

**NYC Department of Housing Preservation and Development (HPD)**  
Office of Development, Division of New Construction Finance

**Open Door (New Construction Homeownership)  
Term Sheet**

<b>Program Description</b>	<p>HPD's Open Door program funds the new construction of cooperative buildings affordable to low-, moderate-, and middle-income families. Where dictated by lot size, the program may also fund the construction of new one- to three-family homes.</p> <p>Upon construction completion, the developer will sell the ownership units to households who agree to owner-occupy them for the length of the regulatory period. If the purchaser sells or refinances during the regulatory period, the purchaser must sell to eligible purchasers in accordance with resale restrictions as enumerated in the Regulatory Agreement</p> <p>HPD subsidy is in addition to construction and permanent financing sources provided by, but not limited to, private institutional lenders, New York State Affordable Homeownership Opportunity Program (AHOP), New York State Affordable Housing Corporation (AHC) program, and developer equity.</p>										
<b>Eligible Borrowers and Sponsors</b>	<p>To be eligible for a HPD loan, the property must be owned by a Housing Development Fund Corporation during construction. The borrower need not be a Housing Development Fund Corporation, and project owner may develop the project either alone or in partnership with for-profit developers, limited partnerships, corporations, trusts, joint ventures, or limited liability companies.</p>										
<b>HPD Loan Amount, Affordability Tiers, and Priority Criteria</b>	<p>HPD may provide maximum subsidies according to the chart below. The maximum subsidy amounts are based on underwritten AMI levels.</p> <p>The maximum subsidy amount will be based on market conditions and target levels of affordability, as determined by HPD. The maximum subsidy amounts below are contingent upon the availability of AHOP funds for units up to 100% AMI and AHC funds for units between 101% and 120% AMI.</p> <table border="1" data-bbox="597 1220 1268 1551"> <thead> <tr> <th>Project Affordability Range</th><th>Maximum Subsidy</th></tr> </thead> <tbody> <tr> <td>Up to 80%</td><td>\$445,000</td></tr> <tr> <td>81%-90%</td><td>\$430,000</td></tr> <tr> <td>91%-100%</td><td>\$365,000</td></tr> <tr> <td>101%-120%</td><td>\$355,000</td></tr> </tbody> </table> <p><b>Additional Subsidy is available for projects that meet the following criteria:</b></p> <ul style="list-style-type: none"> <li>CLTs: Projects on a community land trust (CLT) will be allowed an additional \$5,000/DU in subsidy to account for costs associated with the CLT ground lease fees.</li> </ul> <p><b>Sales Prices:</b> Sales prices are set jointly with HPD at prices affordable to households earning between 70-120% AMI, or as dictated by market. A minimum 10% discount to market will be required. Prices are calculated to cap housing costs at 33% of total annual income, which takes into consideration costs including monthly maintenance costs, shareholder-paid utilities, and</p>	Project Affordability Range	Maximum Subsidy	Up to 80%	\$445,000	81%-90%	\$430,000	91%-100%	\$365,000	101%-120%	\$355,000
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projected mortgage payments (assuming a 30-year mortgage term with a 5% down payment and a fixed interest rate calibrated to current rates).

**Pipeline Prioritization:** Given the especially high subsidy per unit needs for affordable new construction homeownership projects, HPD will prioritize Open Door projects for financing to maximize the Agency's goals, including redevelopment of city-owned sites, affirmatively furthering fair housing, and promoting access to homeownership. Projects will also be evaluated based on their per-unit subsidy amounts.

**Permanent Loan Terms**

- **Loan Term:** 20-year minimum or as dictated by the length of the initial tax exemption.
- **Interest Rate:** 0.25% servicing fee during construction and 0% per annum during the permanent term.
- **Amortization:** Balloon may be allowable.
- **Developer's Fee:** The total developer's fee will be the lesser of 10% of the total development costs (excluding the developer's fee, reserves, soft cost contingency and acquisition costs) or \$50,000/DU. HPD will require a reduction in the paid developer fee in order to reduce funding gaps and/or public subsidy. Consultant fees, including development consultants and owner's representatives, should be paid from the developer's fee.
  - Up to 10% of the fee may be paid during construction. For one- to three-family homes, at least 10% of the developer's fee must be deferred until submission of proof, satisfactory to HPD, that all eligible purchaser enforcement mortgages have been recorded against their units or the cooperative property in the Office of the City Clerk. Proof of recording may be evidenced by a Department of Finance receipt and a printout of a screenshot of ACRIS.
- **Land Acquisition:** Acquisition costs for privately owned land will be reviewed by HPD and may be approved at the lesser of the purchase price or up to as-is appraised value. HPD will not recognize an increased acquisition price from a private site rezoning (or may require a sellers note or sponsor loan for the difference; however, such note or loan must be in excess of any equity requirements of the program). For City-owned sites, disposition will be for \$1 per lot with the balance of appraised value in an enforcement note and mortgage that may accumulate interest at the long-term monthly Applicable Federal Rate ("Land Debt").
- **Requisitions:** The HPD Construction Loan shall be advanced for hard costs only on a pari passu basis with advances of hard costs of the other construction lenders.
- Projects funded with federal funds require compliance with Section 3 new hires and Davis Bacon prevailing wages, as applicable.

