



STAFF REPORT

City Council Meeting Date: February 26, 2019

Subject: Down Payment Assistance Policy

Staff Resource(s): Paul D'Angelo, Housing Development Specialist

Action Requested: Adoption of the Down Payment Assistance Policy

Background:

- The City of Asheville has \$1 Million of bond funds allocated for down payment assistance (DPA) to support homeownership opportunities for households making 80% or less of the area median income (AMI).
- Staff has been working with the Affordable Housing Advisory Committee (AHAC) presenting potential partnerships for DPA funds, including the Housing Authority in support of their Housing Choice Voucher (HCV) Homeownership program, OnTrack WNC, Mountain Housing Opportunities (MHO) and Habitat for Humanity to fully understand how our funding can work with local partners and families in-need.
- The North Carolina Housing Finance Agency provided guidance on best practices in a DPA policy.
- The City of Asheville has another stream of funding in partnership with the Federal Home Loan Bank of Atlanta (FHLBA) that will provide a combined total of \$400,000 in Down Payment Assistance to eligible full time employees of the City of Asheville and Asheville City Schools with between 80% and 120% of AMI adjusted for household size and meet the requirements as outlined in the Policy. \$300,000 is coming from our own Housing Trust Fund while the FHLBA is providing \$100,000.
- The Policy was passed unanimously by the Affordable Housing Advisory Committee (AHAC) at their January 3, 2019, meeting.
- The Housing & Community Development Committee (HCD) asked for a few clarifications to the policy at their January 15, 2019, meeting and voted to move it forward to full council for a vote.

Council Goal(s):

- Quality Affordable Housing
- Equitable and Diverse Community

Committee(s):

- Affordable Housing Advisory Committee - January 3, 2019
- Council's Housing and Community Development Committee - January 15, 2019

Pro(s):

- This DPA Policy targets moderate and lower income families and provides homeownership opportunities which is a key goal of our affordable housing initiatives
- This Policy begins utilizing Housing Bond funding that was passed in November, 2016
- This Policy was vetted thoroughly with local stakeholders, banks, mortgage lenders, and other experts on DPA

Con(s):

- The funding is limited
- Time limitations
 - Bond Funds must be spent by October, 2023
 - FHLBA Funds may have to be spent by March, 2020

Fiscal Impact:

- Up to \$1M from the Affordable Housing Bond as needed; \$300,000 from Housing Trust Fund as needed with the program balance of \$100,000 provided by the Federal Home Loan Bank.

Suggested Motion:

- Motion to adopt the Down Payment Assistance Policy.

Attachment(s)

- Resolution
- Draft Down Payment Assistance Policy

RESOLUTION NO. 19-_____

RESOLUTION AUTHORIZING THE ADOPTION OF A CITY DOWN PAYMENT ASSISTANCE POLICY THAT INCLUDES \$1M IN FUNDING FROM THE HOUSING BOND AND \$400,000 IN FUNDING IN PARTNERSHIP WITH THE FEDERAL HOME LOAN BANK OF ATLANTA'S COMMUNITY HEROES DOWN PAYMENT ASSISTANCE INITIATIVE

WHEREAS, pursuant to N.C.G.S. 160A-456, the City is authorized to engage in and expend funds for community development programs and activities that assist persons of low and moderate income; and

WHEREAS, the City of Asheville's Community Development Department has been assigned the task of developing and facilitating a Down Payment Assistance (DPA) Program as part of the \$25M Housing Bond passed by the voters in the City of Asheville as the Affordable Housing General Obligation Bond funds in November, 2016; and

WHEREAS, City Council allocated \$10M of the \$25M available to direct project investment in affordable housing; and

WHEREAS, City Council further recommended, upon issuance of the General Obligation Bond, that \$1M of the \$10M be allocated for Down Payment Assistance; and

WHEREAS, City Council approved the allocation of the \$10M, including \$1M for Down Payment Assistance, in August, 2017, Resolution No. 17-198; and

WHEREAS, a Down Payment Assistance policy was created to include this \$1M to assist individuals and families earning 80% of the Area Median Income (AMI) or less in their pursuit of homeownership and paid out in adherence to the DPA Policy; and

