Tax-Exempt & Taxable Lending Parameters

December 14, 2011

MSHDA offers tax-exempt and taxable loans for the development of affordable rental housing. Loans will be provided to the extent the following objectives are met:

1. Create and preserve affordable rental housing that meet the priorities in Section VII, and that achieves at least one of the following public benefits:
   - Family units serving low-income households, or
   - Senior housing, (excluding congregate transactions) including proposals supporting successful aging in place, or
   - Housing in rural communities, or
   - Supportive housing integrated and supported by necessary services, or
   - Provides economic opportunities for low and very low-income persons, or
   - Workforce housing provided in high-cost areas, or
   - Mixed and Adaptive Reuse buildings supporting downtown housing, or
   - Meets the needs of Native American housing, or
   - Produces any of the above in the context of another state or federal program that meets any of the Authority's other priorities.
2. The housing must contribute to the strengthening of communities through site and design standards.
3. The longest term of affordability possible.
4. The loan must be a long-term earning asset.
5. Rehabilitation transactions must address the physical needs of the property, including those directly related to the enhancement of resident livability and functionality.

These parameters describe lending available for new construction, substantial rehabilitation/adaptive reuse, preservation, and the acquisition and rehabilitation of conventionally financed rental housing. Combined construction and permanent lending is provided and MSHDA retains long-term portfolio oversight. Project requirements, interest rates, and gap funding vary by location of the property, population to be served, income targeting, and resource availability.

I. <u>Tax-Exempt Funding Rounds:</u> Applications for Tax-Exempt financing may be evaluated in two possible ways

A. Competitive Funding Round: Tax-Exempt proposals requesting MSHDA gap funding will be subject to what is anticipated to be an annual competitive funding round, based on a Gap Financing Program and Notice of Funding Availability (NOFA). Applications submitted during the NOFA period will be evaluated through a competitive funding round. Applications must be received in either MSHDA's Lansing office or MSHDA's Detroit Office no later than 5:00 pm on the Preliminary Assessment Application due date. Applications received after the due date and time will not be processed. No waiver of the delivery time will be granted.

B. **Open Funding Round:** Proposals not requiring gap financing from MSHDA or other MSHDA preservation developments not requiring gap financing in excess of what would be recaptured by MSHDA in the event of refinancing may apply for financing at any time. Those proposals will not be subject to the Gap Financing Program.

II. Taxable Bond Funding: Proposals for Taxable Bond financing may apply for financing at any time. We do not anticipate making Authority gap funding available for Taxable Bond transactions.

Eligibility and Resource Availability:

A. **Project Size:** Typical projects range between 24 -100 units, with exceptions considered for rehabilitation projects.

B. **Eligible Developments:** Any new construction or acquisition and rehabilitation development, including existing affordable housing subject to necessary HUD and/or Rural Development approvals, in Michigan is eligible to apply for a tax-exempt or taxable bond loan from MSHDA.

C. **Ineligible Projects:** Nursing homes, adult foster care homes, student housing, transient housing, or single room occupancy are ineligible.

D. **Eligible Borrowers:** Prior to mortgage loan commitment a legal entity must be formed that is an "eligible borrower" under the Authority's Act. A sponsor/developer may be a nonprofit, an individual, a group of individuals, a corporate entity, or some combination.

E. **Minimum Rehab:** The application must indicate a need for at least $20,000 per unit in hard rehab or construction costs and must include this amount in the construction budget. In addition, a Capital Needs Assessment (CNA) is typically required to help determine the scope and cost of the rehabilitation.

F. **Tax-Exempt Eligibility:** Proposed tax exempt financing must equal at least 52% of aggregate basis (i.e. eligible basis plus land) with respect to each building, which must equal or exceed 15% of the portion of the cost of acquiring such building and equipment.

G. **MSHDA Subordinate Loans:** The Authority may make gap financing available as subordinate loans ("Subordinate Loan") using funding from programs such as HOME, Neighborhood Stabilization Program (NSP), and Authority Preservation Funds, or other funding sources that may be available. Loans made from any of these sources may be available at 3% simple interest for gap funding. The use of any of these sources may trigger cross cutting federal requirements such as Davis Bacon and Related Acts (DBRA), National Environmental Protection Act (NEPA), Section 3, and/or the Uniform Relocation Act (URA). Such loans will be secured by a mortgage subordinate only to the MSHDA tax-exempt bond or taxable bond first mortgage.

   The minimum amount of the Subordinate Loan will be $1,000 per unit assisted by the Subordinate Loan. The maximum amount of the Subordinate Loan will not exceed the lesser of (1) the equity gap as determined by MSHDA (2) the amount of the permanent Tax-Exempt, or (3) program limits imposed by applicable state or federal regulations associated with a specific funding source.

   Interest on the Subordinate Loan will accrue, but loan amortization will be deferred until the earlier of the year in which all deferred developer fee has been paid, or 12 years. Beginning at the earlier of the year in which the deferred developer fee has been paid in full, or in the 13th year from the beginning of amortization, annual payments will be payable from fifty percent of any surplus cash available for distribution to the owner, applied first to accrued interest, then to current interest and principal, with the balance of principal and all interest due at the earlier of sale of the development, prepayment or refinancing of the mortgage loan, or 50 years after closing. Upon payment in full of the first mortgage, the outstanding balance of the Subordinate Loan, including accrued interest, will become the new first mortgage and begin amortization with monthly mortgage payments equal to the payments made under the original first mortgage, with the balance of principal and all interest due at the earlier of sale of the development, refinancing of the mortgage loan or 50 years after loan closing.

