

FOR CONSIDERATION

October 21, 2010

TO: The Directors

FROM: Dennis M. Mullen

SUBJECT: Tenant Repair and Improvement Loan Program

REQUEST

FOR: Authorization to (i) Make Tenant Repair and Improvement Loans to Certain Housing Projects in an Amount Not to Exceed \$28,841,000, (ii) Delegate Authority to the Chief Financial & Administrative Officer or her Designee to Increase Loan Amounts, if Deemed Necessary, to Complete Approved Work Items, and (iii) Take All Related Actions.

BACKGROUND

At the April 15, 2009 meeting of the Directors of the New York State Urban Development Corporation (“UDC”) d/b/a Empire State Development Corporation (“ESDC” or “the Corporation”), the Directors were informed of a plan to establish the Tenant Repair and Improvement Loan Program (the “Program”) to eliminate health and safety issues, enhance living conditions, and improve the fiscal health of the Mitchell-Lama housing projects in ESDC’s loan portfolio (the “Program Goals”).

The General Program Parameters, as revised, provide that to achieve the Program Goals, ESDC will make low cost loans to owners of eligible properties with the requirement that all approved repair and construction work be completed within six months of the start of construction.

All loans made under the Program shall be secured by a subordinate mortgage on the Project. The source of funds for this initiative is the Corporation’s Housing Repair Fund Account (the “Account”), which is funded from savings realized from the 1996 Corporate Purpose Bond Restructuring. In accordance with the original intent of the bond resolution, ESDC will access this Account to fund immediate capital needs of the projects, which will contribute to the preservation of the Corporation’s affordable housing portfolio originally financed in the 1970s.

In August and September 2009, the Board of Directors approved Phase I of this program by authorizing the use of \$32 Million for ten (10) projects to participate in this program. We have successfully closed on all but one of the projects and the funds are currently being disbursed in accordance with the terms of the Program. One project decided not to participate in the Program.

The Directors also authorized the set-aside of funds in the Account as a loan loss reserve against potential future defaults in the repayment of loans made from the Account. This reserve shall in no event be funded in an amount greater than 25% of the total amount of outstanding loans.

CURRENT STATUS

Approximately one-third of the portfolio is financially distressed and unable to address their immediate capital needs. Unmet capital needs at these projects negatively affect the quality of life of the tenants and are likely to result in increased vacancy levels leading to greater shortfalls in operating revenues and operating escrow funds. Providing financial support to fund the physical needs of these projects will have a positive impact on their habitability and contribute to the preservation of safe and affordable housing for low and moderate income residents of New York State.

Eligible projects are those originally financed by ESDC that commit to continue as affordable housing projects for the next 15 years or 5 years beyond the maturity date of the UDC first mortgage, whichever is later. Eligible repairs and improvements include window replacement, elevator repairs, HVAC and boiler upgrades. This initiative will provide an effective way of addressing many of the physical needs of the distressed projects in ESDC's portfolio.

MANAGEMENT ACTION

On July 10, 2010, Portfolio Management staff sent invitations to apply for Tenant Repair and Improvement Loans to 16 project owners. To be considered for the Program, applicants were required to provide a detailed scope of work, a breakdown of the work items and associated costs, the estimated loan amount and completion date, and evidence that the work addresses the Program Goals. A non-refundable due diligence fee of \$750 was required to accompany each application.

Included among the 9 loan applications received from project owners to date were requests for funds for such repairs and improvements as the replacement of windows; elevator modernization; façade and roof work where water penetration is affecting apartments; the restoration of apartments currently uninhabitable which were destroyed or damaged by water or other factors; the upgrading of apartments with energy-efficient kitchen appliances, carbon monoxide/smoke detectors and safe electrical outlets; and the installation of updated security and surveillance systems.

In order to assure that the Program Goals are achieved in an expeditious manner, it is requested that the Directors delegate authority to the Chief Financial & Administrative Officer or her Designee to approve the release of additional funds from the Account in the event of unforeseen or unanticipated additional costs to cover the approved work for the projects listed below. The amount of any additional advances shall not exceed 25% of the final approved repair amount for the project.

