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) – Private Debt
Term Sheet

Program Description	HPD's Low Income Housing Tax Credit Portfolio Preservation ("Year 15") Program ensures the future financial and physical viability and preserves the long-term affordability of Low Income Housing Tax Credit ("tax credit") properties that are reaching the end of the initial tax credit compliance period. The program assesses the needs of each project and develops a repositioning strategy to address projects' financial and capital needs as part of the Year 15 tax credit investor exit review. Repositioning strategies may include tax exemptions, subsidy for loans and extensions or modifications of existing mortgages to assist in leveraging private debt.
Eligible Projects	Tax credit properties at the end of their initial tax credit compliance period or tax credit projects that have previously exited the investor. When tax credit projects are combined with non-tax credit projects the majority of the units must be from city and state assisted Year 15 tax credit projects. Eligible projects will 1) have scopes of work that exceed program term sheet and 2) leverage conventional source of financing.
Eligible Borrowers	Limited partnerships, corporations, joint ventures, limited liability companies, 501(c)(3) corporations and housing development fund corporations. The program is open to for-profit and not-for-profit borrowers. Borrowers must demonstrate sufficient financial stability and liquidity to rehabilitate and operate the project.
Eligible Uses	Moderate rehabilitation of multiple dwellings, including SROs. Loans are intended for buildings needing replacement of building systems, structural improvements and modernization of apartment interiors. Limited acquisition costs may be eligible if supported by an as-is appraisal.
HPD Loan Amount	• Up to $50,000 per unit depending on the rehabilitation needs of the buildings. Per-unit subsidies may be reduced for projects utilizing other sources, including the Inclusionary Housing Program, absent broader/deeper affordability or project benefits. HPD will consider available funding sources in the following order: conventional debt, borrower equity, existing project reserves, seller's note (as supported by current appraisal) and HPD subsidy. HPD will also evaluate and determine the project's ability to repay outstanding loans. Reserve withdrawal requests during repositioning will be evaluated in the context of the project's available resources and repositioning needs. • Preferences will be given to projects demonstrating cost containment, utilize efficient construction and lease-up schedules, use of reserves, etc. • Additional homeless set aside requirements and/or longer regulatory restriction periods will apply to projects requesting over the term sheet limit.
HPD Loan Terms	• Maximum loan term: 30 years, repayable balloon, or to coincide with the permanent senior loan term as allowable per the applicable HPD lending authority. • Interest Rate: The greater of 2.50% and the Monthly Applicable Federal Rate (AFR) at the time of closing will defer and accrue, compounding monthly, with up to 1% as the paid interest rate. • Debt Service Coverage: 1.15 on all financing. • Loan to Value must be consistent with the HPD lending authority. • Payment and Performance Bond or Letter of Credit: 10% of hard costs excluding contingency.

HPD Underwriting Terms	• Existing HPD Debt: May be extended to run concurrent with the new regulatory term at current interest rate up to 1% per annum inclusive of 0.25% servicing fee. Based on the level of affordability provided, a monthly compounding interest rate of the greater of 2.50% and the Applicable Federal Rate (AFR) at the time of closing may defer and accrue with up to 1% as the paid interest rate.
	• Vacancy and Collection Loss Rate: 5% for Residential and 10% for Commercial.
	• Reserves:
	    • Replacement Reserves: Minimum of $500 per unit at closing and $250 per unit per year, increasing at 3% annually.
	• Capitalized 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.
	• Reserves will remain in place for the full restriction period. If senior debt is satisfied prior to the end of the restriction period, HPD will assume control of all reserves, which will remain in place for the benefit of the project.
	• Developer's Fee: Developer fee will be paid in increments based on project milestones. Up to half may be paid during the construction period with the balance payable upon permanent loan conversion.
	    • For-profit: 5% of total development cost less existing debt, developer fee, and reserves. Net Developer Fee Cap – N/A. 50% of the cash equity requirement must remain in the deal.
	    • Nonprofit: 8% of total development costs less existing debt, acquisition and reserves + 5% of acquisition. Net developer fee cap of $10,000/du
	• M&O: underwritten to a level acceptable to HPD.
	• Equity Requirements:
	    • For-profit developers: 10% of total development costs less existing debt, Developer Fee, & Reserves.
	    • Non-profit developers: 2% of total development costs less existing debt, Developer Fee, & Reserves.
	• Appraisals must be completed according to HPD's Approved Appraisal Guidelines: https://www1.nyc.gov/assets/hpd/downloads/pdf/developers/as-is-appraisal-guidelines.pdf. Please contact the Program with any questions.
	• Construction Contingency: 10%
	• Cash Flow:
	    • For Profit: developer receives 100%.
	    • Nonprofit: developer receives 50% and 50% is held in City-controlled reserve.
	
