

# MISSOURI HOUSING DEVELOPMENT COMMISSION

## 2016 QUALIFIED ALLOCATION PLAN FOR MHDC MULTIFAMILY PROGRAMS



*Strength, Dignity, Quality of Life*

**MISSOURI HOUSING**  
DEVELOPMENT COMMISSION

**This plan was approved and adopted by the  
Missouri Housing Development Commission**

**Board of Commissioners**

**On June 26, 2015**

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# MHDC 2016 Qualified Allocation Plan

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## I. GENERAL INFORMATION

### A. Purpose

The Missouri Housing Development Commission (“MHDC”) has been designated by the Governor of the state of Missouri as the “Housing Credit Agency” for the State. This designation gives MHDC the responsibility of administering the Federal Low Income Housing Tax Credit Program (“Federal LIHTC”) established by the Tax Reform Act of 1986 and codified as Section 42 of the Internal Revenue Code, as amended (the “Code”), and the State Low Income Housing Tax Credit Program (“State LIHTC”) under Section 135.350 et seq. of Chapter 135 of the Missouri Revised Statutes, as amended (the “State Tax Relief Act”). The responsibilities of a Housing Credit Agency are defined in Section 42(m) of the Code.

One of the statutory duties of MHDC as the Housing Credit Agency is to prepare a Qualified Allocation Plan (the “Plan”). The purpose of the Plan is to set forth the process that MHDC will use to administer the Federal LIHTC, State LIHTC, and other MHDC multifamily funding.

MHDC’s goal is to use the Federal LIHTC and State LIHTC as a financial incentive for the creation and maintenance of quality market-appropriate affordable housing that strengthens the communities and lives of Missourians.

### B. Developer’s Guide

MHDC has created the Developer’s Guide for MHDC Multifamily Programs (“Developer’s Guide”) to serve as a detailed resource regarding the principles and procedures governing all MHDC rental production programs including, but not limited to, the Federal LIHTC and State LIHTC. The Developer’s Guide is a supplement to this Plan. Throughout the course of this Plan, the Developer’s Guide is referenced as a source to gain more information regarding specific topics.

### C. Credit Types and Availability

There are two types of State LIHTC and Federal LIHTC available in Missouri, the “9% Credit” and the “4% Credit.”

#### 9% Credit

For purposes of this Plan and the Developer’s Guide, the cumulative amount of both State and Federal 9% Credits MHDC can allocate for any calendar year shall be known as the “Annual 9% Credit Authority.” Developments applying for an allocation under the Annual 9% Credit Authority receive what is commonly known as the 9% Credit. The 9% Credit includes any 70% present value credit and any 30% present value credit for qualified existing buildings which also will use the 70% present value credit.

The total amount of Federal 9% Credit available in any one year is specified by the Code in §42(h)(3)(C), and is known as the “State Housing Credit Ceiling.” The State Housing Credit Ceiling is generally equal to the sum of the following:

- i. Per Capita Credits. Calculated based on the state population and the per capita rate set by the IRS.
- ii. Carry Forward Credits. Should MHDC be unable to allocate all allotted 9% Credits in any one year, the unused credits will be carried forward for allocation in the succeeding year.
- iii. Returned Credits. Credits that are returned from developments that received an allocation in previous years may be made available for allocation in the year the credits are returned or the succeeding year if returned after September 30.
- iv. National Pool Credits. If MHDC is able to allocate the entire amount of Federal 9% Credits available in any one year, Missouri may receive additional credits from the pool of credits returned by other states (“National Pool”), if available.

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The State LIHTC was established by the State Tax Relief Act and provides that any development eligible for a Federal LIHTC allocation is eligible for a State LIHTC allocation. The amount of State LIHTC authorized for a development cannot exceed the Federal LIHTC amount and the amount of State LIHTC available in proportion to the Federal LIHTC available may be reduced by the state legislature, making any allocation subject to change in the authorizing statute. For any given development, MHDC, in its sole discretion, may choose not to allocate any State LIHTC or State LIHTC in an amount up to the imposed statutory limit, as it deems necessary for the financial feasibility of the development.

The anticipated amount of the Annual 9% Credit Authority for Missouri will be announced in the NOFA to precede the application round.

## **4% Credit**

Under §42(h)(4) of the Code, developments financed with tax-exempt private activity bond volume cap (“Bond Developments”) may be eligible to receive the “4% Credit.” The 4% Credit includes the 30% present value credit for federally subsidized buildings that feature eligible basis financed by any obligation, the interest on which is exempt from federal tax and any 30% present value credit for the qualified existing buildings of Bond Developments.

While the NOFA does not establish a ceiling or annual authority for the Federal 4% Credit, the amount of State 4% Credits available for Bond Developments is currently capped at \$6 million per fiscal year. Consistent with the 9% Credit, the amount of State 4% Credits may be reduced by the state legislature, making any allocation subject to change in the authorizing statute. MHDC, in its sole discretion, may choose to allocate no State 4% Credits or State 4% Credits in an amount up to the imposed statutory limit, as it deems necessary for the financial feasibility of the development.

