



# Palm Beach County Housing Bond Allocation Process

October 3, 2023

## 1. GENERAL GUIDELINES (as approved by the voters)

### A) Background

On June 21, 2022, Palm Beach County Board of Commissioner (BCC), by Resolution R-2022-0626 approved the issuance of \$200 million General Obligation (GO) taxable bond for the purpose of financing all or a portion of the costs of increasing workforce and affordable housing in Palm Beach County and calling for a bond referendum which was approved by voters of Palm Beach County on November 8, 2022.

### B) Bond Program (Exhibit A of the Bond Referendum)

Workforce and Affordable housing units will consist of the acquisition, construction and equipping of the following:

- **Condominiums:** a for-sale housing type characterized by multiple attached housing units within a single structure or multiple structures where housing units are individually owned and common areas are under joint ownership.
- **Multi-family Rental Units:** a rental housing type characterized by multiple attached housing units within a single structure or multiple structures under singular ownership, where individual housing units are rented to tenants through leasehold agreements.
- **Single-family homes:** a for-sale housing type characterized by one single detached housing unit per structure and property under individual ownership.
- **Townhomes:** a for-sale housing type characterized by two to four attached multi-story units per structure where housing units are individually owned and common areas are under joint ownership.

Projects can be mixed-income and mixed-use; however, bond financing will only be available for the eligible housing units that meet the County requirements.

### **C) Project Financing**

Projects may be financed combining public and/or private funding sources.

### **D) Definitions**

- **Mixed-income** means projects that provide housing for households whose income range could qualify as affordable, workforce and market rate.
- **Mixed-use** means projects that have residential and non-residential components.
- **Affordable housing** means housing that is affordable to households whose income does not exceed 80% of the Area Median Income (AMI) Using the FY 2022 AMI chart, for a household of 4, the maximum income is \$73,600, subject to annual adjustment.
- **Workforce housing** means housing that is affordable to households whose income is between 60% AMI and 140% AMI. Using the workforce housing chart for 2022, the eligible household income must be between \$54,180 – \$126,420, subject to annual adjustment.

### **E) Bond Issuance**

- 1) Required Board of County Commissioners (BCC) authorization and voter approval of \$200 million General Obligation (GO) housing bond
- 2) Bonds can be issued all at once or in tranches
- 3) Taxable bond issuance has a 20-year term

### **F) Allocation Process**

- 1) Request for Proposals for developers will be issued by the County and will award loans through a competitive process for countywide development projects.
- 2) Bonds will fund loans for permanent financing for multi-family rental projects and loans for construction financing for homeownership/for-sale units.
- 3) Awards subject to be reclaimed, if the project has not begun construction within one year of final BCC approval.
- 4) All awards must be approved by the Board of County Commissioners.

### **G) Compliance and Monitoring**

- 1) Projects must provide annual financial reports prepared by Certified Public Accountant.
- 2) Report of the utilization of restricted units by project must be submitted to the County, as required.
- 3) Projects subject to review by Palm Beach County Office of the Inspector General and the Palm Beach County Internal Auditor.
- 4) Compliance reviews will be conducted by the County.

## 2. FUNDING CRITERIA AND PROCESS (approved by the BCC on October 3, 2023)

The BCC maintains the right to modify the following sections of the Bond Allocation Criteria Process at any time.

