



# HOME Investment Partnerships Program

## MULTIFAMILY DEVELOPMENT PROGRAM GUIDELINES

Revised October 2024

HOUSING & COMMUNITY DEVELOPMENT DIVISION  
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فاكس: 208-384-4195 ، TTY: 1-800-377-3529 هاتف: 208-570-6830 ، ، [Housing@cityofboise.org](mailto:Housing@cityofboise.org) (الطابق الثاني) 4195 N. Capitol Blvd ، أو 150

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[housing@cityofboise.org](mailto:housing@cityofboise.org)

تلفن: ۲۰۸-۵۷۰-۶۸۳۰

تلفن ناتوانان گفتاری و/یا ناشنوا: ۱-۸۰۰-۳۷۷-۳۵۲۹

شماره فکس: ۲۰۸-۳۸۴-۴۱۹۵  
یا به صورت حظوری به ادرس

150 N. Capitol Blvd (2<sup>nd</sup> floor) (طبقه دوم)

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This document sets forth the requirements for the City's awards of HOME funds for multifamily development projects. Use of HOME funds for other eligible activities are addressed in other publications. The requirements for affordable housing projects funded by City general funds or other fund sources are also addressed in other publications. The controlling requirements applicable to any particular HOME project will be documented in a HOME Agreement between the City and developer. In the event of a conflict between the HOME Agreement and these program guidelines, the HOME Agreement shall prevail.

These Program Guidelines are not intended to address every circumstance or regulatory requirement for the HOME program. Omission of any federal, state, or local requirement or law does not relieve the project owner/applicant or the City from adhering to all applicable requirements. Revisions to these program guidelines may be implemented by the City in response to regulations, legal requirements, or any other changes deemed necessary at the City's sole and absolute discretion. Such revisions may occur without notice and are applicable to all pending and future applications. Applicants are responsible for complying with any changes.

### 1. PROGRAM SUMMARY

The City of Boise supports the development of affordable rental housing for low-income, very low-income, and extremely low-income households with its annual funding allocation from the U.S. Department of Housing and Urban Development's (HUD) HOME Investment Partnerships Program (HOME). HOME was created under Title 11 of the Cranston-Gonzalez National Affordable Housing Act of 1990 with implementing regulations at 24 CFR Part 92.

See chart below for HOME income categories and corresponding household area median incomes (AMI):

Low-Income		Very Low-Income	Extremely Low-Income
≤80% AMI	≤60% AMI*	≤50% AMI	≤30% AMI

*\*60% limit used for LIHTC projects*

In general, HOME is intended to expand the supply of decent, safe, sanitary, and affordable housing, with primary attention on rental housing. HOME is primarily focused on very low-income households at or below 50% AMI and low-income households at or below 60% AMI.

The City's HOME funds will be used to provide gap financing to housing projects located within Boise City limits that are affordable to residents at or below the program's applicable income limits. In exchange for low-cost permanent financing, property owners will agree to income, rent, and other restrictions for a set period of affordability. The **HOME period of affordability** (POA) ranges from 5 to 20 years depending on funding amount and project type. In an effort to meet and sustain the demand for affordable housing, the City imposes an **extended commitment period** of 30 years beyond the federally required HOME POA. The total combined period of HOME POA and City

Extended Commitment Period is referred to as the *total performance period* in this document, which will be 35-50 years depending on the HUD funding requirement for rental housing in the chart below.

HOME Assistance for Rental Housing Activity (per unit)	HOME Period of Affordability (POA)	City of Boise Extended Commitment Period
<i>Rehabilitation</i> or <i>acquisition</i> of existing housing: \$1,000 to \$15,000	5 years	Additional 30 years (beyond HOME POA)
\$15,000 to \$40,000	10 years	
More than \$40,000	15 years	
Rehabilitation involving <i>refinancing</i> of rental housing	15 years	
<i>New Construction</i> or <i>acquisition</i> of newly constructed rental housing (any amount)	20 years	

*\* The HOME POA ends on December 31<sup>st</sup> of the year that completes the required period and the City extended period begins January 1<sup>st</sup>.*

Projects are monitored for compliance during the total performance period, with possible variation of requirements between the HOME and City periods, as outlined in the HOME Agreement. Project developers, owners, and sponsors (as defined by HUD) must coordinate funders' requirements when there are multiple funding sources. The City's standards do not defer to those of other lenders, investors, or funders.

## 2. APPLICATION PROCESS & EVALUATION PROCEDURE

The City will solicit responses to a Notice of Funding Opportunity (NOFO) on a rolling basis. Each NOFO will outline any specific funding focus (project type, population served, etc.), and other special considerations affecting review criteria.

### A. Submission of Materials

All HOME Multifamily Development Program applicants must comply with the submission criteria set forth in the specific NOFO, which may vary based on funding available and City priorities. The application and supporting documentation must be submitted in Neighborly. The City reserves the right to require the submission of additional information/documentation as needed to complete project underwriting.

### B. Initial Review and Preliminary Awards

Upon submission of a proposal for HOME funds, City staff will conduct an initial review and analysis of the project and developer(s) as presented in the proposal. Proposals will be scored based on criteria in the NOFO. Regardless of numerical ranking, the scoring alone does not operate to select an applicant or project or to reserve or commit HOME funds. The City will, in all instances, commit HOME funds at its sole and absolute discretion based on due diligence, sound and reasonable judgment, prudent business practices, and alignment with City strategic priorities. Presentations of proposals by developer(s) may be required by the City to help inform selection of preliminary awards.

The City will provide a preliminary award decision within four weeks of application submittal, assuming all required information is provided. Incomplete applications, or applications requiring further information, may require additional review time. Preliminary awards are non-binding and may be contingent upon several things, including but not limited to 1) approval of the City's Annual Action Plan; 2) the availability of HOME funds; 3) final commitment of all funding sources (including the applicant's receipt of a Low Income Housing Tax Credit award, if applicable); 4) an environmental review clearance and release of funds secured from HUD (as applicable); 5) execution of a HOME Agreement between the City and the developer/applicant; 6) Mayor and City Council approval; and 7) any other items noted in the project-specific Preliminary Award Letter.

Should the City's HOME allocation from HUD be reduced or eliminated, no claim may be made against the City's General Fund or other resources regardless of the status of the proposal(s) or issuance by the City of a Preliminary Award Letter(s) for HOME funding.

***Construction of projects must start within 12 months of the date of the executed HOME Agreement. If acquiring vacant land, construction on the HOME project must begin within 12 months of purchase.***

### **C. Contracting/Commitment Process**

For projects receiving a preliminary award, designated City staff (or its agents) will be responsible for guiding projects to formal commitment (i.e., execution of binding legal agreements obligating HOME funding). This includes managing final underwriting of the project, ensuring any general or special conditions of the preliminary award are met, negotiating project-specific transaction terms, and coordinating with legal counsel. Projects that are not selected for an award of funds will receive a letter releasing them from any federal requirements triggered by application to the City for HOME funds.

Following commitment and loan closing, designated City staff (or its agents) will work with the owner through the project being placed in service, including processing draw requests, reviewing construction progress and compliance with labor standards, approving any proposed contract changes, and ensuring compliance of the project as it approaches construction completion, the start of marketing, and being placed in service.

### **D. Ongoing Compliance & Asset Management**

Once a project is placed in service, it is assigned to the City's Compliance Team, who will retain monitoring responsibility throughout the total performance period or life of the HOME loan, whichever is longer. The City may partner with other federal/state/municipal funding entities (such as Idaho Housing and Finance Association (IHFA)) on monitoring duties.

The Compliance Team (or its agents) will be responsible for overseeing annual and periodic on-site monitoring of the project, reviewing financial performance including withdrawals from reserves, ensuring any payments due have been properly collected, and otherwise managing the City's relationship with the project and owner over time.

