STATE OF MICHIGAN
JENNIFER M. GRANHOLM
GOVERNOR
MICHIGAN STATE HOUSING DEVELOPMENT AUTHORITY
LANSING
KEITH MOLIN
EXECUTIVE DIRECTOR

MEMORANDUM

TO: INTERESTED PARTIES

FROM: STEPHEN LATHOM

SUBJECT: EXTENSION OF FEDERAL TAX CREDIT EXCHANGE PROGRAM

DATE: JANUARY 29, 2010

CC:

Background: In early December, the United State House of Representatives passed legislation that would extend the federal "tax credit exchange program" originally authorized by Section 1602 of the American Recovery and Reinvestment Act. The Senate has not yet passed companion legislation, but there is a broad consensus among the affordable rental housing industry that this legislation will pass. Most recently, various industry groups have suggested that the Senate may take up the legislative package including this provision in mid-February.

While we cannot be absolutely certain the Section 1602 program will be extended, we are confident that it will be. As a result, we are providing this memo to give industry participants guidance on how the Authority intends to respond to the anticipated extension of the program. At such time as the federal exchange program is indeed approved, the Authority will provide greater detail on its plans and more formal program notices and application materials.

Assuming the provisions are enacted into law as passed by the House, the Authority will have the opportunity to exchange 9% Low Income Housing Tax Credit (LIHTC) to the U.S. Treasury for cash awards. For each $1.00 of credit ceiling returned, the Authority would receive $8.50 in Section 1602 funding (equating to an exchange rate of $0.85 per dollar of annual credit). Up to 40% of the state's 2010 credit ceiling (estimated to be $21 million) and 100% of prior year credit awards returned to the Authority could be exchanged for cash.

Intent to Exchange 2010 Credit Ceiling: Like last year, the Authority intends to exchange 40% of the state's annual credit ceiling rather than awarding that credit to projects. Based on a $21 million ceiling for 2010, this equates to $8.4 million in credit ceiling that would be removed from the March 2010 general round. Exchanging this credit ceiling would result in approximately $71.4 million in Section 1602 funding from Treasury.

Impact on March 2010 General Round: As a result of the previously announced rolling round ($5.25 million in credit ceiling) and the intent to exchange 40% of the 2010 credit ceiling ($8.4 million), the Authority intends to award only $7.35 million in credit ceiling during the March 2010 general round.

The Authority also intends to extend its 9% Equity Support Program to allow developments seeking credit awards in the March 2010 general round to apply for gap funding. 2010 rolling round applications will not be eligible to participate in the 9% Equity Support Program. Applicants for 2010 rolling round awards, which require hard equity commitments, have already requested most of the available credit ceiling without the need for, or access to, gap financing from the Authority.

Like last year, 2010 general round applications will be accepted with a Notice of Intent to Apply for 9% Equity Support funding, and full scale applications will be required at a later date. Applicants should be aware of several points about this extension of the 9% Equity Support Program:

- While hard equity commitments are not required for either a March 2010 general round application or an associated 9% Equity Support Program application, the Authority will not approve equity support funding for any transaction until a hard equity commitment has been obtained.

- The Authority reserves the right to fund 9% Equity Support applications with any source of funding available, including federal HOME funding, Neighborhood Stabilization Program Funding, or remaining Section 1602 or TCAP funding from the state's initial ARRA funded awards. As a result, applicants should assume that federal cross-cutting requirements, including the National Environmental Policy Act (NEPA), Uniform Relocation Act (URA), Davis-Bacon and Related Acts (DBRA), and Section 504 will apply to their projects. Additionally, applicants should assume that funding will be awarded in the form of repayable subordinate gap financing.

- Maximum 9% Equity Support Program funding has been revised to $0.35 in effective tax credit pricing support (or $3.50 per $1.00 of credit ceiling being requested). For purposes of general round scoring, a maximum of 10 points may be awarded to transactions that request less equity support funding. Points will be awarded in inverse proportion to the equity support sought with any fractional points rounded down to a whole number.[1] An application requesting $0.35 in pricing support will receive 0 points, while one that requests $0.17, for example, would receive 5 points.

