Affordable Housing Financing Fund

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Proposition 123: Equity Program Guidelines

COLORADO
Office of Economic Development & International Trade

chfa

Affordable Housing Financing Fund

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Proposition 123: Equity Program

The program provides equity investments to eligible for-profit and nonprofit entities, local governments including housing authorities, and tribal governments for the creation of affordable housing.

Guidelines 03-06-2024

Eligible Projects	• Low-income multifamily affordable rental developments • Middle-income multifamily affordable rental developments • Preservation of existing developments at risk of losing affordability • This equity cannot be paired with federal or state Housing Tax Credit equity
Program Benefits	• Flexible source of capital with below-market return expectations • Structured with equity returns based on available cash flow
Program Allocation	40% to 70% of Affordable Housing Financing Fund (AHFF) allocation
Eligible Project Sponsors	For-profits, nonprofits, governmental entities including housing authorities, and tribal governments
Maximum Investment Size	The maximum Program Investment amount is $15,000,000. Investment size will be based on a comprehensive evaluation of the project's financials, supporting documentation, and available program funding.
Minimum Investment Size	$1,500,000
Eligible Uses	Eligible project costs include acquisition, construction hard costs, professional fees, financing costs, soft costs, and reserves.

Investment Returns	Below-market returns based on available annual cash flow, with any remaining capital paid in full or in part at a capital event. The Program Investment term is up to 30 years.
AMIs Served	Not to exceed 90% average AMI for all restricted units
Collateral	The Program Investment will be secured by the project assets
Fees	• 1% investment placement fee • Standard placement costs
Affordability Requirements	A Regulatory Agreement ensuring affordability for 30 years will be required, which must include a two-year notice to local government.
Priorities	• High-density housing • Mixed-income housing • Environmental sustainability

Proposition 123: Equity Program Guidelines

Program Description and Eligible Projects

The Equity Program (Program), as created by Proposition 123, provides equity investments (Program Investment) to eligible low- and middle-income rental projects, including existing housing projects for purposes of establishing or preserving affordable rental units. Projects that result in the construction of new units will be prioritized during the first year of program funding.

Program Benefits and Funding Allocation

The Program provides an equity investment with below-market return expectations to help support the development of new low-income and middle-income rental housing units and the preservation of existing affordable housing units.

The total amount allocated to Equity from Proposition 123 funding is limited annually to between 40% and 70% of the total available Colorado Affordable Housing Financing Fund.

Eligible Project Sponsors

A project that applies for funding from the Program must be located in the State of Colorado in a jurisdiction that has received approval through the Colorado Division of Housing to participate in the Colorado Affordable Housing Financing Fund. For-profit entities, nonprofit, government entities including housing authorities, and tribal governments with prior experience in developing affordable housing are eligible to apply.

Investment Terms and Conditions

Program Investments will have a term of up to 30 years, which may be extended by the program administrator, with below-market return expectations. Every Program Investment will require a 30-year Regulatory Agreement that includes a two-year notice to local government. The minimum Program Investment size is $1,500,000 and the maximum size is $15,000,000. Project sponsors may elect one of two types of Program Investment, depending on their project objective.

The program administrator reserves the right to waive certain requirements to ensure financial viability for a given project that achieves certain policy goals such as promoting geographic diversity or achieving affordability goals.

Option 1: Affordability-driven Equity Investments

These investments are mission-driven investments focused on delivering affordable units at lower AMI levels. Return expectations are lower, in exchange for deeper or longer-term affordability. For each project:

- The Program Investment may constitute up to the entirety of the remaining portion of equity needed in the capital stack after the sponsor equity contribution. At a minimum, sponsor equity should include the cost of land.
- Full or partial repayment of the Program Investment at a capital event is permitted beginning in year 10 after construction completion.
    - In the event of partial repayment, the remaining Program Investment may be assumed by the buyer. If the remaining Program Investment is assumed by the buyer, an extended affordability term may be required, based on an evaluation of capital needs at the time of sale.

- The minimum Debt Coverage Ratio for all must-pay debt is 1.10.
- The Program Investment shall have a pari-passu cash flow and capital event participation rate commensurate with its equity share, unless otherwise determined by CHFA. Cash flow participation only occurs after all must-pay debt and is contingent on the project's cash needs.
- A Developer Fee of up to 7% can be paid to the developer at the closing of permanent financing.
- Sponsor equity may be structured to receive up to a 10% internal rate of return by year 30.
  - If the property over-performs its underwritten IRR at the time of a capital event, the sponsor may opt to participate in a promote structure entitling the sponsor to 15% of remaining profit after clearing the sponsor IRR hurdle.

