



City of
Mountain View

Multifamily Rental Housing
Underwriting Guidelines
City of Mountain View

May 2022

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Multifamily Rental Housing Underwriting Guidelines

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MULTIFAMILY RENTAL HOUSING UNDERWRITING GUIDELINES

A. INTRODUCTION AND OVERVIEW

The City of Mountain View (City) has a long tradition of facilitating and funding the development, rehabilitation and preservation of affordable housing in the City. The primary program administered by the Housing and Neighborhood Services Division of the Community Development Department is the provision of gap financing for multifamily affordable housing developments, which is provided based on a Notice of Funding Availability (NOFA) that is issued by the City from time to time.

The purpose of the Multifamily Rental Housing Underwriting Guidelines (Guidelines) is to clarify the City's Loan requirements so that developers, lenders and investors can assure consistency with these requirements and to streamline the City's underwriting and loan approval process, as well as address other affordable housing monitoring and implementation considerations.

The low-income housing tax credit (LIHTC) program is the primary financing structure for most affordable multifamily housing in California. The California Tax Credit Allocation Committee (CTCAC) administers the LIHTC program in California and regularly publishes updates to its policies and regulations. The Guidelines are intended to be consistent with relevant CTCAC policies and regulations as they may be modified from time to time. The City also seeks to leverage its dollars with non-City public and private funding to the maximum extent possible, and work with developers to assure that this can be accomplished in alignment with City goals and policy priorities.

The Guidelines are organized into the following sections in order to provide background and guidance to developers as they undertake developments in the City of Mountain View:

- A. Introduction and Overview
- B. City Goals and Policy Priorities
- C. City Loan Eligibility Criteria
- D. City Loan Terms and Conditions
- E. Development Underwriting Policies
- F. Developer Fee Policy
- G. Ground Lease Policy
- H. Project Expense Policy
- I. Residual Receipts Policy
- J. Agreements With Other Public Agency Lenders

The City reserves the right, in its sole discretion, to modify these Guidelines and to interpret how these Guidelines may apply to a particular development. City staff is responsible for administering the City's housing programs as well as interpreting and amending these Guidelines.

Any developer that wishes to request modifications to either the Guidelines or their application to a development must provide substantial documentation regarding why the proposed change is necessary for project feasibility or is needed to meet other soft lender requirements, and must demonstrate that it will further the City's goals and policies for affordable housing.

B. CITY GOALS AND POLICY PRIORITIES

The following City goals and policy priorities will guide how the City reviews proposals from developers and performs its underwriting with respect to the provision of a City Loan or approval of other transactions related to affordable multifamily housing.

Access to High Quality, Affordable Housing	Ensure that residents have affordable access to decent, safe and sanitary housing in good repair.
Long Term Affordability	Maintain affordability restrictions to the greatest extent possible and ensure that developments are adequately maintained in order to extend their useful life.
Healthy Living Environment	Promote a healthy living environment where residents can thrive, provide well-designed resident and community amenities, and maintain a compatible relationship with neighbors, as the City recognizes that stable, affordable housing is central to the health of individuals, families, and communities.
Sustainable Design and Development	To the greatest extent feasible, incorporate green building practices and materials, promote development along transit corridors, incorporate transportation demand management practices, and minimize environmental footprint as the City recognizes that efficient use of energy, water, and other resources helps to reduce the overall impact of the built environment on human health and the natural environment.
Consistency with City Land Use and Building Policies	Be consistent with the goals and objectives of the City's General Plan and Housing Element, and meet relevant City land use, design, parking, and building requirements.
Consistency with Other City Policies, Plans & Goals	Be consistent with other City goals, policies, plans, and requirements including affirmatively promoting fair housing, promoting equity and inclusion, and providing access and accommodation to persons with disabilities.
Maximum Leverage of Non-City Funding	Achieve a cost-effective development and maximize the project's ability to compete for non-City funding sources so as to maximize leveraging of limited City financial resources to the fullest extent possible.
Prudent Debt and Equity Terms	Ensure that capital sources (both equity and debt) provide for adequate operating margins and provide for a financially sustainable development.
Repayment of City Loans	After achieving above goals, provide for maximum long-term repayment of City loans from residual receipts and surplus proceeds from sale or refinancing, which will enable City funds to be recycled into new proposed affordable housing developments.

C. CITY LOAN ELIGIBILITY CRITERIA

The following loan eligibility criteria will apply to applicants and developments that receive a City Loan.

Eligible Applicants	Developers of affordable housing, which can include non-profit and for-profit corporations, general or limited partnerships, joint ventures, and limited liability companies.
Qualifications and Experience	Developers must have relevant qualifications and experience to develop, operate, manage, and maintain affordable housing developments consistent with the City's goals and policy priorities or must partner with an entity that does have the required experience.
Eligible Projects	<p>Substantial rehabilitation and new construction of rental affordable housing, including permanent supportive housing and transitional housing, intended for occupancy by extremely low, very low, lower, and moderate income households up to 120% Area Median Income (AMI).</p> <ul style="list-style-type: none"> • For mixed use projects (containing both residential and non-residential space), residential living space must represent the majority of the development. • Projects must be at least 50 units in size, although in special cases, smaller projects may be considered. <p><i>Development of emergency shelters for the homeless may not be eligible for certain types of City funding.</i></p>
Eligible Uses of City Housing Funds	<p>City Loan funds may only be used for the affordable housing portion of a development. City Loan proceeds may be used for:</p> <ul style="list-style-type: none"> • Predevelopment expenses • Acquisition and site improvements (including demolition) • Eligible development costs, including construction and soft costs associated with the development and financing of a project. <p><i>In certain cases, City Loan funds may be used to capitalize reserves for capital improvements, operations, replacement of fixtures, social services, or other purposes.</i></p>
Ineligible Uses of City Housing Funds	<p>City Loan proceeds may not be used for:</p> <ul style="list-style-type: none"> • Offsite improvements that are not directly adjacent to the property unless specifically required by the City to undertake the development • Developer/sponsor costs other than those that are permitted pursuant to these guidelines • Other costs not directly related to the provision of affordable housing, such as costs related to non-residential, commercial uses. <ul style="list-style-type: none"> • All funding applications need to separately account for non-housing costs both in the proposed development budget as well as the operating proforma.
Leverage Non-City Funding	Developers must proactively seek multiple non-City funding sources and leverage such funding sources to the maximum extent possible, based on the best terms that are available from public funders and the commercial loan marketplace while providing for a financially sustainable development.

Demonstrated Need for City Funding	Developers must provide supporting documentation to demonstrate why and how much City funding is needed, and how the proposed project will achieve the City’s goals and policy priorities. This should include identifying what non-City sources of funding have been pursued and an appropriate explanation as to why these other funds are not being pursued or have been turned down.
Track Record of Long-Term Compliance	Developers must show evidence that their prior developments are compliant with all relevant requirements, including loan repayment terms, household income and affordable rent requirements, maintenance requirements, and building requirements in the City of Mountain View and/or other similar jurisdictions.
Other City Approval Requirements	Prior to the issuance of a City funding commitment for construction and/or permanent financing, the developer must demonstrate that the project has satisfied all applicable CEQA/NEPA review requirements and that all discretionary land use entitlements for the proposed project have been obtained. In addition, a Phase 1 Environmental Assessment report, and if applicable, Phase 2 report are required with City named as a reliance party.
Affordability Restrictions	<p>Developers must meet the City’s affordability requirements, which will reflect the policies and regulations applicable to the sources of funds for the City Loan (such as Federal CDBG or HOME funds, the City’s impact fee, inclusionary in-lieu fee, successor agency low and moderate-income housing funds, and/or any applicable affordability requirements imposed by State statute (e.g., SB 35, Density Bonus Law, and Surplus Lands Act affordability requirements).</p> <p>Affordability requirements will be documented in a recorded Affordability Restriction (AR) that will not be subordinated.</p> <p>Affordability requirements will apply for at least a 55 year term beginning with issuance of the final Certificate of Occupancy, with preference for longer term or permanent affordability. The affordability restrictions will survive the payoff of any City loans.</p>
Consistency with City Goals, Policies, Plans and Requirements	Developers must develop housing consistent with the City’s goals, policies and plans, and meet relevant local, State and Federal requirements including the City’s Race, Equity and Inclusion (REI) policies, Affirmatively Furthering Fair Housing (AFFH) Plan, Language Access Plan (LAP) for Limited English Proficiency (LEP), Affirmative Marketing Policy, Annual Action Plan (AAP), Consolidated Plan goals and programs, as well as relevant relocation, replacement housing and rent stabilization requirements.