### A) PROJECT REQUIREMENTS

- 1) Housing units (rental and for-sale) constructed with bond proceeds shall be identified as “County Assisted” Housing Units.
  - a) At least 50% of the County-Assisted homeowner (for-sale) units shall serve households with incomes no greater than 120% AMI.
  - b) The minimum number of County Bond funded units created in any multi-family rental project is based on whether a project has a municipal development order mandating the creation of affordable and/or workforce housing units. Units created as part of another local government obligation are not eligible for Bond proceeds. In order to be eligible to receive Bond proceeds, the project must meet one of the following criteria:
    - i. For projects that do not have any other local government obligation to create affordable or workforce housing units, the greater of ten (10) units or ten percent (10%) of the total project units must be created to apply for Bond proceeds.
    - ii. For projects that have other local government obligation to create affordable or workforce housing units, all Bond funded units must be in addition to those units created by the other local government obligation. There is no minimum requirement for the number of additional Bond funded units.
  - c) For projects located within a municipality, the municipality shall provide funding or another form of assistance (i.e. expedited permitting, land donation, fee waiver, etc.) to the bond-financed project developed within its jurisdiction. Developers must ensure the project meets municipal requirements associated with the proposed expedited permitting or other forms of assistance.
- 2) All for-sale units constructed in whole or in part with bond financing, must be sold to individuals or families who are income certified and approved by the Department of Housing & Economic Development (DHED).
- 3) Maximum sales price and resale provisions will follow the requirements approved by the County. Principal, interest, tax and insurance payment (PITI), as well as the condominium and/or homeowners association fees cannot exceed the maximum debt-to-income ratio limits the County will establish.
- 4) Bond funds cannot be used for housing units that serve to meet a Palm Beach County Workforce Housing Program (WHP) obligation, including the use of the Exchange Option or a municipal obligation resulting from a development approval process. However, bond funds may assist other housing units within a project that are **additional** to those units serving the WHP obligation / Exchange Option or municipal obligation.
- 5) Principal owners involved in housing projects must be compliant with housing agreements issued by the State of Florida, as well as counties and municipalities within the State, or unless otherwise approved by the County.

## B) Disbursements, Loan Terms and Repayments

- 1) Disbursements from bond proceeds / loan funds will be paid out to a project based on construction draw process or a cost reimbursement process. The use of a construction draw or cost reimbursement process must be approved by the County.
- 2) Project Surety  
Bond funded projects will require a Payment and Performance Bond or Letter of Credit.
- 3) Rental Units
  - a) Projects providing **workforce housing units** will have a loan term up to 20 years, with interest rates ranging from 1% – 3% (the range of interest rates is subject to change), and a fully amortized loan for the full term. Each proposal submitted should have a minimum Debt Service Coverage Ratio, which will be established as part of the RFP process. Loans may be fully amortizing or may be interest only during the first 10-years of the loan.
  - b) Projects awarded to for-profit developers providing **affordable housing units** will have a loan term up to 20 years with an interest rate of 1.0%. Projects awarded to non-profit developers will have a loan term up to 20 years with an interest rate of 0%. Loans may be fully amortizing or may be interest only during the first 10-years of the loan. Loans may also have an option for a longer amortization, with a final balloon payment at the end of the 20-year term. Payment of loan debt service is subject to available cash flow. Cash flow is defined as project cash flow from rental income and other income generated by the Project, less (i) all sums due or currently required to be paid under the documents executed in connection with the senior loans, including, without limitation, debt service payment on senior loans, project reserves, and (ii) operating expenses, including any deferred developer fees, as specifically defined in the loan agreement. A certification of Project income and expenses, certified by an independent Certified Public Accountant, will be provided annually to the County for use in County's sole discretion to determine net cash flow and the payments due hereunder. All unpaid principal and interest is due at loan maturity. Each proposal submitted should have a minimum Debt Service Coverage Ratio, which will be established as part of the RFP process.
- 4) For-Sale Units
  - a) All for-sale projects will have a construction loan with a term up to 3 years, and an interest rate of 1.0% with repayment upon sale of the units. For-sale projects awarded to non-profit developers will have a loan term up to 3 years with an interest rate of 0%, and repayment due upon sale of the units.

- b) Sale price for all for-sale units shall not exceed sales prices as defined by Palm Beach County's Workforce Housing Program and amended from time to time.

### **C) Deed Restriction and Period of Affordability**

#### **1) Rental Units**

- a) Minimum affordability period (i.e. the length of time the units will be deed restricted) will be no less than 30 years. The affordability period will commence once occupancy is documented for the final bond assisted unit. Should other project development funding sources require an affordability period longer than 30 years; the County's deed restriction for affordability will match the longest required period. Buyout, reduction or removal of affordability restrictions will not be permitted.
- b) Maximum rents / rent limits for the County-assisted multi-family units cannot exceed the approved multi-family rental rates issued by Florida Housing Finance Corporation, as adjusted by Palm Beach County for the applicable income tier and housing unit size.