The following Projects and Improvements are under review or have been approved by ESDC staff and authorization is requested to finalize the loans identified below:

<u>Loan #</u>	<u>Project Name</u>	<u>Location</u>	<u>Units</u>	<u>Amount</u>	<u>Improvements</u>
009	Twin Parks Southwest	Bronx	536	\$5,750,000	Window Replacement Elevator Repairs
083	Smith-Woodward Plaza	Kings	141	\$2,432,500	Façade Repairs/ Balconies Repairs
086	Lakeview Apartments	New York	446	\$5,750,000	Façade Repairs/ Interior Refinishing
092	Michelangelo Apts.	Bronx	494	\$2,875,000	Roof Replacement Security Upgrade
097	Pinnacle Place Apts.	Monroe	407	\$5,751,000	Kitchen Upgrade Window Replacement
118	Canaan House	New York	146	\$2,415,000	Roof Replacement/ Kitchen Renovation
133	Seven Greens Apts.	Ulster	125	\$2,030,500	HVAC Replacement Kitchen Renovation
150	Golden Park Apts.	Sullivan	126	\$1,837,000	Kitchen Renovation Boiler Replacement
		Total	<u>2,421</u>	<u>\$28,841,000</u>	

ENVIRONMENTAL REVIEW

ESDC staff has determined that this request authorization constitutes a Type II action as defined by the New York State Environmental Quality Review Act (“SEQRA”) and the implementing regulations for the New York State Department of Environmental Conservation. No further environmental review is required in connection with the action.

AFFIRMATIVE ACTION

ESDC’s Non-Discrimination and Affirmative Action policy will apply. Program applicants are encouraged to use their best efforts to achieve Minority and/or Women-owned Business Enterprise participation of not less than 20% in the New York City Region and 10% in all other regions of the total dollar value of work performed pursuant to contracts or purchase orders

entered into in connection with the tenant repair and improvement work related to the initiative, and to include minorities and women in any job opportunities created.

REQUESTED ACTION

The Directors are requested to adopt the attached resolution authorizing (i) the making of Tenant Repair and Improvement loans to certain housing projects in an amount not to exceed \$28,841,000, (ii) Delegation of Authority to the Chief Financial & Administrative Officer or her Designee to increase loan amounts by an amount not to exceed 25% of the initial loan amount for each project, if deemed necessary, to complete approved work items, and (iii) the taking of all related actions.

RECOMMENDATION

Based on the foregoing, I recommend approval of the attached resolution.

ATTACHMENTS

Resolution
Revised General Program Parameters

October 21, 2010

New York State Urban Development Corporation d/b/a Empire State Development Corporation (the "Corporation") - Authorization to (i) Make Tenant Repair and Improvement Loans to Certain Housing Projects in an Amount Not to Exceed \$28,841,000, (ii) Delegate Authority to the Chief Financial & Administrative Officer or her Designee to Increase Loan Amounts, if Deemed Necessary, to Complete Approved Work Items, and (iii) Take All Related Actions.

RESOLVED, that upon the basis of the materials presented to this meeting (the "Materials"), a copy of which is hereby ordered filed with the records of the Corporation, the Corporation be and is hereby authorized to (i) make Tenant Repair and Improvement Loans to certain housing projects in an amount not to exceed \$28,841,000, (ii) delegate authority to the Chief Financial & Administrative Officer or her designee to increase loan amounts by an amount not to exceed 25% of the initial loan amount for each project, if deemed necessary, to complete approved work items, and (iii) take all related actions; and be it further

RESOLVED, that the Chairman and Chief Executive Officer of the Corporation or his designee(s) be, and each of them hereby is, authorized to take such action and execute such documents as may be necessary or appropriate to carry out the foregoing resolution.

TENANT REPAIR AND IMPROVEMENT LOAN INITIATIVE

REVISED GENERAL PROGRAM PARAMETERS

The New York State Urban Development Corporation (“UDC”) d/b/a the Empire State Development Corporation (“ESDC”) is willing to provide low-interest rehabilitation loans to certain New York State Mitchell-Lama affordable housing projects which were originally financed by UDC in the early 1970s and are currently held in ESDC’s housing portfolio. These loans are intended to improve the quality of life for the tenants residing in UDC-financed projects by providing low-cost funds to owners of distressed projects to address certain immediate capital needs of their projects and help to prevent further deterioration of the projects’ physical condition. Determination of the need for such financial assistance shall be made solely by ESDC, in consultation with HFA and DHCR. Such loans are intended not only to provide immediate improvement in the quality of life of tenants residing in these UDC-financed affordable housing projects but are expected to encourage and extend the continued affordability of these projects.

