LIHTC Preservation (Year 15) Program
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. The program assesses the needs of each project and develops a long-term preservation strategy to address the projects' financial and physical needs. HPD assistance may include residential real estate tax exemptions, below-market loans, and/or extensions or modifications of existing HPD mortgages to induce conventional financing for preservation efforts and ensure long term financial stability. This term sheet covers three (3) different ways to assist projects: • Providing full or partial tax exemptions for a term of up to 40 or 60 years, depending on the type of tax exemption for multifamily housing where physical needs can be addressed without an HPD loan. Non-HPD governmental sources of funding may be used in conjunction with the tax exemption, • Providing low-interest loans and tax exemptions to buildings that cannot leverage private debt to finance rehabilitation work, to ensure the physical health of buildings, preserve safe affordable housing for low- and moderate-income households, and reduce building operating expenses, or • Providing low-interest loans and tax exemptions to rehabilitate privately owned housing for low- to moderate-income households. HPD's city capital is gap financing lent in addition to construction and permanent financing sources provided by, but not limited to private institutional lenders, New York City Housing Development Corporation (HDC) programs and New York State programs.
Eligible Projects	Existing LIHTC properties located within New York City (4% and 9% including but not limited to projects in HPD's existing portfolio); sponsors may combine existing non-tax credit properties with existing tax credit properties into one new transaction. Projects that previously received LIHTC from any source must utilize this term sheet when seeking a loan and/or a tax exemption from HPD. Projects requesting transfer consent for the exit of a LIHTC investor only should contact HPDYear15@hpd.nyc.gov. <u>Ineligible Projects</u>: • Projects that receive HUD-assistance are not eligible and should contact the HPD HUD Multifamily Program (hpdhudmf@hpd.nyc.gov). HUD-assisted properties include those where a majority of the units are covered by a form of project-based rental assistance including various types of Housing Assistance Payment (HAP) contracts, Moderate Rehabilitation (Mod Rehab), Moderate Rehabilitation Single Room Occupancy (Mod SRO) or Rental Assistance Demonstration Component II (RAD) contracts and/or properties that received federal subsidies through programs including the HUD 202, 236, or 811 programs. • Projects that have no units that are currently or were previously assisted with LIHTC are not eligible, including projects that were only assisted with State Low-Income Housing Credits (SLIHC). For projects that were not LITHC-assisted and are not HUD-assisted as defined above:

	◦ Projects that are not able to leverage debt should contact the HPD's Multifamily Housing Rehabilitation Loan Program (HRP) (https://www.nyc.gov/site/hpd/services-and-information/multifamily-housing-rehabilitation-loan-program-hrp.page) ◦ Projects that can leverage private debt should contact the Participation Loan Programs (hpdplp@hpd.nyc.gov). ◦ Projects seeking only an Article XI tax exemption should contact the Housing Preservation Opportunities Program (hpo@hpd.nyc.gov). ◦ Projects that are only seeking financing for lead abatement should contact the Lead Hazard Reduction and Healthy Homes Program (hpdlead@hpd.nyc.gov). • Condominiums, loans to individual shareholders, and projects outside of the five boroughs are not eligible for HPD Preservation Programs.
Eligible Sponsors	The program is open to for-profit and not-for-profit owners, including limited partnerships, corporations, joint ventures, limited liability companies, 501(c)(3) corporations and single purpose housing development fund corporations using the HPD-approved Certificate of Incorporation form. The development team must have sufficient financial stability and a demonstrated track record of successfully developing, owning, and operating comparable projects, or must form a joint venture with an entity that has such expertise. HPD may, among other interventions, require the development team to hire a consultant, form a partnership or joint venture, or change of property management as a condition of HPD assistance if there is a history of noncompliance or poor performance at the project and throughout any existing HPD-regulated portfolio.
Eligible Uses of the HPD Loan	Moderate or substantial rehabilitation of multiple dwellings including Single Room Occupancies (SROs). HPD loan cannot be used to pay down or refinance existing debt.
HPD Loan (City Capital) Amount	For projects leveraging new private financing along with an HPD loan: • Up to $75,000 per dwelling unit. For projects not able to leverage new private financing along with an HPD loan: • Up to $55,000 per dwelling unit. Note that projects unable to leverage enough senior debt to reduce city capital compared to not leveraging senior debt will not be permitted to leverage senior debt at closing. The transaction must address all scope items identified by the IPNA as needing replacement in 5 years or less for projects receiving city capital (3 years or less for projects not receiving city capital), other than minor in-unit work completed at unit turnover. Preferences will be given to projects demonstrating cost containment; examples may include but will not be limited to proposals that utilize efficient construction and lease-up schedules, and use of reserves and construction period cash flow. HPD will consider available funding sources in the following order: existing project reserves exceeding HPD's reserve requirements, ability to leverage private debt, sponsor equity and HPD loans. HPD will also evaluate and determine the project's ability to repay existing outstanding loans.