	All projects proposed to be located in an Opportunity Zone should consider Opportunity Funds as a potential source of equity. Projects that use Opportunity Fund investments must clearly identify the amount of all such investments, the name and location of the Opportunity Fund, and the tax payment implications and benefits for the Opportunity Zone investment. Any additional federal funding beyond the tax must also be disclosed and will be included in the evaluation of the project. Maps of the designated tracts can be found at this link https://esd.ny.gov/opportunity-zones

Fees and Closing Costs	• Owner may elect to retain a Technical Assistance Provider for a maximum fee of up to $15,000 per project. Technical Assistance Providers and owners must submit a contract of services to HPD for review and approval. • Construction signage fee of $100 per building. • 420C fees ($100 420c application fee + $80/unit for Class A units or $60/unit for Class B units if applicable) • EO fees not to exceed $1,400 per project

	• Prevailing Wage fee of $30,000 for ongoing monitoring and enforcement of the Federal Davis Bacon Act (40 U.S.C. §3141 et seq.), State Labor Law §§220 and 230, Real Property Tax Law §421-a(8) and New York City Administrative Code §6-109 requirements, where applicable. • Fees must be paid by borrowers and are not counted toward the owner equity requirement.
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 through the later of (i) the term of the additional mortgage provided, or (ii) 15 additional years from the current restriction period. • Projects with previous 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 shall incorporate a homeless requirement of at least 10%, and projects that exceed the 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 reduce or waive the homeless requirement if deemed necessary. • All units must be registered with DHCR and are subject to New York State Rent Stabilization. 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. • HPD may be willing to broaden affordability restrictions after the original Extended Use Period and/or for non-LIHTC units for projects that can reduce subsidy, introduce deeper affordability, leverage other sources of funds and/or pay down existing debt.
Real Estate Tax Benefits	All projects are required to have a tax benefit in place for the loan and regulatory terms. Projects are expected to receive a full or partial 420-c tax exemption or Article XI benefit. Projects with commercial space will be responsible for the payment of commercial taxes after repositioning. Projects not eligible for 420-c tax exemption may apply and qualify for exemption under Article XI. 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. Funded projects must benchmark throughout the loan and regulatory term. All projects must comply with HPD's Standard Specification (see: http://www1.nyc.gov/site/hpd/developers/specifications-rehabilitation/master-guide-specifications-for-rehabilitation-projects.page), as the specifications relate to the project's HPD-approved scope of work.

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.

All substantial rehab projects, as determined by HPD, that receive financing from HPD are required to comply with the New York City Overlay of the 2020 Criteria. The Green Communities Criteria and Certification portal is available at www.greencommunitiesonline.org.

HPD will require projects to install solar photovoltaic or thermal systems if both of the below criteria are met:

- Physical Feasibility: Projects are considered physically feasible if the roof is in good condition and has at least 15 years left in its lifespan OR the roof will be replaced as part of the HPD project.
- Financial Feasibility: Projects are considered financially feasible if the system has a payback period of 10 years or less, as projected by the HPD Solar Screening Tool (a link to the tool is found in the IPNA), AND inclusion of the system does not increase HPD's loan to over term sheet max (critical scope items cannot be taken out in favor of the solar system).

All projects will be required to complete a Solar Feasibility Analysis using the HPD Solar Screening Tool, which must also be submitted to, and reviewed by, HPD. Projects will have access to free technical assistance services provided through our NYSERDA-funded partnership with the non-profit Solar One. Solar One can assist owners and development teams with completing the Solar Feasibility Analyses, optimizing solar designs, identifying solar incentives and financing options, and facilitating the competitive procurement of solar bids.

Solar savings, when used to offset a building's utility costs, will be underwritten to the maximum extent allowed by the lenders.

Projects that fall within a Solarize NYC catchment area may use the selected Solarize installer to design and install the solar system. All projects that fall outside of the catchment area must competitively bid out the solar project to NYSERDA qualified NY-Sun Incentive solar installers.

HPD considers projects substantial rehabilitations ("sub rehabs") when all three of the following items are included in the scope:

- Heating system replacement (includes heating equipment & distribution system)
- Work on at least 75 percent of dwelling units contained within such building including but not limited to fixture replacements in kitchens and bathroom, and
- Substantial work on the building envelope, including but not limited to the addition of building wide air sealing measures performed in conjunction with window replacements on at least 50 percent of total glazing, addition of roof insulation on 100 percent of the roof or the addition of at least 50 percent wall insulation.

More information can be found at:
http://www1.nyc.gov/site/hpd/developers/green-building.page

Projects where HPD/HDC's contribution is more than $2 million will have to comply with the M/WBE Build Up Program requiring developers/borrowers to spend at least a quarter of HPD-supported costs on certified M/WBEs over the course of design

	and construction of an HPD-subsidized project. A minimum goal will be required for each project subject to the program. Developers may adopt a goal higher than the minimum. HPD requires developers, general contractors, and subcontractors working on projects receiving more than $2 million in City subsidy to share job openings in entry- and mid-level construction positions with HireNYC and to interview the qualified candidates that HireNYC refers for those openings. 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	Depending on project scope, an architect must execute a statement to HPD stating that in the architect's professional opinion, if the project is constructed in accordance with the HPD-approved plans, the completed building(s) in the Project will be in compliance with the construction and design requirements contained in Chapter 11 of the New York City Building Code 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 developer 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	Year 15/Private Debt proposals are accepted on a rolling basis. Proposals must include an Integrated Physical Needs Assessment prepared by an HPD/HDC-approved provider, development proposal, development team description, org chart and preliminary underwriting. Owners may wish to contact lenders that have previously worked with HPD Preservation Programs. The below is not an exclusive list of potential lenders: Banco Popular: (212) 417-6878 Bank of America: (212) 819-5412 BPD Bank: (212) 506-0647 Chase Community Development Group: (212) 552-4059 Citibank: (718) 248-4710 Community Preservation Corporation: (718) 522-3900 Enterprise Community Partners, Inc.: (212) 284-7181 Local Initiatives Support Corporation: (212) 455-1606 Low Income Investment Fund: (212) 509-5509 New York City Housing Development Corporation: (212) 227-5500
HPD Contact	**Devon Neary, Director LIHTC Preservation (Year 15)** hpdyear15@hpd.nyc.gov (212) 863-7998 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.