

Portland, Maine



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Mary Davis

Division Director, Housing & Community Development Division

TO: Councilor Duson, Chair
Members of the Housing Committee

FROM: Mary Davis, Division Director
Housing and Community Development Division

DATE: May 18, 2018

SUBJECT: 2018 Housing Trust Fund Annual Plan

A draft of the 2018 Housing Trust Fund Annual Plan was reviewed by the Housing Committee at its April 25th meeting. At that time staff was directed to return to the committee with a revised plan that addressed issues, concerns and clarifications requested by members of the committee and documented in the minutes of the April 25th meeting.

Staff is presenting the revised plan and is requesting committee approval and recommendation to the City Council of the proposed 2018 Housing Trust Fund Annual Plan.

A copy of the 2017 Housing Trust Fund Annual Plan is included for reference purposes.

forward. At a minimum, no less than 30 days prior to application for site plan review, any project that wishes to take advantage of this section must (1) hold a public meeting noticed to all properties within 500 feet of their site and (2) post a sign on the property in question describing the proposed project; intent to submit an application to the city in 30 days (cite anticipated submission date); and contact information for the developer and the Planning Authority (Department of Planning and Urban Development website link). The Planning Board may adopt regulations regarding the content and processes for noticing as part of the Technical Manual.

(g) *Projects under 14-487.* Projects that are subject to 14-487 that choose to provide the required workforce housing units on site are eligible for a 25% increase in total permitted units. If an eligible project is also subject to 14-487, the applicant shall have the option of utilizing either this bonus or any bonuses they are eligible for under 14-488.1 but not both.

(Ord. No. 98-06/07, 12-4-06; Ord No. 240-09/10, 6-21-10; Ord. 82-15/16, 10-19-2015; Ord. No. 31-17/18, 9/6/2017)

DIVISION 31. HOUSING TRUST FUND

Sec. 14-489. Housing trust fund.

(a) *Purpose.* The purpose of enacting this section is:

1. To establish a City of Portland housing trust fund for the promotion, retention and cration of an adequate supply of housing, particularly affordable housing, for all economic groups and to limit the net loss of housing units in the City.
2. To serve as a vehicle for addressing very low, low, and median income housing needs through a combination of funds as set out in section 14-483 of this chapter.

(b) *Definitions.*

Very low income household. A household having an income not exceeding fifty (50%) percent of median income for area of residence as set forth in regulations promulgaged from time to time by the United States Department of Housing and Urban Development pursuant to 42 U.S.C. section 1437 et seq.

Low income household. A household having an income not

exceeding eighty (80%) percent of median income for area of residence as set forth in regulations promulgated from time to time by the United States Department of Housing and Urban Development pursuant to 42 U.S.C. sections 1437 et seq.

Moderate income household. A household having an income not exceeding one hundred twenty (120%) percent of median income for area of residence as set forth in regulations promulgated from time to time by the United States Department of Housing and Urban Development pursuant to 42 U.S.C. sections 1437 et seq.

(c) *Establishment of the housing trust fund.* The city council shall establish a special revenue account under the name "City of Portland Housing Trust Fund." Deposits into the fund shall include:

1. Contributions from the city's housing replacement ordinance under 14-483(i);
2. Funds appropriated to be deposited into the fund by vote of the city council;
3. Voluntary contributions of money or other liquid assets to the fund;
4. Any federal, state or private grant or loan funds provided to the fund;
5. Interest from fund deposits and investments; and
6. Repayments of loans made from the fund.

(d) *Management of the trust fund.* The city manager, or his or her designee, shall serve as the manager of the housing trust fund. The responsibilities of the manager, subject to the orders of the city council, shall include:

1. Maintaining the financial and other records of the housing trust fund;
2. Disbursing and collecting housing trust fund monies in accordance with the housing trust fund annual plan; and
3. Monitoring the use of monies distributed to successful applicants for housing trust fund support to assure on-going compliance with the purposes of the fund and

the conditions under which these monies were granted or loaned.

(e) *Housing trust fund annual plan.* Each fiscal year, the city council shall adopt a housing trust fund annual plan. The city manager shall submit to the city council a recommended housing trust fund annual plan, utilizing the revenues of the housing trust fund as well as any other funds the manager may propose as appropriate. The housing committee of the city council or such other committee as the council shall designate shall conduct public hearings on the recommended plan and refer the matter to the council for action.

The housing trust fund annual plan shall include:

1. A description of all programs to be funded in part or in full by the housing trust fund;
2. A description of how funds from the housing trust fund will be distributed among very-low-income, low-income and moderate income households; and
3. The amount of funds budgeted for programs funded in part or in full from the housing trust fund.

Priority for the expenditure of funds collected pursuant to the housing replacement ordinance (see Sec. 14-483) shall be given to the creation of new housing stock, through either new construction or conversion of non-residential buildings to residential use.

(f) *Distribution and use of the housing trust fund's assets.*

1. All distribution of principal, interest or other assets of the housing trust fund shall be made in furtherance of the public purposes set out in section 14-483.
2. During each year, the housing trust fund shall disburse as grants or loans so much of the housing trust fund's assets as the city council in its discretion has approved in the housing trust fund annual plan.
3. Funds shall not be used for city administrative expenses.

4. Funds shall not be used for property operating expenses or supporting services.
5. No grants or loans shall be awarded by the housing trust fund to corporations, partnerships or individuals who are delinquent, at the time of application in the payment of property taxes or other fees to the city of Portland, who Have been convicted of arson, who have been convicted of discrimination in the sale or lease of housing under the fair housing laws of the State of Maine, or who have pending violations of current city electrical, plumbing building or housing codes or zoning ordinances.

