not denominated as rent or constituting rent under state law), plus a utility allowance for heat, gas, electricity, water, sewer, and refuse collection to the extent such items are not paid by the owner.

“Resale Restricted Home” is defined in Chapter 4, section 1.D.

“Site Acquisition” includes the acquisition of interests in land or in improvements to land, or both; option and earnest money payments under contracts for such acquisitions; repayment of fund sources initially used for acquisition; or transfer of OH funds to a City department or account in order to repurpose City property for low-income housing.

“Siting Determination” is defined in Chapter 9, section I.C.

"Very Low-Income" means Income not exceeding 50% of Median Income.

“Yesler Terrace Cooperative Agreement” means Exhibit A to C.B. 117536 as approved by the City Council on September 4, 2012, as it may be amended.

“Yesler Terrace Redevelopment Area” is as defined in Exhibit A to C.B. 117536 as approved by the City Council on September 4, 2012.

“Yesler Terrace Relocation Plan” is as defined in Exhibit A to C.B. 117536 as approved by the City Council on September 4, 2012, as it may be amended.

“Yesler Terrace Replacement Housing” means one or more of the first 561 housing units constructed or rehabilitated in the Yesler Terrace Redevelopment Area that are restricted to occupancy solely by residents who must relocate due to demolition and construction or households with incomes no higher than 30 percent of Median Income, and that satisfy the additional requirements of the Yesler Terrace Cooperative Agreement.

The Director may adopt further refinements or interpretations of the above definitions, consistent with the intent of the ordinance adopting these Policies.