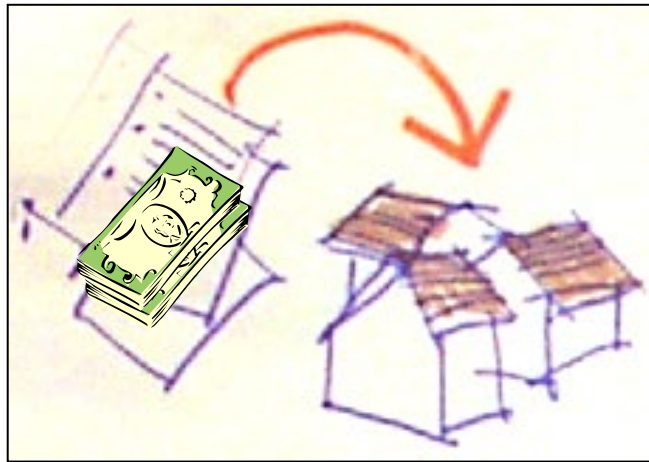




# CITY OF SANTA CRUZ AFFORDABLE HOUSING TRUST FUND



## **Administrative Guidelines**

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*Department of Economic Development & Housing  
Housing & Community Development Division*

As adopted by the City Council on October 28, 2003 by Resolution No. NS- 26,410

As revised by City Council on April 25, 2006 (adding Section 5.4.i) by Resolution No. NS-27,214

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# City Of Santa Cruz Affordable Housing Trust Fund

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## Chapter 1: Statement of Purpose

The purpose of the City of Santa Cruz Affordable Housing Trust Fund, (AHTF), is to assist in the creation and preservation of affordable housing in the City of Santa Cruz for the benefit of low and moderate-income households.

## Chapter 2: Definitions

1. “Area median income” or “AMI” is established for metropolitan areas or non-metropolitan counties by the U.S. Department of Housing and Urban Development (HUD), pursuant to 42 U. S. C. Chapter 1437 et seq., to establish local income classification levels. These classifications are also used in California housing law with respect to income eligibility limits.
2. “Affordable Housing” for purposes of these Guidelines shall mean rental housing that is affordable to low and/or very-low income households and for sale housing that is affordable to moderate, low and/or very-low income households.
3. “Extremely low income household” shall mean a household having an income not exceeding thirty (30) percent of AMI adjusted for household size.
4. “Very low income household” shall mean a household having an income not exceeding fifty (50) percent of AMI adjusted for household size.
5. “Low income household” shall mean a household having an income not exceeding eighty (80) percent of the AMI adjusted for household size.
6. “Moderate income household” shall mean a household having an income not exceeding one hundred twenty (120) percent of the AMI adjusted for household size.
7. “In-Lieu Fees” are fees paid by a market rate developer in lieu of building affordable units within the development as a means of satisfying the City’s inclusionary housing requirement as specified under Chapter 24.16.030 of the City of Santa Cruz Municipal Code (Municipal Code). Under these Guidelines, the In-Lieu Fees will henceforth be dedicated to the AHTF as stipulated below.
8. “Permanent Local Housing Allocation (PLHA) Program” is a State program established by the Building AHTFs and Jobs Act of 2017. Funding is provided by a \$75 recording fee on real estate documents with 70% of these fees being set aside for PLHA programs. Jurisdiction funding amounts are annually defined by the State Department of Housing and Community Development (HCD), who administers the program. Jurisdictions must annually apply for these allocated PLHA funds.

### **Chapter 3: Housing Trust Fund Established.**

1. By Resolution No. NS-26,410, the City Council established a trust fund for a special revenue account under the name of the “Santa Cruz Affordable Housing Trust Fund”.
2. Accumulated and future Moderate, Low or Very-Low Income Housing Fund In-Lieu Fee dedications under Chapter 24.16.030(b) of the Municipal Code shall become AHTF property and shall be deposited directly into the AHTF. In-lieu fee dedications are allowed under Chapter 24.16.030 of the Municipal Code to be made by a market rate developer, upon application by the developer, to meet its inclusionary housing requirement. Accordingly, In-lieu fee dedications collected under Chapter 24.16.030 of the Municipal Code shall be deposited into the AHTF account.
3. Accumulated and future Permanent Local Housing Allocation (PLHA) Program funds shall become AHTF property and shall be deposited directly into the AHTF.
4. The AHTF may accept donations from individuals or organizations other than the City of Santa Cruz. Such donations may be designated for a specific project or purpose.
5. All moneys remaining in the AHTF at the end of any fiscal year, whether or not expended by the City, remain AHTF property.