D. CITY LOAN TERMS AND CONDITIONS

1. Predevelopment/Acquisition Loan	
Loan Description	The Predevelopment/Acquisition Loan is made available to qualified developers to help fund multifamily affordable housing in the City. The loan consists of two components: 1) Developer component for third party costs and 2) City component used to fund City costs related to predevelopment activities.
Timing/ Conditions	These funds may be provided where the Developer has demonstrated site control, provides a predevelopment schedule with performance milestones and provides other assurances that the project can move forward within 2 years unless funding sources from other soft lenders or CTCAC cannot be secured by then. The provision of funds is subject to the City's NOFA requirements.
Loan Amount	<p>The maximum loan amount for each component of the loan is generally the following, subject to modification by the City:</p> <ul style="list-style-type: none"> • \$1,000,000 for portion of the loan related to third party costs. • \$300,000 for portion of the loan related to City's costs. <p>At its discretion, the City will consider providing loan funds for property acquisition.</p>
Loan Term	The predevelopment loan term is generally 24 months, with potential conversion to a construction/permanent loan at the start of construction.
Interest Rate	No interest is accrued or payable during the predevelopment period.
Payments	No payments are due on predevelopment loan until the maturity date when the entire balance is payable in full unless it is rolled over into a City-approved construction/permanent loan. If the predevelopment loan is rolled over into a construction/permanent loan, and for other City construction/permanent loans, interest begins to accrue on the outstanding principal balance commencing upon the closing date for the construction/permanent loan.
Loan Repayment	Loan must be repaid at the earlier of the maturity date or the close of construction financing or can be rolled over into the Construction/Permanent Loan and assumed by the project development entity.
Security	The City will require an assignment of plans and contracts and will require a deed of trust if land is owned or leased by Developer.
Developer Component for Third Party Costs	<p>The City will provide this portion of the Loan to the Developer for payment of third-party expenses, subject to the terms of the City's Loan agreement:</p> <ul style="list-style-type: none"> • Architecture, engineering and other professional services, with the exception of all legal costs that are required for securing land use approvals, meeting environmental requirements and/or obtaining project funding • Application fees for County or State funding • City permit and other fees
City Component for City Costs	<p>The City will hold the second portion of the loan in a separate account that the City will manage and use to pay the following costs:</p> <ul style="list-style-type: none"> • City Planning staff and all third-party contracts that the City manages to undertake the land use and environmental review process for the Property, including NEPA review if needed.

	<ul style="list-style-type: none"> The Developer will not need to make payment or deposits for these costs. If any funds remain at the end of the predevelopment period, these remaining funds are rolled over into the Construction/Permanent Loan, which can be used to reimburse the Developer for expenses during construction. <p><i>On City owned sites, the City may undertake studies regarding the property at its own expense, for example the Alta Survey and Merger, initial Title Report and the initial Phase 1 and Phase 2 environmental studies.</i></p>
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2. Construction/Permanent Loan

Loan Description	The Construction/Permanent Loan is made available to qualified developers to help fund multifamily affordable housing in Mountain View. This loan may be used to fund predevelopment, acquisition and/or residential improvements related to the provision of affordable housing.
Timing / Conditions	Loan funds may be provided upon the closing of land purchase or ground lease and construction financing, and upon satisfaction of City loan conditions including, among other requirements, City approval of plans and issuance of building permits. The provision of these funds is subject to the City’s NOFA requirements and may be disbursed in installments as construction progressed, at the City’s discretion.
Loan Amount	<p>Loan amount will be determined through an evaluation of the following:</p> <ul style="list-style-type: none"> Need for gap financing based upon affordability levels to be attained Accumulation of appropriate operating and replacement reserves Loan to Value and/or Loan to Cost considerations City’s goal to maximize the leverage of non-City sources. Generally, City funding is targeted to 20% of total development costs or a leverage ratio of \$1 in City Subsidy to \$4 in other funding sources
Predevelopment Loan Conversion	<p>Funds provided from a Predevelopment/Acquisition Loan may be repaid at start of construction or converted into a City Construction/Permanent Loan.</p> <p>If allowed to be converted into a City Construction/Permanent Loan, then any unpaid outstanding principal balance will be included as a component of the principal amount of the Construction/Permanent Loan.</p>
Loan Term	Construction period plus 55 years from the issuance of the final Certificate of Occupancy
Interest Rate	<p>Interest will be based on a 3% annual simple interest rate, with potential lowering of interest rate at City’s discretion.</p> <ul style="list-style-type: none"> Depending on the nature of the project, the City may modify the interest rate, to the then-current Applicable Federal Rate, and/or prevailing annual interest rates then charged by other soft lenders. The City will determine the interest rate based on the project’s financial feasibility, satisfaction of the “True Debt Test” and potentially other tax credit related considerations such as Capital Accounts accounting.
Interest Accrual	Interest will begin accruing upon disbursement of loan proceeds upon close of construction, but no interest will be due during the predevelopment or construction period.

Annual Payments	Annual payments are payable out of residual receipts commencing upon completion of construction. See Residual Receipts Policy below.
Loan Repayment	Loan is fully repayable on unauthorized transfer of property and may be partially repayable upon refinancing or sale of property at the City's determination.
Security	<p>The City loan must be secured by a deed of trust on the fee interest or a leasehold interest deed of trust.</p> <p>During the construction phase of the proposed property, the City loan will be recourse to the borrowing entity. At conversion of the construction loan into a permanent loan, the City loan may become non-recourse to the borrowing entity. The City may require an option to purchase the land from the Developer and execution of a ground lease with the City. <i>See the Ground Lease Policy below for relevant ground lease policies and terms.</i></p> <p>The City generally requires payment and performance bonds and may require payment and completion guarantees from project sponsor and parent organizations, as applicable during the construction phase of the property.</p>

3. Additional Loan Terms and Conditions	
Consistency with City Loan Documents	The principles and policies set forth in these Guidelines will be incorporated into the City loan documents, and the City loan documents will take precedence over any inconsistent provisions in the partnership or similar agreements unless modifications are allowed by the City to address lender requirements.
Collaboration with Other Public Agency Lenders and Investors	<p>Wherever possible, best efforts should be made for lenders and/or investors to:</p> <ul style="list-style-type: none"> • Share third party reports, such as environmental, physical needs assessments and appraisal reports. • Incorporate appropriate reliance/indemnification language to the City's benefit in reports. • Collaborate on the use of the same Third Party Construction Inspectors for construction cost review and monthly construction inspection reports to eliminate duplicative project costs. • Enter into agreement(s) that reflect the City requirements set forth in these Guidelines and the City loan documents.
Affordability Restrictions	<p>Developers must meet the City's affordability requirements, which will reflect the policies and regulations applicable to the sources of funds for the City loan (e.g., Federal CDBG or HOME funds and City impact fee or inclusionary in-lieu fee funds).</p> <ul style="list-style-type: none"> • Affordability requirements will be documented in a recorded Affordability Restriction (AR) Agreement that will not be subordinated. • Affordability requirements will apply for at least 55 years beginning with the issuance of the final Certificate of Occupancy, with preference for longer term or permanent affordability. • The Affordability Restrictions will survive the payoff of any City loans. • At the City's discretion, the affordability restrictions may be less than 55 years for refinancing and/or restructuring transactions but must be greater than the loan term of Senior Debt.

3. Additional Loan Terms and Conditions

Rent Float-up Provision	<p>The City may consider permitting a float-up of affordability restrictions under certain circumstances (such as the loss of project-based rental assistance, foreclosure or threatened default). In this case, rents would only be allowed to increase up to the maximum rent levels applicable to the project for the minimum amount of time and minimum number of units needed to maintain project feasibility. Rent float-up would preferably be capped at CTCAC rents at 60% AMI, or as allowed by CTCAC or other public funders, provided that substantive measures are undertaken to maintain long term preservation of affordable housing.</p>
Relocation	<p>Any sponsor proposing to acquire land or rehabilitate existing structures using City funds that may result in the displacement of tenants or businesses must at minimum fully comply with local, State and Federal relocation laws or requirements.</p> <ul style="list-style-type: none"> • Sponsor must provide an assessment of the potential displacement of tenants or businesses, including a detailed summary of tenants or businesses and estimated costs and timing of relocation, along with the name, resume and contact information of the proposed qualified relocation consultant. • Prior to acquisition, rehabilitation, demolition, or construction funding, the City must review and approve a relocation plan. • In the event State or Federal laws require the approval of the governing body, the relocation plan must be approved by the City Council.
Refinancing	<p>Any proposed refinancing of a loan secured by the Property is subject to City review and approval and must be submitted in writing. Prior to any refinancing, the developer must demonstrate that the refinancing will meet other City goals and policies and will not adversely affect the City loan, the long-term feasibility of the project and the recorded Affordability Restrictions. The developer must provide information regarding:</p> <ul style="list-style-type: none"> • Proposed modifications to interest rate and term • Anticipated debt service coverage and impact on net cash flow • Prepayment penalties and impact on proposed project budget • Other data as may be required to demonstrate how the refinancing will meet the City's goals and policies particularly related to the long-term affordability. <p>The City expects that any additional funds generated by a refinancing will first be dedicated to preserving and maintaining high-quality affordable housing.</p> <ul style="list-style-type: none"> • Generally, the City requires that 50% of net proceeds from refinancing after payment of specified expenses approved by City, such as funding of certain reserves, will be used to repay the City loan. If required by other lenders, such funds may be used to repay the City loan and other public agency soft loans on a pro-rata basis in accordance with the percentage of project financing provided by each public agency lender. • The City may consider requests to defer repayment of all or a portion of its loan in a senior loan refinancing if necessary for project feasibility and/or to maintain high-quality affordable housing as demonstrated to and determined by the City.

3. Additional Loan Terms and Conditions

Sponsor/General Partner Loans

If a developer affiliate or project sponsor loans funds for development of the project the borrower must demonstrate to the City's satisfaction that such loan(s) meet all of the following requirements:

- Will not inhibit the preservation of the property as affordable housing for 55 years or longer based upon all recorded affordability restrictions from public agencies, as appropriate.
- Will meet the underwriting requirements of all project investors and lenders and be considered an allowable financing structure by tax counsel.
- Will not impair the ability of the project sponsor or other entity to acquire ownership of the property in the case of a future exercise of an Option to Purchase or Right of First Refusal Agreement in order to preserve the project as long-term affordable housing for 55 years or longer.
- Will be payable only out of developer/sponsor share of residual receipts.
- Will have a maturity date no sooner than the maturity date of the City loan and will not allow prepayment prior to payment in full of City loan
- Will have a maximum interest rate at the Applicable Federal Rate (AFR).
- Will be junior in payment and lien priority to the City loan.

The developer or project sponsor must submit to the City a written request for approval of the loan(s) that contains supporting documentation confirming that all of these requirements will be met.

