



DATE: October 12, 2016
TO: Board of Commissioners
FROM: Kimberly Branam, Executive Director
SUBJECT: Report Number 16-54
Directing Staff to Create a Community Development Entity

BOARD ACTION REQUESTED

Adopt Resolution No. 7214

ACTION DESCRIPTION

This action by the Portland Development Commission (PDC) Board of Commissioners (Board) will direct staff to create a Community Development Entity (CDE) for purposes of applying to the U.S. Department of Treasury Community Development Financial Institutions (CDFI) Fund for an allocation from the New Markets Tax Credit (NMTC) Program. At the October 12, 2016 PDC Board meeting, staff will outline the issues and benefits associated with creation of the CDE and participation in the NMTC Program.

Should the PDC Board direct staff and PDC is successful in obtaining certification from the CDFI Fund for CDE status, it is anticipated that staff will return to the PDC Board in spring 2017 to approve an application to the CDFI Fund for a NMTC allocation. This application will highlight in greater detail the type, location, and public benefits of potential projects that could be funded with a NMTC allocation award. Following the application review process, the CDFI Fund would likely announce whether the CDE received an allocation award in fall/winter 2017. The PDC Board, acting as the controlling entity of the CDE, would then continue to have direct oversight and approval authority over the allocation of NMTC funds to particular projects.

If it is awarded an allocation, the CDE would be able to attract significant funding to further PDC's 2015-2020 Strategic Plan goal of creating healthy, complete neighborhoods throughout Portland.

BACKGROUND AND CONTEXT

NMTC Program Background

U.S. Congress enacted the NMTC Program in 2000 with a goal of breaking the cycle of disinvestment in low-income communities by attracting the private investment needed to reinvigorate struggling local economies. More recently in December 2015, U.S. Congress passed the PATH Act, which extended the NMTC Program to 2019, providing \$3,500,000,000 in annual credit authority for a total of \$17,500,000,000. According to the CDFI, the NMTC Program attracts private capital into low-income communities by allowing individual and corporate investors to receive a tax credit against their federal income tax in exchange for making equity investments in CDEs, certified entities that act as specialized financial intermediaries. A CDE is any duly organized entity treated as a domestic corporation or partnership for federal income tax purposes that: (a) has a primary mission of serving, or providing investment capital for, Low-Income Communities (LICs) or Low-Income Persons; (b) maintains

accountability to residents of LICs through their representation on any governing board of the entity or any advisory board to the entity; and (c) has been certified as a CDE by the CDFI Fund of the U.S. Department of the Treasury.

CDEs must compete for a NMTC allocation through a competitive, multi-step application process. In order to secure an allocation, PDC must demonstrate that the organization has the capacity and capability to use proceeds from the allocation to invest in, or make loans to, qualifying businesses in disadvantaged communities. If successful, PDC's CDE would enter into an allocation agreement with CDFI Fund, which sets the terms and conditions for deploying the NMTC allocation before it could provide tax credits to investors.

NMTCs are claimed by investors who make Qualified Equity Investments (QEIs) in a CDE. The credit totals 39 percent of the original investment amount and is claimed over a period of seven years. Any taxable investor who makes a QEI in a CDE is eligible for the tax credit. NMTC investors are usually banks but may include corporations, individuals, insurance companies, investment banks, and venture capital funds.

The CDE is required to use at least 85 percent of the proceeds from the QEI to make Qualified Low-Income Community Investments in Qualified Active Low-Income Community Businesses. These investments typically take the form of loans, although equity investments are permitted.

Capital for Eligible Priority Projects

The ultimate goal of the NMTC Program is to enhance the availability of privately-sourced capital for businesses in economically distressed, underserved areas. In LIC census tracts that overlap with Urban Renewal Areas (URAs), NMTC can leverage available Tax Increment Financing (TIF) for community-designated priority projects. In LIC census tracts outside of URAs, a PDC-led CDE would have the availability to make investments without the geographical limitations of TIF resources.

