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## Predevelopment Costs

### Sec. 8-412-1. Definitions

The following definitions apply to Sections 8-412-1 through 8-412-9 of the Regulations of Connecticut State Agencies:

(a) “Commissioner” means the Commissioner of Housing.

(b) “Department” means the Connecticut Department of Housing.

(c) “Designated Agent” means a nonprofit corporation which has entered into a contract with the State, acting by and through the Commissioner, to administer all or a part of the Low and Moderate Income Housing Predevelopment Cost Revolving Loan Fund.

(d) “Developer” means:

(1) A housing authority established in accordance with Section 8-40 of the Connecticut General Statutes or the Connecticut Housing Authority when exercising the rights, powers, duties or privileges of or subject to the immunities or limitations of housing authorities pursuant to Section 8-121 of the Connecticut General Statutes; or

(2) A nonprofit corporation incorporated pursuant to Chapter 600 of the Connecticut General Statutes, having as one of its purposes the construction, rehabilitation, ownership, or operation of housing, and having articles of incorporation approved by the Commissioner; or

(3) A municipal developer, which means a municipality which has not declared by resolution a need for a housing authority pursuant to Section 8-40 of the General Statutes, acting by and through its legislative body, except that in any town in which a town meeting or representative town meeting is the legislative body, “municipal developer” means the board of selectman if such board is authorized to act as the municipal developer by the town meeting or representative town meeting; or

(4) A partnership, limited partnership, joint venture, trust or association consisting of:

(A) a housing authority, a nonprofit corporation, or a municipal developer; and

(B) (i) a business corporation incorporated pursuant to Chapter 599 of the General Statutes, having as one of its purposes the construction, rehabilitation, ownership, or operation of housing, and having articles of incorporation approved by the Commissioner in accordance with regulations adopted pursuant to Section 8-79a or 8-84 of the General Statutes;

(ii) a for-profit partnership, limited partnership, joint venture, trust or association having as one of its purposes the construction, rehabilitation, ownership or operation of housing, and having basic documents of organization approved by the Commissioner in accordance with regulations adopted pursuant to Section 8-79a or 8-84 of the General Statutes; or

(iii) any combination of the entities included under subparagraphs (i) and (ii) of this subdivision.

(e) “Families of Low and Moderate Income” means families who lack the amount of income which is necessary, as determined by the Commissioner, to enable them, without financial assistance, to rent or purchase decent, safe and sanitary dwellings, without overcrowding.

(f) “Family” means a household consisting of one or more persons.

(g) “Financial Assistance” means grants or loans authorized under Sections 8-410 and 8-411 of the Connecticut General Statutes.

(h) “Low and Moderate Income Housing Predevelopment Cost Revolving Loan Fund” means the fund established to make loans pursuant to Section 8-410 of

the Connecticut General Statute and to pay expenses incurred in administering such loans.

(i) "Predevelopment Costs" means those expenses for a developer which are not administrative, but are necessary for planning activities before any construction, rehabilitation or renovation of housing for low and moderate income families may begin.

(j) "Predevelopment Cost Project" or "Project" means any work or undertaking to provide decent, safe and sanitary dwelling units for low and moderate income families, which may include planning for the construction, rehabilitation or renovation of such housing.

(Effective March 2, 1989)

### **Sec. 8-412-2. Program description**

(a) The Commissioner is authorized to extend financial assistance in the form of a grant or loan to developers to pay for predevelopment costs incurred in connection with the construction, rehabilitation or renovation of housing for low and moderate income persons and families.

#### **(b) Program Purpose:**

(1) Predevelopment Loans are for project specific predevelopment costs that may include:

(A) feasibility studies;

(B) expenses incurred in project planning and design, including architectural expenses;

(C) legal and financial expenses;

(D) expenses incurred in obtaining and paying for required permits and approvals;

(E) options to purchase land;

(F) expenses incurred in obtaining and paying for required insurance;

(G) appraisals; and

(H) other preliminary expenses authorized by the Commissioner.

(2) Predevelopment Grants shall not exceed \$5,000, as specified by Section 8-411 of the Connecticut General Statutes for predevelopment costs that may include:

(A) feasibility studies;

(B) appraisals;

(C) legal fees;

(D) financial consulting expenses; and

(E) other planning expenses authorized by the Commissioner.

(c) Developers shall be required to comply with all rules and orders promulgated, from time to time, by the Commissioner and consistent with the Connecticut General Statutes and these regulations.

(Effective March 2, 1989)

### **Sec. 8-412-3. Eligibility**

(a) The following criteria, in addition to the requirements in subsection (d) below, shall constitute eligibility for a housing authority:

(1) Be in good standing with the Department;

(2) A statement from the legal counsel of the municipality that verifies that the housing authority is recognized and continues to be properly constituted by the municipality in accordance with Section 8-40 of the Connecticut General Statutes.

(b) The following items, in addition to the requirements in subsection (d) below, shall constitute eligibility for a nonprofit corporation:

(1) An endorsed certificate of incorporation certified by the Secretary of the State;

(2) A certificate of good standing certified by the Secretary of the State; and

(3) A statement in writing of the corporation's principal place of business.

(c) The following items, in addition to the requirements in subsection (d) below, shall constitute eligibility for a partnership:

(1) A copy of the organizational documents of the partnership showing that the partnership consists of a nonprofit corporation, housing authority or municipal developer.