### 3. PROJECT FUNDING REQUIREMENTS

#### A. Eligibility Criteria

##### Eligible Applicants

Developers and owners of affordable rental housing – including for-profit and nonprofit developers, public housing authorities, and City-designated community housing development organizations (CHDOs) – are eligible to apply for HOME funding subject to the program-specific limitations noted below:

- While public housing authorities are eligible to apply, public housing units supported by Public Housing Capital or Operating funds authorized by the 1937 Act are **not eligible** for HOME funding. Non-public housing units (non-federally funded housing) owned and developed by a public housing authority are eligible.
- CHDOs are a specific type of community-based nonprofit organization defined at 24 CFR 92.2. The HOME program includes an annual set-aside of funds for projects owned, developed, or sponsored by CHDOs. Prior to committing funds, the City will review the status of any organization seeking funds from the CHDO set-aside to ensure that it meets all HOME requirements, that it has sufficient staff capacity to carry out the project, and that the CHDO meets the requirements of “owner,” “developer,” or “sponsor” per 24 CFR 92.300(a). In a LIHTC project, the CHDO must meet the requirements as the “sponsor.” ***The City will not select a CHDO for preliminary award if an applicant and project are not identified that meet the criteria and priorities set forth by the City in these Program Guidelines and in the NOFO.***

***Debarment:*** The City will not fund projects owned, developed, or otherwise sponsored by any individual, corporation, or other entity that is suspended, debarred, or otherwise precluded from receiving federal awards. Nor may the owner contract with any other entity (including but not limited to builders/general contractors, property management companies, or other members of the development team) that are suspended, debarred, or otherwise precluded. Likewise, the general contractor will be required to determine that subcontractors are not precluded.

The System for Award Management (SAM) database ([www.sam.gov](http://www.sam.gov)) should be used by applicants to confirm that ownership/development team members are not excluded from receiving federal funds.

***Good Standing:*** The City will not fund projects owned, developed, or otherwise sponsored by any individual, corporation, or other entity which is not in good standing with the City of Boise, State of Idaho (including IHFA), the U.S. Department of Housing and Urban Development, the U.S. Department of the Treasury, or the U.S. Department of Agriculture Office of Rural Development (USDA-RD; formerly the Farmers Home Administration). Consideration for funding may also be denied for a history of default or non-performance under any agreement, payment delinquencies, bankruptcy, foreclosure, or activities determined to be unsound or unlawful.



### Project Location

Projects must be located within Boise city limits. Additional geographic targeting or scoring incentives may be included in NOFOs issued by the City.

All HOME projects involving new construction are also subject to the Site and Neighborhood Standards at 24 CFR 983.57(e)(2) and (3). In general, these standards limit the new construction of rental housing in neighborhoods exhibiting high levels of racial segregation and concentration of poverty unless the projects meaningfully contribute to the area's revitalization as part of a larger series of public and/or private investments. The City reviews proposed project locations to ensure compliance with the standards.

### Project Types

Funds will be provided for acquisition, rehabilitation, and/or new construction of affordable multifamily rental housing. While the City will entertain any proposals meeting its criteria, in practice most projects will also require other public investment to be economically feasible. This may include projects also funded with other federally regulated affordable housing programs, such as LIHTC, HUD Section 202, Section 811, Rental Assistance Demonstration (RAD), Choice Neighborhoods, Housing Trust Funds (HTF), or Idaho Workforce Housing Funds.

### Property Standards

To meet HOME regulations and City requirements, all projects must meet certain physical standards intended to provide quality and durable affordable housing.

- Construction must meet all applicable local and state building and fire codes (including related electrical, mechanical, and plumbing) and lead safe rules.
- To ensure that all residents live in safe, habitable dwellings, the items and components located inside the building, outside the building, and within the units of HUD-assisted housing must be functionally adequate, operable, and free of health and safety hazards, as described at 24 CFR §5.703. In addition to the deficiency repair timelines required by current HUD-approved property standards, the City requires that any deficiency resulting in a risk to the tenant's health and safety be addressed within 24 hours of inspection.
- For rehabilitation projects with 26 or more units, the City requires submission of a capital needs assessment (CNA) by an approved third-party professional that includes an evaluation of the scope of work, projections for future capital repairs/replacements, and an analysis of the sufficiency of planned replacement reserve deposits. The CNA must identify the useful life of major systems, including but not limited to structural support, roof, weatherproofing (windows, doors, siding, gutters), plumbing, electrical, heating, air conditioning, and ventilation. For projects with fewer than 26 total units, the City may allow for a less formal replacement reserve analysis prepared by a qualified individual approved by the City.
- Additional requirements or incentives around sustainability, such as energy efficiency and green building elements, may be included in the City's NOFOs. For information on the City's Green Building Code, go to <https://www.cityofboise.org/departments/planning-and-development-services/building/green-building-code/>.

### ***Section 504/UFAS/ADA Requirements***

All projects must meet applicable Section 504/Uniform Federal Accessibility Standards (UFAS) requirements. New construction (5 or more total units) and substantial rehabilitation projects (15 or more total units and 75% or more of the replacement value of the completed facility) must provide 5% of the project's units (but not less than one) for physically disabled occupants and an **additional** 2% of units (but not less than one) designed to be accessible to those with visual or hearing impairments. To the greatest extent feasible, accessible units should be distributed throughout the project in a range of sizes and amenities so that the choice to an individual with a disability is comparable to that of other prospective tenants.

Other rehabilitation projects will be required, to the maximum extent feasible, to provide accessible units in the same percentage. Minimum standards are defined at 24 CFR 8.23. Additionally, covered multifamily dwellings as defined at 24 CFR 100.201 must also meet the design and construction requirements required by the Fair Housing Act as outlined in 24 CFR 100.205.

### ***Broadband***

All buildings of 4 or more residential units in new construction and substantial rehabilitation projects (complete replacement of the electrical system or 75% or more of the replacement value of the building undergoing the rehabilitation) must include the installation of "broadband infrastructure" as defined by 24 CFR 5.100. In practice, this requires the developer to provide the wiring for high-speed internet but does not require the project to provide the internet service itself. Additional requirements or incentives around Broadband policies and/or infrastructure may be included in the City's NOFOs.

### ***HOME Match***

The City must contribute or match \$0.25 in nonfederal funds for every \$1.00 of HOME funds spent on affordable housing within a fiscal year. To assist in meeting this requirement, scoring incentives may be included in the City's NOFOs for proposals that include eligible matching funds in their project. **Note:** contributions from the owner or developer, including owner equity, do not count as match.

HOME match is a complex topic. In many cases the "match credit" of a contribution is discounted based on various financial calculations, or in other cases certain investments only create match credit after being prorated between HOME and non-HOME portions of a project or an infrastructure investment. HOME match is covered under 24 CFR 92.218. See HUD CPD Notice 97-03 ([http://portal.hud.gov/huddoc/19652\\_97-3.pdf](http://portal.hud.gov/huddoc/19652_97-3.pdf)) or the HUD Exchange (<https://www.hudexchange.info/programs/home/topics/match>) for more information on match.

## **B. Key Federal Requirements**

HOME projects are subject to a range of "cross-cutting" federal requirements broadly applicable to federal funding in general or HUD programs. Applicants must be aware of these requirements, which affect the planning and design of a project, contracting for construction, and ongoing operations.

### Environmental Review Requirements

Federally assisted projects are subject to a variety of environmental requirements. Developers should be familiar with these requirements and are strongly encouraged to discuss any questions they have with City staff *prior to* entering into a purchase agreement or submitting an application. Developers should review the City's Environmental Review Policies and Procedures (<https://cityofboise.org/home-program>). Additional information can be found on the HUD website at <https://www.hudexchange.info/>.

- All HOME-assisted projects shall be implemented in accordance with environmental review regulations as defined in 24 CFR Part 58.
- Submitting an application for HOME funds triggers environmental review requirements under 24 CFR Part 58, including the National Environmental Policy Act (NEPA). Once an application for federal funds is submitted, a project proposal is subject to the environmental review requirements and requires an environmental clearance and may require an issuance of a Release of Funds (ROF) by the U. S. Department of Housing and Urban Development, as applicable.
- City staff (or its agents) shall be responsible for conducting the environmental review and completing all necessary public notifications and the request for release of funds (RROF) from HUD, as applicable. The applicant is responsible for cooperating with the City in the environmental review process and providing information necessary for the City to fulfill its responsibilities under Part 58 and other applicable regulations.
- Developers are prohibited from undertaking any choice-limiting actions on the site, which includes physical actions and committing or expending *any* funds (*including non-federal funds*), prior to an environmental clearance as required by Part 58. Physical and choice-limiting actions include, but are not limited to, property acquisition, demolition, movement, rehabilitation, conversion, repair, or construction. This prohibition applies regardless of whether federal or non-federal funds are used, and taking any physical or choice-limiting action prior to completion of the required environmental clearance process will result in the denial of any HOME funds from the City.
- Projects that are not selected for an award of funds will receive a letter releasing them from any federal requirements triggered by application to the City for HOME funds, including the restrictions in place prior to completion of an environmental review.