WHEREAS, an additional source of DPA funding was secured from the Federal Home Loan Bank of Atlanta's (FHLBA) Community Heroes Initiative to assist full time employees of the City of Asheville and Asheville City Schools, with household income between 80% and 120% of AMI adjusted for family size in their pursuit of homeownership in adherence to the DPA Policy; and

WHEREAS, this funding in partnership with FHLBA will consist of a total of \$400,000, with \$100,000 in funds from the FHLBA as well as \$300,000 from the Housing Trust Fund, pursuant to Resolution 18-272 and adopted on October 23, 2018, and paid out in adherence to the DPA Policy; and

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ASHEVILLE THAT:

City Council authorizes the adoption of a Down Payment Assistance Policy containing two sources of funding, \$1M in Bond funds for assisting individuals and families making under 80% AMI, and \$400,000 in partnership with the FHLBA for assisting full time employees of the City of Asheville and Asheville City Schools with incomes between 80% and 120% AMI, as adjusted for family size and in accordance with the terms of the Policy.

Read, approved and adopted this 26th day of February, 2019.

City Clerk

Mayor

Approved as to form:

City Attorney

City of Asheville Down Payment Assistance Policy

I. POLICY STATEMENT & PROGRAM FUNDING

The purpose of the City of Asheville's Down Payment Assistance (DPA) program is to provide residents of the City of Asheville and those who want to become residents of the City of Asheville with affordable homeownership financing opportunities to help improve their quality of life and the quality of life for all residents of the Asheville community.

Funding for the DPA Program described herein comes from two sources. These policy guidelines apply to both sources of DPA funding except as specifically noted in the policy. DPA funding for eligible individuals must come from one of the two types of funding listing below. DPA funding sources cannot be combined.

- **Bond Funding: \$1,000,000**

In January 2016, Asheville City Council created a 20-year vision for the city to reflect Asheville's unique character and the aspirations for the community, which included Quality Affordable Housing. In an effort to assist lower-wealth families gain access to homeownership opportunities, the City of Asheville allocated \$1M in Bond funds for Down Payment Assistance as part of a larger \$25M Housing Bond approved by voters in a ballot referendum in November, 2016. Funds for this \$1M Bond funded DPA program must be distributed by October 31, 2023.

- **Federal Home Loan Bank Atlanta Community Heroes Funding: \$400,000**

In partnership with the Federal Home Loan Bank of Atlanta (FHLBA), the City of Asheville has created another funding source for Down Payment Assistance focused on our "Community Heroes". Eligible City of Asheville and Asheville City Schools employees qualify for these funds. Funds for this \$400,000 funded DPA program have a potential expiration date of March 1, 2020.

II. PROGRAM DESCRIPTION

The DPA Program is specifically designed to increase homeownership in the City of Asheville by loaning funds to eligible individuals for Down Payment Assistance to help lower their monthly mortgage payment to an affordable amount.

DPA funding is intended for individuals and families who could not purchase a home without this additional funding or could not afford a monthly mortgage payment without the DPA funding. For purposes of the DPA program, an affordable monthly mortgage payment is one that

does not exceed 33% of the individual or family's monthly gross income. Ideally, all eligible DPA funding will avoid the purchase of Private Mortgage Insurance (PMI) for the buyer which can make a mortgage payment unaffordable.

III. ELIGIBILITY REQUIREMENTS

This section addresses the eligibility requirements for those borrowers seeking DPA assistance (the "Borrower"). Unless specifically noted below, the eligibility requirements are the same for Borrowers regardless of the funding source.

A. Funding Eligibility Requirements: As DPA fund sources cannot be combined, the Borrower must qualify under one but not both of the two following categories:

