

Affordable Housing Funding Notice



Oregon Housing and Community Services

NOTICE OF FUNDING AVAILABILITY (NOFA) #2022-2

Local Innovation and Fast Track (LIFT) Program
RENTAL

NOFA Issued: February 4, 2022

Pre-Application Due: February 18, 2022, by midnight

Proposal Due Date: April 22, 2022

Proposal Due Time: 4:00 PM PST



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1.0 INTRODUCTION

1.1 Purpose

The Oregon Housing and Community Services Department (“OHCS”) is seeking applications (“Applications”) in this Notice of Funding Availability (“NOFA”) for the new construction of affordable, multifamily rental housing developments (“Projects”) that will serve statewide qualified low-income households earning at or below 60% area median income. The source of funds under this NOFA is the Local Innovation and Fast Track (LIFT) program. One of the statutory goals for LIFT is to provide housing to underserved communities, which are defined as rural communities and Communities of Color. OHCS intends to prioritize allocations of LIFT resources to maximize the impact of these explicit goals.

1.2 NOFA Funding Sources, Allocations and Funding Limit Categories

A. LIFT

The LIFT program is funded through Article XI-Q Bonds. In the 2021 Oregon State Legislative session, \$303.5 million in funding was provided to OHCS in the form of Article XI-Q bond authority for the LIFT program for the 2021-2023 biennium. Of the \$303.5 million of funds, 80 percent are for the development of rental projects (“LIFT Rental”), and the remaining 20 percent are for the development of affordable homeownership projects (“LIFT Homeownership”).

This NOFA represents the first LIFT Rental offering of the 2021-2023 biennium. Funding available through this LIFT Rental NOFA totals \$121,400,000 based on current unreserved LIFT resources and interest earnings and is to be reserved to Projects that meet specified eligible Application parameters. If additional LIFT resources become available from interest earnings or other means, OHCS reserves the right to add those to the resources that are awarded from this NOFA.

All LIFT Rental Program Requirements governing funding and relevant to a particular Application must be satisfied by the Applicant in order to qualify for funding under this NOFA.

Of the currently available LIFT Rental funds, \$60,700,000 will be eligible to use with the 4% Low Income Housing Tax Credits (LIHTC) and tax-exempt conduit bonds, as a funding source, \$30,350,000 is eligible to use for funding projects not leveraging the 4% LIHTC/Conduit Bond funding source, and \$30,350,000 is available for projects in wildfire impacted areas and must be used without 4% LIHTC/Conduit Bond.

B. OAHTC and Gap Resource

In addition to the LIFT funds, OHCS will make Oregon Affordable Housing Tax Credits (OAHTC) available where it results in deep rent skewing; serving households at or below 50% AMI. Applicants can request OAHTC to cover up to 95% of their permanent loan. Furthermore, if there is a Project that cannot be funded with the remaining LIFT resources, OHCS may leverage OHCS gap funding resources other than LIFT to fully fund a Project.

C. LIHTC/Tax-Exempt Conduit Bonds

Applicants may choose to utilize 4% Low Income Housing Tax Credits (LIHTC) and tax-exempt conduit bonds, as a funding source. If an Applicant chooses to do so, all components of the 4% LIHTC

program, including Project feasibility review and due diligence associated with the 4% LIHTC program, must be submitted with the Application required hereunder. Information on the LIHTC program can be found here: <https://www.oregon.gov/ohcs/development/Pages/nofa-four-percent-lihtc.aspx>.

Because of limited availability of state Private Activity Bonds, 4% LIHTC/Bond projects are limited to 50% of the available LIFT Resources, with an approximate bond cap of \$170 million.

D. Wildfire Direct Awards

Noncompetitive wildfire funding is available through this NOFA through two different sources, LIFT and a combination of General Housing Account Program (GHAP)/Housing Development Account Program (HDGP), called Gap funding. These resources together are referred to as “Wildfire Non 4% LIHTC Direct Awards”. The funds have the same programmatic requirements as LIFT and applicants should choose Wildfire Direct Awards on the application if applying for these funds. OHCS will decide what type of funds will be awarded to projects.

These resources are reserved to develop new units in wildfire impacted areas. A total of \$50,350,000 is available and must be used *without* 4% LIHTC/bond resources. The funds are set-aside as follows:

- \$25,175,000 (50%) to Lane, Lincoln, & Marion Counties
- \$15,105,000 (30%) to Clackamas, Douglas, Klamath, & Linn Counties
- \$10,070,000 (20%) to Jackson County

These set-asides are held until **March 1, 2022**. If not fully reserved, the set-aside funds will be combined into a general pool for utilization by projects in the above-named counties on **March 2, 2022**. If there are more requests than funding available submitted before March 1, 2022, for a particular set-aside(s), those projects will be prioritized on a first-come first-served basis for the general pool, which will be available on March 2, 2022. Any **LIFT** resources not reserved to projects by **June 1, 2022**, will then be moved to the general pool for LIFT Rental without 4% LIHTC/bonds. Any **Gap** resources not reserved to projects by **September 1, 2022**, will then be reallocated to the 2023 Small Project NOFA.

Applications are accepted on a rolling basis and staff will review applications as they are submitted. Applicants are required to submit a complete LIFT application with all narratives completed and attachments included.

In order to be eligible for a reservation, among other requirements, applications must meet Preliminary and Threshold criteria, as well as meet all OHCS programmatic (see section 1.5), underwriting and financial guidelines. Please see section 3.2 for a full list of Wildfire threshold items. Competitive scoring outlined in section 3.3 of this NOFA will not be applied to applications for Wildfire Direct Awards. Location specific and culturally specific organization/Tribal set-asides do not apply to the Wildfire Direct Awards.

Subsidy limits for Wildfire Direct Awards are the same as LIFT non-4% LIHTC/bond subsidy limits. OAHTCs can be used and are limited to 95% of a project’s permanent loan.

E. Set-Asides

OHCS has established 3 location specific soft set-asides, and a soft cross-cutting set-aside for Projects

led by Culturally Specific Organizations (CSO) or Federally Recognized Tribes in order to better serve all parts of the State. In this NOFA, the set-asides are allocated as follows:

		To Pair with LIHTC	Non LIHTC Projects
<i>Rural</i>	50% of Available LIFT Funds	\$ 30,350,000	\$ 15,175,000
<i>Mid-Sized Urban</i>	25% of Available LIFT Funds	\$ 15,175,000	\$ 7,587,500
<i>Urban</i>	25% of Available LIFT Funds	\$ 15,175,000	\$ 7,787,500
<i>CSO or Tribal Led</i>	15% of LIFT Funds	\$ 9,105,000	\$ 4,552,500

The set-aside for CSO or Federally Recognized Tribes transcends all location specific set-asides so that projects led by these organizations in all locations in the state have better access to LIFT funds. These are projects in which the developer, sponsor, or manager of the property is a Culturally Specific Organization or Tribal-led organization.

If the next Project to be awarded within a set-aside requires more funds than remains in that particular set-aside category, those funds will be grouped together with similar funding from the other set-aside categories and the combined funding will go to the highest scoring Project able to be funded. If there are not enough Projects able to be funded (having passed preliminary and threshold minimum requirements) to use all resources for one of the set-aside categories, those funds will be made available to fund Projects in the other set-aside categories. If the next Project cannot be fully funded with available LIFT, OHCS may leverage other available OHCS gap funding resources to fully fund a Project.

