

LIHTC Preservation (Year 15) – Repositioning – HPD Funded Term Sheet

Program Description	<p>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.</p> <p>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, subsidies for loans, extensions or modifications of existing mortgages, and securing additional subsidy through debt.</p>
Eligible Projects	<p>Tax credit properties at the end of their initial tax credit compliance period or tax credit properties that have previously exited the investor. May combine non-tax credit properties with tax credit properties when it improves operations and reduces the need for subsidy.</p> <p>Projects that do not need subsidy should refer to the Tax Exemption Only Term Sheet. Projects requesting transfer consent only should refer to the Transfer Consent Application.</p>
Eligible Borrowers	<p>Limited partnerships, corporations, joint ventures, limited liability companies, 501(c)(3) corporations and single purpose 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.</p>
Eligible Uses	<p>Moderate rehabilitation of multiple dwellings, including SROs. Loans are intended for buildings needing replacement of building systems, structural improvements.</p>
HPD Loan Amount	<ul style="list-style-type: none"> • Up to \$20,000 per unit depending on the rehabilitation needs of the buildings and availability of existing reserves. 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: existing project reserves 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 capital needs. • Additional homeless set aside requirements and/or longer regulatory restriction periods will apply to projects requesting over the term sheet limit.
HPD Loan Terms	<ul style="list-style-type: none"> • Maximum loan term: 30 years, repayable balloon • Overall Interest Rate: the long-term, monthly-compounding Applicable Federal Rate (AFR), with a minimum floor of 2.5% (compounding monthly). • Paid Interest: up to 1% per annum (plus 0.25% servicing fee). Any unpaid interest will defer and accrue, to be paid as a balloon at maturity.
Underwriting Terms	<ul style="list-style-type: none"> • I & E Trending: 2% income increase and 3% expense increase. • Vacancy and Collection Loss Rate: 5% for Residential and 10% for Commercial.

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- 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. HPD may reduce the initial Operating Reserve Requirement where underwriting shows (1) combined reserves of at least \$5,000 per designated unit after the first 15 years of the new term and (2) combined reserves continue to remain positive after 30 years
- Upon repositioning, all existing 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 Contingency: 5%.
- Construction Monitoring Fee/Owner’s Representative Fee: A maximum cap of a \$100,000 per project. All of the fee will be held back at closing and released upon project completion (including violation removal and receipt of tax exemption Cert of Eligibility). HPD may release the fee to cover HPD approved owner’s representative fees. 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.
- 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 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.
- 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.
- A Payment and Performance Bond or Letter of Credit will be required for projects with construction costs in excess of \$1,000,000.

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

- Subject to funding availability, the following fees can be paid from project reserves or loan proceeds: \$100 420c application fee + \$80/unit for Class A units, \$100 construction signage fee per building for projects that receive a capital loan, required third party reports (i.e. asbestos) for projects that receive a capital loan, up to \$1,400 in EO fees, up to \$30,000 in Prevailing Wage fees, and up to \$15,000 in legal fees. All remaining closing costs

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	<p>(including all title costs) are the responsibility of the Sponsor and cannot be funded with project reserves or City Capital.</p> <ul style="list-style-type: none"> • Payment of any transfer taxes from project resources is not permitted.
<p>Regulatory Requirements</p>	<ul style="list-style-type: none"> • 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 any 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 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 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. • 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.
<p>Real Estate Tax Benefits</p>	<p>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.</p>
<p>Design and Construction Requirements</p>	<p>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).</p> <p>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.</p> <p>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.</p>

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Requisitions will be processed by HPD; a 10% retainage will be held until 100% completion.

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.

HPD'S DESIGN GUIDELINES FOR PRESERVATION: HPD's new Design Guidelines for Moderate Rehabs and Design Guidelines for Substantial/ Gut Rehabs establish minimum design standards that ensures that all HPD projects can meet NYC's climate goals and laws while incorporating best practices for resiliency, health, and safety:

- As of March 1st, 2023, all new HPD Preservation projects* must comply with the applicable version of the [HPD Design Guidelines for Preservation](#) based on the appropriate [HPD Rehab Classification](#).
- Note that projects with scopes that are maintenance only, or do not affect 2 or more systems (e.g., plumbing, heating, roof, etc.) are not subject to the Guidelines but must comply with the applicable requirements for that section of the Guidelines (e.g., heating equipment must comply with requirements for heating systems).

LOCAL LAW 97: Most buildings > 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 projects receiving subsidy are required to install solar where it is deemed cost-effective. A Solar Feasibility Analysis is required to assess cost-effectiveness as part of the IPNA process. HPD's non-profit partners at Solar One can help owners/ applicant complete the Solar Feasibility Analysis and Screening Tool, contact: affordable@solar1.org

INCENTIVES: Projects must pursue all available utility incentives, including

- [AMEEP \(the NY Affordable Multifamily Energy Efficiency Program\)](#), which provides up to \$2,000 per unit for projects following a comprehensive pathway, or more for projects implementing significant equipment or envelope improvements.
- [The HPD Retrofit Electrification Pilot](#) for projects seeking to electrify heating or hot water
- NYSERDA's [Heat Pump Program \(NYS Clean Heat\)](#) or other [Multifamily Building Programs - NYSERDA](#) and
- DEP's [Water Conservation & Reuse Grants - DEP \(nyc.gov\)](#)

ENTERPRISE GREEN COMMUNITIES CRITERIA (EGCC): All substantial and gut rehabilitation projects receiving funding from HPD must comply with the New York City Overlay (NYC Overlay) to EGGG or may pursue certification with LEED v4, gold or platinum. Per [HPD's Rehab Classifications](#), projects with scopes that include all three of the following items are considered Substantial Rehabs:

- Heating system replacement (includes equipment and distribution system)
- Work in at least 75% of dwelling units (including but not limited to fixture replacements)

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	<ul style="list-style-type: none"> ○ Substantial work on building envelope (including replacement or alteration of ≥50% of total glazing area or ≥50% of total opaque envelope). <p>Proposed layout changes may require review and approval by HPD's Division of Building and Land Development Services.</p> <p>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.</p> <p>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.</p> <p>Work to assist tenants aging in place may also be required by HPD and included in the scope of work.</p>
Fair Housing and Accessibility Requirements	<p>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.</p>
Marketing	<p>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.</p>
Application Process	<p>Sponsors interested in repositioning a project in fiscal year 2020 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.</p>
HPD Contact	<p>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</p>

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.