



**LOUISVILLE CARES  
POLICY AND PROCEDURES MANUAL**

November 2018

## INDEX

|   |    |
|---|----|
| Purpose Statement, Goals, Eligibility and Definitions.....        | 3  |
| Operational Procedures.....                                       | 4  |
| Primary Lending Criteria and Terms.....                           | 5  |
| Application and Review Process.....                               | 9  |
| Post-Review Process.....  | 13 |
| Loan Closing.....   | 14 |
| Loan Servicing.....   | 14 |
| Pre-Construction Conference & Inspection Requirements.....        | 15 |
| Draw Process.....   | 15 |
| Change Orders.....  | 16 |
| Construction Completion/Placed In Service.....                    | 16 |
| Monitoring and Compliance.....                                    | 17 |
| Period of Affordability.....                                      | 18 |
| Loan Delinquency and Restructure.....                             | 18 |
| Exhibit A: Cool Roof Requirements                                 |    |
| Exhibit B: Project Scoring Worksheet                              |    |
| Exhibit C: Loan Summary Template                                  |    |
| Exhibit D: Commitment Letter Template                             |    |
| Exhibit E: Loan Agreement Template                                |    |
| Exhibit F: Promissory Note Template                               |    |
| Exhibit G: Mortgage Template                                      |    |
| Exhibit H: Guaranty Template                                      |    |
| Exhibit I: Regulatory Agreement Deed and Use Restriction Template |    |

## **Purpose Statement, Goals, Eligibility and Definitions**

The Louisville Creating Affordable Residences for Economic Success (CARES) Program provides Gap Financing for the development of Multi-Family Rental Properties that are affordable to households making 80% or less of Area Median Income. Louisville CARES is a flexible tool that can be layered with other sources of financing, including federally-available financing, as needed to support the development of quality Affordable Workforce Housing in Louisville.

Non-profit and for-profit developers of Multi-Family Rental Properties for households making 80% or less of Area Median Income are eligible to apply for Louisville CARES loans. Louisville CARES is a loan program and therefore applications will not be scored competitively or judged collectively. Applicants are evaluated on their individual merits using the process described herein.

The following definitions apply:

*Affordable Housing:* Housing, including utilities, that costs no more than 30% of income for a household earning 80% of area median income.

*Applicant:* A for-profit or non-profit developer of Affordable Housing seeking a loan through the Louisville CARES Program for a specific project.

*Area Median Income or AMI:* The US Department of Housing and Urban Development-calculated median income for the community, as adjusted by family size and region.

*Borrower:* An Applicant who has received a loan through the Louisville CARES Program.

*Bridge Loan:* Financing for a short-term until permanent financing is secured.

*Collateral:* Real estate, where total liens, including Louisville Metro's, do not exceed 90% of the appraised/assessed value or current cost, whichever is less; marketable securities in an amount not less than 75% of the loan amount; certificates of deposit or life insurance where cash values are not less than 100% of the loan amount; and other assets with a loan to value ratio to be established on a case-by-case basis. In all cases, each Louisville CARES loan must be fully collateralized.

*Eligible Resident:* A resident, whether an individual or a household, earning an income that is 80% or less of Area Median Income.

*Gap Financing:* Financing that fills a "gap" between available private and public project funding, Applicant-provided equity and funding needed to make the project feasible.

*Housing Filtering:* A concept by which households naturally move into more affordable housing units as those units become available, for example, through the creation of New Units.

*Income determination:* Household income includes the gross income from all sources for all household members (age 18 and over), whether related or not.

*Multi-Family Rental Property:* Six or more units available for rental only.

*New Units:* Units of Affordable Housing that are newly constructed, or that are created through rehabilitation and adaptive reuse of an existing non-residential building, or that are created through the rehabilitation of existing Multi-Family Rental Property where that Property has been vacant for a period of more than twelve (12) consecutive months prior to the date of application for Louisville CARES funding due to a major mechanical or structural issue not caused by the applicant's action or inaction. New Units do not include boarding houses as those uses are defined in the Land Development Code.

*Period of Affordability.* A period of no less than fifteen (15) years following the completion of project construction during which the units created using Louisville CARES funding shall be made available at rental rates that are affordable for households making 80% or less of AMI.