	Reserve withdrawal requests while projects are in the pipeline will be evaluated in the context of the project's available resources and capital needs. HPD will only recognize acquisition prices at the lesser of the contract acquisition price or "as-is" appraised value (completed according to HPD's Approved Appraisal Guidelines). All projects with private site acquisitions must have an "as-is" appraisal acceptable to HPD. Any acquisition that needs HPD subsidy to finance any part of acquisition or take out of acquisition must have HPD approval prior to the acquisition.
HPD Loan and Loan Modification Terms	Permanent Loan Term: • Minimum of 30 years with a repayable balloon loan term of up to 40 years. • HPD may subordinate its loan in order to secure additional financing. Any senior debt should have a minimum term of 30 years and should generally be coterminous with the HPD Permanent Loan. • If a project that is not leveraging new debt and has existing private debt that will balloon during the HPD loan term and/or has a variable interest rate, HPD may require the owner to refinance the private debt into a fully amortizing, stable interest rate loan product prior to, or at the time of, the HPD loan closing. Construction Term Interest Rate: • 1% per annum plus 0.25% servicing fee accruing with simple interest. HPD may consider deferring and accruing interest to accept a paid rate under 1.00%. Any accrued and deferred interest is to be paid as a balloon at maturity of the permanent loan. Permanent Loan Interest Rate: • Interest rate will be set and accrue at the long-term monthly compounding Applicable Federal Rate (AFR), with a minimum floor of 2.5% compounding monthly. A paid rate of 1% per annum (inclusive of 0.25% servicing fee) will be required during the permanent loan period with the balance of the interest being deferred and accrued. HPD may reduce the paid rate to leverage additional private financing. Any unpaid interest will defer and accrue, to be paid as a balloon at maturity. Existing HPD Debt: • May be extended to run concurrent with the new loan term. A monthly compounding interest rate at the higher of 2.5% or the long-term, monthly-compounding Applicable Federal Rate (AFR) will accrue. The required paid rate is 1% per annum (inclusive of 0.25% servicing fee). HPD may reduce the paid rate if there is operational need. Reso-A Funds: • Overall and Paid Interest Rate – 1%, inclusive of servicing. HPD may reduce the paid rate if there is operational need.

Underwriting Terms	HPD requires that the general contractor secures projects by a Payment and Performance bond for 100% of hard costs, excluding contingency for scopes of $1M or more.
	
	<u>For All Projects:</u>
	Acquisition:
	• In the case of investor exits:
	    o HPD loan may not be used to cover consideration for exiting investors; and,
	    o Any payment to investors may not exceed fair market value.

Debt Service Coverage:
- 1.15 on all financing.

Construction Contingency:
- 10% of hard costs; 5% of soft costs.

Income & Expense Trending:
- 2% income increase and 3% expense increase.
- Minimum of 1.05 coverage

Maintenance and Operation (M&O) Expenses:
- The lower of actual expenses or a level acceptable to HPD.

Vacancy and Collection Loss Rate:
- 5% for Residential and 10% for Commercial.