### Uniform Relocation Act (URA)

All federally assisted projects fall under requirements of the URA at 49 CFR Part 24 and projects involving HOME funds are additionally subject to the requirements of Section 104(d) of the Housing and Community Development Act of 1974, found at 24 CFR Part 42. These requirements apply to the acquisition of any property as well as any project that involves rehabilitation or conversion of existing housing. Applicants must document that any purchase of property meets the requirements of the URA, including provision of notices to the seller identifying the transaction as a voluntary sale not under the threat of eminent domain.

Additionally, for properties occupied by commercial or residential tenants at the time of application, the URA requires certain notices to tenants in place as of the application for federal funds. Failure to provide such notices may result in substantial compliance costs or render a project ineligible. To ensure compliance with URA, applicants should ***consult City staff prior to the submission of any application involving an occupied property*** to understand the requirements of URA. See the City's Uniform Relocation Act Policies and Procedures and Residential Antidisplacement and Relocation Assistance Plan for additional information (<https://cityofboise.org/home-program>). **Note: It is a violation of the URA for a property owner to displace residents in order to propose a vacant building for HUD assistance.**

### Procurement

Owners and developers, including CHDOs, are not subject to Federal procurement requirements. Upon request by the City, owners must provide a copy of their procurement policies and procedures that meet applicable state and local regulations. Projects should follow a competitive process to ensure all costs are reasonable. If Section 3 and/or Davis Bacon regulations apply to the project (see details below), the appropriate clauses and preferences must be included in the bid documents and contracts, and owners/developers must submit copies of bid documents and proof of publication to the City.

See the City's Procurement and Labor Standards (available at <https://cityofboise.org/home-program>) for detailed requirements and guidance on procurement, BABA, MBE/WBE, Davis-Bacon, and Section 3.

### **Build America, Buy America (BABA)**

The Build America, Buy America Act (BABA) requires that iron, steel, manufactured products, and construction materials used for federally funded housing and infrastructure projects are produced in the United States, unless otherwise exempt or subject to an approved waiver. This requirement is known as the "Buy America Preference" (BAP).

BAP applies to the HOME Program for entitlement funds obligated to the City by HUD on or after August 23, 2024. Staff will notify developers when applicable to a project.

### **Minority Business Enterprise and Women Business Enterprise (MBE/WBE)**

Developers must demonstrate marketing, solicitation, and preference for MBE/WBE businesses and contractors for the construction of the project. This is a required piece of the larger Developer Labor Plan noted below.

### **Veteran Owned Business Enterprises (VBE)**

Developers should demonstrate marketing, solicitation, and preference for veteran businesses and contractor to the maximum extent possible.

### Labor Standards

Developers must maintain and provide a Developer Labor Plan that details how they will meet all applicable requirements around MBE/WBE and Section 3. The Developer Labor Plan must be submitted using a template provided by either the City or IHFA.

See the City's Procurement and Labor Standards (available at <https://cityofboise.org/home-program>) for detailed requirements and guidance on Davis-Bacon and Section 3.

### **Prevailing Wage**

Davis-Bacon federal prevailing wage requirements shall apply to all projects with 12 or more HOME-assisted units. If applicable, developers must submit all required documentation and certifications to the City's Compliance Team on a weekly basis.

*Note: Whether Davis Bacon will be triggered should be considered when planning for overall project costs.*

### **Section 3**

Owners and developers of housing rehabilitation or new construction projects receiving \$200,000 or more in aggregate HUD funding (including HOME, HTF, CDBG, NSP, or other similar funding from any entity) are subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968 as outlined in 24 CFR Part 75. The purpose of Section 3 is to provide economic opportunities, particularly employment, generated by HUD-assisted development activity, to low- and very low-income persons. In practice, the City expects that all HOME projects will be subject to Section 3.

Projects subject to Section 3 are required to take steps to achieve HUD-specified benchmarks (and maintain records and provide reporting) on total labor hours worked, including by eligible "Section 3 workers" (25% of total labor hours) and by "Targeted Section 3 workers" (5% of total labor hours). Developers must demonstrate marketing, solicitation, and preference for Section 3 businesses, Section 3 workers, and Targeted Section 3 workers to achieve these benchmarks. This is a required piece of the larger Developer Labor Plan noted above.

*Note: The Section 3 regulations were comprehensively updated in 2020. HUD continues to provide guidance and training on the updated requirements. More information is available on the HUD Exchange at <https://www.hudexchange.info/programs/section-3/>*

### Nondiscrimination and Equal Opportunity

The following federal nondiscrimination and equal opportunity guidelines apply to all Rental Housing projects and affect both development and operation of assisted housing:

- The requirements of the Fair Housing Act (42 U.S.C. 3601-19) and implementing regulations at 24 CFR Part 100; Executive Order 11063, as amended by Executive Order 12259 (3 CFR 1958 B1963 Comp., P. 652 and 3 CFR 1980 Comp., P. 307) (Equal Opportunity in Housing) and implementing regulations at 24 CFR Part 107; and of the Civil Rights Act of 1964 (42 U.S. C. 2000d) (Nondiscrimination in Federally Assisted Programs) and implementing regulations issued at 24 CFR Part 1.
- The prohibition against discrimination on the basis of age under the Age Discrimination Act of 1975 (42 U.S.C. 6101-07) and implementing Regulations at 24 CFR Part 146.
- The requirements of Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and implementing regulations at 24 CFR Part 8.

- The requirements of Executive Order 11246, as amended by Executive Orders 11375, 11478, 12086, and 12107 (3 CFR 1964-65, Comp., p. 339) (Equal Employment Opportunity) and the implementing regulations issued at 41 CFR Chapter 60.
- The requirements of 24 CFR 5.105(a)(2) requiring that HUD-assisted housing be made available without regard to actual or perceived sexual orientation, gender identity, or marital status and prohibiting subrecipients, owners, developers, or their agents from inquiring about the sexual orientation or gender identity of an applicant for, or occupant of, HUD-assisted housing for the purpose of determining eligibility for the housing or otherwise making such housing available. This prohibition on inquiries regarding sexual orientation or gender identity does not prohibit any individual from voluntarily self-identifying sexual orientation or gender identity.
- The Nondiscrimination and Equal opportunity requirements otherwise listed in 24 CFR 5.105(a)(1).

### C. Underwriting & Subsidy Layering Reviews

#### Project Underwriting

##### **Market Study**

All HOME project applications will require the submission of a professionally prepared market study from a provider acceptable to the City in its sole and absolute discretion. Unless prior arrangements have been made with the City, the market study must be produced by a firm on the Idaho Housing and Finance Association's (IHFA) list of approved market study providers for LIHTC (<https://www.idahohousing.com/multifamily-financing/>). For projects that will also apply for LIHTC or other funding from IHFA, the same market study should be submitted to IHFA and the City.

If more than 12 months old at the time of formal funding commitment (execution of a HOME Agreement), the City may require an updated market study. Proposed rent levels must be supported by the applicant's market study and within HOME regulatory limits, as applicable.

##### **Financial Review**

All applications must include personal financial statements (audited if available) and the most recent tax returns from all underlying developers, owners, and guarantors and will be subject to the City's evaluation of fiscal soundness as required by 24 CFR 92.250(b)(2) (HOME) and 24 CFR 93.300(b)(2) (NHTF).

Project Underwriting will also include:

- Vacancy factor as identified in the City's NOFO; minimum 5% or a range based on current market factors per market study. Vacancy will be calculated as a percentage of gross revenue, including both rental receipts and "other income" (e.g., late fees, laundry, parking fees, etc.).
- City staff will use a maximum 2% inflation factor for all sources of income.
- All operating expenses will be underwritten with an inflation factor of at least 3%.
- All projects must maintain a total project Debt Coverage Ratio (DCR) between 1.15 and 1.25 for the HOME POA. The City will review project performance and

profit as part of ongoing monitoring and reserves the right to limit rent increases or adjust project-specific requirements if the DCR exceeds 1.25.

