

# Housing Policies

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## SUMMARY OF HOUSING PROGRAM FUNDING

### Administered by the Community Development Department

(2019)

Current housing programs being administered through the Department of Community Development are the HOME Program and Community Development Block Grant Program (CDBG). These program funds are provided by the Federal Department of Housing and Urban Development on an annual basis, subject to congressional funding appropriation and Fitchburg's continued eligibility as an entitlement community. The Department identifies community housing needs and priorities for funding through a Consolidated Plan process each five year period. Annual funding allocations to specific programs are determined and approved through an annual action plan process. Summarized below, these programs provide housing related funds for:

- Rehabilitation of owner occupied housing
- Homebuyer acquisition
- Homebuyer development
- Rental development/rental rehabilitation
- Demolition.
- *Funding may also be provided to City Code Departments for code enforcement activities*

Additionally, from time to time other State and/or Federal programs and funding opportunities may be offered depending on the availability of funds and the ability of Department of Community Development to successfully obtain these resources. Applications for specific programs are available at the Fitchburg Municipal Offices, Department of Community Development. Please note, the CDBG funds referenced above, are not exclusive to housing activities. If you would like more information regarding funding allocations for non-housing activities, this can be found in the Annual Action Plan. Please contact the Department of Community Development for additional information.

FOR MORE INFORMATION ON ANY OF THE HOUSING PROGRAMS OFFERED THROUGH DEPARTMENT OF COMMUNITY DEVELOPMENT, OR TO RECEIVE AN APPLICATION BY MAIL, PLEASE CALL (978) 829-1897.

## HOME PROGRAM AND CONSORTIUM DESCRIPTION

The HOME Investment Partnerships Program (HOME) provides formula grants to states and localities that communities use - often in partnership with local nonprofit groups - to fund a wide range of activities including building, buying, and/or rehabilitating affordable housing for rent or homeownership or providing direct rental assistance to low-income people. It is the largest Federal block grant to state and local governments designed exclusively to create affordable housing for low-income households.

The program was designed to reinforce several important values and principles of community development:

- HOME's flexibility empowers people and communities to design and implement strategies tailored to their own needs and priorities.
- HOME's emphasis on consolidated planning expands and strengthens partnerships among all levels of government and the private sector in the development of affordable housing.
- HOME's technical assistance activities and set-aside for qualified community-based nonprofit housing groups builds the capacity of these partners.
- HOME's requirement that Participating Jurisdictions (PJs) match 25 cents of every dollar in program funds mobilizes community resources in support of affordable housing.

The Cities of Fitchburg and Leominster have entered into a Mutual Cooperation Agreement to form a Consortium to participate jointly in the HOME Program. Each City is entitled to the amount of HOME Program funding based on its percentage of the total allocation to the consortium and may program the funding based on its Consolidated Plan and the priorities therein as they comply with the HOME Program Regulations. The City of Fitchburg is the lead entity of the Consortium and is responsible for insuring that the Consortium's HOME Program is carried out in compliance with the requirements of the HOME Program including those requirements concerning a Consolidated Plan in accordance with HUD regulations 24 CFR parts 92, and 91 respectively, and requirement of 24 CFR 92.305 (a)(5).

## COMMUNITY DEVELOPMENT BLOCK GRANT DESCRIPTION

The Federal Community Development Block Grant (CDBG) program provides the basic funding necessary to administer many community programs and improvements including housing, public works, parks and play grounds and public facility improvements, economic development and public service activities which help to further the city's overall community development objectives. CDBG funds are allocated through an annual action plan process with input from the residents, stakeholders and City Officials. CDBG can provide funding for down payment assistance, homeowner rehabilitation, rental rehabilitation, emergency repairs, demolition of unsafe structures and code enforcement activities when funds are allocated for that purpose. Generally, the City does not allocate funds for homeowner and rental rehabilitation each year, but does administer a revolving loan fund. Repaid loans are recycled to assist with additional rehabilitation assistance when available.

## HOUSING DEVELOPMENT HOME FUNDING PRIORITIES

The City of Fitchburg receives federal HOME funds through the Fitchburg Leominster HOME consortium. Each member community creates its own policies regarding the use of its HOME funding in its community.

Fitchburg recognizes that the community has an aged housing stock with some of its older neighborhoods experiencing high rates of deferred maintenance and overall poor quality of housing. Both market rents and home prices of decent quality housing are affordable to households of low-moderate and moderate income, but often not those very low and extremely low income. As a result, these same neighborhoods with substandard housing have higher concentrations of low income households occupying this lowest quality of housing. These factors tend to segregate these lower income (and often minority) populations in these areas, which are also subject to higher than normal crime rates and abandonment. Fitchburg population has remained essentially stagnant since its peak industrial era of the prior century, resulting in more supply of housing units in the market than demand for that housing. This further destabilizes the neighborhoods. With these factors in mind, the community prioritizes creating and maintaining affordable housing activities in manner that creates opportunity to stabilize and improve neighborhoods at the same time. Below are the City's Housing priorities:

- **Priority #1 – Rehabilitation and/or Acquisition for owner occupied and homeownership opportunities.** The Consortium will continue to commit available CDBG and HOME funds to assist low and moderate income families. Due to reductions in available federal funding, rehabilitation will focus on strategic investments to increase elderly and handicapped accessibility; exterior improvements to leverage additional neighborhood investment; lead paint abatement; and urgent repairs for elders and non-elders where no other resources are available. The basis for assigning priority is to stabilize owner occupancy in low-income neighborhoods which are primarily renter occupied and efforts will address Owner/Physical Defects, Cost Burden and Overcrowding.
- **CHDO Set Aside:** The Fitchburg-Leominster Consortium will work with the two designated Community Housing and Development Organizations serving the two cities for the acquisition and development of affordable new single family energy efficient homes principally in areas where the housing market is not strong enough to attract private investment. They are: NewVue Communities, Inc. (formerly Twin Cities CDC) and Leominster Development Corporation.
- **Priority #2 – Strategic Rehabilitation of Affordable Rental Units.** The Consortium will prioritize the rehabilitation of affordable rental units suitable for rehabilitation to improve housing conditions for low income households. In recognition of the reduction in available funding to address this priority, Fitchburg will shift its focus toward strategic rehabilitation to address one or more of the needs identified in Priority #1 above. The basis for assigning priority is the need for lead free, suitable housing that is accessible, safe and affordable, and which leverages other sources of funding to the extent possible. Fitchburg has a high percentage of housing stock in the CDBG Strategy Area that was constructed prior to 1950.
- **Priority #3 – Acquisition, Development and Rehabilitation by non-profit housing providers to create long-term affordable housing.** The Consortium will work with non-profit housing providers to acquire and rehabilitate substandard housing to create long-term affordable housing opportunities for low and extremely low income households. The basis for assigning priority is to secure affordable code compliant housing for extremely low and low income households.

**The following will be considered when funding projects:**

- Proposed rental projects should be mixed income housing projects to achieve income stratification and avoid concentrating poverty. Rental projects that are predominantly tied to long term affordability restrictions affordable will not be looked at favorably. In addition, special needs housing projects that do not involve prior consultation with city planners for consideration of appropriate siting and planning concerns and which do not include adequate long term support systems to insure their compatibility with the surrounding neighborhood will not be viewed favorably.
- Proposed projects should be consistent with the overall appearance and characteristics of the neighborhood it will be sited in. Projects should have a positive impact to neighborhood appearance.
- Proposed ownership projects will be looked at favorability if they are consistent with other considerations.
- Proposed projects that incorporate the required number of off street parking spaces in accordance with zoning will be looked on favorably. Rehabilitation projects seeking relief from requirements will not be looked at favorably. This does not apply to housing proposed on upper floors of downtown Main Street.
- Projects that were previously funded and managed successfully, seeking funding for additional improvements will be looked at favorably.
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## HOUSING PROGRAM DESCRIPTIONS AND POLICIES

All Housing Programs available and funded through the HOME Program and CDBG Program require eligible applicants and/or occupants to be income eligible. These income requirements are determined and regulated by the Federal Government. Income eligibility limits may vary depending on the type of program, but will generally not exceed 80% of the Area Median Income.

### 2018 Income Limits for HUD Funded Programs Fitchburg-Leominster Area (Effective 5/1/18)

Limit	1 person	2 person	2 person	4 person	5 person	6 person	7 person	8 person
Low-Moderate Income 80%	45,200	51,650	58,100	64,550	69,750	74,750	80,050	85,250
Very Low Income 50%	28,250	32,300	36,350	40,350	43,600	46,850	50,050	53,300
Extremely Low Income 30%	16,950	19,400	21,800	24,200	26,150	28,100	30,050	31,950

## Income Determinations for Program Beneficiaries

The Consortium uses the definition of household income in 24 CFR Part 5.609 (also known as the “Part 5” or “Section 8” method) to determine applicants’ income eligibility for housing programs: “the gross amount of income, [before tax or other deductions] of all adult household members [18 years of age or older] that is anticipated to be received during the coming 12-month period.” Program staff follows HUD’s Community Planning and Development’s Income Eligibility Calculator (<https://www.hudexchange.info/incomecalculator/>), which explains the Part 5 method of calculating household income. This method defines types of income and assets to be included or not included in the household’s income calculation. Special consideration is given to income earned by minors, live-in aides, persons with disabilities, temporarily and permanently absent family members, and adult students living away from home.

There is no asset limitation for participation in the Program. Income from assets is, however, recognized as part of annual income under HUD’s Part 5 definition of income.

For the purpose of consistency and to facilitate the administration of Fitchburg’s Community Development Block Grant (CDBG) housing programs, the City will adopt the same standard (24 CFR Part 5) to determine income eligibility of beneficiaries under CDBG. The City intends to utilize CDBG funding in conjunction with HOME funding where appropriate, particularly for Homeowner Rehabilitation projects in which the homeowner’s unit will be funded under the HOME program, while any rental units will be funded under CDBG.

### HOMEOWNER OCCUPIED REHABILITATION

This Homeowner Repair Program is designed to assist qualified owner occupants of one-to-three family properties with their rehabilitation needs and is funded through two different programs, the HOME program and the Community Development Block Grant (CDBG) program. Program funding is provided as a low- to no interest loan with repayment terms based on a household’s ability to pay.

#### **To Qualify:**

- Property owner and tenant(s) must earn less than 80% of area median income. Currently the income limit is \$64,550 for a family of four.
- Properties must have rehabilitation needs.
- Priority is given to properties located within the Fitchburg Housing Strategy Area and emergency issues such as no heat in winter, no hot water, active roof leaks, etc. Owner must agree to occupy property as a principal residence for the life of the mortgage.
- Rental units must meet affordability guidelines for the program.
- Certain properties may require restoration and consideration of historic architectural details.

#### **Assistance Provided:**

- Rehabilitation loans secured by a mortgage at affordable financing terms. Rates range from zero to 2%. Single family homes are financed at 0% interest, interest may be charged if the property has rental units with an income stream. Loans may be deferred or go into monthly payments based on each applicant’s financial ability to pay.
- Rehabilitation counseling, determination of needs, work specification writing, supervision of bidding process, inspections of work in progress and final work approval.

- Full rehabilitation of property, from major building systems to cosmetic improvements. Completed properties must meet **Rehabilitation Standards** including new de-leading regulations as well as State sanitary and building codes.
- Isolated repair for emergencies and non-emergency issues on a case-by-case basis when funding is available and allows for the activity.
- Referrals and assistance in accessing other funding that may be available and provided by other sources, such as Lead Hazard Control funding, or weatherization.

## HOMEOWNER REPAIR PROGRAM APPLICATION & FINANCING GUIDELINES

### Application Review

Each completed application will be reviewed by the Division of Housing on the following basis:

1. Consistency with program objectives.
2. Consistency with the public interest.
3. Previous record of compliance with housing standards and mortgage provisions.

To the extent practicable, Division of Housing will review and respond to all complete applications within 10 business days. Incomplete applications will not be reviewed.

Applications received for eligible home owner occupied 1-3 family properties located within the Housing Programs Strategy Area shall be prioritized for assistance through a Property Classification Form, this form shall be used to assess priority ranking according to the following guidelines.

- 1) Income of applicant and tenants  
Properties with extremely low income (less than 30% of median income) and very low income (less than 50% of median income) will receive additional priority points.
- 2) Potential Neighborhood Impact  
Each property will be surveyed for review of exterior conditions and condition of the immediate neighborhood to assess the potential impact of property improvements on efforts to promote neighborhood improvement. Properties having the greatest potential for achieving this goal upon rehabilitation will receive additional priority points.
- 3) Rehabilitation Needs of Property  
Applications will be reviewed according to the type of rehabilitation needed, with higher priority points assessed to those properties with serious and immediate health/safety related needs, including the presence of lead paint in families with children under 7.
- 4) Handicapped Accessibility  
Additional priority points will be assessed on the property rating sheet for projects which add handicapped accessible units as a part of the rehabilitation to be completed.



## Annual Review of Funding Allocations and Limits

### **Project Cost/Funding Availability Limits**

Each year, Program Staff will determine a project cost “ceiling” or cap, for HOME funded Homeowner Rehabilitation Projects in order to assist as many homeowners as possible with limited funding while complying with HOME Program regulations requiring the entire home to be brought up to current state and local code standards. Projects with rehabilitation cost estimates exceeding this ceiling, may not be accepted as HOME funded Homeowner Rehabilitation projects. Exceptions may be made if the Property Classification priority points scoring indicated a very high rank, the property is of strategic importance to a larger neighborhood strategy and Staff determine that sufficient funding will remain to assist additional homeowners through the remainder of the Fiscal Year.

If applicants are rejected for the HOME funded Homeowner Rehabilitation Program because of the Project costs cap and alternative funding is available; the project will be reviewed to determine whether making isolated strategic repairs will stabilize the home. Projects where outstanding repairs not addressed, (left un-repaired), may contribute to continued deterioration of the home will not be funded. The amount of funding available to make isolated repairs for a particular project will be based on the availability of funding at the time of the project.

### **Strategic Repair Projects**

Projects may be funded to complete strategic repairs when complete Homeowner Rehabilitation Projects are determined to exceed the established project funding cap and sufficient eligible funding exists to fund a strategic repair. Each year, the City will review available funding and set aside a pool of funds from the Community Development Block Grant Program or other available sources for the purpose of assistance qualified homeowners with strategic repairs when funds are available. If non- HOME Program funding is not available, the City will not be able to fund strategic repair projects unless the repair would allow the entire property to meet all Rehabilitation Program Standards. Strategic repair projects will be subject to the same eligibility requirements, underwriting standards, financing terms and priority classification as the HOME funded Homeowner Rehabilitation Program.

At times a property may have serious and immediate health/safety related needs. The City will make every effort to respond as quickly as possible within its capacity when approving and funding project of this nature. The City and Homeowner *may* agree to forgo the formal bid process to engage a contractor to make the health/safety repairs immediately, but must utilize contractors who have a verified Contractor application on file with the Division of Housing when doing so.