**Equity Requirement**

HPD will defer to the first construction private lender's equity requirement. However, if necessary to improve financeability, HPD may require a developer equity contribution during construction to reduce the project's HPD subsidy need.

**Regulatory Requirements**

One- to three-family homes will be subject to Enforcement Note and Mortgage with a minimum term of 20 years requiring primary residency requirements, resale restrictions, and rental restrictions (if applicable).

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Cooperative projects will be subject to a **minimum** 40-year Regulatory Agreement with the following requirements:

- Current and future vacant apartments must be sold in accordance with resale restrictions as enumerated in the Regulatory Agreement.
- Current and future vacant apartments must be sold to a household making no more than the project's income cap.
- Apartment resales are subject to a minimum 10% flip tax paid out of sales proceeds to the HDFC cooperative.
- Shareholders must occupy their apartments in accordance HPD's primary residency requirements.
- Cooperative buildings will be required to provide an allowance for capitalized reserves and/or operating reserves in the development budget.
- Underwriting for cooperative buildings will be required to include monthly operating and/or replacement reserves in the monthly maintenance charges.
- Minimum annual maintenance increases of 2% per year.
- An HPD-approved, third-party cooperative monitor and property manager.
- Annual submission to HPD of documents including, but not limited to audited financial reports with support documentation demonstrating annual maintenance increases.

One- to three-family homes and cooperative projects on CLTs may also be subject to additional requirements in accordance with the CLT's Ground Lease and HPD policy.

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**Real Estate  
Tax Benefits**

All projects must apply for a tax exemption. Projects may qualify for the UDAAP, or Article XI tax exemptions. See [HPD Tax Incentive Programs guidelines](#) for more details.

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**Design and  
Construction  
Requirements**

- Projects must meet [HPD Design Guidelines for Multifamily New Construction and Senior Housing](#) and plans must be approved by HPD.
- HPD reserves the right to participate in construction monitoring.
- HPD may at its discretion require competitive bidding for general contractors.
- HPD may require extended warranty coverage.
- All projects must achieve Green Communities Green Certification. The Green Communities Criteria and Certification portal is available on at [Enterprise Green Communities Criteria](#).
- Projects may be required to retain a qualified benchmarking service provider to track usage for heating, electric and water. The HPD Benchmarking and Performance Tracking Protocol is available online at [Benchmarking Protocol](#).

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- Solar savings, when used to offset a building's utility costs, are encouraged to be underwritten to the maximum extent allowed by the lenders.
- Projects must be in full compliance with the design requirements of all applicable laws, including, but not limited to, the *New York City Zoning Resolution*, the *New York City Building Code*, the *New York City Housing Maintenance Code*, the *New York State Multiple Dwelling Law*, the *Fair Housing Act*, and *Section 504 of the Rehabilitation Act of 1973*. Projects receiving New York State Homes and Community Renewal (HCR) funding must also comply with the *HCR Design Guidelines*.
- New York City Building Code regulations for construction in flood hazard areas are changing and will affect construction requirements for future development. To reduce risk, the agency may impose additional hazard mitigation requirements. Developers should verify and disclose if they are in the 100 year or 500 year flood plain. This information must be confirmed by a licensed surveyor, but Developers can perform an initial check here: [www.nyc.gov/floodhazardmapper](http://www.nyc.gov/floodhazardmapper)
- Projects considering shareholder-paid heat must consult with their HPD Project Manager about special requirements associated with this arrangement.