- Proposals must include justification of operating costs that includes a comparison to similar projects in the local market. Whenever possible, comparable properties should be operated by the proposed management company. The City may establish minimum annual per unit operating costs as part of its NOFOs.
- At a minimum, as of break-even operations, projects must make replacement reserve deposits of \$350 per unit per year or the amount determined by a capital needs assessment (CNA), whichever is higher. In addition to ongoing deposits, rehabilitation projects must capitalize the replacement reserve within six (6) months of construction completion in an amount not less than \$1,000 per unit or a higher amount as determined by a CNA acceptable to the City. The replacement reserve must be funded and maintained for the HOME POA or loan term, whichever is longer, and reflected in the operating expenses for the full projection of expenses at application. Replacement reserve deposits will be inflated at 3% annually.
- Projects must include a capitalized operating reserve equal to six (6) months of underwritten operating expenses, amortizing debt service, and required reserve deposits. If drawn, the operating reserve must be replenished prior to distributions of cash flow. The operating reserve is intended to protect against unplanned operating deficits. If the City's underwriting projections anticipate deficits within the HOME POA, a separate operating deficit reserve may be required.
- Applicant must provide lease-up projections modeling the need for a lease-up/rent-up reserve and, as applicable, the availability of net operating income from projected lease-up prior to permanent loan conversion as a project source, with an underwriting factor of 75%.
- To substantiate LIHTC equity pricing (if applicable), applicants must submit documentation indicating that a syndicator or investor has reviewed the proposal and indicated preliminary pricing along with their interest in the project.
- Applicant must provide the amounts and terms for the construction financing, permanent financing, and if applicable, owner equity information. ***Amortizing permanent financing that will be senior to the City's HOME loan may not mature prior to the expiration of the HOME POA.***

### Proforma Requirements

The City requires submission of a project proforma in a format provided by the City as part of its NOFOs and applications.

If not otherwise itemized, applicants must be able to separate the hard costs of any stand-alone accessory buildings, including leasing offices, community buildings, laundry facilities, free-standing garages or carports, or maintenance buildings so that the City can complete preliminary HOME cost allocation calculations.

Costs and fees are to be paid to the City as permitted by the HOME program(s). The HOME program allows the City to include, as project costs, its internal soft costs specifically attributable to the project. These may include consulting, legal, inspection, and staff costs associated with reviewing, processing, and monitoring award of funds to a project.

Applicants must include allowances for the City's project-related soft costs in their development budget, the amount for which will be included in any NOFO. Applicants must also include, as part of the operating budget, an allowance for the City's ongoing monitoring fees as specified in the NOFO.

### Cost Limitations

Per the requirements of 24 CFR 92.250(b) for HOME, all project costs must be reasonable, whether or not paid directly with HOME funds. The City will review all project costs, including hard and soft costs, to evaluate their reasonableness and may, at its sole and absolute discretion, require applicants to obtain additional quotes, bids, or estimates of costs. The City may also require an applicant, at its own cost, to obtain a third-party cost review from a professional provider acceptable to the City, or may accept a cost review as required by the senior lender. The City's staff (or its agents) must be allowed access to the property as necessary to evaluate the cost projections associated with a project's plans and specifications. Applications may be determined ineligible if access is not granted or costs are determined to be unreasonable.

Additionally, HOME projects will be subject to the following specific cost limitations:

- The maximum developer fee is based on net development costs approved by the City with a maximum percentage based on project type. The developer fee is provided to the developer of rental housing for the time and energy expended on putting a development together and the risks associated. "Net development costs" are total development costs less syndication-related costs and the developer fee itself. Developer fees include developer overhead, developer processing fee (if applicable), developer profit, and any other amounts received by the developer as approved by the City. The developer fee must be attributed only to the development. Consultant fees are payable only from proceeds of the developer fee. If the developer chooses to delegate some responsibilities to a third party, such as a processing agent or consultant, the delegated responsibilities must be thoroughly understood by all parties involved, and the fee paid to the third party shall be included in the calculation of the permitted maximum developer fee.
  - For new construction projects, the developer fee is limited to 15% for projects with up to 60 units, and 12% for projects with more than 60 units. The fee is limited to 15% for rehabilitation projects and 5% for acquisition.
  - The City recognizes that many applicants propose lower developer fees as a result of scoring factors in the Qualified Allocation Plan (QAP). To the degree an applicant has proposed a lower fee for LIHTC purposes, that lower fee limit will be observed for HOME purposes.
- Maximum allowable builder General Requirements, Overhead, and Profit are 6%, 2% and 6%, respectively. The builder line-item percentages are calculated on the construction contract price, which cannot include construction contingency. If the City approves a Change Order for use of construction contingency, the same percentages for builder line items apply.
  - If there is an IOI between the builder and the sponsor, developer, or consultant, the total contractor fee is limited to 8% for new construction with over 60 units and 10% for all other projects.



- Generally, construction contingency should not exceed 6% for new construction and 10% for rehabilitation projects. The City will evaluate and approve amounts based on project scope/detail.
- Generally, architectural (including engineering) fees may not exceed 6% of total project hard costs (excluding builder's line items) unless the City has approved a larger fee (e.g., in response to specific project characteristics such as a requirement for historic rehabilitation or unusual site conditions requiring additional engineering).
- Acquisition costs may not exceed the *lesser* of the appraised value of a property, the purchase price negotiated with an arms-length seller, or the cost basis of an identity of interest seller.
- Generally, a project's property management fees should not exceed 8%. The acceptable range is based upon the size of the project and will be evaluated and approved by the City.

Acquisition costs must be supported by an appraisal of the property by an independent, third-party, state-licensed appraiser acceptable to the City. Acquisition costs exceeding the appraised value of the property will be ineligible for HOME funding reimbursement. When a project's sources include other HUD funding, the HUD appraisal methodology will apply.

#### Identity of Interest

Applicants must disclose any identity of interest situations that may occur when contracting with related companies during either the development or ongoing operation of the project. City approval of identity of interest relationships is required and will be in the City's sole and absolute discretion. Considerations will include the capacity and track record of the related party and whether pricing is equivalent to that which could be expected from an arms-length relationship.

At the time of application and again upon project completion, owners must either certify that no Identity of Interest relationship exists, or if applicable, submit a Disclosure of Identity of Interest form (available at <https://cityofboise.org/home-program>). In addition, all contracts between the project owner and any entity of business for the project (lawyer, architect, General Contractors, seller of land, etc.) and between the general contractor and any subcontractor, must include a certification that no Identity of Interest relationship exists, and if existing, must be disclosed using the Disclosure of Identity of Interest form and submitted to the City for approval.

#### Other Public Funding Sources

Owners must disclose all other anticipated and firm commitments for funding to the City at the time of application and upon receiving any additional commitments of funding. The City will conduct a subsidy layering review as part of the underwriting process for any project that includes other public subsidies. Using its underwriting criteria, the City will assess the project and may require changes to the transaction to ensure that cash flows to the owner/developer are not excessive. Changes may include a reduction in HOME funds awarded, reduction of the rent charged to tenants, a requirement that excess cash is deposited to an operating reserve, or an increase in annual payments on the HOME loan.

The City will consider adjusting its underwriting in consultation with other funders to the project, but retains, at its sole and absolute discretion, the power to decide whether to accept alternative standards.

## **4. STRUCTURE OF TRANSACTION**

### **A. HOME Funding Limits**

The City may establish both a maximum cap and minimum threshold on its investment in a single development, which may vary by project location and characteristics. Such limits will be based on the availability of funding and other City priorities and will be addressed in any NOFO issued. To qualify for HOME funding, a project must demonstrate the need for an investment of no less than \$1,000 in HOME funding per HOME-assisted unit.

In no case will the City investment exceed the maximum HOME investment allowed under 24 CFR 92.250. The HOME Maximum Per-Unit Subsidy Limits are published each year by HUD and will generally be provided by the City as part of any NOFO.

### **B. HOME Agreement**

In addition to any financing documents, owners of HOME-financed projects must sign a HOME Agreement with the City. The agreement will identify requirements for compliance with HOME regulations and the City's HOME Multifamily Development Program requirements and will remain in effect regardless of any prepayment of the HOME loan. In the event a project is receiving HOME and other City-administered funds, separate Agreements will be required for each funding source.

### **C. Memorandum of Restrictive Covenants**

Each HOME-funded project must maintain restrictions and covenants running with the land enforcing HOME and City guidelines, as applicable. The Memorandum of Restrictive Covenants (MORC) will be separately recorded, run with the land, and will remain in place for the total performance period, even if the HOME loan is prepaid. Among other items, the MORC will address:

- Restrictions on the transfer of title to the property or underlying ownership interest of the property owner
- Restrictions on further encumbrances on the Property without the City's prior permission
- Operational and performance requirements, including maintenance of various reserves, restrictions on the distributions of surplus cash, and property management and insurance expectations
- Provisions to enforce ongoing requirements for project compliance through the HOME period of affordability and City extended commitment period, including:
  - The length of the period of affordability
  - Income and rent restrictions on HOME-assisted units
  - Property standards to be enforced
  - Marketing and leasing requirements
  - Recordkeeping and reporting requirements

While the City's HOME loan will generally be subordinate to conventional debt, the HOME Memorandum of Restrictive Covenants must be recorded senior to all liens and encumbrances associated with the project financing, including any loans senior to the City's HOME loan, and structured to survive any foreclosure by a senior lien. The City will not subordinate its MORC as part of a subordination, intercreditor, or other similar agreement.