*Underwriting Partner.* A third party business or group of businesses or consortium selected by Louisville Metro Government through a competitive process to provide underwriting services, for the Louisville CARES Program.

## **OPERATIONAL PROCEDURES**

Develop Louisville's Office of Housing and Community Development staff ("Staff") shall provide oversight and administration of the Louisville CARES Program.

A Loan Review Committee ("Committee") shall be established to review loan applications. This Committee shall be composed of:

1. The Director of the Office of Housing and Community Development, who shall vote only in the event of a tie,
2. The Director of Develop Louisville or Designee,
3. The Chief Financial Officer or Designee,
4. The Director of Advanced Planning or Designee,
5. The Director of Economic Development or Designee,
6. Three (3) members of the Board of the Louisville Affordable Housing Trust Fund to be selected by the Board, and
7. The Executive Director of the Affordable Housing Trust Fund, or the Board Chair of the Louisville Affordable Housing Trust Fund.

Members of the Committee shall be bound by the provisions of Louisville Metro Code of Ordinances Chapter 21, which governs standards of ethical conduct.

*Timely Review.* The Committee shall meet monthly to evaluate and process loan applications to meet the needs of applicants seeking bridge or gap financing through Louisville CARES. Applications will be reviewed within 30 days of final submission. The Committee shall not meet in months where no applications, existing loans, or any other business is ready for consideration or modification.

## **PRIMARY LENDING CRITERIA AND TERMS**

Louisville CARES is a flexible tool to encourage and support the development of Multi-Family Rental Housing for households making 80% or less of AMI. Loan awards and terms, including interest rates, maturity and amortization schedules shall be determined by the Committee based on the Applicant's proposal, the evaluation of the project against Project Scoring Worksheet (see Exhibit B), and the risk factors present.

1. Louisville CARES financing terms are flexible. Funds may be repaid in the form of an amortizing loan, cash flow loan, or interest only payments with a balloon. Other financing terms outside of these scenarios may be negotiated on a case-by-case basis.
2. The minimum loan amount is \$10,000 per project. There is no maximum loan amount per project.
3. Interest rates are negotiable and will be determined based on what the project can support.
4. The maximum time for repayment is 30 years unless the Loan Review Committee approves a longer repayment period by unanimous vote. There is no minimum time frame for repayment and no penalty for early repayment.
5. Projects must be a minimum of 6 units on the same site. Projects cannot be single-family rental units or scattered site.
6. All Louisville CARES units will be floating. The units that are designated as Louisville CARES units may change over time as long as the total number of Louisville CARES-assisted units in the project remains constant. The floating designation gives the owner some flexibility in assigning units and can help avoid stigmatizing the Louisville CARES-assisted units.
7. Louisville CARES funds cannot be used for refinancing and may not finance commercial space.
8. Income and expenses from supportive services cannot be used to pay debt service. These services must be kept separate from the housing component.
9. For projects of 11 units or less, a vacancy rate of 10 percent should be projected, and for projects of 12 units or more, a 7 percent vacancy rate should be projected.
10. The hard cost construction contingency may not exceed 10 percent of total construction hard costs. When calculating contingency, acquisition of the property should not be included as hard costs. If no contingency is being included in the budget, the applicant

must explain the rationale as to why none is required. For new construction projects, contingency should always be less than 10 percent (in most cases generally less than 5 percent). If contingency funds are not used, those funds will be recaptured and the necessary loan documents will be modified to reflect the difference in the amount funded.

11. Soft cost contingencies are not allowed.
12. Management fees generally should be comparable to market fees and should not exceed 8.5 percent of effective gross income. Smaller projects and/or special needs projects, which may require a higher fee, must justify a higher percentage.

The proposed operating expenses of a project must be supported and generally should fall between \$2,500 - \$4,500 per unit, per year (*including* utilities) and fall within \$1,000 +/- of KHC's most recent historical per unit, per year calculation (*excluding* utilities) for Jefferson county.

### ***Maximum Allowable Fees***

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Maximum allowable fees are based on total development cost. The fees are calculated as follows:

*General requirements equal:*

General requirements ÷ Total Hard Cost

Construction management fees are considered to be a part of General Requirements. Therefore, they must be included with general requirements and cannot exceed the general requirement percentage.

