

Infrastructure Improvements for Affordable Workforce Housing Program

Guidelines for Requesting the Use of Whatcom County Economic Development Investment (EDI) Grant Funds For Public Facility (Infrastructure) Costs Related to Construction of Low Income and Workforce Multi-Family and Single-Family Homes

The Whatcom County Executive's Office, as the administrative agent for EDI funds, and in coordination with the Whatcom County Health Department's Housing Program, will accept requests for the use of EDI funds for costs related to public infrastructure improvements associated with construction of owner-occupied affordable workforce homes and renter-occupied affordable workforce homes, in both single-family detached and attached housing types.

This program is intended to ensure long-term affordability is achieved for multifamily and single-family residential construction projects.

This program is supplemental to the Whatcom County EDI Homes Affordable for the Workforce (HAFTW) program that allows for payment of utility general facility fees and impact fees. A proponent may apply for either/both programs.

Program Parameters:

- Funds can only be spent on publicly-owned infrastructure directly supporting construction of affordable workforce housing
- Projects must include housing affordable to those earning 120% of AMI or less
- Loan and grant/loan combinations are possible
- Total EDI funding ranges from 70% to 90% of infrastructure costs
- Grant amounts are limited to 20% of infrastructure costs
- Loan amount is total EDI funding less grant funding
- Total award amounts are typically within \$1.0 million to \$3.0 million range
- Loan interest rates gradually increase from 1% to a ceiling of 5% at year 10, with full repayment of balance due in 25 years as a balloon payment.

Eligible Infrastructure:

By designating at the time of development a certain percentage of long-term affordable units for a certain period of time, the following public infrastructure investments may be covered by EDI loan (pursuant to RCW 82.14.370):

- Construction of public water, sewer and/or stormwater conveyance and management facilities
- Construction of public transportation improvements, including but not limited to streets, sidewalks, trails, transit and electrical facilities

Definitions:

For the purposes of this program:

“*workforce*” means wage earners making 120% or less than Average Median Income (AMI) for Whatcom County.

“*low income*” means wage earners making 60% or less than AMI, and by such definition falls within “workforce” category.

“*affordable*” means that the net monthly mortgage or rent payment shall not exceed 30% of the worker’s monthly wage. This shall be verified at time of move in and *may be* verified at additional time benchmarks, at the discretion of the housing management entity.

“*long-term*” is a minimum of 20 years supported by a deed restriction that requires the housing unit to be rented or sold to persons with incomes at 120% AMI and lower.

“*proponent*” means a partnership between a sponsoring local jurisdiction and a for-profit developer, a non-profit developer, and/or a housing agency or housing NGO.

“local jurisdiction” means a city, town, water, sewer and port districts located within the Whatcom County, as outlined in RCW 82.14.370.

Program Guidance and Requirements:

- Potential loan amounts as a percentage of total infrastructure costs
 - 70-percent loan: Requires 5-percent of total units allocated to affordable housing
 - 80-percent loan: Requires 10-percent of total units allocated to affordable housing
 - 90-percent loan: Requires 25-percent or more of total units allocated to affordable housing
- Grant amounts as a percentage of total infrastructure costs
 - 20-percent grant: Requires 100-percent of total units allocated to low-income affordable housing
 - 15-percent grant: Requires 50-percent of total units allocated to low-income affordable housing, and/or 100-percent of total units allocated to workforce affordable housing
 - 10-percent grant: Requires 25-percent of total units allocated to low-income affordable housing and/or 50-percent of total units allocated to workforce affordable housing
 - 5-percent bonus: A 50-year deed restriction or covenant increases the grant amount by 5-percent of total

Grant amounts are deducted from total potential loan amounts. Matching funds from the proponent shall complete the remaining percentage of total eligible costs. Grant amounts are not substitute for matching funds.

Example A: A project with 100 units that has \$3.0 million in eligible infrastructure costs¹ and dedicates 25% of the total units to workforce affordable housing (25 units) with a 20-year covenant.

- Eligible for 90% loan at \$2.7 million
- Ineligible for grant award
- Total award of \$2.7 million
- Proponent contribution \$300,000
- Total infrastructure funding \$3.0 million

Example B: A project with 100 units that has \$3.0 million in eligible infrastructure costs and dedicates 25% of the total units to low income affordable housing (25 units) 20-year covenant.

- Eligible for 90% loan at \$2.7 million
- Eligible for 10% grant award (\$300,000), reducing loan amount to \$2.4 million
- Total award of \$2.7 million
- Developer/proponent contribution \$300,000
- Total infrastructure funding \$3.0 million

¹ Estimated infrastructure cost is based on an engineer’s estimate and inclusive of contingency and project management costs
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A recorded Declaration of Restrictive Covenants shall ensure that the property will stay “affordable housing” for the terms outlined above, 20-year and/or 50-year term. If a property changes ownership during the term, the Declaration of Restrictive Covenants must transfer with the land to ensure the home stays affordable for people with incomes within the applicable income bracket of the county median income, adjusted for family size.