### **Chapter 4: Management**

1. The Housing Division Manager under the Department of Economic Development shall serve as the Manager of the Affordable Housing Trust Fund. The responsibilities of the Manager, subject to direction of the City Council, shall include:
  - a. Maintaining all records of the AHTF.
  - b. Assisting prospective applicants requesting AHTF support in the preparation and presentation of their applications.
  - c. Monitoring the use of monies distributed to successful applicants for AHTF support to assure ongoing compliance with the purposes of the AHTF and the conditions under which these monies were granted or loaned.
  - d. Reporting annually to the City Council regarding the operation and activity of the AHTF.
2. The Director of the Department of Finance, or designee, in coordination with the Manager of the Affordable Housing Trust Fund shall be responsible for the following:
  - a. Disbursing and collecting AHTF monies.
  - b. Maintaining and managing a separate account or accounts for AHTF monies.
  - c. Maintaining financial records for the AHTF.

## Chapter 5: Distribution and Use of Housing Trust Fund Assets

1. Distributions may be made to individuals and/or private or public, profit or non-for-profit entities.
2. The types of investments the fund may make include: gifts, grants, loan guarantees, letters of credit or other forms of credit enhancement, or other disbursements deemed necessary and appropriate to fulfill the purposes of the AHTF.
  - a. AHTF funds used to provide construction loans and/or deferred payment permanent financing loans shall be at simple interest rates of no higher than 3 percent per annum, for payment of predevelopment costs, acquisition, construction, or rehabilitation of Eligible Projects.
3. Organizations or individuals bestowing a gift or grant to the AHTF may specify how such a gift or grant may be used. If the gift or grant has not been used for such purpose within a reasonable amount of time, or a time period specified as a condition of the gift or grant, the gift or grant shall be returned upon the request of the donor.
4. Types of projects in which the AHTF shall invest include:
  - a. Creation of new affordable units.
  - b. Preservation of existing affordable housing.
  - c. Assistance with multi-family rehabilitation programs.
  - d. Conversion of market rate units to affordable housing units.
  - e. Construction, conversion, or rehabilitation of accessory dwelling units (ADUs), or junior ADUs as defined in the Municipal Code.
  - f. Acquisition and rehabilitation of potential limited equity housing cooperatives.
  - g. First time Homebuyer loans.
  - h. Predevelopment loans/grants to assist non-profit and for-profit developers with project feasibility studies, site acquisition and preliminary design studies for potential affordable housing projects.
  - i. Administrative costs for affordable housing programs and projects for up to 5% of the AHTF.
5. Priority in all disbursements shall be given first to housing projects that guarantee the perpetual affordability of such housing and, second, to housing projects that guarantee a term of affordability of at least 55 years together with eventual recapture of the AHTF investment.
6. The following categories identify income groups that the AHTF will serve. The percentages shown are minimum target amounts or maximum allowed amounts of funding that will be expended in each category. If eligible projects are not found for a particular category within one year after funds have been deposited, funds targeted for that category may be moved into the contingency category to be allocated to other areas. Target set aside amounts and other restrictions are as follows:

- a. Extremely low-income (at or below 30% of AMI): Target 30% of AHTF funds.
  - b. Lower-income (at or below 80% of AMI): Up to 70% of AHTF funds.
  - c. Moderate-income (80% to 120% of AMI): Maximum of 20% of AHTF funds.
  - d. Contingency: Target 15% of AHTF funds. These funds can be allocated to provide for any of the identified categories above.
7. Projects will be evaluated with respect to criteria that are consistent with City goals and policies. In addition, projects that provide the following will be viewed favorably and when ranked against other projects, shall be given additional merit points:
- a. Projects that provide the greatest benefit per dollar of funds spent.
  - b. Projects that demonstrate higher equity in the project and/or a lower loan to value ratio.
  - c. Rental projects that have other funding sources identified and committed.
  - d. Rental projects which benefit the highest percentage of low and moderate income persons, provide the lowest rents, include a greater percentage of affordable units, or will maintain longer periods of affordability.
  - e. Rental projects that use program funds as a match or leveraging tool to stimulate the use of conventional and below-market resources, including tax credits, state and federal funding programs, and/or other funding sources.
  - f. Rental projects proposed by an applicant with a successful history of project development and/or property management, as appropriate.
8. When appropriate, the AHTF shall use existing City guidelines for homebuyer, homeowner Rehabilitation, or Accessory Dwelling Unit Programs. Guidelines providing for loans and/or grants for the development of multi-unit rental projects shall be as follows:
- a. A Nonprofit Community or Government Organization receiving an AHTF grant and/or loan must be a legally established tax-exempt nonprofit community organization recognized by the Internal Revenue Service and the Franchise Tax Board, a public agency, or other governmental agency.
  - b. Permanent financing shall be secured by a deed of trust against the land or a security agreement against physical improvements. A promissory note may be used for pre-development costs for up to 15% of the estimated project cost.
  - c. There must be at least 10% equity in the property after completion of a project. This value may be established by AHTF staff and/or an appraiser. Exceptions may be approved by the City Council.
9. Loan and Underwriting Guidelines for the AHTF are provided as an attachment to these Program Guidelines:

# ATTACHMENT I

## AHTF Loan and Underwriting Guidelines and Procedures

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For purposes of the AHTF Program, underwriting involves the analysis of project assumptions and risks to determine if the public investment is reasonable and the project can be expected to meet all applicable program requirements. The following are core components of the City’s underwriting and subsidy layering review of an AHTF project. Required actions/procedures are noted at the end of each section.

1. **Sources and Uses Statement and Pro Forma** - An examination of the sources and uses of funds for the proposed project and a determination that all project costs are reasonable. Before committing AHTF funds the City shall evaluate a proposed project to ensure that funds are invested such that the project is likely to succeed over time. City shall assess all of the assistance that has been, or is expected to be, made available to that project, and take into account all the factors relevant to project feasibility, which may include, but are not limited to total development costs and available funds; impacts of restrictions from AHTF and/or other sources of funding such as eligible costs, maximum subsidy limits, cost allocation, and rent/utility allowance limitations; rates of return to owners, developers, sponsors, or investors; and the long-term needs of rental projects and tenants. The following elements shall be reviewed and analyzed in forecasting project success:

- a. **Sources and Uses Statement** – the sources and uses document shall include the following:
  - i. **Sources** - all sources, both private and public, of funds with dollar amounts and timing of availability for each source must be identified.

**DOCUMENTATION:** The following documentation is required in support of the sources and uses statement:

- Commitment letters with all terms and conditions for all mortgages, grants, bridge (interim) loans and investment tax credits.

Acceptable documentation of firm financing include award letters, offer letters, final term sheets or commitments which are conditioned upon receipt of AHTF funds. For projects with low income housing tax credits (“LIHTC”) a reservation from the credit allocator and a good faith offer of equity investment from an investor is required.

- If the developer is a partnership or limited liability corporation, a copy of the partnership agreement or operating agreement which will indicate the cash contributions by the partners or members.
- If equity is committed by the developer or owner, evidence of available equity funds.

**ACTION TO BE TAKEN:** City shall determine whether funding sources are adequate and timely in their availability to cover costs at all phases of the project.

- ii. **Uses** - All uses of funds (acquisition costs, site preparation and infrastructure costs, rehabilitation/or construction costs, financing costs, professional fees, developer fees and other soft costs) associated with the project and their costs. All costs must be necessary and reasonable.