(g) *Term of affordability.*

1. Whenever funds from the housing trust fund are used for the acquisition, construction or substantial rehabilitation of an affordable rental or cooperative unit, the City of Portland shall impose enforceable requirements on the owner of the housing unit that the unit remain affordable for the remaining life of the housing unit, assuming good faith efforts by the owner to maintain the housing unit and rehabilitate it as necessary. The remaining life of the housing unit shall be presumed to be a minimum of thirty (30) years.
2. Whenever funs from the housing trust fund are used for the acquisition, construction or substantial rehabilitation of ownership housing, the city of Portland shall impose enforceable resale restrictions on the owner to keep the housing unit affordable for the longest feasible time, while maintaining and equitable balance between the interests of the owner and the interests of the city of Portland.
3. The affordability restriction requirements described in this section shall run with the land and the city of Portland shall develop appropriate procedures and documentation to enforce these requirements and shall record such documentation in the Cumberland County Registry of Deeds.
(Ord. No. 281-09/10, 7-19-10)

Sec. 14-490. Reserved.

HOUSING TRUST FUND
2018 ANNUAL PLAN

BACKGROUND

The Housing Trust fund is established by Section 14-489 of the City’s Code of Ordinances. Section 14-489 (e) states that “the city council shall adopt a housing trust fund annual plan” and that the “housing committee of the city council or such other committee as the council shall designate shall conduct public hearings on the recommended plan and refer the matter to the council for action.”

The Annual Plan will establish the priorities in which the current balance of the Housing Trust Fund will be allocated. The plan is in line with the 2018 City Council Goal of increasing access to rental and ownership housing that is safe and affordable for working and low-income families.

This budget is based on the current balance in the Housing Trust Fund. At this time, Housing Trust Fund revenue is generated from fees triggered by the Housing Preservation and Replacement Ordinance and fee-in-lieu contributions from the Inclusionary Zoning Ordinance, along with other funding resources under Council consideration. The balance of the Housing Trust Fund is \$913,502. While staff anticipates increases in revenue in the Housing Trust Fund as a result of the Inclusionary Zoning Ordinance and other sources being considered by the City Council, those anticipated resources are not included in the 2018 Annual Plan.

Sources and Uses of Housing Trust Fund:

DEPOSITS		EXPENDITURES	
Maine Medical Center HRO 2002-2003	\$ 315,580	Avesta Oak Street Lofts 2011	\$ (380,585)
Sportsman's Grill HRO 2002	\$ 40,000	Housing First Pre-Development RFP 2014	\$ (75,000)
Berlin City Auto HRO 2009	\$ 116,000	65 Hanover St 2015	\$ (9,250)
Stop n Shop HRO 2010	\$ 289,250	65 Munjoy St 2017	\$ (175,000)
Rockbridge/Eastland Park HRO 2012	\$ 42,500		
Riverwalk/Ocean Gateway HRO 2012	\$ 250,000	Total Expenditures	\$ (639,835)
118 Congress LLC April HRO 2014	\$ 3,500		
Sale of Tax Acquired Property Belfort Street 2017	\$ 86,424		
Sale of Tax Acquired Property 116 Upper A Street 2017	\$ 78,527		
443 Congress Street IZ 2017	\$ 280,000		
Previous INTEREST EARNED	\$ 51,556		
Total Deposits	\$1,553,337	BALANCE	\$ 913,502
HRO= Housing Replacement Ordinance; IZ= Inclusionary Zoning Fee in Lieu			

City Ordinance requires that the Housing Trust Fund Annual Plan include a description of the programs to be funded, a budget for each program and identify how the funds will be distributed among very-low (at or below 50% of the area median income), low (at or below 80% of the area median income) and moderate income (at or below 120% of the area median income) households.

The Housing Trust Fund is a valuable tool that can assist the City in meeting the goal of providing increased availability in all segments of the housing market. While the City has other resources such as the HUD HOME and CDBG Programs, those funds are limited in amount and scope. The proposed Housing Program budget for FY 2018-2019 includes \$325,064 in HOME funding for affordable housing development, \$100,000 for housing rehabilitation and \$224,096 in CDBG housing program income for housing rehabilitation. The HOME program restricts rental housing assistance to households at or below 60% of the area median income and home ownership assistance to households at or below 80% of the area median income. The CDBG program is restricted to households at or below 80% of the area median income. City Ordinance allows the Housing Trust Fund to assist households at or below 120% of area median income.

As always, the City should act prudently when deciding to invest these funds. The Housing Trust Fund should maintain a minimum balance of \$500,000 in order to have resources to act quickly when there is an emergency, such as a need to cure a potential mortgage default that could result in loss of an affordable unit. This right to cure will be included in the affordable housing covenants that are recorded in the Cumberland County Registry of Deeds for each affordable unit.

FUNDING PRIORITIES

The purpose of the Housing Trust Fund is the "...promotion, retention and creation of an adequate supply of housing, particularly affordable housing, for all economic groups and to limit the net loss of housing units in the City." and "To serve as a vehicle for addressing very low, low and median income housing needs...". In an effort to ensure that these purposes are met, the Housing Trust Fund Annual Plan may identify specific priorities that support other city goals and priorities, for example goals from the Comprehensive Plan or the City Council Common Goals. A 2018 priority will be to support the Portland Housing Authority in the implementation of their Strategic Vision Plan when other funding sources are not available. The Housing Authority's current priorities in that Plan are the Boyd Street and Front Street sites.

Allocation Process

Housing Trust Funds will be distributed through a competitive application process. A Notice of Funding Availability will be issued at a minimum of an annual basis to notify potential applicants that the application is available. Applications will be reviewed by an evaluation team of City of Portland staff who will evaluate and score each application utilizing the scoring factors noted below in order to recommend the most qualified application based on the information submitted. This information will also be included in the Housing Trust Fund Application.

- *Proposed use of funds to achieve the City of Portland's goals and address demonstrated need.* 30 points

Maximum points will be awarded for those applications that demonstrate sufficient market demand, create housing options which promote economic diversity in the neighborhood in which the development is located, are consistent with the Comprehensive Plan, leverage funds efficiently, and include a policy prohibiting smoking.