- 9% Equity Support Program funding requires compliance with the Authority's Direct Lending Parameters and will be processed and underwritten according to the same standards as a direct lending application. Accordingly, owners submitting applications for LIHTC who also plan to apply for the 9% Equity Support Program should incorporate these standards into a project's underwriting. While there have been efforts to more closely align the underwriting perspectives of the 9% LIHTC program and the direct lending program, some differences remain. For purposes of creating as much consistency as possible, sponsors should be aware that LIHTC Allocations staff will continue to work jointly with Rental Development staff to implement the following underwriting practices:

    - Projects that are not requesting 9% Equity Support will be underwritten using the standards as listed in Tab O and assuming a 15-Year cash flow projection to assess both project viability and reserve needs;
    - Projects that are requesting 9% Equity Support will be underwritten using the Direct Lending Underwriting Parameters and assuming a 20-Year cash flow projection to assess both project viability and reserve needs;
    - For 9% Equity Support Applications, direct lending cash flow projections will require at least 3% annual increases in replacement reserve deposits; and
    - Additionally, it should be noted that in all cases the "Tab O" underwriting standards provide initial minimum and maximum expectations, but individual assessments of each proposed development may result in more conservative underwriting assumptions based on individual features of the development or its market. Waivers to "Tab O" standards can also be considered but must be presented explicitly as part of the initial application package.

    Sponsors should be aware that the above list is not exhaustive and other minor variations in the underwriting between straight 9% LIHTC transactions and those requesting 9% Equity Support funding may still exist.

[1] The Authority soon will release an updated Notice of Intent to Apply for the 9% Equity Support Program that further explains the calculation of points. In essence, for every $0.01 less than the $0.35 maximum funding, a project could receive approximately 0.28 points. The point total will be rounded down to the nearest whole number, so a deal requesting only $0.20 in equity support—$0.15 less than the maximum—would receive 4 additional points (15 cents times 0.28 points equals 4.2 points, rounded down to 4 points).

Unsold 2009 Credit Awards: While the Authority expects to be able to run a 9% Tax Credit Exchange Program open to projects with unsold 9% LIHTC awards from 2009, it cannot do so unless and until the federal exchange program is in fact extended.

As a result, at this time sponsors who currently have 9% LIHTC awards from 2009 but who have been unable to secure equity investment should continue to seek such investment. Any extension of the 9% Tax Credit Exchange Program will continue to require that sponsors returning prior year credits and seeking direct funding from the Authority demonstrate good faith efforts to actually syndicate their credit awards. The Authority expects to require sponsors to demonstrate they have continued to make good faith efforts to obtain equity investment until such time as it is in a position to extend the 9% Tax Credit Exchange Program. Projects from 2009 that previously applied with hard equity commitments but failed to fulfill those commitments are unlikely to qualify for the Authority's 9% Tax Credit Exchange Program.

If and when the federal exchange program is extended, the Authority will provide further guidance notifying sponsors of the opportunity, deadlines, and requirements to apply for direct funding under the 9% Tax Credit Exchange Program.

Additional Funding for 4% Equity Support and Reinvestment and Innovation Program: If the federal exchange program is extended and implemented by the Authority as contemplated above, as much as $45 million in Section 1602 funding may become available beyond the nearly $26 million potentially needed for a 2010 version of the 9% Equity Support Program. While no specific decision has been made, the Authority would expect to use this funding to continue the 4% Equity Support Program and the Reinvestment and Innovation Program. If and when the federal exchange program is extended, we will provide further guidance on the specific split of resources between these program areas and on associated application deadlines and requirements.

Ongoing Review of Environment and Implementation Flexibility: As the Authority has noted throughout its implementation of the Recovery Act, flexibility is and will remain key to successful implementation. The Authority will continue to track market conditions and accept feedback and comment from industry participants. We may make additional adjustments to its programs in the months to come to ensure that ARRA resources are fully and efficiently utilized. In the event the federal exchange program is not extended, the Authority will likely award remaining 2010 credit to applications received in the March 2010 round that otherwise are not funded within the $7.35 million credit ceiling now available.

Questions or Comments: Any questions or comments about this notice may be directed to:

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