**DOCUMENTATION:** The following documentation shall be required:

- Acquisition documentation such as purchase agreement, option or closing statement and appraisal or other documentation of value.
- Construction cost estimate, construction contract, or preliminary bids.
- Contracts, quotes or other agreements substantiating key professional costs and the basis for estimating other soft costs and working capital items, including capitalized reserves.
- Agreements governing the various reserves which are capitalized at closing (to verify that the reserves cannot be withdrawn later as fees or distributions).
- A third-party appraisal to substantiate the value of the land and the value of the property after rehabilitation or the structure being built.
- If low income housing tax credits are utilized, documentation on the syndication costs (legal, accounting, tax opinion, etc.) from the organization/individual who will syndicate and sell the offering to ensure that the project can support the fees necessary to syndicate/fund the project.
- Project schedule.

**ACTION TO BE TAKEN:** City shall determine that the all of the proposed costs for the project are necessary and reasonable by considering costs of comparable projects in the same geographical area and costs published by recognized industry cost index services.

**b. Operating Pro Forma**

**DOCUMENTATION:** Developer shall submit an operating pro forma (project income and expense statement) for the length of the Affordability Period pertaining to the project unless another State or Federal funding source specifies an alternate length.

**ACTION TO BE TAKEN:** City shall evaluate the pro forma for the following:

- Reasonableness of the financial assumptions of the project to establish minimum total per unit operating costs.
- Sufficiency of specific line item and total operating costs.
- Determination that long-term operating projections over the Affordability Period are based on reasonable assumptions.
- Demonstration that project can cover expenses and debt service throughout the affordability period.



- Ensuring that cash flow projections are realistic in light of economic conditions.
- Determination that long-term operating projections are based on reasonable assumptions about how revenues and operating costs are expected to change over time.
- Determination that long-term operating projections over the affordability period are based on reasonable assumptions.
- Demonstration that project can cover expenses and debt service throughout the affordability period. The first year Debt Service Coverage Ratio shall not be:
  - (a) less than 1.10:1 or
  - (b) greater than 1.20:1, except where a higher first-year ratio is necessary to:
    - (i) project first-year cash flow after debt service and required reserve deposits equal to or less than 12 percent of operating expenses;
    - (ii) meet the requirements of subsection (i);
    - (iii) meet CalHFA's standard underwriting requirements or those of a direct federal lending program; or
    - (iv) project a positive cash flow over 20 years, using the assumptions specified in subsection (i).
- With AHTF review and approval, these requirements may be modified on a case by case basis for Projects receiving operating or rental subsidies structured to allow for breakeven operation, or for operation at a level of cash flow that differs from that resulting from application of these requirements in order to meet the cash flow obligations in this subsection.
- Ensuring that cash flow projections are realistic in light of economic conditions.
- Determination that long-term operating projections are based on reasonable assumptions about how revenues and operating costs are expected to change over time.
- That non-residential revenue from fees/late charges, commercial income, interest, laundry/vending are projected conservatively. That vacancy projections reflect local market conditions and account for physical vacancies and collections loss. Residential vacancy rates shall be assumed to be 5%, unless a different figure is required by another funding source (including TCAC) or supported by compelling market evidence.
- Vacancy rates for Commercial Space shall be assumed to be 50%, except the City may use the vacancy loss assumption of the Project's senior lender or equity investor under either of the following circumstances:
  - (a) where the commercial income is guaranteed by the Sponsor through a long-term master lease and the amount of the Sponsor's annual master lease payment is both:

- (i) less than one percent of the Sponsor’s cash and cash equivalent current assets; and
  - (ii) less than or equal to the projected commercial income, as evidenced by a market study or appraisal commissioned by the first lien lender or equity investor, and reflected in the final pro forma approved by the first lien lender or equity investor; or
- (b) where the Commercial Space has been leased to a national or regional firm widely recognized by the general public, and the term of the lease extends at least five years past the projected date of construction completion.

