

**NYC Housing Trust Fund Notice of Funding Availability  
ROUND III – Issued September 30, 2008**

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**NOTICE OF FUNDING AVAILABILITY**  
**NEW YORK CITY HOUSING TRUST FUND**

**I. INTRODUCTION**

The City of New York (“City”), through its Department of Housing Preservation and Development (“HPD”), announces the availability of \$22.6 million in funding from the New York City Housing Trust Fund (“NYCHTF”) for the new construction or substantial rehabilitation of affordable housing for underserved households as defined below. The NYCHTF is funded with \$130 million of Battery Park City Authority (“BPCA”) revenue, of which \$22.6 million is being made available in City Fiscal Year 2009 through this NOFA. NYCHTF subsidy is available in an amount up to \$50,000 per Eligible Unit, as defined below. Projects will be selected on a rolling basis as described in **Section V B**.

The NYCHTF is an important component of Mayor Michael R. Bloomberg’s 10-year, \$7.5 billion *New Housing Marketplace Plan*. The plan, the largest municipal housing plan in the nation’s history, will fund the creation or rehabilitation of 165,000 units for 500,000 New Yorkers by 2013. The plan responds directly to today’s challenges—a growing population and a shortage of available land on which to build—that have resulted in households at a range of income levels having difficulty finding affordable housing. Among the plan’s goals is the creation of incentives to develop housing for new populations, such as very low-income households whose units require deep subsidies or moderate-income households whose units are ineligible for most existing financing programs.

In order to be eligible for funding consideration, proposed projects must include a minimum of 20% of units affordable to underserved households (“Target Units”), defined as those whose incomes fall at or below 30% of the HUD Income Index and/or between 61% and 80% of the HUD Income Index. HUD Income Index (“Income Index”) is defined as 100/50 of the [HUD Very Low Income Limit](#). Preference will be given to applicants that demonstrate project readiness, incorporate the most Target Units with the least amount of subsidy, commit to more than the required period of affordability, and incorporate sustainable elements. **All projects that receive Round III NYCHTF awards must close on construction by the end of the City Fiscal Year 2009 (June 30, 2009). Applicants must provide sufficient evidence that proposed projects will meet this deadline.**

Applicants will be selected on a rolling basis based on application completeness, feasibility, and extent to which proposed projects meet the competitive criteria and threshold requirements as described in **Section IV**.

**Applications will be accepted on a rolling basis starting on August, 2008. See Section V for detailed instructions.**

## **II. DEFINITIONS**

### **Eligible Applicant**

An individual, partnership, limited liability company, corporation, non-profit entity, joint venture, or other entity that meets the Threshold Requirements, as described in **Section IV A**, and that submits an application in response to the NOFA.

### **Eligible Units**

Units eligible for subsidy whose rents are affordable to households earning at or below 80% of the Income Index, including but not limited to Target Units, as defined below. Eligibility requirements are described in **Section III**.

### **NYCHTF Subsidy**

Subsidy consisting of monies from the New York City Housing Trust Fund provided to a project for which an application was submitted in response to the NOFA.

### **Principal**

An individual or entity that will act as the general partner, officer or managing member of the Applicant, or any other member that has at least a 10% ownership interest in the Applicant.

### **Target Units**

Units whose rents are affordable to households earning 30% of the Income Index and below, and/or between 61% of the Income Index and 80% of the Income Index, adjusted for household size.