The City must provide its consent to such loan(s) in writing. The City will require recordation of a subordination agreement that addresses payment subordination and provides for subordination of any deed of trust securing the loan(s).

3. Additional Loan Terms and Conditions

Use of Proceeds from Refinancing, Sale or Resyndication

The developer must prioritize the use of any proceeds from the future refinancing, sale or resyndication of a property with a City loan based on the following priority:

1. Pay the remaining balance on the first deed of trust, taking into account required permanent financing.
2. Pay down public debt, to the extent feasible, while maintaining required rent affordability. Pay down to the City will first be applied against any owed accrued interest and then to the outstanding City loan principal balance. (If the project has more than one public loan, the City will refer to the original loan agreements as the guiding document for priority of payoffs and the formula for allocation of proceeds among public lenders.)
3. Distribute any remaining cash following the payment structure established by the limited partnership agreement or other governing legal documentation, such as subordinate loan agreements, including the City's Cash-Out Policy (see below).
4. Use all remaining cash to continue to preserve the property as affordable housing for at least the remaining term of the City's recorded affordability restrictions as well as any other recorded affordability restriction from another public entity.

The repayment of any General Partner equity contribution or seller/sponsor loan (including funds attributable to a Developer Fee) may only be made after all obligations that are specified in the City loan agreement are met or as agreed upon by the City. Exit taxes will be considered an allowable expense payable from sales proceeds on a case-by-case basis.

See the [Project Expense Policy](#) and [Developer Fee Policy](#) for further information.

3. Additional Loan Terms and Conditions

Cash Out Limitations For Certain Transactions

The City limits the conditions under which a developer may take cash out from a City regulated affordable housing development for certain transactions, including acquisition/rehabilitation, sale, refinancing or resyndication. In general, to ensure the financial viability and sustainability of a property, a developer is not permitted to obtain a loan in an amount that exceeds the amount necessary to acquire and rehabilitate the property (commonly known as a “Cash Out”). Any transaction that involves a Cash Out payment is subject to the City’s prior written consent in its sole discretion per the City’s financing and/or regulatory agreement documents.

If a developer is obtaining a new loan for conducting an acquisition/rehabilitation, sale, resyndication, or refinancing and desires withdrawal of Cash Out from the loan proceeds, the City may waive the prohibition of such Cash Out under the following general conditions:

1. Long-term extension of the compliance term and affordability restrictions for a minimum of 55 years from the date of refinancing or recapitalization.
2. Demonstration to City’s satisfaction that the proposed financing does not threaten the financial viability of a development through the end of the extended compliance period.
3. Demonstration via a Physical/Capital Needs Assessment and scope of work that all maintenance and capital repair needs will be addressed.
4. Fully funded operating and replacement reserves as required, and if applicable, service reserves.
5. Full payment of outstanding principal and accrued interest, if any, of the City’s loan.
6. If applicable, full repayment of accrued ground lease payments to the City.
7. No event of default exists under any of the City’s loan documents.
8. Demonstration to the City’s satisfaction that Excess Proceeds (defined as the remaining funds available after paying-off and/or funding, as applicable) are applied to the following uses:
 - Senior debt
 - Buying-out the limited partner interest
 - Any exit taxes that may be incurred in the case of the exit of the limited partner/investor from an existing tax credit project
 - Rehabilitation costs
 - Seller carry-back loan (if provided by an unaffiliated third party)
 - Reserves
 - Any other costs, such as transactional costs, subject to a 50-50 split between the City and the developer/borrower to be paid on a pari-passu basis.

See the [Project Expense Policy](#) for further information.

3. Additional Loan Terms and Conditions

<p>Limitations on Use of Excess Proceeds from a Cash Out</p>	<p>As specified in the section immediately above, the City limits the conditions under which a developer may use “Excess Proceeds” from a Cash Out and requires a 50/50 split of any other costs not specified therein.</p> <ul style="list-style-type: none">• Sponsor, General Partner, and other affiliate loans may only be repaid from developer’s share of these Excess Proceeds.• City’s share of these Excess Proceeds will first be applied to any accrued interest owed to the City on City loans or ground lease, as may be applicable, and then to outstanding balance payable under the City loans or ground lease, as applicable.• The 50-50 split may also need to include payments to other public lenders. <p>The City may consider a waiver of the 50-50 split of these Excess Proceeds:</p> <ul style="list-style-type: none">• If the developer can demonstrate that the developer’s equity investment (including cash contributions and sponsor loans) in the property is greater than 50% of the sum of (a) total equity (excluding tax credit investor equity) and (b) subsidy provided by the City. In the event developer has provided more than 50% of the total funding, then the developer may retain that percentage of Excess Proceeds. In regards to contributed General Partner equity, the City will evaluate on a case-by-case basis the appropriateness of including past contributed General Partner equity as a legitimate developer contribution warranting a waiver to this 50-50 split.• If the waiver would result in an increased net public benefit (e.g., rehabilitation of other affordable properties that developer may own and operate due to the investment of Excess Proceeds from an identified property).
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4. City Loan Fees

<p>Loan Fee Schedule and Terms</p>	<p>The City will annually publish a fee schedule for City loan transactions and monitoring fees that will be included in the City’s Master Fee Schedule. Developers must pay the applicable City loan fees associated with each transaction in accordance with the City’s Master Fee Schedule that is in effect when the relevant transaction date occurs.</p> <p>As further described below, fees related to a City loan transaction and any additional amounts to reimburse the City’s costs will be specified as part of the City’s commitment letter and loan agreement, and they will be payable as follows:</p> <ul style="list-style-type: none"> • City Loan Origination– Payable upon construction loan closing. • City Loan Conversion– Payable upon conversion of construction to permanent loan. • City Loan Refinancing and Recapitalization– Payable upfront per transaction. • City Loan Restructuring– Payable upfront per transaction. • Owner Transfer– Payable upfront per transaction. • Developers must pay annual fees out of project cash flow to reimburse the City’s costs for loan servicing and affordability restriction monitoring as follows: <ul style="list-style-type: none"> • The initial annual fee amounts (first year) will be based on the City’s Master Fee Schedule that is in effect when the construction loan closes or an alternative transaction date as specified in the City’s commitment letter and loan agreement. • Thereafter, fee amounts will annually escalate by 3% per year. •
<p>Annual Fee Increase</p>	<p>City loan fees associated with each transaction will increase in accordance with the City’s Master Fee Schedule, and the fee amounts will be based on the Master Fee Schedule in effect when the relevant transaction date occurs.</p> <p>Annual Loan fees associated with a City loan for a specific development will increase 3% per year from construction loan closing or other applicable transaction date.</p>
<p>Additional Fees and Charges</p>	<p>The City’s loan fees and any additional amounts to reimburse City costs will be specified in the City’s commitment letter and loan agreement, and the amounts owed will be payable pursuant to the terms of the loan agreement.</p> <ul style="list-style-type: none"> • The City will require reimbursement of certain expenses for individual loan transactions (e.g., City planning review and permit processing fees as well as City financial, environmental, legal, and other consultant fees). • The City reserves the right to charge additional amounts to reimburse its transaction costs, such as for in-house and third-party legal and consulting fees or for expenses related to refinancing, property transfer, or changes in ownership, which must be paid by the developer at closing for the City loan or applicable transaction. • The City will work with bond issuers on a project specific basis to mutually agree upon the City’s share of bond issuance fees and annual fees, as well as the City’s responsibilities regarding long term monitoring.

E. DEVELOPMENT COST AND UNDERWRITING POLICIES

1. Development and Construction Policies	
Developer Fee	See Developer Fee Policy below for definitions and policies. Development consultant fees must be included in the developer fee, consistent with CTCAC requirements.
GC Contract	<p>GC contract shall be a Cost Plus a Fee with a Guaranteed Maximum Price (GMP) on all projects, with the stipulation that all savings go to the Developer/Owner subject to City requirements regarding payment of Excess Proceeds. (See Project Cost Savings for City policies related to project cost savings and Excess Proceeds.)</p> <ul style="list-style-type: none"> • Construction contracts must be approved by the City unless the City agrees to waive this requirement. • Contracts must be in the most recent AIA form and must include a clearly defined scope of work, detailed construction budget, and a construction schedule acceptable to the City. • All materials and workmanship must have at least a one-year warranty beginning with the final certificate of occupancy; the roof must be covered by a manufacturers’ NDL 20-year roof guaranty. • City specific exhibits must be included in GC contract.
GC Performance and Payment Bonds	The GC must obtain performance and payment bonds with City named as co-obligee for the full amount of the construction contract from a surety source approved by the City that is licensed in California with an AM Best rating acceptable to the City. Under certain circumstances the City may accept an alternative form of assurance of project completion.
Construction Budget	<p>The developer shall provide a construction budget that provides hard construction costs by major cost component prepared by a cost estimator and/or General Contractor with recent affordable housing construction experience in the Bay Area.</p> <ul style="list-style-type: none"> • The budget should include all elements required by CTCAC regulations and should be provided in the format required by City, if applicable. • The budget should clearly identify and break out hard construction costs, contractor profit, general requirements, and contractor overhead, and a detailed breakdown of general requirements should be included in the schedule of values included in the GC contract. • The budget should include supporting documentation and cost estimate calculations that match the developer’s financial pro forma(s) and supporting data regarding the development program used in the cost estimate: <ul style="list-style-type: none"> • Building gross square feet by use (residential, parking, non-residential, etc.) • Number and type of parking spaces (podium, below grade, stackers, etc.) • Distribution of units by bedroom size and average residential net square feet for each unit type, as well as total residential net square feet.
Construction Standards	The project must meet minimum health, safety and energy conservation code standards according to Federal, State and local building standards and associated Building Code requirements, including the City’s REACH code.

