

DEVELOPER PROGRAMS

New Construction and Substantial Rehabilitation Program

The purpose of this program is to provide financial assistance to new developments or substantial rehabilitation developments, where such assistance is necessary, and appropriately incentivize private investment for the development of quality, sustainable housing that is affordable to the residents of the City.

Funds may be used for projects to: 1) build new single-family with 5 or more homes, 2) build new multi-family rental housing with 5 or more units, or 3) substantially rehabilitate multi-family rental housing greater than 5 units. The City shall award, when funds are available, through a competitive Notice of Funding Availability (NOFA) or Request for Applications (RFA) process in accordance with the program's scoring policy.

Eligibility

To be eligible for funding under the New Construction and Substantial Rehabilitation Program assistance the proposed project must meet all of the following basic criteria:

- Project must consist of 5 or more units located within the municipal boundaries of the City of Dallas. Note: Extra Territorial Jurisdictions areas are not eligible for financial assistance.
- Substantial rehabilitation projects must, at a minimum, meet the substantial rehabilitation test

In addition to fully meeting the City's minimum code requirements, a project must meet one or more of the following Substantial Rehabilitation threshold tests:

- Replacement of two or more major building components (roof; wall or floor structures; foundations; plumbing, central HVAC or electrical system); or
- costs are 15% or more, exclusive of any acquisition and/or acquisition and development soft costs, of the property's replacement cost (fair market value) after completion of all required repairs, replacements and improvements; or
- rehabilitation hard costs are \$10,000 or more per unit.

The after-rehabilitation rents required to effectively support the property, including the additional rehabilitation project debt service, must be:

- Reasonable, and fall within the underwriting standards; and
- Affordable and meet the City's definition of affordability.

Owners must exhibit a cash equity participation of at least 10% in the rental property proposed for rehabilitation. Note: Housing tax credits proceeds are to be treated as equity.

Loan Terms

Financial assistance can be provided in the form of a repayable loan with scheduled payments or, if the project involves housing tax credits, a surplus cash loan. The City loan is fully repayable, and the interest rate varies by the type of Borrower. The interest rate for a qualified CHDO Borrower or Sponsor shall be zero percent (0%) simple annual interest. The interest rate for a qualified nonprofit Borrower or Sponsors shall be one percent (1%) simple annual interest. The base interest rate for all other Borrowers shall be three percent (3%). However, the 3% base rate can be reduced through a combination of one or more Borrower concessions:

- A Borrower guarantee to make annual interest payments will reduce base interest rate by 1%;
- Borrower agreement to limit loan maturity to 20 years or less reduces base interest rate by 1%;
or
- Borrower guarantee of annual interest and principal payments reduces base interest rate by 2%.

The Borrower can combine a) and b) above to reduce the 3% annual simple interest base interest rate by 2% to the 1% annual simple interest floor rate. However, in no instance can the floor interest rate be less than 1% annual simple interest for a Borrower in this category.

Repayment of loan principal and interest should be either:

- Equal monthly installments over a period of up to 300 months if the project does not involve housing tax credits. Subject to City review and approval, multi-family projects may have up to 24 months (in addition to the above stated maturity of 300 months) of deferred principal and interest during a construction and lease-up; or,
- An annual surplus cash payment, when the project involves housing tax credits. The City's surplus cash loans funding will be structured with note provisions requiring that at least 50% of Eligible Cash in excess of \$50,000 be paid annually to subordinate lenders (including funding partners and related parties) on a prorated basis.

Eligible Cash shall be defined as: Surplus cash available for partnership distribution, less any outstanding:

- Credit adjusters
- Asset management fees
- Operating reserve account replenishment
- Limited partner loans that have been approved by the City
- Deferred developer fees
- Supplemental replacement reserve deposits approved by the City

Note: Incentive management fees have been deliberately omitted from the above list. Payment of incentive management fees shall be subordinate to repayment of the City's loan(s).

Additional Requirements for New Construction Development

For new construction housing developments funded by the City, the maximum subsidy per unit is 22.5% of the HUD HOME Value Limit.

Funding will be provided to Community Housing Development Organizations, governmental entities, or public facility corporations at 0% simple interest, which will be forgiven upon sale of the property to home buyer.

In addition, funding will be provided to other qualified non-profit organizations at 1% simple interest, which will be forgiven upon sale of the property to home buyer.

Projects shall submit, on an annual basis, either HUD Form 93489 (HUD Computation of Surplus Cash), or the City's form, with the project audit. The City will invoice the project, allowing for repayment to occur up to the end of the current calendar year when HUD financing is involved. Otherwise, the surplus cash payment will be due within 45 days of the invoice postmark. Late payments will be assessed a 5%

late charge. The loan will be in default if payments are more than 75 days late. The default interest rate shall be 500 basis points (5%) over the note interest rate.