H. Other: Participation in the Low-Income Housing Tax Credit program is required.

II. Interest Rate and Term:

A. Rate: The Tax-Exempt and Taxable Bond loan interest rates are based on MSHDA's cost of borrowing. Changes in the interest rate are posted on MSHDA's web site. Construction and rehabilitation loans are offered at the same interest rate. The specific interest rate and any reservation of secondary financing will be locked in upon MSHDA's Loan Committee Commitment approval for up to three months. If closing does not occur within three months of MSHDA Board Commitment, the rate will be subject to increases.

B. Term: For new construction and/or acquisition/rehabilitation transactions, the typical mortgage term is 35 years.

For preservation transactions, a 35-year term **Part "A" loan** will be established using the lesser of the acceptable rent comparability study rent levels, trended for the remaining term of the Section 8 Housing Assistance Payment (HAP) contract, or the current Section 8 contract rents. An annual increase of 1% will be assumed when trending the rents that support the Part "A" loan.

For Section 8 or other preservation transactions with a Section 8 HAP contract not subject to annual appropriation, a **Part "B" loan** may be established using the difference between the trended market rents and the actual contract rents. The term of this loan will equal the remaining term on the HAP contract.

For Section 236 Preservation transactions a **Part "B" loan** is the amount of debt that can be supported by the continuing stream of income from the "decoupled" Interest Reduction Payments (IRP) contract. Part "B" of the first mortgage will be underwritten at a fixed rate over a fully amortizing term not to exceed the term remaining on the Interest Reduction Payments contract at a 1.0 debt coverage ratio.

C. Prepayment: Tax Exempt or Taxable Bond first mortgage loans (including Part A and Part B loans) are eligible for prepayment without MSHDA approval after the expiration of fifteen (15) years after the commencement of amortization. The mortgagor must provide the Authority with at least 60 days notice prior to any such prepayment.

In the event of a prepayment, however, the mortgagor must pay a prepayment fee equal to the sum of:

i) 1% of the balance being prepaid;
ii) Any bond call premium, prepayment or swap penalty, or any other cost that the Authority incurs to prepay the bonds or notes that were used to fund the Mortgage Loan; and

iii) Any loss of debt service spread between the mortgage loan the bonds used to finance the loan from the date of the prepayment through the end of the 20^{th} year of amortization.

A mortgagor interested in prepaying a mortgage will be responsible for paying any costs associated with termination of an equal amount of an interest rate swap agreement (swap). Once the mortgagor has been approved for the early prepayment of the underlying loan, it must sign an agreement with MSHDA stating it is responsible for the cost of terminating the swap. The mortgagor can then choose the timing of the termination and participate in the transaction with the swap counterparty. The swap counterparty will quote the cost of terminating the swap and the mortgagor will have the ability to execute the transaction or cancel at its sole discretion. If the mortgagor chooses not to terminate the swap, it will forfeit the right to prepay the mortgage.

Subordinate Loans are eligible to prepay at any time upon 60 days prior written notice to the Authority, but prepayment will not eliminate the Term of Affordability requirement and may not extinguish federal compliance requirements.

D. Term of Affordability: Authority program affordability restrictions imposed at the closing of the mortgage loan involving a Subordinate Loan must remain in place for 50 years. Developments without a Subordinate Loan will be expected to maintain the affordability restrictions for the longest of the period the first mortgage loan is outstanding, the time required under the Low Income Housing Tax Credit Regulatory Agreement for the development or Tax Exempt Bond regulations.

E. Loan Insurance: MSHDA reserves the right to require the submission of documents necessary to obtain HUD risk-sharing (50/50) or full FHA insurance. Typically, MSHDA will bear the cost of any risk-sharing insurance, should it be required. If the mortgagor requests risk-sharing insurance, the premium cost will be borne by the mortgagor.

III. Underwriting Standards: The underwriting standards outlined below are starting point minimum and maximum standards. For purposes of these underwriting standards, which are applied to all Tax-Exempt and Taxable first mortgage loans and to any development seeking subordinate gap financing from the Authority, staff analysis of a specific transaction or the Authority's assessment of the risk involved may suggest variance from these standards. For example, in some counties where the actual median incomes are substantially below historic exception figures used by HUD to calculate income and rent limits, it may be appropriate to use even more conservative rent trending assumptions for units with rents at regulatory limits. In a similar vein, in preservation transactions, actual operating histories may suggest different financial projections related to expense growth.

A. Loan Limits: MSHDA's Tax-Exempt and Taxable loans are limited to 110 percent of the applicable HUD 221 (d)(3) Mortgage Limits, as amended from time to time by HUD. Sponsors can receive a mortgage loan of up to 90 percent of the total development cost, subject to the above limitation. Any proposal involving the syndication or sale of Housing Tax Credit is characterized as a for-profit venture, even if the developer or the general partner of the partnership that owns the project is a nonprofit group.

B. Debt Coverage: MSHDA requires a minimum initial Debt Coverage Ratio (DCR) of 1.25, based on the assessment of risk associated with the development. Furthermore, within the Authority's 20 year cash flow projection, the DCR may not drop below the greater of (1) a 1.15, or (2) the rate needed to maintain a cash flow per unit of $250 without the establishment of appropriate operating deficit reserves.

C. **Vacancy Loss:** Vacancy loss will be budgeted, at a minimum, at 8% of the gross rental potential. At MSHDA's discretion, in certain markets or for smaller size projects, a higher vacancy loss may be required, or for projects with existing rental subsidy, a lesser vacancy loss may be considered.

