Re-Vision Prospect Plaza RFP
Addendum 1

RFP Issue Date: December 20, 2011
Addendum 1 Issue Date: December 29, 2011

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B) Mixed Finance Question & Answers

A) AMENDMENTS TO THE RFP

1) Section III.A. Page 9
   The third paragraph is deleted in its entirety and replaced with the following:

   > "In 2002, a Request for Qualifications was issued to rehabilitate the Prospect Plaza towers, construct a community facility space, and rental housing. A development company was designated in 2003 and terminated in 2007. NYCHA demolished the 430 Saratoga Avenue building on the Saratoga Site in 2005."

2) Section VII.A. Page 40
   The fourth paragraph is deleted in its entirety and replaced with the following:

   > "All questions should be submitted to the e-mail address (ProspectPlazaRFP@nycha.nyc.gov) by **March 1, 2012** to be included in the RFP addenda."

3) Exhibit B: Community Plan – Volume 1, Page 7 and 8
   The fourth paragraph is deleted in its entirety and replaced with the following:

   > "Prospect Plaza families three hundred sixty-five were relocated from the four Prospect Plaza public housing towers between 2001 and 2003, with most moving to other public housing, and others either accepting Section 8 vouchers or finding other housing accommodations. In 2002, a request for qualifications was issued for a developer to rehabilitate the Prospect Plaza sites, construct community facility space and additional rental housing. A developer was designated in June 2003 and terminated in 2007."

4) Exhibit B: Community Plan – Volume 2, Page 4
The fourth paragraph is deleted in its entirety and replaced with the following:

> "In 2002, a Request for Qualifications was issued for a developer to rehabilitate the Prospect Plaza towers, construct a community facility space, and rental housing. A developer was designated in 2003 and terminated in 2007. NYCHA demolished the 430 Saratoga Avenue building in 2005."

5) Exhibit J: Form F – Rental Pro Forma

Form F: *Rental Pro Forma* is deleted in its entirety and is replaced with the attached version. An electronic version is available for download from HPD's webpage at http://www.nyc.gov/html/hpd/html/developers/rfp.shtml.

B) MIXED-FINANCE QUESTIONS AND ANSWERS

1) Rents & Operating Income / Operating Subsidies

Q1: What tenant incomes should we assume for Public Housing units?
A1: Proposals should assume that household income for Public Housing tenants will average 38% of AMI. Refer to page 17 of the RFP for details.

Q2: What is the total rent for the Public Housing units?
A2: For the purposes of this proposal, tenant rents for Public Housing units will be 30% of tenant's income. Legally, tenants are entitled to rents that are equal to the lesser of 30% of the tenant's income or NYCHA flat rents which are calculated based on household size and household income for the year that units are being leased. NYCHA updates the flat rents on an annual basis. Rents for 2012 and 2013 have not yet been calculated. In the absence of this information, developer should assume tenant rents equal to 30% of Public Housing tenant incomes. Assuming that incomes of Public Housing tenants average 38% AMI, then rents for Public Housing units would be 30% of 38% of AMI. Should the tenant rent for Public Housing units be insufficient to cover the maintenance and operating expenses of those units, the owner may receive operating subsidy, up to the amount of HUD determined limits, to cover operating shortfalls of the Public Housing units.

Q3: On the Public Housing units, how will the rents increase over time? Will NYCHA do an annual adjustment?
A3: For the Public Housing units, assume that rents will have an annual growth rate of 2%. Working with NYCHA, the developer will adjust rents according to HUD regulations.

Q4: Are you expecting that the non-Public Housing units will need to subsidize the Public Housing units because the operating expenses on the public units may exceed the tenant rent plus operating subsidy? Are there any legal barriers restricting the Public units from draining the non-Public units in that circumstance?

A4: Based on the assumed average household incomes of NYCHA residents and typical operating costs we do not necessarily expect cross-subsidization to be required, but applicants are responsible for running their own analyses. Generally there are no legal barriers preventing non-Public Housing units from cross-subsidizing Public Housing units.

Q5: Should we include rental income from the Public Housing units in sizing our debt and if so should we include both the tenant portion and operating subsidy? It does not appear that the pro-forma model is including the Public Housing rents.
A5: No, neither Public Housing tenant rents nor operating subsidies should be used for sizing debt. The pro-forma attached to the RFP excludes tenant rents and operating subsidy from Public Housing units in calculating NOI.

2) Operating Expenses

Q6: Since NYCHA will be leasing units for NYCHA tenants, do we need to conform to prevailing wage requirements in the management of the project?
A6: The selected developer's managing agent will be responsible for leasing the Public Housing units in coordination with NYCHA. Prevailing wage requirements <u>will</u> apply due to the Public Housing operating funds. While prevailing wage requirements technically would only apply to the phases of the project that contain Public Housing units, prevailing wages could be required for all workers if the same maintenance workforce is serving all phases.

Q7: If NYCHA maintains ownership of any of the site(s) and ground leases them to the developer, do property taxes still apply? Will the developer be eligible for property tax abatement or exemption?
A7: If NYCHA ground leases the land to a developer, property taxes will apply to the property but the developer can still qualify for a tax abatement or exemption, as long as they meet the other requirements of the program. Please refer to pages 30 of the RFP for details.