*Builder's overhead equals:*

Builder's Overhead ÷ Total Hard Cost

*Builder's profit equals:*

Builder's Profit ÷ Total Hard Cost

Maximum allowable fees are based on the total development cost as shown below:

| <b>Total Development</b> | <b>General Requirements</b> | <b>Builder's Overhead</b> | <b>Builder's Profit</b> |
|--------------------------|-----------------------------|---------------------------|-------------------------|
| \$250,000 and less       | 6%                          | 7%                        | 12%                     |
| \$251,000 - \$750,000    | 5%                          | 6%                        | 8%                      |
| \$751,000 and greater    | 6%                          | 2%                        | 6%                      |

### ***Developer Fee***

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For the purposes of the calculation, “developer fee” means the actual developer fee, consulting fees, and anything resembling developer or consulting fees. The developer fee (as a percentage) is calculated as a maximum of 15 percent of the total development cost (20 percent for Tax-Exempt Bond projects), minus the following deductions:

1. Developer fee
2. Consultant fee
3. Any fees resembling developer or consultant fees

### ***Reserve for Replacement (R4R) and Replacement Reserve Analysis***

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All applicants are required to establish an R4R account. Louisville Metro Government will hold the account unless otherwise required by the equity provider or another lender in the project with a superior lien position. The R4R annual deposit shall increase at 3 percent annually or as prescribed by another lender in the project with a superior lien position.

### ***Operating Deficit Reserve Account (ODR)***

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All applicants will be required, at closing or no later than the project's placed-in-service date, to sign a certification stating that a separate operating deficit reserve (ODR) account has been established. Projects must fully fund the minimum required amount or such greater amount as required by another lender or equity provider no later than the first day of the month following the project's placed in service date. The purpose of the ODR is to ensure that adequate funds

are on hand should operating costs (e.g., utilities, maintenance costs, debt service obligations, etc.) exceed the project's ability to pay them with other funds. In addition to being a safeguard during the initial lease-up phase, the ODR is vital to ensuring the long-term financial stability of the project by increasing the project's ability to absorb or respond to temporary changes in circumstances, such as the unanticipated event of significant unbudgeted increases in operating expenses and/or losses in operating revenues.

Louisville CARES calculates the minimum ODR requirement as follows:

$$\begin{aligned} & \text{Six months of debt service payments} \\ & + \text{Six months of projected operating expenses} \\ & = \text{Minimum Operating Deficit Reserve Required} \end{aligned}$$

Louisville Metro Government will hold the ODR escrow unless otherwise required by another lender in the project. If Louisville Metro Government does not hold the ODR, Louisville CARES requires to be notified prior to any disbursements from the ODR account.

**For ODR escrows held by Louisville Metro Government:** Louisville CARES will require during the first two years that the ODR maintain a minimum balance of 75 percent of the original ODR amount. Requests for disbursements from the ODR account must be submitted to Louisville CARES Compliance Department on the appropriate form. Each written request must include a specified itemization of the operating expenses and include supporting documentation evidencing the actual cost of each expense.

If at any time during the initial two years the balance in the ODR is below the required minimum balance (75 percent of the original ODR), then a deposit must be made to replenish the ODR to the required minimum balance as cash flow permits; however, at no time may the replenishment take more than three months. The ODR will be replenished prior to making any disbursements to and any other payments to the owner or any party related to the owner.

The balance in the ODR may fall below the minimum required balance after the initial two years; however, the balance in the ODR will remain in place for the life of the loan, available for eligible disbursements, as needed.

If Louisville CARES is financing the ODR, the full amount is required to be drawn on the final draw. All applicants will be required to identify the funding source of the ODR on the underwriting model.



**For ODR escrows not held by Louisville Metro Government:** All applicants will be required prior to closing to sign a certification stating that an ODR escrow account has been established. If the equity provider or another financing source has a higher reserve requirement and a more stringent ODR policy, Louisville CARES will defer to the higher amount and their ODR policy.

Louisville CARES reserves the right to waive or modify the ODR requirement on a case-by-case basis.