D. **Determining the Number of HOME Units:** If a HOME loan is provided, the number of HOME-designated units will be calculated using the amount of HOME funds necessary for project feasibility, as determined by MSHDA, divided by the lesser of the per unit total development cost or the federal per-unit HOME subsidy limit. HOME-designated units will be subject to a minimum 15-year affordability period for rehabilitation transactions, or a 20-year affordability period for new construction transactions, beginning after project completion in HUD's IDIS system.

E. **Determining the Number of NSP Units:** If an NSP funded Subordinate Loan is provided, the number of NSP designated units will be calculated based on the prorata share of total development cost funded with NSP.

F. **Income Limits:** The Housing and Economic Recovery Act of 2008 (HERA), authorized new income limits applicable to LIHTC and Tax Exempt bond financed developments. HUD has designated these as Multifamily Tax Subsidy Project (MTSP) Income Limits and will publish applicable figures on an annual basis concurrent with its publication of the Section 8 Income Limits. In both cases, the MTSP and Section 8 Income limits establish qualifying income limits expressed in terms of the Area Median Income (AMI).

Developments with multiple funding sources may be subject to two distinct sets of income limits depending on the mix of financing involved in the transaction. In any given year, for projects placed in service, the applicable MTSP AMI limits and the Section 8 AMI limits will be the same in that year. In subsequent years, MTSP AMI limits will be "held harmless" so that if actual incomes in a county decline, the MTSP AMI limits will remain at the previous year's level. Section 8 AMI limits, however, will not be held harmless, and as a result, units with federal assistance that invoke Section 8 AMI limits will be required to comply with lower qualifying incomes and resulting rent limits (see discussion of HERA in the description of Rent Limits below). On a practical basis, units assisted with both LIHTC and other federal funding sources, such as HOME, will be subject to the lower of the two applicable income limits, which will always be the Section 8 limits.

In summary, while Section 8 AMI limits may decline from year to year, MTSP AMI limits will not decline after the development has been placed in service. In no case will the applicable MTSP AMI limit be lower, at a given income level, than the related Section 8 AMI.

Finally, it is also worth noting that in the event actual incomes in a county decline in subsequent years, a development placed in service in later years will have a different and lower MTSP AMI qualifying limit than a similar development placed in service when actual incomes were higher.

The following income restrictions apply based on program/funding sources utilized:

- **<u>Tax Credit Income Restrictions</u>:**
  a. A minimum of either 20% of the units income restricted to households whose incomes do not exceed the MTSP 50% AMI limit or 40% of the units income restricted to households whose incomes do not exceed the MTSP 60% AMI limit , or
  b. Any combination of lower MTSP AMI limits contained in the applicant's LIHTC application.

- **<u>HOME Income Restrictions</u>:** In proposals where a HOME loan is provided, with five or more designated HOME units, 20% of the designated HOME units must be occupied by households with incomes at or below the Section 8 50% AMI limit. The remaining HOME units may be occupied by households with incomes at or below the Section 8 60% AMI limit.

- **<u>NSP Income Restrictions</u>:** In proposals where a NSP loan is provided, the NSP assisted units will be income restricted at the Section 8 50% AMI limit.

- **<u>Existing HAP Contract Income Restrictions</u>:** For transactions with an existing HAP Contract, until the expiration of the HAP, the lesser of Section 8, applicable LIHTC, or other program limits apply, and after HAP expiration, applicable LIHTC program or other more restrictive income restrictions will apply for the balance of the term of affordability.

- **<u>Section 236 Preservation Income Restrictions</u>:** For Section 236 Preservation transactions, income limits will be the lesser of the Section 236 or the applicable LIHTC income limits apply until the expiration of the IRP, plus the 5-year extension required by HUD as part of the decoupling program. After that, applicable LIHTC program or other more restrictive income restrictions will apply for the balance of the term of affordability.

- **<u>Project Based Voucher (PBV)/Supportive Housing Income Restrictions</u>:** PBV assistance is available only to designated supportive housing units serving special needs individuals, as defined in MSHDA's Addendum III. While PBV units may have higher LIHTC, HOME, or other income limit targets applied, for purposes of the Housing Assistance Payment (HAP) contract, PBV assisted households must have annual adjusted incomes at or below the Section 8 30% AMI limit.

G. Rent Restrictions: HERA's introduction of new MTSP income limits also affects rent levels. For LIHTC and Tax Exempt bond financed units subject to income restrictions, rent restrictions are based on calculations using the applicable MTSP income limits. For units subject to both sets of income limits, for example a unit assisted with both LIHTC and HOME funds, the more restrictive rent limit will apply.

Unless otherwise noted, rent limits calculated as some percentage of the area median income are based upon an occupancy assumption of one and one-half persons per bedroom and adjusted to the imputed family size.

Tax-Exempt & Taxable Lending Parameters

The following rent restrictions apply based on program/funding sources utilized:

- **Tax Credit Rent Restrictions:** The total housing expense for all tax credit units may not exceed 30% of the MTSP income limit for that unit.

  For underwriting purposes, only up to 30% of the total units in the development will be allowed to have rents underwritten at market rent and/or a rent of 95% of 30% of the MTSP 60% AMI income limit. All remaining market and/or MTSP 60% AMI income restricted units in the development will have rents underwritten at 30% of the MTSP 50% AMI income limit or lower as required by MSHDA's Chief Market Analyst.

  Units that are targeted for occupancy at maximum income levels lower than the MTSP 60% AMI limit will be underwritten with rents set at 30% of that lower income limit. The restricted rent calculation will be based on an occupancy assumption of one and one half persons per bedroom. In some situations, as noted below, the use of HOME, NSP, or TCAP funds will require further rental restrictions.