## Underwriting Standards

All Homeowner Rehabilitation Program funding is given to Homeowners as a loan. Loans reviewed must meet the city’s underwriting standards, which include a review of loan to value ratios, credit worthiness, and debt ratios of applicants. Loans will not be approved when the underwriting review shows applicants are not meeting their current credit obligations. The city generally will not approve loans in which total property debt will exceed 100% of value, except where other factors demonstrate that additional benefits will accrue to the city as a result. Such

factors include, but are not limited to; exterior improvements which will positively impact the surrounding neighborhood, and costs related to historic restoration or handicapped accessibility. The value of the Home may not exceed the HOME Homeownership Value Limits provided by HUD, and this will be a consideration when underwriting the Project. Loans will be either deferred or immediately put into amortized payments based on the criteria listed in the Financing Policy.

### Waiting List Policy

Applications will be reviewed for eligibility and completeness and placed on a waiting list based on their date the application was completed. Applications will continue to be reviewed in periodic funding rounds established on the basis of both funding and staff time availability. At the time of funding round, applications will be prioritized based on the above Application Review criteria and given a ranking score. Once applications are given a score, applications will be selected to become a project based on that score. Applications which are eligible for funding, but which are not selected on a priority basis at the time of application, will be held in a waiting list for future consideration. Applications will continue to be reviewed in periodic funding rounds established on the basis of both funding and staff time availability.

Applications for properties located outside the Housing Strategy Area can be accepted when no applications within the area are waiting or when emergencies or severe hardship are indicated. These cases will be reviewed and considered for funding on a case by case basis by the housing program staff.

### Financing Policy

Each application approved for funding based on the city's review standards will be offered financing terms which are based on a financial profile of the applicant using the city's established income/affordability test. The current policy, which is subject to ongoing review and may be adjusted from time to time, is as follows:

#### Interest Rate:

Single family owner occupied homes: 0% interest  
Two family owner occupied homes: 1% interest  
Three unit owner occupied homes: 2% interest

#### Terms:

One of the following sets of terms will be offered on the basis of the income/affordability test:

- 1) If the applicant has a net income available for loan repayment which is less than \$75 per month (after payment on a CDBG loan, if provided) and feels he/she cannot afford additional loan payments at this time, the loan will be deferred for a period of five years. The deferment period shall be ten years in cases where the applicant is elderly or disabled and on a fixed income.

Upon expiration of the deferment period, the Community Development Office will conduct an updated review of the applicant's income using current program guidelines, assess the condition and tenant status of the property, and conduct an income/affordability test to determine the following:

- Whether the loan should become due and payable in full immediately.
- Whether loan payments will ensue for a term to be determined, based on affordability.
- Whether the loan will be deferred for an extended term.

- 2) If the applicant has a net income available for repayment which is greater than \$75 per month, the loan will require payment, with terms structured according to ability to pay. Loan terms will vary based on the actual monthly payment determined by the affordability test or agreed upon by owner and department.

*See CDBG and HOME Program Loan Policy for additional Detail.*

### Refinancing Policy

In cases identified under paragraph #1 above of the financing policy the city will consider refinancing existing mortgage debt on the subject property if it determines the following:

- The refinancing is necessary to reduce the overall housing costs to the borrower and make the housing more affordable (within the established guidelines of the program), and;
- The refinancing is appropriate, given the level of benefit which would accrue to the borrower in terms of actual savings to the borrower, considering the interest rate and remaining term of the existing debt to be refinanced, the interest rate and term of the existing debt and the resulting level of savings it will generate to the borrower.
- The refinancing is appropriate, given the current level of housing funds available and the demand for those funds to address other identified housing needs in the city.

### Subordination Policy

Owners of properties improved with federal, state, or local financing through the City of Fitchburg's Housing programs may request that the City subordinate its loan position when refinancing their property. Owners will be asked to complete an application in order to determine compliance with mortgage terms and conditions as well as the nature, purpose and beneficiaries of the proposed change in financing. In general, the City will not subordinate to a new loan when the owner is proposing to receive cash from the new loan unless the cash is being utilized to make improvements to the property.

## CDBG AND HOME PROGRAM LOAN POLICY

*The following policies apply to homeowner repair programs and small scale rental projects.*

The Community Development Department will determine the terms of loan repayment for housing program loans as follows.

- If less than \$75.00 per month, loan deferred at 0% interest, with income review at 5 or 10 year anniversary according to CDBG/HOME loan policy then in place.
- If greater than \$75.00 per month, loan repayment according to the rates and terms described below.

- Step One:** **Determine monthly payment amount** using standard affordability form and underwriting ratios. This form reviews income, housing and debt expenses. Households paying more than 38% of monthly gross income towards housing and debt are eligible for deferral of loan. Note: Homeowner may choose to pay more than the monthly amount required, if he/she chooses to do so.
- Step Two:** **Determine interest rate.** Current program rates are as follows:  
 Single family owner occupied – 0%  
 Owner occupied property with rental unit(s) –1- 2%  
 Non-owner occupied rental property – 3%\*
- Step Three:** **Determine length of loan (term):** Using the established monthly payment and interest rate above, calculate the number of months (term) it will take to fully amortize the loan. Note: If loan will take more than 30 years to amortize, schedule loan term review at 5 year anniversary of closing to determine the possibility of increasing the monthly payment to reduce amortization period under 30 years.

\* Rates and terms may vary for special projects involving 10 or more units and utilizing multiple funding sources, based on an individual project financial review and final approval of the Community Development Director.

Note: For combined CDBG and HOME loans, the CDBG loan shall be amortized first, with the HOME loan deferred at 0%. Upon completion of CDBG loan repayment, the HOME loan will begin amortization at the established rate and term.

- Loans in default may be charged the full default interest rate documented in the loan Promissory note and may be subject to fees associated with collection. The Consortium has not foreclosed on properties in default but reserves its right to do so.
  - Owners in repayment experiencing financial hardship can request loan deferment, complete the application and an affordability analysis will be conducted. Loans may be moved from payment to deferment based on the analysis.
- Loan Default procedures: Loans determined to be in default of Mortgage and loan promissory note terms will be provided with a written notice indicating the default, the reason(s), and the requirements to cure the default in accordance with loan terms. If owner(s) fail to respond, a second notice will be sent to the owner by certified mail.
  - If after 60 days, the owner has not responded to the notices, the City may take action to collect rents if the property has rental income and/or charge fees and interest on the balance due in accordance with the default loan terms. The City may choose to exercise its right to foreclose on the property in accordance with State and Federal foreclosure regulations, laws, and requirements. Owners will be notified of the City’s intent to take any default related actions 30 days prior to the City taking the action.
  - If the owner responds to the default notices and is unable to cure the default, the owner will be asked to complete a loan deferment application. Upon completion of the application, an affordability analysis will be conducted and the loan will be deferred or the payment amount will be changed accordingly.

## Contractor Selection Policy

The City shall utilize an application form for all contractors interested in bidding projects under any of the city's HOME or CDBG funded programs. The application form shall contain sufficient information to verify the following:

- Contractor's license
- Contractor's insurance
- Contractor's areas of expertise and interest
- Contractor's prior work and credit references

Upon provision of all required information, and confirmation that the applicant is not listed on the current federal Debarment list, the city shall include the contractor in its list of eligible bidders for its programs.

To insure that Contractors are informed of the opportunity to participate in the city's programs, it will publish a notice at least once annually in a publication of general circulation and will post this notice in a public area (City Hall and/or other locations as appropriate) on a year-round basis. These notices will encourage the participation of all Minority and Women Owned contracting firms.

Property Owners will be provided the list of eligible contractors prior to bidding rehabilitation work on their projects and will be required to solicit bids from no less than 3 eligible contractors for each project. Owners may also solicit bids from additional contractors of their choosing, provided that these contractors first satisfactorily complete the city's application process.

## Rehabilitation Standards

The Consortium shall adopt the following standards for the rehabilitation of all HOME and CDBG funded housing activities:

All Properties considered for Homeowner Rehabilitation will be inspected utilizing the Uniform Physical Condition Standards, (UPCS) in accordance with 24 CFR 5.703. Major rental property rehabilitation will be assessed by a licensed architect who will use identify existing conditions and require rehabilitation of any conditions that do not meet USPC and State and Local Codes, standards and ordinances. All Rehabilitation will be completed in accordance with State and Local Building and Sanitary codes, standards, and ordinances, zoning ordinances and will adhere to any requirements regarding methods and materials used. Projects that proceed will at a minimum require Rehabilitation to address:

- Health and Safety issues, any life threatening deficiencies must be corrected immediately.
- Major Systems- all major systems, (structural support, roofing, cladding, windows, doors, siding, gutters, plumbing, electrical, heating, ventilation, and air conditioning) will be evaluated for useful life. For rental housing, systems will be replaced when it is determined that systems will require replacing before the expiration of the affordability period. For home owner rehabilitation, major systems must have a useful life of at least five years.
- Lead Based Paint- In accordance with 24 CFR Part 35, all housing considered for Rehabilitation will be tested for lead based paint by a licensed lead inspector. Identified lead based paint hazards will be remediated.

- Accessibility- In accordance with Section 504 of the Rehabilitation Act, Americans with Disabilities act and Fair Housing Act, rehabilitation will incorporate accessibility as follows: Rental housing with five or more units will be required to rehabilitate at least 5% of units to be accessible to mobility impaired households and 2% accessible to sensory impaired households. Homeownership housing will be rehabilitated to provide accessibility when this is a need of the household, or upon request when it is expected to become a need of the household within the next five years.
- Disaster Mitigation Standards- When properties are determined to be at risk of natural disasters, such as when a property is located within the 100 year flood plain, rehabilitation will incorporate mitigation measures as required by State & Local codes including state building codes.

All Rehabilitation projects will include Construction Documents and Work Write-Ups that comply with the above stated Rehabilitation standards, will include requirements that all work being completed in accordance with State and local codes, standards, and ordinances, and when appropriate, will specify methods and materials.

The only exception to the above standards shall be in emergency cases assisted with CDBG funding. These may include heating system failure, water damage from roof failure or flooding, accessibility modifications for handicapped or elderly persons, etc. In all such cases, the city will encourage full follow-up compliance to complete any additional work needed in substandard units to meet its rehabilitation standards.

### Construction Oversight

Projects proceeding under the Homeowner Rehabilitation Program require oversight by the Program's Construction Manager or another professional designated by the Department of Community Development. The City will conduct at least three inspections, but may conduct more. An initial inspection will determine deficiencies that will be addressed in accordance with City's Rehabilitation Standards, one or more progress inspections to monitor construction as it proceeds and a final inspection to ensure the work was completed in accordance with the construction contract, construction documents, meets state and local codes, ordinances and requirements. Upon completion, all units in the project will be decent, safe, sanitary and in good repair.

When funding large rental rehabilitation projects of a large scale, it is expected that the developer will retain a licensed architect to develop construction documents and a construction contract that meets the City's Rehabilitation Standards including state and local codes, ordinances and requirements. The Project will retain a Construction Oversight Professional acceptable to the City and other project funders. This Construction Oversight Agent will inspect the physical site, review construction documents and contracts to ensure the scope of work is complete in accordance with Rehabilitation Standards. Once Rehabilitation work begins, the Agent will conduct monthly progress inspections, review payment requests and change order requests to ensure payment is warranted and appropriate for work completed, prepare inspection progress reports to document construction progress, and will complete a final inspection and final written report. All inspections will review work to ensure it is being completed in accordance with Rehabilitation Standards, state and local codes, ordinances and regulations and in accordance with construction documents. New Construction will follow the same requirements except that there is no existing structure to inspect for deficiencies. Smaller rental Rehabilitation projects will follow the same standards as Homeowner Rehabilitation Projects, utilizing the City's Construction Manager or designee for oversight. Rental projects will be identified as large or small based on the complexity of funding, rehabilitation work and number of units. Generally, projects funded by the City and/or one private lender, with fewer than 10 units will be considered small for this purpose.

## TEMPORARY RELOCATION POLICY FOR OCCUPANTS

### HOUSING REHABILITATION PROGRAMS

The City of Fitchburg through the Department of Community Development will provide necessary and reasonable relocation benefits for tenants, property owners, and owner occupants that are consistent with incurred eligible expenses as outlined below. These expenses shall be considered a part of the overall project financing costs and shall be included in the calculation of the total project loan amount. **In all cases, the maximum benefit provided shall be the most cost effective and economically practical plan that provides for safe, reasonable, and suitable temporary housing for those families or individuals affected by project eligible work.**

#### 1.) Owner occupants\*

Owner occupant are expected to cover their own temporary relocation costs. Exceptions will be made for hardships when owners may be unable to stay with family or friends or make other suitable arrangements. Exceptions will be granted to owners who receive deferred HOME loans because of limited financial resources. When exceptions are granted they shall be consistent with the limits outlined below.

#### 2.) Family & Friends\*

Tenants who are able to stay with family or friends: Tenants who must make their own arrangements and are required to report address and telephone number of where they will be staying to the Department so that they may be notified when the deleading is complete. Tenants will receive a relocation payment that estimates the cost of eligible relocation related expenses\*once they are back in their apartment, they must first sign a statement regarding the number of days that they were required to be out of their home. Estimated expenses are calculated as a per diem below:

*Per diem payments will be as follows:\$30 per day for each adult/\$20 per day for each child (under 16 years of age)*

#### 3.) Hotel Accommodations\*

When the option of staying with family or friends is not possible, the city will pay for approved hotel accommodations. The tenant or owner must select from an approved hotel choice, taking into consideration cost, proximity to the project and employment, access to restaurants, and availability of lodging. The Department will contact the hotel to arrange direct billing to the city for shelter and local telephone costs (no meals to be included). In addition an estimated per diem to cover other related expenses is calculated as follows:

*Per diem allowance as follows: \$25 per day per adult/\$15 per day per child (under 16 years of age)*

#### 4.) Alternative Housing /Other Arrangements\*

Owners and tenants may propose and jointly agree in writing, to other reasonable and cost effective arrangements. Plans must be reviewed and approved by the city prior to any final implementation. Approved alternative arrangements and eligible related relocation costs will be reimbursed by the Department to the owner or tenants. Alternative housing must be safe, decent and suitable housing for the occupant household's needs during the deleading process. The owner or tenant must make all arrangements for the alternative plan and should include expenses for utilities and temporary telephone services as well as moving of necessary personal belongings required during deleading. **Unless specifically approved in advance by the city, alternative housing arrangements shall not include any additional per diem allowance but all eligible costs will be reimbursed based on documented receipts.**

\*\*Per diem estimated payments are intended to cover all eligible relocation related expenses including but not limited to, moving, meals, transportation, laundry expenses, and tenant paid utilities used by the deleading contractor. Actual costs above the estimated payment are eligible for reimbursement with receipt. All reimbursable costs must be verified with the Department to confirm eligibility and reasonableness of the cost. We cannot guarantee eligibility of a cost after it is incurred.

When necessary, reasonable costs associated with boarding of household pets during temporary relocation will also be reimbursed.

**It takes approximately 10 days for the City to process expense payments and reimbursement requests. Payment will be processed at the end of the relocation period unless mutually agreed otherwise.**





## CHOOSE FITCHBURG DOWN PAYMENT ASSISTANCE PROGRAM

### HOME BUYER ASSISTANCE

This pilot program, currently funded through the CDBG program, provides income eligible homebuyers with down payment assistance to purchase a home anywhere in Fitchburg. The Program is subject to available funding. Although not funded by HOME funds currently, it may be used to fund through HOME funds in the future.