If funds from this NOFA are undersubscribed, OHCS reserves the right to award the remaining funds to projects submitted through the LIFT Homeownership NOFA if the LIFT Homeownership NOFA is oversubscribed.

F. Funding Limits

If utilizing the 4% LIHTC and OHCS Conduit Bond Program, applicants may request up to the following per unit maximums based on location and bedroom size:

	Studio	1 Bedroom	2 Bedroom	3 Bedroom
Urban	\$60,000	\$100,000	\$130,000	\$160,000
Mid-Sized Urban	\$75,000	\$125,000	\$165,000	\$205,000
Rural	\$90,000	\$150,000	\$200,000	\$250,000

LIFT only applicants (including Wildfire Direct applicants) may request up to the following per unit maximums based on location and bedroom size:

	Studio	1 Bedroom	2 Bedroom	3 Bedroom
Urban/Mid-Sized Urban	\$90,000	\$150,000	\$210,000	\$270,000
Rural	\$110,000	\$170,000	\$230,000	\$290,000

1.3 Definitions

For purposes of this NOFA, the following terms have the following meanings:

Affirmatively Furthering Fair Housing: Affirmatively Furthering Fair Housing (AFFH) is a legal requirement that federal agencies and federal grantees further the purposes of the Fair Housing Act. This obligation to affirmatively further fair housing has been in the Fair Housing Act since 1968 (for further information see Title VIII of the Civil Rights Act of 1968, 42 U.S.C. 3608 and Executive Order 12892). HUD's AFFH rule provides an effective planning approach to aid program participants in taking meaningful actions to overcome historic patterns of segregation, promote fair housing choice, and foster inclusive communities that are free from discrimination. As provided in the rule, AFFH means "taking meaningful actions, in addition to combating discrimination, that overcome patterns of segregation and foster inclusive communities free from barriers that restrict access to opportunity based on protected characteristics. Specifically, affirmatively furthering fair housing means taking meaningful actions that, taken together, address significant disparities in housing needs and in access to opportunity, replacing segregated living patterns with truly integrated and balanced living patterns, transforming racially and ethnically concentrated areas of poverty into areas of opportunity, and fostering and maintaining compliance with civil rights and fair housing laws.¹

Agreement Documents: means the funding documents, the final form of which are satisfactory to OHCS, in consultation with the Oregon Department of Justice and executed in connection with the Project.

Allocation: includes any funding allocated under this NOFA.

Applicants: means persons or entities that are submitting an Application responsive to this NOFA.

Communities of Color: identity-based communities that hold a primary racial identity that describes the racial characteristics of the community that its members share (such as being African American) that supports self-definition by community members, and that typically denotes a shared history and current/historic experiences of racism. The community may or may not also be a geographic community. Given that race is a socially defined construct, the definitions of these communities are dynamic and evolve across time.²

¹ U.S. Department of Housing and Urban Development

² Adapted from Curry-Stevens, Ann, Marie-Elena Reyes & Coalition of Communities of Color (2014). *Protocol for Culturally Responsive Organizations*

Culturally Responsive Organization: means an entity that comprehensively addresses power relationships throughout the organization, from the types of services it provides and how it maximizes language accessibility to its human resources practices—who it hires, how they are skilled, prepared and held accountable, to its cultural norms, its governance structures and policies, and its track record in addressing conflicts and dynamics of inclusion and exclusion, to its relationships with racial groups in the region, including its responsiveness to expectations. A Culturally Responsive Organization is one that is dynamic, on a committed path to improvement and one that is hardwired to be responsive to the interests of Communities of Color, service users of color and staff of color. Culturally responsive organizations hire and train culturally and linguistically diverse staff to meet the needs of the diverse communities they serve.*

Culturally Responsive Services: means services that have been adapted to maximize the respect of and relevance to the beliefs, practices, culture and linguistic needs of the diverse client populations and communities being served, including clients and communities of color. Cultural responsiveness describes the capacity to respond to the issues of diverse communities. Culturally responsive services assure competent language access and incorporate diverse cultural approaches, strengths, perspectives, experiences, frames of reference, values, norms and performance styles of clients and communities to make services and programs more welcoming, accessible, appropriate, and effective for all eligible and intended recipients.*

Culturally Specific Organization: a non-profit organization designed to serve historically underserved communities least likely to apply for housing occupancy and that is

- representative of a community or significant segments of a community;
- provides affordable housing to very low- and low-income households; and
- can demonstrate primary target populations served to be ‘least likely to apply’, meaning there is an identifiable presence of a specific demographic group in the housing market area, but members of that group are not likely to apply for the housing without targeted outreach, including marketing materials in other languages for limited English proficient individuals, and alternative formats for persons with disabilities. Reasons for not applying may include, but are not limited to, insufficient information about housing opportunities, language barriers, or transportation impediments.

Metropolitan Statistical Areas (MSA): geographic regions delineated by the United States Office of Management and Budget. MSA is the formal definition of a region that consists of a city and surrounding community that are linked by social and economic factors.

- Oregon counties located in MSAs are Benton, Clackamas, Columbia, Deschutes, Jackson, Josephine, Linn, Lane, Marion, Multnomah, Polk, Washington, and Yamhill Counties

Mid-Sized Urban Communities: Jurisdictions outside of the Portland Urban Growth Boundary, that both have a population between 15,000 and 40,000 and are in a county that is part of an MSA.

Rural Communities: An eligible category for receiving LIFT funds through this NOFA which focuses funding on Projects that will serve to overcome historic disparities. Rural areas are defined as:

*Adapted from Curry-Stevens, Ann, Marie-Elena Reyes & Coalition of Communities of Color (2014). *Protocol for Culturally Responsive Organizations*

- Jurisdictions with 15,000 population or less outside of the Portland Urban Growth Boundary in counties within MSAs, or
- Communities with 40,000 population or less in the balance of the state.

NOTE: if a city was eligible to be considered rural by population within the same dataset and currently has a population that is within 5% (five percent) of the established rural definition for this NOFA, they can be considered rural for the purposes of this application.

Service to Communities of Color: Service to Communities of Color can be achieved in a number of ways and should be relevant to the community in which the Project is located, and the target population anticipated to be served. Any approach that is chosen must include intentional engagement with Communities of Color for services planning for the development. In general, OHCS would expect that addressing this intentional engagement should be accomplished in one or more of the following ways:

- Development, sponsorship or management by a *Culturally Specific Organization* or a *Culturally Responsive Organization* with a diverse and representative leadership
- An ongoing service partnership with a *Culturally Specific Organization* or a *Culturally Responsive Organization*
- Plan for the provision of Culturally Responsive Services for tenants
- Relevant marketing and outreach plan designed to publicize to Communities of Color the availability of the new housing opportunities created by the Project consistent with the Affirmative Fair Housing Marketing (AFHM) Plan
- Project explicitly designed and located to address displacement of *Communities of Color*
- Other services that uplift *Communities of Color* as approved by OHCS staff.

Scoring Committee: includes representatives from Communities of Color, Rural Communities, Urban Communities, OHCS and DHS leadership, and persons with other relevant policy and development expertise that will be assembled to review all Applications that have met the minimum requirements.

Studio (aka Efficiency): the smallest size unit available to be built using LIFT funds in this NOFA. A studio apartment has a private bathroom, which includes sanitary facilities (i.e., toilet, sink, and bathing space), as well as a kitchen area.

Tribal-led Project: A Project that is sponsored by a Federally Recognized Tribe or an organization owned by a Federally Recognized Tribe.