Commercial Space:
- All commercial spaces must have triple net leases at closing or next lease renewal that require commercial tenants to pay for any commercial property taxes. Master leasing of commercial spaces may be allowed on a case-by-case basis based on the financial feasibility needs of the Project.

Reserves:
All Project reserves will remain in place for the full regulatory agreement restriction period. If private senior debt is satisfied prior to the end of the restriction period and the senior lender controlled the reserves, HPD will assume control of all reserves, which will remain in place for the benefit of the project.
- Initial Capitalized Operating Reserve – an amount equal to 6 months of maintenance and operating expenses and debt service on all loans is required.
- Replacement Reserve – initial capitalized reserve of $500 per unit with annual deposits of $350 per unit per year, increasing at 3% annually.
- Projects with non-HPD senior debt will have reserves serviced by the senior lender or other lender approved by HPD.
- Mitchell-Lamas - initial capitalized reserve of $500 per unit with annual deposits of $400 per unit per year, increasing at 3% annually.

Cash Flow:
- HPD will require a cash flow sweep for projects that are unable to fund the initial capitalized replacement or operating reserve requirements to the extent needed to meet those reserve requirements.
- HPD will require a 15-year cash flow sweep for projects whose underwriting demonstrates a DSCR below 1.05 in Year 15 (inclusive of all projected sources of income even if not used to size debt by a senior lender).
- Supportive Housing Projects - Developers receive up to 50% with the balance held in a City-controlled reserve during the restriction (regulatory agreement) period.

For Projects with No New Lender Other than HPD *(including if HPD is not providing a new loan)*:

Projects will be considered for an HPD loan only if capital needs identified in the IPNA cannot be addressed through existing project resources including reserves, modifications to existing HPD debt or private debt. Projects that can meet debt service coverage of 1.15 and income to expense of 1.05 on private financing that are seeking a new HPD loan will also be expected to secure private financing.

Construction Monitoring Fee/Sponsor's Representative Fee:
- A maximum cap of $350,000 per project may be released to the sponsor. A portion of the fee will be held back at closing and released upon project completion (including violation removal and receipt of tax exemption Certificate of Eligibility). HPD may release a portion of the fee at closing to cover HPD-approved sponsor's representative fees.

CPC Construction Monitoring Fee:
- Fee to be paid to CPC to perform construction monitoring services, including requisition approvals.
- $75,000 which will be paid from HPD Loan. This fee is only applicable to projects where HPD is the only lender and CPC is providing construction monitoring services.

Reserve Release:
- Projects receiving no city capital other than Reso A, 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 following closing. Where HPD agrees to a reserve release to the sponsor at closing, the construction monitoring fee will be reduced by the amount of reserves released.
- Projects must transfer all existing project reserves to HDC for servicing unless otherwise required by a senior lender.

<u>For Projects Leveraging Private Debt, Assuming New HPD Loan Request:</u>

Equity Requirements:
- 2% of total development costs less existing debt, developer fee, and reserves. At least 50% of construction period cashflow must be included as an owner equity source in the budget. Equity must be paid with cash equity contributions by the owner, use of existing reserves in excess of term sheet requirements, and/or a cashflow sweep during construction by HPD or the senior lender.

Developer Fee:
- 8% of total development cost (TDC) less acquisition, existing debt, reserves, and developer fee
- Net Developer Fee Cap – $35,000 per unit.
- Eligible Developer's Fee may be reduced if HPD subsidy exceeds the program maximum.

Consultant fees:
- Including development consultants, owner's representatives, etc. must be paid from the developer fee.

Not for Profit and Certified M/WBE Borrowers:
- May receive up to 25% of paid developer fee paid at construction loan closing, inclusive of the amount required to pay consultant fees and up to 25% of the paid developer fee may be released at construction completion as evidenced by a fully executed Certificate of Substantial Completion or Temporary Certificate of Occupancy (TCO), if applicable.

Non-Certified M/WBE For-Profit Borrowers:
- May, upon approval by HPD, receive a portion to pay consultant fees at closing, up to 25% of fee may be released at 50% completion and up to 25% of the developer fee may be released at construction completion as evidenced by a fully executed

Certificate of Substantial Completion or Temporary Certificate of Occupancy (TCO), if applicable. Balance to be paid at conversion.