Balloon payments are not allowed on senior debt, except where the City’s affordability covenant or regulatory agreement (collectively “Use Restriction”) is recorded in a position that is senior to the debt with a balloon payment. Any such Use Restriction may include provisions that, upon foreclosure of the debt instrument securing such debt, allow the Use Restriction to be amended to delete any portion of the Use Restriction that is not necessary to ensure the continued restriction of the project to the same affordability level for all occupants, rents or amounts charged pursuant thereto, reporting requirements not related to tenant occupancy and affordability, and level of operations and maintenance (collectively, the “Affordability Provisions”). The Sponsor may also include an executory provision in the original Use Restriction that immediately limits the effect of the Use Restriction to only those set forth in the Affordability Provisions. Furthermore, in the event project-based rental assistance is terminated, the Affordability Provisions may include a provision allowing rents to increase to the minimum extent required for fiscal integrity, as defined in Section 7301(g), but not in any event shall rents exceed 30% of 50% of area median income, as such area median income is determined by the U. S. Department of Housing and Urban Development, adjusted by bedroom count by TCAC pursuant to 26 U.S. Code Section 42(g)(2)(C) with the annually published TCAC Income Limits and Maximum Rents posted on the TCAC website. Balloon payments are allowed on junior debt during the term of the Program loan only where the City determines that the balloon payment will not jeopardize project feasibility.

- That the rate of projected growth for rental income and other revenues are appropriate and that in projects with deeply targeted rents, lower than average rate of revenue increases are used for comparison when possible.
- Variable interest rate debt shall be underwritten at the ceiling interest rate, unless the City determines that using a lower interest rate assumption will not jeopardize project feasibility.
- The Project must demonstrate a positive cash flow for 15 years, using income and expenses increase rate assumptions specified in California Code of Regulations, Title 4, Section 10327. If projected Project income includes rental assistance or operating subsidy payments under a renewable contract, the City may assume that this contract will be renewed, where the renewal of the rental assistance or operating subsidy is likely.

- Where the City is providing construction-period financing, the minimum budgeted construction contingency shall be 5 percent of construction costs for new construction projects and 10 percent of construction costs for rehabilitation and conversion projects.
- Local public agency loans shall not have required payments exceeding 0.5% per year of the original principal loan amount.
- In Projects where the City proposes to control the Project land through a long-term ground lease, either:
  - (a) the Regulatory Agreement and other Program documents shall be recorded against both the City's interest in the Project and the fee interest in the land, and the lease shall have a term remaining at the time of recordation at least equal to the term of the Program loan or grant; or
  - (b) if the Regulatory agreement and other Program documents are not recorded against the Project's fee interest, the ground lease shall be subject to the City's approval, must not be subject to any other mortgages, regulatory agreements, use restrictions, or equivalent instruments on the fee interest, and shall contain, or be amended to contain, provisions which:
    - (i) establish a remaining term of at least sixty five (65) years from the date the City documents are recorded;
    - (ii) ensure the validity of the lien of the Program loan and/or grant documents on the lease;
    - (iii) ensure that the lease permits the Project to satisfy all Program requirements and permit the City to enforce the provisions of the Program loan and/or grant without restriction;
    - (iv) expressly consent to the lessee's assignment of the lease to the City without further consent of the lessor, and permit the City, after acquisition of the leasehold property, to transfer or assign the lease to a third party without consent of the lessor.
    - (v) provide that the lessor does not have the right to terminate the lease or accelerate the rent upon lessee's breach without first giving the lessee and the City reasonable notice and opportunity to cure within a reasonable period;
    - (vi) provide that no termination, modification or amendment to any terms of the lease shall be effective without the written consent of the City, and any attempt to take such actions would be void without the City's consent;
    - (vii) require that, in the event of destruction of any improvements on the land, neither the lessor nor the lessee shall terminate the lease if and so long as the lessee or City pursues reconstruction of the improvements with reasonable diligence;
    - (viii) provide that the City shall not have any liability for the performance of any of the obligations of lessee under the lease until the City has acquired

the leasehold interest, and then only in accordance with the terms of the lease and only with respect to obligations that accrue during the City's ownership of the leasehold interest;

- (ix) provide that neither the lessor nor the lessee, in the event of bankruptcy by either, will take the benefit of any provisions in the United States Bankruptcy Code that would cause the termination of the lease or otherwise render it unenforceable in accordance with its terms;
- (x) provide that the leasehold interest will not merge into the fee in the event that the lessee acquires the reversionary interest in the Project; and
- (xi) provide that acquisition of the leasehold property by the City will not result in a termination of the leasehold; and upon such event, obligate the lessor to enter into a new lease having a term at least as long as the term remaining on the lease prior to acquisition by the City and on substantially the same terms and conditions.