## **PROJECT DESIGN**

All developments will be required to be built to meet cool roof requirements as outlined in Exhibit A. In addition, preference will be given to the following:

- More than 25% of affordable units designed with 3 or more bedrooms,
- All units feature universal design or are designed to accommodate accessible features,
- Development is built to a nationally-recognized sustainable design standard and will incorporate measures to help residents track energy consumption to manage utility costs, and
- Development will include eligible green infrastructure as outlined in MSD's Green Infrastructure Incentive Program.

Additionally, all CARES units must include broadband infrastructure. Broadband infrastructure consists of the installation of spare telecommunication 4" conduit from the right of way to the electrical/mechanical room of any new multi-family development in addition to the telco (example: AT&T), cable TV (CATV) and the electric feeds, and use split duct within the conduit to provide for access by multiple providers. The conduit should include a stub up on the utility pole or intersect with underground cable path for telecommunications providers in the right of way. A measured pull string should be installed in the conduit during this process and be tied off at each end of the conduit. If the duct makes more than three 90 degree turns, a 12" pull box should be installed to allow for easier installation of fiber/cable in the future. This spare conduit shall be deeded over to Louisville Metro Government so that no provider can claim exclusive ownership of the conduit. Louisville Metro will grant telecom providers access to the conduit on a first come, first served basis and will not exclude any provider from making use of the conduit for delivery of services if capacity is available.

## APPLICATION AND REVIEW PROCESS

*Application Period.* Louisville CARES is a revolving loan fund, funded by Louisville Metro Government. To maximize the use of this funding and to help developers leverage it with other competitive funds that may not be awarded until later in the calendar year, Louisville Metro Government shall receive applications for Louisville CARES funding on a rolling basis. Applications shall be reviewed on a monthly basis as described below.

*Application Process.* Applicants seeking funding from the Louisville CARES Program shall:

1. Meet with Staff, if desired, to discuss questions and receive technical assistance in providing complete application materials to request a loan from the Louisville CARES Program.
2. The Applicant shall complete the CARES Application and provide the following materials in electronic format to the Office of Housing and Community Development:
  - a. Authorization to obtain credit reports for all owners, partners and guarantors, and/or a credit report performed by another capital provider participating in the Applicant's project where such report has been generated within the previous thirty (30) days.
  - b. Tax returns for all owners, partners and guarantors for three previous tax years.
  - c. Project pro forma ("Underwriting model"), including revenue projections for at least fifteen years after completion of construction, the date of expected project rent stabilization, and other information including but not limited to developer's fee, construction contingency which shall not exceed 10%, and operating debt reserve.
  - d. Firm commitments to financing provided, where applicable, by other organizations, or copies of applications filed to receive funding from other organizations and financial institutions, and an outline of project costs funded to the date of application for Louisville CARES financing.
  - e. Deeds or leases for the properties on which the project will be constructed. This requirement may be modified in the event an Applicant has a property under option, but has not yet closed, to require the Applicant to provide a copy of the purchase agreement or option agreement.
  - f. Evidence of Collateral, including evidence of ownership, including deeds to property and proof of value and ownership for financial assets offered as Collateral.
  - g. Site development plans and specifications, if complete.
  - h. Market study, if complete.
  - i. Any environmental reports including a Phase I environmental site assessment, if complete.
  - j. Appraisal, if complete.
  - k. Project timeline.

- l. Description of project team, including resumes of each, and relevant experience developing Affordable Multi-Family Rental Housing or the type of project proposed.
  - m. Development Team Organizational Chart
  - n. A completed Project Scoring Workbook attached as Exhibit B.
  - o. A property address list of all property owned in Jefferson County.
  - p. Documentation demonstrating that the property has not been flooded in the form of a flood determination letter. See: <http://ags2.lojic.org/msdflooddetermination/>
  - q. Evidence the Applicant is in good standing with the Louisville Metro Human Relations Commission.
  - r. Evidence that there are no unresolved violations under Louisville Metro Governments' Property Maintenance Code.
  - s. Other information as may be requested by Staff.
3. A \$500 application fee made payable to the Louisville Metro Government must be submitted within 5 days of application submission to the following address:

Metro Government Center  
 Attn: Louisville CARES  
 444 S. 5<sup>th</sup> Street, Suite 500  
 Louisville, KY 40202

*Review Process.* Where necessary to facilitate a project that is being considered for funding by a third party organization, the Committee is authorized to make conditional loan approvals. In such cases, the Committee shall limit the duration of the conditional approval to the least amount of time required to receive a decision from the third party organization, not to exceed twelve (12) consecutive months.