- **Bond Funding:** Bond Funding is available for any individual or family who meets all other eligibility requirements and is a low or moderate income individual or family with a gross income(s) at or below 80% of the area median income (AMI) as defined and published by the Department of Housing & Urban Development (HUD) annually, as adjusted for family size. Borrowers will be required to provide documentation to verify the determination of their income status with their banker/lender. The current income limits can be identified [here](#) or contact the [Community Development Department](#).
 - To further assist lower AMI individuals and families interested in homeownership as well as allow these individuals and families additional time to prepare for homeownership, \$500,000 of the \$1M in funding will be set aside until December 31, 2021, for individuals and families making under 60% AMI. A completed application must be received by the banker/lender requesting DPA no later than December 31, 2021, to hold eligible funds.
- **FHLBA Funding:** FHLBA Funding is available for Borrowers who are current full-time employees of the City of Asheville or Asheville City Schools who have worked for their respective employer for at least twelve consecutive months prior to their applications. Further, such Borrowers and their families, if applicable, must be moderate income individuals and families with gross incomes between 80% and 120% of the AMI as defined and published by the Department of Housing & Urban Development (HUD) annually, as adjusted for family size. Participants will be required to provide documentation to verify the determination of their income status with their banker/lender. The current income limits can be identified [here](#) or contact the [Community Development Department](#).

B. Property Requirements:

- The property to be bought (the “Home”) must be within the City Limits of Asheville.
- The home must be the primary residence of the Borrower.
- The Home must be a single-family residence which includes condominiums and townhouses.
- The Home must be inspected by a qualified Certified Licensed Home Inspector and the City of Asheville may require certain repairs in order to provide DPA.
- If the Borrower selects a Home in a flood plain, flood insurance must be obtained in an amount adequate to cover all mortgage loans associated with the home.

C. First-Time Homebuyer Requirement: Borrowers must be first-time homebuyers, meaning that the Borrower may not have owned a home within the past three (3) years.

D. First Mortgage Requirement: A Borrower must be able to obtain a mortgage loan with an eligible lender for the maximum affordable amount. The lending institution must be willing to participate in the Down Payment Assistance Program offered by the City of Asheville and its requirements. The lending institution must, as a part of its mortgage loan, require purchase of property insurance with the City named as an additional insured, and must escrow the insurance payments, as well as the City and County tax payments.

E. Down Payment Requirement: The Borrower must be able to provide at least \$1000 in a down payment for the Home from his or her own assets. This cash payment shall not be borrowed. Closing costs may be considered as credit towards the \$1000 down payment.

F. Counseling Requirement: Borrowers are required to participate in at least one HUD approved homebuyer education course approved by the bank/lender and designed to assist new homeowners in understanding and fulfilling the responsibilities of homeownership.

G. Asset Requirement: The Borrower must not own any other residential property and must use the Home as the Borrower’s primary residence. (An exception may be available for inherited property).

H. Debt to Income Ratio Requirement: The Borrower should not have a Debt to Income Ratio (DTI) higher than 43%.

I. Type of Mortgage: Although not required, a fixed rate mortgage is preferred.

J. Borrower Ineligibility: Any of the following may render a Borrower ineligible for the DPA program even if the Borrower meets all other qualifications. The City is willing to discuss any issue regarding these disqualifying situations with individuals and/or families seeking DPA. The City intends to work with eligible Borrowers in their pursuit of homeownership. Actions that may render a Borrower ineligible include:

- Providing false information on the application.
- Failing to complete required forms or to supply requested information.
- Committing fraud in connection with any City of Asheville program, or failing to disclose previously committed fraud in connection with any City of Asheville program.
- Appearing on HUD's list of suspended, debarred and limited denials of participation.
- Having a record of eviction from any government assisted housing program.
- Having an outstanding debt owed to any Public or Indian Housing Authority.

IV. ASSISTANCE AVAILABLE

Borrowers who receive assistance in the form of a loan under this policy (the "DPA Loan"), will be eligible to receive funds as set forth below. The funds available for DPA Loan for a Borrower will be limited as follows:

A. Maximum Loan Based on Property Value: 20% of the value of the property to be purchased based on a current appraisal (dated within the last 6 months).

B. Maximum Loan Based on AMI: The maximum amount of assistance for each Borrower:

- ≤60% AMI - up to \$40,000 in DPA
- >60% AMI to ≤80% AMI - up to \$35,000 for DPA
- >80% AMI to ≤120% AMI - up to \$25,000 for DPA

C. Maximum Loan Amount shall be the most restrictive of the two limits as set forth above.

D. Minimum Loan Amount: The minimum loan amount for this program is \$5000.

V. APPLICATION PROCESSING

The DPA Program is always subject to the availability of funds. Eligible Borrowers that meet all requirements will have funds reserved from the DPA Program once their qualified bank/lender contacts the City of Asheville requesting DPA and provides the completed loan application,

including a copy of the Offer to Purchase and Contract. Funds will be reserved for 60 days and the city may extended upon the request of the lender the reservation for one additional 60 day period.