Option 2: Mixed-income Equity Investments

These investments are market-driven investments focused on delivering mixed-income and middle-income units. Return expectations are higher than Option 1, but still below-market. For each project:

- The Program Investment may constitute up to the entirety of the remaining portion of equity needed in the capital stack after the sponsor equity contribution. At a minimum, sponsor equity should include the cost of land.
- Partial repayment of the Program Investment at a capital event is permitted beginning in year 3 after construction completion. Full repayment of Program Investment is permitted after year 15.
  - In the event of partial repayment, the remaining Program Investment may be assumed by the buyer.
- The minimum Debt Coverage Ratio for all must-pay debt is 1.20.
- The Program Investment shall have a pari-passu cash flow and capital event participation rate commensurate with its equity share, unless otherwise determined by CHFA. Cash flow participation only occurs after all must-pay debt and is contingent on the project's cash needs.
- A Developer Fee of up to 4% can be collected at the closing of permanent financing.
- Sponsor equity may be structured to receive up to a 15% preferred return during the first 5 years.
  - If the property over-performs its underwritten IRR at the time of a capital event, the sponsor may opt to participate in a promote structure entitling the sponsor to 15% of remaining profit after clearing the sponsor IRR hurdle.

Reserve Requirements

The project shall budget for operating reserves equal to 4 months of operating expenses. The minimum per-unit replacement reserves are $250 for senior properties and $300 for family properties.

Investment Returns and Fees

The annual Program Investment returns will be determined via CHFA's Cashflow Calculation Worksheet, which will be completed during the preparation and audit of the property's annual financial statements. The Program Investment shall have a pari-passu cash flow and capital event participation rate commensurate with its equity share, unless otherwise determined by CHFA. Cash flow participation only occurs after all must-pay debt and is contingent on the project's cash needs.

All Program Investments will have a 1.0% investment placement fee with standard placement costs, including, but not limited to legal fees, third-party reports, and title costs.

Security Interest

Program investments will be secured by a subordinate Deed of Trust and Security Agreement on the real estate and personal property, subordinate only to hard debt, unless otherwise determined by CHFA.

AMI Restrictions

The average of rents for the restricted units in projects financed through the Program must not exceed 90% of Area Median Income (AMI) or below, as defined by HUD/CHFA, unless a community has successfully petitioned DOLA for higher AMIs.

Tenant Equity Vehicle (TEV)

Projects will be required to participate in a tenant equity program, funded through program earnings exclusive to Prop 123 concessionary debt interest and Equity returns to the state, which will be established by OEDIT, CHFA and a third-party administrator to benefit the residents of developments that receive Prop 123 Equity. It will be the responsibility of the property owner and its property manager to inform residents that their property is participating in the program, and to assist residents in enrolling in the program.

Affordability Covenants

All projects will be subject to a Regulatory Agreement to ensure that the units will be maintained and rented as income-qualified units for 30 years. The Regulatory Agreement will require a two-year notice to local government.

Reporting

Projects will be subject to ongoing compliance including audits of new resident income verification, annual financial reports, and periodic physical inspections.

Statutory Priorities

All applications will be evaluated with an emphasis placed on the following criteria:

- High density housing evaluation informed by local density definitions and/or maximum allowable density when feasible based on local conditions
- Mixed-income is defined as serving a broad range of income levels within the 90% average AMI.
- Environmental sustainability as defined below.

Application Submission

Projects must meet the three statutory priorities listed above in order to apply. Projects located in jurisdictions classified by the Division of Local Government as Rural are exempt from the Environmental Sustainability standards below. Projects in Rural Resort jurisdictions with fewer than 20 units, or Urban jurisdictions with fewer than 30 units are exempt from the Environmental Sustainability standards detailed below.

However, the exempted projects that do meet one or more of the following criteria will be considered more competitive and those achieving the most criteria will be most competitive compared to other projects that are exempt from the Environment Sustainability standards below.

1. Each of the following is required to meet the Environmental Sustainability standard.
    1. Certification from one of the following:
        i. 2020 Enterprise Green Communities (EGC)
        ii. Leadership in Energy and Environmental Design LEED v.4.1 (LEED)
        iii. National Green Building Standards NGBS ICC-700-2020 (NGBS)
        iv. Zero Energy Ready Homes standard (US DOE)
    2. Developments that achieve all-electric construction with high-efficiency electric appliances may opt-out of a formal green building certification.

    3. All-electric building using high efficiency electric appliances such as heat pumps and heat pump water heaters, or a mixed-fuel building that includes pre-wiring for efficient electric heating and appliances and includes pre-wiring to enable future installation of EV charging station(s) for at least 10% of parking spots or greater if required under local codes.
    4. Utilize water-efficient design inside and outside. Full guidance can be found at coloradowaterwise.org.
    5. Locate developments within a half-mile of existing or planned transit corridors.
    6. Applicants will need to detail plans to monetize federal tax credits (179D and 45L) through the Inflation Reduction Act and state incentives/tax credits such as the 10% state tax credit for heat pumps in their plans. Applicants that fail to demonstrate their use or evaluation of these public incentives will not be prioritized for funding.
    7. **Optional:** If applicant has information regarding utility bills and the associated code and energy efficiency measures to achieve lower utility bills, including a commitment to estimated utility bill disclosure to prospective residents, please provide. Otherwise, this is not required.
2. Applications for funding will be accepted beginning March 18th through 5:00pm MT on April 18th, 2024. Application requirements are outlined on the Proposition 123 website, coloradoaffordablehousingfinancingfund.com. Applications will be reviewed based on the following:
    1. Achievement of Proposition 123 priorities
    2. Financial feasibility
    3. Funding availability
    4. Geographic distribution
    5. Readiness to proceed
    6. Number of units created relative to local demand
    7. Leveraging private capital