- *Financial feasibility, including cost, development budget operating pro forma and the provision of secured and leverage funds.* 25 points

Maximum points will be awarded for those applications that include a complete set of financial documents to support the financing request, contain a realistic set of sources and uses development budgets and a pro forma operating budget, include sufficient reserves for operations and maintenance, including pre-funded reserves, and long-term financial sustainability of the project is highly likely.

- *Applicant's ability to complete project, including development team experience, capacity, project readiness and timeframe for completion.* 25 points

Maximum points will be awarded for those applications that demonstrate the readiness of the project to proceed, a development team with a successful track record in projects of similar size, scale, type and complexity to the proposed project and the capacity to fulfill their responsibilities.

- *Impact on surrounding neighborhood, including design compatibility and environmental issues.* 20 points

Maximum points will be awarded for those applications where site selection is appropriate for use, no zoning amendments are required, the design is consistent with neighborhood design characteristics, amenities and unit design are well thought out and appropriate, where no environmental issues have been identified and meet the requirements of the City of Portland's Green Building Ordinance.

Recommendations will be forwarded to the City Council's Housing Committee for review and approval. The Housing Committee recommendations will be forwarded to the City Council for final review and approval.

Eligible Activities

Activities eligible for funding from the Housing Trust Fund are those that promote, retain, and create an adequate supply of housing, particularly affordable housing for all economic groups, and to limit the net loss of housing units in the city. Eligible activities may include: new construction, preservation/rehabilitation of existing affordable housing, adaptive reuse, acquisition, housing first.

In this Plan, adaptive reuse is defined as creating housing in an existing building that was originally built or designed for a use other than housing.

The Housing Trust Fund resources are also intended to promote the retention of affordable housing. Staff recommends that Housing Trust Fund resources be made available, if necessary, to exercise the City's right of first refusal in connection with potential foreclosure issues with affordable homeownership units. This is unlikely to occur in the near future but may come up as more workforce homeownership units are created through Portland's inclusionary zoning ordinance. The City shall have a right of first refusal if an affordable unit is forced to sell due to increased fees or has become delinquent in its payments and is in risk of foreclosure or any other legal threats to the Unit's affordability restrictions. The City shall also have the option of using City funds to support affordable units facing large special assessments that may pose a risk to the owner household's ability to maintain their unit's affordability. The City of Portland shall have the right of first refusal to purchase any affordable unit that is in jeopardy of losing its affordability restrictions due to foreclosure, delinquency of condominium fee payments, or any other cause outside of the agreed upon term of restriction. The City's Right of First Refusal is not intended to infringe upon the ability of a mortgage lender to recapture any money owed by the affordable unit owner. The intent is to ensure affordability of the unit for eligible households.

Financing Parameters

Housing Trust Funds should be a resource of last resort and should be focused on opportunities where other funding sources do not work or are not effective. Applicants requesting financial assistance from the Housing Trust Fund must provide document efforts made to obtain other private, federal, state or local resources for the project.

Form of Awards: A variety of funding mechanisms will be utilized including no-interest loans, below-market loans, forgivable loans, and grants. Type of funding will be determined after review of a number of factors including amount necessary to make the project feasible, the project type, income targeting, number of affordable units, and duration of the affordability period.

Maximum Award Amount: An analysis of housing development subsidized by the City of Portland since 2000, shows that City has invested over \$13 million, using various resources such as the HOME and CDBG Programs. That investment leveraged the creation of 951 units of housing. The average City investment per unit was \$14,539. Based on this analysis, Housing Trust Fund awards will be determined on a per affordable unit basis. The City contribution per unit will not exceed \$15,000. This amount may be adjusted at the discretion of the City Council. See the attached spreadsheet Subsidized Housing Development Since 2000.

Income Targeting

Housing Trust Fund resources should be focused on opportunities where other funding sources do not work or are not effective, such as projects designed to create housing affordable to households earning at or below 50% of the area median income, or projects designed to create housing affordable to households earning 80% to 120% of the area median income. Often, other funding sources, such as the Low Income Housing Tax Credit Program or the HOME Program,

have restrictions or requirements that limit or prohibit the creation of housing affordable to those in the very low and moderate income ranges.

Affordable means that the percentage of income a household is charged in rent and other housing expenses, or must pay in monthly mortgage payments (including insurance and taxes), does not exceed 30% of a household's income, or other amount established in city regulations that does not vary significantly from this amount.

Affordability Restrictions

Affordability restrictions are required. In the case of rental or cooperative units, the units must remain affordable for the life of the housing unit which is presumed to be a minimum of thirty (30) years.

Homeownership units must include resale restrictions that maintain an "equitable balance" between the interests of the owner and the City. These restrictions must be documented and recorded in the Cumberland County Registry of Deeds.

Sales must be made through an arms-length arrangement. No employee, agent, stockholder, officer, director, servant, or family member of the Owner or its Management Company, or its employees, agents, or servants thereof, related either by blood, marriage, or operation of law may qualify for a unit financed with Housing Trust Funds or receive any benefit related in any way to the administration or compliance with the conditions contained therein.

Affordable Housing Agreement

The owner of each affordable unit will be required to sign and record in the Cumberland County Registry of Deeds an Affordable Housing Agreement (AHA) with the City and to include the affordability restrictions as a covenant to the project's deed. The Affordable Housing Agreement shall be referenced directly in the property's deed unless prohibited by federal, state, or local law. In order to guarantee affordability in homeownership units, this recorded covenant will limit increases in sales price according to the calculation defined by the City as defined in the implementation regulations. It will limit the incomes of subsequent buyers to the same income limits initially applied. It will also provide a right of first refusal and other purchase rights to the City or its designee (e.g. another eligible household, or a nonprofit corporation).

Right of First Refusal

The City of Portland shall have the right of first refusal to purchase any affordable unit that is in jeopardy of losing its affordability restrictions due to foreclosure, delinquency of condominium fee payments, or any other cause outside of the agreed upon term of restriction. The City's Right of First Refusal is not intended to infringe upon the ability of a mortgage lender to recapture any money owed by the affordable unit's owner. The intent is to ensure affordability of the unit for eligible households.

