Department of Housing Preservation & Development
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NYC Department of Housing Preservation and Development (HPD)
Office of Development, Division of Preservation Finance

LIHTC Preservation (Year 15) – Extended Affordability – Tax Exemption Only Term Sheet

Program Description	HPD's Low Income Housing Tax Credit Portfolio Preservation ("Year 15") Program ensures the future financial and physical viability of Low Income Housing Tax Credit ("tax credit") properties that are reaching the end of the initial tax credit compliance period while preserving their long-term affordability. The program assesses the needs of each project and develops a repositioning strategy to address the project's financial and capital needs as part of the Year 15 tax credit investor exit review. Repositioning strategies may include tax exemptions and extensions or modifications of existing mortgages.
Eligible Projects	Tax credit properties at the end of their initial tax credit compliance period or have previously exited the investor. Sponsors may combine non-tax credit properties with tax credit properties to improve operations and reduce the need for subsidy. Projects with sufficient existing reserves to meet immediate and 15 year capital needs schedule as identified in an Integrated Physical Needs Assessment (IPNA), cover soft costs for closing and meet capitalized reserve requirements. Projects wishing to receive HPD consent on transfers only should refer to the Transfer Consent Application.
Eligible Applicants	Limited partnerships, corporations, joint ventures, limited liability companies, 501(c)(3) corporations and single purpose housing development fund corporations may apply. The program is open to for-profit and not-for-profit organizations. Sponsors must demonstrate sufficient financial stability and liquidity to rehabilitate and operate the project.
Eligible Uses	Moderate rehabilitation of multiple dwellings, including SROs. Existing project reserves are sized to address replacement of building systems and structural improvements.
HPD Loan Modification Terms	Existing HPD Debt may be extended to run concurrent with the new regulatory term. Based on the level of affordability provided, a monthly compounding interest rate the higher of 2.5% or the long-term, monthly compounding Applicable Federal Rate (AFR) may accrue and defer, to be paid as a balloon at maturity with up to 1% as the paid interest rate.
Underwriting Terms	• I & E Trending: 2% income increase and 3% expense increase. • Vacancy and Collection Loss Rate: 5% for Residential and 10% for Commercial. • Replacement Reserves: minimum of $500 per unit at initial repositioning/ capitalization and $250 per unit per year, increasing at 3% annually. • Initial Operating Reserve: 6 months of M&O plus debt service and sizing for long term capital needs and projected operating shortfalls for next 15 years. Project is expected to meet the annual Operating Reserve Targets outlined in the Project's Funding and Disbursement Agreement. Upon repositioning, all project reserves are required to be transferred to HDC for servicing where they will remain in place for the benefit of the project during the restriction period. • M&O: The lower of actual expenses or a level acceptable to HPD. HPD will determine if adjustments for elevator, union labor, building size, and special services related to supportive housing are appropriate and will apply the adjustment to the final underwriting.