Prevailing Wage Requirements

Beginning in April 2, 2020, developers or owners of new construction or preservation residential projects with 120 or more residential units in one or more buildings receiving discretionary City financial assistance of $1 million or more will be required to pay all building service employees no less than the prevailing wage.

The Prevailing Wage Schedule is issued annually for building service employees by the New York City Comptroller's Office.

Protected Wage Requirements

Beginning in April 2, 2020, developers or owners of preservation projects receiving discretionary City financial assistance of $1 million or more will be required to pay all building service employees no less than the protected wage.

A preservation project for the purposes of the protected wage requirement is defined as:

- a project undertaken by the City to preserve no more than 119 residential units in one or more buildings and receiving discretionary City financial assistance of $1 million or more; or
- a project undertaken by the City to preserve 120 or more residential units in one or more buildings that is subject to a regulatory agreement requiring affordability of all residential units for households earning on average of up to 50% AMI and receiving City discretionary financial assistance of $1 million or more that is solely in the form of a tax benefit; or
- a project undertaken by the City to preserve 120 or more residential units in one or more buildings that is subject to a regulatory agreement requiring affordability of all residential units for households earning on average of up to 50% AMI and that averages less than $35k per DU in discretionary City financial assistance of $1 million or more.
- The protected wage means the rate of wages and cost of benefits paid to a building service employee in a preservation project on the date that the financial assistance for such a project is received plus an annual increase to account for any change in the cost of living and in the cost of providing benefits. The protected wage annual increase will be determined by City agency rulemaking.

Exemptions

The requirements of this law do not apply to converted public housing building service workers and supportive housing projects as defined by the law.

Prevailing Wage Requirements – City Initiated Rezoning Areas

This law is applicable in City initiated rezoning areas that meet the criteria set forth in the law. In addition, it remains the City's policy to require that, in City initiated rezoning areas, prevailing wage must be paid to all building service employees in new or existing buildings with at least 30 units of residential housing that receive discretionary City financial assistance of $1 million or more with certain exemptions for preservation projects.

More information is available online at: https://www.nyc.gov/site/hpd/services-and-information/prevailing-wage.page

Fees and Closing Cost Reimbursement Restrictions

The following fees cannot be paid for by HPD through its loan proceeds and must be paid for by the owner at closing and are not counted towards owner equity requirement. Payment of any transfer taxes, tax liability for the exiting investor, or acquisition payments (including costs associated with transfer of ownership interests), legal expenses, technical assistance

	fees, or consultant fees from city capital is not permitted. Private lenders may have additional fees, underwriting requirements, and conversion requirements. • Construction Signage Fee – $100 per building. • Equal Opportunity Review Fee – $1,400 per project. • Davis Bacon/Prevailing Wage Monitoring Fee – $30,000 per project, where applicable. • 420c Application Fee – $100 plus $80/unit for Class A units for projects receiving a new or extended 420-c tax exemption. Subject to funding availability, other limited (excluding the above) fees and closing costs may be paid for through the HPD loan (see appendix).
Rent Setting	All units will have affordability restricted at one or more AMI levels through the term of HPD's regulatory agreement. Rent and income limits will be based on the project's existing regulatory agreement(s) and may be deepened by HPD based on the units' current collectable rents (including preferential rents, if any), unless HPD determines higher AMI levels are needed for the project's financial stability.

Regulatory Requirements	All Projects:
	• Term of Regulatory Agreement – owners must, at a minimum, agree to the later of:
	  ○ Fifteen (15) additional years from the expiration of the current regulatory period, or
	  ○ Minimum thirty (30) year regulatory agreement that is coterminous with the HPD debt and/or tax exemption.
	
	• Rent Stabilization –
	  ○ All units must remain in rent stabilization during the term of the regulatory agreement.
	  ○ All units must be registered with DHCR and are subject to the New York State Rent Stabilization. Work completed as a result of the financing is not eligible for Individual Apartment Increases (IAIs) or Major Capital Improvement increases (MCIs).
	