The HOME covenants will be separate from any required LIHTC covenant(s).

#### **D. Loan Types and Terms**

The City will provide HOME funds in the form of a loan to the entity that owns the project. The City's HOME loan is intended as construction/permanent financing. Proceeds of the HOME loan will only be released as funds are needed. No grants will be awarded, and funding commitments are not transferable without prior written City approval.

In all cases, the HOME loan will:

- Be repayable in full upon sale, refinancing, or transfer of the property or upon maturity, whichever occurs first; and
- Be secured with a deed of trust, promissory note, subordination and/or parity agreement(s), and appropriate UCC liens. Deeds of Trust will be recorded in Ada County and generally may be subordinate only to an amortizing permanent first mortgage and a temporary bank construction loan, all of which must be approved by the City, if applicable.
- Be serviced per the City's Loan Servicing Policies and Procedures (<https://cityofboise.org/home-program>)

The City will offer the following repayment structure, and any additional criteria will be included in the City's NOFOs.

- Loans will have an annual payment based on a percentage (determined by the City) of the surplus cash from the project's immediate prior fiscal year, with simple interest up to 3%. Loan payments shall commence eighteen (18) months from the date the project is placed in service. In general, surplus cash is considered the cash available after payment of the deferred developer fee.

The City may adjust the percentage of surplus cash loan payment based on the loan terms of other federal funding sources or senior loans for the project. The City, at its sole and absolute discretion, shall set and approve the loan terms.

#### **E. Shared Appreciation**

In addition to the interest described above, all projects are subject to the City's Shared Appreciation Policy, which legally functions as a contingent interest payment. To further the City's interest in maintaining a portfolio of affordable housing that meets the needs of residents, including through the reinvestment of program income received from the future repayment of HOME loans, a Shared Appreciation Payment shall be due and payable upon the event of any of the following:

- Refinancing of debt secured by the property in an amount greater than the then outstanding balance of the loan(s) being refinanced.

- Sale or other transfer of title to the property for continued use as affordable housing.
- Sale of property resulting in a change of use.
- Any unauthorized change of use, material noncompliance with the terms of the HOME Agreement, other default, or termination of the Agreement for cause.

### Shared Appreciation Percentage

The “Shared Appreciation Percentage” shall be the percentage of the final total development cost (from the City-approved cost certification) that was financed with the HOME loan.

### Net Proceeds

“Net Proceeds” shall be defined as:

- The greater of the actual sales price or the appraised value determined by a third-party state-licensed appraiser acceptable to the City (in the event a Shared Appreciation Payment is due absent sale of the property, the appraised value shall be used);
- Plus any balance(s) remaining in any Reserve Accounts;
- Plus any insurance or condemnation proceeds received or due;
- Less the outstanding principal and interest balance of all debts secured by the Property and previously approved by the City, including but not limited to the balance of the HOME loan (inclusive of the principal and all accrued interest but excluding the Shared Appreciation Payment itself); and
- Less reasonable and necessary costs of sale acceptable to the City, determined in its sole discretion, including but not limited to appraisal, real estate commissions, real property excise or transfer taxes, escrow fees, recording fees, title, and insurance premiums

Except in the event of a transfer of only a portion of the property that does not result in a reduction in the total number of residential units, such as that resulting from the sale, transfer, or condemnation of an “excess” portion of the site, the Net Proceeds shall be defined as:

- The actual sales price of the portion of the property being transferred (or the condemnation payment)
- Less any reasonable and customary costs of the sale acceptable to the City, determined in its sole discretion, including but not limited to appraisal, real estate commissions, real property excise or transfer taxes, escrow fees, recording fees, title, and insurance premiums

### Shared Appreciation Payment

The “Shared Appreciation Payment” due shall be the Shared Appreciation Percentage multiplied by the Net Proceeds.

### City Waiver of Shared Appreciation

In all cases, the City reserves the right, in its sole and absolute discretion, to waive, in whole or in part, or defer the imposition of a Shared Appreciation Payment. Without obligating the City grant such a waiver, the City anticipates this may include the following:

- A sale or other transfer of the property that is otherwise pre-approved by the City whereby the new owner will formally assume the HOME Agreement and the use of the property as affordable housing, subject to the income, rent, and other restrictions in the HOME Agreement and Memorandum of Restrictive Covenants, will continue unchanged.
- A refinancing that includes an increase in the principal amount of the loan(s) being refinanced when such proceeds are reinvested in the project, including but not limited to making capital repairs, replacements, or improvements or depositing such proceeds into project reserves.
- A sale or transfer of only a portion of the property, including via condemnation, when the proceeds of such sale or transfer are reinvested in the project, including but not limited to making capital repairs, replacements, or improvements or depositing such proceeds into project reserves.

## F. Reserves and Surplus Cash Distributions

To preserve the ongoing viability of projects, the City may require the establishment and maintenance of various reserves. In general, reserves must be held at financial institutions licensed to do business in the State of Idaho. Owners must provide notice to the City *prior to* withdrawing or transferring funds from reserve accounts. Owners must also authorize the financial institutions in which reserves are held to provide the City verified statements reflecting account balances and transactions, when requested. Reserves must remain in place as long as the project's HOME loan is outstanding or for the duration of the HOME POA, whichever is longer, and information on each account must be reported to the City annually through Neighborly.

The City will require the following reserves:

- An **operating reserve** intended to protect against unexpected operating deficits.
- A **replacement reserve** intended to fund future capital and rehabilitation needs.

Initial reserve deposit requirements are noted in the underwriting standards below, and the City may modify reserve requirements during the HOME POA based on periodic capital needs assessments.

In addition, the City may require the following reserves at its sole and absolute discretion:

- A **preservation reserve** account may be created and funded with annual deposits from surplus cash (i.e., cash flow). In general, deposits equal to 50% of surplus cash will be required. The preservation reserve is intended to assist in the future preservation, refinancing, or repayment of the transaction.
- For projects where the City's underwriting anticipates operating deficits during the HOME POA, an additional **operating deficit reserve** must be capitalized.
- For projects with specific or unique features, additional specialty reserves may be required, such as for tenant services, abnormal security costs, etc.

The City must also approve any distributions of surplus cash, which among other items, will require that all reserves be fully funded, the project be in compliance with all federal requirements, the project not be in default, and the project retain sufficient liquidity following the distribution.

## G. Guarantees and Bonds

At the City's sole and absolute discretion, all underlying individuals, corporate entities, partnerships, or limited liability companies with an interest in the project's ownership entity (excluding the investor/syndicator partners or members of the ownership entity) may be required to provide various performance guarantees and/or bonds.

The City will require the following guarantees:

- **Completion Guarantee** including provisions guaranteeing construction completion of the project
- **Replacement Reserve Guarantee** to ensure annual deposits to a replacement reserve for the project in an amount consistent with the loan documents and/or covenant running with the land

The City will require the following bond:

- **Performance and Payment Bond** including provisions guaranteeing completion of the project and payment due

The City may require additional guarantees, as required by the equity investors:

- **Recovery Guarantee** including provisions guaranteeing ongoing compliance with HUD HOME guidelines and indemnifying the City against any liability to HUD resulting from the project's non-compliance

Guarantees and bonds shall be joint and several and must remain in effect throughout the HOME POA.

## 5. DRAW PROCESS

### A. Drawing Funds

The City's HOME loan is intended as construction and/or permanent financing. Funds from the HOME loan will only be released as reimbursement for eligible project costs. Funds will be disbursed by the City through direct deposit (ACH) in accordance with the City's standard accounting process. Funds may be wired at closing with prior City approval.