#### **To Qualify:**

- Buyers and tenant(s) must earn less than 80% of area median income currently \$64,550 for a family of four.
- Owner must have half of the required down payment, a commitment from a lender to provide a conventional first mortgage and have taken a HUD approved first time homebuyer class.
- Property must be in good repair in Fitchburg.
- Owner must agree to occupy property as a principal residence for five years.
- Buyers cannot displace existing tenants in the purchase.
- Other requirements apply, please see full down payment assistance guidelines.

#### **Assistance Provided:**

- Financial assistance up to ½ of the cost of down payment and eligible closing costs, up to \$4750

#### **Program Description**

The City of Fitchburg, hereinafter referred to as the “City,” has established the Down Payment Program Guidelines described herein (the “Program”) to provide assistance to individuals and households who are eligible first-time home buyers for the purchase of homes located within the Fitchburg city limits, as described under Property Eligibility. The Program provides this assistance in the form of a conditional grant agreement and affordable housing restriction. The Program grant funds may be used toward interest rate buy down, closing costs or up to 50 percent of the down payment required by the mortgagee for the purchase on behalf of the homebuyer.

The Program will be administered by the Department of Community Development, Division of Housing and Development, (the “Division”).

The Division offers financial assistance to eligible low to moderate income first-time homebuyers through the division’s Down Payment Program. Under the program, eligible down payment is paid for with funds available under the U.S. Department of Housing & Urban Development’s Community Development Block Grant Program (CDBG) program and/or HOME Investments Partnership Program .<sup>1</sup>

**Eligible households must document that they have the required balance of funds necessary for down payment and/or interest rate buy down as required by the Primary Lender.**

## Home Buyer Eligibility

### **Household Income Limits**

Applicants' household incomes may not exceed 80% of City of Fitchburg's Area Median Income (AMI), adjusted for household size, as published by HUD, and shown in the Income Limits table. In order to qualify for a Program grant to be funded with CDBG funds, the applicants' household income may not exceed the HUD "low" (80%) income limit for Fitchburg, MA HUD Metro FMR Area. Applicants must certify and provide acceptable documentation that their gross household incomes do not exceed the income limits. The income limits in place at the time of application submittal will apply when determining applicant's eligibility.

### **Determining Household Income**

The applicant's projected gross annual household income will be used to determine the applicant's income eligibility for the Program. The Division will use the HUD "Part 5" method, as set forth in 24 CFR Part 5.609 and further described in Income Determinations for Program Beneficiaries

### **First Time Home Buyer Status**

The Program uses the definition from HUD of a "first-time home buyer" and verifies utilizing the following, but not limited to, documentation of first-time home buyer status with tax returns and other documents (i.e., leases, etc.) must be submitted with the application in order to verify first time home buyer status.

"First-Time home buyer" means an individual or individuals or an individual and his or her spouse who have not owned a home during the three-year period before the purchase of a home with subsidy assistance, except that the following individual or individuals may not be excluded from consideration as a first-time home buyer under this definition:

A displaced homemaker who, while a homemaker, owned a home with his or her spouse or resided in a home owned by the spouse. A displaced homemaker is an adult who has not, within the preceding two years, worked on a full-time basis as a member of the labor force for a consecutive twelve-month period and who has been unemployed or underemployed, experienced difficulty in obtaining or upgrading employment and worked primarily without remuneration to care for his or her home and family; b) A single parent who, while married, owned a home with his or her spouse or resided in a home owned by the spouse. A single parent is an individual who is unmarried or legally separated from a spouse and has one or more minor children for whom the individual has custody or joint custody or is pregnant; or An individual or individuals who owns or owned, as a principal residence during the three-year period before the purchase of a home with assistance, a dwelling unit whose structure is: Not permanently affixed to a permanent foundation in accordance with local or state regulations; or Not in compliance with state, local, or model building codes and cannot be brought into compliance with such codes for less than the cost of constructing a permanent structure.

As set forth above, applicants may own a manufactured or mobile home not on a permanent foundation and not affixed to real property also owned by the applicant; however they must sell the manufactured home prior to closing escrow on the Program-assisted home purchase and must utilize their net proceeds of the sale, to the extent possible, toward their down-payment on the new home purchase.

### **Home Buyer Education**

Buying a home can be one of the most confusing and complicated financial transactions of the prospective buyer's life. Home buyer education classes from a HUD-certified housing counselor can help prospective buyers avoid costly mistakes, and can often help the buyer avoid foreclosure or default by providing education about financing, grants, and budgeting prior to the purchase. Studies have shown that first-time home buyers who have attended HUD-certified home buyer education classes have a greater ability to handle problems that often occur with homeownership.

Applicants must attend a HUD-certified housing agency prior to receiving written approval for a Program grant. The home buyer education class will cover the following topics, at a minimum: preparing for homeownership; available financing; credit analysis; grant closing; homeownership responsibilities; home maintenance; the impact of refinancing, and grant servicing. The applicant must attend and receive a certificate of completion of a Massachusetts Homeownership Collaborative -accredited first time home buyer course, usually consisting of eight hours of instruction, and provide the Program staff with a copy of the certificate prior to close of escrow. A list of providers of home buyer courses is available upon request.

## Property Eligibility

### **Location And Characteristics**

- A. Homes must be located within the City of Fitchburg.
- B. Homes must have been vacant or owner-occupied (by the seller's household only) for the entire three-month period prior to the date of the purchase offer, and must continue to be vacant or owner-occupied through close of escrow. Tenant-occupied homes are not eligible for purchase, unless the tenant is purchasing the home. See Section 3.3 below for additional details.
- C. Homes may be new or resale single, two, or three, town homes, or condominiums. Market-rate or affordable HOME-assisted, or a property on the Mass Access, [www.massaccesshousingregistry.org](http://www.massaccesshousingregistry.org), may be purchased, however there is generally a waiting list for the opportunity to buy a subsidy-assisted home.
- D. If the home proposed for purchase is new (i.e., not previously sold to a home buyer), the foundation must have been poured prior to seller's receipt of the buyer's purchase offer.
- E. All homes must be in compliance with State and local building, zoning, and health and safety codes and ordinances.
- F. If the home is located within a 100-year flood zone, the buyer will be required to obtain and maintain a flood insurance policy, with an initial term not less than one year prepaid in escrow, and provide an endorsement naming the City of Fitchburg as additional insured, prior to funding of the Program grant.

### **Condition Of The Home**

Homes must meet all applicable state and city zoning, building, housing and health and safety codes prior to close of escrow in order to be eligible for Program assistance. Older homes that are legal non-conforming must meet the zoning codes that were in effect at the time they were constructed, as well as current applicable building and health and safety codes. If any subsequent construction or remodeling was done to the home by the seller or a prior owner, it must be in compliance with the codes in effect at the time the work was done, must have passed city building inspection, and there may not be any current code violations that may present a health and safety hazard (i.e., construction without permits, including garage conversions, additions,

encroachments, etc.). New homes are eligible for purchase once a Certificate of Occupancy has been issued. Resale homes require inspection by the Division and by a certified Home Inspector, as set forth below.

Resale Homes: Inspection and Determining Need for Repairs: Once the applicant has identified a potential home to purchase, and prior to a commitment of Program funds, the following steps must be taken for the home to be eligible for purchase under the Program:

- The prospective buyer must also hire a certified home inspector of their own choosing to inspect the home, and provide a copy of the inspection report to the Division staff. The home buyer and their real estate broker or agent may negotiate with the seller regarding repair costs. Homes requiring repairs and corrections estimated to cost in excess of \$10,000 will not be eligible for Program assistance, unless the required repairs have been completed by the seller and the work has passed final building inspection by the Division prior to Program grant approval. Smoke detectors must be installed by the seller if there are none in place and. Smoke detector certifications from the Fire Department will be required prior to closing.
- Division staff will inspect the home to identify any housing, building, and/or health and safety code deficiencies to be corrected in order for the home to be eligible for purchase. The Specialist will provide a recommended list of work items, if any, needed for the home to pass inspection. If the home requires substantial rehabilitation (more than \$10,000 of repair work) to meet codes, or if the home has health and safety and/or building code violations (such as un-permitted additions or garage conversions), the home will be considered substandard and determined not to be eligible for Program assistance unless all of the violations are corrected by the seller and pass Division inspection prior to applicant's submittal of a purchase and sales agreement.
- If either inspection identifies evidence of pest issues, a current pest inspection must be performed by a licensed pest inspector of applicant's choosing, and any required treatments must be completed, and a clear inspection report provided to escrow. The Division will encourage each home buyer to secure a homeowner's warranty policy as part of the purchase of a resale home.
- HUD regulations at 24 CFR 50.3(i) and 58.5(i)(2) require all property to be free of contamination where a hazard could affect the health and safety of occupants or conflict with the intended use of the property. Section 50.3(i) states that "It is HUD policy that all property proposed for use in HUD programs be free of hazardous materials, contamination, toxic chemicals and gasses, and radioactive substances, where a hazard could affect the health and safety of occupants or conflict with the intended utilization of the property" By far the most frequently occurring radioactive substance that threatens HUD-assisted development is radon gas.
- Upon completion of all repair work required, if any, a final inspection will be conducted by the City prior to close of escrow. If the repair work is of a nature where a City building permit(s) is required, the seller or his/her contractor must obtain the permit(s) prior to starting repair work, and the work must pass City building inspection prior to release of contingencies in the purchase contract. Minor cosmetic repairs not requiring building permits, such as painting or carpet installation, may be inspected by the Rehabilitation Specialist. The Seller will certify, and the Division will verify, that all required construction work has been completed per code requirements, and is in compliance with local codes at the time of sale and prior to occupancy.

### **Post-purchase Rehabilitation Assistance:**

Homes purchased with Program assistance may be eligible for the City Programs to assist with lead hazard control after the date of purchase if funding is available.

### **Home Size:**

The home shall be not larger than necessary to meet the needs of the home buyer household, without overcrowding. Generally, this means not more than two persons per bedroom plus one, and not less than one person per bedroom. Exceptions to the maximum household size limit may be made by the Division upon request to accommodate a large household already living together in a home with an equal or fewer number of bedrooms, but two or more households not currently living together may not use this exception in order to purchase a home together.

### **Lead-Based Paint Hazards:**

All homes built prior to 1978 must pass a visual lead-based paint hazard inspection in order to qualify for purchase with Program assistance. If the home was built prior to 1978, and does not pass the Division's visual assessment, it may require a certified lead-based paint inspector or risk assessor to test all painted, shellacked, or varnished surfaces to determine the presence or absence of lead. If the test results indicate that unstable lead is present and corrective work is needed, such as encapsulation with new paint, the work must be performed by contractors licensed to do lead-based paint hazard reduction and/or abatement, using work safe methods. If such work is performed, the testing firm will test again after the work is done and provide a clearance letter once the results indicate no hazards are present. The following steps must be taken regarding identified potential lead hazards:

- Notification: Program application packages will include the most recent copy of the EPA pamphlet "Protect your family From Lead in Your Home" (See Appendix Protect your family from Lead in your home and confirmation of lead pamphlet). Applicants will be required to read the pamphlet and sign a certification that they have read it prior to receiving pre-approval for Program assistance.
- Disclosure: Sellers of homes built prior to 1978 must provide prospective buyers with the HUD notice entitled "Seller's Lead-based Paint Disclosure" prior to accepting a purchase offer from the prospective buyer. Buyers shall not submit a purchase offer until they have received this disclosure from the seller or seller's agent.
- Inspections: The Inspector shall conduct a surface by surface testing of all painted, shellacked, or varnished surfaces to determine the presence or absence of lead in the home in order to identify lead hazards. All lead hazards must be stabilized in accordance with CFR 35.1330 (a) and (b); and a clearance shall be made in accordance with CFR 35.1340.
- Mitigation: If stabilization is required, the Division must approve the contractor selected to perform the work in order to assure that only those certified to stabilize lead paint are allowed to perform the mitigation.
- v. Confirmation of Property Eligibility: Once a pre-approved Program applicant has provided all the required documentation of a home's eligibility and all required inspections have been completed, the Division will: 1) confirm that the home is within the city of Fitchburg, 2) review each proposed home to ensure that it meets all eligibility criteria, and 3) place a Down Payment Assistance Checklist / File Review.
- **The Program will currently assist approved buyers with lead paint hazard removal when the HQS Inspection identifies peeling paint. Assistance with the removal of other hazardous materials may be considered when they present a barrier to approval of the property.**

### **Anti-Displacement Policy And Relocation Assistance**

Eligible homes are those that are currently owner-occupied or have been vacant for at least three months prior to the buyer's submittal of a written offer to purchase. A home is ineligible for Program assistance if its purchase would result in the displacement of a tenant (i.e., anyone other than the seller's household), whether or not the tenant is paying rent. ***The Program will NOT assist the purchase of any tenant-occupied homes or knowingly assist buyers who cause tenant displacement, therefore it is not anticipated that the implementation of the Program will result in the displacement of any persons, households, or families.*** If a seller knowingly offers a tenant-occupied home for sale to a Program-assisted buyer but fails to disclose the tenancy to the Program, and any federal or state agency later determines that relocation benefits are owed the tenant, the seller will be held solely responsible for the costs of compliance with federal and/or state relocation law, as applicable. Such costs are typically significant and can often exceed the amount of the Program grant; therefore tenant-occupied homes are excluded from the Program. The following Federal laws apply to any tenant displacement that may occur in association with use of federal funds for property acquisition:

- **Uniform Relocation Assistance (URA) and Real Property Acquisition Policies Act of 1970** - The federal URA and Real Property Acquisition Policies, as amended by the URA Amendments of 1987, apply to projects or programs funded in whole or part with federal funds, including HUD funds such as HOME Program funds, which involve real property acquisition and cause the displacement of a person, regardless of income status. The implementing regulations in 49 CFR Part 24 provide further requirements that the lead agency must follow to provide adequate relocation assistance for displaced tenants.
- **Section 104(d) of the Housing and Community Development Act of 1974** - Section 104 (d) requires the City, as a condition of receiving HUD funds, to certify that it is following a residential anti-displacement plan and relocation assistance plan. Section 104(d) also requires relocation benefits to be provided to low-income persons who are physically or economically displaced as the result of a HUD assisted project. The implementing regulations for Section 104(d) can be found in 24 CFR Part 570.

### **Maximum Purchase Price**

The maximum purchase price of homes purchased with grant-funded Programs shall not exceed HUD's Homeownership Value Limits ("95% limits") for 2017 that are effective March 1, 2017. These limits are significantly higher than what most applicants will be able to afford and finance even with Program assistance. The Sale Price Limits do not apply to applicants with incomes above the HUD Low income limit, as they are not eligible for the grant funds.

In general, for all applicants, the primary factors used to determine the feasible price range will be the applicant's available down payment funds and pre-approved first mortgage amount, assuming the first mortgage meets the requirements specified below. The Program grant, if approved, would increase the feasible price range by approximately the Program grant amount.

A home purchase price must not exceed 95% of the City's median sales price, currently \$233,000 for a single family home, \$298,000 for a 2-family structure, and \$361,000 for a 3-family structure.. These limits remain in effect until HUD issues new limits.

Source: <https://www.hudexchange.info/resource/2312/home-maximum-purchase-price-after-rehab-value/>

## First Mortgage Requirements

Prior to obtaining a Program grant commitment from the City, a home buyer must provide a loan approval letter for a first mortgage in the maximum amount the first mortgage lender is willing to loan the home buyer within the Program grant standards (i.e., rates, ratios, amortization schedule, and other minimum loan requirements). The program requires fair and competitive interest rates with no points being charged to the borrower. The program encourages pricing concessions to qualified applicants whenever possible.