The City multi-family rental loan is limited to only the amount necessary to fully fund the required rehabilitation work, not to exceed nine percent (9%) of the annual HUD Section 234 – Condominium Housing Limits in Dallas, Texas for elevator units (by number of bedrooms per unit). In 2018, the annual limits were as follows:

Efficiency - \$58,787
 1 Bedroom - \$67,391
 2 Bedroom - \$81,947
 3 Bedroom - \$106,013
 4 Bedroom - \$116,369

Note: The above table is only valid for 2018 and is otherwise provided for illustrative purposes. Contact the City's Housing Department for a schedule of current HUD 234 Limits.

Affordability Period Requirements for All Rental Housing Development and Substantial Rehabilitation Loans

The Period of Affordability (income and rent restrictions) applies to both single-family and multi-family rental housing projects. Affordability periods shall be set as follows, in keeping with HUD requirements.

Amount of CDBG or HOME funds Per Unit	Minimum Period of Affordability
Under \$15,000/ Unit	Five (5) years
\$15,000 - \$40,000/ Unit	Ten (10) years
Over \$40,000 or rehabilitation involving refinancing	Fifteen (15) years
New construction of Rental Housing	Twenty (20) years

Conditions of All City Loans

- The property must be residential rental property under the existing ownership for the entire loan term. If the property is transferred by any means during the loan term, the remaining unforgiving portion, plus interest based on the existing market, will become immediately due and payable;
- The Borrower must maintain the property according to the Dallas Unified Building Code and agrees to allow City personnel to annually inspect the property;
- The Borrower provides evidence of having paid annual property taxes and having secured fire and extended insurance coverage for the property;
- Borrower must annually provide the City of Dallas with the information on rents and occupancy of HOME-assisted units to demonstrate compliance with the affordability rent requirements;
- The Borrower must maintain reserves for maintenance; and
- No further assistance during the affordability period term of the loan, whichever is longer.

The City loan will be secured by a lien on the property. The lien position will be no less than a second, except upon approval of the appropriate City Department Director, subordinate only to a private financial institution's superior lien for a loan in a greater amount. The City may also require additional security for its loan, including, but not limited to, a first lien position on other investment property of the owner, as well as personal and/or corporate guarantees if it is necessary to secure the loan.

The terms of payment will continue throughout the entire term of the note, provided the Borrower complies with each and every term and condition of the loan documents. If the Borrower does not comply, or if the borrower at any time defaults under the terms of the note, interest on the unpaid principal will thereafter:

- accrue at a rate that is 500 basis points over the Note interest rate, and
- be immediately payable in addition to the entire outstanding principal amount

Financial Structuring

GAP Financing

The City deferred debt (deferred forgivable or surplus cash) only be used for and based upon the financing gap on affordable units. The City loan cannot exceed the financing gap.

Balloon Mortgages

Ballooning senior debt mortgages may require additional mitigating factors depending on overall project sources and uses, projected loan-to-value, and other risk factors. Under no circumstances will the City participate in a transaction where a senior balloon term is less than 15 years.

Surplus Cash Mortgages

The City's surplus cash loans funding will be structured with note provisions requiring that at least 50% of Eligible Cash in excess of \$50,000 be paid annually to subordinate lenders (including funding partners and related parties) on a prorated basis.

Eligible Cash shall be defined as:

- Surplus cash available for partnership distribution, less
- Any outstanding:
 - Credit adjusters
 - Asset management fees
 - Operating reserve account replenishment
 - Approved limited partner loans
 - Deferred developer fees
 - Approved supplemental replacement reserve deposits

Projects shall submit, on an annual basis, either HUD Form 93489 (HUD Computation of Surplus Cash), or the City's form, with the project audit. The City will invoice the project, allowing for repayment to occur up to the end of the current calendar year when HUD financing is involved and general HUD distribution guidelines. Otherwise, the surplus cash payment will be due within 45 days of the invoice postmark. Late payments will be assessed a 5% late charge. The loan will be in default if payments are more than 75 days late. The default interest rate shall be 500 basis points (5%) over the note interest rate.

Appraisal Requirements

Projects Receiving City First Mortgage Acquisition Financing

Prior to funding commitment, the borrower must provide a completed Appraisal Request Form for City-Ordered Appraisals by the date specified in the City's notice of funding award, unless the development is exempt from the appraisal requirement as described below. The establishment of the date will take into account the applicable funding source commitment deadline and the Borrower's project timeline.

