

City of Portland

Affordable Housing Tax Increment Financing Application



January – December, 2020

TABLE OF CONTENTS

Table of Contents

| | | |
|------|--|----|
| I. | GENERAL INFORMATION..... | 3 |
| A. | Availability of Funding | 3 |
| B. | General Guidelines..... | 3 |
| C. | Conditions for Approval..... | 3 |
| D. | Goals for the designation of an Affordable Housing TIF | 4 |
| II. | SCOPE OF SERVICES | 4 |
| A. | General Specifications..... | 4 |
| B. | Site Information and Criteria..... | 4 |
| C. | Financial Feasibility | 5 |
| D. | Market Demand..... | 5 |
| E. | Applicant Capacity | 5 |
| F. | Term of Affordability..... | 5 |
| G. | Financing Terms..... | 5 |
| H. | Design Compatibility | 6 |
| I. | Timeframe | 6 |
| III. | APPLICATION REQUIREMENTS | 6 |
| A. | Project Summary | 7 |
| B. | All Applications Must Provide The Following: | 7 |
| IV. | SELECTION PROCESS | 9 |
| A. | Evaluation and Selection Process and Timeframe | 9 |
| V. | Instructions and Other Information..... | 9 |
| VI. | Equal Employment Opportunities..... | 10 |
| VII. | Reservation of Rights..... | 10 |

I. GENERAL INFORMATION

A. Availability of Funding

The Affordable Housing Tax Increment Financing (AHTIF) Program is a financing tool authorized under state law (30-A M.R.S.A. §§5245-5250-G) to support the implementation of affordable housing development programs. The City of Portland has made the development of housing a priority, as identified in the City of Portland's 2016-2020 HUD 5-year Consolidated Plan, City Council Common Goals and the Comprehensive Plan. To accomplish this priority, the City of Portland will accept applications to designate an affordable housing development district for the creation or maintenance of affordable housing in the City of Portland.

The City of Portland's Division of Housing and Community Development follows a three-step process to approve establishment of an Affordable Housing TIF District. First, the City Council's Economic Development and Housing Committees provide a recommendation to the City Council regarding the establishment of an Affordable Housing TIF district. If the City Council approves the recommendation, the City submits an application to the Maine State Housing Authority. MaineHousing reviews the application from the City to ensure compliance with the Affordable Housing Tax Increment Financing Statute. The process begins with the submittal of a completed Affordable Housing Tax Increment Financing application to the City of Portland. The City of Portland reserves the right to deny any application that does not meet the application criteria.

B. General Guidelines

Developments shall provide decent, safe and sanitary dwellings such as single-family homes, apartments, condominiums, or other living accommodations for households whose income does not exceed 120% of the median income for the area as defined by the U.S. Department of Housing and Urban Development (HUD). Affordable housing does not include facilities such as shelters, nursing homes, convalescent homes, hospitals, residential treatment facilities, correctional facilities, student dormitories, or unattached mobile homes, regardless of income level. Projects must show that the development meets an identified community housing need, the City's participation is financially necessary in order for the project to proceed, and the applicant has the financial capacity to support their project. The ongoing affordability period for a single-family, owner-occupied unit is 10 years and 30 years for rental units. The affordability term is to be secured by a declaration of covenants and restrictions recorded in the Cumberland County Registry of Deeds. A minimum of \$500,000 in new taxable investment property value for affordable housing development is needed to qualify for an Affordable Housing TIF.

The following sections outline the information to be included in the Affordable Housing TIF application.

C. Conditions for Approval

Designation of an Affordable Housing Development District is subject to the following conditions.

- i. At least 25%, by area, of the real property within an Affordable Housing Development district must be suitable for residential use; or be a blighted area; or in need of rehabilitation or redevelopment.
- ii. The Affordable Housing Development program must show that the development meets an identified community housing need.

- iii. The district must be primarily a residential development on which at least 33% of the dwelling units are affordable for households at or below 120% of Area Median Income (AMI) and that may be designed to be compact and walkable and to include internal open space, other common open space and one or more small-scale nonresidential uses of service to the residents of the development.
- iv. *Projects approved for a site-specific tax increment financing district utilizing a credit enhancement agreement must ensure that any firms employed in the construction phase of a TIF-assisted project compensate all employees the current wage rates and fringe benefits as required under applicable state prevailing wage law under 26 M.R.S.A. §1306, or Portland City Ordinance Ch. 33, §33-1 to 33-12, whichever is greater. State prevailing wage rates may exceed Davis-Bacon wage rates. Projects that are required to meet the local TIF policy wage rate requirements and federal Davis-Bacon wage requirements must use the higher wage rate based on job classification.*

D. Goals for the designation of an Affordable Housing TIF

Authorized by state statute as a public purpose for the development of affordable, livable housing, the goal for the designation of an Affordable Housing TIF is to increase, preserve, and modify the overall supply of housing citywide to meet the needs, preferences and financial capabilities of all Portland residents. Development should be consistent with state law and the City of Portland's Comprehensive Plan. The City of Portland seeks development projects that create contextually appropriate housing density in and proximate to neighborhood centers, concentrations of services, and transit nodes and corridors as a means of supporting complete neighborhoods. 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 incorporate quality, sustainable design.

II. SCOPE OF SERVICES

A. General Specifications

Eligible projects must create permanent structures such as single-family homes, apartments or condominium units and provide housing for households whose income does not exceed 120% of the median income for the area as defined by the U.S. Department of Housing and Urban Development (HUD).

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 90 years, or other acceptable method. At a minimum, site control must extend through December 31, 2020.
- 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 Affordable Housing TIF 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 Affordable Housing TIF 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) All projects will be reviewed for the cost of improvements made within the Affordable Housing Development district.