## Underwriting Standards

Fully documented first mortgages approved for funding by Neighborhood Assistance Corporation of America MassHousing or Massachusetts Housing Partnership (MHP), FHA, the VA, or, or a large institutional lender that underwrites to MassHousing, Fannie Mae, Freddie Mac, VA or FHA standards, will be acceptable to establish the applicant's ability to make payments and dependability of income, in addition to the Program's underwriting standards explained below. Loans approved without full income documentation of the mortgagor(s), often referred to as "no doc" or "stated income" loans, may not use to purchase a home with a Program grant. In addition, the applicant must have a minimum credit score of 600, and may not have filed for bankruptcy or been foreclosed upon during the three years prior to date of application to the Program.

In order to qualify for Program assistance, the applicant's **"front-end ratio" shall be not more than 31%**. The front-end ratio is the percentage of a borrower's gross monthly income (before income tax deductions) equal to the total of the following monthly housing costs: required first mortgage payment (principal and interest), property taxes, property insurance, and homeowner association dues and/or mobile home space rent, if any. Ratios will be reviewed using the lender's determination.

The applicant's **"back-end ratio" shall not exceed 45%**. The back-end ratio is the percentage of a borrower's gross monthly income that would be required to cover the front-ratio costs (monthly housing costs), plus any other mandatory monthly debt payments, such as: car loans, personal loans and credit cards, alimony or child support ordered by a court, and/or student loans. *In exceptional circumstances a ratio above 45% may be considered when strong compensating factors are present, such as, on-time payments, savings and other factors.*

Compensating factors must be presented with the Loan Estimate if a request is made to exceed maximum allowable qualifying ratios. Acceptable compensating factors are include but are not limited to the following:

- Verified and documented cash reserves that equal or exceed three total monthly mortgage payments (one and two units) or that equal or exceed six total monthly mortgage payments (three and four units);
- New total monthly mortgage payment is not more than 20% higher than previous total monthly housing payment, whichever is less, and there is a documented twelve month housing payment history with no more than one 30 day late payment.
- Verified and documented significant additional income that was not considered for the mortgage application.
- High Credit Score
- Employment stability of more than 2 years.
- Low percentage of revolving debt



### **Interest Rate**

The first mortgage must be fully amortized and have a fixed interest rate for the entire term that does not exceed the current market rate. No temporary interest rate buy-downs are permitted. Sub-prime rates, adjustable rates, interest-only options, and/or any type of negative amortization shall not be acceptable in the first mortgage.

### **Loan Term**

The first mortgage shall be fully amortized over the term of the loan and have a term “all due and payable” in no fewer than 30 years. There shall be no balloon payment requirements or prepayment penalties included in the terms of the first mortgage.

### **Escrow Account**

All households will be required to have escrow accounts for the payment of property taxes, property insurance, and ground lease fees as required by the Program.

## **The Program Grant**

### **Maximum Amount Of Program Assistance**

The amount of Program assistance to a home buyer toward purchase of a home **shall not exceed up to \$4750.00 of Direct Homeowner Assistance.**

### **Determining The Amount Of The Program Grant**

The actual amount of a buyer’s Program grant shall be computed after the applicant has identified a home to purchase and has been pre-approved for a first mortgage in an amount such that their front and back ratios would not exceed the limits specified in Section 5.1. The Program Grant shall be made only in the amount needed to allow them to become homeowners (“the affordability gap”) while keeping their housing costs affordable. The first mortgage lender will use their underwriting standards, such as front and back ratios, credit score, and income, and so on to determine the first mortgage amount. The Division will verify that the first mortgage meets the requirements of Section 5 above, and the Program grant amount will be equal to the amount required to bridge the gap, if any, between the acquisition cost minus the down payment, the first mortgage, and any other funds available to the buyer (i.e. Employer Assistance Program, Equity Builder, other down payment assistance).

### **Rate And Terms For Program Grant**

All Program assistance to individual households shall be made in the form of a conditional grant and an affordable housing restriction, commonly known as a “silent second or community second” mortgage. The Program grant’s term shall be for a term equal to three (3) years from the date of acquisition or occupancy.

Any payment of interest and/or principal would be due if the property is sold or transferred in full or part, (including refinances) during the first three (3) years of ownership, or upon a default under the conditional agreement (for example the borrower’s failure to occupy the home as their primary residence).

The Program grant shall be in second lien position following the first mortgage, unless another public agency is providing deferred financing and must be in second position, in which case the Program grant may be in third lien position.

**Loan-To-Value Ratio**

The total loan-to-value ratio (LTV) for all indebtedness on the property (First mortgage plus Program grant and any other deferred junior loans) shall not exceed 100% of the sales price. Most transactions will be structured similarly to the example below:

Total Financing:	97% TLTV
Program Grant:	1.5% of purchase price
Buyer’s Down Payment:	1.5% of purchase price
Total Funding:	100% of purchase price

**Subordinate Financing**

With today’s high costs, in order for a low-income household to obtain a home, some mortgage funding programs additional funds might be required. Subordinate loans may be used to cover mortgage subsidy costs that exceed the Program maximum loan amount.

***Lenders utilizing MassHousing, Massachusetts Housing Partnership or Neighborhood Assistance Corporation of America, primary and subordinate financing may exceed 97% of the value of the property.*** All subordinate liens must have the payments deferred and the term must be for at least as long as the term of the Program grant.

**The Application Process**

The City processes applications for Program assistance on a first-come, first-served basis, based on the date and time of receipt of completed applications by the Division. If and when more completed applications are received and deemed eligible than can be funded with available Program funds, the Division will create a waiting list of applicants who will be contacted when additional funding becomes available. Each applicant must complete an application form which requires sufficient information concerning income, employment, household size, and credit history to establish preliminary eligibility for Program participation. Applications are deemed complete only if all information is completed, the application is signed and dated, and a first mortgage lender’s prequalification letter is attached to the application, with a copy of the listing of the home proposed for purchase. Incomplete applications will be returned to the applicant and will not be date/time stamped until complete. If their eligibility is confirmed, the applicant will be invited to a meeting for an overview of the Program requirements

Each applicant must attend an approved home buyer counseling class provided by a qualified local HUD-certified housing counselor designated by the Massachusetts Homeownership Collaborative. Applicants must complete the class and receive a certificate of completion prior to the closing. Classes are offered at various times throughout the year.

## Home Selection and Program Disclosures

### **Selection Of Home For Purchase:**

The applicant is responsible for selecting the home they wish to purchase. The selected home must meet the Property Standards (see Section 3.0) of the Program in order for the purchase to qualify for Program assistance. Prior to making an offer to purchase an eligible home, the home buyer shall provide the seller with a "Buyer's Disclosure" containing the following provisions:

1. Home buyer has no power of eminent domain and, therefore, will not acquire the home if negotiations fail to result in an amicable agreement; and
2. Home buyer's offer is an estimate of the fair market value of the home, to be finally determined by a state-licensed appraiser;
3. The home must be inspected by an inspector approved by the Division to verify its compliance with state and local housing, building, and health and safety codes.
4. All homes built prior to January 1, 1978 will require a lead paint disclosure to be signed by both the home buyer and seller and must be tested for lead hazards.
5. Since the purchase will be voluntary, the seller will **not** be eligible for relocation payments or other relocation assistance from any party;
6. The seller understands that the home must be either: currently owner-occupied, newly constructed (and vacant), or vacant for three months prior to the date of home buyer's purchase offer.
7. If the seller is not provided with a statement of the above six provisions prior to seller's written acceptance of the purchase offer, the seller may withdraw from the purchase and sale agreement after this information is provided.

### **Home Buyer Funds**

Prior to receiving written approval of the Program grant, applicants must document that they have the funds necessary for down payment and closing costs in the amounts required by the first mortgage lender. The Program's minimum down payment requirement of 1.5% will apply even if the first mortgage lender has a lower down payment requirement. Home buyer's own funds shall be used toward the costs below in the following order:

1. Minimum down payment required of the purchase price.
2. 50% of customary buyer's closing costs, which may include any or all of the following: appraisal fee; cost of credit report; loan origination fee; discount points; recording fees; HOA fees; other customary buyers' closing costs; home buyer's customary portion of the escrow fees; owners and lenders title insurance; and the establishment of escrow accounts for property taxes and insurance.
3. After 1) and 2), above, are satisfied, any balance of home buyer funds may be applied toward the purchase price, to reduce the principal amount of the Program loan needed.

The buyer may retain a portion of their own personal savings in an amount not to exceed 20% of gross annual income for use as an emergency fund (in other words, they may opt not to invest this amount in the home purchase). This retention is unrelated to the calculation of income from assets for the purpose of determining income eligibility for the Program.

### **Program Disclosures To Seller**

When the prospective home buyer has selected an eligible home to purchase, the City will give the home buyer the required Program disclosure forms for distribution to the seller and to buyer's loan officer and real estate agent. The home buyer must read and sign all Program disclosure forms in order to complete an application for assistance. Any and all property disclosures must be reviewed and signed by the home buyer and seller.

Prospective buyers must provide the seller with the Buyer's Disclosure prior to submitting a written offer to purchase to the seller. This notice will be included in the purchase and sale agreement, and must be signed by all owners on title to the home. The disclosure must contain the items listed in section 8.1.

## **Program Loan Underwriting And Approval**

### **Loan Processing**

Once the buyer has received a preliminary eligibility letter from the Program, and received loan approval on a first mortgage, the City will provide the home buyer or their loan officer with the Program grant application packet with all the necessary application forms, disclosures, grant documents, and other required information. The buyer will be responsible for providing the disclosures to the seller, submitting their purchase offer, obtaining seller's signature on the purchase offer, completing their application and ensuring that their first mortgage lender has also provided all forms and signatures required for the buyer's application to be complete. In most cases buyer's real estate agent and/or loan officer will assist in completing the forms and working with the seller. Once the buyer has obtained seller's signature on the disclosure forms and purchase contract, and they and their lender have completed the rest of the application, they must submit the complete application to the Division, with the escrow number and contact information for their escrow officer. City grant documents will be provided to escrow and signed by the buyer in escrow prior to deposit of City funds, once the first mortgage lender is ready to fund the First mortgage.

The buyer, Realtor, and first mortgage lender must submit the complete packet and include the following:

1. Accepted purchase contract with buyer's disclosure;
2. Home Inspection, and lead-based paint disclosures and test results, if applicable.
3. Mortgage application with TILA/RESPA Integrated Disclosure forms including the 1003 and 1008 forms;
4. Rent verification if applicable
5. Copy of the appraisal;
6. Current third party income verifications and verifications of assets;
7. Home ownership education certificate;
8. Purchase and Sales Agreement

Division staff will work with local lenders to ensure qualified participants receive only the amount of Program assistance necessary to make the purchase possible.

### **Consistency Of Documents**

The buyer's application forms, first mortgage approval, purchase contract, disclosure forms and third party verifications must all provide consistent information and may not contain any material inconsistencies (i.e., inconsistent addresses or employment information for household members). Third party verifications of all eligibility documentation will be retained in the file. The purchase and sale agreement will provide the final purchase price and describe any costs to be paid by the seller, such as repair items, title policy, and customary

share of the closing costs. The appraisal, inspection, termite and title reports will provide information to substantiate the information in the sales contract and guide the home condition inspection. The Program grant application will provide current debt and housing cost information and will be documented by the lender's credit report and income/asset verifications. The first mortgage lender's approval letter and TRID estimated closing cost statement should reflect all the information in the grant package and show any contingencies of funding. The first mortgage lender's underwriting documents will provide basic information about the applicant's ability to pay and substantiate the affordability provided by the Program grant.

#### **Review Of Final Documents**

Upon receipt of the complete application, the Division will verify the applicant's income (using most recent HUD Part 5 guidance reviewing income taxes and payroll stubs).

Documentation, Conditional Grant Agreement and Affordable Housing Restriction will then be reviewed and Program grant amount verified.

#### **Approval Of Program Loan**

Once the Program grant approval forms have been completed, the Division staff will circulate the package for execution. Upon execution, a target date for closing will be set (45 days from Program Grant approval) and Program funds will be reserved for the home buyer.

### Closing

The home buyer(s) will sign all required Program grant documents prior to or at the first mortgage closing. The Division will provide the buyer, lender and closing attorney with detailed closing instructions in the approval letter.

#### **Loan Funding**

When the requirements of the first mortgage lender and the City have been met, the City will request a check for the grant assistance. Checks can take up to 14 days to produce. **The buyer will be allowed to close with own funds and be reimbursed after closing documentation is provided to the City if they so choose.**

#### **Escrow Procedures**

The title company shall follow the closing instructions provided by the Division and shall provide copies of the title policies after closing.

#### **Loan Closing**

At the time of closing, the City shall be named as an additional loss payee on the home buyer's fire, flood, if required, and homeowner's insurance policies for the length of the grant term, and in an amount sufficient to cover all encumbrances or full replacement cost of the home.

## Post-Purchase: Annual Compliance Monitoring

City will monitor Program participants annually in writing to ensure adherence to Program grant requirements, including, but not limited to, the following:

- a. Owner-occupancy as a primary residence
- b. Property tax payment
- c. Hazard insurance coverage
- d. Good standing on first mortgage
- e. Property maintenance standards

Participants will be required to provide written evidence of their compliance with these requirements, as explained in detail in the City monitoring letters.

## Repayment of the Program Grant

If the homebuyer fails to comply with all the requirements set forth within the conditional agreement and affordable housing restriction, the homebuyer shall immediately repay the assistance amount, plus any interest and costs. For example: If there is a transfer of the home's title, whether voluntary or involuntary by the homebuyer during the established period of affordability, the City will recapture the aforementioned assistance amount.

Recaptured CDBG/HOME funds will be considered Program Income and will be used only for CDBG/HOME eligible activities, as outlined by HUD.

## Administrative Requirements Related To Direct Housing Programs

### **Program Outreach And Marketing**

All outreach efforts will be done in accordance with state and federal fair lending regulations to assure nondiscriminatory treatment, outreach and access to the Program. No person shall, on the grounds of age, ancestry, color, creed, physical or mental disability or handicap, marital or familial status, medical condition, national origin, race, religion, gender or sexual orientation be excluded, denied benefits or subjected to discrimination under the Program. The City will ensure that all persons, including those qualified individuals with handicaps, have access to the Program.

A. The Fair Housing Lender logo will be placed on all outreach materials. Fair housing marketing efforts will be based upon the latest HUD guidance to verify that protected classes (age, gender, ethnicity, race, and disability) are not being excluded from the Program. Program outreach materials, in English and any other language that is the primary language of a significant portion of the area residents, will be distributed in public facilities city-wide and to housing-related agencies. The Division may be available to attend home buyer workshops to explain the Doen Payment Assistance and Homeowner Repair Programs to prospective home buyers and refer them to additional home buyer education classes and workshops in the area.

B. The Division will include local real estate agents and first mortgage lenders in Program outreach efforts, so that they may inform their clients about the availability of the Programs.