3) HUD Capital Subsidies

Q8: What is the structure of the HUD capital funds and how are they accessed? What are the tax ramifications?
A8: The capital funds will be structured as a soft loan with no interest or nominal interest but, in any case, structured so that the loan constitutes true debt under Section 42 of the IRS Code in order to generate tax credit basis. The funds can be drawn down as construction costs are incurred.

Q9: How will the phasing of the project and the mixing of public/non-public units in different phases affect the use of Federal Funds?
A9: The HUD capital funds will be used during the first phases of the development because that's where the Public Housing units will be located. The third phase will not include Public Housing and will not receive HUD capital funds.

Q10: Are there any Part B expenses (i.e. transaction fees, relocation fees) that would reduce the available amount of the $15.5 million in HUD capital funds?

A10: NYCHA will require an Administration Fee and a Development Fee to cover its administrative and transaction costs. Refer to pages 24-25 of the RFP for details on the fees. The Administration Fee may be paid from HUD Capital Funds. The Development Fee must be paid from other sources.

Q11: Will NYCHA use program income (i.e. developer fees, repayment of principal and interest?) generated from the HUD funded Public Housing units being built in the first stages of this project for affordable units in the second phase?
A11: NYCHA does not expect to contribute program income to the second phase of this development. Proposals should not include program income as a source of funding.

4) Project Ownership / NYCHA Role / HUD Rules

Q12: Is there an expectation that NYCHA is going to own the Public Housing units?
A12: No, the Public Housing units will be owned by the developer. NYCHA will be the land owner on any site containing Public Housing units, but the developer will own the improvements.

Q13: HUD's Mixed-Finance guidelines require the PHA to play one of several specified roles in a project. Which role would NYCHA play in this project? Is NYCHA expecting to step in at the end of the 15 year tax credit restriction, and if so what role would they play?
A13: In this project NYCHA is providing HUD capital and operating funds. Additionally, NYCHA may retain a purchase option and right of first refusal at the conclusion of the 15-year tax credit period. In any case, this project qualifies for HUD's Mixed-Finance program under the category "Otherwise in accordance with HUD regulations", which allows projects to receive HUD funding if they demonstrate a commitment to long term affordability.

Q14: Does the 50 year affordability restriction on this project satisfy HUD's concerns for long term affordability?
A14: HUD requires a "Declaration of Restrictive Covenant" on projects that use its capital funding. The covenant specifies the number and size of units that must be operated as Public Housing and requires affordability for the longer of 20 years for a rehab project (40 years for new construction) from when the first unit becomes available for occupancy, or 10 years after the last fiscal year in which an operating subsidy is provided. The Prospect Plaza RFP actually requires a 50 year affordability restriction on the entire project, which will run concurrently with the HUD restriction, and could extend beyond it.

Q15: If the developer and general contractor are related parties does NYCHA need to show HUD that the general contractor was the lowest bidder under their guidelines?
A15: Procurement rules do not apply if the PHA has competitively selected its developer partner and the PHA does not exercise significant functions in managing development of the project. The developer will assemble its own team for the project, including a general contractor. If, however, the general contractor is related to the developer, the developer must either (a) demonstrate to HUD that the related GC's bid is the lowest submitted in response to a public request for bids or (b) obtain a waiver from HUD which requires a certification that the prices charged are reasonable and appropriate.

Q16: Are there restrictions in the RFP or by HUD regarding the management company entity or the fees they can charge?
A16: The cost controls in the Mixed-Finance program limit property management fees to either 6% of effective gross income, a flat fee per unit per month (PUM) for occupied units per HUD Field Office guidelines, or 6% of imputed tax credit rent. There are no HUD restrictions on the property management entity as long as the pricing is considered fair. HUD may impose additional scrutiny on the use of a related property management company to ensure costs controls are in place.

Q17: Which entity -- NYCHA or the property manager -- will be determining eligibility of Public Housing tenants and conducting income certification?
A17: At initial occupancy of the project, NYCHA will provide a list of former Prospect Plaza residents who are currently in good standing with NYCHA and who demonstrate a consistent rent payment history. Subject to developer screening, such former residents must receive first priority for Public Housing units. For Public Housing units not filled by current or former residents, NYCHA will provide a pool of qualified applicants from the waitlist for Conventional Public Housing and Section 8 Housing. For these NYCHA will conduct the initial screening (including income certification). The developer will have the right to screen and select tenants from this pool. Please refer to page 27 of the RFP.

Q18: Is there an annual recertification requirement for Public Housing units? Could there be a disruption in the operating subsidy if a tenant does not re-certify their income? Which entity (NYCHA, property manager, developer) is responsible?
A18: The project owner and property manager are responsible for annual tenant income re-certifications, both for tax credit purposes and for Public Housing requirements. Public Housing rents are based on tenants' incomes, and may be adjusted as incomes change. Tenant leases should contain enforcement provisions in the event tenants fail to cooperate with the recertification process. The owner, through the property manager, will be required to obtain all the necessary Public Housing income certifications such that NYCHA is able to provide a related, overall certification to HUD that the individual tenant certifications have been completed. HUD may seek confirmation through its audit process. There are no definitive remedial actions HUD must take, although it may be possible that HUD would seek to recapture previously paid subsidy or to adjust future payments should a HUD audit find that the tenant certifications have not been completed as required. The obligation of NYCHA to provide subsidy will be distinct from such remedial actions and will be set forth in the Regulatory and Operating Agreement between NYCHA and owner in a manner that ensures owner meets its obligations related to tenant certification such that NYCHA is able to provide the corresponding certifications to HUD.