All applications will be reviewed according to the following process:

1. Upon receipt of a complete application, as determined by Staff, Staff shall review the application and supporting documents, score the project using the Project Scoring Worksheet and make a recommendation to proceed or reject the application:
  - a. Submitted applications must meet a minimum score of **80** to be reviewed.
  - b. If recommendation is to proceed, staff shall recommend appropriate loan terms based on underwriting criteria,
  - c. Forward all relevant application materials to the Underwriting Partner for review,
  - d. Prepare a loan summary using a form substantially similar to Exhibit C,
  - e. Schedule a meeting of the Committee to review the project
2. At least one week prior to the Committee meeting, Staff shall email Committee members copies of the applications to be considered, including all supporting materials.

3. The Committee will meet to review applications for Louisville CARES funding on a monthly basis, but will not meet in months where no applications, existing loans, or any other business is ready for consideration or modification. For purposes of taking action, a quorum of the Committee consists of five (5) members. Staff will present each application to the Committee and present an analysis of each application. Decisions of the Committee shall be by majority vote, and shall be based on the following:
  - a. Ability of the project to leverage other funding.
  - b. Project risk and likelihood of completion.
  - c. Evaluation of the project.
  - d. An evaluation of the project using the Project Scoring Worksheet. In no case shall the Committee fund a project that fails to score a minimum of eighty (80) points on the Project Scoring Worksheet. The Committee shall not be required to make a loan, regardless of whether a proposed project receives more than this minimum number of points where other factors weigh against making the loan. The decision to make a loan rests in the sole discretion of the Committee, taking into account the totality of the application in light of the criteria listed herein.
  - e. In determining project risk, the following factors shall be considered and evaluated:
    1. Cash flow projections and coverage;
    2. Louisville Metro Government's priority as a lienholder and the ability of the Borrower to increase this priority;
    3. Type and value of collateral offered;
    4. Applicant's credit history;
    5. The project's viability;
    6. Background and character;
    7. Payment history and performance on previous loans, grants or other awards made to the Applicant, if any. No loan shall be made to any Applicant who has previously defaulted on a prior loan or who is not current on an active loan.
4. The Committee may:
  - a. **Approve** the loan by majority vote.
    - a. A vote to approve must include at least one Committee member representing the Board of the Affordable Housing Trust Fund or its Executive Director, and
    - b. At least one Committee member representing Louisville Metro Government.
  - b. **Approve the loan by majority vote "with conditions"** when necessary to facilitate a project that is being considered for funding through a competitive process or that is waiting for a funding decision to be made by a third party organization. In such a case, the Committee shall limit the duration of the conditional approval to the least amount of time required to receive a decision from the third party organization, not to exceed twelve (12) consecutive months.

In the event of a conditional approval, the Committee shall specify what kinds of changes to the project shall require additional review by the Committee, and what kinds of changes shall be reviewed by Staff.

In all cases, if changes to the project are made during the period of the conditional approval, the Committee shall determine whether the changes materially affect the evaluation of the project using the Project Scoring Worksheet. In the event the changes cause the score to fall below the minimum required, the conditional approval shall be revoked.

- c. **Table** the loan to a future meeting to allow the Applicant to provide answers to specific questions or provide specific additional project details.
- d. **Deny** the loan.

### **POST-REVIEW PROCESS**

Staff shall notify each Applicant in writing of the Committee's decision within seven (7) days of the Committee's meeting. When an application is tabled, Staff shall provide the Applicant with clear direction on information to be provided for the application to be considered at a subsequent Committee meeting. When an application is denied, Staff shall provide the Applicant with specific reasons for the denial and shall offer to provide technical assistance to help the Applicant address those issues for future applications.