Implementing Regulations

Regulations to further specify the details of the parameters outlined in this Annual Plan, shall be developed, including, but not limited to:

1. Specific methodology for income verification; and
2. Underwriting criteria.

Attachments

2018 Housing Trust Fund Application
Subsidized Housing Development Since 2000

City of Portland

Affordable Housing Development

Housing Trust Fund Application



July 1, 2018 – June 30, 2019

Applications will be accepted until all budgeted funds have been allocated.

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I. GENERAL INFORMATION

A. Availability of Funding

The City of Portland has made the development of affordable housing a priority use for its local Housing Trust Funds, as is identified in the City Code of Ordinances, Chapter 14 Division 31 Section 489. To accomplish this priority, the City of Portland will accept applications for the development of affordable housing in the City of Portland.

The City of Portland's Division of Housing and Community Development uses an application process to ensure that public funds are utilized for maximum public benefit while accomplishing specific objectives and providing fair access to all applicants. Applications will be accepted until all budgeted funds are allocated. The City of Portland reserves the right to partially fund application requests or deny any application that does not meet the application criteria.

In FY 2018-2019, the City of Portland is making available Housing Trust Funds in the amount of \$XXXXXX.

B. General Guidelines

Activities eligible for funding from the Housing Trust Fund are those that promote, retain and create an adequate supply of housing, particularly affordable housing for all economic groups, and to limit the net loss of housing units in the city. Mixed income projects are eligible and encouraged, however not all units in a mixed income project will be eligible for funding through the Housing Trust Fund. Projects with mixed unit types including efficiencies, one, two and three bedroom units are eligible.

This application outlines the selection criteria which all projects applying for these funds must meet, as well as scoring factors which will be used by the City of Portland to evaluate the applications.

C. Local Requirements

Fair Housing and Equal Opportunity

[Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000d et seq.) (HUD implementation regulations 24 CFR Part 1); The Fair Housing Act (42 U.S.C. 3601-3620)(24 CFR Part 100-115); Equal Opportunity in Housing (Executive Order 11063, as amended by Executive Order 12259)(24 CFR Part 107); Age Discrimination Act of 1975, as amended (42 U.S.C. 6101)(24 CFR Part 146).]

The Fair Housing Act prohibits discrimination in all housing-related transactions based on race, color, national origin, religion, sex, disability, age or familial status. It also includes minimum accessibility design requirements for all new construction and rehabilitation projects and requires that reasonable accommodations be made in rules, policies, practices, services and reasonable structural modifications. Section 504 of the Rehabilitation Act of 1973 prohibits discrimination based on disability and requires that everyone have equal opportunity to obtain housing built with federal funds.

Affirmative Marketing

Developers must have tenant selection policies and criteria to ensure that tenants are selected for occupancy at the property in a fair and equitable manner. Tenant selection policies must be based on objective criteria that expressly prohibit bias. Tenant selection procedures should be clear and easily understood by prospective tenants. An affirmative marketing plan is required to ensure that the property serves a diverse cross-section of the population of the market area, must consist of actions to provide information and otherwise attract eligible persons in the housing market area that might not otherwise apply without special outreach, and ensure that the Housing Trust Fund-assisted housing is available to qualified applicants without regard to race, color, national origin, religion, sex, disability, or familial status.

D. Goals for the Distribution of Housing Trust Funds

The goals for the distribution of Housing Trust Funds are (1) the promotion, retention and creation of an adequate supply of housing, particularly affordable housing, for all economic groups and to limit the net loss of housing units in the City; (2) to promote and finance the development of affordable housing consistent with the City of Portland's Comprehensive Plan. The City of Portland seeks development projects with a high standard of quality, design, and livability. Projects should not require a contract or conditional zone (although other rezoning consistent with the City's Comprehensive Plan may be considered). Resolution of any zoning issues is required before City Council approval of the applicants funding request. Developments should promote efficient use of land, locations proximate to shopping, work places and community facilities. They should also incorporate high standards of energy efficiency, "green" design and socially sustainable criteria.

II. SCOPE OF SERVICES

A. General Specifications

All applications submitted for this funding must meet the following selection criteria to be considered further in the review process.

Eligible Projects

- 1) Projects must create housing units which promote economic diversity in the neighborhood in which the development is located. New construction, conversion of non-residential property to housing and rehabilitation of existing units that creates or maintains affordable units is eligible.
- 2) All projects must address the housing needs of very low, low and median income households. These income thresholds are defined as:

Very low income household. A household having an income not exceeding fifty (50%) percent of median income for area of residence as set forth in regulations promulgated from time to time by the United States Department of Housing and Urban Development pursuant to 42 U.S.C. section 1437 et seq.

Low income household. A household having an income not exceeding eighty (80%) percent of median income for area of residence as set forth in regulations promulgated from time to time by the United States Department of Housing and Urban Development pursuant to 42 U.S.C. sections 1437 et seq.

Moderate income household. A household having an income not exceeding one hundred twenty (120%) percent of median income for area of residence as set forth in regulations promulgated from time to time by the United States Department of Housing and Urban Development pursuant to 42 U.S.C. sections 1437 et seq.

- 3) Projects receiving funding through this application must include a written occupancy policy that prohibits smoking in the units and the interior common areas of the project in addition to including a non-smoking clause in the lease for every household and making educational materials on tobacco treatment programs available to residents through the residence service coordinator, occupancy specialist, or property manager, such as the phone number for the statewide Maine Tobacco HelpLine.

B. Site Information and Criteria

- 1) Site Control: Land or buildings proposed as part of a project under this application must have site control at the time the application is submitted in the form of title, purchase and sale agreement, option, long-term lease for a minimum of 30 years, or other acceptable method. At a minimum, site control must extend through December 31, 2018.
- 2) Local Approvals: Local land use approval is not required prior to submittal of the application, however approval is required before the City Council will approve the funding request. The applicant must submit an analysis of the project in relation to local land use regulations and site feasibility.
- 3) Applications must not require a contract or conditional zone. Resolution of any zoning issues is required before City Council approval of the applicants funding request.