- **HOME Rent Restrictions:** The total housing expense for all HOME-assisted units in a rental project may not exceed the lesser of 1) 30% of the MTSP 60% AMI limit, 2) the Existing Section 8 Fair Market Rent (FMR) as established by HUD or 3) the High HOME rent as established by HUD. In rental projects with five or more HOME-assisted units, 20% of the HOME-assisted units must be occupied by very low-income households and have rents not to exceed the lesser of 1) 30% of MTSP 50% AMI limit, 2) the Section 8 FMR or 3) the Low HOME rent as determined by HUD or the rent limit described above.

- **NSP Rent Restrictions:** For Developments where a NSP loan is provided, the total housing expense for NSP assisted units may not exceed the lesser of 1) 30% of the MTSP 50% AMI limit, 2) the Fair Market Rent, or 3) other more restrictive program rent restrictions.

- **Existing HAP Contracts Rent Restrictions:** Until the expiration of the HAP, the Section 8 rent limits apply. After HAP expiration, or for projects with a HAP Contract subject to annual appropriations, the applicable LIHTC rent restrictions or other more restrictive program rent restrictions will apply for the balance of the term of affordability. Following expiration of the current HAP contract the mortgagor must apply for and accept any available HAP or other HUD subsidy extensions, subject to Authority approval.

- **Section 236 Preservation Rent Restrictions:** The total housing expense for Section 236 units will the lesser of 30% of 45% of the MTSP AMI limit, the level of income currently served by the development, or other more restrictive program rent restriction.

- **PBV/Supportive Housing Rent Restrictions:** The total housing expense for units with MSHDA's PBV assistance outside of a Qualified Census Tract (QCT) will be the lesser of:
  1. The greater of the unit's applicable LIHTC rent or the payment standard established by the Housing Choice Voucher program;
  2. The reasonable rent; or

3. The amount requested by the owner; or
4. Other more restrictive program rent restrictions

The total housing expense for units with MSHDA's PBV assistance within a QCT will be the lesser of:

1. The amount determined by MSHDA, not to exceed 110 percent of the applicable fair market rent (FMR) (or any exception payment standard approved by the Secretary);
2. The reasonable rent; or
3. The amount requested by the owner; or
4. Other more restrictive program rent restrictions

- **Rent Increases:** For all programs, rental increases on occupied units during any 12-month period will be limited to not more than 5% of the rent paid by the resident household at the beginning of that annual period. Exceptions to this limitation may be granted by the Authority's Director of Asset Management for extraordinary increases in project operating expenses (exclusive of Limited Dividend payments). Rents on vacated units may be increased to the maximum level permissible by the applicable programs.

J. Operating Expenses: Projected operating expenses must be provided using the Intake Package found as Tab II on MSHDA's Combined Application web site. For new construction proposals projections must be based on annual expenses of similar developments, in type, size, building structure, and location if possible. For occupied acquisition and/or preservation transactions, projections will generally be based on the current expenses of the proposed site.

K. Annual Trending Factors: The following trending assumptions will be utilized for the twenty-year cash flow analysis:

- Income: Maximum 1% for first five years, and 2% for remaining period
- Utility Expenses: Minimum 6% first five years, and 3% for remaining period
- All Other Operating Expenses: Minimum 3% for entire period
- Replacement Reserve: Minimum 2% (new construction) or 3% (rehabilitation) for entire period

As noted above, more conservative trending factors may be used based on the Authority's analysis of local conditions, development specific factors, experience with similar developments or the project's management company, or other factors suggesting greater risk in a transaction.

L. Market Determination: The market for the development and the proposed rents must be supported by a professional, independent market analysis, and must be sufficient to meet debt service and normal operating expenses. The impact of the proposed housing on other MSHDA developments in the area and the differential between market rent units and the proposed housing will be factors in accepting proposals for financing. The review, analysis, and acceptance of market conditions will be done in accordance with MSHDA Market Study Guidelines and the MSHDA Market Analysis Process.

M. Operating Assurance Reserve: At the time of initial disbursement of mortgage loan proceeds, the mortgagor must establish an Operating Assurance Reserve (OAR) equal to four months estimated operating expenses, payments required under the mortgage note, deposits to reserves and other anticipated development expenses. The OAR may be funded completely with cash or a maximum of 50% of the OAR may be funded with an irrevocable, unconditional letter of credit acceptable to the Authority, with the balance funded with cash. To the extent any portion of the OAR is used prior to the final closing of the mortgage loan, the mortgagor must restore the OAR to its original balance at final closing.

The following OAR terms apply based on the following project types:

<u>All Project Types Except Section 8 Projects</u>: The OAR and any interest it accrues will be held by the Authority for a minimum of 15 full years of operation of the development and may be used in accordance with the Authority's written policy on the use of the OAR, as amended from time to time.

In the 10th year of amortization, the OAR will be used to fully fund the replacement reserve needs identified by an independent comprehensive needs analysis and to fully fund any other escrow accounts. If the amount required to fund escrows is represented by a letter of credit, the letter of credit will be drawn upon. The mortgagor may request approval of up to a 50% reduction/release in the remaining OAR. The Director of Asset Management may approve a release and/or reduction, based on a review of the development's operations. All excess amounts released from the OAR (in connection with this or any future release) will be deposited into the development's operating account.

Following the 15th full year of operation OAR funds that are not needed for funding of the replacement reserve, or other escrows, will be available for release to the development's operating account.