Developments exempt from the prior to commitment appraisal requirement:

- Acquisition price under \$100,000
- Land only where there is no identity of interest. Identity of interest is used broadly to include non-arm's length transactions, related-party transactions, etc.
- Single family homes (1-4 family structures) that are aggregated under one loan
- The Borrower has provided a Market Study
- The Project is HUD 202 or HUD 811 with a funding reservation

Note: Whenever a project is exempt under one of the above provisions, the City will use assessed value unless the borrower requests an appraisal for determining acquisition cost as defined in these Underwriting Standards.

The cost of appraisals must be borne by the Borrower. All costs incurred for the appraisal, and any revisions, will be the responsibility of the applicant. The City will collect the appraisal costs from its loan proceeds at closing.

Appraisals ordered by the Borrower will not be accepted. All appraisals must be ordered by the City, HUD or a designated HUD MAP lender, Fannie Mae or a designated Fannie Mae Delegated Underwriter Services (DUS) lender or a regulated financial institution.

An Agency ordered appraisal will be used to support the acquisition costs identified at the time of application. The appraised value will be used by the City and its funding partners in underwriting the acquisition cost.

An As-Is Appraisal:

Land Only for New Construction: Fee simple value of the land. The market value appraisal will consider the real property's zoning as of the effective date of the appraiser's opinion of value. If the real property consists of more than one parcel, the parcels will be combined in one appraisal with one value conclusion.

Acquisition/Rehab:

Fee simple "as-is" value of the existing multi-family property assuming market rate rents. Fee simple, in "as-is" condition, with existing restricted rate rents.

Adaptive Re-Use:

Fee simple market value of the property to be adapted for an alternate use. The valuation will assume the highest and best use permitted by law and economically feasible in the current market.

Prior to Closing – Scheduled Payment Loans:

For scheduled payment loans, an as-completed appraisal is required to establish loan to value. An "as-completed and stabilized" appraisal is required for all amortizing loans.

Two hypothetical values are required:

- As completed and stabilized, subject to restricted rents
- As completed and stabilized, assuming market rate rents

The lesser of the two values will be used to determine loan to value for the City's underwriting. The City will finance no more than 87% of appraised value (85% for loans with \$15,000 per unit or less in rehabilitation). Plans and specifications must be sufficiently complete for the appraiser

to establish the “as completed” value. The appraisal must be conducted no more than six months prior to closing or end loan commitment (or the borrower will be required to pay for an appraisal update).

Prior to Closing- Deferred Loans:

For non-amortizing loans, the City requires an appraisal prior to closing similar to that required for amortizing loans (above). Borrowers may use another lender’s appraisal. Non- Amortizing developments exempt from the prior to closing appraisal requirement include:

- Single family homes (1-4 family) that are aggregated under one loan (the City will use assessed value unless the Borrower requests an appraisal for determining acquisition cost as defined in the Borrower’s Underwriting Standards.)

Loan Conditions

As a condition of the City Loan, the Developer must agree:

- To rent these properties in accordance with Affirmative marking standards and the current HUD Section 8 rental income guidelines for the Period of Affordability and the federal equal housing opportunity requirements in the Fair Housing Act.
- Not discriminate on basis or race, religion or national origin.
- Not discriminate against lower income prospective tenants, solely on the basis of their receipt of Section 8 Housing assistance support.
- Not convert the property to condominiums for the duration of the public note.
- To maintain the property in a safe, sanitary and decent condition, in compliance with the City of Dallas Building Codes throughout the term of the public sector note.
- To provide evidence of having paid annual property taxes and secured fire and extended insurance coverage for the property.
- Comply with Annual Re-certification of tenant’s annual income, which means each year the property owner must document the income of the tenant by reviewing documents such as W-2’s, pay stubs, etc. in order to ensure that their income meets the low-income requirements.
- To a property inspection one (1) year after the rehabilitation and every two (2) years thereafter during the period of affordability. The owner must agree to cooperate with and assist in this inspection effort, and to resolve all deficiencies cited within the designated correction period allotted.
- To pay real property taxes and maintain adequate fire and extended coverage insurance with City named as co-insured on the subject property for the full term of the loan. The City will require owner to provide documentation of tax payment and insurance coverage on an annual basis.
- To adhere to Lead-Based Paint Abatement guidelines for all properties built 1978 and before.

The City will examine the sources and uses for each project and determine whether the costs are eligible and reasonable, the return to the developer is appropriate (not excessive); and the other sources of funds needed for the project are firm commitments. “Reasonableness” of development costs should be based on the following factors:

- Costs of comparable projects in the same geographical area;
- Qualifications of the cost estimators for the various budget line items; and
- Comparable costs published by recognized industry cost index services

Failure to comply with any of the conditions outlined above will constitute a default of the public sector loan, requiring the balance to become immediately due and payable.