(c) If any other regulatory agreement, use restriction, or equivalent instrument is recorded against the fee, the City's Regulatory Agreement or covenant must also be recorded against the fee. This subsection shall not apply if the total local governmental assistance to the Project is more than the City's total assistance to the Project (including both loans and grants) and the local government entity manages a portfolio of their own loans that includes over 10,000 rental units with rent and occupancy restrictions. For the purposes of this subsection, the phrase "regulatory agreement, use restriction, or equivalent instrument" shall not be interpreted to include any instrument that does not relate in any way to affordability, or any affordability restriction that is not required as a condition of public financing.

(d) Where the lessee and lessor are related or affiliated parties, the Program loan and/or grant documents shall be recorded against both the Sponsor's interest in the Project and the fee interest in the land.

(e) To the extent consistent with the statutes and regulations governing the Program, the City may modify or waive the requirements of subparagraph (a)(2) where the lessor is a public agency that demonstrates that it is prohibited by law from meeting the requirements, or where the Project will be located on Native American Lands and there is a legal prohibition on meeting these requirements, and the City determines that there remains adequate security for the Program loan.

**ACTION TO BE TAKEN:** City shall determine that Projected Income assumptions as provided in the pro forma are reasonable based on the following that:

- Non-residential revenue from fees/late charges, commercial income, interest, laundry/vending are projected conservatively.
- Vacancy projections reflect local market conditions and account for physical vacancies and collections loss.

- The rate of projected growth for rental income and other revenues are appropriate.
- For projects with deeply targeted rents, lower than average rate of revenue increases are used.
- Net operating income is sufficient to cover debt service obligations and mandatory replacement reserve funding.
- Reasonable but not excessive cash flow is generated throughout the affordability period.
- The rate of annual increase in project income is reasonable.
- **ACTION TO BE TAKEN:** City shall determine that Projected Expenses are reasonable as provided in the pro forma submittals, including:
  - Operating costs given the scope and size of the project. "Operating Expenses" means the amount approved by the Department that is necessary to pay for the recurring expenses of the Project, such as utilities, maintenance, management, taxes, licenses, and Supportive Services Costs, but not including debt service or required reserve account deposits.
  - Management fees and other fees to the owner.

Adequate replacement reserve deposits: The initial deposit to the operating reserve shall be funded from development funding sources in an amount determined by the City and other funding sources such as State Housing & Community Development (HCD), which shall not be less than the total of the following: four months of projected Operating Expenses (excluding the cost of on-site Supportive Services coordination), four months of required replacement reserve deposits, and four months of non-contingent debt service. For projects with tax credits, the requirement shall be three months of these items. In setting the initial funding requirement, the City and other funding sources such as HCD shall consider factors including, but not limited to the projected level of Project cash flow, the adequacy of the operating budget, Project location, local market characteristics, the number of sites, and Project design. The replacement reserve shall be funded from Operating Income, development sources or a combination of Operating Income and development sources. For new construction or conversion Projects, the initial amount of annual deposits to the replacement reserve account shall be equal to at least the lesser of 0.6% of estimated construction costs associated with structures in the Project, excluding construction contingency and general contractor profit, overhead and general requirements, or \$500 per unit. However, the City may approve a different amount based on the results of a third-party reserve analysis, which it may require, or other reliable indicators of the need for replacement reserve funds over the initial 20 years of operation, or, in the case of transactions involving restructuring of existing City loans, 20 years of operations after the restructuring. For rehabilitation Projects, the initial amount of annual deposits to the replacement reserve account shall be determined by the City based on the results of a third-party physical needs assessment or other reliable indicators of

the need for replacement reserve funds over the initial 20 years of operation. In its initial underwriting, in the absence of an approved physical needs assessment or other reliable indicators of the need for replacement reserve funds, the City may assume that the initial amount of annual deposits shall be \$500 per unit.