C. Financial Feasibility

- 1) Financial applications must be developed in accordance with the underwriting guidelines of the primary funding source, including adequate cash flow and debt coverage ratio, and conform to the City of Portland's underwriting criteria.
- 2) Use of Housing Trust Funds: All projects will be reviewed for the proposed use of Housing Trust Funds compared to other resources. Applicants must describe the proposed mortgage and security position for the City of Portland's funding.

D. Market Demand

Applicants must provide an analysis and discussion of market demand justifying the need for the proposed project.

E. Applicant Capacity

All applicants must demonstrate capacity to develop, own and manage the proposed project. All applications must provide evidence of a development team with the capacity to successfully complete the project including:

- 1) Key staff members assigned to the project with the abilities and experience to successfully complete the project within the proposed timeframe.
- 2) An architect, general contractor and professionals on the team with the experience and capacity to complete the project.
- 3) A management team with qualified personnel and the capacity and experience to operate, manage and maintain the affordable rental property of size and mix of the proposed project.
- 4) Qualified staff with the capacity to perform ongoing property ownership requirements such as budgeting, tax accounting and oversight of management and maintenance.
- 5) A portfolio of current affordable housing projects that are financially sound and meeting their established goals.
- 6) Support Services: Applications containing rental units targeted to special needs populations must include commitments for support services to be provided to the residents and have in place a policy to make accessible units available when needed if units are occupied by someone that does not need the accessible features.

F. Term of Affordability

Affordability restrictions are required. In the case of rental or cooperative units, the units must remain affordable for the life of the housing unit which is presumed to be a minimum of thirty (30) years.

Homeownership units must include resale restrictions that maintain an “equitable balance” between the interests of the owner and the City. These restrictions must be documented and secured by a land use restriction covenant that is recorded in the Cumberland County Registry of Deeds.

G. Design Compatibility

Projects must be designed to contribute to the character of their neighborhood and adhere to the following general guidelines.

Project designs:

- 1) **MUST** comply with the City's Green Building Ordinance (Chapter 6, Article VII, Sec. 6-165) (<https://www.portlandmaine.gov/DocumentCenter/Home/View/1070>). **Please note** that the Green Building Ordinance may be more restrictive than the requirements in Maine Housing's Quality Standards and Procedure Manual.
- 2) Should establish a building form, scale, massing and rhythm appropriate for the surrounding neighborhood.
- 3) Should provide a quality design that, where possible, reinforces the public realm of open space, sidewalks and streets through appropriately scaled entries that orient to the street instead of interior blocks or parking lots, and incorporate porches, fenestration, landscaping, and architectural details.
- 4) **MUST** meet the accessibility requirements of the Fair Housing Act and Section 504 of the Rehabilitation Act of 1973, and the Maine Human Rights Act for multi-family housing. Provide for universal accessibility to the extent possible.
- 5) Should provide visual and acoustical privacy between units while maximizing natural light and ventilation within units.

H. Timeframe

The applicant must describe projected dates by which commitments will be obtained; the closing will take place, construction start-up, substantial completion, final completion and occupancy. Timeframes must be realistic and achievable. All funded projects must be able to start construction within 12 months of notice of award.

III. APPLICATION REQUIREMENTS

Complete responses to this application, should include one (1) original printed version of the application with original signatures **plus** one (1) **full** electronic version, submitted via email, USB drive or CD. Printed version must be signed by an officer or employee having authority to bind the organization.

Applications must be submitted electronically and in paper form to:

City of Portland: Housing and Community Development Division
Attention: Mary Davis
389 Congress Street, Room 312
Portland, ME 04101
mpd@portlandmaine.gov
207-874-8711

A. Project Summary

A brief description of the project, no longer than two pages, to include the number and type of units, tenants or owners to be served, special features, the impact on the neighborhood and other ways the application meets the selection criteria and preference guidelines.

Photographs and maps of the site and area are required.

Note: All respondents should investigate legal and zoning requirements for proposed projects prior to submission of application.

B. All Applications Must Provide The Following:

- 1) Evidence of site control
- 2) A zoning opinion from an attorney or land use professional indicating if the project meets current zoning, or if zoning amendments will be required.
- 3) Conceptual architectural and site plans
- 4) A project schedule showing critical path events and their timeframe for completion;
- 5) Map showing location of site
- 6) Corporation/partnership articles and by-laws
- 7) Organization's DUNS Number
- 8) Applicant's audits for 3 most recent years. (If audits are not available, applicant must submit 3 years of internally prepared or CPA compiled statements AND 3 years of tax returns WITH attachments).
- 9) Most recent quarterly income and expense report (management prepared).
- 10) A brief development team summary, including:
 - The type of organization/ownership structure and organization chart if developer is not the same legal entity as the ultimate owner of the project
 - The names of Board of Directors, Corporate Officers, or Owners, as appropriate
 - Name, title and relevant experience of individuals involved in managing the business entity and this proposed project. A copy of the 501(3)(c) exemption certification
 - Brief description of similar projects completed for developer, architect, and General Contractor (if selected)
 - A list of all projects currently in development with status and projected timeframe

- 11) A sources and uses funding statement
- 12) A detailed development budget including all acquisition, construction, and soft costs, including any prefunded reserves and developer fee
- 13) Cost estimates for construction, signed by architect or GC
- 14) For renovation projects, a capital needs assessment completed by an independent party, including their qualifications to perform such assessment
- 15) Preliminary operating budget identifying rents and expenses for the first year
- 16) Projected prefunded project reserves and annual contributions to reserves
- 17) Debt service coverage ratio over the 15-year operating pro forma timeline
- 18) A 15-year operating pro forma for the project with inflators of 2% on income and 3% on expenses
- 19) Evidence of financial commitments, or explanation of the ability and timing to secure those commitments. A statement describing the applicant's capacity for and experience in raising the type of capital needed to finance projects of this size and type.
- 20) Projects serving special needs populations must provide evidence of commitments of support services, and a description of the service provider and funding cycle for those services.
- 21) Applicant must include a management plan for the long-term management of the project including manager's experience and capacity.
- 22) An analysis and discussion of market demand justifying the need for the proposed project.
- 23) **For Renovation of Operational Projects (or projects with operational components) the following items are also required:**
 - Relocation plan budget
 - Description of all current debt, operation subsidies, and services provided (as applicable)
 - Current rent roll
 - 2 years of audits for project property (if available) OR 2 years of management income and expense statements for project property
 - Most recent Quarter internally prepared income and expense statement.