1. Development and Construction Policies

Rehabilitation Projects	<p>Developers must commission a third-party assessment of the 15- to 20-year capital/physical needs of the property and 20-year replacement reserve study for rehabilitation projects.</p> <ul style="list-style-type: none"> The developer must submit a rehabilitation budget for the project that includes rehabilitation or replacement of all major systems and components found to have a remaining useful life of 15 years or less based on the capital/physical needs assessment The project funding plan must demonstrate that adequate funding can be provided to accomplish the rehabilitation budget and provide for a minimum budget of \$40,000/unit in hard costs unless documentation is provided regarding why a lesser amount of rehabilitation is required.
Limitations on Contractor Profit, Overhead and General Conditions	<p>Per CTCAC regulations, contractor profit, general requirements and contractor overhead cannot total more than 14% of the cost of construction, excluding builder's general liability insurance.</p> <ul style="list-style-type: none"> For purposes of contractor/builder overhead and profit, the cost of construction includes offsite improvements, demolition and site work, structures, prevailing wages, and general requirements. For purposes of general requirements, the cost of construction includes offsite improvements, demolition and site work, structures, and prevailing wages. Contractors' liability insurance and bonding should be a separate construction budget line and not included in overhead or General Requirements. <p>Project developers shall not enter into fixed-price contracts that do not account for these restrictions and shall disclose any payments for services from the builder to the developer.</p>
Hard Cost Contingency	<p>Minimum hard cost contingency of 10% for new construction projects in planning/predevelopment stage and 15% for rehabilitation projects, but the City may require more or less depending on project size, City loan size, specific project characteristics, or stage of construction.</p> <p>Contingencies included in budget should correspond to a project's stage of anticipated development at time of construction budget or City loan funding.</p>
Prevailing Wage	<p>City policy requires all projects that receive City loan(s) or land write-downs to pay prevailing wage for construction. Projects assisted with Federal funds must also comply with Davis-Bacon requirements as applicable.</p>
Soft Cost Budget	<p>The developer shall provide a line item budget for soft costs, which are defined as costs not directly related to the acquisition of land, site improvements or construction of buildings.</p> <ul style="list-style-type: none"> Soft costs include professional work, such as architectural and engineering, loan interest and fees, government fees/permits, legal and consulting fees, developer fee, reserves, etc. Architecture, survey, engineering, legal, and construction financing costs must be reasonable and within industry standards

1. Development and Construction Policies	
Soft Cost Contingency	Minimum soft cost contingency of 10% of soft costs excluding developer fee and construction loan interest, but the City may require less depending on project size, City loan size, specific project characteristics, or stage of construction.
Costs Excluded from Budget	For purpose of allocating City housing funds, the City will follow CTCAC's exclusions related to project elements and land allocated for non-residential uses.
Operating Reserve	<p>For underwriting purposes, the City policy mirrors State HCD's and CTCAC's guideline of a minimum of three months of operating expenses (inclusive of resident services paid out of operating income) and debt service.</p> <ul style="list-style-type: none"> • A higher amount may be allowed if required by the investor or lender. • The operating reserve must be replenished out of cash flow if it drops below initial reserve amount. • If the operating reserve is not replenished within one year, the developer/sponsor must notify the City, and the City must review and approve a schedule for how funds will be replenished and drawn down in the future. <p><i>Please refer to "Revenue and Operation Policies" in the following section for further information.</i></p>
Rental Assistance or Subsidy Transition Reserve	<p>A reserve to cover potential loss of rental assistance (such as project based vouchers or similar subsidy) may be approved if required by Senior Lender or investor, but the calculation methodology will be subject to City approval.</p> <ul style="list-style-type: none"> • When this reserve is no longer required by lenders or investors, any unused balance shall be considered a source of income for purposes of calculating residual receipts and repayment of any outstanding City loan balance.
Reserves Must Remain When Investor Exits	<p>Reserves must remain with the project when the investor exits the owner entity.</p> <ul style="list-style-type: none"> • This requirement must be reflected in any purchase option or right of first refusal agreement to acquire the project or the investor's interest after the initial 15-year IRS tax credit compliance period.
Income During Construction	Net rental income from operations during rehabilitation and/or prior to permanent loan conversion shall be included as a source of construction funds.
Other Budget Considerations	<p>Waivers, reductions and/or exemptions of City fees or taxes may be included as a "Project Source" if they are also classified as a "Project Use" of funds and will be considered a "City Contribution."</p> <ul style="list-style-type: none"> • The Sponsor should consult with their tax advisor on the proper accounting and income tax treatment for these items.

1. Development and Construction Policies

<p>Change Orders</p>	<p>Copies of all change orders shall be provided to the City, and prior written City approval of any change order must be obtained if:</p> <ul style="list-style-type: none"> • The cost of such change exceeds \$100,000 • The aggregate amount of all changes exceeds \$250,000 • Regardless of cost, if such change is a material change in structure, design, function, or exterior appearance of the project • Regardless of cost, if such change would cause any line item to be increased or decreased by 5% or more, including the hard cost contingency • Regardless of cost, if such change could delay the completion of the project <p>General contractor markups on change orders are limited to the percentage of profit allowed in the contract and subcontractors are limited to 15% maximum markup on change orders.</p>
<p>Project Cost Savings</p>	<p>Developer's accountant shall provide a "Project Cost Savings" accounting report. All Project Cost Savings as determined by the Cost Certification shall be returned to the City, or if required, shared with the City and other soft lenders on a pro-rata basis after taking into account any reduction in tax credits:</p> <ul style="list-style-type: none"> • Net rental income from operations during rehabilitation or prior to conversion to permanent loan shall be included as a source of construction funds and included in the calculation of project cost savings. • The City may consider permitting a portion of any cost savings to be used to fund social services, rental assistance, operating reserves, or capitalized developer fee that may have been deferred to close of construction. • Within ten (10) business days after Borrower's receipt of capital contributions from its limited partner(s) following the issuance of the IRS Form 8609 for the Project, the developer shall pay a one-time payment in the amount of the City's share of Excess Proceeds from Project Cost Savings to the City as a reduction of the outstanding principal balance of the City loan, unless an alternative time frame is allowed by the City. <p>Excess Proceeds from Project Cost Savings shall mean the sum of all sources of financing received by Borrower for acquisition, construction and permanent financing of the Property and the Project, less the sum of actual uses as shown on the final cost certificate for the Project:</p> <ul style="list-style-type: none"> • Any City Contribution, including the value of a below market-rate ground lease and any fee waivers, reductions or exemptions that are considered a Project Source, shall be included as a component of the City's contribution for the purpose of calculating Excess Proceeds. • If required by other public agency lenders, the payment of these Excess Proceeds shall be allocated among such lenders in proportion to the amount of financing each has provided for the project.

2. Revenue and Operation Policies

Rents	<p>Rents for restricted units must be affordable to households at designated income levels based on the Santa Clara County Area Median Income and applicable Federal, State and local guidelines as updated from time to time.</p> <ul style="list-style-type: none"> • Rents for affordable units must be the lesser of the designated restricted rent limit or ten percent (10%) below current market rents for comparable units within the City unless an alternative rent structure is approved by the City or required by key project funders. • Depending on the characteristics of the development, HUD Fair Market Rents may be used as the second standard instead of market rents for comparable units.
Income and Expense Increases	<p>For loan underwriting purposes, City policy will be consistent with CTCAC policy which generally provides for 2.5% increase in income and 3.5% increase in expenses other than property taxes and replacement reserve deposits, or an alternative escalation factor as required by other key funders.</p> <p>Calculation of annual residual receipts will be done using actual income and expenses, as they may escalate over time.</p>
Commercial and Other Non-Residential Space	<p>Commercial and other non-residential space not directly related to the residential development should be excluded from underwriting assumptions for affordable housing units and follow all other applicable CTCAC guidelines:</p> <ul style="list-style-type: none"> • The financing plan for commercial and other non-residential space shall be provided to and approved by the City. No non-residential income will be included in the underwriting for affordable housing. • Rents for commercial and non-residential space must be equal to or less than market rent per square foot for comparable space. • Master lease of commercial and non-residential space is encouraged. • Depending on the development program, location or funding sources, the City may require that the developer prepare a “Non-Residential Development Plan.” <ul style="list-style-type: none"> • The Non-Residential Development Plan will describe the uses, prospective tenants, management, rent structure, lease terms including any provisions to make parking available and associated development costs. • Developer shall be required to actively market the non-residential spaces within the Project and use best efforts to avoid prolonged vacancies. • Unless City agrees otherwise, leases and rental agreements for proposed public benefit uses shall be at below-market rates. • The creation of a separate legal parcel may be required by the City on a case-by-case basis along with a specific financing plan for the commercial/non-residential space for this parcel. <p>City and other funding sources may impose additional requirements.</p>
Residential Vacancy Rates	<p>For underwriting purposes, residential vacancy allowances will be consistent with CTCAC policy, unless other funding source(s) requires a different allowance, and allowances will typically be:</p> <ul style="list-style-type: none"> • Five percent (5%) for family, senior, and at-risk developments • Ten percent (10%) for special needs and SRO developments