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**Closing Requirements**

Conditions precedent to construction loan closing include (but are not limited to):

- Completed and satisfactory [Integrity Review](#) disclosure documents for all applicable individuals and entities in the project. Further disclosure documentation may be required.
- Completed and satisfactory Equal Opportunity documents for applicable entities, including contractors and sub-contractors, in the project. Further documentation may be required for contractors and sub-contractors on the [Enhanced Contractor Review](#) status list.
- Completed and satisfactory [HUD Section 3](#) documents for applicable entities in the project, if project is receiving federal funding.
- Completed and satisfactory [Campaign Finance Law](#) documents for applicable individuals and organizations in the project.
- Completed and satisfactory [Environmental Review](#), including, but not limited to, City Environmental Quality Review (CEQR), and/or State Environmental Quality Review Act (SEQRA) review, and/or NEPA environmental review, as applicable. Further environmental testing and compliance may be required.
- Architectural plans and specifications approved by HPD's Building and Land Development Services (BLDS).
- Approval and New Building Permits by the NYC Department of Buildings (DOB).
- HPD may require the inclusion of an HPD rider as part of the construction contract.
- Borrower's organizational documents, including W-9 forms and IRS EIN letters.

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	<ul style="list-style-type: none"> <li>• HPD requires that the general contractor secures projects by a letter of credit for 10% of hard costs excluding contingency. Payment and Performance bond for 100% of hard costs may be accepted in lieu of letter of credit.</li> <li>• HPD may require that it be named beneficiary on a number of documents, including, but not limited to, insurance certifications and completion guarantees.</li> </ul>
<b>Marketing and Sales</b>	<p>Projects must comply with <a href="#">HPD Marketing Guidelines</a>. The Marketing process is overseen by HPD. Resales must be marketed through the HPD Housing Connect 2.0 System and use a consultant from the Qualified Marketing Agent RFQ. Where applicable and as dictated by specific project requirements, certain projects may be exempt from the aforementioned resale requirements.</p> <p>Cooperative Offering Plans must be approved by HPD and the NYS Attorney General's office.</p> <p>Conditions precedent to HPD approval of sales include (but are not limited to):</p> <ul style="list-style-type: none"> <li>• Temporary Certificate of Occupancy from NYC Department of Buildings for cooperatives, with 200% of final punch list items costs set aside in an escrow reserve account until items are cured/repared. Permanent Certificate of Occupancy for one- to three-family homes.</li> <li>• Evidence that final punch list items have been cured/repared for one- to three-family homes.</li> <li>• Architect's Statement post-completion regarding accessibility.</li> <li>• Certificate of Completion from HPD on City-owned sites.</li> <li>• Proof that real estate tax exemptions have been obtained.</li> <li>• Evidence that the purchaser has received from the development team, in a form satisfactory to HPD, homeowner education pertaining to financial planning; operation and maintenance of HVAC, heating and hot water systems and appliances; manufacturer and developer warranty coverage; and homeowner maintenance responsibilities.</li> <li>• Evidence that the purchaser has received from the development team, in a form satisfactory to HPD, technical training on how to form and run a coop.</li> </ul>
<b>Fees and Closing Costs</b>	<p>HPD requires a fee of \$1,400 for monitoring compliance with Executive Order 50 of 1980 (as amended by Executive Order 94 of 1986, Executive Order 108 of 1986, and Executive Order 159 of 2011) which requires equal employment opportunity in New York City contracting and monitoring compliance with 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 which require the payment of prevailing wages and compliance with labor standards.</p>
<b>Additional Requirements</b>	<p>Developers are 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 Disabilities Act, and Section 504 of the Rehabilitation Act of 1973.</p> <p>The proposed residential development program will be evaluated within the context of New York City's commitment to affirmatively further fair housing. Consistent with the Fair Housing Act, the City and HPD implement a balanced approach to fair housing planning, taking meaningful action to address disparities in housing needs that increases access to opportunity, fosters inclusive</p>

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communities, and facilitates integrated living patterns, in addition to combating discrimination, throughout New York City.

Eligible HPD-financed projects will be subject to the Agency's economic opportunity programs including HireNYC and M/WBE Build Up. Such projects must meet the obligations of each applicable program and initiative. Additional information can be found at:

<https://www1.nyc.gov/site/hpd/services-and-information/hirenyc.page> and  
<https://www1.nyc.gov/site/hpd/services-and-information/m-wbe-build-up-program.page>.

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>

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**HPD Contact**

**Open Door Program**

100 Gold Street, Room 9-U9  
HOP

[Opendoor@hpd.nyc.gov](mailto:Opendoor@hpd.nyc.gov)

Project proposals can be submitted to the above email address for review.

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*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.*