Mayor's Office of Housing and Community Development
Policy on Development Fees For Tax Credit Projects
Effective Date: August 21, 2015

This MOHCD Developer Fee Policy for Tax Credit Projects applies to all developments seeking City funding in conjunction with new tax credit financing for the current project, including recapitalization projects with existing MOHCD loans. This does not apply to non-Tax Credit projects such as Small Site Program projects. It also does not apply to HOPE SF projects, which are subject to a separate HOPE SF Developer Fee Policy. Developers may include fees in their project budgets according to the terms below.

A.   MINIMUM FEES 5% of total development costs.

B.   MAXIMUM FEES

Project Type	9% Project - Maximum Fee	4% Project - Maximum Fee	Notes
New Construction	TCAC Maximum	TCAC Max for 9% Projects	If project basis < TCAC Threshold Basis, Developers shall include max 4% Fee in basis and recontribute fee in excess of 9% maximum to the project as a General Partner Contribution
Newly Acquired and Substantially Rehabilitated (PU Hard Cost >= $50,000)	TCAC Maximum	TCAC Max for 9% Projects	If project basis < TCAC Threshold Basis, Developers shall include max 4% Fee in basis and recontribute fee in excess of 9% maximum to the project as a General Partner Contribution
Substantial Rehabilitation (PU Hard Cost >=$50,000) by Existing or Affiliate GP -- **No New City Funds**	TCAC Maximum	TCAC Maximum	Repayment of existing City loans shall be made pari passu with any sponsor cash out via acquisition proceeds, up to the full value of the City loan
Substantial Rehabilitation (PU Hard Cost >=$50,000) by Existing or Affiliate GP -- **Includes New City Funds**	50% TCAC Maximum	50% TCAC Max for 9% Projects	Sponsor may take the allowable fee for Newly Acquired and Rehabilitated projects described above if 1) in the project's original syndication, sponsor did not take the maximum allowable developer fee; or 2) sponsor adds new affordable units to the project. Sponsor cash out is prohibited.
Recapitalization, acquisition, or transfer with less than $50,000 PU hard cost	No Fee	No Fee	

C.   FEE DISTRIBUTION

The Maximum Fee shall be divided equally between an "At-Risk Fee" and "Project Management Fee" (subject to the "At-Risk Fee Adjustment" described below).

Project Management Fees shall be distributed according to achievement of certain development milestones, as follows:

Milestone	Project Mgmt Fee Distribution	*(PM Fee assuming Maximum Fee is $2MM)* Total PM Fee: $1,000,000
Acquisition (or another agreed-upon milestone if acquisition is not applicable, e.g. being awarded a City-owned site through a RFQ/RFP process)	15%	$150,000
During or at Completion of Predevelopment/Construction Closing with no more than 35% of the total Project Management Fee shall be disbursed prior to construction closing	55%	$550,000
During or at Completion of Construction	20%	$200,000
Project Close-Out: Placed-In-Service application; 100% lease-up; City approval of sponsor's project completion report and documents	10%	$100,000
TOTAL PM FEE	**100%**	**$1,000,000**
TOTAL AT-RISK FEE		**$1,000,000**
TOTAL DEVELOPER FEE		**$2,000,000**

At-Risk Fee: The remaining 50% of the Maximum Fee is at-risk for cost overruns that exceed the available contingency funds in the final project budget approved by MOHCD at construction loan closing. The At-Risk fee may be paid at Project Close-Out, as defined above.

   1) At-Risk Fee Adjustment: when outside funding sources limit the Maximum Fee to a value less than MOHCD's standard (e.g., California's Department of Housing and Community Development), the At-Risk Fee shall be capped at $200,000 or 20% of the Maximum Fee, whichever is less.

D.   GENERAL PARTNER CONTRIBUTION

In the event a project has less than the allowable tax credit basis, MOHCD will permit an increase in the Developer Fee on the condition that any Fee in excess of the Maximum Fee must be invested in the project. For example if a project may include the 4% tax credit maximum developer fee of $2.5 million in its development budget in order to maximize its tax credit basis, but the developer must invest $500,000 of its fee in the project as a GP Contribution.

E. DEFERRED DEVELOPER FEE

If a project is required to defer a portion of its developer fee (which is not the required $500,000 GP Contribution), then such deferred developer fee must be taken over a minimum time period of 5 years for Local Operating Subsidy Program-supported projects or up to a maximum of 10 years in accordance with tax credit rules. Payment of Deferred Developer Fee may precede residual receipt payments of MOHCD loans and MOHCD's residual rent under its ground leases.

F. WAIVERS OF THE DEVELOPER FEE POLICY

The Citywide Affordable Housing Loan Committee may recommend a waiver or modification of any portion of this policy for the purpose of assuring project feasibility. All recommendations related to this policy are subject to the Mayor's approval in his or her sole discretion.

G. CDBG or HOME REQUIREMENTS

If MOHCD uses CDBG or HOME funds to pay the development fee, it is considered "program income", and, should MOHCD request it, the sponsor must provide a report to MOHCD on its use of developer fees.

Recipients of CDBG administrative funding may not also receive a Project Management Fee for the same project covering the same time period.

H. POLICY IMPLEMENTATION

This policy applies to any development that has not received its gap financing commitment from MOHCD by the effective date of the policy.