	• Tax Credits –
	  ○ 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 or deeper affordability levels if required by HPD.
	
	• Homeless Set-Aside Requirements –
	  ○ All homeless unit vacancy referrals must be made by HPD's Homeless Placement Unit except for units with supportive services contracts under which homeless referrals are made by the New York City Department of Social Services (DSS) or other designated City agency making supportive housing referrals.
	  ○ Projects with previous 100% homeless unit requirements must maintain at least 30% of the total units as homeless units. For projects with at least 30% of units set aside as homeless units, HPD will assess the scope of the current services in place and adequacy for resident needs.
	  ○ Projects with no previous homeless requirements or previous homeless requirements of less than 15% must incorporate a homeless requirement of

	at least 15%. Projects with previous homeless requirements of 15% or more will continue the preexisting homeless requirements. For projects with a majority of units assisted by Project-Based Rental Assistance, Section 8 Project-Based Vouchers (PBVs) or any other project-based rental subsidy contract the required homeless preference and services will be set in accordance with the HUD Multifamily program term sheet (https://www.nyc.gov/assets/hpd/downloads/pdfs/services/hud-multifamily-program.pdf). *Prepayment does not release Regulatory Agreement requirements, which will remain in effect for the full term.*
Real Estate Tax Benefits	All projects are required to apply for and receive a tax benefit as part of the Year 15 transaction. Projects are expected to receive a 420-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. For projects applying for a tax exemption where a majority of units are assisted by a Section 8 Project-Based Voucher (PBV) contract, the GRT will be structured according to the HUD Multifamily program term sheet unless the project is applying for a 420-c tax exemption but would be eligible for a full 420-a tax exemption. For projects applying for an Article XI tax exemption, the fee simple owner must be a single-purpose Housing Development Fund Company (HDFC) using the HPD-approved Certificate of Incorporation (COI) form. Other projects with HDFCs in the ownership structure must also use the HPD-approved COI form. <u>NYC Department of Buildings Records</u> The use of properties in this program must be consistent with an active Certificate of Occupancy, I-card or receive a Letter of No Objection from the NYC Department of Buildings. If the property has any use inconsistent with formal City records then a condition of closing will be to legalize the inconsistent space. This applies to residential space, parking space, commercial space, and/or community facility space. An expired Temporary Certificate of Occupancy (TCO) will prevent an Article XI or 420-c Certificate of Eligibility (COE) from being issued until a new TCO or Permanent Certificate of Occupancy is issued. **<u>For Projects with No New HPD Financing:</u>** Projects with average current rents—including any rental subsidy rents with anticipated rent increases—above 60% of Area Median Income (AMI) will receive an exemption with a GRT set at 5% or up to 15% for projects with average current rents above 80% AMI. Projects with that have less than 50% of units assisted by PBV or project-based rental subsidy contracts will also receive an exemption with a GRT set at 5%. The GRT may be adjusted downward to ensure a minimum income to expense ratio of 1.05 and debt coverage ratio of 1.25 on senior debt in order to secure private financing to reduce or eliminate City Subsidy. Projects eligible for a full as-of-right 420-a exemption will receive a full 420-c or Article XI tax exemption for the building(s) eligible for 420-a regardless of current rents or project-based rental subsidy.
Design and Construction Requirements	**<u>For All Projects:</u>** **IPNA:** Projects must complete an Integrated Physical Needs Assessment (IPNA) adhering to all NYSERDA IPNA requirements (https://www.nyserda.ny.gov/All-Programs/Multifamily-Building-Programs/Integrated-Physical-Needs-Assessment). Projects are encouraged to seek available assistance with IPNA costs including NYSERDA's Flexible Technical Assistance (FlexTech) program (Flexible Technical Assistance Program - NYSERDA).