#### **2) For-Sale Units**

- a) All for-sale units developed with bond financing will have deed restrictions with a minimum affordability period of 15 year recurring, starting upon sale of the unit to the homeowner. Buyout, reduction or removal of restrictions or requirements will not be permitted.

### **D) Re- Sale Requirements**

#### **1) Rental Units**

- a) If the project development is sold, or 50% (aggregate) or more of the ownership changes to a non-affiliated entity, the loan must be satisfied, and the deed restriction will remain in place until the end of the affordability period. This excludes non-affiliated ownership changes where the Low-Income Housing Tax Credit (LIHTC) syndicator / investor changes. If there is an assignment by a general partner or managing member of its ownership interest to another entity which was a project partner at closing of the County Loan, the County will review and evaluate the change in ownership to see what amount of the bond loan, if any, should be repaid.
- b) The County shall be given a 60-day notice of intent to sell (by certified mail) when a project, funded in whole or in part with bond funds, is being sold, or 50% (aggregate) or more of the ownership changes to a non-affiliated entity.

#### **2) For-Sale Units**

The County shall be given a 60-day notice of intent to sell (by certified mail) when any of the Bond funded for-sale housing units are being re-sold during the period of affordability. The County shall retain the first right of refusal to purchase the home at the approved sales price or identify an eligible buyer to purchase the home at the approved price. DHED must approve the eligibility of all buyers prior to re-sale.

### **E) Project Selection and Loan Award**

- 1) Responsiveness review and evaluation of proposals will be conducted by DHED.
- 2) A Selection Committee comprising of County staff will review applications and recommend projects to be funded by the Board of County Commissioners for conceptual approval.
- 3) All conceptually-approved projects will undergo third party credit underwriting and if successful, funding award will be presented to the Board of County Commissioners for final approval. DHED may also assist with the underwriting of proposals.

### **F) Credit Underwriting and Cost Certification**

- 1) Projects will undergo credit underwriting to assess (in part) the credit worthiness of the developer, right sizing of State/County/Municipal funding and the viability of the project.
- 2) Costs associated with credit underwriting will be paid for by the developer and third party credit underwriters will be procured by the County.
- 3) In instances where non-County funding for projects require credit underwriting, unified credit underwriting will be considered on a case-by-case basis.
- 4) A Third Party cost certification must be submitted by the developer and approved by DHED on all Bond funded for-sale units, prior to the start of construction.

### **G) Compliance and Monitoring Report**

- 1) Annual audited financial statements will be required from developers regarding projects funded with County bond financing, with the first audit period to correspond with the first year after the project has received its certificate of occupancy (CO).
- 2) Project owners must submit a compliance report on the utilization of restricted units by project to the County on an annual basis or upon request. The County or a third-party monitor will conduct periodic monitoring of projects for compliance with all programmatic requirements, including physical inspections and property management review.
- 3) Annual monitoring fee for rental projects will be \$2,500 (or as amended).

### **H) Ranking / Scoring Criteria (may include, but not be limited to the following)**

- 1) Rental Unit Projects
  - a) Qualifications and Experience
  - b) Readiness to Proceed / Project Schedule
  - c) Leveraging
  - d) Very-low Income Targeting (50% AMI and below units for affordable housing projects)
  - e) Quality of Proposed Project
  - f) Financial Viability

- g) Rental Affordability
  - h) Green Building and Sustainability
  - i) Percentage of affordable/workforce housing units
- 2) For Sale Unit Projects**
- a) Qualifications and Experience
  - b) Readiness to Proceed / Project Schedule
  - c) Financial Viability
  - d) Leveraging
  - e) Quality of Proposed Project

**l) Tenant/Homebuyer qualification**

Housing units developed with bond proceeds should ensure rental and ownership policies take into consideration extenuating / extraordinary circumstances and do not impose non-industry standard barriers to occupancy or ownership when assisting low-to-moderate income households. For example, if an individual/family lost their home or was evicted due to a loss of household income related to the COVID-19 pandemic (*or an economic condition recognized by the County*), an eviction or foreclosure on their credit report should not be the sole reason to deny them an opportunity for housing.