(2) A statement in writing of the partnership's principal place of business.

(d) The following items, in addition to requirements listed above, shall constitute eligibility for all housing authorities, nonprofit corporations, or partnerships:

(1) A list of housing projects which they have developed, owned or managed; and

(2) A statement authorizing the Commissioner to apply for a credit report from any appropriate credit reporting agency covering the developer for consideration in determining the financial capability of the developer.

(e) The following items shall constitute eligibility for a municipal developer:

(1) A notarized copy of its legislative body's resolution designating the legislative body or board of selectman to act as a municipal developer.

(f) The developer may apply for pre-approval of developer eligibility prior to application for financial assistance in order to facilitate the timely processing of loan applications, by submitting appropriate information, as specified in this section.

(Effective March 2, 1989)

#### **Sec. 8-412-4. Application process**

(a) The Commissioner or his designated agent may solicit and/or accept applications for financial assistance from developers.

(b) As part of the application and approval process, the developer shall be required to furnish the following:

(1) Certification of the developer's eligibility, as defined in Section 8-412-3 above;

(2) A copy of the developer's predevelopment budget listing all revenue by source as well as expenses to be supported by the proposed grant or loan;

(3) A description and timetable of the developer's present and projected activities involving the project to be undertaken;

(4) A certification that the proposed construction, rehabilitation or renovation will provide housing for low and moderate income families; and

(5) Names, addresses and telephone numbers of its current commissioners or officers and statutory agent for service or legislative body.

(c) Pre-Approval of a developer's eligibility shall not exempt the developer from submitting all required project-specific information.

(d) The Commissioner or his designated agent may, from time to time, request additional information from the developer.

(Effective March 2, 1989)

#### **Sec. 8-412-5. Selection process**

(a) Applications shall be approved or disapproved by the Commissioner or his agent based on factors listed in Section 8-412-4 above, the availability of financial assistance, and factors which include, but are not limited to:

(1) any needs outlined in the Department's Five Year Housing Advisory Plan;

(2) the apparent capability of the developer to plan complete and manage a project including past experience and staffing; and

(3) the impact that the grant or loan will have on the housing needs of low and moderate income persons.

(b) If an application is disapproved, the developer shall be notified in writing of the reason(s) for the rejection.

(c) If an application is approved, the Commissioner or his designated agent shall issue a commitment letter which notifies the developer, in writing, that the project may proceed and indicates the expected terms and conditions of the contract for financial assistance under this program.

(Effective March 2, 1989)

**Sec. 8-412-6. Maximum income limits**

(a) Financial assistance will be provided for projects which serve low and moderate income families.

(b) Homeownership income limits shall not exceed those established and determined from time to time by the Connecticut Housing Finance Authority's Home Mortgage Program.

(c) For all others, income limits shall not exceed those established from time to time under the Department's Moderate Rental Program or federal and/or state program being utilized, as approved by the Commissioner.

(Effective March 2, 1989)

**Sec. 8-412-7. Contract for financial assistance**

(a) The State, acting by and through the Commissioner, may enter into a contract(s) with a developer for financial assistance in the form of a grant or loan.

(b) Such contract(s) shall include but not be limited to the amount and form of financial assistance to be provided and the rights and obligations of the parties under the contract(s).

(c) The terms and conditions of the loan shall be as follows:

(1) repayment of the loan shall be made as soon as practicable and as specified by the loan agreement, but no later than upon receipt of permanent financing by the developer;

(2) the loan shall be interest free; and

(3) the Commissioner may forgive a loan in any case where the borrower has made a good faith effort to obtain permanent financing and has been refused such financing or where the forgiveness is in the best interest of the State.

(d) In addition to whatever remedies exist in the contract, the developer shall, upon demand by the Commissioner, pay back to the State the full amount of any financial assistance provided under this program, if the Commissioner determines that:

(1) reasonable progress in the development of the activity, as submitted pursuant to Section 8-412-4, above, has not been made; or

(2) the construction, rehabilitation, or renovation supported by the State predevelopment grant or loan has resulted in a use other than for housing to benefit families of low and moderate income; or

(3) the developer has amended its purpose or the activity so that it no longer conforms with that originally submitted and approved.

(Effective March 2, 1989)

**Sec. 8-412-8. Financial reporting and access to records**

(a) Each developer shall maintain complete and accurate books and records, insofar as they pertain to predevelopment cost projects, and they shall be set up and maintained in accordance with the latest procedures approved by the Commissioner.

(b) Each developer shall furnish the Commissioner with financial statements and other reports relating to the development of the project in such detail and at such times as he may require.

(c) At any time during regular business hours, and as often as the Commissioner may require, the Commissioner or his representatives shall be entitled to full and free access to the accounts, records and books of the developer relative to the project, said permission to include the right to make or require the developer to provide excerpts or transcripts from such accounts, records and books.

(Effective March 2, 1989)

**Sec. 8-412-9. Fiscal compliance and examination**

Each developer receiving financial assistance shall be subject to examination of all books and records related to the project. Examinations shall be performed by independent public accountants registered to practice in the State of Connecticut, or by qualified Department personnel. All examinations shall be in accordance with procedures established by the Department.

(Effective March 2, 1989)