Right of First Refusal

**AGENDA**

- Introduction
- Miscellaneous
  - Call will be recorded
  - Ask questions or make comments – unmute and state your name
- Overview of the NH Housing ROFR
- Discuss Feedback from Partners
  - Including updated letter from a group of nonprofits
- Next Steps
NH Housing - ROFR

LIHTC CODE ROFR VS NH HOUSING ROFR

- Internal Revenue Service Code Right of First Refusal – Section 42(i)(7)
  - Nonprofits permitted to a ROFR to purchase property from partnership at below-market terms after the investor’s tax benefits have been achieved.
- The NH QAP includes a different ROFR - for profit developers sign in favor of a nonprofit – this is the ROFR for today’s discussion
  - Owners who choose to sell property before end of affordability period
    - Offer to sell property to nonprofit for minimum price
      - Sales price set by ROFR
    - If not, owner to offer property to NH Housing
    - NH Housing can accept or decline
  - In all cases the Affordability Period continues (per the Land Use Restriction Agreement)
NH Housing - ROFR

- **Summary of Feedback Received**
  - Remove requirement that ownership entities controlled by a for profit must sign a right of first refusal in favor of a nonprofit or NH Housing.

- **Reasons Given**
  - It's not required by the program
  - Not necessary to discourage early termination as the affordability period remains upon a sale/transfer of the property
  - Housing crisis - encourage participation in developing affordable housing by a broad range of developers

- **NH Housing is considering removing the ROFR**
  - This change is effective with new QAP; it is not retroactive
  - Need to think about policy implications – unintended consequences
Feedback About Affordability Periods

We received feedback to extend the current affordability periods

Current policy:
- 9% LIHTC – 60 Years
- 4% LIHTC – 30 Years (minimum required by the Code)

Recommendation is to increase both programs back to 99 years
- Do we extend the affordability periods? How long?
- Do we require the same affordability period for both 9% and 4%?
- Do we incentivize longer affordability period through points?
NH Housing - ROFR

• Next Steps
  - NH Housing staff will discuss feedback received today
  - Draft revisions will be reviewed by senior management
  - The next public forum will be held on December 5
    - Discuss significant, proposed changes
    - Red-lined QAP
    - May hold one more public forum mid-December, if needed
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