The City of Asheville staff will review all documentation from the bank/mortgage lender as part of our underwriting guidelines to insure that it is adherent to this Down Payment Assistance Policy. If a discrepancy is discovered in review, City Staff will contact the bank/mortgage lender as well as the applicant to clarify and determine whether the application is in compliance with this DPA Policy.

Should the DPA Program fail to have sufficient funds at the time an eligible Borrower qualifies for such funds, the City of Asheville will maintain a list of eligible Borrowers based on the date and time bank/lender formally requests the DPA and provides the completed application. If funds are unavailable for the Down Payment Assistance Program, the City of Asheville may choose to suspend or discontinue accepting applications until funds become available.

VI. REPAYMENT OF THE DPA LOAN

- A. There are **no** monthly payments or interest associated with the City of Asheville's DPA Program loans.
- B. The loan will be a 30-year loan. The loan will be in second or third position behind only the qualified bank or lender(s).
- C. Unless otherwise set forth herein, repayment of the DPA loan is required when the Home is sold, refinanced, title is otherwise transferred, or the Home ceases to be the Borrower's primary residence. In addition to the repayment of the original DPA loan amount, the Borrower will be required to pay a percentage of the original DPA loan amount based upon the Appreciation Value of the Home as described herein ("the Appreciation Payment").

The Appreciation Value shall be calculated as follows: **(1)** if the Home is sold, the difference between the price of the Home at the time of original purchase and the sales price of the Home at the time of resale; provided however, if the City questions the resale price, the City may, in its discretion, request an independent appraisal; or **(2)** if the Home is refinanced, the difference between the price of the Home at the time of original purchase and the appraised value of the Home at the time of refinance. The Appreciation Payment shall be the percentage that the Appreciation Value represents of the purchase price of the Home at the time of the original purchase.

For example: if the home value has increased by 20% at the time of sale or refinance the Appreciation Payment will be 20% the original loan amount and the total repayment for

the DPA loan will be 1.2 times the original loan amount. Beginning year 21, the Appreciation Payment will decrease by 10 percent annually until year 30.

- D. Once the Borrower has been in the Home for thirty (30) years, the DPA loan will be forgiven and no Appreciation Payment will be due.

VII. POST-CLOSING CONDITIONS

The Borrower shall be required to comply with each of the following Post-Closing Conditions. Should the Borrower fail to comply with any of these Post-Closing Conditions, the DPA Loan will be in default and immediately due and payable.

- A. **Primary Residence Requirement:** Except as set forth herein, the Home must remain titled in the Borrower's name and be the Borrower's primary residence throughout the term of the DPA Loan. Borrowers will be required to sign an annual affidavit stating the amount of time they lived in the Home as their primary residence during the previous year. If they did not live in the house for at least 11 of the previous 12 months, the DPA Loan will be considered to be in default unless reasonable circumstances can be verified such as military deployment or care for a loved one.
- B. **Insurance:** The Borrower shall maintain all insurance coverage required by the lending institution.
- C. **Mortgage Compliance:** The Borrower must remain current with all primary mortgage payments. If, for any reason, the primary mortgage loan becomes delinquent, the lender will contact the City of Asheville. Upon receipt of any delinquent notices, the City of Asheville staff may contact the Borrower. This intervention does not, in any way, diminish the Borrower's responsibilities to the first mortgage lender.
- D. **Bankruptcy:** Should the the Borrower declare bankruptcy, borrower will be in default of the loan.

VIII. PERMITTED TRANSFER OF HOME

Notwithstanding the above requirements, the DPA Loan will not be in default if the Home is transferred as set forth in this Section and the Transferee uses the Home as Transferee's primary residence.

- Transfer by gift or inheritance to the Borrower's spouse or children;
- Transfer of title due to Borrower's death to a surviving joint tenant;
- Transfer of title to Borrower's spouse as part of divorce or dissolution proceedings;
- Transfer of title or interest in the Home to the spouse in conjunction with Borrower's marriage.