Urban Communities: All jurisdictions within the Portland Urban Growth Boundary regardless of size, and communities with populations of 40,000 and above in the balance of the state.

1.4 Reservation Process

- A. Application Ranking Process:** Funds are reserved by OHCS on a competitive basis to Projects of qualifying Applicants that:
1. Pass the Preliminary Review;
 2. Meet the Threshold Requirements; and
 3. Have the highest-ranking score from the Scoring Committee in accordance with available funding, subject to prioritization of qualifying Projects.

During the scoring and reservation process, limits on the remaining available funding may result either in lower-ranked Applications receiving a funding Reservation if higher-ranked Applications would require funding that exceeds the amount that remains available for awards, or, OHCS may choose to leverage other OHCS gap funding resources, including future LIFT funds, to fully fund the higher ranked Application(s).

In the event of a tie, and assuming sufficient funding for either of the tied Applications, OHCS will apply the following tie breaking rules in making funding awards.

B. Tie Breaking Rule: If the total evaluation scores of two (2) or more Applications result in a tie and funding availability is insufficient to fund all tied Applications, the following scores, in order of priority, will break the tie:

1. The Project with the request for lowest per unit LIFT Rental subsidy.
2. The Project that will build the greatest number of affordable units that can be funded under this NOFA.

1.5 LIFT Rental Program Requirements

In addition to any other requirements in this NOFA, the following Project Requirements apply to all Projects funded through this NOFA (“Project Requirements”):

A. Eligible Activity

LIFT Rental funds are for new construction of affordable housing units or the conversion of existing non-housing structures into new affordable housing units. Applicants may only apply for one phase of a multiphase project.

Please note:

- *Projects that are under construction (including site work) at the time of Application are not eligible for funding through this NOFA. Projects that begin construction after LIFT Fund Reservation and before LIFT loan closing may have their LIFT Fund Reservation revoked.*
- *Projects to rehabilitate existing residential structures or housing units are not eligible for funding through this NOFA.*

B. Service to Communities of Color

Service to Communities of Color can be achieved in a number of ways and should be relevant to the community in which the Project is located, and the target population anticipated to be served. Any approach that is chosen must include intentional engagement with Communities of Color for services planning for the development.³

³ See ‘Service to Communities of Color’ Definition on page 9.

C. Affordability Period

OHCS has the discretion to meet the needs of the LIFT program, but generally, the affordability period will be established as the length of time the Article XI-Q bond is outstanding based on the original maturity date identified at time of bond sale, with a minimum of 20 years from the end of the year that the Project is placed in service or the length of the bonds outstanding, whichever is greater. If used with 4% LIHTC, the applicable 4% LIHTC affordability period of 30 years from the end of the year that the Project is first placed in service or the length of the bonds outstanding, whichever is greater, will apply. If the Project has multiple financing sources, it will be required to follow the most restrictive requirements.

D. Rents and Incomes

All units funded with LIFT Rental must be affordable to households earning at or below 60% HUD Area Median Income (AMI) at the time of initial lease, with an exception for the one permissible manager's unit per project. Maximum rents allowable on any LIFT Rental unit will be based on and may not exceed the 60% HUD Area Median Income standard but may be further restricted to accomplish LIFT Rental program or other funding purposes.

For all Projects, tenants must be able to stay in the Project regardless of future income if they were certified as eligible at the time of initial lease. To ensure affordability and comparability of unit compliance, a next available unit rule will need to be established in conjunction with OHCS compliance staff.

E. Construction Standards

- *Methods:* Both traditional and alternative methods of new construction are allowable; construction that is innovative in containing costs or otherwise serving lower-income populations is encouraged,
- *Quality:* Construction that balances the initial cost of building with on-going costs of operation for both the building owner and the tenants (e.g., energy standards); ensuring that additional costs are not passed on to tenants,
- *Durability:* A minimum of 30-year building standards is expected for all Projects,
- *Other requirements:* If other public capital or operating subsidies are used in financing the Project, relevant requirements of those subsidy sources will apply.

LIFT Rental requirements are intended to encourage innovation and allow for all types of new construction. All Projects must meet local and state code requirements. If a Project applies for 4% LIHTCs, it is required to follow the OHCS Core-Development Manuals (CDM) requirements for that program: <https://www.oregon.gov/ohcs/development/Pages/core-development-manual.aspx>

F. Development Period

Units must be ready for initial lease-up within 36 months of the date of the Reservation Letter. This NOFA anticipates funding reservations in summer 2022; in which case units must be ready for initial lease-up by summer 2025.

G. Operational Agreement with OHCS

The LIFT program is funded using proceeds from the sale of Article XI-Q bonds which require the State of Oregon to hold an appropriate operational interest in each Project funded. This is satisfied, in part, by execution of an Operating Agreement, Declaration of Restrictive Covenants, and a Project Management Agreement.

H. Ownership Integrity

- Single-Asset Ownership: The Project must be owned by a single-asset entity duly organized under the laws of the State of Oregon, or if allowed by OHCS, duly authorized to conduct business in the State of Oregon.
- Neither Applicant nor any member or principal within the Project ownership or management will have been convicted of fraud, misrepresentation, theft, or other moral turpitude within the previous ten (10) years.
- Neither Applicant nor any member or principal within the Project ownership or management will have been involved in a bankruptcy proceeding within the previous five (5) years.
- Neither Applicant nor any member or principal within the Project ownership or management will have been debarred or otherwise sanctioned by OHCS.

I. Underwriting Guidelines

Underwriting guidelines will be applied by OHCS in its due diligence and Project review process to ensure ongoing Project viability and risk mitigation associated with the LIFT Program. Such guidelines will be consistent with the industry standard minimum requirements of mortgage lenders, investors, and other potential public funding sources. This includes, but is not limited to:

- Minimum debt service coverage ratio of 1.15 on all “must-pay” primary debt;
- 7% vacancy rate;
- 2% escalation of rents and 3% escalation of expenses;
- Capitalized operating reserve equal to six (6) months operating expenses and debt service;
- Minimum annual replacement reserve deposit of \$450 per unit;
- Prior to closing, a Phase I environmental study is required. Please note: Acceptable studies have been done within the year prior to the date of Application;
- Demonstration of meeting BOLI compliance, if applicable; and
- If other public capital or operating subsidies are used in financing the Project, relevant requirements of those subsidy sources will also apply.

J. Developer Fees

Calculation of the developer fee is specified in the equation below and limits are shown in the table below.

$$\text{Maximum Developer Fee} = \frac{\text{Developer Fee} + \text{Consultant Fee}}{\text{Total Project Cost} - (\text{Acquisition} + \text{Developer Fee} + \text{Consultant Fee} + \text{Capitalized Reserves})}$$

Project Size	LIFT Only	LIFT with 4% LIHTC
<31 Units	16%	18%
31-75 Units	14%	16%
76-100 Units	12%	14%
100+ Units	10%	12%

K. Readiness to Proceed

- **Timeliness Requirement:**
OHCS requires Applicants to submit all requested documents on time and that they be complete and accurate. OHCS may withhold construction closing for any Project until all required documents and conditions are received and approved by OHCS. Any Project that has been awarded funding that has not abided by established milestone deadlines in good faith may have its funding reservation rescinded.
- **Site Control:**
Applicant must have control of the land necessary for the Project by the Application deadline as evidenced by one (1) of the following:
 - i. a recorded deed or conveyance showing the Applicant is the owner of the site,
 - ii. a valid purchase and sale agreement,
 - iii. a valid option to purchase,
 - iv. a valid option for a long-term lease, or
 - v. other evidence satisfactory to OHCS.