#### Conditions of Construction Draws

Proceeds of the HOME loan will only be released to Owner for actually incurred HOME-eligible project costs. The obligation of the City to approve any draw or to make any disbursement of HOME funds is subject to the satisfaction of the following conditions at the time of making such disbursement:

- Draws will not be processed if the Owner is in default.
- The Project shall not have been materially damaged by fire or other casualty.
- The City shall have received satisfactory evidence that all work and improvements requiring inspection by any governmental authority having jurisdiction have been inspected and approved by such authorities and by any other persons or entities having the right to inspect and approve construction.
- Owner shall have submitted a completed disbursement request in Neighborly using the HOME Draw Cover Sheet provided by the City (available at <https://cityofboise.org/home-program>) and other appropriate source

documentation as may be required by the City, including but not limited to the following:

- Lien waivers reflecting the date range of work performed in the draw packet.
- Evidence satisfactory to the City that the required building permits and other permits have been obtained as required.
- Application and Certificate for Payment form (AIA or other pre-approved substitute) with itemized expenditures and invoices/receipts for any materials expenses incurred.
- Such other supporting evidence as may be requested by the City (or its agent) to substantiate all payments that are to be made out of the relevant disbursement and/or to substantiate all payments then made with respect to the Project.
- Any change orders that have been executed during the draw period.
- The City shall have determined that all HOME requirements pertaining to the disbursement of funds have been met, including but not limited to appropriate information and certifications of compliance in all respects with applicable labor hours, labor standards, and prevailing wage requirements (Davis-Bacon, Section 3, etc.).
- The City shall have received a current inspection report from a City-approved inspector that verifies satisfactory completion of work to HOME standards and progress commensurate with the funds being requested.
- No determination shall have been made by the City that the undisbursed amount of the loan is less than the amount received to pay all costs and expenses of any kind that reasonably may be anticipated in connection with the completion of the Project.

A Draw Checklist for Developers is available as a resource at <https://cityofboise.org/home-program>.

The Owner shall submit **all** draws for the Project to the City for review, regardless of whether the HOME Loan will be used to fund any given draw. The City reserves the right to amend or supplement these conditions as necessary, in its sole and absolute discretion, for any project by inclusion of additional terms in the HOME Agreement.

#### Conditions of Final Disbursement

In addition to the requirements set forth above, the City shall require the following prior to the final disbursement of funds, the request for which shall not be submitted before completion of the Project, including all landscape requirements, offsite utilities and streets, and correction of defects in workmanship and/or materials:

- A certificate of occupancy and final construction report approved by City construction inspector (City employee or its agent) that demonstrates substantial completion of construction.
- The City shall have completed an inspection checklist that verifies satisfactory completion of work to a quality standard then currently accepted by HUD (NSPIRE, etc.).
- Identification of the designated street address of the Project, including as applicable the street addresses assigned for the leasing office, each residential

structure, and the specific unit designations (e.g., unit number or lettering such as #12 or Apartment B-3) for all HOME units.

- Evidence satisfactory to the City that the Project has been completed free of liens and substantially in accordance with the plans and specifications.
- Review and final settlement of the cost certification (prepared by an independent certified public accountant).
- Such other supporting evidence as may be requested by the City (or its agent) to substantiate all payments which are to be made out of the final disbursement and/or to substantiate all payments then made with respect to the Project.
- A determination by the City that all HOME requirements pertaining to the initial development of the Project have been met, including but not limited to monitoring of Davis-Bacon compliance and Section 3 labor hour requirements, as applicable.
- Evidence that any project-based rental assistance contract anticipated as part of the City's underwriting has been fully executed and is in effect.
- Submission of a HOME Rental Completion Report on a template provided by the City that includes required beneficiary data on initial occupants of HOME-assisted units. If units remain unoccupied, an updated Report must be submitted within 6 months of completion (for more information on occupancy deadlines, see Section 6.D. Initial Occupancy Deadlines).
- All information and documentation requested as part of the final project file review by City staff.

#### Limitation on Draw Requests

- In all cases, Owner may not request disbursement of HOME funds until funds are needed for the payment of eligible costs, and all disbursement requests must be limited to the amount needed at the time of the request.
- No disbursements for materials stored will be made by the City unless Owner shall advise the City of its intention to so store materials prior to their delivery. The propriety of disbursements for materials stored shall be determined in the City's sole discretion.
- Change orders for more than \$100,000 or 25% of the total construction price (excluding contractor profit and overhead), or that extend the construction completion date, or that require additional/amended permitting require preapproval by the City.
- 5% of total HOME funds will be held by the City as retainage until submission and approval of all items required for final disbursement above.

#### **B. Eligible Costs**

In addition to the underwriting considerations surrounding the reasonableness of all project costs, costs directly funded with HOME funds must be eligible according to 24 CFR 92.206. The following additional limitations also apply:

- HOME funds shall not be used for luxury improvements according to 24 CFR 92.205 and 24 CFR 93.200, respectively.
- HOME funds may not be used to pay operating costs or to capitalize reserves except that HOME may be used, subject to the City's approval, to establish a rent-up reserve to cover initial operating deficits allowed under 24 CFR 92.206(d)(5) and 24 CFR 93.201(d)(5).



- HOME funds shall not be used for free-standing, non-residential accessory structures such as free-standing community/leasing buildings, garages, carports, or maintenance structures.
  - **Attached** garages or carports (e.g., those structurally attached to and integrated into a residential structure) **are** eligible.
  - Community space or common laundry facilities included in residential buildings **are** eligible.
- HOME funds shall not be used for off-site infrastructure costs, including any costs associated with extending infrastructure to the project site.
  - The cost of connecting to public infrastructure located in an adjacent right-of-way (e.g., a water or sewer tap) **is** an eligible cost.
- HOME funds shall not be used for organizational costs such as partnership formation or syndication costs associated with transactions using equity from LIHTC, historic tax credits, or other similar tax incentives.
- HOME funds may not be used for furniture, fixtures, and equipment (aka FFE), which are personal rather than real property. FFE includes tools and equipment purchased for or used on job sites, such as drills, hammers, saws, etc.
- HOME funds may not be used for any activities and fees prohibited under 24 CFR 92.214

In addition to the prohibited costs of the HOME program, the City will not reimburse the following costs:

- Principle or interest toward other loans
- Draw or interest fees for other loans
- Late fees or penalties on any outstanding invoices, bills, or services
- Advance payment for materials
- Developer fee
- Project components deemed to be non-essential elements by City staff

### City Project-Related Soft Costs

The HOME program allows the City to include, as project costs, its internal soft costs specifically attributable to a HOME project, as applicable. These may include consulting, legal, inspection, and staff costs associated with reviewing, underwriting, processing, and overseeing the award of funds to the project. In its NOFO, the City will provide a budget allowance for "City Due Diligence & Legal Costs" to be included in the project's total development costs. The project's estimated annual expense information will include a monitoring fee as specified by the City in its NOFO.

## **6. ONGOING PROJECT REQUIREMENTS**

HOME projects must, at all times during the term of the total performance period, be operated in compliance with the City's HOME Multifamily Development Management Handbook (available at <https://cityofboise.org/home-program>) or successor publications, which may be updated from time to time to reflect new, revised, or clarified administrative procedures and practices. In the HOME Agreement for each project, the owner must agree to be bound by such updates which may include, but not be limited to, procedures for obtaining annual rent or utility allowance approvals, reporting and

document submission requirements, insurance requirements, use of updated form documents provided by the City, etc. The City, in its sole and absolute discretion, must approve the selected Property Management Agency.

The HOME Multifamily Development Management Handbook provides additional detail on various ongoing project requirements. Applicants are responsible for being familiar with the most current version of the handbook at the time they apply, any updates during the total performance period, and ensuring that their project plans are consistent with its requirements as well as those contained in these guidelines.

### **A. Project Completion Deadline and Period of Affordability**

The HOME period of affordability (POA) will begin on the date of project completion as defined by 24 CFR 92.2 which, among other things, requires that all construction activity be complete, all conditions of final disbursement met, all HOME funds drawn from the U.S. Treasury, and project completion information be entered into the HUD Integrated Disbursement and Information System (IDIS). The HOME POA will end on December 31<sup>st</sup> of the year that completes the required period (5<sup>th</sup> year, 10<sup>th</sup> year, 15<sup>th</sup> year, or 20<sup>th</sup> year) per the affordability period chart in Section 1.

For rental projects, full occupancy is not required for project completion and units may be marked vacant in IDIS until complete beneficiary data is received. Initial occupancy of all units must occur within 6 months of project completion in IDIS. The City requires that project completion occur within 2 years of the date of commitment of funds to the project (date of executed written HOME Agreement). If the Owner fails to meet this 2-year deadline, the City will require a detailed justification, including project status and updated timeline for completion.

In accordance with the minimum requirements of 24 CFR 92.252(e), rehabilitated and new construction rental projects funded with HOME shall maintain HOME affordability requirements for a period of 5 to 15 years for rehabilitation projects and at least 20 years for new construction projects. *See chart in Section 1.*

### **B. Extended Commitment Period**

In an effort to meet and sustain the demand for affordable housing, the City imposes an Extended Commitment Period of **30 years** beyond the federally required HOME POA, which begins immediately after the end of the HOME POA (January 1<sup>st</sup>), during which most income and rent restrictions, tenant protections, and transactional requirements continue to apply. As outlined in a project's transactional documents, during the Extended Commitment Period some specific federal requirements may be relaxed.