In loans with a Subordinate Loan, the unutilized OAR in the 10th and/or 15th year will be returned to MSHDA in an amount not to exceed the outstanding balance of the Subordinate Loan, with the any remainder going to the development's operating account, after meeting the same criterion above.

<u>Section 8 Projects</u>: A Preservation Operating Assurance Reserve (OAR) will be established equal to four months estimated operating expenses, payments required under the mortgage note, deposits to reserves and other anticipated development expenses. The OAR will be held by MSHDA and will accumulate interest.

This reserve, to assist in the transition to market rents, is to be fully funded by the anticipated end of the existing HAP contract. Funds may be withdrawn when the existing HAP contract expires, and will not be available prior to that date, after then it may be used in accordance with the Authority's written policy on the use of the OAR, as amended from time to time. MSHDA may allow a reduced initial deposit to the OAR as long as the initial deposit plus accumulated interest income equals the required deposit by the time the existing HAP contract expires.

If no Subordinate Loan is involved, at the later of the date on which the original project based HAP assistance terminates, or the end of the 12th year from initial disbursement, and following two full calendar years (twenty-four consecutive months) with annual average vacancy loss plus rent concessions plus bad-debt equaling 5% or less of the yearly MSHDA approved budgeted gross rent potential, The OAR will be used to fully fund the replacement reserve needs identified by an updated independent comprehensive needs analysis and to fully fund any other escrow accounts. Upon achieving this criterion, the mortgagor may request in writing to the Director of Asset Management that any remaining balance in the OAR be disbursed to the development's operating account.

In loans with a Subordinate Loan, the unutilized OAR will be returned to MSHDA in an amount not to exceed the outstanding balance of the Subordinate Loan, with the any remainder going to the development's operating account, after meeting the same criterion above.

N. Replacement Reserve: The first year deposit to this reserve is a minimum of $250 per unit for all new construction elderly developments, expressed as a percentage of rental income. The minimum first year deposit to the replacement reserve for new construction family development will be equal to $300 per unit expressed as a percentage of rental income. In both cases the replacement reserve deposit will increase at the greater of 3% annually or at the expressed percentage rate over time as rental income increases. Development amenities, such as washers/dryers, unit type, or foreseeable replacement of capital items (in the case of rehabilitation) may dictate a higher required deposit.

For all acquisition/rehabilitation proposals, the annual deposit to the Replacement Reserve on the first full year of the new loan will not be less than $300 per unit. Furthermore, at the mortgage loan closing the sponsor must deposit the greater of $700 per unit or an amount determined to satisfy the requirements of the Authority approved Capital Needs Assessment (CNA) over a 20-year period.

O. Operating Deficit Reserve: An Operating Deficit Reserve (ODR) may be required based on a cash flow analysis over a 20-year period. When required, the mortgagor must enter into an agreement and establish an ODR with the Authority with an initial deposit at closing. The ODR shall be funded in cash, held and controlled by the Authority and will be invested and reinvested by the Authority's Office of Finance. Interest earned on this reserve, if any, shall become part of this reserve and shall be treated and disbursed in the same way.

The ODR will be calculated based on the assumption that annual draws may be needed in an amount necessary to create an effective DCR of 1.15. However, the amount disbursed annually from the ODR will be the annual projected budget deficit as shown on cash flow analysis establishing the ODR. Disbursements from the account may begin at the request of the mortgagor, in the first year in which the projected budget deficit is shown on the cash flow analysis. Each month the Authority will withdraw 1/12th of that projected annual deficit, and will apply it against the mortgage payment due that month. In each subsequent year, the annual disbursement will be the amount called for in the development's operating budget as approved by the Office of Asset Management, expected not to exceed the amount for that year shown on the cash flow analysis establishing the ODR. Draws from the ODR will continue in this manner each year until the ODR has been depleted or the Authority's mortgage loan(s) have been paid in full.

In the event that the development experiences an operating deficit that is greater than that projected, the Mortgagor may request that the Authority increase the amount drawn from the ODR. The Director of Asset Management must approve the request. However, the Mortgagor shall not be entitled to receive a Limited Dividend payment for any year in which the amount drawn from the ODR is greater than the annual projected budget deficit for that year, until the balance of the ODR is restored to the appropriate level.

At the earlier of the time when 80% of the ODR has been depleted or during the 18th year after the commencement of amortization, the Authority will determine the annual projected operating deficits and the total amount sufficient to fund projected operating deficits through the remaining term of the Authority's mortgage loan(s). The Mortgagor must deposit this amount in cash into the ODR, to be held by the Authority and disbursed as noted above. Failure to replenish the ODR, when required by the Authority, shall constitute a default on the Mortgage Loan. In the event that the Authority's Mortgage Loan(s) is/are accelerated after a default in the terms of the Mortgage, Notes or Regulatory Agreement, the Authority, in its sole discretion, may, but is not required to, apply any funds on deposit in the ODR, to the amount due on the Mortgage Loans as accelerated.

At such time as the Authority's Mortgage Loan(s) and all other financial obligations to the Authority are paid in full, the remaining balance of the ODR, including all interest that has accumulated, will be disbursed to the Mortgagor.

P. Rent-Lag Escrow (236 Preservation Only): A "rent-lag" escrow equal to 2.5 times the rent difference per unit will be required to be deposited to the operating account of the development at closing, to meet any shortfalls in operations while the tenant based vouchers are implemented.