When an application is approved or approved with conditions, Staff shall prepare and forward a commitment letter, substantially similar to Exhibit C, setting forth the terms and conditions for funding the loan, including a firm date on which the commitment will expire. The Applicant shall also be apprised of the origination fee, which shall consist of ½% of the amount of the loan amount, recording fees and title report fee.

Applicant will sign and return the loan commitment letter, submit a W-9, and clear all outstanding items listed on the loan commitment letter.

In the event that the Applicant requests a modification from the original terms of commitment, a Modification Fee of \$250 shall apply. This fee must be paid prior to the modification request being submitted to the Committee for subsequent review. Any subsequent modifications requests will be assessed a fee of \$100 per request.

Staff shall verify that the Applicant is in good standing with the Louisville Metro Revenue Commission and Human Relations Commission, and that the Applicant, and other owners, officers, partners, and guarantors, and any affiliates, sister organizations or other businesses, whether for-profit or non-profit do not have unresolved violations under Louisville Metro

Government's Property Maintenance Code on any properties owned by said individuals or organizations.

Staff shall forward the executed loan commitment letter to the Jefferson County Attorney's Office and request the Office's assistance in preparing the following closing documents:

1. Closing statement
2. Loan agreement, substantially in the form attached as Exhibit E
3. Promissory Note, substantially in the form attached as Exhibit F
4. Mortgage, if required, substantially in the form attached as Exhibit G
5. Guaranty, substantially in the form attached as Exhibit H
6. Regulatory Agreement Deed & Use Restriction, substantially in the form attached as Exhibit I

Staff shall enter information on the new Borrower and the loan into Louisville Metro Government's Loan Management System.

### **LOAN CLOSING**

Loan closings shall take place on a date that is mutually convenient to Staff, the Borrower and the Jefferson County Attorney's Office, all of whom shall be present for the closing. All individuals who are required signatories on loan documentation, including guarantors, shall be present on behalf of the applicant. The Jefferson County Attorney's Office shall obtain all necessary signatures on the closing documents and shall verify the validity of all signatures. The Borrower shall provide Staff signed checks for the recording fees, the origination fee and the title report. Upon the execution of all closing documents and the receipt of all required checks, Staff shall be authorized to release disbursements of loan proceeds according to the agreed-upon disbursement schedule. Staff shall provide copies of all closing documents to the Borrower, and Staff shall promptly record all mortgages, liens or other recordable documents executed at closing in the Office of the Clerk of Jefferson County, Kentucky.

### **LOAN SERVICING**

*Disbursements.* Staff shall process requests for loan disbursement according to the terms of the loan agreement. The Borrower shall submit invoices for work performed to Staff, who shall be responsible for confirming the work was performed as stated, for entering the requested disbursement amount into the Louisville Metro Government's Loan Management System, and working with Louisville Metro Government's Office of Management and Budget ("OMB") to process the disbursement request.

*Payments.* OMB shall send monthly invoices to each Borrower. Thirteen days before the bill due date, an invoice shall be printed and mailed to the Borrower with an envelope addressed to a 5/3

Bank lockbox that is used to collect and clear checks. Following the collection and entry of checks from this lockbox, OMB will receive a file listing the checks received and processed. OMB shall enter this information into the Oracle Loan System, which automatically applies payments to the appropriate Borrower. Staff is responsible for working with Borrowers to ensure timely payment, to correct delinquencies and to initiate and manage any required collection actions with legal support from the Jefferson County Attorney's Office.

Loan payments are due on the date set forth in the monthly invoice. If payments are not received within thirteen (13) days of the due date, a \$25 late fee shall be charged to the Borrower on the following month's bill. A Borrower may, within two months of being assessed a late fee, request that the Committee waive said fees. The Committee may waive a late fee under the following circumstances:

1. The Borrower has presented convincing evidence that the payment was made on a timely basis but not received through no fault of the Borrower
2. The payment was not credited properly to the Borrower's account
3. The payment amount was increased without notice to the Borrower and Borrower continued to pay the original payment on a timely basis

### **PRE-CONSTRUCTION CONFERENCE & INSPECTION REQUIREMENTS**

A pre-construction conference will be required to discuss the inspection and draw request process. Once the project has closed on all funding sources, a representative of the third-party architect engineering manager for affordable housing programs will attend the scheduled on-site meetings to review progress, ensure the project conforms to all Louisville CARES requirements, and ensure that the work completed matches the payment requested on the draw request form. A copy of all Louisville CARES-approved plans and specifications must be available at the project site during inspections. Inspection visits will occur at least once a month; however, the Develop Louisville Office of Housing and Community Development reserves the right to conduct inspections at any time.

