

# OFFICE OF HOUSING DEVELOPER FEE SCHEDULE

EFFECTIVE Date: July 2015

## INTRODUCTION

This OFFICE OF HOUSING Developer Fee Schedule applies to all multifamily rental housing projects for which City loan documents are executed after the effective date of this document and for which the City has not made a prior loan or investment. For information regarding allowable fees for projects seeking supplemental funding please see the Administrative and Financial Plan.

### A. PRINCIPLES

1. The use of the fee should not be controlled or prescribed by the City.
2. The fee framework relates to the net fee (the amount of cash the developer can keep, defined as the "Cash Fee"). It does not restrict additional developer fees where the surplus goes into the project or is loaned back to the project.
3. Projects that are required to provide housing and services for homeless individuals and/or families in 75% or more of the units should be allowed a higher fee, to balance the lack of opportunity such projects have to generate future income from operations.
4. The fee framework covers the activities described on the attached chart labeled "Activities Compensated by Fee."
5. The fee framework will apply to all project applicants using City development funding.
6. The developer will establish the actual fee within the fee framework based on the financial feasibility and affordability of an individual project.
7. The fee is intended to be the sole compensation for all direct staff costs, overhead and administrative costs associated with the development of a particular housing project.

### B. CALCULATION OF DEVELOPER CASH FEE

For the purpose of calculating the maximum Cash Fee, OH defines Total Development Cost ("TDC") as the Total Project Costs less capitalized reserves, soft cost contingencies, and less the requested developer fee amount. For this purpose, developer fees include all consultant fees (other than arm's length architectural, engineering, appraisal, market study and syndication costs) and all other fees paid in connection with the project for services that would ordinarily be performed by a

developer, as determined by OH. Total Project Costs (“TPC”) is defined as the total costs incurred in acquiring and developing the project as set forth in the Closing Budget (for purposes of the Cash Fee), or in an Independent CPA’s report of sources and uses of funds given to OH (for purposes of the Incentive Fee).

The maximum Cash Fee for Projects that are required to provide housing and services for homeless individuals and/or families in 75% or more of the units, in compliance with an OH Regulatory Agreement, shall be eight percent (8%) of TDC.

The table below establishes the maximum possible Cash Fee for all other projects.

<u>Portion of Total Development Cost</u>	<u>Maximum Fee</u>
Amount under \$1 million	12.0%
Amount between \$1 million and \$6 million	7.5%
Amount between \$6 million and \$12 million	5.0%
Amount over \$12 million	2.5%

**C. TIME OF ESTABLISHMENT OF CASH FEE**

The developer will determine and propose an actual Cash Fee according to the chart in section B, based on the financial feasibility and affordability targets of an individual project. This will be agreed to and finalized by the City at the time of loan closing.

If, at Project completion (as defined in the Office of Housing loan documents), the TDC is less than the TDC as shown on the Closing Budget attached to the City’s loan documents, the developer will not be required to re-establish the Cash Fee limit based on the actual lower TDC and the Cash Fee established at City’s loan closing will not be reduced to account for the reduction in TDC

If, at Project completion (as defined in the Office of Housing loan documents), the TDC is more than the TDC as shown on the Closing Budget attached to the Office of Housing’s loan documents, the developer will not be permitted to re-establish the Cash Fee limit based on the actual increased TDC. The cash developer fee established at Office of Housing’s loan closing will not be increased to account for the increase in TDC.

**D. FEE PAYOUT SCHEDULE**

The schedule below shows the maximum amount of fee allowed to be paid at the following project milestones:

- 50% at OFFICE OF HOUSING loan closing;
- 25% at start of construction;
- 20% during construction administration  
(paid proportionately to percent of construction complete);
- 5% at project close-out.

**E. INCENTIVE FEE**

The Incentive Developer Fee policy is a pilot program for projects funded by OH. The policy goal is to incentivize effective management of the cost of affordable housing development.

The Incentive Fee shall be available only to new construction or major rehabilitation projects, as defined by OH, whose residential TPC minus the cost of land and capitalized reserves is at least five percent (5%) below the applicable Washington State Housing Finance Commission (WSHFC) cost limits. TPC shall be based on an Independent CPA's report of sources and uses of funds given to OH ("Cost Certification"). If a project is 5% below TPC, the developer shall be allowed to take an additional fee equal to 10% of their Cash Fee. If a project's TPC is 10% below WSHFC cost limits, the developer shall be allowed to take an additional fee equal to 20% of their Cash Fee. The Incentive Fee will be released after all requirements to final disbursement as set forth in the loan agreement are satisfied. If the final cost certification does not confirm the cost savings goal the Incentive Fee will not be released.