Q. Remarketing Reserve (236 Preservation Only): A Remarketing Reserve Escrow, equal to one year of principal and interest payments of the "Part A" mortgage will be required. Funds may be withdrawn to cover vacancy loss greater than underwritten, and/or for marketing expenses. Following twenty-four consecutive months of average economic vacancy loss equal to or less than underwritten of the yearly Authority approved budgeted rent levels, the mortgagor may request in writing to the Director of Asset Management any remaining balance in the remarketing reserve be deposited into the development's operating account, unless there is a MSHDA Subordinate Loan to be repaid in which case the balance will be applied against the outstanding balance of the MSHDA Subordinate Loan.

R. One Month's Gross Rent Potential: For preservation or occupied acquisition/rehabilitation proposals, one month's gross rent potential is required to be deposited to the operating account of the development at closing**,** and other re-marketing or transitional operating reserves may be required.

S. Rent-Up Allowance: For new construction or vacant acquisition and rehabilitation proposals, a Rent-Up Allowance is required, and is included in the mortgage beyond the construction period. The Rent-Up Allowance supports interest payments between construction completion and the Cut-Off date. MSHDA's Chief Market Analyst determines the projected absorption period used to calculate the Rent-Up Allowance. In situations where a rent-up period in excess of six months is projected to achieve breakeven defined as when development operating income less any owner advances, meets operating expenses plus full monthly debt payments for three consecutive months, MSHDA will, at its sole discretion, extend the rent-up period requiring that additional interest be budgeted and supported by the mortgage until development operations can reasonably be expected to support both operations and these expenses.

The mortgagor may elect to provide cash, an unconditional, irrevocable letter of credit, or other security acceptable to the Director of Finance for this additional expense. The mortgagor may, upon achieving breakeven as described above, and providing evidence of 12-month leases at rents at least equal to the rents stipulated in the commitment proforma, without rent concessions, request in writing that the cut-off date be accelerated, amortization commence and the letter of credit or other security be released.

T. Real Estate Appraisal Requirements:

MSHDA contracts for appraisals that assess the value of proposals for direct lending and low income housing tax credits. The review, analysis, and acceptance of an appraisal will be done in accordance with MSHDA Appraisal Guidelines. The appraisal report shall conform to applicable Michigan statutory and regulatory requirements and the requirements of the Uniform Standards of Professional Appraisal Practice.

Appraisals shall be dated no later than 6 months from the date of application.

For acquisition/rehabilitation projects, MSHDA limits the acquisition price to the lesser of the actual purchase price or the “as is” unencumbered appraised value of the property prior to rehabilitation.

For all other projects, MSHDA reserves the right to require an appraisal to determine the value of the land included in project cost. The value of the land shall not exceed the lesser of its appraised value or the purchase price.

For in-kind contributions of land, evidence of the value of the contribution must be supported by an appraisal.

The purchase of foreclosed properties to complete projects assisted with an NSP Loan are required to be discounted to a purchase price of no more than 99% of the current appraised value of the property.

U. MSHDA Design Standards/Site Selection Criteria: MSHDA has multifamily design standards that often exceed the requirements of local building codes and site selection criteria against which all proposed development sites are reviewed. The design standards and site criteria are available on MSHDA’s web site. The sponsor’s architect will be required to certify compliance of the plans and specifications with the design standards.

V. Construction Contract Allowances: For projects of 50 units or more, line item allowances within the construction contract are 6% for builder profit, 2% for builder overhead, and 6% for general requirements of the total construction contract amount. For projects of less than 50 units, the line item allowances within the construction contract for builder profit, builder overhead and general requirements may not exceed an aggregate of 20% of the total construction contract amount.

W. Construction Contingencies: Construction contingencies will be required for all proposals involving rehabilitation, with the requisite contingency amount determined on a case-by-case basis. Rehabilitation contingencies of at least five percent of the construction contract amount should be anticipated. Generally, these funds will be a line item in the development budget within “soft cost” and not part of the construction contract. For new construction, a construction contingency of five percent is allowed, and at least five percent will be required when certain site conditions are anticipated (such as buried debris or environmental remediation).

X. Developer Fees: Developer fees for projects will be the lesser of (i) $2,500,000 ($1,800,000 for projects using taxable bond financing), or (ii) the amount calculated as follows:

- Of 49 units or fewer, 20% of the aggregate basis (i.e. eligible basis plus land) minus its developer fee, developer overhead, and developer consultant fee (collectively, "Exclusions"). If an allocation of credit was received by virtue of being financed with taxable bonds, the developer fee will be 15% of the aggregate basis minus Exclusions.

- Of 50 units or more, 15% of the aggregate basis (i.e. eligible basis plus land) minus its developer fee, developer overhead, and developer consultant fee (collectively, "Exclusions").. If an allocation of credit was received by virtue of being financed with taxable bonds, the developer fee will be 15% of the aggregate basis minus Exclusions.

If an existing project is split into two or more projects, the aggregate developer fee for all phases shall not exceed the limitation stated above.

At its sole discretion, in exceptional circumstances, the Authority may permit a development fee in excess of the above limitations.

For projects involving acquisition and rehabilitation, an amount equal to at least 5% of the acquisition cost of the land and building(s) must be allocated to acquisition eligible basis for purposes of attribution to the developer fee.

Developer fees can be deferred to cover a gap in funding sources as long as the entire amount will be paid within fifteen (15) years. If the Pro Forma in the application indicates that cash flow is insufficient to repay the deferred developer fee within 15 years, the Applicant must provide an explanation in the narrative as to how the deferred developer fee will be repaid. No more than fifty percent (50%) of the total developer fee may be deferred.