IV. SELECTION PROCESS

Selection criteria will be used in reviewing and scoring the applications.

A. Point System for Evaluating and Scoring Applications (Max 100)

Proposed use of funds to achieve the City of Portland's goals and address demonstrated need. 30 points

Maximum points will be awarded for those applications that demonstrate sufficient market demand, create housing options which promote economic diversity in the neighborhood in which the development is located, are consistent with the Comprehensive Plan, leverage funds efficiently, and include a policy prohibiting smoking.

Financial feasibility, including cost, development budget operating pro forma and the provision of secured and leverage funds. 25 points

Maximum points will be awarded for those applications that include a complete set of financial documents to support the financing request, contain a realistic set of sources and uses development budgets and a pro forma operating budget, include sufficient reserves for operations and maintenance, including pre-funded reserves, and long-term financial sustainability of the project is highly likely.

Applicant's ability to complete project, including development team experience, capacity, project readiness and timeframe for completion. 25 points

Maximum points will be awarded for those applications that demonstrate the readiness of the project to proceed, a development team with a successful track record in projects of similar size, scale, type and complexity to the proposed project and the capacity to fulfill their responsibilities.

Impact on surrounding neighborhood, including design compatibility and environmental issues. 20 points

Maximum points will be awarded for those applications where site selection is appropriate for use, no zoning amendments are required, the design is consistent with neighborhood design characteristics, amenities and unit design are well thought out and appropriate, where no environmental issues have been identified and meet the requirements of the City of Portland's Green Building Ordinance.

B. Evaluation and Selection Process and Timeframe

Applications will be reviewed by an evaluation team that will include City of Portland staff. The following process will be used:

- 1) All applications will be reviewed for completeness. Only complete applications will be reviewed under the scoring factors in order to recommend the most qualified applications based on the information submitted. The application review team may confer with the applicants and/or third parties to clarify or verify information and request additional information.

- 2) Recommendations, along with all applications and scoring information, will be forwarded to the City Council's Housing Committee for review and approval. Their recommendations will be forwarded to the City Council for final review and approval.
- 3) Applicants will be kept informed throughout the review process, specifically in regard to recommendations and funding levels.
- 4) The evaluation and review process should be substantially complete within 30 days of receipt of complete application. Applicants will be notified of their application status as soon as possible.
- 5) Based on City Council approval, successful applicants will receive a letter of funds reservation. A letter of funds reservation is not a commitment letter but an agreement to set aside budgeted funds for up to six months, to allow the project sponsor to proceed with securing other commitments.

V. Instructions and Other Information

The City of Portland reserves the right, at its sole discretion, to award all, a portion, or none of the available funding from this application, as well as reject any and all applications for city funding, based on the quality and merits of the applications received, or when it is determined to be in the public interest to do so. Furthermore, the City of Portland may extend deadlines and timeframes, as needed.

Confidentiality: Applications received by the City of Portland shall become a matter of public record subject to public inspection, except to the extent, which an applicant designates in writing, proprietary data to be confidential and submits that data under separate cover, such information may be held from public inspection, as provided in Maine law: 5 MRSA Sections 13119-A and 13119-B.

VI. Equal Employment Opportunities

Vendor shall comply fully with the Nondiscrimination and Equal Opportunity Provisions of the Workforce Investment Act of 1998, as amended (WIA, 29 CFR part 37); the Nontraditional Employment for Women Act of 1991; title VI of the Civil Rights Act of 1964, as amended; section 504 of the Rehabilitation Act of 1973, as amended; the Age Discrimination Act of 1975, as amended; title IX of the Education Amendments of 1972, as amended; and with all applicable requirements imposed by or pursuant to regulations implementing those laws, including but not limited to 29 CFR part 37.

VII. Reservation of Rights

The City of Portland reserve the right, at its sole discretion, to award all, a portion, or none of the available funding from this application, as well as reject any and all applications based on the quality and merits of the applications received, or when it is determined to be in the public interest to do so. Furthermore, the City of Portland may extend deadlines and timeframes, as needed.

The selection of a proposal through this application process does not guarantee any other City approvals. All projects will be subject to the City's standard development review process. Similarly, *selection of a proposal through this application process does not signify that the City will not request modifications to the proposed development plan or negotiate additional details, covenants or terms that are not specifically outlined in this application.*

The City of Portland reserves the right to substantiate any proposers' qualifications, capability to perform, availability, past performance records and to verify that the applicant is current in its financial obligations to the City of Portland.

All materials and equipment used as well as all methods of installation shall comply at a minimum with any and all Federal, OSHA, State and/or local codes, including applicable municipal ordinances and regulations.

The successful applicant shall agree to defend, indemnify and save the City of Portland harmless from all losses, costs or damages caused by its acts or those of its agents, and, before signing the contract, will

produce evidence satisfactory to the City of Portland's Corporation Counsel of coverage for General Public and Automobile Liability insurance in amounts not less than \$400,000 per person, for bodily injury, death and property damage, protecting the contractor and the City of Portland, and naming the City of Portland as an additional insured from such claims, and shall also procure Workers' Compensation insurance.