**F. ACTIVITIES COVERED BY DEVELOPER FEE**

The activities on Attachment A ("Activities Compensated by Cash Fee") are intended to be compensated by the Cash Fee, whether or not the project applicant uses its in-house staff to perform them. No additional fee will be paid to cover the cost of hiring outside consultants or experts to perform the activities, except for certain relocation activities. For projects that include relocation, the developer will have overall responsibility as indicated on the chart. Costs for a consultant with appropriate experience to conduct tenant interviews and assist with relocation activities together with actual moving expenses should be budgeted separately. Finally, no reimbursables are allowed; the Developer Fee is intended to cover all expenses related to activities on Attachment A. Reimbursables paid to a consultant to perform the activities on Attachment A will be counted towards the Cash Fee limit.

## **Developer Fee Schedule**

### **Activities compensated by fee**

#### **Preconstruction**

1. **Initial feasibility:** Determine potential funding sources, prepare preliminary development budget, prepare preliminary operating budget site search: Identify and evaluate properties (title, occupancy, insurance, zoning, etc.), confirm compliance with CHAS policies, follow City siting procedures, determine possible ownership structures.
2. **Predevelopment financing:** Identify sources and prepare applications, negotiate loan terms and conditions, revise project budgets as necessary, predevelopment loan closing, establish procedure for and execute disbursements, submit reports as required.
3. **Site control:** Complete title research, neighborhood notification per OH policy, prepare purchase and sale agreement for legal review; modify as necessary, negotiate terms with seller, sign site control documents.
4. **Development team:** Select and negotiate contracts with: architect/engineer, legal counsel, developer, hazmat inspectors, soils analyst, management agent, other development team members, coordinate team meetings, coordinate and track team activities, prepare necessary reports and information.
5. **Final feasibility:** Review and revise design development, review and revise design development, review and revise project budgets, finalize selection of all funding sources, determine allocation of costs among funding sources, finalize ownership structure of project, complete due diligence, including: extent and cost of hazmat abatement; DCLU issues: title, zoning, and legal issues, development management plan, including: management and marketing staff plan, resident composition and housing needs, schedule of activities through rent-up.
6. **Relocation activities:** determine relevant relocation policies, determine extent of relocation and/or displacement, prepare relocation plan, budget, and schedule.
7. **Completion of financing:** Review financing package with City, finalize and submit all funding proposals, obtain funding commitments, review and evaluate loan documents, negotiate loan terms, prepare disbursement schedule and procedures, sign documents at loan closing(s).
8. **Property acquisition:** Complete negotiations with seller, satisfy contingencies in purchase and sale agreement, arrange for closing extensions if necessary, assemble and review necessary materials and documentation, select escrow agent and review escrow agreements, close on property, implement marketing plan.

9. **Occupancy:** implement tenant screening and selection process, monitor rent-up process, establish any necessary bank accounts.
10. **Close-out:** Submit final draw request, cost certification and certify relocation activity.

## Construction

1. **Working drawings and specifications:** Review design issues with architect; determine alternatives; arrange budget modifications with funding sources.
2. **Permits and approvals:** Complete applications for all permits, attend pre-design conference with City planning department (DPD), negotiate code issues with DBP, obtain approvals from design commission, obtain approvals from Fire department, coordinate MUP process.
3. **Contractor selection:** Manage bidding process; arrange inspections of property, negotiate and sign contract.
4. **Construction start-up:** Establish plans for quality assurance of construction progress, wage reporting, WMBE reporting, subcontractor utilization, and reviewing change orders; Participate in pre-construction conferences.
5. **Hazmat abatement:** Select consultants for asbestos, lead paint, etc., coordinate preparation of specifications and bid documents; conduct bidding process for contractors, prepare and sign abatement contracts, monitor abatement process through completion.
6. **Construction:** Attend weekly construction meetings, monitor construction progress, including regular site visits; review change orders and monitor funding, review draw requests and submit to lenders, monitor draw payments to contractor, coordinate relocation activities; ensure compliance with Section 3, WMBE, and wage rate requirements; oversee project close-out, including final inspections, reports and documents, punchlist review, obtain certificate of occupancy, sign final loan closings and review repayment schedule and procedures.
7. **Occupancy:** Follow up on warranty or call-back items.
8. **Close-out:** Complete WMBE, wage requirements and contractor retainage issues.

## Administrative Costs

All administrative costs, reimburseables or other expenses associated with the activities above are covered by the Cash Fee and cannot be billed separately. These include but are not limited to the following: checking account fees, copying charges, mailing costs, fedex or UPS fees or courier fees, parking or mileage fees, food or other refreshments.