C. Section 504 of the Rehabilitation Act of 1973 prohibits the exclusion of an otherwise qualified individual, solely by reason of disability, from participation under any program receiving Federal funds. The City will take appropriate steps to ensure

## DEMOLITION OF ABANDONED AND UNSAFE STRUCTURES

### CDBG

The Program uses federal CDBG funding and other available State and City resources, to demolish and remove property that is abandoned, seriously damaged, or deteriorated beyond reasonable financial costs to effectively rehabilitate.

#### To Qualify:

- The target property must be significantly deteriorated and be in uninhabitable and unsafe condition, or the property must be extensively damaged by fire or natural disaster. The existing conditions create a serious risk to public health and safety.
- Property owner has failed to comply with repeated orders from the Fitchburg Board of Health or the Fitchburg Building Department to address sanitary and/or building code violations.
- Property owner has failed to respond to final order to rehabilitate or demolish property.
- Property must be judged to be in such condition as to warrant use of existing funding for demolition by members of the Mayor’s Task Force, which includes the following departments: Community Development, Building, Health, Police, Fire, and Solicitor.

#### Assistance Provided:

- Property is demolished under the authority granted by Massachusetts General Laws, as ordered by either the Building or Health Department.
- Remaining lot is loamed and seeded and is appropriately secured for safety and to prevent misuse (i.e., storage of junk automobiles).
- Lien is recorded against property for full cost of demolition in the Registry of Deeds.
- Property owners facing involuntary orders to demolish blighted and unsafe structures may qualify for low-interest loans to facilitate demolition.

Note: Each of the above programs is designed to be operated at no direct cost to the City. Expenses related to program administration, and related city services are paid through proceeds of the grant programs and not through local tax revenues.

The HOME Consortium provides funding to Developers to develop new affordable rental and homebuyer housing and major renovation of large rental developments. On average, one project of this nature is funded each year based on availability of funding. In addition to identified **HOME funding priorities**, additional priority is given to projects where the Developer is a local CHDO and/or where the project requires a “local match” in order to leverage other funding.

Developers wishing to apply should make a request for funding in writing. This request should include a description of the proposed project, sources of funding, location, timeline, developer experience, amount of

funding request and any other information that might be relevant to the request. Project proposals will be reviewed and evaluated for eligibility, consistency with priorities, and likelihood of meeting underwriting requirements, by the Director of Housing and Development. Projects will be approved for conditional funding by the Executive Director and City Mayor. Initial commitments of HOME funds will be made as conditional commitments subject to complete underwriting of the project, availability of funds and will likely receive commitment of future funds.

## UNDERWRITING POLICIES

### **Development Project Underwriting**

The City of Fitchburg's HOME Program will conduct an underwriting review of any activity involving acquisition and/or construction or rehabilitation of rental or homebuyer development projects proposed to be funded with HOME Program funds. Activities that do not meet the underwriting review criteria will not be funded. No funding will be committed until all necessary financing is secured, underwriting and subsidy layering are completed and construction is expected to begin within 12 months and be completed within four years. Affirmative documentation of reviews and approval with dates and signatures will be maintained in project files.

The underwriting review for Multifamily Rental Activities and Homebuyer Activities will document that proposed projects have sufficient secured funds to complete the project and meet all HOME Program requirements but will not have funds in excess of the needs to complete the proposed project. When the project contains multiple federal, state and/or local sources, and HOME funds are being committed, a subsidy layering review will be completed. When applicable, the underwriting review of Homebuyer Activities will also evaluate the proposed home sales price to establish that price does not exceed the local market and is affordable to eligible HOME participants.

### **Evaluating Project Financing**

The Project will be evaluated to determine the per unit development cost, considering all eligible activities and any ineligible costs. This per unit development cost will be compared to the maximum per unit subsidy limits in accordance with 92.250. The PJ will not invest HOME funds in excess of the maximum per unit subsidy limit but will invest at least \$1000 per unit.

When funding less than 100% of a project's unit cost, the eligible costs allocable to the HOME assisted unit will be calculated. This cost allocation will be used to determine the maximum HOME investment to be provided and the minimum number of units assisted. When reviewing the project uses, costs will be reviewed for eligibility with HOME Program regulations and the work proposed will result in a unit that meets applicable Property Standards in accordance with 92.251. Projects will also be reviewed to determine that Rents/Utility Allowances proposed do not exceed the HOME limits in accordance with 92.252(a), will be subject to the appropriate affordability period and that rental projects be viable and provide quality affordable housing for the term of the affordability period in accordance with 92.252(e) and 92.254(a)(4). Financing terms resulting from the underwriting process will be documented in the HOME Written Agreement.

Underwriting reviews will consider the following:

**Examination of Sources and Uses.** *Developers will be required to provide a Sources and Uses statement that includes funding amounts and timing of availability of each source. Sources and uses statements will contain sufficient information to understand the project costs during the development phase and determine that the HOME funding assistance needed is based on the gap between uses and other sources. Documentation will be placed in the file confirming that; the costs are reasonable and eligible; the development cost statement reflects the costs*



*of the project; funds are sufficient to pay development costs; and the developer's fee is appropriate and within HOME guidelines.*

**Sources:**

- All project sources must be documented including firm commitment letters and terms and conditions of the funding sources.
- If the applicant is a partnership or limited liability corporation a copy of the partnership agreement or operating agreement which indicate cash contributions.
- If equity is committed, evidence of available equity funds.
- Tax credit projects should count the proceeds for the sale of the credits as the funding amount.

Examinations will determine:

- Sources are adequate and timely in their availability to cover costs through all phases of development. Fund availability of sources matches the timeline; conditions required to draw funds and draw schedule will be reviewed.
- The Project will be operationally viable long term by reviewing permanent sources and repayment terms to determine project can meet terms.
- No requirements of other funding sources conflict with HOME requirements.
- Other financing sources are firmly committed.

**Uses:**

- Costs should breakdown between soft and hard costs in sufficient itemized detail to evaluate the sufficiency of the budget and whether project costs are reasonable on a line item and aggregate basis.
- Uses supporting documentation should include:
  - Acquisition documentation such as purchase agreement, option or closings statement and appraisal.
  - Construction cost estimate, construction contract or preliminary bid(s).
  - Contracts, quotes or other agreements for key professional costs and basis for estimating other soft costs and working capital items including reserves.  
Agreements covering reserves that are capitalized at closing (to verify that reserves cannot be withdrawn later as fees of distributions).
  - Third party appraisals to substantiate value of the land and value of the property after rehab/construction.
  - If LIHTC are utilized, documentation of syndication costs, (legal, accounting, tax opinion, etc.) from the syndicating & selling entity to ensure the project can support the fees necessary to syndicate/fund the project.
  - For homebuyer projects, realty fees and closing costs and their funding source, will be analyzed. Further; the period for construction, selling and closing on the sale of the units, and the estimated costs related to the construction loan and time period for payoff will be reviewed to determine that the developer has projected interim financing interest and carrying costs.

Examinations will determine:

- Costs are necessary and reasonable in compliance with OMB cost principles in 2 CFR part 200. Cost reasonableness will be determined by any of the following means; comparing uses to recent comparable projects in the same geographic area; reviewing qualifications of cost estimators when used; comparison to costs published in industry cost index services such as RS Means; or reviewing and confirming a cost reasonableness review performed by other lenders.
- Projects that are competitively bid and use the lowest qualified bid will be assumed to be reasonable by the nature of the competitive bid process. This process will be reviewed and documentation of cost reasonableness will be placed in the file.
- Further evaluation will be performed in response to change orders or other changes to project costs.

- Proposed costs will be sufficient to achieve all program requirements including property standards for the affordability period.
- Costs are eligible to be paid with HOME funds in accordance with 92.206.
- Developer fees are appropriate for the project and within guidelines.

### **Operating Pro Forma Review**

*An examination of income and expense statements will be required for the period of affordability to determine that they are complete and reasonable, to establish per unit operating costs and determine anticipated revenues can cover project cost and debt service throughout the affordability period, projected rents will meet HOME rent restriction requirements and are supported by a market assessment; and both revenue trending is sufficiently conservative and sufficient capital reserves are planned to ensure the project is sustainable and financially feasible.*

### **Projected Income Review:**

- Non-residential revenue from late fees, commercial income, interest, laundry, etc. should be projected conservatively.
- HOME rents projections should propose conservative increases compared to market rents, even in a strong market. The consortium recommends conservative growth projections overall with growth lower than projected inflation. When utilities allowances are required, low rates of rental increase should be used as utility allowances are likely to surpass rent increases.
- Vacancy projections should reflect market conditions and account for physical vacancy and collection loss. The consortium recommends at least a 7% vacancy rate to account for “income shocks”.
- Operating Income (gross revenue minus operating expenses) should be sufficient to cover debt service obligations and mandatory replacement reserve funding and generate reasonable but not excessive cash flow through the affordability period.

### **Projected Expense Review:**

- The operating budget should include typical rental expense costs, (general management expenses, maintenance and operating costs, project paid utilities, taxes, insurance and deposits to replacement reserves), and review of costs should be summarize in a “per unit per year “amount. Expenses should trend higher than incomes.
  - When possible, expenses will be compared to other projects in the property manager’s portfolio or the neighborhood.
  - Management fees should be reasonable for this local market area.
  - Any interest relationships/related party relationships with property management, contractors or project vendors should be identified.
  - Minimum replacement reserve deposits should be based on type of property, target population, and whether property is newly constructed or rehabbed. Properties with 26+ units are required to complete a capital needs assessment per 92.251(b). Replacement reserve deposits should reflect the results of the needs assessment.
  - Debt service or other funding/reserve requirements related to secondary financing in mixed financed deals can be met.
  - Cash flow will be evaluated as debt coverage ratio and a percentage of operating costs and debt service (Annual Net Operating Income/Total Annual Debt Service). Debt Coverage Ratios should be at least 1.2. Cash flow projections should be sufficient to absorb income and expense shocks. Project proformas which show significant cash-on-cash rate of return and high debt coverage ratios may be closely scrutinized to determine if the HOME development subsidy is necessary and if market financing is more appropriate.

- Homebuyer projects should have a sales plan in lieu of an operating proforma and should include developer's anticipated cash flow and timing of when and how units will be sold.
- Homebuyer sales plans will be evaluated for time lines based on actual market conditions. A market analysis will be conducted within 12 months prior to HOME commitments and will consider the overall supply in the market (4-6 month supply is considered stable), current listing times and foreclosure and shadow inventories and other affordable options available and in the pipeline. The consortium will also review comparable units for price, location, amenities and financing terms. All of these factors will be reviewed to determine if the developer's timeline are realistic. This will not apply when homebuyers are identified prior to unit development; this may happen when developers are operating programs that require "sweat equity" as part of the homebuyer's investment. To satisfy this requirement, the consortium may either hire an outside consultant to perform a formal market study; utilize a recently conducted survey for the market area completed within the past 12 months; require the developer to provide the required study; or, at its discretion, perform an in-house market study, citing available data.
  - Homebuyer project sale prices and closing costs must be affordable to income eligible buyers.
  - Homebuyer projects that require anticipated sales revenue from one unit in order to construct the subsequent unit in a multi-unit development project will not be funded because the project may negatively impact timeliness requirements of the HOME Program.
  - The consortium will review the anticipated sales revenue; typically the consortium expects the developer to take a reasonable developer fee or charge staff time and overhead to the project and return all sales proceeds to the consortium as program income.

#### **Developer Fees:**

- The consortium will review developer fees to determine that they are reasonable. Developer fees may vary depending on the scope, complexity, risk and size of the project and should reflect the local market. Generally, fees should fall within the range of 10%-15% of the total development cost depending on factors above, however, developer fees of up to 20% will be entertained when the project has higher than usual owner investment and associated risk and low public subsidy.
- Where feasible, depending on the nature of the project and developer, the consortium will reimburse a non-profit developer for its actual project staff time and overhead in lieu of a developer fee.
- The consortium will review the following when considering fees; Sales Revenue, Cash Flow, Tax Benefits, Equity Appreciation, Identity of Interest Roles and related profit and overhead. Developers are required to disclose any Identity of Interest Roles contracts they may be involved in and these will be closely scrutinized.
- Rental project profits will be evaluated to determine the cash flow return on the investment. The cash-on-cash rate of return will be measured as follows ( $\text{Annual Cash Flow}/\text{Equity Invested}=\text{X}\%$ ). The cash-on-cash rate of return will be considered along with perceived risk of the project and level of return available for other investments to determine what may be an excessive rate. When it is determined that profits are excessive, the consortium may require the developer to increase the agreed upon annual cash flow or amortized payments on the HOME note, increase payments to reserves and/or reduce rents on affordable units.

#### **Subsidy Layering, (also called Gap Analysis)**

Pursuant to 24 CFR Part 92.250(b), when multiple federal, state or local funding sources are planned for a development, the consortium will perform a Subsidy Layering Analysis in addition to underwriting previously noted. When HUD or another entity completes a Subsidy Layering Review the consortium will affirmatively review and utilize this analysis. This will determine the amount of investment needed to make a project feasible by analyzing the gap between approved costs, (uses) and available financing and other subsidies, (sources). The review will also consider:

- Level of improvements;
- Rent levels and affordability;
- Income levels being served;
- Payment terms of all funding including HOME and other public funding.
- Evaluation of lenders terms for reasonableness and comparison to the market.
- Evaluation of returns accruing to owners and investors, if the project is returning a higher rate of return than warranted, given market and risk, the consortium may require additional equity investment and reduction in HOME assistance. Loan to Value calculations will be reviewed to determine if the project could take on additional private debt and reduced HOME assistance. Operating proformas will be reviewed to determine if sufficient revenue would exist to pay additional debt service.
- Evaluation of tax credit basis and market price to determine that the amount of tax credit equity is reasonable.

If the amount of HOME assistance and other sources exceeds the amount the consortium determines is necessary, the consortium may consider:

- Reducing the amount of HOME assistance;
- Increasing the number of HOME units in the project or lowering the targeted income levels and rents being charged;
- Imposing loan terms that bring the rate of return in line with HOME standards.

HOME assistance will be denied when the applicant refuses to make reasonable adjustments to limit its return/costs in compliance with these underwriting standards. At no time will the amount of HOME assistance exceed the per unit dollar limits adopted by HUD's HOME Program.

#### **Developer Capacity and Financial Soundness**

Prior to funding any proposed HOME Project, the PJ will evaluate the capacity of the Developer. Activities that do not meet the Developer Capacity and Financial Soundness review criteria will not be funded. The City of Fitchburg will require all developers and/or staff to have demonstrated successful housing development experience of a similar size, scope and level of complexity as the activity being proposed. The City of Fitchburg will also request and review the most recent year's audited financial statements from the Developer to ensure the Developer has a history of being able to meet its development obligations including Developer staffing obligations. This is applicable to both CHDO and non-CHDO Developers.

#### **Community Housing Development Organization (CHDO), Certification**

HUD requires 15 percent of each annual HOME allocation to be reserved and committed by written agreement to CHDO organizations within 24 months of the City's execution of the HOME Investment Partnership Grant Agreement. In accordance with 24 CFR 92.300, any developer acting as a CHDO and wishing to obtain funding for a development project must be certified as a CHDO at the time of underwriting the project. An organization qualifying as a CHDO may act as Owner, Developer or Sponsor in accordance with 24 CFR 92.300(a)(2)-(6). The role a CHDO plays will be determined during the underwriting process and specified in the written agreement. CHDO certification should be completed prior to but within three months of formal commitment of HOME funding to the project. The term commitment here means both a HOME written agreement and funding commitment in IDIS. Should the underwriting process and formal commitment be delayed, the CHDO organization will be required to certify that no information has changed since the prior certification, or to provide details regarding the change(s) to the PJ for review and approval.