Pursuant to City of Portland procurement policy and ordinance, the City of Portland is unable to contract with businesses or individuals who are delinquent in their financial obligations to the City of Portland. These obligations may include but are not limited to real estate and personal property taxes and sewer user fees. Applicants who are delinquent in their financial obligations to the City of Portland must do one of the following: bring the obligation current, negotiate a payment plan with the City of Portland's Treasury office, or agree to an offset which shall be established by the contract which shall be issued to the successful applicant.

The City of Portland, Maine, reserves the right to waive any informalities in applications, to accept any application or portion thereof, and, to reject any and all applications, should it be in the best in the best interest of the City of Portland to do so.

It is the custom of the City of Portland, Maine to pay its bills 30 days following the receipt of correct invoices for all items covered by the approved application.

VIII. APPLICATION SIGNATURE PAGE

THIS PAGE MUST BE INCLUDED

The UNDERSIGNED hereby declares that he/she or they are the only person(s), firm or corporation interested in this application as principal, that it is made without any connection with any other person(s), firm or corporation submitting a application for the same.

The UNDERSIGNED hereby declares that they have read and understand all conditions as outlined in the invitation for bids, and that their application is made in accordance with same.

The UNDERSIGNED hereby declares that any person(s) employed by the City of Portland, Maine, who has direct or indirect personal or financial interest in this application or in any portion of the profits that may be derived there from, has been identified and the interest disclosed by separate attachment. (Please include in your disclosure any interest which you know of. An example of a direct interest would be a City of Portland employee who would be paid to perform services under this application. An example of indirect interest would be a City of Portland employee who is related to any officers, employees, principal or shareholders of your firm or to you. If in doubt as to status or interest, please disclose to the extent known).

The proposer acknowledges the receipt of Addenda numbered _____
If Applicable

COMPANY NAME: _____
(Individual, Partnership, Corporation, Joint Venture)

AUTHORIZED SIGNATURE: _____ DATE: _____
(Officer, Authorized Individual or Owner)

PRINT NAME & TITLE: _____

ADDRESS: _____

TELEPHONE: _____ FAX: _____

E-MAIL: _____ FEDERAL TAX ID NUMBER: _____

DUNS NUMBER: _____

NOTE: All bids must bear the handwritten signature of a duly authorized member or employee of the organization making the bid. This sheet must be signed and returned with the application package.

Subsidized Housing Development in Portland Since 2000

No.	Owner/Project	Units	HOME	HDF	CDBG	HTF	TIF	NSP
1	Motherhouse	88	\$ 627,223	\$ -	\$ -	\$ -	\$ -	\$ -
2	Adams School*	16	\$ -	\$ -	\$ -	\$ -	\$ -	\$1,710,000
3	Rosa True School	10	\$ 118,500	\$ -	\$ -	\$ -	\$ -	\$ -
4	53 Danforth	43	\$ 325,000	\$ -	\$ -	\$ -	\$ -	\$ -
5	Bayside Anchor	45	\$ 500,000	\$ -	\$ -	\$ -	\$ -	\$ -
6	134 Washington Ave	18	\$ 522,448	\$ -	\$ -	\$ -	\$ 207,116	\$ -
7	17 Carleton	37	\$ -	\$ -	\$ -	\$ -	\$ 726,000	\$ -
8	409 Cumberland	57	\$ 500,000	\$ -	\$ -	\$ -	\$ 759,392	\$ -
9	65 Munjoy*	8	\$ -	\$ -	\$ -	\$ 175,000	\$ -	\$ -
10	Florence House	25	\$ 240,000	\$ -	\$ -	\$ -	\$ -	\$ -
11	Fore River	20	\$ 388,474	\$ -	\$ -	\$ -	\$ -	\$ -
12	IRIS Park Apartments	31	\$ -	\$ 250,000	\$ -	\$ -	\$ -	\$ -
13	Logan Place	30	\$ 435,000	\$ -	\$ -	\$ -	\$ -	\$ -
14	Oak Street	37	\$ -	\$ -	\$ -	\$ 380,585	\$ -	\$ -
15	Pearl Place - Phase I	60	\$ 427,000	\$ -	\$ -	\$ -	\$ 615,502	\$ -
16	Pearl Place - Phase II	54	\$ 400,000	\$ -	\$ -	\$ -	\$ -	\$ -
17	Unity Village	33	\$ 86,500	\$ -	\$ 363,863	\$ -	\$ -	\$ -
18	Bayside East	20	\$ 250,000	\$ -	\$ -	\$ -	\$ -	\$ -
19	Elm Terrace	38	\$ 403,795	\$ -	\$ -	\$ -	\$ -	\$ -
20	Shalom House	10	\$ 93,000	\$ -	\$ -	\$ -	\$ -	\$ -
21	Island View Apartments	70	\$ 71,015	\$ 192,639	\$ 136,346	\$ -	\$ -	\$ -
22	Peaks Island Senior Housing	12	\$ 150,000	\$ -	\$ -	\$ -	\$ -	\$ -
23	Peninsula Community II LP	16	\$ 307,700	\$ -	\$ -	\$ -	\$ -	\$ -
24	Peninsula Community III LP	10	\$ 200,000	\$ -	\$ -	\$ -	\$ -	\$ -
25	Peninsula Community LP	12	\$ 300,000	\$ -	\$ -	\$ -	\$ -	\$ -
26	St. Doms Family Housing	12	\$ -	\$ 436,500	\$ -	\$ -	\$ -	\$ -
27	Valley Street	24	\$ 320,000	\$ -	\$ -	\$ -	\$ -	\$ -
28	Walker Terrace	40	\$ 382,000	\$ 220,000	\$ -	\$ -	\$ -	\$ -
29	Wellesley Estates	45	\$ -	\$ 256,000	\$ -	\$ -	\$ -	\$ -
30	Yale Court	30	\$ 150,000	\$ 200,000	\$ -	\$ -	\$ -	\$ -
		Units	HOME	HDF	CDBG	HTF	TIF	NSF
Total		951	\$7,197,655	\$1,555,139	\$500,209	\$555,585	\$2,308,010	\$1,710,000