Y. Limited Dividend Calculations: MSHDA’s statute limits the return an owner can take on the equity investment in the project. Equity is defined as total development cost, less the sum of all MSHDA mortgages and less any grants and "soft" or non-amortizing secondary financing.

For Tax-Exempt and Taxable Bond loans, a return on the equity contribution of the owner of 12 percent in the first year following the cut-off date is permitted. This limit increases by one percent per year until a cap of 25 percent is achieved, unless a MSHDA Subordinate Loan and/or other MSHDA concession are outstanding. In this circumstance, the limited dividend is capped at 12% until the MSHDA Subordinate Loan has been fully repaid and/or MSHDA has been fully reimbursed for any other concession. The owner may request to increase the limited dividend upon full payment of the MSHDA Subordinate Loan and/or reimbursement of any other concession and the increase in rate shall begin at the year after that point in time. The eligible limited dividend is cumulative at the rate in effect during that particular year.

Returns for all preservation transactions will be cumulative. Seller waiver of accumulated and current year deferred limited dividend fees will be required.

For Section 8 developments subject to pre-1980 regulations, limited dividends will be limited to 12% of equity.

For Section 236 developments, the return on equity investment is limited to the lesser of 12% or the amount approved by HUD in the decoupling approval.

For all other preservation transactions, including post-1980 Section 8 developments, the return on equity investment limited to the lesser of 12% or the amount approved by HUD or USDA Rural Development.

For developments initially financed by MSHDA, the equity upon which a limited dividend is based will be the sum of the original equity plus the total principal payments made on the original loan by the original borrower prior to any repayment of the original loan unless HUD or other federal regulations require a different calculation. Returns will be non-cumulative. Seller waiver of accumulated and current year deferred limited dividend payments will be required. For developments not initially financed by MSHDA, the equity upon which a limited dividend is based will be 12% of the equity of the new transaction unless HUD or other federal regulations require a different calculation.

Z. Syndication and other Equity Pay-In: Prior to scheduling a mortgage loan closing, the Authority, the sponsor, the syndicator, and any other funding sources must agree to a schedule of funding. The schedule must set forth both the timing of the anticipated payment of all costs necessary to complete the development and the availability of various sources for such payment.

Unless a construction and/or bridge loan has been anticipated and approved, MSHDA must be satisfied that it shall receive sufficient equity and other contributions to assure that, when combined with mortgage loan proceeds there will be sufficient funds, in sufficient time to assure payment of development costs during construction in a timely fashion. In the event the Authority has agreed to provide a construction/bridge loan, it will require that all non-developer fee tax credit equity contributions be made no later than the completion of construction.

With the exception of payments of developer fees directly from the equity partner to the mortgagor, all non-MSHDA sources of funds must be deposited with and disbursed through MSHDA. Additionally, in the event a construction/bridge loan is used to pay developer fees on an interim basis prior to the pay-in of equity, no more than 50% of the anticipated paid developer fee (gross developer fee minus deferred fee) may be paid while the construction/bridge loan is outstanding.

With the exception of tax credit equity, all non-MSHDA funding sources planned within a transaction are generally expected to be funded at or within 60 days of Initial Closing. In addition, in proposals where MSHDA provided a non-profit sponsor with a predevelopment loan, the loan must also be repaid at or prior to Initial Closing.

In all cases, the schedule of sources and uses must ensure that there are sufficient funds at all times to pay appropriate development costs, including hard and soft costs. MSHDA will work with the sponsor, the syndicator, and any other funding sources on timing issues and work to identify mutually agreeable solutions to fill funding gaps as appropriate to the particular situation. However, in no event will MSHDA agree to a condition(s) that, in its sole discretion, it determines will jeopardize the availability of funding when it is needed.

In the event a loan is determined to be out of balance and a shortage exists that threatens the ability to pay appropriate development costs in a timely fashion, the sponsor will be required to provide cash to the development's equity escrow account in an amount needed to satisfy all outstanding and payable costs. The Authority's Director of Finance may accept a letter of credit in lieu of cash for shortages expected to be resolved by equity pay-ins within 30 days.

IV. <u>Other Information</u>:

A. Fees: The following fees apply for any Tax-Exempt or Taxable Lending transaction:

- A non-refundable application fee for the Preliminary Project Assessment phase of $500 must be submitted.
- A non-refundable fee of $1,500 must be submitted with the exhibit documents for the Threshold phase. .
- A non-refundable filing fee of .5% of the proposed mortgage amount will be charged for projects presented to the Authority Board for Mortgage Loan Commitment authorization. The non-refundable filing fee is credited toward a 2% commitment fee.
- A 2% commitment fee balance is paid at the initial loan closing. The commitment fee is based on greater of permanent mortgage or construction loan plus any MSHDA Subordinate Loan financing (i.e. HOME, Preservation Fund, etc.)
- Tax credit and compliance fees will also apply.

B. Labor Standards: Every contract for the construction or rehabilitation of housing under this program that includes 12 or more HOME-designated units, 9 or more Project Based Vouchers, or where any NSP funds are used, or in any other case where federal regulations require such compliance, must contain a provision requiring the payment of not less than the wages prevailing in the locality, as predetermined by the Secretary of Labor pursuant to Davis Bacon and Related Acts, to all laborers and mechanics employed in the development of any part of the housing.

C. **Equal Opportunity/Fair Housing/HUD Section 3:** MSHDA requires:

- The prime Contractor to provide an Equal Employment Opportunity Plan for goals setting for workforce trade utilizations and for business enterprises contracting to subcontractors and material suppliers; and
- The management agent to aggressively and affirmatively market the housing to minority groups; and
- The Sponsor and prime Contractor to provide an HUD Section 3 Plan for goal setting for utilization of local Section 3 residents and local Section 3 business concerns.