### **C. Unit Allocation**

The City will use a cost allocation method to designate HOME-assisted units so that the HOME investment does not exceed the cost of HOME-assisted units in the project or the per-unit subsidy limit. In general, if project units are comparable, HOME units will be "floating units" and evenly distributed among the unit types in the development based upon a cost allocation review. The City will designate units as HOME-assisted in proportion to the percentage of HOME investment. For example, if HOME represents 10% of the project's total HOME-eligible costs, at least 10% of each unit type will be designated as

HOME-assisted units. If the project's units are not comparable, HOME units must be "fixed units," which means specific units are designated as HOME units for the duration of the HOME POA and will continue this designation during the City Extended Commitment Period.

HOME regulation requires that HOME-assisted units be designated as either "High-HOME units" or "Low-HOME units" and in projects with five or more HOME-assisted units, at least 20% of the HOME units (rounded up to a whole number) must be designated as Low-HOME units. However, in order to achieve deeper income targeting and address the needs of very low-income residents, ***the City requires that all HOME units be designated as Low-HOME units***, with the exception of rehabilitation projects of occupied multifamily housing, which are assessed for existing unit/tenant makeup, operating costs/reserves, profit, etc. to determine appropriate/feasible minimums beyond the regulatory requirements of the HOME Program.

#### **D. Initial Occupancy Deadlines**

In accordance with 24 CFR 92.252, HOME-funded rental projects must comply with the following deadlines and requirements as evidenced by occupancy of tenants with a written lease that complies with the requirements of 24 CFR 92.253:

- Within **6 months** from the date of project completion, if a rental unit remains unoccupied, the Owner will provide to the City information about current marketing efforts and, if appropriate, an enhanced plan for marketing the unit so that it is leased as quickly as possible.
- Within **18 months** from the date of project completion, if efforts to market the units are unsuccessful and units remain unoccupied by an eligible tenant, the City will require repayment of all HOME funds invested in each vacant unit. A unit that has not served a low- or very low-income household, as applicable, has not met the purposes of the HOME program. Therefore, the costs associated with the unit are ineligible.

#### **E. Marketing, Tenant Selection, and Leasing**

The owner must establish a written tenant selection plan consistent with the requirements of 24 CFR 92.253(d). Among other requirements, the tenant selection plan must, insofar as is practical, provide for the selection of tenants from a project's waiting list in chronological order of their applications and provide written notification to any rejected applicant of the reason for their rejection.

An owner/developer, as part of the application for funding, may propose to restrict units to or provide preferences for identifiable portions of the income-eligible population (e.g., elderly/senior only projects, preferences for homeless and/or special needs populations, etc.). Any such restriction or preference must be authorized in the City's Consolidated Plan (<https://www.cityofboise.org/departments/planning-and-development-services/housing-and-community-development/funding-opportunities/5-year-consolidated-plan/>), be approved by the City in its sole and absolute discretion, and may not be in violation of any Fair Housing, equal opportunity, or similar requirements. The City may, as part of its NOFOs, provide scoring incentives or further priority for particular populations. **Note:** In the case that preferences identified in the proposed project are not specifically identified in the City's Consolidated/Annual Action Plan, the

City may conduct an amendment process to the Plan(s) as necessary and as a condition of any Preliminary Award.

All HOME-funded projects must establish an Affirmative Fair Housing Marketing Plan (AFHMP) detailing procedures to attract eligible occupants without regard to race, color, national origin, sex, religion, familial status, disability, or sexual orientation. AFHMPs shall include all required aspects as stated in 24 CFR 92.351(a)(2).

Additionally, 24 CFR Part 8 outlines the requirements of Section 504 for **housing program accessibility**. Tenant selection plans, housing/program information, marketing plans/outreach, and leases must include nondiscrimination language and information on communication assistance for visual/hearing impaired persons. The City also requires that tenant selection plans include a language access/assistance policy. The leasing office must be accessible to prospective tenants. All Section 504 requirements apply to program beneficiaries/applicants as well as employees/prospective employees. Additional requirements apply to agencies with more than 15 employees, such as designation of a Section 504 Coordinator and a grievance policy. A Section 504 Self-Evaluation must be submitted upon project completion using the template provided by the City. See the City's Section 504 Guide and Self-Evaluation at <https://cityofboise.org/home-program>.

### Leasing

Leases between the tenant and owner shall be for one year, unless a different period is established by mutual agreement between the tenant and the owner. Owners are required to provide 30 days' written notice prior to implementing a rent increase or terminating or refusing to renew the lease with occupants of HOME-assisted units. As part of its required annual reporting, the City requires identification of lease terminations and non-renewals and the reason. If the retention rate falls below 90% (for **all** units), the City will require a Tenant Eviction Prevention Plan as a measure to improve retention.

Owners are prohibited from including unfair provisions in HOME project leases. In accordance with the provisions of 24 CFR 92.253, the following terms are prohibited from HOME project leases:

- Agreement to be sued
- Treatment of personal property
- Excusing owner from responsibility
- Waiver of notice
- Waiver of legal proceedings
- Waiver of a jury trial
- Waiver of right to appeal court decision
- Tenant chargeable with cost of legal actions regardless of outcome
- Mandatory participation in supportive services
  - Transitional housing projects funded with HOME may be permitted to require service participation under limited circumstances; contact City staff for more detail.

Finally, projects must comply with the requirements of the Violence Against Women Act (VAWA) as required by 24 CFR 92.357. VAWA provides certain additional tenant

protections to applicants and tenants who are victims of domestic violence, sexual assault, and/or stalking. Among other requirements, owners must provide notices to all tenants of the VAWA provisions, may not deny an application or terminate or refuse to renew a lease as a result of a person's status as a victim or on the basis of criminal activity related to such status, and must allow for the bifurcation of a lease in order to evict the perpetrator of such criminal activity while allowing the victim to maintain occupancy.

In general, the City will provide a standard form lease addendum (available at <https://cityofboise.org/home-program>) for use by owners of HOME-assisted housing that will provide required tenant protections and eliminate any prohibited provisions from uses otherwise used by owners.

Owners may not undertake any lease-up activities until the City has reviewed and approved the following documents, which must be submitted in Neighborhoodly:

- Tenant Selection Plan
- Marketing materials
- Tenant Lease Agreement (with City-provided HOME addendum)
- Tenant Fee Schedule (usually included in lease)
- Utility Allowance with supporting documentation
- Initial Rent Schedule

Once approved, the City's compliance team will issue a Tenancy Documents Approval Letter to the owner via email.

As stated in paragraph A. of this section, prior to move-in, the City must perform an initial inspection to determine the property – including all common areas, grounds, and building systems – are in accordance with HOME property standards and state and local building code (24 CFR 92.504(d)(1)(i)).

### Conflict of Interest

To comply with HOME requirements and to maintain a high standard of accountability to the public, conflicts of interest and perceived conflicts of interest must be avoided:

- Owners shall maintain compliance with all HUD conflict of interest provisions as stated in 24 CFR 92.356(f).
- Developers and owners with employees, family members, consultants, or agents that are otherwise eligible to occupy HOME-funded units must receive advance approval from the City before entering into a lease with HOME-eligible employees, family members, consultants, or agents.

### **F. Income and Rent Restrictions**

To qualify as affordable housing, HOME units must be rented only to households with certain incomes at rents regulated to be affordable to households at targeted income levels. HUD releases updated income and rent limits annually for the HOME program, which the City will provide to owners. The City will also update income limits annually on its website at <https://www.cityofboise.org/departments/planning-and-development-services/housing-and-community-development/income-guidelines/>. Until HUD releases the program-specific income and rent limits, owners must continue to use the current HOME limits as applicable.

### Income Limits

- Low-HOME units must be rented exclusively to tenants with household incomes at or below 50% of AMI for *Boise City Metro* both at initial occupancy and thereafter.
- High-HOME units must be rented exclusively to tenants with household incomes at or below 60% of AMI for *Boise City Metro* at the time of move-in, as adjusted by family size thereafter.

As stated previously in this document, ***the City requires that all HOME-assisted units be Low-HOME units***, with the exception of rehabilitation projects of occupied multifamily housing as detailed in the *Unit Allocation* section above. Any future request to allow High-HOME units must be approved by the City.