* = Homeownership

Total City Investment	\$13,826,598
Avg. City Contribution/Unit	\$14,539.01

Last Updated 09.19.2017

O:\HCD\Housing\Housing Data\Housing Developments

Order 191-16/17
Passage: 9-0 on 4/5/2017

Effective 4/15/2017

ETHAN K. STRIMLING (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
BRIAN E. BATSON (3)
JUSTIN COSTA (4)

CITY OF PORTLAND
IN THE CITY COUNCIL

DAVID H. BRENERMAN (5)
JILL C. DUSON (A/L)
PIOUS ALI (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

ORDER ACCEPTING AND ADOPTING
THE 2017 HOUSING TRUST FUND ANNUAL PLAN

ORDERED, that the 2017 Housing Trust Fund Annual Plan, attached hereto, is hereby accepted and adopted.

HOUSING TRUST FUND 2017 ANNUAL PLAN

The Housing Trust fund is established by Section 14-489 of the City’s Code of Ordinances. Section 14-489 (e) states that “the city council shall adopt a housing trust fund annual plan” and that the “housing committee of the city council or such other committee as the council shall designate shall conduct public hearings on the recommended plan and refer the matter to the council for action.”

The Annual Plan will establish the priorities in which the current balance of the Housing Trust Fund will be allocated. The plan is in line with City Council Goals from 2014: Promote Housing Availability – Provide increased availability in all segments of the housing market while insuring that there is a suitable balance of housing opportunities among those sectors and from 2016, Plan for five new “Housing First” projects.

This budget is based on the current balance in the Housing Trust Fund which is primarily a result of fees generated by the Housing Replacement Ordinance. The balance of the Housing Trust Fund is \$468,551. While staff anticipates increases in revenue in the Housing Trust Fund as a result of the Inclusionary Zoning Ordinance and other sources being considered by the City Council, those anticipated resources are not included in the 2017 Annual Plan.

Sources and Uses of Housing Trust Fund:

DEPOSITS		EXPENDITURES	
Maine Medical Center 2002-2003	\$ 315,580	Avesta Oak Street Lofts 2011	\$ (380,585)
Sportsman's Grill 2002	\$ 40,000	Housing First Pre-Development RFP	\$ (75,000)
Berlin City Auto 2009	\$ 116,000	65 Hanover St	\$ (9,250)
Stop n Shop 2010	\$ 289,250	65 Munjoy ST	\$ (175,000)
Rockbridge/Eastland Park 2012	\$ 42,500		
Riverwalk/Ocean Gateway 2012	\$ 250,000		
118 Congress LLC April 2014	\$ 3,500		
Interest earned	\$ 51,556	Balance	\$ 468,551

City Ordinance requires that the Housing Trust Fund Annual Plan include a description of the programs to be funded, a budget for each program and identify how the funds will be distributed among very-low (at or below 50% of the area median income), low (at or below 80% of the area median income) and moderate income (at or below 120% of the area median income) households.

The Housing Trust Fund is a valuable tool that can assist the City in meeting the goal of providing increased availability in all segments of the housing market. While the City has other resources such as the HUD HOME and CDBG Programs, those funds are limited in amount and scope. The proposed Housing Program budget for FY 2017-2018 includes \$327,145 in HOME funding for affordable housing development, \$150,000 for housing rehabilitation and \$362,113 in CDBG housing program income for housing rehabilitation. The HOME program restricts rental housing assistance to households at or below 60% of the area median income and home ownership assistance to households at or below 80% of the area median income. The CDBG program is restricted to households at or below 80% of the area median income. City Ordinance allows the Housing Trust Fund to assist households at or below 120% of area median income.

The purpose of the Housing Trust Fund is the “...promotion, retention and creation of an adequate supply of housing, particularly affordable housing, for all economic groups and to limit the net loss of housing units in the City.” and “To serve as a vehicle for addressing very low, low and median income housing needs...”. Currently, the Housing Trust Fund revenue is generated by the Housing Preservation and Replacement Ordinance. However, the recently approved Inclusionary Zoning Ordinance, along with other funding resources under Council consideration, will provide additional revenue for the Housing Trust Fund.

Affordability restrictions are required. In the case of rental or cooperative units, the units must remain affordable for the life of the housing unit which is presumed to be a minimum of thirty (30) years. Homeownership units must include resale restrictions that maintain an “equitable balance” between the interests of the owner and the City. These restrictions must be documented and recorded in the Cumberland County Registry of Deeds.

Housing Trust Fund resources should be focused on opportunities where other funding sources do not work or are not effective. Housing Trust Fund investment should be focused on projects designed to create workforce housing targeted to households earning 80% to 120% of the area median income and rental housing projects targeted to very-low income households (at or below 50% of the area median income). As always, the City should act prudently when deciding to invest these funds. Developments or projects requesting financing assistance from the Housing Trust Fund will be brought to the City Council for funding approval.

The Housing Trust Fund resources are also intended to promote the retention of affordable housing. Staff recommends that Housing Trust Fund resources be made available, if necessary, to exercise the City’s right of first refusal it may have in connection with potential foreclosure issues with affordable homeownership units. This is unlikely to occur in the near future but may come up as more workforce homeownership units are created through Portland’s new inclusionary zoning ordinance. Similarly, Housing Trust Funds resources should also be considered for aiding households that own affordable units to pay special assessments from their condominium or homeowners association in order to help maintain the unit’s affordability and reduce any risk of foreclosure. It is important to allow for the consideration of using funds in these manners as foreclosure of a unit can jeopardize any affordability restrictions associated with the property.

Staff is requesting City Council approval of the proposed 2017-2018 Housing Trust Fund Annual Plan for the balance of \$468,551 currently existing in the Housing Trust Fund. Any revenue generated above and beyond the existing balance will not be allocated without an amendment to the Annual Plan.