

## Written Justification for the Use of American Rescue Plan Funds

### *Construction of affordable housing development Nicols Pointe in Eagan, MN*

Final Rule, 31 CFR Part 35, Subp. A, Section 35.6 (b) permits capital expenditures for projects “responding to the public health emergency or its negative impacts”. The Final Rule (page 4449) states, “development, repair, and operation of affordable housing and services or programs to increase long-term housing security” is an enumerated eligible use to respond to the negative economic impacts of the pandemic on households and communities.

The Dakota County Community Development Agency (DCCDA) is requesting up to \$9 million to construct, own, and operate Nicols Pointe, a 24-unit affordable apartment building in Eagan, Minnesota for households at or below 60 percent of the Area Median Income (AMI). ARP funded projects with a total expected capital expenditure of at least \$1 million but under \$10 million must complete a Written Justification. Section 35.6 (b)(4) of the Final Rule requires the following elements for a written justification -

- (i) Describe the harm or need to be addressed;
- (ii) Explain why a capital expenditure is appropriate; and
- (iii) Compare the proposed capital expenditure to at least two alternative capital expenditures and demonstrate why the proposed capital expenditure is superior.

### **Need to be addressed**

Dakota County had an affordable housing shortage prior to the pandemic. In 2016, approximately 26 percent of all households (40,564 households) in Dakota County were renters with 46 percent of those households (18,601) earning less than 60 percent AMI<sup>1</sup>. Of those 18,601 renter households, 83 percent (15,376) were paying more than 30 percent of their monthly income on housing and 54 percent (8,275) were paying more than half of their monthly income on housing<sup>2</sup>. A household is considered cost-burden if they are paying more than 30 percent of income on housing and severely cost-burden if they are paying more than 50 percent of income on housing. In 2018, the average rent in Dakota County for multifamily properties with four or more units was \$1,171, which had increased an average of 13% over the last seven years<sup>3</sup>.

According to the 2020 Dakota County Comprehensive Housing Needs Analysis (completed prior to the pandemic), an additional 2,330-2,635 units of affordable general occupancy rental units need to be built between 2020- 2030 to meet the affordable housing rental demand (Maxfield Research & Consulting).

Given the severity of the affordable housing shortage, and the ways in which the pandemic has exacerbated the need for affordable, high-quality dwelling units, Treasury has determined that the households served by these federal housing programs have been impacted by the pandemic and its

<sup>1</sup> A one-person household at 60% AMI in 2018 was \$39,660, HOME Program, U.S. Department of Housing & Urban Development (HUD)

<sup>2</sup> Minnesota Housing Partnership (MHP) Market Watch: Dakota County, October 2018, Retrieved at <https://mhponline.org/images/stories/docs/research/reports/Dakota-County-FINAL.pdf>

<sup>3</sup> Ibid.

negative economic impacts and that development of affordable housing consistent with these programs is a related and reasonably proportional response to those impacts.<sup>4</sup>

### **Explain why a capital expenditure is appropriate.**

The federal government has a multi-prong approach to combat the affordable housing shortage with pandemic funding. This includes providing historic amounts of rental assistance, increasing the number of housing choice vouchers, and encouraging the construction of affordable housing units. While there may be less costly (or non-capital) alternatives to affordable housing development, a comprehensive response to the widespread housing challenges underscored by the pandemic will require the production of additional affordable units, and targeted affordable housing development is a cost-effective and proportional response to this need.<sup>5</sup>

The requested funding will be utilized to construct Nicols Pointe, a building to be owned and operated by DCCDA. DCCDA was established in 1971 as a special-purpose unit of government with the express limited purpose of serving the citizens of Dakota County through the administration of affordable housing and community development programs. DCCDA is a direct developer of affordable housing, utilizing bonds, levy, and the low-income tax credit (LIHTC) programs to develop, own, and operate affordable housing. To date, DCCDA manages 2,955 units of affordable rental housing for individuals, families, and seniors. DCCDA has been awarded 25 LIHTC awards since 1989, developing 26 townhome developments with 847 units of affordable housing. U.S. Bancorp has been the limited partner on all 26 LIHTC developments. In addition, DCCDA has financed the construction of 29 affordable senior housing apartment buildings with a total of 1,731 units since 1990. DCCDA added a new housing product, Gateway Place, to their portfolio in 2021 with 54 units of efficiency and one-bedroom units. DCCDA owns and operates housing throughout the entire County and is well respected for their property management.