CHDO certification is completed using the Fitchburg/Leominster HOME Consortium CHDO Certification form. CHDOs are required to provide requested information regarding financial status, legal nonprofit status, IRS tax

exempt status, evidence of its purpose to provide decent and affordable housing, capacity as a developer, board structure, public participation, and history of serving the community. Any project that receiving assistance through CHDO set aside funding is required to adhere to fair lease and grievance procedures approved by the City and provide a plan for following a program of tenant participation and management decisions.

CHDO development of homeownership housing. When a CHDO takes on a homeownership development, determination of sale price of the housing or method by which the sale price will be established, as well as whether proceeds must be returned or may be retained, must be set forth in the written agreement executed between the City and CHDO. The CHDO organization may use a portion of HOME funds to provide down payment assistance without being considered a subrecipient. Funding provided as down payment assistance cannot to exceed 10% of the HOME funds for the development of the housing.

### **Evaluation of Neighborhood Market Conditions and Market Demand**

Prior to funding any proposed HOME activity; the consortium will complete an assessment of market demand in the neighborhood during the 12 month period preceding its funding commitment. When projects are small in nature, this may be completed in-house with available data. Data sources may include the most recent census data, assessor's record data, other relevant, reliable and documentable data sources or data from recent market studies of the same area. Data used should not be more than three years old. For larger projects, a market assessment will be completed by the developer, partner or other funding source and will be reviewed by the consortium. The assessment will consider the current conditions of the neighborhood and the potential impact to the neighborhood of the activity. The analysis will look at local market trends, a clear definition of the market area from which buyers or renters can reasonably be expected to be drawn, and analysis of demand, supply and competition. The analysis will also evaluate the area home prices when the activity is a Homebuyer activity and the area market rents for Multifamily Rental activities to ensure that home sale price or rent does not exceed the neighborhood market. Activities will be funded when the evaluation supports both positive impact to the neighborhood and when rents/home sale prices are comparable to the neighborhood market; and it can be determined reasonable to expect the following; unit lease up within six months after project completion for a rental unit or sales contract executed within 9 months after project completion for homebuyer units. Additional consideration will be given to projects proposing to utilize project based subsidies where tenants will not pay more than 30% of their monthly income towards rent.

### **Utility Allowance Determination**

When HOME funded rental development projects include tenant paid utilities, projects are required to include the tenant paid utilities in the total rent calculation. The PJ require a Utility Allowance be used for determining the estimate of tenant paid utilities. Utility Allowances must be calculated using a method acceptable by HUD's HOME Program with the intent to accurately reflect the cost of utilities paid by the tenant directly. The following is the policy of the PJ in determining the Utility Allowance:

The PJ will accept a Utility Allowance provided by another funder, provided the UA is calculated using a method acceptable under the HOME Program. When LIHTC are used, this UA will be used unless there is a compelling reason not to. The intent is to minimize the number of different UA used in the same development project.

If there is no other Utility Allowance available from another funder, the Property Owner/Developer will be required to submit a Utility Allowance using a specific acceptable method, for the PJ's review and approval. Specific methods acceptable are identified in 26 CFR 1.42-10(b)(4)(B) - (E) as well as HOMEfires- Vol. 13 No.2, May 2016.

If the PJ determines that the above options are not feasible, the PJ will choose the most appropriate acceptable method for calculating the Utility Allowance based on the scope and nature of the rental project. The chosen method will be used for all applicable units in the entire project.

## Rehabilitation Standards

The Consortium shall adopt the following standards for the rehabilitation of all HOME and CDBG funded housing activities:

Major rental property rehabilitation will be assessed by a licensed architect who will use identify existing conditions and require rehabilitation of any conditions that do not meet Uniform Physical Condition Standards, (UPCS) in accordance with 24 CFR 5.703 and State and Local Codes, standards and ordinances. All Rehabilitation will be completed in accordance with State and Local Building and Sanitary codes, standards, and ordinances, zoning ordinances and will adhere to any requirements regarding methods and materials used. Projects that proceed will at a minimum require Rehabilitation to address:

- Health and Safety issues, any life threatening deficiencies must be corrected immediately.
- Major Systems- all major systems, (structural support, roofing, cladding, windows, doors, siding, gutters, plumbing, electrical, heating, ventilation, and air conditioning) will be evaluated for useful life. For rental housing, systems will be replaced when it is determined that systems will require replacing before the expiration of the affordability period. For home owner rehabilitation, major systems must have a useful life of at least five years.
- Lead Based Paint- In accordance with 24 CFR Part 35, all housing considered for Rehabilitation will be tested for lead based paint by a licensed lead inspector. Identified lead based paint hazards will be remediated.
- Accessibility- In accordance with Section 504 of the Rehabilitation Act, Americans with Disabilities act and Fair Housing Act, rehabilitation will incorporate accessibility as follows: Rental housing with five or more units will be required to rehabilitate at least 5% of units to be accessible to mobility impaired households and 2% accessible to sensory impaired households. Homeownership housing will be rehabilitated to provide accessibility when this is a need of the household, or upon request when it is expected to become a need of the household within the next five years.
- Disaster Mitigation Standards- When properties are determined to be at risk of natural disasters, such as when a property is located within the 100 year flood plain, rehabilitation will incorporate mitigation measures as required by State & Local codes including state building codes.

All Rehabilitation projects will include Construction Documents and Work Write-Ups that comply with the above stated Rehabilitation standards, will include requirements that all work being completed in accordance with State and local codes, standards, and ordinances, and when appropriate, will specify methods and materials.

The only exception to the above standards shall be in emergency cases assisted with CDBG funding. These may include heating system failure, water damage from roof failure or flooding, accessibility modifications for handicapped or elderly persons, etc

## Construction Oversight

When funding rental rehabilitation projects of a large scale, it is expected that the developer will retain a licensed architect to develop construction documents and a construction contract that meets the City's Rehabilitation Standards including state and local codes, ordinances and requirements. The Project will retain a Construction Oversight Professional acceptable to the City and other project funders. This Construction Oversight Agent will inspect the physical site, review construction documents and contracts to ensure the scope

of work is complete in accordance with Rehabilitation Standards. Once Rehabilitation work begins, the Agent will conduct monthly progress inspections, review payment requests and change order requests to ensure payment is warranted and appropriate for work completed, prepare inspection progress reports to document construction progress, and will complete a final inspection and final written report. All inspections will review work to ensure it is being completed in accordance with Rehabilitation Standards, state and local codes, ordinances and regulations and in accordance with construction documents. New Construction will follow the same requirements except that there is no existing structure to inspect for deficiencies. Smaller rental Rehabilitation projects will follow the same standards as Homeowner Rehabilitation Projects, utilizing the City's Construction Manager or designee for oversight. Rental projects will be identified as large or small based on the complexity of funding, rehabilitation work and number of units. Generally, projects funded by the City and/or one private lender, with fewer than 10 units will be considered small for this purpose.

## HOME MONITORING

- HOME funded rental projects will be monitored by City Staff or their designees during the term of the HOME Affordability Period per HOME Program regulations. This includes monitoring for compliance with occupancy requirements, property standards and financial soundness. Financial soundness is demonstrated by documenting the Project is meeting its financial, occupancy and property maintenance obligations. Property owners/managers will be required to provide information and property access sufficient to determine the compliance with all ongoing HOME requirements.  
Occupancy and Property Standards
- Properties determined to be out of compliance with HOME occupancy and property standard requirements will be required to take corrective action to bring the property into compliance. All corrective action must be undertaken in a timely manner and must be complete within six months of the non-compliance determination.
- Properties determined to be out of compliance for two consecutive years will be required to meet with the monitoring staff for monitoring compliance education/training and may be required to develop and implement a written plan to bring the property into compliance and maintain compliance for the remaining period of affordability. When noncompliance is related to property standards, monitoring staff will increase the frequency of on-site property inspections based on the nature of the violations.
- Owners/Developers with properties experiencing ongoing/chronic monitoring compliance issues will not be eligible to receive future HOME funding until all properties are in compliance and a plan is in place to ensure compliance going forward.
- Financial Soundness
- In an effort to ensure that the HOME funded Projects can sustain operation as decent, safe and affordable housing in compliance with HOME regulations during the full term of affordability; monitoring will include a review of the Project's financial information. Projects showing a trending decline in operating funds, an operating deficit in a given year, or Projects showing a trend of deferring maintenance will be considered "At Risk". At Risk Projects will be required to provide written information explaining cited issue, will be monitored at least annually but may be more frequent than annually, and may be required to submit a plan to maintain sufficient funds for operations for the remainder of the affordability period. Projects with a trend of operating in a deficit, not meeting Project financial obligations, demonstrating chronic noncompliance with property standards or at "At Risk" Projects that are do not implement a developed plan to achieve financial soundness

will be considered “High Risk”. Projects considered High Risk will be required to meet with monitoring staff, provide written explanation for the issues that prevent their financial soundness, will be monitored with increased frequency, annually at a minimum, must create a plan to take actions necessary to achieve financial soundness, including if necessary, debt restructuring and will not be eligible to receive additional HOME funds until their “risk” designation is lifted. Projects must demonstrate at least one year of financial soundness and compliance with all HOME requirements before the “risk” designation is lifted. Developers with multiple “high risk” Projects may no longer be eligible for future HOME funding at the determination of City Staff.

## HOME-PURCHASE LOAN GUIDELINES

*From time to time, the City of Fitchburg through the Community Development Department, Housing Division, may work with a developer of affordable homeownership to will provide first-mortgage financing for the purchase of developed property. This funding requires that homebuyers be income eligible and meet other underwriting guidelines. The guidelines below are not HOME eligibility requirements, they are loan approval guidelines.*

### Loan Terms

The City of Fitchburg will lend 97% of the combined purchase price and closing costs to the first eligible and approved buyer to make an accepted offer on the home.

- The eligible buyer must provide a minimum of 3% towards the combined purchase price and closing costs of the home, (including down payment).
- No cash can be taken out as part of this loan.
- The interest rate will be a fixed rate of no more than 2.5% for up to a maximum of 30 years.
- The loan will be secured with a first mortgage on the property and will include an owner occupancy requirement.
- All loan payments will be made directly to the financial institution servicing the City’s loans, currently Enterprise Bank.
- Private Mortgage Insurance will not be required.
- Applicants will be notified of acceptance/rejection within 30 days of the City’s receipt of a complete application.
- The homebuyer will be required to carry homeowners insurance with the City of Fitchburg as “additionally insured” for the full replacement value of the home until the loan is paid in full.
- Loans in default may be charged the full default interest rate documented in the loan Promissory note and may be subject to fees associated with collection. The Consortium has not foreclosed on properties in default but reserves its right to do so.
- Owners in repayment experiencing financial hardship can request loan modification, complete the application and an affordability analysis will be conducted. Loans may be modified based on the analysis.
- 

### **Loan Application Requirements**

All applicants are required to provide the following:

- Completed Loan Application and Statement of Assets and Liabilities.
- Current income and asset documentation in accordance with Income Documentation Requirements. .
- Copies of tax returns for the last two years
- Copies of bank statements for the last three (3) consecutive months.



- Documentation of current debts, including credit cards and loan debt, other consumer debt such as car loans, student loans, furniture loans, evidence of rent/mortgage payments, and alimony/child support.
- Written explanation of any lapses in employment within the last five years.
- Certification of eligibility to purchase from Developer.

### **Underwriting Standards**

All applications reviewed must meet the City's underwriting standards which include:

- Review of credit worthiness with attention to: history of past credit, type of credit, lapses in timely payments currently or in the recent past, defaults, bankruptcy, judgments and amount of long and short term debt compared to income.
- Housing debt to income ratio. The City will **generally** not approve loans with a housing expense debt to income ratio higher than 31 percent or total debt to income (including housing) higher than 45%, except under extenuating circumstances such as exceptional credit and presence of short term debt soon to be retired.
- Must demonstrate solid employment history.

### **RECAPTURE GUIDELINES FOR HOME FIRST TIME HOMEBUYERS**

#### **Recapture Guidelines for HOME First Time Homebuyers -**

All First Time Homebuyer Assistance projects will be consistent with the provisions of 24 CFR Part 92. The program recapture guidelines shall be as follows:

(a) The HOME assistance provided will be in the form of either a payable or deferred payment loan to be forgiven on a pro-rated basis according to 92.254(a)(5)(ii)(A)(2). A Promissory Note/Affordability Period Restriction and Mortgage will be executed to secure the debt. The mortgage with Affordability Period Restriction will be recorded with the Northern Worcester County Registry of Deeds and will not be discharged in the event of repayment until the Affordability Period has expired.

(b) The affordability term will be determined by the amount of HOME funds provided:

5 years where the per unit amount of HOME funds provided is less than \$15,000;

10 years where the per unit amount of HOME funds provided is \$15,000 to \$40,000; and

15 years where the per unit amount of HOME funds provided exceeds \$40,000.

(c) The HOME loan will become due and payable in full upon the following circumstances:

\*the borrower ceases to use the property as their principal place of residence before the expiration of the above referenced five, ten or fifteen year affordability term, \*sale or transfer of the property, or \*upon expiration of the five, ten or fifteen year affordability term, as applicable, except that the loan may be deferred, extended with payment installments, or forgiven.

(d) The amount of HOME assistance/HOME investment subject to recapture is the direct subsidy that enabled the homebuyer to purchase the property. This includes down payment assistance, closing cost assistance or other HOME assistance provided directly to the homebuyer and/or the difference between the fair market value of the property and the reduced sales price attributable to the HOME development assistance.

For projects involving the purchase and rehabilitation of existing properties, the principal loan balance will become due and payable at the end of the affordability period unless the borrower requests a loan deferment or the initiation of an installment loan. In all such requests, an income/affordability analysis will be conducted and a determination made in accordance with the City's established Homeowner Rehabilitation loan policies.

- - For new construction projects, if all other terms and conditions of the HOME loan are met and the applicable affordability term has expired, the loan will be forgiven.
- (e) If the property is sold before expiration of the affordability term, and if the net proceeds (i.e. the sales price minus loan repayment, other than HOME funds, and closing costs) are not sufficient to recapture the full HOME investment plus enable the homeowner to recover the amount of the homeowner's down payment and any capital improvement investment, the Consortium may choose to divide the net proceeds. The net proceeds may be divided proportionally as set forth in the following formula:
  - $$\frac{\text{HOME Investment}}{\text{HOME Investment} + \text{Homeowner Investment}} \times \text{Net Proceeds} = \text{HOME amount to be recaptured}$$
  - (e) All recaptured funds will be deposited into the Fitchburg/Leominster Consortium HOME program income account and will be used to carry out additional HOME-eligible activities.

### **Section 504 Accessibility**

In accordance with Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C 794), no otherwise qualified individual with handicaps in the United States shall, solely by reason of his or her handicap, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance from the Department of Housing and Urban Development including the City of Fitchburg's federally funded Housing Programs.

Requirements of Section 504 apply to entities receiving federal HUD funding, (Subrecipients/Developers) from or through the City of Fitchburg's Program, as well as the City itself.