### III. PROGRAM GUIDELINES

- The NYCHTF will provide funding for the new construction or substantial rehabilitation of projects requiring additional subsidy to reach underserved households as defined above.
- Projects must have at least 10 units to be considered for NYCHTF financing.
- All projects receiving NYCHTF subsidy have a minimum affordability requirement of 20% of units affordable to at least one of the following groups (“Target Units”):
  - Very Low Income – Units in this group must be affordable to households earning no more than 30% of the Income Index, adjusted for household size. Eligible tenants will be those whose household income does not exceed 40% of the Income Index.
  - Moderate Income – Units in this group must be affordable to households earning between 61% of the Income Index and 80% of the Income Index, adjusted for household size. Eligible tenants will be those whose household income does not exceed 90% of the Income Index.
- NYCHTF subsidy may be requested in amounts up to \$50,000 per Eligible Unit. However, preference will be given to projects that require the least amount of subsidy. The subsidy average per Eligible Unit of FY07-FY08 awards ranged from \$30,000 -\$40,000. NYCHTF subsidy **may not** be requested for any units whose proposed affordability exceeds 80% of the Income Index, adjusted for household size. HPD reserves the right to award a lesser amount than the subsidy requested based on availability of funding and need as determined by HPD.
- Subsidy will be provided to individual projects as follows:
  - On a per unit basis for units that are affordable to household incomes of 80% of the Income Index and below (“Eligible Units”), including the minimum required number of Target Units as described above. **Units whose affordability exceeds 80% of the Income Index will not receive NYCHTF subsidy.**
- Preference will be given to projects that:
  - Demonstrate a readiness to proceed;
  - Include the highest percentage of Target Units with the least amount of NYCHTF subsidy;
  - Commit to an affordability period of at least fifty (50) years<sup>1</sup>; and
  - Integrate sustainable elements and secure additional non-City funding to support such elements.
- Projects will be evaluated and funded on a rolling basis throughout the current city fiscal year. **All projects that receive funding in Round III must close on construction before the end of the 2009 fiscal year (June 30, 2009).**

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<sup>1</sup> Minimum period of affordability for HPD financing programs is 30 years.

- NYCHTF permanent financing on rental projects will be structured as interest only loans with a balloon payment for principal and accrued interest, if any, due at the end of the loan term.
- NYCHTF subsidy on condominium or cooperative homeownership projects will be converted into an obligation on the Purchasers who acquire the units, or on the Cooperative Corporation as applicable. The subsidy will remain constant for the length of the restriction period and shall be deemed satisfied at the end of the restriction period, provided that Purchaser/Cooperative Corporation has fully complied with all terms and conditions contained in the mortgage and/or regulatory agreement.

## IV. DEVELOPER SELECTION

### A. Threshold Requirements

1. **Completeness of Application** – The application must be fully completed and all forms must be filled out to the satisfaction of HPD. All application requirements must be met at the time of submission. Upon review, HPD, at its discretion, may notify an Applicant that additional information or clarification is necessary.
2. **Comparable Development Experience** – At least one principal of the Applicant must have had prior experience, as a principal, by successfully completing new construction and/or substantial rehabilitation, within the last ten (10) years, of at least one project of comparable size to that project for which NYCHTF subsidy is proposed.
3. **Development Capacity and Current Workload** – An Applicant must be capable of achieving a construction closing by June 30, 2009 and of beginning construction shortly thereafter. The Applicant's current workload and other pending project obligations will be considered in assessing its capacity for undertaking the development project within the time requirement.
4. **Affordability** – All projects must include a minimum of 20% of the units affordable to households earning:

30% of the Income Index or below  
**and/or**  
between 61% and 80% of the Income Index
5. **Ability to Finance** – Applicants must demonstrate adequate financial resources to develop a project of the scope proposed in their submission. HPD will evaluate the Applicant's assets and bank or other lender commitments in order to assess the Applicant's capacity to secure construction and permanent financing, meet construction lender's equity requirements, absorb any cost overruns, and commence and complete construction of Applicant's entire development project in a timely manner.
6. **Feasibility** – Applicant's financing plan must be considered feasible. Estimated development costs must be within current industry parameters. Proposed rents/sales prices must be deemed realistic based upon project information and market conditions. An estimate of the square footage construction costs using both net and gross square footage should be provided along with the project development budget.
7. **No Adverse Findings** – Applications will be rejected if there are any adverse findings related to all principals of the applicant in which they are the subject of: (1) arson conviction or pending case, (2) harassment conviction or pending case, (3) City mortgage foreclosure proceedings or arrears, (4) in-rem foreclosure or substantial tax arrears, (5) defaults under any City-sponsored program, (6) de-designation as developer of any government sponsored or publicly assisted

projects, (7) a record of substantial building code violations or litigation against properties owned by the Applicant or by any entity or individual that comprises the applicant, or (8) conviction for fraud, bribery, or grand larceny.