2. Revenue and Operation Policies

Operating Expenses	<p>The developer must submit an operating expense budget, which provides documentation for all estimated expenses based on comparable developments.</p> <p>The City will use the following operating expense standards for underwriting:</p> <ul style="list-style-type: none"> • Minimum operating expenses set by CTCAC per region and project type, which do not include property taxes, replacement reserves, depreciation or amortization expense, or the costs of any service amenities • Maximum operating expenses as approved by City in its sole discretion based on loan underwriting requirements, portfolio experience, property surveys and/or developer information • Information contained in recent appraisal reports both for the proposed development as well as for similar properties in the area.
Property Taxes	<p>Developers/owners must maintain current claim filings with the State Board of Equalization and County to benefit from the maximum allowable welfare property tax exemptions.</p>
Replacement Reserve	<p>Replacement reserve requirements shall be consistent with State HCD's Uniform Multifamily Regulations as updated from time to time unless the City authorizes a modification depending on the nature of the project or proposed funding sources:</p> <ul style="list-style-type: none"> • For new construction or conversion refinancing, the amount of required annual deposits shall be equal to a minimum of \$500/unit or a greater amount as required by other lenders or investors. • For rehabilitation projects, the amount of required annual deposits shall be determined by a 20-year replacement schedule based on a physical needs assessment prepared by a third-party consultant that is selected by the developer and approved by the City and prepared at Developer's expense. Generally, the reserve shall be funded at a minimum of \$500/unit/year or a greater amount based on the physical needs assessment or as reasonably required by the senior lender. • The City will rely on industry standards as applicable and as may change over time. Lower or higher annual replacement reserves may be acceptable based on the provision of substantial supporting documentation. • The Operating Reserve must include a minimum of three months capitalized replacement reserves, and the City may require an increase in this reserve amount depending on specific project characteristics. • Developer shall notify City regarding the withdrawal of replacement reserve funds that exceed \$25,000 per expenditure. City approval is required for withdrawals of a replacement reserve account that exceeds \$50,000 annually, whether spent individually or cumulatively. <p>As the City's goal is to maintain long term affordability and assure high quality affordable housing developments, the City may require alternative standards for replacement reserves and/or request that alternative reserve analyses be performed by the developer. For example, the City may request that the developer evaluate the financial impact of including a replacement reserve allowance based on a standard of 0.6% of the replacement cost of the structure (excluding construction contingency and general contractor profit, overhead and general requirements).</p>

2. Revenue and Operation Policies

<p>Partnership, Asset Management and Incentive Management Fees</p>	<p>For the purpose of calculating residual receipts, the following requirements will apply to the payment of partnership management and asset management fees unless an exception is approved by the City to meet requirements of other funders.</p> <p><u>Fees Payable Before Distribution of Residual Receipts</u></p> <ul style="list-style-type: none"> • Partnership and asset management fees may be paid before calculation of residual receipts but can only be paid after the payment of eligible operating expenses, reserves and mandatory debt service. (Refer to Project Expense policy for more detail regarding the priority of expenses.) • Partnership management fee- The maximum fees allowed to be paid annually before the calculation of residual receipts will be \$25,000 for the partnership management fee in year 1 of operations. • Asset management fee- The maximum fees allowed to be paid annually before the calculation of residual receipts will be \$7,500 for the asset management fee in year 1 of operations. The asset management fee payable to developer’s limited partner shall only be payable during the fifteen (15) year period commencing upon the Project placed-in-service date and will be excluded from the allowable expenses and calculation of residual receipts when the limited partner exits the partnership at the conclusion of year 15 or sooner as may be the case. • Maximum allowable increase in these fees will be 3 percent per year, escalating after the first year of operations. The City reserves the right to require a lower escalation rate as part of the periodic budget review process depending on annual project cash flow and the economic climate during project operations. • The payment priority and the amount of the partnership and asset management fees must be consistently applied with all other non-City funding sources <p><u>Fees Payable From Developer’s Share of Residual Receipts</u></p> <ul style="list-style-type: none"> • Incentive management fee– Any incentive management fee may only be paid from the developer's share of residual receipts. • Any amounts in excess of the maximum City allowable partnership management and asset management fees may only be paid from the developer's share of residual receipts. • Unpaid fees may accrue, but any accrued fee (and any interest paid thereon) may only be paid out of the developer’s share of residual receipts. Only fee amounts due for the current year are considered a permitted expense for the purpose of calculating residual receipts.
<p>Budget and Plan for Resident Services</p>	<p>Developers must submit a budget for any services to be provided to residents that are proposed to be payable before the calculation of residual receipts. This budget must provide documentation for all estimated expenses based on comparable developments, particularly for services for special needs and the formerly homeless (e.g., permanent supportive housing).</p> <p>As further described in the following section on Property Management and Compliance Policies, the developer must also provide a resident services plan, which the City must approve.</p>

2. Revenue and Operation Policies

<p>Limit on Allowable Expenses for Resident Services</p>	<p>The maximum annual allowable expenses (as of 2022) for resident services and coordination payable before the calculation of residual receipts are limited to the following amounts for projects that are not providing or coordinating “Supportive Services” as specified in State HCD’s Uniform Multifamily Regulations:</p> <ul style="list-style-type: none"> • \$30,000 for projects that are 50 units in size or smaller. • \$30,000 plus \$400/unit for each additional unit above 50 units. <p>Where applicable, the maximum annual allowable expenses (as of 2022) for resident services that include “Supportive Services” will be based on the amounts specified in State HCD’s Uniform Multifamily Regulations according to the applicable number of units by service category.</p> <p>The City may grant exceptions in order to meet requirements from non-City funding sources and/or if documentation is provided regarding why a higher expense would be needed to address the needs of residents.</p> <p>The City will allow an annual inflationary increase in these expenses consistent with CTCAC guidelines and State HCD’s Uniform Multifamily Regulations, where applicable.</p> <p>[See San Jose 2018 below; used this and HCD to recommend limits.]</p> <ul style="list-style-type: none"> • Resident services coordination expenses will be limited to the following AMI: <table border="1" data-bbox="548 919 1318 1142"> <thead> <tr> <th style="text-align: center;">Units Restricted to:</th> <th style="text-align: center;">Maximum Allowed Per Unit / Per Year</th> </tr> </thead> <tbody> <tr> <td style="text-align: center;">0 – 30% AMI</td> <td style="text-align: center;">\$575</td> </tr> <tr> <td style="text-align: center;">31 – 49% AMI</td> <td style="text-align: center;">\$475</td> </tr> <tr> <td style="text-align: center;">50 – 60% AMI</td> <td style="text-align: center;">\$325</td> </tr> </tbody> </table>	Units Restricted to:	Maximum Allowed Per Unit / Per Year	0 – 30% AMI	\$575	31 – 49% AMI	\$475	50 – 60% AMI	\$325
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<p>Other Sources of Funding for Services for Special Needs Residents</p>	<p>The City expects that expenses related to the provision of supportive services, case management and other related resident service expenditures to support formerly homeless and/or special needs households shall be paid by a separate source other than project income, which may include being funded as part of the project development cost through a non-City funding source. However, the City recognizes the need for ongoing onsite service delivery management (e.g., 24/7 front desk coverage) as well as the need to coordinate the delivery of services to residents by third-party service providers.</p> <p>As a consequence, the City will evaluate on a case-by-case basis the proposed service delivery plan for residents and make a determination as to the appropriateness of the proposed service delivery expense in the proposed operating budget.</p>								
<p>Property Management and Incentive Fees</p>	<p>Property management fees must be inclusive of compliance management and generally should not exceed the following:</p> <ul style="list-style-type: none"> • Maximum Per Unit Per Month (PUPM) fee levels published annually by the U.S. Department of HUD for multifamily HUD-insured and HUD-assisted properties in the West Region. (As of September 2021, \$56 PUPM plus allowable add-on fees for specific types of properties up to a maximum of \$81 PUPM). • No higher than what is otherwise allowed according to CTCAC regulations or other relevant Federal or State requirements, unless excess is paid out of 								

2. Revenue and Operation Policies

	<p>developer’s share of Residual Receipts or if the City approves an alternative amount based on unique project characteristics.</p>
<p>Initial Operating Reserve</p>	<p>An initial “Operating Reserve” must be included in the project budget that shall not be less than three months of the following projected expenses during the first year of stabilized operations:</p> <ul style="list-style-type: none"> • Annual operating expenses (including resident services) • Annual replacement reserve deposits • Annual debt service for all non-contingent permanent loans • Subject to approval by the City, other annual expenses that are necessary to assure housing continues to be affordable to the proposed resident population (e.g., a rent reserve for permanent supportive housing for extremely low income residents).
<p>Annual Deposits to Operating Reserve</p>	<p>Annual deposits of not less than 2% of annual gross rental income are required to be made until an operating reserve has been funded at a sufficient level to maintain the initial operating reserve budget.</p> <ul style="list-style-type: none"> • Once attained, the operating reserve must be maintained at the level of three months of operating costs during the term of the City’s loan and/or regulatory agreement, but higher operating reserve requirements may apply for certain types of projects, such as permanent supportive housing. • Modifications may be allowed subject to the requirements of other funders
<p>Operating Reserve Replenishment</p>	<p>Operating Reserve replenishment (if required by limited partner or CTCAC) should be funded from developer’s share of Residual Receipts (see definition in Residual Receipts policy) unless the City approves an alternative funding source for replenishment of the Operating Reserve.</p>
<p>Senior Loan Debt Service Coverage Ratio</p>	<p>For underwriting purposes, projections may include a maximum 1.15 Debt Service Coverage Ratio for the first stabilized year based on projected eligible income and expenses unless Senior Lender has higher requirement.</p> <p>Projections must demonstrate that throughout the compliance period, a minimum 1.0 Debt Service Coverage Ratio will be maintained. If an adequate ratio is not maintained, a clear plan for when operating reserves will be drawn down and how the operating reserves will be replenished must be approved by the City.</p>