D. **Cost Certification:** For new construction transactions, the contractor and the mortgagor must submit timely certifications of the actual costs incurred in developing and building the project. For preservation and occupied acquisition/rehabilitation transactions, MSHDA will rely on the LIHTC cost certification and will not require a separate cost certification for preservation transactions.

E. **Audit of Development Operations:** For new construction or unoccupied acquisition/rehabilitation developments, MSHDA's Finance Division conducts an audit of initial development operations to ensure that certain costs incurred between initial occupancy and the start of amortization and property stabilization have been properly classified. To the extent that initial operating income was used to pay for development costs, the sponsor will be required to deposit funds to rectify any such audit exceptions in the development's operating account at Final Closing.

F. **No Relocation:** Involuntary permanent relocation of existing residents is not permitted.

G. **Loan Management:** MSHDA's Office of Asset Management monitors a development's operations for compliance with controlling loan documents and its financial and physical condition through a variety of reporting systems. These systems include electronic submission of monthly income and expense statements, review and approval of annual budgets and audits, approval of the use of reserves, and other required reports. A development's compliance with resident income eligibility, rental restrictions, and physical inspections is monitored by MSHDA's Compliance Division.

H. **Unique Circumstances:** Developers are encouraged to discuss unique development opportunities not within these parameters with MSHDA Multifamily Development staff to determine the potential for waiver of certain of these parameters.

V. <u>For Developments Currently Financed by MSHDA</u>:

A. **Debt Service:** For Section 8 Preservation transactions involving continuation of an existing project based Section 8 contract, the new periodic debt payments is expected to be equal to or greater than the original annual debt payment. For all other transactions, HUD must approve the periodic debt service payments.

B. **Repayment of Existing Indebtedness:** For preservation transactions all repayable subsidy loans, deferred interest, HOME loans, or other secondary financing, such as small size, security, and amenity loans are to be repaid at closing of the Mortgage loan. Assumption of these loans is not anticipated, nor is further secondary financing generally available to address this indebtedness. In proposed transactions where MSHDA provided a non-profit sponsor with a predevelopment loan, the loan must also be repaid at or prior to Initial Closing.

C. Replacement Reserve Draws: Replacement reserve draws will not be processed subsequent to a loan application for a preservation transaction, without notification to MSHDA's Rental Development and Homeless Initiatives (RDHI) Division.

D. Contract Administration: It is anticipated HUD will designate MSHDA as the contract administrator.

E. Reserve Ownership: All Mortgagors must affirm MSHDA's ownership of excess reserves subject only to any lawful claims by HUD.

F. HUD Approval: Where required, HUD approval of the transaction will be a condition of loan closing. The approvals from HUD must be consistent with all conditions of the program parameters and policies, and the rents, expenses, debt service and other financial elements in the development proforma stated in the Authority's mortgage loan commitment staff report.

G. Rental Assistance Extensions: Upon expiration of any existing project based rental assistance, all mortgagors must apply for and accept any available subsidy extensions, subject to MSHDA approval.

VI. <u>Application Processing</u>: Proposals seeking Authority gap financing will be subject to the Notice of Funding Availability (NOFA) under the Authority's Gap Financing Program. It is anticipated that an annual funding round will be held, and proposals will be subject to the processing time frame described in the NOFA. Up to a nine-month processing time from application to closing is anticipated. Development proposals not requiring gap financing from MSHDA or other MSHDA preservation developments not requiring gap financing in excess of what would be recaptured by MSHDA in the event of refinancing may apply for financing at any time.

Typical Processing Steps include:

1. **PRELIMINARY PROJECT ASSESSMENT** The Preliminary Assessment phase is designed primarily to determine market demand, review the overall capacity and development history/experience of the development team, assess the site, and preliminarily review the development proposal. Those accepted for further processing, based on this criteria, will be invited to submit the Threshold Review package requirements under the Addendum IV Exhibit Checklist to compete for the available gap funding.

   During this phase the sponsor must submit the LIHTC Primary Application and **ALL** Preliminary Project Assessment exhibit documents under MSHDA's Addendum IV Exhibit Checklist, along with a $500 application fee.

2. **PROJECT THRESHOLD REVIEW** During this stage the sponsor must submit the **ALL** Threshold Review exhibit documents under MSHDA's Addendum IV Exhibit Checklist, and the Threshold Fee of $1,500. MSHDA may reject any applications with material errors in documentation, incomplete information, or inconsistency. Applicants will have 10 business days from the date of notification

by MSHDA to address any identified deficiencies in documentation. Staff will promptly notify administratively rejected applicants.

All applications submitted during the "Project Threshold Review" phase undergo a detailed underwriting review, and will then be ranked by MSHDA. Those applications ranked the highest, and whose aggregate total funding does not exceed the amount of funding available under this NOFA, will be invited to submit Commitment level documents as described in the Project Commitment section of MSHDA's Addendum IV Exhibit Checklist.

3. **PROJECT COMMITMENT** During this stage the sponsor must submit all commitment level criteria listed under the Commitment Review phase found in MSHDA's Addendum VI Exhibit Checklist. All applications will receive a final ranking from MSHDA staff. Proposals with the highest final ranking whose aggregate total funding does not exceed the amount of funding available under this NOFA, will be presented to the MSHDA Board for commitment/gap funding award approval.

4. **PROJECT CLOSED** Proposals must close within 90 days of Board approval or risk having their gap funding award rescinded.