PDC's 50% draft Long-Term Business Plan (Business Plan), which was presented to the PDC Board in June 2016, contemplates generating multiple outside sources of capital to leverage PDC's investments as current TIF resources become increasingly depleted. Specifically, the Business Plan recommends that PDC establish a CDE for the purpose of accessing NMTC allocations that can be used as capital for PDC projects. Portland already has several CDEs that receive allocations; however, none of these entities is focused exclusively on the Portland market. Further, the NMTC Program is another tool to address the objectives of PDC's 2015-2020 Strategic Plan, by creating healthy, complete neighborhoods throughout Portland, providing access to high quality employment for Portland residents, and fostering wealth creation within communities of color and low-income neighborhoods.

Low-Income Communities

An LIC is any population census tract that meets the following criteria (as reported by the U.S. Bureau of the Census): a) The poverty rate for such census tract is at least 20 percent; or b) The Median Family Income (MFI) of such census tract does not exceed 80 percent of the statewide (or possession-wide) MFI, if the tract is not located within a Metropolitan Area, or the greater of statewide (or possession-wide)MFI or the Metropolitan Area MFI, if the tract is located within a Metropolitan Area.

A map with currently qualifying census tracts in Portland is included as Attachment A.

Previous CDE Efforts

In 2002, PDC was involved in the creation of Portland Family of Funds Holdings, Inc. (PFF), a CDE that won a single allocation of NMTCs from the CDFI in 2003. While PDC acted as PFF's Controlling Entity for

purposes of providing a pipeline of potential projects, PFF's governance structure called for complete separation between PDC and the certified CDE, which allowed PFF to spin off into a nationally-focused and highly successful CDE called United Fund Advisors. The separation of PFF from PDC generated concern with regard to the loss of a local focus and the loss of transparency in the activities of the CDE.

Today staff believes there is a role for PDC to play in creating a CDE that would focus only on Portland projects in Portland's priority neighborhoods. To ensure that this newly created CDE is focused on Portland and PDC's 2015-2020 Strategic Plan, the PDC Board will act as the controlling body of the CDE. PDC's efforts will be complemented by partnering with an Advisory Board consisting of representative LIC organizations with missions aligned with PDC's mission. While there is a national market of NMTC investors, regional and local government and financing institutions are becoming increasingly active within the NMTC Program, and a PDC-created CDE would be able to use its existing relationships to find investors and lenders.

A PDC Board-controlled CDE will also allow for maximum transparency as the CDE will be made subject to the same obligations as a public body – public records, public meeting, public accounting, etc.

Eligible Projects

Typical NMTC Program projects involve the acquisition, rehabilitation, or construction of real estate or the expansion of operating businesses in LICs. Eligible projects can include commercial offices and retail services, mixed-use properties, factories and industrial facilities, community centers, educational facilities, cultural facilities, health-related facilities, hotels and hospitality properties, and small business loan funds. NMTCs can be combined with Historic Tax Credits and Renewable Energy Tax Credits, but cannot be combined with Low-Income Housing Tax Credits. Generally, NMTCs cannot be employed to fund a project that is exclusively housing; however, if a housing project includes a substantial commercial element, it may be eligible.

Projects often focus on creating quality jobs in LICs, assisting minority, women-owned and low-income community businesses, offering flexible lease rates to tenant businesses, providing goods and services and housing options in LICs, and improving access to healthy and affordable food options, and innovative developments that will catalyze additional private investments in the community.

Past Portland projects funded using NMTCs from the PFF allocation include Albina Head Start, the Armory, Indigo 12W, the Civic, the Oregon Clinic in Gateway, the White Stag Building, Vanport Square, and the Union Gospel Mission. The Portland Mercado was partially funded with NMTCs through Raza Development Fund (based in Phoenix). The planned Asian Health and Services Center in the Lents Town Center URA has also applied to use NMTCs as gap financing.

COMMUNITY AND PUBLIC BENEFIT

With an affiliate CDE, PDC would have an additional tool to promote and direct economic development throughout the City in conjunction with its existing programs and in furtherance of its own mission and priorities. Because of the benefit of the tax credit, investors are encouraged to invest in projects and locations in which they would generally not seek to invest outside the NMTC Program. A PDC-sponsored CDE could direct investment to certain projects and geographic areas currently lacking resources. When the NMTC loan is made available to eligible projects it is made on very favorable terms. In addition, at the end a seven year compliance period, part of the qualified investment may be forgiven, thus generating a subsidy to a project which can be substantial. The NMTC Program is not a substitute for private financing and investment and a NMTC loan will usually complement other project financing.