3. Property Management and Compliance Policies

<p>On-Site Property Management</p>	<p>All projects must include on-site management staff during normal business hours unless an alternative arrangement is approved by the City for smaller projects.</p> <ul style="list-style-type: none"> • The City must approve the property management agreement and related documents. • The City requires that the developer and/or property manager provide up to date contact information for property management staff that may be reached on a 24 hour basis for seven days a week.
<p>Qualifications for Management Entity</p>	<p>The developer must submit to the City the qualifications of the entity or entities that will manage the property and be responsible for the coordination and/or provision of services for residents for City review and approval.</p> <ul style="list-style-type: none"> • These qualifications must be submitted prior to loan closing. • Documentation must be provided to demonstrate that these entities have successfully managed affordable housing and been responsible for services for residents for at least five affordable rental projects with over ten units each. These developments must have been subject to a recorded regulatory agreement for at least three years prior to the application.
<p>Management Plan and Affirmative Marketing Plan</p>	<p>The developer must submit to the City a comprehensive management plan and affirmative marketing plan, lease agreement, and related documents for City review and approval.</p> <ul style="list-style-type: none"> • These documents must be submitted prior to loan closing unless City approves a later submittal date. • These documents must be consistent with the City’s Affirmative Marketing/Fair Housing Plan and address the requirements of the City Loan and/or Regulatory Agreement. In general, these are the key items to be addressed: <ul style="list-style-type: none"> • Describe the management team and how the owner and the management entity propose to manage and maintain the property. • Describe the actions that will be taken to affirmatively market units in compliance with fair housing laws and the City’s policies and procedures. • Describe the actions that will be taken to provide reasonable accommodation to residents. • Present the criteria, procedures and policies that will be used to determine tenant eligibility, notify eligible and non-eligible tenants, select tenants, provide a tenant appeals process, and create/maintain waiting list(s). • Provide a written description of the reasonable rules of conduct and occupancy, consistent with Federal and State law. • Provide a plan regarding the coordination and provision of services for residents, particularly supportive services for persons with special needs and/or for the formerly homeless. • Provide a parking management plan regarding how parking spaces will be provided and assigned. • Provide written procedures regarding the maintenance and management of the property, addressing neighborhood and/or tenant concerns, and

3. Property Management and Compliance Policies

	<p>assuring adequate funds are available for maintenance and repair.</p> <ul style="list-style-type: none"> • Provide additional documentation as determined during the City Loan underwriting process to ensure the property is adequately maintained and serving resident needs. • Once approved, neither the management plan and affirmative marketing plan nor the form lease agreement may be changed without City approval.
Income Certification	<p>Developers/owners are required to recertify tenant household incomes annually for all restricted rental units to ensure that tenants continue to meet applicable household income requirements.</p> <ul style="list-style-type: none"> • Rent schedules and utility allowances, including any increases, must be reviewed and approved annually by the City. • Projects that are also assisted with Low Income Housing Tax Credits or other public funding sources will be subject to all applicable rules regarding over-income tenants.
Ongoing Compliance	<p>All projects must comply with the City’s reporting and record-keeping requirements as stated in the Regulatory Agreement and/or Loan Agreement and any other reporting and record-keeping requirements of other funding sources.</p> <ul style="list-style-type: none"> • City staff will conduct compliance reviews of the project annually, or more often if necessary. • All projects must comply with the City’s affirmative marketing/fair housing plan.

F. DEVELOPER FEE POLICY

1. Purpose and Application of Developer Fee Policy

The purpose of the developer fee policy is to establish a guideline for the amount of developer fees for affordable housing projects in the City.

Given the rent restrictions on affordable housing projects, affordable housing developers do not make the majority of their profit through project cash flow like developers of market-rate rental housing. The City recognizes that developer fees are a significant part of the income on which affordable housing organizations depend for their survival and growth.

As described at the beginning of the Guidelines, the policies in these Guidelines are intended to be consistent with relevant CTCAC policies and regulations as they may be modified from time to time. All developments seeking City funding or restructuring in conjunction with the new construction, rehabilitation or recapitalization of affordable housing properties will be subject to the City’s developer fee policy.

This policy applies to any project that has not yet received a City financing commitment by the date of publication of these Guidelines.

2. Definitions of Developer Fee Components

Developer Fee Definition	The City defines Developer Fee as it is defined in the CTCAC Regulations, California Code of Regulations Title 4, Division 17, Chapter 1, as they may be updated from time to time. As of June 16, 2021, CTCAC Regulations define Developer Fee as follows: “All Funds paid at any time as compensation for developing the proposed project, to include all development consultant fees, processing agent fees, developer overhead and profit, construction management oversight fees if provided by the developer, personal guarantee fees, syndicator consulting fees, and reserves in excess of those customarily required by multi-family housing lenders.”
Maximum Allowable Developer Fee	The Maximum Allowable Developer Fee is the lesser of the fee amount permitted to be included in project costs and eligible basis pursuant to CTCAC Regulations and any maximum imposed by the City or any other public agency lender.
Capitalized Developer Fee	Capitalized Developer Fee is the portion of the Maximum Allowable Developer Fee that is allowed and budgeted to be paid out of project sources. Developers may elect to defer payment of a portion of the allowable Capitalized Developer Fee.
Excess Developer Fee	Excess Developer Fee is defined as the difference between the Maximum Allowable Developer Fee and the Capitalized Developer Fee. The Excess Developer Fee is contributed as general partner equity or is paid from future project cash flow. <ul style="list-style-type: none"> • The Excess Developer Fee equals the sum of the Contributed Developer Fee and the Deferred Developer Fee as defined below.
Contributed Developer Fee	Contributed Developer Fee is defined as the portion of the Excess Developer Fee that is contributed toward project costs and used as a permanent and/or construction source consistent with underwriting and legal requirements of all project investors and lenders.

2. Definitions of Developer Fee Components

Deferred Developer Fee	Deferred Developer Fee is defined as the portion of the Excess Developer Fee that is not contributed and is payable out of project cash flow. Typically, the City requires Deferred Developer Fees to be payable from the developer’s portion of project residual receipts without interest. Deferred Developer Fees must be payable within a time frame established by the project’s tax counsel.
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3. Limitations on Developer Fee

Maximum Developer Fee for Projects Utilizing Tax Credits	<p>In general, the City’s policy regarding the maximum developer fee for projects receiving Federal and/or State Low Income Housing Tax Credits will follow the limitations established in CTCAC Regulations, California Code of Regulations Title 4, Division 17, Chapter 1, as may be updated from time to time. However, the City reserves the right to limit the amount of allowable Developer Fee in its sole discretion, for example, to ensure project feasibility.</p> <p>For projects that are not subject to CTCAC limitations, the City may impose developer fee limits in its sole discretion, which are equal to or less than the amount permitted by CTCAC regulations, or may permit a developer fee that exceeds otherwise applicable CTCAC limits in certain circumstances (e.g., to compensate for providing additional community benefits).</p>
Limits on Capitalized Developer Fee	<p>The maximum amount of the Capitalized Developer Fee that can be paid out of project development sources (i.e., a “project cost”) will be equal to the lesser of the following limits:</p> <ul style="list-style-type: none"> • Limit established by CTCAC, or • Limit established by a public funder, such as State HCD or County of Santa Clara, or • Limit that the City establishes as part of its Notice of Funding Availability. <p>The City considers the Capitalized Developer Fee to be a potential source of funds that may be needed to address unanticipated cost overruns or other development circumstances that change the project funding requirements.</p>
Limits on Deferred Developer Fee	<p>Any Deferred Developer Fee shall be paid from the developer’s share of Residual Receipts (typically 25% to 50% of Net Cash Flow as further defined in the Operating Expense and Residual Receipts Policy below) unless the City allows an alternative repayment structure to meet State or Federal funding requirements.</p> <ul style="list-style-type: none"> • The developer must demonstrate to the City’s satisfaction that the payments of Deferred Developer Fee will not adversely affect repayment of the City’s loan or inhibit the preservation of the property as affordable housing. • No interest shall be payable on Deferred Developer Fee unless specifically authorized by the City. Any such permitted interest must be paid solely from Developer’s share of Residual Receipts and must not exceed the lesser of the Applicable Federal Rate or the limit imposed by CTCAC regulations.

<p>Limits on Contributed Developer Fee</p>	<p>The developer must demonstrate to the City’s satisfaction that the Contributed Developer Fee meets all of the following requirements:</p> <ul style="list-style-type: none"> • Will not inhibit the preservation of the property as affordable housing for 55 years or longer. • Will be a general partner contribution as defined by tax counsel and meet the underwriting requirements of all project investors and lenders. • Will not impair the ability of a nonprofit general partner entity to acquire ownership of the project at a restricted amount that enables the property to be preserved as long term affordable housing. (In the case of tax credit developments, the general partner is typically a nonprofit entity that holds an option/right of first refusal to acquire the project or the limited partner’s interest upon termination of the tax credit compliance period for an amount equal to the remaining permanent debt and any tax liability that the investor/limited partner may have at time of its exit from the limited partnership ownership structure.) <p>The Contributed Developer Fee may take the form of a “note payable” from the limited partnership to the General Partner, subject to the limitations set forth in these Guidelines.</p> <ul style="list-style-type: none"> • No interest shall be payable on the Contributed Developer Fee unless specifically authorized by the City. • Any such permitted interest must be paid from Developer’s share of Residual Receipts, must not exceed the lesser of the Applicable Federal Rate or the limit imposed by CTCAC regulations, and must meet all other requirements of the senior lender and investors.
<p>Maximum Developer Fee for Projects Not Using Tax Credits</p>	<p>For projects not using bonds and/or tax credits, such as small special needs or permanent supportive housing developments or small rehabilitation projects, the maximum developer fee shall be determined on a per unit basis:</p> <ul style="list-style-type: none"> • \$30,000 per unit for the first 20 units • \$20,000 per unit for units 21 through 40 • \$15,000 per unit for units 41 and above
<p>Capitalized Developer Fee Pay-In Schedule</p>	<p>If reasonable and consistent with prevailing market practices and considered within market reasonableness, the City will defer to the project lenders and/or investors regarding the schedule for Capitalized Developer Fee payment but in general will apply the following standard:</p> <ul style="list-style-type: none"> • 25% at Construction Start • 25% during Construction • 50% after 6 months of stabilized occupancy

4. Example of City's Developer Fee Policy for Project with Tax Credits

The following is an example of a 120-unit 4% LIHTC new construction property as of the fourth quarter 2021:

- Developer Fee included in basis is \$4,000,000.
- Allowable Capitalized Developer Fee is \$2,900,000 if consistent with CTCAC guidelines, other project lenders and approved via underwriting process. (*CTCAC 2021 limit is \$2,500,000 + \$20,000 per unit above 100 units, or \$2,500,000 plus \$400,000.*)
- Excess Developer Fee is \$1,100,000 and is payable through a combination of Deferred Developer Fee and Contributed Developer Fee (amounts to be determined through developer's tax counsel and/or tax consultants).