	• Construction Monitoring Fee/Owner's Representative Fee: A maximum cap of a $100,000 per project. Where HPD agrees to underwrite a reserve release at closing, the construction monitoring fee will be capped to $70,000 per project. The construction monitoring fee will be held back at closing until project completion and clearance of all violations. On a case by case basis, HPD may consider releasing the fee to cover fees related to construction management. • Up to $15,000 may be recognized to reimburse for a Technical Assistance Provider. HPD must approve the contract between the Technical Assistance Provider and Sponsor. • Cash Flow Release: Modification of existing cash flow restrictions may include a release of cash flow up to 50% once expenses (inclusive of debt service and reserve contributions) are paid. • Reserve Release: HPD may approve the release of a portion of excess reserve funds contingent on if the project's cash flow, capital and reserve needs are adequate for an additional 30 years.
Fees and Closing Costs	• The following fees can be paid from project reserves: $100 420c application fee + $80/unit for Class A units, and up to $15,000 in legal fees. All remaining closing costs (including all title costs) are the responsibility of the Sponsor and cannot be funded with project reserves. • Payment of any transfer taxes from project resources is not permitted.
Regulatory Requirements	• Projects with post-1989 tax credits must conform to the basic income, occupancy, rent and other restrictions outlined for tax credit projects in IRS Section 42. Projects must also comply with all income, occupancy and rent restrictions outlined in current and any supplemental regulatory agreements. Projects with pre-1990 tax credits must agree to extend the affordability levels required during the initial tax credit restriction period. • Owners must agree to extend the affordability period by a minimum of 15 additional years from the end of the current restriction period. • Projects previously with 100% homeless unit requirements shall maintain at least 30% of the total units as homeless units. All other projects shall maintain their initial requirements. Projects with no previous homeless requirements will be required to incorporate a homeless requirement of at least 10%, and projects that exceed their requirement may be eligible for additional cash flow release. • All homeless unit vacancy referrals must be made by HPD's Homeless Placement Unit. In the event of financial hardship, HPD may waive the homeless requirement if deemed necessary. • All units must remain registered with DHCR and are subject to New York State Rent Stabilization through the regulatory term. Work completed as a result of the financing would not be eligible to trigger Individual Apartment Increases (IAIs) or Major Capital Improvement increases (MCIs). Vacancy and luxury decontrol are not permitted for the duration of the HPD restriction period.
Real Estate Tax Benefits	All projects are required to have a tax benefit in place at repositioning. Projects are expected to receive a full or partial 420-c or Article XI tax exemption. Projects with commercial space will be responsible for the payment of commercial taxes after repositioning. Projects receiving an Art XI may be subject to a Gross Rent Tax (GRT) payment. Gross Rent is defined as total annual residential and commercial income received which includes tenant share plus any tenant subsidy payments.

Design and Construction Requirements	Projects must complete an Integrated Physical Needs Assessment (IPNA) from a firm that has been pre-qualified by HDC (http://www.nychdc.com/Current%20RFP). Prior to closing, all projects must complete benchmarking on a whole building basis using a Benchmarking Software Provider Firm that has been pre-qualified by HDC: http://www.nychdc.com/Current%20RFP. Subject to funding availability, the following can be paid through the project development budget: IPNA base cost of up to $5,000 per ownership entity plus up to $250 per unit for the first 20 units in a project and up to $125 per unit for all remaining units. Work to assist tenants aging in place may also be required by HPD and included in the scope of work.
Fair Housing and Accessibility Requirements	The Developer is required to comply with all applicable Federal, State, and local laws, orders, and regulations prohibiting housing discrimination. The Developer must also construct the project in compliance with all laws regarding accessibility for people with disabilities, including but not limited to the New York City Building Code, the federal Fair Housing Act, the Americans With Disability Act, and Section 504 of the Rehabilitation Act of 1973 (29 U.S.C.794) and implementing regulations at 24 CFR Part 8.
Marketing	All projects must be marketed according to HPD and HDC marketing guidelines. The sponsor must submit a marketing plan for agency review and approval. Where applicable, marketed projects will be required to use HPD's and HDC's lottery process.
Application Process	Sponsors interested in repositioning a project in fiscal year 2019 or later should contact the project's syndicator or HPD to discuss a repositioning strategy. Application packages should be submitted to the Technical Assistance Provider, if applicable or to HPD for review.
HPD Contact	**Denise St. Just-Cordero, Director LIHTC Preservation (Year 15)** hpdyear15@hpd.nyc.gov (212) 863-8144 NYC HPD 100 Gold Street, Room 9-S7 New York, NY 10038

HPD, in its sole discretion, may, at any time and without prior notice, terminate the program, amend or waive compliance with any of its terms, or reject any or all proposals for funding.

NOTE: The project receiving funding under this program may be subject to Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) and the implementing regulations at 24 CFR part 135. If applicable to the project, (i) to the greatest extent feasible, opportunities for training and employment arising in connection with the planning and carrying out of the project must be given to "Section 3 Residents" as such term is defined in 24 CFR 135.5; and (ii) to the greatest extent feasible, contracts for work to be performed in connection with any such project must be awarded to "Section 3 Business Concerns" as such term is defined in 24 CFR part 135.5.