D. Market Demand

Applicants must show that the development meets an identified community housing need.

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

The ongoing affordability period for a single-family, owner-occupied unit is 10 years and 30 years for rental units. The affordability term is to be secured by a declaration of covenants and restrictions recorded in the Cumberland County Registry of Deeds.

G. Financing Terms

During the term of the Affordable Housing District and the Development Program, tax increment revenues from the Affordable Housing District claimed by the City as captured assessed value may be

used to pay authorized project costs. Authorized project costs are noted in 30-A M.R.S.A. §5249, a list of which is attached. Tax increment revenues will be paid by the City to the Project owner pursuant to a Credit Enhancement Agreement to be entered into by and between the City and the Project owner.

H. 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. Applicant must provide evidence reasonably satisfactory to the City of Portland demonstrating that the project was designed, constructed and rehabilitated in accordance with the Green Building Ordinance.
- 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.

I. 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: Victoria Volent
 389 Congress Street, Room 312, Portland, ME 04101
vvolent@portlandmaine.gov; 207-482-5028

All applicants are encouraged to apply by April 30, 2020. Those who require a conditional commitment

as part of other financing applications, such as the Low Income Housing Tax Credit Program, must apply no later than April 30, 2020.

A. Project Summary

A narrative description of the project that includes:

- Property address
- Tax chart, block and lot number
- Total district acreage
- Zoning designation where district is located, including allowed uses in that zone
- Description of municipal housing need addressed by the creation of the district and how the district addresses that need
- Percentage of district acreage that is suitable for residential use, blighted, or in need of rehabilitation/redevelopment;
- Number and type of units to be constructed or rehabilitated; (level of affordability, rental, homeownership, single-family home, condominium unit; number of bedrooms in each unit, etc.);
- Description of residential and non-residential uses in the district and acreage of each;
- Description of accessory uses relating to residential use, if any;
- Description of how housing and facilities in the district will be operated after completion;
- Description of planned uses of tax increment revenues from the district;

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) A municipal map showing district boundaries
- 6) A tax map showing district boundaries
- 7) Corporation/partnership articles and by-laws
- 8) Organization's DUNS Number
- 9) 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).

- 10) Most recent quarterly income and expense report (management prepared).
- 11) 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
- 12) A sources and uses funding statement *
- 13) A detailed development budget including all acquisition, construction, and soft costs, including any prefunded reserves and developer fee*
- 14) Cost estimates for construction, signed by architect or GC
- 15) Applicant must provide evidence reasonably satisfactory to the City of Portland demonstrating that the project was designed, constructed and rehabilitated in accordance with the City's Green Building Ordinance ([Chapter 6, Article VII, Sec. 6-165](#)).
- 16) For renovation projects, a capital needs assessment completed by an independent party, including their qualifications to perform such assessment
- 17) Preliminary operating budget identifying rents and expenses for the first year*
- 18) Projected prefunded project reserves and annual contributions to reserves*
- 19) Debt service coverage ratio over the 15-year operating pro forma timeline*
- 20) A 15-year operating pro forma for the project with inflators of 2% on income and 3% on expenses*
- 21) 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.
- 22) 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.
- 23) Applicant must include a management plan for the long-term management of the project including manager's experience and capacity.
- 24) An analysis and discussion of market demand justifying the need for the proposed project.

25) For Renovation of Operational Projects (or projects with operational components) the following items are also required:

- Relocation plan for persons temporarily or permanently displaced by the development activities
- Relocation 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.

*Please use the Maine Housing Underwriting spreadsheet or its tax credit equivalent, if applicable.

IV. SELECTION PROCESS

Selection criteria will be used in reviewing the applications.

A. 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 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, will be forwarded to the City Council's Economic Development and Housing Committees for review and approval. Their recommendation will be forwarded to the City Council for final review and approval prior to submission to MaineHousing.
- 3) Based on City Council approval, successful applications must be reviewed by MaineHousing to ensure the proposed district and development program comply with the Municipal Affordable Housing Development District statute, 30-A M.R.S.A. §§5245 – 5250 – G.
- 4) Applicants will be kept informed throughout the review process.
- 5) The evaluation and review process should be substantially complete within 30 days of receipt of the completed application. Applicants will be notified of their application status as soon as possible.

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 §§ 13119-A and 13119-B.

Compliance with Federal Law: The selected applicant will be required to certify that the development and management of the proposed housing will be in compliance with all applicable laws, executive orders, OMB Circulars and federal regulations, including but not limited to: Fair Housing Act, Equal Opportunity and Non-discrimination, National Environmental Policy Act (NEPA), the Uniform Relocation Assistance and Real Property Acquisition Policies Act, the Davis-Bacon Act, the Lead-Based Paint Poisoning Prevention Act, Flood Disaster Protection Act, Conflict of Interest, Contractor Debarment and Cost Principles.

Projects must meet the rules and regulations of MaineHousing as noted in their Affordable Housing Tax Increment Financing Application. Any costs incurred by the City to meet Maine Housing AHTIF Application regulations, such as newspaper advertisements, underwriting fees, etc., shall be passed along to the selected applicant.

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 designate an affordable housing development district and adopt an affordable housing development program for the district 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 an application for the same.

The UNDERSIGNED hereby declares that they have read and understand all conditions as outlined in the Affordable Housing Tax Increment Financing Application, 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).

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

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

PRINT NAME & TITLE: _____

ADDRESS: _____

TELEPHONE: _____ E-MAIL: _____

FEDERAL TAX ID #: _____ DUNS #: _____

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.**