Projects that do not meet the threshold requirements will not be reviewed further. Applicants will be informed that the project is not eligible to receive NYCHTF subsidy. Applicants may reapply with a revised application except for those disqualified based on Adverse Findings.

## **B. Competitive Criteria**

Applications that satisfy the Threshold Requirements, based on HPD's sole judgment and discretion, will be evaluated and ranked among the current pool of applications, according to the Competitive Criteria described below. Priority may be given to projects that represent an important initiative or provide a unique opportunity to help HPD meet the goals of the Mayor's New Housing Marketplace Plan.

### **1. Project Readiness**

- a. **Financing Commitments** – Preference will be given to applications that include commitment letters from all anticipated sources of funding, including soft commitment letters from HPD Financing Programs.
- b. **Site Control** – For privately-owned properties, preference will be given to projects in which the Applicant owns or has already taken title to all the land and improvements in the project at the time of application, or has entered into a contract of sale for the site. An executed deed or contract of sale must be provided. For properties that are currently City-owned, in lieu of evidence of site control, there must either be approval by the City Council and Mayor of the disposition of the site to Applicant or the Applicant must have received a current Negotiation Letter from HPD in connection with the conveyance of the site.
- c. **Approved Contractor Price** – Preference will be given to applications that can provide evidence that the General Contractor has been selected by the developer and, if necessary, approved by the construction lender, and that the contractor's price has been approved by the developer and construction lender.
- d. **Construction Start** – Preference will be given to projects that are closer to a construction start date. Evidence of imminent construction start may include: DOB submission, list of DOB objections, DOB approval, or approval of construction documents by construction lender.

- 2. Affordability and Subsidy** – Preference will be given to projects that include a greater percentage of Target Units beyond the 20% threshold requirement. Those projects that incorporate the most Target Units with the least amount of NYCHTF subsidy will be given preference.

3. **Period of Affordability** – All proposed projects must commit to a period of affordability of thirty (30) years in order to satisfy the threshold requirements. Preference will be given to projects that commit to a period of affordability of at least fifty (50) years. The most competitive projects will commit to a permanent period of affordability.
4. **Sustainable Elements** – Preference will be given to projects that commit to meeting the criteria of the Enterprise Green Communities<sup>2</sup> program or are participating in the New York State Energy Research and Development Authority Multifamily Performance Program<sup>3</sup>. Applicants must provide documentation that these programs' goals are being met.

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<sup>2</sup><http://www.greencommunitiesonline.org/>

<sup>3</sup><http://www.nyserda.org/funding/funding.asp?i=2>

## V. NOTICE OF FUNDING AVAILABILITY PROCESS

### A. Submission

Applications will be accepted starting **August XX, 2008**. The application submission period will be open while funding is available. Applications which are not complete, do not include all required attachments, or are not in conformance with the requirements of this NOFA will be eliminated from further consideration. Application Forms are attached and may also be obtained on HPD's website at [nyc.gov/hpd](http://nyc.gov/hpd).

Completed applications should be submitted by mail to:

**NYC Department of Housing Preservation and Development  
NYC Housing Trust Fund  
100 Gold Street, Room 9W1  
New York, NY 10038  
Attn: Luke Schray**

Or electronically to [schrayl@hpd.nyc.gov](mailto:schrayl@hpd.nyc.gov)

### B. Selection of Applicants

Applications will be reviewed for completeness, feasibility, and the extent to which they meet the threshold and competitive criteria detailed in **Section IV A-B**. Only projects that meet all threshold requirements will be considered. Program staff will meet regularly to review the current pool of applications that have passed threshold. Projects will be evaluated, rated and ranked according to the Competitive Criteria in **Section IV B**.