The typical allowable pay-in schedule for Capitalized Developer Fee will be:

- Construction start – 25% of \$2,900,000 or \$725,000
- During construction – 25% of \$2,900,000 or \$725,000
- After 6 Months of Stabilized Occupancy – Remaining balance or 50% of \$2,900,000 or \$1,450,000

The Deferred Developer Fee may be paid out of the developer's share of residual receipts.

The Contributed Developer Fee is considered an upfront General Partner contribution in the project's Sources and Uses of funds.

G. GROUND LEASE POLICY

1. Purpose and Application of Ground Lease Policy

The ground lease policy applies to projects that will be developed on land leased from City or third parties, including land that will be conveyed to City and then leased to the developer. The purpose of this policy is to ensure the long-term affordability and viability of publicly funded housing.

2. Ground Lease Terms and Conditions

Term	<p>The initial ground lease term will be for a minimum of 65 years, which can be modified to coincide with the term of permanent debt upon loan conversion or other development conditions or if needed to meet the “true debt test” (i.e. if any portion of the project financing cannot reasonably be projected to be repayable or refinanced at maturity given the ground lease restrictions).</p> <p>The City will consider an option to extend the term if all of the following occurs:</p> <ul style="list-style-type: none"> • No default exists under the Ground Lease, • The Developer demonstrates that the extension is reasonably required in order to refinance existing debt and maintain Project feasibility, and • Residential rent and occupancy restrictions will continue to apply throughout the extension period. <p>The maximum ground lease term with extensions is 99 years.</p> <ul style="list-style-type: none"> • At expiration of term, or when the lease is otherwise terminated, title to the improvements shall revert to and vest in lessor without cost to lessor, or lessor may require demolition at ground lessee’s expense.
Annual Rent	<p>For City owned land, the City will consider allowing a below market rate ground rent payment and allowing annual payments to be paid from residual receipts in coordination with payments due on any City-provided residual receipts loan.</p> <ul style="list-style-type: none"> • The City reserves the right to charge additional ground lease payments related to the market value of the land after the initial ground lease term, which will be established in a manner to allow for the continued preservation of affordable housing and to meet the “true debt test.” • If a property is not owned by the City, the City may consider alternative ground lease payment arrangements taking into consideration maintenance of affordability restrictions and the ability of the project to repay the City’s loan(s). <ul style="list-style-type: none"> • For example, the Developer may pay an applicable third-party ground lease payment pursuant to a third-party ground lease that has been approved in writing by the City.

2. Ground Lease Terms and Conditions

Affordability Restriction	<p>The restrictions will be documented in an Affordable Housing Regulatory Agreement recorded against the leasehold estate.</p> <ul style="list-style-type: none"> • For tax credit eligible developments, affordability restrictions will require affordable rents and occupancy restricted to households with incomes not greater than applicable rents permitted under CTCAC limits with a preference for deeper affordability. With City approval, tax credit projects may include units restricted for occupancy by households with incomes up to 80% AMI with an average income for all units of less than 60% AMI. • For other developments, the City will allow affordability restrictions up to 120% AMI with substantial supporting documentation regarding why this is needed.
Assignment	<p>The ground lease may not be assigned in whole or in part without prior City written approval. Subleases (other than for residential units) will require City's prior written approval.</p>
Encumbrances	<p>For City owned land, security instruments and regulatory agreements can only be recorded against the leasehold estate, and not the City's fee interest. Without exception, this requirement also applies to any State of California funding including State HCD and CalHFA financing unless required by applicable State regulations in order to secure needed funding.</p>
City Option to Purchase	<p>If another public agency requires the fee interest in the property to be owned by a public agency, priority will be given to the City of Mountain View to be the fee owner. If the property will be transferred to the City, the developer must obtain entitlements prior to the transfer, and shall indemnify, defend, and hold the City harmless against any liability arising in connection with hazardous materials existing on the property. The City's agreement to accept title to property is contingent upon satisfactory outcome of due diligence investigations (e.g., physical condition, environmental condition, title). City will take title only concurrently with the close of escrow for construction financing.</p>
Value of City Land Contribution	<p>If the City owns the property and the ground lease provides for a below market rate lease payment, the market value of the land will be considered as a City contribution for purposes of determining the City's share of excess proceeds, residual receipts, and proceeds of refinancing.</p>
Value of Third Party Public Agency Land Contribution	<p>If another public agency owns the property and the ground lease provides for a below market rate lease payment, the market value of the land as determined by an appraisal may be considered as that public agency's contribution for purposes of determining their share of excess proceeds, residual receipts, and proceeds of refinancing. However, if the ground lease payment amount is determined based on market value or is significantly higher than \$1 per year, then the market value of the land may not be considered as a public agency contribution.</p>

H. PROJECT EXPENSE POLICY

1. Purpose and Application of Project Expense Policy

The purpose of this policy is to clearly define eligible and ineligible operating expenses for the determination of a project's Net Cash Flow and resulting Residual Receipts payments. All projects applying for City funds will be subject to this policy, including new projects and projects with existing City funding that request additional funds, recapitalization, restructure, or refinancing. The terms and definitions in existing loan documents for properties with City loans or funding will continue to apply if no additional City funds, refinancing or restructuring is requested.

Please refer to other sections of the Guidelines for specific underwriting policies that apply to project revenues and expenses.

2. Calculation of Effective Gross Operating Income

Gross Potential Rent	Total gross potential rent for the project based upon applicable affordability restrictions.
Subsidy Income	Federal rental assistance, other rental subsidy income, and tenant services or operating subsidy income in the amount not already included in Gross Potential Rent.
Other Income	Other income collected from tenants or lessees such as parking, laundry, vending, etc., and all other income received by the Project owner, e.g., proceeds of business interruption insurance, and when not used for Project expenses, the proceeds of casualty insurance and release of funds from reserves.
Vacancy, Collection, Concessions Losses	Actual income lost due to tenants vacating the property and/or tenants defaulting (not paying) their lease payments.
Effective Gross Income (EGI)	Effective Gross Income (EGI) is the sum of all of the above income sources minus the actual vacancy/collection loss for the particular calendar year.

3. Calculation of Permitted Operating Expenses and Net Operating Income

Administrative Expenses	Marketing/advertising, computers/software licensing, audits, legal, dues/subscriptions, office supplies, telephone/internet, travel/mileage, bank charges/postage and training, license and permit fees, loan, and affordability restriction and loan monitoring fees
Property Management Fees	The fee permitted to be paid to the approved property manager pursuant to a City-approved property management agreement.
Salaries and Benefits	The cost of the direct part-time and full-time personnel that work at the property, if not included in the property management fee.
Repairs and Maintenance	The cost of repairs and maintenance for the property paid for out of cash flow and not from reserve withdrawals.
Utilities	Owner-paid electricity, water, sewer and gas, trash collection, and other utilities not paid by tenants.
Taxes and Insurance	Property taxes and assessments and property and liability insurance
Other Operating Expenses	Expenses particular to the property and/or required by the project financing partners must be disclosed and will be subject to the City's reasonable approval.
Services for Residents	Expenses for services for residents may be included as an annual expense subject to the City's underwriting policies. <ul style="list-style-type: none"> • If services required by residents of a permanent supportive housing development are provided by a third-party contractor, and the cost is not covered by the County or another public agency, then the City will review the projected costs. • In the case where the service cost is covered by the County or another public agency, the City will review the operating budget to determine the appropriateness of the costs for on-site staff service coordinators.
Replacement Reserve	Annual required deposits into the Replacement Reserve
Net Operating Income (NOI)	Effective Gross Operating Income less all of the above Operating Expenses

4. Calculation of Senior Debt Service and Net Available Cash

Senior Loan Debt Service	Senior debt service obligations that must be paid in annual or monthly payments, excluding all debt payable on a residual receipts or deferred basis.
Other Loan and Financing Fees	Required trustee fees, bond administration fees, annual loan and monitoring fees required by public agency lenders, and other financing expenses, if applicable and approved by the City.
Net Available Cash	Effective Gross Operating Income less Operating and Debt Service Expenses

5. Operating Adjustments and Exclusions

Purchase of fixed assets/capital items	The cost of capital items typically paid for by replacement reserves is excluded from Operating Expenses.
Depreciation / Amortization	Depreciation and amortization are excluded from the cash flow calculation.
Deposits into and withdrawals from restricted cash reserves	<p>Deposits into all reserves, subject to limits set forth in these Guidelines or otherwise approved by City, are included as an element of Operating Expenses.</p> <ul style="list-style-type: none"> • These may include operating deficit reserves, replacement reserves, and resident service reserves. <p>Project expenses that are paid from accrued reserves are not included as a component of Operating Expenses.</p> <ul style="list-style-type: none"> • Withdrawals from reserves that are not used for project expenses are counted as a component of operating Income.
Other Adjustments	Other adjustments may include prior year expenses, if approved by the City as a permitted expense. Distributions to general partner, limited partner and related parties are not included as components of operating expenses.
Partnership Loans	Repayment of loans from general partner and investor limited partner may be included as an element of operating expenses only if and to the extent that such loans are made to cover operating deficits of the project. Interest on such loans should not exceed the Applicable Federal Rate. Payments on partnership loans may be included in other adjustments subject to the City's approval.
Other Debt	The City must approve all other debt and its repayment terms, including General Partner, Sponsor, Seller carry-back, and Limited Partner loans.
Tax Credit Adjusters	Tax credit adjusters (decreases), such as adjustments to the amount of tax credit equity that occur as the result of Federal tax code changes or changes in project costs, may be included as a component of operating expenses only if required to be paid from project cash flow and not from a separate guarantee.
Operating Adjustments	Operating adjustments equal the sum of allowable reserve deposits, and other allowable operating adjustments incurred during a particular calendar year.