All of the housing units developed by DCCDA are still owned and managed by DCCDA. DCCDA is committed to the requested ARP capital expenditure project maintaining affordable for at least 20 years.

### **Compare the proposed capital expenditure.**

Federal regulations require as part of the written justification, an objective comparison of the proposed capital expenditure against at least two alternative ARP eligible capital expenditures be provided. It should demonstrate why the proposed capital expenditure is superior to alternative capital expenditures that could be made. Dakota County and DCCDA have a variety of capital expenditure projects that are eligible uses of ARP funds. While all provide value, Nicols Pointe is higher value due to timing and location.

---

<sup>4</sup> Coronavirus State and Local Fiscal Recovery Funds Final Rule: Frequently Asked Questions, p. 11, July 27, 2022.

<sup>5</sup> American Rescue Plan Act; Dept of Treasury, Coronavirus State and Local Fiscal Recovery Funds, Final Rule, 87 Fed. Reg. 4338 (January 27, 2022).

One alternative eligible ARP capital expenditure could be the Denmark Trail project, a 40-unit affordable housing development located in Farmington. The project will be a mixture of 1-bedroom, 2-bedroom, 3-bedroom, and 4-bedroom townhome units, all income eligible for households between 50 percent and 60 percent AMI. The estimated total development cost is \$14.5 million. DCCDA was awarded the 2023 9% Low Income Housing Tax Credit (LIHTC) award on October 18, 2022, for Denmark Trail project, which will finance most of the project. Denmark Trail has an approximate \$800,000 gap, which is ARP eligible but alternate sources have been identified.

Recycling Zone II (RZII) is a Dakota County project seeking a second location for collecting and processing solid household waste in the county. RZII includes important health, ecologically, and broad positive impacts. The estimated total development cost is \$9.35 million. This project is eligible for ARP funds, but alternate sources are also being identified, such as Dakota County Environmental Legacy Fund (ELF) dollars.

Finally, the proposed \$9 million Nicols Pointe capital expenditure project will provide 24 long-term affordable housing units for persons age 55 and up with a preference for Veterans for at least 20 years to be owned and operated by DCCDA. As noted above, Nicols Pointe is a higher priority for the use of ARP funds over the Denmark Trail project and RZII due to timing, location and availability of other funding resources.

DCCDA has owned the 1.12 acres of land for the proposed Nicols Pointe development for more than 15 years. The vacant site is properly zoned. DCCDA received all city approvals for the proposed apartment building in 2020, and the final Development Contract is expected to be signed in early 2023. The building is designed and ready to be built with anticipated bidding on the project in the summer 2023 and construction to begin fall 2023. Anticipated occupancy is fall 2024.

While timing is a key priority to advancing the Nicols Pointe project for ARP financing, location is another important factor. DCCDA owns and operates 10 developments (488 units) in Eagan, Minnesota. Eagan is a highly desirable location to live, with the average waitlist time at two years to get into DCCDA housing located in the city. In addition, the project location is highly desirable due to its proximity to the Cedar Grove Transit station. The Cedar Grove Transit station connects to the entire Twin Cities transit system, including to the Minneapolis Veteran Affairs Medical Center.

DCCDA has invested significant funding into developing, owning, and operating affordable housing. The DCCDA Board and the Dakota County Board of Commissioners are strong supporters of affordable housing, as demonstrated with the use of bond and levy financing to house individuals, families, and seniors throughout the county. The addition of Nicols Pointe will be the continuation of their commitment to affordable housing, providing another 24-units of high quality, safe, and affordable housing for at least the next 20 years.