Requirements for site control documentation

- ✓ The name of the entity on the evidence of site control must be the same as the Applicant name on the LIFT Rental application.
- ✓ The site control document should identify the same address/location and area as the Project site listed in the Application and exactly the same cost for the land and/or existing buildings for the Project referenced in the development budget provided with the Application. Please Note: If the site description in the Application and the site control document are not exactly the same, the Applicant must provide a narrative description and supporting documentation to clarify the method used to establish the area and cost for the Project.

NOTE: OHCS will only accept one Application for a specific site or for any part of the same site, regardless of whether Applications are submitted by the same Applicant or by multiple Applicants. If more than one Application is received for the same site, or any part of the same site, OHCS may disqualify one or all of the Applications. In this scenario, the **non-refundable** Application charge for each Applicant will be retained by OHCS.

L. Compliance Monitoring

Compliance monitoring will be sufficient to cover due diligence of OHCS. Payment of a compliance monitoring charge of \$25 per LIFT Rental unit will be required annually. This charge may be adjusted over time by OHCS. Additional monitoring charges may apply depending upon OHCS funding supplemental to LIFT Rental. Monitoring will address elements of Project operation including but not limited to:

1. Initial household income verification
2. Annual income verification, including through self-certification
3. Risk-based physical inspections every 1-3 years based on Project condition
4. If other public capital or operating subsidy will be used from any source, relevant compliance requirements of those sources will be assumed to apply. For example, if 4% LIHTCs are used, all 4% LIHTC compliance requirements will apply.

2.0 APPLICATION

2.1 Pre-Application and Application Access

The LIFT Rental NOFA application process is a two-step NOFA process that requires submission of a pre-application along with the site checklist in order to access the full application:

Process:

1. Download the pre-application and environmental site review checklist from the OHCS website, here: <https://www.oregon.gov/ohcs/development/Pages/notice-of-funds-availability.aspx>
2. Submit the completed pre-application and completed site checklist together to MFNOFA@hcs.oregon.gov. This action will alert OHCS staff to generate Procorem access credentials for your project. This step must be completed no later than midnight on **February 18, 2022**.
3. Once credentials are received, go to the Procorem login page: <https://app.procorem.com/login> to access the LIFT Rental application.

Please note: applications can only be submitted electronically through Procorem. Hard copies, faxes, and electronic copies not submitted through Procorem will be automatically rejected and will not be reviewed or considered for funding.

2.2 Application Submission

**Applications must be uploaded to the applicable Project's Procorem workcenter no later than:
April 22, 2022, at 4:00 PM PST**

1. **Applications:** Applications along with all required materials and documentation must be uploaded to the Procorem workcenter by the Application due date and time: **April 22, 2022, at 4:00 PM PST**.
 - Applications in response to this NOFA can only be submitted through Procorem.
 - Each development team can submit a maximum of **two (2) applications** for this NOFA offering.
 - Projects that have already been funded through a competitive OHCS NOFA are **not** eligible for

additional capital funding through this NOFA.

2. Charges:

- All Applicants must submit application charges via mail. OHCS cannot accept any electronic payments for Application charges.
- **Applicants must submit the Application charges to the address below along with the transmittal form provided as part of the application materials in Procorem.** All Application charges must be postmarked by April 22, 2022. If the Application charge has a postmark date **after** April 22, 2022, the Application is considered incomplete. It will be automatically rejected and is ineligible for funding.

Oregon Housing and Community Services
Attn: Accounting Re: NOFA 2022-2
725 Summer St. NE, Suite B
Salem, OR 97301

Applications determined by OHCS to be incomplete, to not meet all submission requirements of this NOFA, or otherwise fail to satisfy Preliminary Review or meet any of the Threshold Requirements will be deemed "non-responsive" and rejected without further review. Applications that meet both the Preliminary Review and Threshold Requirements are considered responsive and qualify to be evaluated for ranking and award purposes by the Scoring Committee as described in this NOFA.

2.3 Wildfire Direct Application process

To submit a Wildfire Direct application, submit a pre-application as soon as possible as described in section 2.1. Once the pre-application is received by OHCS, a Procorem workcenter will be set-up within 3 business days and access to the application will be provided.

To submit a full application, please follow the steps in section 2.2 above, disregarding timing deadlines.

2.4 NOFA Questions

1. Inquiries relating to the NOFA process, its administration, or the substantive technical portions of the NOFA should be directed to: MFNOFA@hcs.oregon.gov
2. Please note "**LIFT Rental NOFA**" in the subject line. Frequently Asked Questions (FAQs) and answers will be posted on the OHCS website and NOFA Workcenters at regular intervals during the time that the NOFA response period is open. The FAQ period closes April 8, 2022, at 5:00 PM PST. When appropriate, revisions, substitutions, or clarifications shall be issued as a Technical Advisory and considered a revision to this NOFA.

3. Changes or modifications to the NOFA requirements will ONLY be recognized if in the form of a written Technical Advisory (TA), issued by OHCS. OHCS shall distribute NOFA modification TAs through its email list service and post the TAs on its website at:
<https://www.oregon.gov/ohcs/development/Pages/technical-advisories.aspx> To sign up to receive OHCS Technical Advisories via email click here:
<https://visitor.r20.constantcontact.com/manage/optin?v=001j9jAEm-uzFhdSiMgaotZfy3P8BURlrS7>

3.0 EVALUATION PROCESS

If Applications pass the Preliminary Review, which includes requirements for timeliness and completeness, they will move on to a Threshold Requirement review. Review of the Threshold Requirements will be conducted to evaluate and determine whether Applications satisfy the Threshold Requirements. If, at any point, an Application fails to meet the threshold criteria listed in Section 3.2 below, the Application will be deemed nonresponsive and will not be reviewed further.

OHCS may employ, but is not limited to, the following selection criteria upon which to base its decisions:

3.1 Preliminary Review

Each Application will be reviewed for timeliness and completeness of the NOFA requirements. If one of these items is missing from the application, the sponsor will be notified and given 5 business days to provide it:

- A. Complete NOFA Application and all required materials submitted through Procorem by Application due date and time, including:
 - 1. Environmental review checklist with all exhibits,
 - 2. Applicant's Owner/Board of Director's Authorization and Acceptance Form,
 - 3. Organizational Documents for Applicant/Co-Applicant,
 - 4. Ownership Integrity Form fully executed,
 - 5. Fully executed OHCS Zoning Form signed by the appropriate zoning jurisdiction, and
 - 6. Signed DEI form for Applicant/Co-Applicant.
- B. NOFA Application Charge sheet and all applicable charges postmarked by Application due date and time

3.2 Threshold Requirements Review

After passing Preliminary Review, all Threshold Requirements must be met. The following are Pass/Fail criteria:

A. Readiness to Proceed

- 1. Timeliness Requirement:

The bond proceeds that are used to fund LIFT require that projects are ready for initial lease up

within 36 months of funding reservation. One of the ways that OHCS evaluates if a project will meet this deadline is by looking at the projected dates for lease up in the project development schedule, which is part of the application. If a project will not commit to start leasing up within 36 months following the date of reservation, it will not meet the LIFT timeliness requirement.

2. Zoning Requirement

The Project must be properly zoned for the type of intended Project at application. Projects that must complete a zoning change to develop the Project will not be funded.