## 2. Market Assessment

**DOCUMENTATION:** Developer shall provide data that supports unit absorption rates used in the Operating Pro Forma. Data submitted to City in support of the project market assessment shall be no more than four months old. In the event that AHTF funds are not committed to the project within that timeframe, updated data must be submitted to the City for review.

**ACTION TO BE TAKEN:** The City shall assess the current market demand in the area to confirm the need for the project and that the type and number of units in the project. Given the housing shortage in the City, it is assumed that there will be high demand for housing in general. The goal is encourage the projects that reflect current community needs for size, price, and other factors affecting the projects marketability.

- Assess the market for the project and determine if there is sufficient demand to sell or rent the housing units within one year of construction completion.
- Identify recent real estate trends that indicate demand for types and sizes of units.
- Estimate the absorption period by determining how many units can be successfully leased or sold each month and how long it will take to achieve initial occupancy/sale of the AHTF units and stabilized occupancy for the project as a whole.

3. **Developer Capacity Assessment:** There are two elements of underwriting analysis related to the developer: 1) the experience and the capacity of the developer (including the staff and project team) to implement the project and 2) the fiscal soundness of the developer to meet its financial obligations and risks of the project. The City shall use the following procedures shall determine what constitutes acceptable experience and financial capacity of the developer based on the size, scope, and complexity of the project.

### a. Experience

**DOCUMENTATION:** The Developer is required to provide information on their experience and provide references in the funding application including:

- Corporate or organizational experience of the developer.
- Experience of the staff assigned to the project and overall quality of the development team.
- Prior experience of the developer's team members compared to their roles in the proposed project.
- Skills and capacity including property management, asset management, service provision (as applicable), and financing.

**ACTION TO BE TAKEN:** The City shall consider prior experience and the current capacity of the developer and determine if the developer has the technical and managerial experience, knowledge, and skills to successfully complete the development.

- b. **Developer Financial Capacity** – The following elements shall be analyzed to determine developer financial capacity:

**ACTION TO BE TAKEN:** The City will review the following information taken from the developer’s operating pro forma and information provided in the funding application (audit, references, prior projects) to determine that the developer’s experience and financial capacity are adequate to implement the project and meet financial obligations and risks of the project. The following information will be analyzed for this purpose:

- Financial management systems and practices.
- Sufficient financial resources to carry the project to completion.
- Financial statements and audits to determine the developer’s net worth, portfolio risk, pre-development funding, and liquidity.

4. **Developer Profit and Return** –

**ACTION TO BE TAKEN:** The City shall require that any profits or returns on the owner’s or developer’s investment are not excessive. The City shall conduct an analysis that reviews profit expected to flow to the developer as operating cash flow from rental projects and any other professional fees being paid to the developer or related entities. The analysis shall focus on the following areas to determine that developer fees, cash flow, equity appreciation, and profit associated with the project are reasonable:

- a. **Developer Fee** – For LIHTC projects, the developer fee may not exceed the limits established by the awarding state or federal agency. The developer fees must reflect the local market and shall be reviewed with respect to the following:
- i. The scope and complexity of the project.
  - ii. The size of the project.
  - iii. The relative risk the developer is taking.
  - iv. The costs a developer will incur from the fee as compared to those being charged as project costs.
  - v. The fees that are regularly and customarily allowed in similar programs and projects.
  - vi. Other fees the project is generating for the developer and its related entities.
- b. **Cash-Flow** – Reasonableness of net cash flow assumptions and distribution of same to developer/owner and lenders.
- c. **Equity Appreciation** – Reasonableness of projected equity position over time.
- d. **Identity of Interest Roles**

- i. If the developer owns a construction company that will be working on the project, the City shall determine that the profit and overhead of the contractor is reasonable.
  - ii. If the owner of a rental property assisted with AHTF funds also operates a property management company contracted to service the property, the City shall determine that the management fees are reasonable.
- e. **Profit From Rental Operations** – The City shall conduct an evaluation of the cash flow return on the investment in order to determine if the return is reasonable. The following types of cash flow analysis will be used by the City dependent on project type:
- i. Cash on cash rate of return.
  - ii. Internal rate of return.