### Income Calculation

Household income should be calculated per the definitions and regulations at 24 CFR Part 5 (5.603 and 5.609) and by using the CPD Income Eligibility Calculator tool found on the HUD Exchange at <https://www.hudexchange.info/incomecalculator/> or other tool provided by the City. This calculator tool will include applicable changes from the Housing Opportunity Through Modernization Act of 2016 (HOTMA) as implemented/effective January 1, 2025, and future updates by HUD. General guidance on how to identify and determine client income is included in the Income Calculation Guide found at <https://www.cityofboise.org/home-program>.

Any other method must be pre-approved by City staff prior to use.

### Rent Limits

For all projects, the City must approve the project's rent schedule submitted as part of required annual reporting, including utility allowances and any tenant fees, as described in the sections below:

- High-HOME units must be rented at or below the High-HOME rent as published annually by HUD. In general, HUD calculates the High-HOME rent to be the lesser of the applicable Fair Market Rent or a rent equal to 30% of 65% of the adjusted AMI, adjusted for unit size.
- Low-HOME units must be rented at or below the Low-HOME rent as published annually by HUD. In general, HUD calculates the Low-HOME rent to be the lesser of the applicable Fair Market Rent or a rent equal to 30% of 50% of AMI, adjusted for unit size. The only exception is that for those units receiving Federal or State project-based rental subsidy (such as project-based vouchers), and the very low-income family pays as a contribution toward rent not more than 30% of the family's adjusted income, then the maximum rent (i.e., tenant contribution plus project-based rental subsidy) is the rent allowable under the Federal or State project-based rental subsidy program.
- The City prohibits increases in rent greater than 5% annually for existing tenants in ***any*** unit.

The City must **pre-approve** rent increases for HOME units. Project owners must submit a Rent Increase Request for approval by the City **prior to** implementing rent increases (template available at <https://cityofboise.org/home-program>).

### Utility Allowances

The HOME rent limits are **gross** rent limits. The actual rent collected from a tenant must be adjusted, taking into account an allowance for tenant paid utilities. The City must approve the project's utility allowance (UA) annually.

HOME regulations at 24 CFR 92.252(d) require that the UA for the project be based on the type of utilities used at the project and updated annually. HOME further specifies that the UA is to be established using a project-specific methodology and based on actual utility usage at the property or estimates an allowance based on project-specific factors such as size, orientation, building materials, mechanical systems, and construction quality, as well as local climate conditions.

***For HOME projects funded on or after Aug. 23, 2013, the Public Housing Authority area-wide UAs prepared for the housing choice voucher program are no longer an acceptable method of calculating UAs.***

The following methodologies, used in other Federal housing programs, will meet HOME regulatory requirements and are generally acceptable to the City. City staff (or its agent) must approve the methodology selected by an applicant. The same methodology must be used for all HOME units within a single project and must thereafter be approved by the City's compliance team.

- HUD Utility Schedule Model (HUSM): The HUSM enables users to calculate utility schedules by housing type after entering utility rate information (tariffs). This model is based on climate and survey information from the U.S. Energy Information Administration of the Department of Energy and it incorporates energy efficiency and Energy Star data. This model is allowed for LIHTC projects per IRS regulations at 26 CFR 1.42-10(b)(4)(D). The HUSM and use instructions can be accessed on HUD User at <https://www.huduser.gov/portal/resources/utilallowance.html>. The HUSM is available as either a spreadsheet model in MS EXCEL or a web-based model at <https://www.huduser.gov/portal/datasets/husm/uam.html>.
- Multifamily Housing Utility Analysis: In 2015, HUD published Multifamily Notice H-2015-4 to provide instructions to owners and management agents for completing the required utility analysis. This analysis is also used for the USDA Rural Housing Service program and allowed for LIHTC projects per IRS regulations at 26 CFR 1.42-10(b)(3). This method is applicable for Project-based Section 8, Section 101, Section 202/162, Section 811, Section 236, and Section 221(d)(3).
- Energy Consumption Model (Engineer Model) (26 CFR 1.42-10(b)(4)(E)): UA based on an energy and water and sewage consumption and analysis model (energy consumption model) prepared by a properly licensed engineer or a qualified professional. IRS regulations require that such professionals be independent from the property owner, and they specify the building factors that must be included in the model.

### Other Related Requirements

Applicants should review the HOME Multifamily Development Management Handbook for additional detail on related requirements, including but not limited to income verification procedures, required tenant protections and VAWA compliance, prohibitions on mandatory fees, etc.

### **G. Reporting and Recordkeeping**

To allow effective oversight of funded projects and document compliance with applicable HOME requirements, all projects must submit periodic reports to the City. While this section outlines standard reporting requirements, the City reserves the right to require additional reporting or to alter the reporting format or frequency based on future changes to HOME requirements or City policy. Additionally, the City reserves the right to require additional or more frequent reporting for projects with compliance deficiencies.

The following reports must be submitted electronically through Neighborly:

- During the development and construction phase, owners must provide narrative regarding progress and barriers to progress with each draw request using the Draw Sources and Uses cover provided by the City
- During the initial phase of lease-up, the City may request owners to provide monthly or quarterly reports detailing the number of additional leases, total project leases, marketing activity, and monthly income and expenses.

After project completion, the following **annual reporting** will be required:

- All HOME projects are required to submit an Annual Narrative Report on a template provided by the City (available at <https://cityofboise.org/home-program>), which includes occupancy and other pertinent information. Utility allowance documentation and examples of marketing materials are also required.
- All HOME projects are required to submit an Annual Financial Report on a template provided by the City for review and approval (available at <https://cityofboise.org/home-program>). Additionally, all projects will be required to submit an annual audit prepared by an independent Certified Public Accountant within 180 days of the end of its fiscal year.
- Owners and developers shall allow the City, HUD, State of Idaho, the Comptroller General of the United States (aka the GAO), and all other pertinent federal or State agencies or their designated representative the right to inspect records and property.
- Owners must submit any updates to their Tenant Selection Policy and AFHMP annually (if applicable) and must maintain records of annual efforts to affirmatively further fair housing in accordance with 24 CFR 92.351. Updates must clearly detail all changes.
- Owners must report annually to the City on compliance with the provisions of the Violence Against Women Act (VAWA) as applied through 24 CFR 92.359 including records related to any emergency transfer requests and their disposition.
- The City may periodically require owners to obtain a capital needs assessment prepared by an independent third-party architect, engineer, or other qualified firm approved by the City. Alternatively, the City may conduct a capital needs assessment using its own staff or contractors. Such capital needs assessments shall



be used for the purposes of determining the adequacy of the replacement reserve, taking into account its existing balance, planned deposits, and anticipated future capital replacement costs for the Project.

- The City may require more frequent reporting due to concerns or findings identified during the development and construction phase, lease-up phase, or annual monitoring.

If the capital needs assessment indicates the replacement reserve is not sufficient to address anticipated capital costs during the HOME POA, the owner must, at the City's sole and absolute discretion, either make an additional deposit or increase its annual deposits sufficient to meet any underfunding. If an additional deposit is required by the City, the owner (or the Guarantors) must replenish the Replacement Reserve Account within *six months*.

## 7. MONITORING DURING AFFORDABILITY PERIOD(S)

Following project completion, the City will monitor the project for ongoing compliance with HOME requirements, including but not limited to income and rent restrictions, property standards, tenant protections, and marketing and fair housing requirements. Some specific federal requirements may be relaxed during the City extended affordability period. In addition to requiring periodic reporting as outlined in Section 6.G above, the City will conduct on-site monitoring visits as required by HOME regulations at 24 CFR 92.504(d)(1). The purpose of these visits will include, at minimum, reviews of project records and inspection of the premises including common areas and residential units.

In most cases, the City conducts such reviews annually. However, the City reserves the right, in its sole and absolute discretion, to conduct site visits more or less frequently based on changes to HOME regulations or City policy or based on evidence of compliance deficiencies in a prior monitoring visit. For more information on monitoring requirements, see the HOME Multifamily Development Management Handbook (available at <https://cityofboise.org/home-program>).

As noted above, all projects must be operated in compliance with the City's most current HOME Multifamily Development Management Handbook, or successor publications, which may be updated from time to time to reflect new, revised, or clarified administrative procedures and practices. The Handbook provides additional detail on and updated/current descriptions of the City's guidance on property operations. This may include procedures for obtaining annual rent or utility allowance approvals, reporting and document submission requirements, and use of updated form documents provided by the City, among other items.