3. Site Control

Applicant must have control of the land necessary for the Project by the Application deadline. Options and sales agreements must be valid through the end of calendar year 2022.

B. Financial Viability

1. Development proforma review

1. Proforma includes realistic and available resources on the Sources of Funding.
2. Sources and Uses balance, there are no gaps in funding and all other funding is committed.
3. Sources listed as “Fundraising” and “Capital Campaigns” will result in automatic failure; resources already obtained through these efforts are allowable and should be presented as “Cash”

2. Operating pro forma review

1. Primary debt coverage ratio (DCR) is within OHCS guidelines (1.15-1.30) unless permanent debt underwriting requires a variance (provide supporting evidence). If OAHTC’s are included, minimum DCR of 1.20 is required after the OAHTC pass through is applied.
2. The Project maintains a positive cash flow through the 30-year pro forma period, unless paired with 4% LIHTC. If paired with 4% LIHTC, positive cash flow through a minimum of 20 years is required.
3. If there will be no permanent debt on the Project, a positive cash flow is required to be maintained through the 30-year pro forma period.

C. LIFT Wildfire Only

LIFT Wildfire applications must meet Threshold requirements in sections A. and B. above as well as the requirements listed here:

- Incorporate disaster resiliency in placement and construction of project
- Must prioritize households impacted by wildfires
- Must provide an explanation of cost-cutting strategies for the project

3.3 Competitive Scoring

Applications that meet the Threshold Requirements will be scored competitively using the following criteria.

A maximum of one hundred (100) points is possible. Any Application that does not have the minimum

overall score of sixty (60) points will be disqualified and will not be considered for funding.

Both quantitative and qualitative factors are considered in the scoring. The criteria to be used for each scored section is as follows:

A. LIFT subsidy per unit (up to 15 points):

As established below, there will be preference given to those projects requesting funding amounts below the funding caps established in Section 1.2 E in this NOFA.

Scoring based on subsidy request of the Project will be as follows:

Request	Points	
	Urban or Mid-Sized Urban	Rural
85% of maximum subsidy	15	15
90% of maximum subsidy	10	10
95% of maximum subsidy	5	
More than 95% of maximum subsidy	0	5

B. Unit Size Incentive (up to 5 points)

1. Projects that have an average bedroom size of greater than 1.50 and up to and including 1.75 bedrooms will receive **1 point**
2. Projects that have an average bedroom size of greater than 1.76 and up and including to 2.00 bedrooms will receive **3 points**
3. Projects that have an average bedroom size greater than 2.01 bedrooms will receive **5 points**

C. Readiness to Proceed (up to 10 points)

Application must demonstrate the Project’s readiness to proceed based on the following information:

1. Timeliness Requirement (up to 2 points):

Project Development Schedule demonstrates that construction is able to begin within 12 months **(1 point)**,

Proposed Project Development Schedule appears adequate and reasonable **(1 point)**.

2. Environmental Site Checklist Completeness (up to 8 points)

Applicants must identify any adverse environmental or site information by indicating them on the OHCS Project Site Checklist, with supporting documentation. Documentation should be uploaded with the NOFA application into Procorem. (Submission of the fully completed and signed checklist awards the Project **(3 points)**)

OHCS’ Project Site checklist contains questions regarding the following items:

- i. the suitability of the site (with appropriate Radon and USGS maps attached) **(1 point)**,
- ii. the distances to various retail and public services, public transportation, and schools (with labeled vicinity map) **(1 point)**,
- iii. the nature of existing structures on the site (documented via recent onsite photos) **(1 point)**,
- iv. soil suitability, environmental hazards, safety concerns, noise problems, or air quality issues (documented via soil study/Geotech/Phase 1/etc.) **(1 point)**,
- v. historic preservation (documented via information from SHPO, local historical societies, city, or county planners, or interested Tribes, if applicable),
- vi. flood plain and wetlands issues (documented by FEMA map, OHCS will run a wetlands report with Oregon Department of State Lands if selected for award) **(1 point)**,
- vii. solid waste, wastewater, and storm water concerns, and
- viii. Federally Listed Species and/or Designated Critical Habitat.

Depending on the environmental impact to the Project, the Applicant must provide a satisfactory mitigation plan for any materially adverse information revealed in the Project Site Checklist.

D. Serving Communities of Color (up to 29 points)

Points will be awarded based on comprehensiveness, specificity, quality of engagement and quality of services, according to the following criteria. The intent of this scoring is to ensure that underserved Communities of Color are represented in Project design and eventual unit lease-up.

For rural communities, scores will be scaled to the populations within those specific rural areas, which are understood to be different than those in urban areas. Culturally responsive resources that foster connections with Communities of Color in rural areas are less likely to be stand-alone organizations. Instead, Culturally Responsive Services and resources may be part of the array of services offered through organizations that serve the broader community and have connections to provide support to Communities of Color.

Project applications must score a minimum of 8 points in this section to qualify for funding; please limit responses to 500 characters for each question in this section.

- a. Tell us about historically underserved Communities of Color in your region or metro area, including demographics and other factual data in your response. **(4 points)**
- b. How have you connected to this community or communities in planning for this Project?
Some examples include: outreach partnerships with community agencies, places of

worship, community centers, stores that sell culturally specific products (5 points)

- c. How do you plan to ensure that members of these communities are aware of the housing opportunity? Please describe planned outreach efforts and community resources that you will connect with/utilize. **Some examples include: outreach partnerships with community, places of worship, community centers, stores that sell culturally specific products (5 points)**
- d. What barriers do you anticipate these communities encountering in accessing housing? What is your plan for mitigating identified barriers to access? **Some examples include: making materials available in languages other than English, less restrictive qualifications for income and/or criminal background screening, an approach of screening tenants into units as opposed to screening tenants out (5 points)**
- e. How will you serve this community(ies) through building operations? Please attach signed Memoranda of Understandings (MOUs) with service organizations. **Please note: Signed MOUs with service providers are required in order to score points for this criterion. (5 points)**
- f. How were unit size/building configuration influenced and informed by what you have learned about the community/communities you are serving? **(5 points)**

E. Rents affordable at lower AMI (up to 5 points)

1. 50% of units affordable at or below 30% AMI, **5 points**
2. 40% of units affordable at or below 30% AMI, **4 points**
3. 30% of units affordable at or below 30% AMI, **3 points**
4. 20% of units affordable at or below 30% AMI, **2 points**
5. 10% of units affordable at or below 30% AMI, **1 point**

F. Demonstration of Construction Costs that are lower than comparable industry norms (up to 6 points)

1. Costs (including construction costs and architectural fees) are greater than or equal to 15% less than comparable RS Means data published by OHCS based on general project type, **6 points**
2. Costs (including construction costs and architectural fees) are 10-14% less than comparable RS Means data published by OHCS based on general project type, **5 points**
3. Costs (including construction costs and architectural fees) are 0-9% less than comparable RS Means data published by OHCS based on general project type, **4 points**
4. Costs (including construction costs and architectural fees) are within 1-10% of comparable RS Means data published by OHCS based on general project type, **3 points**
5. Costs (including construction costs and architectural fees) are within 11-15% of comparable RS Means data published by OHCS based on general project type, **2 points**
6. Costs (including construction costs and architectural fees) are within 16-20% of comparable RS Means data published by OHCS based on general project type, **1 point**
7. Costs (including construction costs and architectural fees) are above 21% of comparable RS Means data published by OHCS based on general project type, **0 points**

G. Demonstration of innovation, efficiency, and replicability of building development or finance strategy (up to 6 points)

Application includes a narrative for the Scoring Committee that demonstrates innovation, efficiency, and replicability aspects of the Project

- *Innovation* means that a proposal is using a technique(s) as part of financing or building development that is new or original **(up to 2 points)**
- *Efficiency* means that a proposal employs techniques that are aimed at reducing waste and increasing efficiency **(up to 2 points)**.
- *Replicability* means that there is a unique attribute(s) of the proposal that can be used in other developments in other locations around the state **(up to 2 points)**.