### **DRAW PROCESS**

CARES Staff or a representative of the third-party architect engineering manager for affordable housing programs must approve all construction draw requests. After the draw is submitted, it will be reviewed for approval after reviewing all hard cost line items. Reviewer may modify draws for hard costs at the time of inspection by notating the reason for the change and initialing the change. Louisville CARES staff will review all requests for soft costs.

An updated Title Endorsement must accompany each draw request. It must reflect the actual amount of the proposed disbursement and the total amount disbursed to date. If the title endorsement is prepared prior to inspection and the draw amount is revised, the title endorsement must be revised to reflect the new amount before any funds will be released. An endorsement is only good for thirty (30) days.

The following documentation is required to be submitted for each draw request:

1. Louisville CARES Request for Payment Form
2. Title Endorsement to Title Policy (faxed or e-mailed copy)
3. Builder's or Contractor's Affidavit of lien waiver (must be submitted with every draw for all major component contractors).
4. AIA form G-702 and G-703 (if using an architect), or Louisville CARES Request for Payment Form
5. Copies of invoices, receipts, etc., for payment of soft costs (and hard costs if an architect is not involved).

Each draw request for payment associated with projects for which Develop Louisville's Office of Housing and Community Development holds a mortgage, i.e., rental and lease-to-own projects, must include a title update.

The language that must be included in the title endorsement and update is as follows:

“A disbursement of \$XX (amount of current draw) was made under the Insured Mortgage. The title search was duly continued down to DATE at TIME (should be the same date the draw was submitted) and all encumbrances disclosed by the search were disposed of, except (note any exceptions on Schedule B). Liability under the policy is now increased to \$XX (total drawn under the loan), the total amount disbursed to date under the Insured Mortgage.”

The title endorsement should reference the name of the borrower and the policy number, as well as the name of the insured party for ease in reference. Please note that title endorsements are only valid for thirty (30) days from the date of issuance.

### **CHANGE ORDERS**

All change orders to the approved final plans and specifications must be submitted to Louisville CARES staff for review and approval at the time the change is needed. Change orders submitted after completion of the work to be changed will not be approved, unless prior authorization is given in writing. If a representative of the third-party architect engineering manager for affordable housing programs is unable to review the work at the time of the change or the change order is held and submitted at the end of construction, the change order may not be approved.

Change orders must be signed and approved by the third-party representative before submittal to Louisville CARES staff for approval. Unless previously approved, change orders are processed



as a draw against the budgeted contingency funds. The balance of any unused contingency funds will be deducted from the final retainage budget and the applicable loan modifications will be prepared.

**CONSTRUCTION COMPLETION/PLACED IN SERVICE**

The 10 percent retainage held during the construction phase will not be released until a final inspection report has been received and all project completion paperwork has been received and approved.

The following forms must be submitted along with the final draw request:

1. Certificate of Substantial Completion – Standard form AIA G-704
2. Certificate of Occupancy for each building in the project
3. Proof of Final Property Insurance listing Louisville/Jefferson County Metro Government as an additional insured

**MONITORING AND COMPLIANCE**

Borrowers who submit reports to document compliance related to the use of Federal housing funding, such as Community Development Block Grant funds, low income housing tax credits or bonds shall provide approved copies of these required reports to the Office of Housing and Community Development at the time they are submitted to the agency responsible for monitoring compliance with Federal regulations. Failure to provide this documentation on a timely basis shall be considered a breach of the Loan Agreement, triggering all the rights and remedies listed therein.

