

American Recovery and Reinvestment Act of 2009 Tax Credit Assistance Program (“TCAP”)

New York State Division of Housing and Community Renewal LIHTC and TCAP Draft Selection Process and Criteria

LIHTC Selection Process and Criteria

Pursuant to a Notice of Credit Availability (“NOCA”) and Request for Proposals (“RFP”), DHCR annually makes 9% Low Income Housing Tax Credit (“LIHTC”) available to applicants seeking to develop affordable housing in New York State. All applicants seeking 9% LIHTC must complete and submit an application providing a detailed description of proposed projects by no later than an application submission deadline established in the NOCA. DHCR reviews project applications requesting 9% LIHTC to determine whether the proposed project is eligible for funding and whether it is feasible based on specified underwriting and design considerations. As part of this process, DHCR also performs an analysis of the applicant’s plan of financing to determine the minimum amount of credit necessary for the financial feasibility of the proposed project.

Based on applications submitted pursuant to this process, DHCR competitively awards 9% LIHTC to projects according to selection criteria and point weightings specified in its Qualified Allocation Plan (“QAP”) (www.nysdhcr.gov/general/ARRA/TCAP/QAP.htm). QAP scoring factors include preferences and selection criteria required by Section 42 of the Internal Revenue Code, such as projects serving the lowest income tenants, projects obligated to serve qualified tenants for the longest periods, sponsor characteristics, project characteristics, projects serving tenant populations with special housing needs, projects utilizing public housing waiting lists and projects serving individuals with children.

Projects to be considered for TCAP financing must have received an award of 9% LIHTC during the period of October 1, 2006 through September 30, 2009 (“eligible time period”). DHCR defines an “award of LIHTCs” to have occurred as of the date of the letter informing a successful applicant that a specific dollar amount of LIHTC will be allocated upon satisfactory completion of that project (“Award Letter”).

Pursuant to the above standards, DHCR will consider the following types of 9% LIHTC projects for TCAP awards:

- Projects awarded 9% LIHTC in 2007 or 2008: DHCR currently has a pipeline of 49 projects that have received reservations of 9% LIHTC totaling more than \$34 million. These projects, which received 9% LIHTC awards from DHCR in 2007 and 2008 pursuant to the competitive application process described above, have not yet qualified for a carryover allocation.
- 2008 9% LIHTC Waitlist Projects: Competitive applications were submitted in 2008 for these projects, but the projects were not initially selected for an award of 9% LIHTC due to insufficient funding availability. Pursuant to the QAP, DHCR places these projects on a waitlist in the event that funding subsequently becomes available.
- 2009 9% LIHTC Applications: Pursuant to a NOCA and RFP issued in November 2008, DHCR received 108 applications requesting, in the aggregate, annual 9% LIHTC allocations of more than \$100 million.

In addition, consistent with the QAP, applicants requesting 4% credit that filed applications with DHCR prior to March 1, 2008 may be considered for TCAP funding. Only those projects that submitted a timely application and received

an award of 4% LIHTC during the period of October 1, 2006 through September 30, 2009 will be considered eligible for TCAP financing. In evaluating applications for 4% LIHTC pursuant to the QAP, DHCR considers the operating economics of proposed projects, reviews the financing and development costs for reasonableness, and determines the minimum amount of credit necessary for the financial feasibility of the proposed project.

Tax Credit Assistance Program Selection Process and Criteria

As described above, only projects that have received an “award of LIHTCs” during the eligible time period will be considered for TCAP funding.

DHCR will give priority to requests for TCAP funding that demonstrate project readiness, defined as projects that are expected to expend 75% of their TCAP award by February 16, 2011, and 100% by February 16, 2012.

In making such a determination of readiness, the following factors will be considered:

a. Funding Commitments

The extent to which all other funding commitments have been obtained.

b. Local Approvals

The extent to which all approvals necessary to start construction have been obtained, including but not limited to rezoning, the granting of variances, the availability of water and sewer services to the project, subdivision approval, and project tax abatement approval.

c. Environmental Approvals

The extent to which all necessary environmental approvals have been obtained.

d. Site Control

The extent to which site control for the project has been secured.

e. Development Team Capacity

The extent to which the project development team's track record in completing prior LIHTC projects demonstrates the capacity necessary to complete the project within the eligible time period.

f. Status of Construction Documents

The extent to which the project has finalized plans and specifications, general contractor's contract and other construction-related documents.

The amount of TCAP to be awarded to these LIHTC projects will be determined by DHCR based on a consideration of factors consistent with the agency's guidelines for requesting additional funding related to decreases in LIHTC contribution, parameters for award increases outlined in the agency's Capital Programs Manual and the project underwriting criteria set forth in the QAP.