H. Minority, Women, and/or Emerging Small Businesses (M/W/ESB) Engagement (up to 5 points)

OHCS requires participants to seek COBID and non-COBID M/W/ESB professional firms to increase the participation level of minority-owned businesses in its construction project to meet OHCS' M/W/ESB goal. OHCS also encourages the utilization of local labor and partnering with the community to help build healthy, affordable homes which addresses OHCS' goal of increasing apprenticeship programs in Oregon and improve economic and social vitality while increasing pathways out of poverty.

Applications will be scored on their approach to M/W/ESB engagement and contracting and how well this implements the OHCS M/W/ESB policy. OHCS M/W/ESB Manual and reports can be located at: <https://www.oregon.gov/ohcs/development/Pages/mwesb-sdvbe-rental-housing.aspx>

All Applicants will be required to identify ways and targets that they will use to contract with M/W/ESB/SDVBE COBID contractors/subcontractors in the construction and operation of the proposed Project. Applications will be scored on their approach to:

1. Identify Owners M/W/ESB/SDVBE⁴ COBID Certified and Non-Certified firm participation goal according to region for the Project and how the goal was determined.
 - a. Include what percentage of the construction cost (including Architect, Engineering, Attorney) participation goal the developer has committed towards M/W/ESB/SDVBE owned subcontractors.
 - b. Provide how is percentage was determined.
2. Outline the steps the steps the construction team will take to achieve the owner's M/W/ESB/SDVBE participation goals for subcontractors and suppliers.
 - a. Include what steps will be taken in ensure the best outcome to meet the developer's commitment to its participation goals.
 - b. Explain how both the general contractor and the developer will ensure solicitation to the COBID and non-COBID construction community. For example, where will bid opportunities be publicized, what minority owned, women owned, veterans/service-disabled veterans owned, and emerging small businesses communities will be contacted.
3. Provide a summary of the general contractor's profile and team member demographics.

⁴ General contractor and the developer can utilize and include non-COBID certified BIPOC firms in their M/W/ESB reporting provided that the M/W/ESB/SDVBE firm listed will be encouraged and assisted to become a COBID certified firm prior to construction completion of the Project.

- a. Include if the general contractor is a M/W/ESB/SDVBE contractor or COBID member.
 - b. Provide demographics of the general contractor's staff and team members.
4. Provide details for the general contractor's history of addressing M/W/ESB/SDVBE subcontractor diversity, equity, and inclusion in affordable rental housing projects (list any, classes, seminars, or programs attended). Include an outline of how the General Contractor has engaged with M/W/ESB/SDVBE subcontractor diversity, equity, and inclusion within the last 3 years (projects partnerships, collaborations).

I. Demonstration of Financial Viability (up to 10 points)

Well documented and explained construction costs in the Development Proforma **(up to 5 points)**

- i. Development budget is adequately explained, with construction documents & estimates substantially agree with the pro forma. Construction & Development contingencies are within OHCS guidelines. **(2 points)**
- ii. Contractor overhead, profit and general conditions are within the required range, as identified in the OHCS General Program and Guidelines Manual (GPGM). **(2 points)**
- iii. Developer Fee is within OHCS allowances for project type and size. **(1 point)**
- iv. If Commercial Real Estate is included in the project (i.e., a mixed-used Project), Sources and Uses are provided in the correct column in the proforma.

Reasonable request and demonstrated need for resources **(up to 5 points)**

- i. Rents are affordable to target population and any project based rental subsidy is documented. **(2 points)**
- ii. Operating expenses are within OHCS guidelines or adequately explained if underwritten to other funding program criteria (FHA, FHLMC, FNMA, USDA). **(1 point)**
- iii. Vacancy rate at 7% or adequately explained. **(1 point)**
- iv. 2% annual escalation of rents and 3% annual escalation of expenses. **(1 point)**
- v. In a mixed-use Project, no commercial income may be used to support the low-income residential Project.

J. Development Team Capacity (up to 4 points)

- i. *Construction Experience:* Describe staff experience leading construction development of projects of similar (or larger) size and scope such as mid-rise versus high-rise, wood frame versus steel, and new construction versus rehabilitative construction. If staff experience is limited, discuss whether you will partner with an appropriate party to mitigate this concern. **(1 point)**
- ii. *Financing Experience:* Describe staff experience closing the requested combination of funding, such as tax credit, mortgage financing, Gap funds, and other grant or government grant or loan programs. If staff experience is limited, discuss whether you will partner with an appropriate party to mitigate this concern. **(1 point)**
- iii. *Development and/or Project Team Experience:* Describe experience with management of similarly comprised development or project teams. Describe the development team's experience with projects of this type, size, and scope. **(1 point)**
- iv. *Multiple Project Reservations:* If applicant has multiple project reservations with OHCS, explain how the development team has the capacity to support all projects simultaneously

administratively and financially. **(1 point)**

K. Owner, Sponsor, Management Portfolio Performance (up to 5 points)

Applicants with Projects in the OHCS portfolio will be reviewed on the performance of all Projects in the portfolio, the average score of all Projects will be used; Applicants without Projects in the OHCS portfolio will be asked to submit a letter indicating their compliance status with any existing Projects.

Portfolio Project criteria will be calculated for each relevant Project and summed and apportioned based on portfolio size.

a. OHCS Portfolio Compliance Criteria (up to 2 points)

- Certification of Continuing Program Compliance (CCPC) submission received for current year shows compliance.

b. OHCS Portfolio Viability Criteria (up to 3 points)

- Financial submission as requested;
- Most recent financial audit is closed;
- Most recent audited financials Debt Coverage Ratio; and
- Asset management community evaluation completed satisfactorily.

If sponsor has projects in OHCS portfolio, no submission is necessary. If sponsor does not have a project in the OHCS portfolio, must include an “Owner Performance” letter indicating their compliance status with any existing Projects (if unreported noncompliance is discovered later, it may be grounds for rescinding awarded funds or negatively impact future applications for funding).

L. Federally Declared Wildfire Disaster Area (Up to 5 points)

Up to five points will be attributed based on adopted scoring for areas impacted by the 2020 Wildfires. These points are scaled in relationship to the overall housing impact within the 8 federally declared disaster area counties, focusing on cities and Census Tracts as appropriate. Additional detail on these points can be found in the established methodology document at <https://www.oregon.gov/ohcs/development/Documents/nofa/2021/FederallyDeclaredDisasterArea-PreferenceforNOFA.pdf> as well as established within the NOFA score sheet.

3.4 Scoring Criteria Detail for Narrative Responses

Below is the scoring criteria with detail on what scorers are asked to look for and evaluate for each section.