The City and Subrecipients/Developers will comply with all Subparts and Sections of Section 504 including, but not limited to prohibition from discrimination, communications requirements, prohibitions against employment discrimination, reasonable accommodations with respect to employment, employment criteria, pre-employment inquiries, general program accessibility, non-housing facilities, new construction of housing, alterations of existing housing, existing housing programs, public housing and multifamily Indian housing, distribution of accessible dwelling units, occupancy of accessibly dwelling units, housing certificate and voucher programs, homeownership programs, rental rehabilitation programs, historic properties, accessibility standards, housing adjustments, assurances required, self-evaluation, remedial and affirmative action, designation of responsible employee and adoption of grievance procedures, notices, compliance information, conduct of investigations, procedures for effecting compliance, and hearings.

In accordance with 24 CFR Part 8, when providing HUD funding for new construction of multifamily housing, a minimum of five percent of the total dwelling units shall be designed and constructed to be readily accessible to and usable by individuals with handicaps and 2% shall be constructed to be readily accessible and usable by individuals with sensory impairments. This also applies when rehabilitation of existing housing occurs with HUD funds and the project has at least 15 units and the cost of alterations is at least 75% of the replacement cost of the completed units.

In all other cases, alterations to dwelling units in multifamily housing shall, to the maximum extent feasible, be made to be readily accessible to and usable by individuals with handicaps.

## ENVIRONMENTAL REVIEW

In accordance with 24 CFR 92.352, 24 CFR Part 58, no projects will proceed with any choice limiting action, including but not limited to, executing contracts, real property acquisition, construction, demolition, and/or rehabilitation when HUD funds are to be used for any portion of the project without first conducting an Environmental Review. The Fitchburg Department of Community Development, also known as the Participating Jurisdiction, is responsible for conducting Environmental Reviews prior to carrying out activities with HOME Program funds.

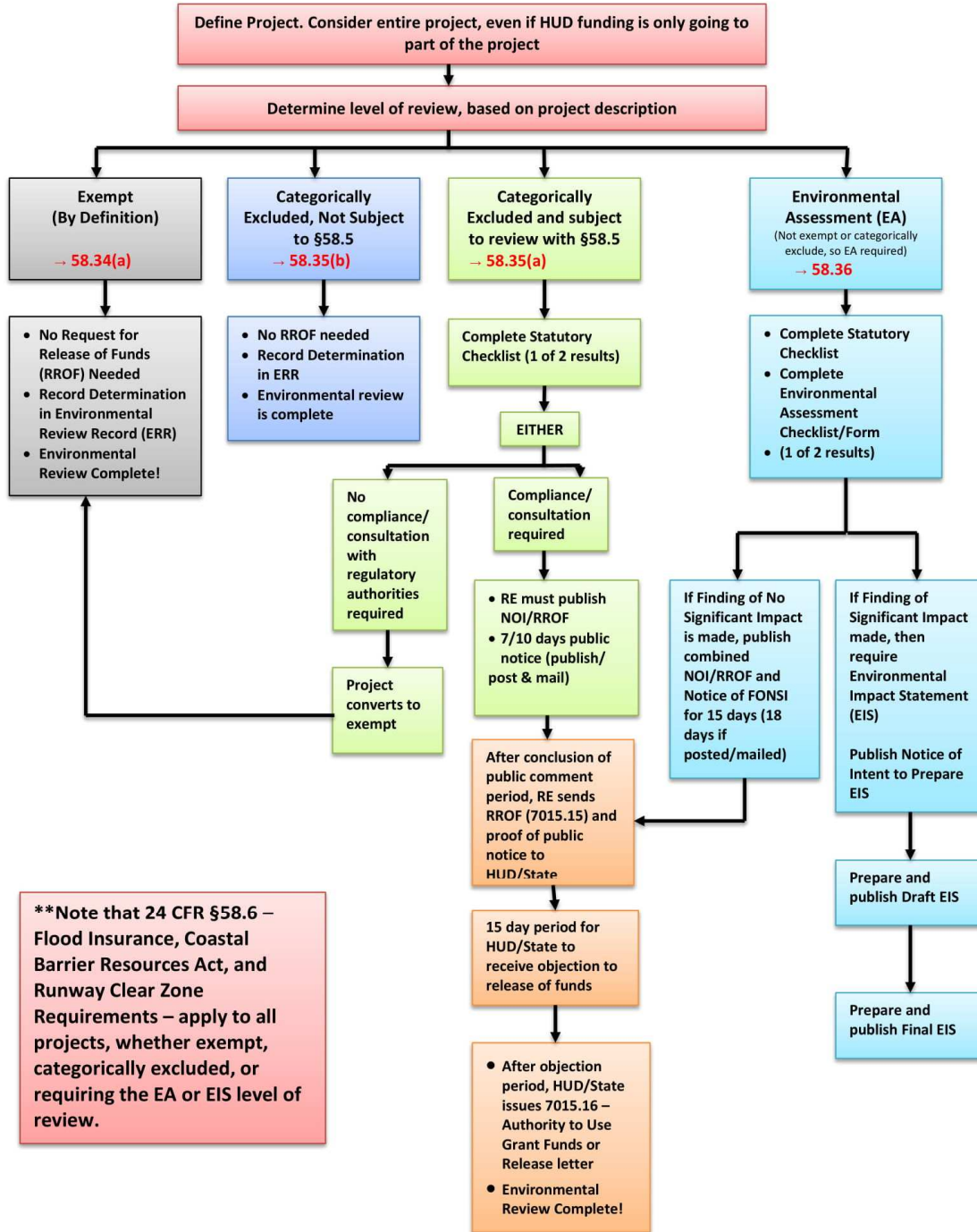
The City's Community Development Coordinator will act as the Environmental Review Officer for the City, and the Certifying Officer is the Mayor of Fitchburg, or his/her designee. Projects and Programs will be initially reviewed for compliance requirements by the Environmental Review Officer with input from the proposed Project Manager to determine the level of review required. Projects will fall into one of four categories- Exempt, Categorically Excluded Not Subject to 58.5, Categorically Excluded and subject to review of 58.5 and/or Environmental Assessment.

Projects that are categorically excluded, not subject to the federal laws and authorities cited in 24 CFR part 58 will have file documentation prepared by the Environmental Review Officer. Projects requiring review further review, including compliance with 24 CFR Part 58, (statutory checklist) and/or an Environmental Assessment will be prepared by the Project Manager for the particular project. Any mitigation required as a result of the Environmental Assessment will be monitored by the Project Manager during the project. With advance approval from the City, developers may use a consultant to prepare the NEPA Statutory Checklist and/or Environmental Assessment. Documents prepared by consultants must be reviewed and approved by the City for compliance with Environmental Review Requirements.

The City's HOME funded Homeowner Rehabilitation Program will be reviewed as a tier review, as the review cannot be fully completed until each property is reviewed for compliance with Part 58.5. The tier 1, "program portion" will be prepared by the Environmental Review Officer for a three year period and the individual project being reviewed utilizing a tier 2 checklist, will be reviewed by the Project Construction Manager.

All required Finding of No Significant Impact, Environmental Impact Statements and/or Request for Release of Funds will be prepared by the Environmental Review Officer with consultation from the Project Manager. The Director of the Department will sign all Environmental Review Records, and the Certifying Officer will sign Requests for Release of Funds as required.

## Environmental Review Process (To Be Conducted by Responsible Entity)



## HOME AFFIRMATIVE MARKETING AND MINORITY/WOMEN OWNED BUSINESS OUTREACH

### **Affirmative Marketing**

The Participating Jurisdiction has adopted an affirmative marketing program similar to the one utilized under the City of Fitchburg's Rental Rehabilitation Program since 1985. This program requires notification to the PJ of any vacancies that occur in an applicable assisted unit, use of the Equal Housing Opportunity Logo type or slogan in all vacancy advertisements, and utilization of the list provided by the PJ of referral organizations to identify prospective low and very low income tenants who may not normally apply for the housing without special outreach. An Affirmative Marketing Plan in compliance with HOME Program regulations (24 CFR Part 92.351) will be required for all rental and homebuyer projects containing 5 or more HOME- assisted units. Compliance with affirmative marketing requirements will be documented through the HOME Consortium funding agreement and secured by an Affordable Housing Restriction containing language requiring compliance with affirmative marketing at the Registry of Deeds for each applicable project.

The PJ will continue its ongoing effort to inform the public about federal fair housing laws through a variety of media and outreach efforts including periodic seminars and workshops which include fair housing information, and through press releases and the dissemination of program information to the public which affirms the City's enforcement of federal fair housing laws and its affirmative marketing policy.

All owners/developers with five or more assisted HOME units will be required to keep records of their affirmative marketing plan, tenant selection procedures and records of vacancies, all outreach/marketing efforts made, tenant waiting list, vacancies filled and applicants denied. The PJ will annually assess the affirmative marketing program to determine its effectiveness and to implement any changes determined necessary to insure its success. This will be accomplished through an analysis of affirmative marketing outreach efforts made by the owners/managers of applicable properties as well as vacancies and subsequent rent ups of assisted units which occurred during the review period. Records of outreach and tenancy changes will be reviewed to determine compliance with the required procedures. Non-compliance will result in appropriate action which could include a finding of loan default and the assessment of all associated penalties, enforced by mortgage lien. The referral list of organizations providing tenant referrals will be updated on an ongoing basis and periodic contacts with referral organizations will be made to insure their continued interest in providing the requested referrals.

### **Minority/Women Owned Business Outreach**

The PJ will utilize the State Office of Minority and Women Business Assistance Directory in its effort to identify and verify legitimate minority (MBE) and women (WBE) owned businesses for use in its HOME program. The PJ will identify local firms that are listed in the directory or local independent minority or women contractors for use as referrals to owners of properties receiving HOME funds for rehabilitation in the bid solicitation process. Further, for any work solicited under HOME directly by the PJ, the following procedures will be followed:

**For Work Requiring A Purchase Order (\$10,000 or less)** - At least one of the three required price quotes solicited will be from a minority or women owned area business, except in the instance that none can be identified through the SOMWBA Directory, or through locally listed firms.

**For Work Requiring Formal Bids (in excess of \$10,000)** - Invitations to bid on the proposed work will be mailed to identified area MBE and WBE firms to directly solicit their participation as bidder. The PJ strongly encourages minority and women owned business participation either as prime contractors or as subcontractors in instances where subcontracted work is anticipated.

## SECTION 3 REQUIREMENTS

NOTE: Section 3 applies to the recipient of a community development assistance award, for which the total assistance provided, including the HUD share, is in excess of \$200,000.00. Section 3 also applies to any contractor or subcontractor (including contractors who supply professional services, but not including contractors who only furnish materials or equipment and do not undertake the work of installing the materials or operating the equipment) who perform work on a project for which the recipient's total assistance award exceeds \$200,000.00 and the amount of the contract or subcontract exceeds \$100,000.00. If these Section 3 requirements appear in the final contract documents, it signifies that the Department of Community Development has determined that the above referenced \$200,000.00 threshold has been exceeded for this project and that if the contract to be awarded exceeds \$100,000.00, then the Section 3 requirements will be in effect and will be included in the contract upon execution.

**HUD requires that the following statement be included in all contracts to which Section 3 applies:**

The work to be performed under this contract is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701-u (Section 3). The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by Section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.

The parties to this contract agree to comply with HUD's regulations in 24 CFR part 135, which implement Section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the part 135 regulations.

The Contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization of workers representative of The Contractor's commitments under this Section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the Section 3 preference, shall set forth minimum number and job titles subject to hire; availability of apprenticeship and training positions and the qualifications for each; the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.

The Contractor agrees to include this Section 3 clause in every subcontract subject to compliance with regulations in 24 CFR part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this Section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR part 135. The Contractor will not subcontract with any subcontractor where The Contractor has notice or knowledge that the subcontractor has been found in violation of the regulations 24 CFR part 135.

The Contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR part 135 require employment opportunities to be directed, were not filled to circumvent the contractors obligations under 24 CFR part 135.

1. Noncompliance with HUD's regulations in 24 CFR part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.
2. The Contractor agrees that a hiring preference shall be given, to the greatest extent feasible, in the case of newly created, full-time jobs for permanent, temporary, and/or seasonal employees, to low-income and very low-income persons; and in the case of contracts and subcontracts, to business concerns which are:
  - a. owned (51% or more) by low- or very low-income persons or;
  - b. employ a substantial number (30% or more) of employees who are low-or very low income, or employees who were low or very low-income when first employed and the date of first employment was within the preceding three years, or;
  - c. have demonstrated a commitment to award more than 25% of the dollar amount of all subcontracts to businesses that fall within a) or b) above.

A person will be considered low- or very low-income if his or her family income is at or below the Area Median Income Limits for families based on their household size. *See **HUD Income Limits** for specific income limit amounts.*

The Contractor agrees that hiring priority shall be given first to low- and very low-income persons residing in the service area or neighborhood in which the Section 3 covered project is located; then to participants in HUD Youth build programs; and finally, to other low- and very low-income persons. With respect to Section 3 businesses, priority shall be given first to Section 3 business concerns that provide economic opportunities for low- and very low-income persons in the service area or neighborhood in which the Section 3 covered project is located; then to applicants selected to carry out HUD Youth build programs; and finally, to other Section 3 business concerns. Any person or business seeking preference in hiring shall, if requested, submit documentation (such as evidence of receipt of public assistance or of participation in a public assistance program) demonstrating eligibility of the preference. In addition, a Section 3 business shall show that it has the ability to successfully carry out the terms and conditions of the proposed contract - which shall include, among other factors, a demonstrated history of compliance with public policy requirements, including Section 3.

The City will not continue to award contracts to a particular contractor when the City has knowledge or has received notice that the contractor or the contractor's subcontractor is not in compliance with Section 3. The City will respond to complaints made by low- and very low-income persons and Section 3 business concerns that a contractor or subcontractor is not in compliance; and the City will cooperate with HUD in obtaining compliance when such allegations are supported by evidence.

In the absence of evidence to the contrary, any contractor which meets the minimum numerical goals set forth in this section will be considered to be in compliance with Section 3 hiring preference requirements. These goals are not to be construed as requirements, quotas, set-asides, or a cap on hiring or contracting with low- and very low-income persons (e.g., recipients and contractors are not to set aside or reserve ten percent of available jobs for low-and very low-income persons). Consistent with the "greatest extent feasible" requirement, HUD hopes that recipients will exceed these goals. If met, however, the goals constitute a "safe harbor" for contractors on

the issue of compliance with Section 3 (absence evidence to the contrary, as discussed above). The minimum numerical goals are:

1. for low- and very low-income person: 10% of the aggregate number of new hires for the one-year period beginning fiscal year 1995; 20% of the aggregate number of new hires for the one-year period beginning fiscal year 1996; and 30% of the aggregate number of new hires for the one-year period beginning fiscal year 1997 and continuing thereafter; and
2. for contracts and subcontractors: at least 10% of the total dollar amount of all Section 3 covered contracts for building trades work arising in connection with housing rehabilitation, housing construction, and other public construction; and at least 3% of the total dollar amount of all other Section 3 covered contracts.