Loans are intended to be short term, with an interest rate of 1% for the first 2 years, 2% from year 3 to year 5 with a balloon payment at the end of year 5. Loans may be structured for up to 25 years depending on the scale of the project and/or the percentage of affordable units created. Loans with terms of longer than 5 years will have to be negotiated through the County Executive’s office and will generally include escalating interest rates and capitation to terminate at year 25.

Proportionate loan repayment amounts are collected by the local jurisdiction from the developer starting at the time of subdivision recordation or issuance of an occupancy permit for multi-family units, and the local jurisdiction begins loan repayment to the EDI fund within 60 days of subdivision recordation or occupancy permit.

For private, for-profit developers, the recorded Declaration of Restrictive Covenants will identify a program qualified non-profit housing agency (Bellingham & Whatcom Housing Authority, Whatcom-Skagit Housing, Kulshan Community Land Trust, Opportunity Council, or other qualified non-profit organizations for such purposes) to oversee and ensure that the housing unit will be occupied by residents at the appropriate AMI requirements. The private, for-profit developer will typically donate the land or lots to the non-profit partner. The private developer and non-profit housing agency will work together to determine division of responsibility in developing the lot. The developer may 1) develop the lot and transfer lot ownership to the non-profit prior to construction, or 2) develop the lot and construct the housing unit, or 3) develop the lot, construct the housing units, and maintain ownership with the non-profit monitoring the restrictive covenant.

For non-profit housing developers, or public housing agencies, the developer or agency may work with others to develop the lot and/or construct the housing unit, but the non-profit developer or agency shall maintain ownership of the housing unit or shall ensure affordability through the monitoring of a restrictive covenant.

All applications will be co-sponsored by a local jurisdiction. No applications will be accepted without an adopted ordinance or resolution from the local jurisdiction stating its intent to co-sponsor an application. It is at the sole discretion of the jurisdiction to require additional information (i.e., review of civil plans, financing secured, permit approvals, etc.) from the developer prior to co-sponsoring an application. If the application is for a loan, the loan will be paid directly by the County to the local jurisdiction. If the application includes a grant, the local jurisdiction will establish an agreement with the developer to provide the grant proceeds to the developer on a reimbursement basis after the infrastructure has been installed and accepted by the local jurisdiction. The local jurisdiction may payout the loan/grant amount once 50% of the infrastructure has been installed if the developer shows justification to the satisfaction of the local jurisdiction that the costs to date are consistent to the original estimate and assurances to the satisfaction of the local jurisdiction are in place that the infrastructure will be installed to the local jurisdiction’s requirements.

At its option, the local jurisdiction may declare its intent to approve a late-comers agreement for the infrastructure through passage of a resolution. If the local jurisdiction implements a late-comers agreement the EDI loan fund shall be the payee. The late-comers agreement shall be designed to pay back a proportional share of the infrastructure grant for those properties that benefit from the grant-funded infrastructure. Affordable housing projects may be exempt from the late-comers agreement if permitted by the RCW and the formation documents.

It is recommended that the local jurisdiction also consider establishing a Local Improvement District (LID) as a means of assisting benefiting properties in financing the needed capital improvements through the formation of special assessment districts. Special assessment districts permit improvements to be financed and paid for

over a period of time through assessments on the benefiting properties. The formation of a LID may be used to re-pay the EDI loan by collecting an assessment paid with property tax and will likely eliminate administrative overhead on the program implementation.

The local, co-sponsoring jurisdictions will enter into an Interlocal Agreement with the County to establish responsibilities related to a) the grants/loans disbursement to the developer b) local jurisdiction's role -if any- in loan repayment c) program compliance monitoring d) other requirements/obligations/authorizations. Loan and grants will be made to local jurisdictions subject to the terms of an interlocal agreement. Local jurisdictions will be responsible for repayment of loans and enforcing the program requirements. The local jurisdiction may secure a lien on the property and a promissory note, and have an agreement with the developer to ensure repayment.

Project construction must be initiated (land disturbance activities) within an 18-month period following the approval of the loan and be completed within 36 months to qualify. If the project is not completed within the 36-month period, the penalty for non-completion will be a decrease in the loan amount by 5-percent of total eligible infrastructure costs for each month the project goes beyond the 36 months. (The reduction does not decrease the required percentage of lots for affordable housing.)

Non-profits, builders and land developers who would like to request use of these EDI loan funds for this purpose will need to provide adequate information for Whatcom County to determine the eligibility of the proposed project. The Whatcom County Executive's Office will work with the Whatcom County Health Department's Housing program to process the application and generally administer the program on a rolling basis, and the final approval for the use of EDI funds rests with Whatcom County.

The Executive's Office in coordination with the Whatcom County Health Department's Housing program will develop a list of program qualified housing agencies. Non-profit developers and agencies may submit a letter requesting to be added to the list with an overview of how the developer's or agency's goals align with the program's intent.