The following is a general description of ESDC’s Tenant Repair and Improvement Loan Initiative:

PURPOSE: To maintain and enhance existing UDC-financed Mitchell-Lama affordable housing projects in ESDC’s portfolio (“ESDC Portfolio Projects” or “Projects”) for residents of the State of New York through capital investment in certain repairs and improvements that will provide immediate improvement in the quality of life of current and future tenants residing in these projects.

ELIGIBLE PROPERTIES: An ESDC Portfolio Project that is determined by ESDC, in consultation with HFA and DHCR, to require such financial assistance and which intends to continue to provide affordable housing within the community in which it is located until the later of fifteen (15) years after the date on which the loan is made or five (5) years beyond the maturity date of the Project’s existing first mortgage with ESDC.

ELIGIBLE BORROWERS: An existing UDC-financed Mitchell-Lama entity organized under the New York State Private Housing Finance Law.

ELIGIBLE REPAIRS AND IMPROVEMENTS: ESDC will provide low cost tenant repair and improvement loans to Eligible Properties, subject to a schedule of work items acceptable to ESDC or its agent, and in a final amount acceptable to ESDC. Such funds will be made available to Eligible Properties where there are inadequate

project reserve funds (including the Operating Escrow Fund) or capital to make such repairs. Loans provided by ESDC will be used to address tenant health and safety problems and to make repairs and improvements that will provide immediate improvement in the quality of life of the tenants. Work must be completed within six (6) months of the start of construction. Eligible repairs and improvements shall include, but are not limited to, window replacement, elevator repairs, HVAC and boiler upgrades and such other items that will provide a direct and immediate benefit to tenants. Such loans will be made available only to Eligible Properties that intend to continue to provide affordable housing until the later of fifteen (15) years after the date on which the loan is made or five (5) years beyond the maturity date of the Project's existing first mortgage with ESDC.

**REHABILITATION LOAN
STRUCTURE AND FEES:**

ESDC will provide low interest loans for tenant repairs and improvements, which shall be payable from available cash flow during the remaining term of the first mortgage with ESDC and will mature simultaneously with the first mortgage. The annual interest rate on tenant repair and improvement loans will be set at 2.5%. Included in the rate is ESDC's annual servicing fee of 0.50%. Upon maturity of the ESDC first mortgage, any remaining balance on the tenant repair and improvement loan will be repayable in equal monthly installments over a five (5) year period. In the event that an Eligible Borrower elects to buy out or otherwise leave the Mitchell-Lama affordable housing program prior to the maturity of its first mortgage with ESDC or prior to the extended fifteen (15) year affordability period, the tenant repair and improvement loan will be accelerated and immediately due and payable. The loan amount shall not exceed the lesser of \$2,500,000 or \$15,000 per unit, excluding contingencies, which may be adjusted at ESDC's discretion for larger-size Eligible Properties.

A non-refundable due diligence fee of \$750, payable at the time of application, will be required. Upon acceptance of the loan commitment from ESDC, a commitment fee of \$1,500 will be due and payable. Eligible Borrowers will be responsible for the payment of all legal fees, including those incurred by ESDC. Fees and costs may be adjusted at

the discretion of ESDC for Eligible Properties that demonstrate financial hardship.

APPLICATION PROCEDURE:

To apply for a tenant repair and improvement loan, Eligible Borrowers of Eligible Properties are invited to submit an application to ESDC, accompanied by the \$750 non-refundable due diligence fee payable to the Empire State Development Corporation. The application must include, at a minimum, a breakdown of the work items, the estimated loan amount required for each item, estimated completion date, and evidence that these work items will provide an immediate and direct benefit to the tenants. Since ESDC has limited funds available for tenant repair and improvement loans, applications will be considered on a competitive basis. ESDC will establish a deadline date for submission of applications and will evaluate applications primarily on the impact the proposed work will have on the immediate improvement in the quality of life of the tenants residing in Eligible Properties. Eligible Borrowers will be required to execute standard ESDC loan documents.