Failure to meet the minimum numerical goals does not automatically trigger sanctions against The Contractor. However, if challenged on the issue of compliance with Section 3, The Contractor should be ready to demonstrate what actions were taken to hire or contract with low- and very low-income persons, what impediments were encountered, and what alternative economic opportunities were provided in lieu of strict compliance with Section 3 (such as the use of "upward mobility", "bridge" and trainee positions to fill vacancies; or the hiring of low- and very low-income persons in part-time, as opposed to full-time, positions; or in the case of contractors and subcontractors, the formation of joint ventures with a Section 3 business concern, provided there is a written agreement for the specific business venture and the Section 3 business (1) is responsible for a clearly defined portion of the work to be performed and holds management responsibilities in joint venture, and (2) performs at least 25% of the work and is contractually entitled to compensation proportionate to its work.)

## FITCHBURG'S VISITABILITY GUIDELINES

The City established Visitability Guidelines to include: The CDBG/HOME Housing Program will incorporate whenever feasible in new construction of single family homes visitability guidelines which includes: (1) make at least one entrance at grade (no steps) approached by an accessible route, such as a sidewalk, driveway, or street; (2) make the entrance door and all interior doors on the first floor at least 34 inches wide, offering 32 inches of clear passage space; and (3) current building code requires hallways to be 36 inches wide in single-family and two-family homes. Visitability Guidelines will be incorporated for all rehab projects only at the request of the applicant, who will be advised of this option. Visitability features for rehab will also be incorporated when feasible and will include: (1) One zero-step entrance approached by an accessible route; (2) One exterior door and interior doors on first floor with 32-36 inches of clear passage space; and (3) One bathroom on the main floor with maneuver space for a wheelchair.

## PROCUREMENT POLICY AND PROCEDURES

These policies and procedures are applicable to procurement for all federal sources and shall follow the principals and standards outlined in 2 CFR Part 200.320 and should be referred to for specific regulatory references. *Please note that State procurement compliance must also be followed.*



Unless otherwise agreed upon in writing, no recipient of the Fitchburg, Division of Housing and Developments' funds shall procure any goods or services for any project without a signed written agreement/contract in place.

All costs associated with any project funded by the Division of Housing and Development shall be determined to be necessary, ordinary and reasonable. Developers must use sound business practices, arm's length transactions and follow all federal, state and local laws and regulations. All costs must be allowable, allocable, be accorded consistent treatment, be adequately documented and be determined in accordance with generally accepted accounting principles. Please refer to OMB Guidance, 2 CFR 200.320 and OMB Circulars A-87 and A-122 for a list of allowable and prohibited costs.

## Contracts and Services

### **Construction Contracts**

In order to document reasonableness of costs, all construction contracts under \$100,000.00 will require competitive proposals/bids and at least three bids/proposals shall be obtained. Contracts expected to be over \$100,000.00 will be publicly solicited with sealed bids. A contract may be entered into when less than three bids are received only when a price analysis has been performed and it confirms the reasonableness of the cost. This price analysis includes comparing the bid received with an independent cost estimate and when applicable, to similar existing or recent contracts. Contracts will be awarded to the lowest qualified, responsible bidder. Developers will only award contracts to responsible contractors who have not been debarred, have references and have the appropriate licenses for their applicable trade. Under some circumstances, the Division of Housing may approve awarding a contract to a bidder who may be close to the low bid, but not the lowest bid, (such as when the contractor is a Section 3 business), The developer will obtain written approval with justification from the Division of Housing prior to awarding the contract.

### **Professional Consulting Services**

All contracts for professional services such as architect/engineer services shall be entered into only after reasonableness of costs have been determined by competitive proposals. The developer shall solicit at least three proposals or rate quotes when applicable and is expected to contact with the lowest qualified proposal after performing a cost analysis. Developers may choose to solicit rate quotes for services used routinely on an annual basis for the purposes of cost analysis as long as the data is recorded and kept on file for use during development projects.

### **Goods and Materials**

When a developer is purchasing goods/materials directly, a cost analysis shall be performed; a list of materials should be prepared and the developer shall obtain at least three quotes. A price analysis of the obtained quotes shall be performed to determine the reasonableness of costs before selecting a vendor. Goods may be purchased directly without a cost analysis only when the product in question is considered to be "sold in substantial quantity" to the general public with regular sales in large volume, when the price is set by laws or regulations or when it is a micro purchase. Procurement by noncompetitive proposals/sole source or micro-purchases will be acceptable only with review and approval by the Division of Housing prior to the procurement.

### **Staff Time and Indirect costs**

Staff and related indirect costs may be charged to a development project for time actually spent on project related costs only. All staff costs must include direct and indirect rates with a cost breakdown of the rates/costs. All rates/costs must be approved in advance and must be documented.

### **Sole Source Procurement**

Procurement by noncompetitive proposals/sole source will be acceptable only with review and approval by the Division of Housing prior to the procurement. Developers will still be required to perform a cost analysis including verifying the proposed cost data, the projections of the data and evaluating specific elements of costs and profits.

*For-profit developers are subject to "Contract Cost Principles and Procedures" 48 CFR Part 31. It is expected that these developers will follow the Division of Housing's Policy and Procedures however at times these developers may use a different methodology for procuring goods and services. The developer must demonstrate that the cost reasonableness requirement will be met and documented and obtain approval of the alternative method of establishing cost reasonableness from the Division of Housing in writing.*

## CONFLICT OF INTEREST REQUIREMENTS

The following conflict of interest provisions apply to the Program, due to the use of federal CDBG and/or HOME funds to provide Housing Programs:

In accordance with Code of Federal Regulations, Title 24, Section 570.611 and 24, Section 92.356 Conflict of interest: The conflict of interest provisions of these section apply to any person who is an employee, agent, consultant, officer, or elected official or appointed official of the recipient, or of any designated public agencies, or of sub-recipients that are receiving funds under this part.

### **Exception to the above conflict of interest provision:**

Program grant funds may be provided to regular City employees who do not exercise policy or decision-making responsibilities over the Program. This exception shall include all regular city employees except for: employees of the Housing Division and all Department Directors. City officials, appointees, agents, contractors and other persons involved in making policy or decisions related to the Programs are not eligible for this exception.

### **Non-Discrimination Requirements**

The Housing Programs will be implemented in ways consistent with the City's commitment to nondiscrimination. No person shall be excluded from participation in, denied the benefit of, or be subject to discrimination under any program or activity funded in whole or in part with Federal funds on the basis of his or her religion or religious affiliation, age, race, color, creed, gender, sexual orientation, marital status, familial status (children), physical or mental disability, national origin, or ancestry, or other arbitrary cause.

### **Exceptions And Special Circumstances**

The City may make amendments to these Guidelines from time to time. Any changes shall be made in accordance with applicable HUD, CDBG and HOME Program regulations, and approved by the Executive Director of the Department of Community Development, except for purely administrative changes, including annual updates of income, price, and subsidy limits, which may be made by Division staff upon release of new limits by HUD, and/or correction of clerical errors.

### **Procedures For Exceptional Circumstances**

1. The City or its agent may initiate consideration of an exception and prepare a report. This report shall contain a narrative, including the City's recommended course of action and any written or verbal information supplied by the applicant.
2. The City shall make a determination of the exception based on the recommendation of the Director of Housing and Development

### **Dispute Resolution And Appeals Procedure**

Any applicant denied assistance from Housing Programs has the right to appeal the denial. Complaints concerning the Program should be made in writing to the Director of Housing and Development first. If unresolved in this manner, a formal appeal must be made in writing filed with the Executive Director of the Department of Community Development. If needed, the Division will schedule a meeting between the applicant, the Housing and Development Division and Executive Director of Community Development. A written response to the applicant will be made within thirty (30) working days.

## RESIDENTIAL ANTI-DISPLACEMENT AND RELOCATION ASSISTANCE PLAN

### CITY OF FITCHBURG

Residential Anti displacement and Relocation Assistance Plan under Section 104(d) of the Housing and Community Act of 1974, as Amended.

The City of Fitchburg will replace all occupied and vacant occupiable low/moderate-income dwelling units demolished or converted to a use other than low/moderate income housing as a direct result of activities assisted with funds provided under the Housing and Community Development Act of 1974, as amended, as described in 24 CFR 570.606(c)(1).

All replacement housing will be provided within three years of the commencement of the demolition or rehabilitation relating to conversion. Before obligating or expending funds that will directly result in such demolition or conversion, the City of Fitchburg will make public and submit to the HUD Field Office the following information in writing:

A description of the proposed assisted activity; the general location on a map and approximate number of dwelling units by size (number of bedrooms) that will be demolished or converted to a use other than as low/moderate income dwelling units as a direct result of the assisted activity; a time schedule for the commencement and completion of the demolition or conversion; the general location on a map and approximate number of dwelling units by size (number of bedrooms) that will be provided as replacement dwelling units; the source of funding and a time schedule for the provision of replacement dwelling units; and the basis for concluding that each replacement dwelling unit will remain a low/moderate- income dwelling unit for at least 10 years from the date of initial occupancy.

The City of Fitchburg will provide relocation assistance, as described in 570.606(b)(2), to each low/moderate-income household displaced by the demolition of housing or by the conversion of a low/moderate-income dwelling to another use as a direct result of assisted activities.

Consistent with the goals and objectives of activities assisted under the Act, the City of Fitchburg will take the following steps to minimize the displacement of persons from their homes:

1. Strive to minimize the displacement of persons as a result of assisted projects through careful project review in order to identify the possibility of displacement and to fully consider all other options available, prior to displacement.
2. Coordinate code enforcement efforts with those of the various housing rehabilitation and assistance programs.
3. Stage rehabilitation efforts in rental units to allow tenants to remain in the building during and after rehabilitation, by rehabilitating vacant units first, where possible.
4. In the event displacement assistance is required, assign a representation of the City of Fitchburg to work with the displacee to provide assistance and information in a manner that will minimize any potential hardship and facilitate the process of relocation. All information will be kept in confidence by the City of Fitchburg.

## HOUSING PROGRAMS NOT CURRENTLY FUNDED

### MONTACHUSETT LEAD HAZARD CONTROL PROGRAM

*As of 2019, this program is no longer available.*

This new program will provide financial and technical assistance to eligible owner occupied and investor owned rental housing units to control and eliminate lead based hazards in the communities of Fitchburg, Athol, Gardner and Clinton. The three year program is being funded through a grant from the HUD Office of Healthy Homes and Lead Hazard Control. Targeted outreach efforts will focus on census tracts that have the highest concentrations of poverty, older housing stock and high rates of foreclosure. The program will utilize the CDBG strategy area when applicable as that program has identified census tracts with 51% of the population earning under 80% of the area median income.

#### **To Qualify:**

- Both owner occupant households and tenant households are eligible under the program.
- Owner occupants must have a child under six reside in the household or visiting the household for a significant period of time.
- Tenants in units with two+ bedrooms are eligible, first priority is given to units with children under 6 residing or visiting the unit. Tenants in units without children under 6 are also eligible, but at a lower priority than those with children under 6.
- Owner occupants and tenants cannot exceed 80% of the area median income of their respective communities for their household size, (currently \$65,800 for a family of four), however, 50% of the tenants occupying rental units must be below 50% of the area median income. In general multifamily rental properties will be required to be at least 50% occupied by households earning below 50% of the area median income. Exceptions may be made when requested only when program staff can determine that the required 50% of rental occupants earning below 50% area median income will be met.
- Units must not be located within the community's flood plain.
- The property must have clear title, adequate insurance and all property taxes, water and sewer, and mortgage payments must be current. When the property is rental, the property must provide an adequate revenue stream to support the ongoing operation of the property as decent and safe housing.
- Owners of rental property must execute an agreement to make lead hazard controlled units available to families with children under the age of six for a minimum of three years.

#### **Assistance Provided:**

- Units will be inspected for the presence of lead paint and assessed for other Healthy Homes hazards.
- Lead Paint counseling and education, work specification writing, supervision of bidding process, inspections of work in progress and final work approval.
- Assistance to obtain lead blood testing for children under 6 living in the household if necessary.
- Lead Hazard Control and at times, control or elimination of other eligible Healthy Homes household hazards.
- Lead Paint compliance.
- Referrals and assistance in accessing other funding that may be available and provided by other sources, such as Get The Lead Out funding, housing rehabilitation assistance or weatherization.

## PROJECT REJUVENATE FOR RENTAL HOUSING

*2019- Currently not funded due to lack of sufficient funds.*

### **RENTAL RENOVATION PROGRAM**

**CDBG**

The Program provides incentive and financial support for the renovation, repair and rehabilitation of investor owned rental properties within the City of Fitchburg's Community Development Block Grant Strategy area. In order to broaden the existing availability of affordable housing units within the city, priority consideration will be given to buildings that currently contain vacant housing units. The Program is subject to available funding. This funding is very limited and applicants should inquire prior to applying.

#### **To Qualify:**

- Owners must have a minimum of 10% cash equity in the property.
- Property must have adequate access to off-street parking facilities.
- Property must have a reasonable yard or recreation area.
- Property owner must have a good management history.
- Repairs to the property must have a positive impact on the immediate neighborhood.
- Occupied properties must have a majority of units rented to low or moderate income families or individuals.
- Owners of vacant properties must agree to rent rehabilitated units to low or moderate income families or individuals.

#### **Required Repair Work:**

- Owners must agree to complete lead abatement for all units and common areas of the property.
- Properties must be brought into compliance with State Sanitary & Building Codes and HUD's Housing Quality Standards.
- Energy conservation measures must be instituted to reduce the energy demands of the building. Energy Star compliant appliances and ratings are encouraged.
- Exterior repairs are required to impact overall neighborhood improvement.
- Certain properties may require restoration and consideration of historic architectural details.

#### **Assistance Provided:**

- Qualified Owners may be eligible to receive up to 50% of the cost of rehabilitation work, provided the combined new debt on the building does not exceed 100% of the after- rehabilitation appraised value.
- Owners will enter into a mortgage agreement with the City. Repayment terms will range from 10 to 30 years, with interest rates that will not exceed 3%.

Additional benefits and incentives may apply to properties located within the City’s Urban Redevelopment District.

## BUY IT FIX IT FITCHBURG

*2019- Currently not funded*

### **HOME BUYER ASSISTANCE**

This program, funded through both the CDBG program, the HOME Program, and local participating banks provides income eligible homebuyers with an opportunity to purchase and rehabilitate their home. The Program is subject to available funding.

#### **To Qualify:**

- Buyers and tenant(s) must earn less than 80% of area median income currently \$65,800 for a family of four.
- Property must be in need of rehabilitation equal to or greater than 20% of the purchase price.
- Owner must agree to occupy property as a principal residence for the life of the mortgage.
- Rental units must meet affordability guidelines of the program.
- Certain properties may require restoration and consideration of historic architectural details.

#### **Assistance Provided:**

- Counseling and assistance for homebuyers through the entire purchase and rehabilitation process, provided through the NewVue Communities/Neighborworks Homeownership Center.
- Banks participating in the program provide eligible borrowers first mortgage financing at favorable rates and terms up to 80% of the after-rehabilitation appraised value of property.
- Total benefits vary depending on location.
- The Program provides a 2% gift towards down payment or closing cost expenses.
- The Program provides second mortgage financing for a percentage of the after-rehabilitation appraised value.
- The Program may also provide additional second mortgage financing, as needed, to reduce monthly mortgage payments to an affordable level for the first seven years of the mortgage.