6. Total Permitted Annual Expenses and Residual Receipts

Third Party Ground Lease	The Developer may pay an applicable ground lease payment pursuant to a third-party ground lease that has been approved in writing by the City.
Partnership and Asset Management Fees	Partnership Management Fees (payable to General Partner commencing on project placed in service date) and Asset Management Fees (payable to investor limited partner during the tax credit compliance period or until it leaves the partnership) may only be paid after the payment of eligible operating expenses, required reserve deposits, and required debt service. Please refer to Development Cost and Underwriting Policies and Developer Fee Policy for further guidance.
Other Permitted Annual Expenses	The sum of all of the above permitted annual expenses and any other unique expenses specifically approved for the project by the City
Total Permitted Annual Expenses	The sum of all annual permitted expenses that are allowed to be paid out of annual Effective Gross Operating Income.
Net Cash Flow	Net Cash Flow, prior to payment of residual receipts, is equal to Effective Gross Operating Income less Total Permitted Annual Expenses.
Residual Receipts	Net Cash Flow is used to make residual receipts to the City and other soft lenders to repay the City's loan and other soft lender loans with a specified remaining share allowed to be paid to the developer/sponsor.
Incentive Management Fees	Incentive Management Fees are only payable out of the developer's share of residual receipts.
Deferred Developer Fee	Deferred Developer Fee may be paid out of the developer's portion of residual receipts. Please refer to the Developer Fee Policy for further guidance.

I. RESIDUAL RECEIPTS POLICY

1. Purpose and Application of Residual Receipts Policy

The objective of this policy is to define how residual receipts should be calculated for projects where the City is providing financing and to clarify how the City's share of residual receipts will be calculated. The last section of this policy also itemizes expenses that are not permitted in calculation of residual receipts.

2. Calculation of Residual Receipts

Residual Receipts is calculated based on a percentage share of net cash flow, calculated as follows

- **Effective Gross Income**
- Less: Permitted Operating Expenses and Senior Debt Service
- Less: Operating Adjustments
- Less: Other Permitted Annual Expenses EQUALS
- **Net Cash Flow**, which is used to make annual Residual Receipts payments to the City (and other soft lenders) and may be used to pay ground lease payments to City if applicable

3. City Share of Residual Receipts Payments

Generally, the City will require annual debt service payments on the City loan in the amount equal to fifty percent (50%) of Net Cash Flow as a Residual Receipts payment per the calculation outlined above.

Depending upon the magnitude of the City loan (based upon the absolute value of the City loan or calculated as a percentage of total project development costs) and depending upon the participation of other public agencies providing additional soft financing, the City may require the share of Net Cash Flow for Residual Receipts payments to the City and the other public agency lenders to be increased on a combined basis up to 75% of Net Cash Flow and the Developer's share to be correspondingly reduced.

The City's proportionate share of Residual Receipts will be determined on a pro rata basis, based on the percentage of the City's contribution to the total amount of financing provided by the City and all other public agency soft lenders that share in residual receipts.

For the purpose of determining the City's share, the City's contribution will include all funding provided by the City plus the fair market value of the land if the City conveys or ground leases the property for the project, consistent with other soft lender requirements.

The following is an example of a new construction property as of the fourth quarter of 2021:

- Total City Contribution – \$15,000,000, which equals the sum of a City loan of \$7,500,000 PLUS other City contributions based on Fair Market Value of City Owned Property and/or fee reductions of \$7,500,000.
- Soft Financing from Other Public Agencies – \$10,000,000
- City's Share of Net Cash Flow for Residual Receipts – 60% (\$15,000,000/\$25,000,000)
- Split of Residual Receipts—75% allocated to City and other public agencies with 25% to Developer
- Net Cash Flow at Stabilization – \$50,000
 - Developer's Share of Net Cash Flow – 25% or \$12,500
 - City and Public Agency Share of Net Cash Flow – 75% or \$37,500
 - City's Share – 60% times 75% or about 45% of \$50,000 or \$22,500
 - Other Public Agencies' Share – 40% x 75% or about 30% of \$50,000 or \$15,000

4. Limitations Regarding Calculation and Distribution of Residual Receipts

These Guidelines set forth specific standards for the calculation of residual receipts that indicate:

- What expenses are allowed to be paid from Effective Gross Income before distribution of residual receipts to the City, other soft lenders and the developer
- What expenses may be paid from the developer's share of residual receipts

Limitations on Expenses Payable Out of Effective Gross Income Before Distribution of Residual Receipts

For the purpose of calculating residual receipts, any expenses that exceed the allowable limits in the Guidelines or in the City Loan agreement may not be paid from Effective Gross Income unless specifically approved by the City in writing, which include but are not limited to the following expenses:

Property Management Fees

- Resident Services (Note: Additional amounts for Including service coordination and homeless case management may be allowed if project is a permanent supportive housing development or houses residents with special needs or those who have experienced homelessness or are at risk of homelessness.)
- Replenishment of Operating Deficit Reserve
- Replacement Reserve Deposits

Payable From Developer's Share of Residual Receipts

The following expenses may be paid out of the developer's share of residual receipts, with any other distributions of residual receipts to the developer subject to the approval by the City in writing:

- Partnership Management Fees and Asset Management Fees (in excess of allowable limits)
- Incentive Management Fees
- Deferred Developer Fee payments

Not Payable From Residual Receipts

No other expenses may be paid out of residual receipts unless specifically authorized in the Guidelines or the City Loan agreement (e.g. distributions to partners, other payments to general partner or sponsor, seller-carryback loans and other loans from affiliated entities, expenses paid from reserves, etc.)

J. AGREEMENTS WITH OTHER PUBLIC AGENCY LENDERS

1. Purpose of Policy Regarding Agreements With Other Public Agency Lenders

The purpose of this policy is to clearly define best practices and guidelines for how the City will work with other public agency lenders that provide residual receipts financing for projects where the City is providing financing. All projects will be subject to this policy, including any new projects and projects with existing City funding seeking an increase, recapitalization, restructure, or refinancing.

2. Key Terms and Conditions Regarding Other Public Agency Lenders

Lien Position	As a general rule, the City will require other public agency liens to be subordinated to the City deed of trust and the City Affordability Restrictions pursuant to a recorded subordination agreement. The City may agree to subordinate its deed of trust to deeds of trust recorded for the benefit of another public agency soft financing lender if the amount of project financing provided by the other lender is greater than the amount of the City financing or if required by State HCD regulations when one of its programs is also a funding source.
Affordability Restriction	While the City will not typically subordinate its Affordable Housing Regulatory Agreement, the City may consider subordination to another public agency lender or CTCAC if that entity records affordability restriction(s) and provides substantial justification for the subordination request that indicates how affordability will be maintained.
Residual Receipts	<p>The City may require the share of Net Cash Flow for Residual Receipts payments to increase up to seventy-five percent (75%), if there is another soft financing lender, as outlined in the Residual Receipts Policy above.</p> <ul style="list-style-type: none"> • Of this 75% of Net Cash Flow, the portion of Residual Receipts payments payable to the City will be determined based upon the pro rata share each soft lender provides for the project (including land value, as may be appropriate). • For example, if the project receives \$25 million in total gap funding payable from residual receipts of which \$15 million is provided by the City, the City will receive 60% of 75% of the Net Cash Flow as its Residual Receipts payment. The other public agency lenders would receive 40% of 75% of Net Cash Flow and the developer would retain 25% of Net Cash Flow as its share of residual receipts. • If other public agency lenders require hard debt service or significant annual ground lease payments, then their respective share of residual receipts may be accordingly reduced by the amount of the required payment. Please refer to Ground Lease Policy for further information.
Funding During the Construction Period	The City will disburse the proceeds of City construction loans as construction progresses in accordance with written draw requests and upon satisfaction of the requirements set forth in the City loan documents. These may include inspections, lien releases, etc. The City may require <i>pari-passu</i> distribution of the proceeds of construction loans provided by other public agency lenders. The City will consider requests for treatment of all or a portion of City funds as a permanent source in lieu of providing funding during construction.

2. Key Terms and Conditions Regarding Other Public Agency Lenders

Collaboration with Other Public Agency Lenders	As stated earlier, best efforts should be made for other public agency lenders to: <ul style="list-style-type: none">• Share third party reports, such as environmental and appraisal reports• Coordinate construction cost review and share monthly construction inspection reports to eliminate duplicative project costs.• Incorporate indemnification language in relevant reports or legal documents.• Require reliance language in consultant reports.
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