Aging in Place: The developer is required to comply with HPD's Aging in Place requirements, including distributing an Aging in Place survey to all tenants and submitting the results to HPD before closing, and including any requested upgrades in the scope of work. Please note that Aging in Place surveys must be distributed to all tenants and requested upgrades included in the scope of work regardless of age or other demographics of individual tenants. For more information, please see HPD's Aging in Place guidelines on our website, https://www1.nyc.gov/site/hpd/services-and-information/aging-in-place.page. Participation in HPD's Aging in Place initiative will be required and work requested by tenants in response to Aging in Place or 504 Accessibility (if triggered by the scope of work) surveys must be incorporated in the scope of work.

Design Guidelines: All projects receiving discretionary City financial assistance are required to comply with the applicable Design Guidelines based on a project's Rehab Classification. Project teams for projects receiving city capital are required to follow HPD's process protocols and will be required to submit a Design Guidelines Workbook at multiple milestones. The final version must be signed by the owner/ developer and the architect of record certifying that the project complies with the Guidelines.

For projects subject to the moderate rehabilitation, substantial rehabilitation, or gut rehabilitation design guidelines:

- Preference will be given to projects demonstrating cost containment, and where scopes result in reductions to utility costs.
- HPD allows Design Waivers for certain mandatory Design Guidelines criteria, which may be used for reasons of technical or financial infeasibility or if implementation will cause negative impacts on residents.
- Projects receiving city capital that are implementing building electrification are required to apply to HPD's REDi program for funding: redi (nyc.gov). Note that REDi prioritizes projects where electrification is most beneficial and cost effective, which aligns with HPD's Design Guidelines. Buildings not receiving REDi funding are strongly encouraged to seek other NYSERDA and/or utility incentives.
- Projects that include electrification in scope will be subject to HPD's Electric Heat Policy and will need to underwrite to HPD's M&O standards for Electric Heating and Hot Water (and Utility Allowances where applicable). Additional Information can be found here: Underwriting Electric and High-Performance Buildings - HPD (nyc.gov)
- Projects receiving city capital should not implement optional "reach" criteria if it will cause project to exceed term sheet loan amounts and costs cannot be offset by energy savings and/ or incentives.

Proposed layout changes will require review and approval by HPD's Division of Building and Land Development Services.

Maintenance only scopes of work will undergo a more limited Design Guidelines review and Workbook submission process.

LOCAL LAW 97: Most HPD projects > 25,000 SF are subject to Local Law 97 starting in 2024. The Design Guidelines will ensure that projects are able to comply. For projects not subject to the Design Guidelines, refer to the HPD LL97 Prescriptive Measures Checklist, or the IPNA's LL97 Compliance Tab.

SOLAR: Per HPD's Solar Where Feasible Mandate, all HPD Preservation projects receiving subsidy are required to submit a Solar Feasibility Analysis and install solar where it is deemed cost-effective. 50% of the projected annual savings from solar will be underwritten for all projects where solar is part of the HPD budget.

Incentives:

- Resilient and Equitable Decarbonization Initiative: Existing Buildings (REDi EB): All multi-family (5+ units) preservation projects receiving subsidy through one of HPD's loan programs can apply to receive REDi funding for the designated scope items.
- Through REDi, HPD projects receive funding to complete electrification and/or energy efficiency scope items that further NYC's climate goals. REDi funding is dispersed as part of the normal requisitions process.
- Solar Incentives and Tax Credits are available for solar and other clean energy investments. More information can be found here.
- Con Ed's Clean Heat program funds heat pumps for space heating and hot water. Note that Clean Heat may not be stacked with REDi.
- The joint-utility New York State Affordable Multifamily Energy Efficiency Program (AMEEP) has two prescriptive pathways that yield up to $2,000/ DU for basic energy efficiency.
- NYSERDA's FlexTech Program shares the cost to produce an objective, site-specific, and targeted study on how best to implement clean energy and/or energy efficiency technologies and can be used to offset the cost of IPNAs.
- DEP's Water Reuse Program incentivizes water reuse and reduction.
- Multi-Family Water Assistance Program - DEP (nyc.gov) Projects can receive a $250 credit per residential unit on their water and sewer bill(s) for water use reductions. Program enrollment is limited.