As outlined above, the NMTC Program supports a wide range of businesses including manufacturing, food, retail, health, technology, energy, education, childcare, and limited mixed-use housing. Housing projects may have no more than 80 percent gross revenue from residential receipts; as a matter of practice, 65 percent is preferred by investors. LICs benefit from the jobs associated with these investments, as well as greater access to community facilities and commercial goods and services. Since 2003, CDFI Fund maintains that the NMTC Program has created or retained an estimated 197,585 jobs and supported the construction of 32,400,000 square feet of manufacturing space, 74,800,000 square feet of office space, and 57,500,000 square feet of retail space. Ideally, these projects become catalytic development, attracting further investments and revitalization in these areas.

The CDFI Fund estimates that for every \$1 invested by the Federal government, the NMTC Program generates more than \$8 of private investment. The NMTC Program is designed to catalyze investment where it's needed most; approximately 75 percent of NMTC investments have been made in highly distressed areas with poverty rates exceeding 30 percent or median incomes below 60 percent of the area median, and high rates of unemployment (one and a half times the national average).

CDE Advisory Board

To be granted certification, a CDE must have a primary mission of serving LICs, and must be able to certify that at least 60 percent of its products and services are (or will be) directed to individuals and businesses located in LICs or to organizations that serve LICs. In order to be deemed representative of LICs, CDE Board members must either reside in a LIC in the Applicant CDE's service area or otherwise represent the interests of residents of LICs in the Applicant CDE's service area (Portland). In general, this requirement is met if at least 20 percent of the CDE's Governing Board or Advisory Board is made up of representatives of LICs. Since the proposed CDE would include the PDC Board as the controlling body, staff recommends naming the maximum number of LIC representatives to the Advisory Board. Current Neighborhood Economic Development Leadership Group and Central City Budget Advisory Committee members qualify as individuals who represent the interests of residents of LICs in a variety of ways, including small business ownership, LIC residence, and employment with community-based or charitable organizations that principally service LIC populations.

PUBLIC PARTICIPATION AND FEEDBACK

The Financial Sustainability Committee, which was tasked with assisting PDC develop a draft Business Plan, discussed and generally supported PDC exploring the creation of a CDE. Staff also briefed the Neighborhood Economic Development Leadership Group on September 28, 2016, and solicited interest for serving on a CDE Advisory Board.

BUDGET AND FINANCIAL INFORMATION

There are sufficient appropriations in the fiscal year (FY) 2016-17 Adopted Budget for staffing expenses related to this proposed action. Staff will request that the PDC Board amend the FY 2016-17 budget at their November 9, 2016, meeting to reallocate a portion of the budget allocation to available non-TIF funds.

RISK ASSESSMENT

Involuntary risk associated with creating and operating a closely-held CDE is minimal as the CDE functions as a simple vehicle under federal tax law. Voluntary risk may be created by entering into indemnity agreements with the NMTC investors; some banks may seek such indemnities from PDC while the CDE builds a track record. Such indemnities are common for the program and insure the investor against the potential loss of the tax credit due to either cessation of the CDE function within a seven year compliance period or the failure to keep employed not less than 85 percent of the qualified

investment. Both of these variables will be under PDC's control and, consequently, the likelihood of liability flowing from an indemnity covering either event is very low.

ALTERNATIVE ACTIONS

The PDC Board may decide not to direct staff to apply for CDE status, which would preclude PDC from applying for a NMTC allocation from the CDFI Fund. The PDC Board may direct staff to explore alternative structures for a PDC-controlled CDE. The PDC Board may recommend a different Governing Board for the proposed CDE.

ATTACHMENTS

- A. Map of Low-Income Community Portland Census Tracts

MAP OF LOW-INCOME COMMUNITY PORTLAND CENSUS TRACTS

