

Attachment D: Developer Fee Guidelines for Special Needs Projects

Developer Fee Overview

In recognition of the time, effort, and expertise associated with the development of a special needs affordable housing project, a developer fee is commonly included in the total development cost budget. The amount of the fee which may be eligible for tax credits under the low income housing tax credit program is limited by Arizona Department of Housing (ADOH) regulations.

Developer fee includes payment for basic project planning and financing tasks the developer must perform, whether these activities are performed by the developer's staff or by third party consultants. Examples of such services include: entitlement processing, project management, negotiation of financing, construction management, and financial structuring of tax credit projects and cost overruns. If consultants are used to perform services customarily performed or provided by developers, any payment to the consultant will be deducted from the developer fee that otherwise may be paid.

Payment of developer fee is limited by the amount of cash available in the development budget. Frequently in multifamily development projects, financing sources are insufficient to pay 100% of the allowed developer fee. In this case, a portion of the fee may be deferred and is reflected by a deferred developer fee note. Such a note obligates the property owner (often a partnership or LLC) to pay a specified portion of the future project cash flow to the developer until the note is repaid. In general, developer fees are paid out of the developer's share of cash flow when a Cash Flow Loan is in place.

Allowable Developer Fees

The Department will allow the following developer fees to be included within the development cost budget; however, they may not be eligible costs for direct City reimbursement.

➤ Special Needs Housing:

- Up to 10% of the construction or rehabilitation cost if the developer utilizes its own staff to implement the project.
- No developer fee is allowed if a third party consultant or project manager is used to manage the development process; however, the cost of the third party consultant may be included as an eligible project cost.

Distribution of Developer Fees

City loans cannot be used to pay any portion of the developer's fee. Developer fees that are not deferred may be distributed as follows, subject to the approval of other project lenders, tax credit equity investor, etc.:

1/3 at the close of all construction loans

1/3 in progress payments during construction

1/3 at 90% occupancy and receipt of all tenant certifications for the restricted units

For projects subject to Arizona Department of Housing (ADOH) regulations due to the use of low income housing tax credits, ADOH regulations for developer fee shall prevail in lieu of these City requirements.