For Projects Receiving New HPD Loan:
IPNA & Scope: Any city capital loan amount is sized within term sheet limits and after leveraging other available sources according to the rehabilitation needs of the building. Energy efficiency, water conservation and rehabilitation needs are determined through an Integrated Physical Needs Assessment (IPNA), which is a roof-to-cellar assessment of a building's physical conditions combined with an energy audit and conducted by a third party firm found on Integrated Physical Needs Assessment (IPNA) - NYSERDA. The following items from the IPNA must be included in the project's scope:

- Items that correct physical deficiencies and significantly lower energy and water costs.
- Items noted as being in "poor condition" and/or items noted as "unsafe", and systems, components, and finishes that are classified as "immediate needs" or with a remaining useful life (RUL) of 5 years or less.
- In addition, the scope must include all applicable, mandatory items that are required in order to comply with HPD's Preservation Design Guidelines.

Enterprise Green Communities Criteria (EGCC): All substantial and gut rehabilitation projects receiving funding from HPD must comply with the current version of the New York City Overlay (NYC Overlay) of EGCC or may pursue certification with LEED v4, gold or platinum.

Building Benchmarking: Prior to closing, all projects receiving a new HPD loan 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.

M/WBE Requirements: 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.
http://www1.nyc.gov/site/hpd/developers/mwbe-build-up-program.page

Hire NYC: HPD requires developers, general contractors, and subcontractors working on projects receiving more than $2 million in HPD loans 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. http://www1.nyc.gov/site/hpd/developers/hirenyc.page
Fair Housing and Accessibility Requirements	The owner is required to comply with all applicable Federal, State, and local laws, orders, and regulations prohibiting housing discrimination. The owner must also construct the project in compliance with all laws regarding accessibility for people with disabilities, including but not limited to Chapter 11 of 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. Projects that restrict rentals based one or more protected classes, including but not limited to age or gender/gender identity, and do not have a Human Rights Law waiver issued by the New York State Division of Human Rights (SDHR) will be required to obtain an SDHR waiver prior to closing unless the project's rental restrictions come solely from certain government programs such as HUD's Section 202 or Section 811 programs. All rental restrictions based on protected classes must also be approved by HPD.
Marketing Requirements	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. All projects must use NYC Housing Connect for all marketing of units except homeless units, units rented through a Mitchell-Lama waitlist, and units rented through a waitlist for certain project-based rental subsidies. All projects are required to utilize an HPD approved Marketing Agent via HPD's RFQ. Further information is available here.
Application Process	To apply, sponsors must fill out HPD's Preliminary Application.
HPD Contact	**Paul Sawyier, Executive Director, Federally Assisted Portfolio Preservation Programs** hpdyear15@hpd.nyc.gov

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.

APPENDIX – For Projects with No New Lender Other than HPD

Subject to funding availability, the following fees and closing costs (may not be exhaustive) may be paid for through the HPD loan.

Soft Cost Item	Description	Reimbursable Amount
Integrated Physical Needs Assessment (IPNA)	Roof-to-cellar assessment of a building's physical condition combined with an energy audit	HPD relies on NYSERDA's list of approved IPNA provider and requires a provider to be selected from NYSERDA.
Architect and/or Engineer	Scope of work development	HPD must approve cost prior to the borrower formally engaging the architect. Architect/Engineer Fees are limited to 5.50% of hard costs
Environmental Testing, Investigations, and Reports	Lead and asbestos testing Environmental Phase I & II/SEQRA	
Title Report	A report that discloses whether there are any competing claims, liens or other issues on the property.	
Title Insurance	Insures the owner and lender against loss or damage that can occur due to liens, encumbrances, or defects in the title to a property.	Typically, 0.9% of the total loan amount.
Initial Benchmarking Setup Fee	Fee to setup benchmarking account	
Green Consultant Fee (if applicable)	Consultant to assist in complying with Enterprise Green Communities Program	
Builder's Risk Insurance	Protects buildings under construction	Borrower must have funds available to pay for this prior to closing.