During the term of the public sector loan, if the property is sold, or ownership transferred through any means, then the balance of the note then owing, including the remaining deferred forgivable portion is immediately due and payable in full.

For HOME projects, a determination of fixed or floating HOME units must be made at the time of Loan commitment. Fixed units must remain the same throughout the period of affordability. Floating units may change in order to maintain conformity so that the total number of units meet the required number of bedrooms to the originally designated HOME-assisted unit.

Loan Closing

The property owner will be required to provide the following items for loan closing:

- For substantial rehabilitation projects, the after-rehabilitation appraisal of the property showing the appropriate value relative to the proposed loan.
- Acceptable Commitment for Title Insurance Policy showing the City's interest in the total amount of the City's Deferred Payment Loan.
- Credit Reports on all Borrowers with a 15% or greater ownership interest.
- List of all real property assets and their value.
- An acceptable bid from an approved contractor. The approved contractor must be licensed, and provide proof of appropriate insurance coverage, covering the total cost of the
- rehabilitation work and including, but not limited to worker's compensation, general liability, and personal liability.
- Copy of the insurance policy for fire and extended coverage for 80% of the value of the property with City named as co-insured.

Permitted Rehabilitation Program Costs

CDBG or HOME funds will be used to support only the following eligible costs:

- Actual rehabilitation costs necessary to correct substandard conditions to comply with the City of Dallas building Codes, federal environmental conditions standards, and federal lead-based paint abatement requirements.
- Essential improvements including energy conservation-related repairs, and improvements to permit use of the rehabilitated units by persons with disabilities.
- Repairs to major building system in danger of failure.
- Costs, generated by the public sector, for processing and closing the financing for the project, such as: credit reports, fees for title evidence, fees for recordation and filing of legal documents, attorney's fees, permits, and appraisal fees.
- Cost for the relocation of tenants currently residing in the property at the date of initial application, who must be temporarily or permanently displaced as a direct result of the rehabilitation activity.

Involuntary Displacement

The City prohibits involuntary displacement of residents from developments receiving funding. If a development receives federal funds, the Uniform Relocation Act provisions will apply.

Eligible Costs

The following costs may be reimbursed with HOME funds:

Hard Costs	Soft Costs
Land and Structure Acquisition	Financing Fees & credit reports
Site preparation, including Demolition	Affirmative marketing, initial leasing & marketing costs
Construction Materials and Labor	Title binders and insurance
	Performance bonds and surety fees
	Recording fees
	Legal & accounting fees
	Appraisals
	Eligible Soft Costs
	Environmental reviews

CDBG funds may not be used for new building construction, in accordance with HUD regulations. However, CDBG funds may be used for all other reasonable and eligible costs in the above table.

Monitoring

The City is required by HUD to obtain information on rents and occupancy of HOME – assisted units to demonstrate compliance with the affordability rent requirements on an annual basis.

Additional Requirements for ALL Rental Housing Projects

Tenant Selection/Eligibility:

An owner of rental housing assisted with HOME or CDBG funds must adopt written tenant selection policies and criteria that:

- are consistent with the City's goal of providing housing for very low-income and low-income families;
- are reasonably related to program eligibility and the applicant's ability to perform the obligations of the lease;
- provide for the selection of tenants from a written waiting list in the chronological order of their application, insofar as is practicable; and
- give prompt written notification to any rejected applicant stating the grounds for the rejection

Income Eligibility and Re-certification:

Tenant incomes must be re-certified annually and verified with source documents every six years. If the income of a household in an assisted unit rises above 80% of Area Median Income, the household may continue to rent the unit and the household must pay monthly rent equal to the lesser of:

- The rent permitted by state law; or
- 30% of the family's adjusted monthly income at annual re-certification.
- If the project was financed with Low Income Housing Tax Credits, the tax credit rent prevails.

Acceptable Rents for HOME Projects Only

The HOME program has established rules in relation to acceptable rents. There are two rent standards: High HOME Rent and Low HOME rent. For properties with five (5) or more HOME assisted units, at least 20% of the units must have rents that meet the "Low HOME" criteria.

High HOME Rent: lesser of the Section 8 Fair Market Rents for existing housing OR thirty (30) percent of the adjusted income of a family whose annual income equals 65% of the area median income.

Low HOME Rent: Thirty percent of the tenant's monthly adjusted income OR thirty percent of the annual income of a family whose income equals 50% of the area median income.