LIFT Narrative Criterion for LIFT NOFA Scoring Committee	Max Points
<p>1. Service to Communities of Color – Historically underserved communities in region: (Up to 4 points)</p> <ul style="list-style-type: none"> • Does the narrative describe a focus on a specific community/communities of color? • Does it provide information on the current status of this population in the neighborhood or region? 	<p>29</p>

<ul style="list-style-type: none"> • Does the narrative tie into the data provided? • If a Culturally Specific Organization, how long have they been serving this community? 	
<p>2. Service to Communities of Color – Connection to this community or communities during planning: (Up to 5 points)</p> <ul style="list-style-type: none"> • Does the narrative describe engagement between developer and community of color? • Did the developer reach out to any Culturally Specific Organization or Culturally Responsive Organizations to assist with establishing this connection? • Were any community members compensated for their time during these engagement opportunities? 	
<p>3. Service to Communities of Color – Ensuring member of this community are aware of the housing opportunity: (Up to 5 points)</p> <ul style="list-style-type: none"> • Does the narrative relay mainly on the Affirmative Fair Housing Marketing (AFHM) Plan or are there other actions being taken to inform the community? • If a partnership with a Culturally Specific Organization or Culturally Responsive Organization or Tribe is part of the plan, are they being compensated? • If narrative indicates that project will be using a jurisdictions’ marketing platform or waiting list, is the jurisdiction aware and have they approved this? 	
<p>4. Service to Communities of Color – Anticipated & mitigating barriers: (Up to 5 points)</p> <ul style="list-style-type: none"> • Does the narrative describe barriers to accessing housing for the focus community of color and where they originate from? • Does the narrative adequately explain how the identified barriers will be mitigated by the housing that will be developed and operated? 	
<p>5. Service to Communities of Color – Serving communities through building operations: (Up to 5 points)</p> <ul style="list-style-type: none"> • Did the narrative describe partnerships with either culturally specific, or culturally responsive organizations? Were MOUs provided for all partnerships listed? • Do the MOUs as well as the narrative explain specifically how the communities will be served by these partnerships? 	
<p>6. Service to Communities of Color – Influences on the Design of project by community served: (Up to 5 points)</p> <ul style="list-style-type: none"> • Does the narrative describe how information from community input and feedback influenced the unit size or layout of the building? • Does the narrative indicate that outreach for the project to the community it is expecting to serve has occurred prior to application? 	
<p>7. Innovation, Efficiency, and Replicability of Building Development or Finance Strategy</p> <ul style="list-style-type: none"> • Innovation (Up to 2 points) <ul style="list-style-type: none"> ○ Does the narrative show a new or original technique for financing? Note: Scattered site applications, and 4% LIHTC and 9% LIHTC hybrid applications are not considered innovative for this NOFA. ○ Does the narrative demonstrate a new or original way to develop affordable units using new building techniques? • Efficiency (Up to 2 points) <ul style="list-style-type: none"> ○ Does the narrative demonstrate techniques that are aimed at reducing waste in either building operations or financing structure? ○ Did the narrative demonstrate any techniques aimed at reducing the amount of time it takes to develop affordable housing opportunities? • Replicability (Up to 2 points) <ul style="list-style-type: none"> ○ Does the project include a unique attribute(s) that can be replicated in other developments around the state? 	<p>6</p>

<p>8. Strategy to Increase M/W/ESB Participation</p> <ul style="list-style-type: none"> • Did the narrative state the M/W/ESB participation goal & how it was determined? (1 point) • Are steps being taken that show the developers' commitment to its M/W/ESB participation goals? (1 point) • How are both the General Contractor and the Developer ensuring solicitation to the Communities of Color in the construction industry? (1 point) • Was the demographic makeup of the general contractors' staff and team members provided? Is the General Contractor a COBID member, or eligible to apply for COBID membership? (1 point) • How has the General Contractor incorporated bids from M/W/ESB/SDVBE sub-contractors within the last 10 years? (1 point) 	<p>5</p>
<p>9. Development Team Capacity</p> <ul style="list-style-type: none"> • Construction Experience: Did the narrative demonstrate that staff has experience leading construction development for a project of the proposed size and scope? Is this supported by the Schedule of Real Estate Holdings? If staff does not have the experience and/or the Schedule of Real Estate Holdings does not, was an explanation provided for how this will be mitigated? (1 point) • Financing Experience: Did the narrative demonstrate experience closing the requested combination of funding? If not, was an explanation provided for how this will be mitigated? (1 point) • Development and/or Project Team Experience: Did the narrative adequately explain developer experience with managing project teams of this size, and the overall development team's experience with projects of this size? (1 point) • Multiple Project Reservations: Does the narrative explain how the development team will prioritize the different projects? (1 point) 	<p>4</p>

4.0 PROCESS, AWARDS, AND RESERVATION LETTERS

4.1 Evaluation Process

A. LIFT Rental

After Preliminary Review (see Section 3.1), eligible Applications will be reviewed for Threshold Requirements (see Section 3.2). After the review of Threshold Requirements, eligible Applications will be competitively scored by the Scoring Committee (see Section 3.3).

The final selection of Applications for Award, if any, will be from those Applications that best meet the competitive scoring requirements based on the recommendation from the Scoring Committee, as further recommended by the Director and approved by the Housing Stability Council (Council), in accordance with available Funding Sources.

B. LIFT Wildfire Rental

Applications will be reviewed for Preliminary and Threshold requirements as they are submitted. Applications that meet all requirements, determined by the review process, will be recommended to the Director, and approved by the Council, in accordance with available Funding Sources.

4.2 Awards

Applicants, if any, that OHCS determines to provide a reservation of funding (“Reservation”) pursuant to this NOFA will be designated as Awardees in the conditional commitments issued to them (“Reservation Letter”) by OHCS. All Reservations are conditional in nature, contingent upon the terms upon which they are made, approval by the Council, the continuing availability to OHCS of the described funds or tax credits (collectively or individually without distinction, Funds), the continuing authority of OHCS to disburse or allocate such funds, and the successful negotiation, execution, and recording (if required) of the Agreement Documents.

4.3 Notice of Intent to Issue Reservation Letter

Applicants will be notified in writing of OHCS's Notice of Intent to Issue a Reservation Letter, this information will also be posted on OHCS's website.

4.4 Applicable Reservation and Recipient charges

OHCS has adopted a 1.5% reservation charge for all NOFA Loan Reservations and has a Recipient Charge listed in the GPGM. Upon issuance of a Reservation Letter, the Recipient Charge is due, while the Reservation Charge will be due at finance close.

5.0 GENERAL TERMS AND CONDITIONS

- i. Any LIFT funding allocation under this NOFA is subject to receipt by OHCS of the proceeds of the anticipated Article XI-Q Bonds issuance and approval by bond counsel, the Oregon Department of Justice, and the Issuer (State Treasurer collectively with the Department of Administrative Services (DAS) and OHCS or OHCS only) to use the proceeds for LIFT Rental purposes as contemplated under the NOFA.
- ii. OHCS may require additional information to determine whether or not an Application satisfies relevant criteria. Any necessary clarifications or modifications normally will be made before OHCS makes any Reservation and may become part of the Agreement Documents.
- iii. Submission of an Application by Applicant or acceptance by OHCS of a submitted Application neither constitutes an agreement of any kind between OHCS and Applicant nor does it secure or imply that Applicant will be selected for receipt of a Reservation of funds.
- iv. In the extent that other funding sources have additional or other requirements, the most restrictive requirements will apply to the Project.
- v. All costs associated with Applicant's submission of an Application are the sole responsibility of the Applicant and shall not be borne to any degree by the State of Oregon.
- vi. Successful Applicants will be required to maintain appropriate levels of insurance and to comply with the LIFT Project Requirements and other OHCS policies, including execution of the Agreement Documents.
- vii. OHCS reserves the right and option to amend any Reservation Letter and other related documents that result from a Reservation made pursuant to this NOFA. All such amendments will be in writing and must be signed by relevant authorized parties. Applicants may only apply for funding of one (1) phase of a multi-phase Project under this NOFA.
- viii. OHCS assesses an Application charge. A check for the Application charge is required at application submission and must be received by the application due date.
- ix. ORS 60.701 requires foreign corporations be registered by the State of Oregon, Office of the Secretary of

State, before conducting business in the state. A foreign corporation (ORS 60.001) means a for-profit corporation incorporated under a law other than the law of the State of Oregon. If a foreign corporation is selected for the Agreement because of this NOFA, it must register to do business in Oregon.