Borrowers that do not submit reports associated with the use of Federal housing funding shall provide evidence of resident eligibility as described below, and an annual certification that rental rates are in compliance with the Louisville CARES Rent Guidelines for the current fiscal year as established by Develop Louisville’s Office of Housing and Community Development for the unit sizes contained in the project to the Louisville Metro Office of Housing and Community Development. Failure to provide such documentation on a timely basis shall be considered a breach of the Loan Agreement triggering all the rights and remedies listed therein. Borrowers shall confirm that residents are Eligible Residents upon the signing of a lease, and shall provide this documentation to the Office of Housing and Community Development according to the following schedule:

| <b>Number of Affordable Units</b> | <b>Timing of Resident Eligibility Reporting</b> |
|-----------------------------------|---|
| 1-20 units                        | Within one week of unit rental                  |
| 21-60 units                       | Monthly reports                                 |
| 61 or more units                  | Quarterly reports                               |

**Rental Registry.** All property located in Louisville Metro and occupied or offered for occupancy in exchange for money or any other consideration must be registered with Louisville Metro Government. Failure to register is subject to a fine up to \$100 per day per housing unit. Registration must include the rental unit street address along with current contact information of the owner and managing operator. Registration requires an account with Develop Louisville. See <https://louisvilleky.gov/government/codes-regulations/rental-registry> for more information.

The Office of Housing and Community Development may conduct site visits to confirm that Borrowers are in compliance with Resident Eligibility requirements. These site visits may include, if required by the Committee as a condition of a loan approval, an inspection conducted using US HUD's Housing Quality Standards.

### **PERIOD OF AFFORDABILITY**

Borrowers shall enter into a deed restriction to run in favor of Louisville Metro Government for a period of no fewer than fifteen (15) years following the date of construction completion requiring that the project maintain the number of units that were supported with Louisville CARES funding as affordable for households making 80% or less of AMI. This deed restriction shall be in a form substantially as shown in Exhibit I, and shall be written to automatically expire at the end of the Period of Affordability. This deed restriction shall be executed at the time of loan closing, or at another time to facilitate other aspects of the project, and recorded by Staff. In no case shall the Borrower make a first draw from the approved loan until the deed restriction has been executed and recorded.

### **LOAN DELINQUENCY AND RESTRUCTURE**

Staff shall make all reasonable efforts to work with troubled Borrowers to keep projects on track and affordable for residents. In the event of loan delinquency or threatened default, Staff will work with the Borrower and the Underwriting Partner, where appropriate, to develop a revised repayment schedule to catch up on past-due amounts or to restructure the loan payments to enable the Borrower to repay the loan. Changes to repayment schedules, restructure of loan payments or other modifications to the original loan agreement require the approval of the Committee after receiving a recommendation on such changes from the Underwriting Partner.

A loan delinquency occurs once a Borrower has become more than thirty (30) days late in a payment. Such a Borrower will be notified by Staff of the delinquency so that repayment details can be negotiated. If the Borrower continues to fall further behind in repayments or does not respond to Staff's communication in a timely manner, the loan will be referred to the Jefferson County Attorney's Office for legal action.

Staff shall submit monthly reports to the Committee reflecting the status of all active loans.

Modifications to loan terms must be approved by the Committee after review by Staff and the Underwriting Partner. Before considering any loan modification or restructure, the Borrower must provide the following:

1. A current project financial statement
2. Personal financial statements for owners, partners and guarantors
3. Revised cash flow projections for a minimum of the next twelve (12) months
4. Current debt structure with description of terms and collateral
5. Information about how all other lenders are planning to restructure or modify project loans to address the Borrower's request
6. Other information deemed necessary to make an informed decision about the requested modification or restructure

Factors to be considered in evaluating a request to modify or restructure a loan include:

1. The Borrower's payment history
2. The current status of the loan
3. Cooperation of the Borrower
4. Purpose of the loan modification or restructure
5. Willingness and ability of the Borrower to pledge additional Collateral
6. Borrower's ability to repay
7. Viability of project, including ability to lease units and maintain residents
8. Maturity date for the loan
9. Impact on Louisville CARES portfolio

In the event that the Applicant requests a modification from the original terms of commitment, a Modification Fee of \$250 shall apply. This fee must be paid prior to the modification request being submitted to the Committee for subsequent review. Any subsequent modifications requests will be assessed a fee of \$100 per request.