HPD reserves the right to award an Applicant as little or as much subsidy as HPD deems necessary for the feasibility of the project, subject to funding availability. Awards will be based on HPD's sole evaluation and judgment. Each selected Applicant will be notified as decisions are made.

## **VI. FUNDING LIMITATIONS AND OTHER CONDITIONS**

NYCHTF funds may not be used for the following: costs associated with the non-residential portion of the project, if any; Applicant's administrative costs associated with obtaining financing; capitalized reserves; and other costs as may be determined by HPD.

Eligible Units receiving NYCHTF subsidy must remain affordable to low and/or moderate income households for the term of the NYCHTF loan, at a minimum. Preference will be given to projects that commit to an affordability period of at least fifty (50) years.

No transaction will be consummated if any principal of any selected Applicant is in arrears, or in default upon any debt, lease, contract or obligation to the City of New York, including without limitation real estate taxes and any other municipal liens or charges. HPD reserves the right not to review any application by any such Applicant.

HPD reserves the right, in its sole discretion, to reject at any time any or all applications, and/or to withdraw the NOFA. HPD likewise reserves the right, at any time, to waive compliance with, or change any of the terms and conditions of this NOFA or to entertain modifications or additions to selected applications.

The commencement of negotiations with an Applicant will not represent any obligation or agreement on the part of the City, which may only be incurred or entered into by a written agreement which has been (i) approved as to form by the City's Law Department, (ii) if applicable, approved by the Mayor after a hearing on due notice, and (iii) duly executed by the Applicant and the City. The Negotiation Letter will only indicate HPD's intention to commence negotiations which may ultimately lead to the execution of such an agreement.

For any site that is currently City-owned, the commencement of negotiations will not give the Applicant permission to enter upon the site, which permission will only be granted, if at all, in the form of a license agreement duly executed by the Applicant and the City. The execution of any such license agreement, if it occurs, will only indicate that the City has granted permission for the Applicant to enter onto the Site for the limited purposes stated in the scope of work set forth therein, and will not indicate that the City has reached any other agreement with the Applicant regarding the Site, the Project, or the Program.

The Applicant, any other potential grantee of the site, and their respective principals must successfully undergo a background check concerning their suitability to do business with the City.

For any site that is currently City-owned: (a) the site will not be sold to any person or entity which (or to any entity with a principal who (i) has not fulfilled development responsibilities undertaken in connection with the City or other governmental entities, (ii) is in default on any obligations to the City, (iii) is a former owner of the site, or (iv) has lost real property to the City in tax or lien enforcement proceedings; (b) the price and other terms for the disposition of the site and the tax exemption to be provided, if any, will be consistent with applicable City policies; (c) the disposition of the site and tax exemptions to be granted, if any, must be reviewed and approved in accordance with the provisions of all applicable local, state, and federal laws, which may require, among

other things, review and/or approval by the local Community Board, the Borough President, the Borough Board, the City Planning Commission, the City Council, and/or the Mayor.

The Applicant must execute legal documents in form and substance acceptable to HPD and in form approved by the City's Law Department.

During negotiations, the Applicant must diligently, competently, and expeditiously comply with all requirements communicated to the Applicant by HPD.

Either HPD or the Applicant may terminate negotiations at any time with or without cause. Negotiations will also terminate automatically if there are any changes to the principals of the Applicant without HPD approval. If negotiations are terminated by either HPD or the Applicant, whether with or without cause, or if negotiations terminate automatically, then neither the City nor the Applicant will have any rights against or liabilities to the other.

The City is not obligated to pay, nor will it in fact pay, any costs or losses incurred by the Applicant at any time, including, but not limited to, the cost of (i) any prior actions by the Applicant in order to respond to this NOFA, or (ii) any future actions by the Applicant in connection with the negotiations, including, but not limited to, actions to comply with requirements of HPD, the City, or any applicable laws.

The design of the Project must comply with any applicable Urban Renewal Plan and HPD design requirements.

All determinations as to the completeness or compliance of any applications, or as to the eligibility or qualification of any Applicant, will be within the sole discretion of HPD.