- x. OHCS reserves the right:
 - (a) to amend this NOFA prior to the closing date;
 - (b) to amend the deadline for submitting Applications;
 - (c) to determine whether an Application does or does not substantially comply with the requirements of this NOFA;
 - (d) to waive any minor irregularity, informality, or nonconformance with the requirements of this NOFA;
 - (e) to obtain from and/or provide to other public agencies, upon request, references, regarding the Applicant's performance;
 - (f) at any time prior to execution of Agreement Documents (including after announcement of the apparent Reservation) to reject any Application that fails to comply with the requirements of this NOFA;
 - (g) to reject all Applications received and cancel this NOFA upon a finding by OHCS that such cancellation would be in the best interest of the State;
 - (h) to use adherence with components of the Applicant's Application and this NOFA as scoring criteria in future multifamily funding solicitations;
 - (i) to withdraw any funding source from this NOFA; and
 - (j) to waive any term or condition of this NOFA for good cause as determined by OHCS.
- xi. This NOFA and one (1) copy of each original Application received, together with copies of all documents pertaining to a Reservation, will be kept by OHCS and made a part of a file or record, and be available for disclosure pursuant to the Oregon Public Records Law.
- xii. An Applicant or potential Applicant seeking to challenge any aspect of this NOFA is subject to and must comply with the provisions of OAR 813-005-0025, located here: <https://secure.sos.state.or.us/oard/view.action?ruleNumber=813-005-0025> which provide:
- xiii. 813-005-0025 Solicitation Protests; Administrative and Judicial Review
 - (a) With respect to any solicitation conducted by the department, an applicant or potential qualifying applicant may protest or otherwise challenge such solicitation process by first requesting administrative review as herein specified.
 - i. With respect to any solicitation conducted by the department, an applicant may protest or otherwise challenge any department determination or order (collectively hereinafter, "determination") related to such solicitation by first requesting administrative review as herein specified.
 - ii. A timely, qualifying request for administrative review is necessary to satisfy the conditions of this section and a condition precedent to judicial review consistent with ORS 183.480.
 - iii. Failure to file a timely, qualifying request for administrative review with the department will constitute a failure to exhaust administrative remedies and terminate further rights

to protest or otherwise challenge the solicitation process or any related department determination, including judicial review thereof.

- (b) An applicant under this section is a person or entity that makes an application (including delivery to the department under the terms of the solicitation) for a department funding award pursuant to a particular department solicitation.
 - i. A potential qualifying applicant is a person or entity that qualifies to make an application for a department funding award under the terms of a solicitation with respect to the process of which it requests administrative review consistent with the terms of this section.
- (c) An applicant or potential qualifying applicant seeking to protest or otherwise challenge any aspect of a solicitation process (other than a department determination related thereto) must request review by the department within fourteen (14) days of the application due date of the solicitation.
 - i. An applicant seeking to protest or otherwise challenge a determination by the department related to a solicitation must request review by the department of such determination within fourteen (14) days of the applicant receiving notice from the department of that determination.
- (d) Any request for review under this section must be in writing, specifically identifying:
 - i. The nature of the requestor's interest, including the facts showing how the requestor is adversely affected or aggrieved by the solicitation process or a department determination;
 - ii. The relief sought;
 - iii. Each of the grounds for review;
 - iv. An explanation for each of the grounds upon which relief should be granted; and
 - v. Any supporting information the requestor desires to have considered by the department.
- (e) The envelope containing the request for review MUST:
 - i. Be marked PROTEST;
 - ii. Identify the solicitation number;
 - iii. Identify the closing time and date for acceptance of solicitation applications;
 - iv. Identify the department's contact person for the solicitation; and
 - v. Be received by the department at its main Salem Office, Oregon Housing and Community Services 725 Summer Street NE, Suite B Salem, OR 97301, not later than 4:00 PM on the fourteenth (14th) day after the solicitation closing date or the applicant's receipt of notice from the department of the department determination from which review is requested, whichever due date is applicable under this section.
- (f) The applicant will be deemed to have received notice of a department determination upon the sooner of:
 - i. Three (3) days after the department's determination is mailed to the applicant;

- ii. Two (2) days after such determination is posted to the department’s website;
 - iii. Two (2) days after the list of successful solicitation applicants is posted to the department’s website; or
 - iv. One (1) day after such determination is emailed to the applicant.
- xiv. The department may request additional information from the requestor with respect to its request and consider such other information as it deems appropriate.
- xv. The department will endeavor to provide a written response to a timely, qualifying request for review within thirty (30) days.
- xvi. Judicial review of the department response to a timely, qualifying request for review shall be limited to those grounds the requestor raised with the department in its request for review.
- xvii. The filing of a request for review, or subsequent judicial review (if any), will not preclude the department from moving forward with the solicitation or the award of funding assistance thereunder. However, the department reserves the right to delay, terminate, modify, or take other action it determines to be appropriate with respect to a solicitation or any related award of funding assistance in response to a request for review or subsequent judicial review.
- xviii. OHCS’ contact person for this NOFA is Rebecca Isom. Her contact information is as follows:

Oregon Housing and Community Services
 Attn: Rebecca Isom
 725 Summer Street NE, Suite B
 Salem, OR 97301
 Email: MFNOFA@hcs.oregon.gov
- xix. Reservations, Allocations or Awards by OHCS (collectively, “Determinations”) may be subject to Council review under ORS 456.561, and Determinations where additional OHCS funding supporting such Determinations are subject to Council review, are contingent upon Council approval of those Determinations or supporting funding. The Council may approve, reject, modify, or further condition funding awards submitted for its review, thereby directly or indirectly impacting OHCS’ Determinations.
- xx. All Reservations made pursuant to this NOFA are subject to the successful negotiation, execution, and recording (if required) of any and all Agreement Documents. Projects that have only a leasehold interest in relevant real property must include, among relevant Agreement Documents, binding commitments executed and recorded by the landlord satisfactory to OHCS including, but not limited to, restrictive covenants with respect to the ongoing use and operation of the real property and leasehold interest for affordable housing acceptable to OHCS.
- xxi. OHCS may charge, and the Applicant shall pay, legal and administrative costs reasonably anticipated or incurred by OHCS in negotiating and preparing Agreement Documents and other related documents. OHCS also may charge, and Applicant shall pay any other fees allowed by OHCS administrative rules with respect to the Application, ensuing Reservation, Award or Allocation, and Project operation.
- xxii. Provisions stated in the form of a question in this NOFA shall be construed as required action by Applicants.
- xxiii. OHCS reserves all other rights not specifically identified herein, including but not limited to rights, remedies, and requirements established in OHCS administrative rules or other law.