## **D. Notice of Funding Availability**

A Notice of Funding Availability (the “NOFA”) will be published immediately following the Commissioners’ formal approval of the 2016 Plan and the proposed 2016 NOFA. The NOFA will describe the types and amounts of funding available and the due date for applications. Once approved, the NOFA will be posted to the website: <http://www.mhdc.com/nofa/default.htm>.

To be considered for a 9% Credit or 4% Credit allocation, an application must be submitted in accordance with this Plan, the NOFA, and the Developer’s Guide. MHDC shall have the right to consider any application for 4% Credits for a potential allocation of 9% Credits if the application meets the requirements and competes successfully with other 9% Credit applications. Similarly, MHDC may consider any application for 9% Credits for a potential allocation of 4% Credits.

MHDC will set forth the protocol and timing for the submission of applications in the Developer’s Guide, as it may be amended from time-to-time. MHDC accepts applications for its main NOFA cycle once per allocation year followed by a second NOFA round for 4% Credit applications prior to the end of the fiscal year, at the discretion of MHDC. MHDC reserves the right to establish subsequent NOFAs and application rounds as it determines necessary.

Approval for 9% Credit and 4% Credit reservations will be made at a regularly scheduled Commission meeting. The date of such Commission meeting will be posted on the MHDC website and is subject to change. A Conditional Reservation Agreement describing the amount(s) of funding approved and the MHDC requirements that accompany such funding approval will be issued shortly after formal Commission approval.

## **E. Deadline and Application Fee**

1. **Deadline.** The Application deadline for 2016 Round 1 is September 4, 2015 and is subject to change should the NOFA need to be revised or modified. Round 2, if available, will be announced at a later date by issuance of a new NOFA. Applications must be completed and all physical application materials must be received in MHDC’s Kansas City office (920 Main Street, Suite 1400, Kansas City,

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Missouri 64105) according to the deadline established in the applicable NOFA. Any applications received after the deadline will be returned to the applicant without consideration. This includes late arrivals for any reason including, but not limited to, courier or delivery error. Early submission is strongly encouraged.

2. **Application Fee.** All applicants for MHDC financing under this Plan and NOFA must submit an application fee with each application. The application fee is non-refundable and if any application fee is returned for any reason, the application will be rejected. The applicable fees are:
  - a. **Nonprofit Priority Application Fee.** Proposals that qualify for the Nonprofit Priority (as detailed in Section III below) and request consideration under that priority owe a \$750 application fee. This does not include Bond Developments, which must pay the standard application fee.
  - b. **Standard Application Fee.** All applications that do not qualify for the Nonprofit Priority owe a \$2,000 application fee.

Exception: Applicants submitting proposals under the Property Disposition Priority (as detailed in Section III below) for a property listed publicly by MHDC as real estate owned and available for public bid are not required to submit an application fee.

## II. STANDARDS

### A. Participant Standards

All participants must be in good standing with MHDC. In addition to satisfactory previous performance, participants must be aware that:

1. All identities of interest between members of the development team must be documented to MHDC's satisfaction. This includes, but is not limited to, identities of interest between a property/land seller and purchaser and identities of interest between any two or more development team members such as developer, general partner(s), syndicator(s), investor(s), lender(s), architect(s), general contractor, sub-contractor(s), attorney(s), management agent, etc.
2. Any individual or entity awarded Federal LIHTC or State LIHTC which does not buy and sell LIHTC from unrelated awardees cannot resell their ownership interest (or any Federal LIHTC and/or State LIHTC flowing therefrom) for an amount greater than their contribution to the development, unless the full gain from the sale directly benefits the development, as reflected in the sources and uses. Any individual or entity which violates this provision may, in the sole discretion of MHDC, be barred from further participation in any MHDC rental production programs.
3. When available and feasible, best efforts must be employed to use local vendors, suppliers, contractors, and laborers.
4. MHDC has established an MBE/WBE Initiative (as detailed in the Developer's Guide) which encourages involvement of businesses certified as a Minority Business Enterprise (MBE) and/or Woman Business Enterprise (WBE) under a business certification program by a municipality, the state of Missouri, or other certifying agency, as deemed appropriate by MHDC in consultation with the State of Missouri Office of Equal Opportunity.
5. All participants must agree to abide by the MHDC Workforce Eligibility Policy, as the same may be amended from time-to-time.
6. The Commission requires occupancy of housing financed or assisted by MHDC be open to all persons, regardless of race, color, religion, sex, familial status, disability, or national origin. Also, contractors and subcontractors engaged in the construction or rehabilitation of such housing shall provide equal opportunity for employment without discrimination as to race, color, religion, sex, familial status, disability, or national origin.
7. The applicant must provide evidence that local public officials, as detailed in the Developer's Guide, have been informed that the applicant is submitting an application to MHDC.

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8. Pursuant to MHDC's adopted Standards of Conduct, criteria has been established upon which individuals and/or entities may be suspended or debarred from future participation in MHDC sponsored programs (4 CSR 170 8.010-8.160, as may be amended from time-to-time).

## **B. Development Standards**

All MHDC-financed developments (defined as a development receiving one or more of the following: Federal LIHTC, State LIHTC, an MHDC loan, or an MHDC grant) are required to:

1. Comply with the MHDC Design/Construction Compliance Guidelines (MHDC Form 1200), as may be amended from time-to-time.
2. Comply with all applicable local, state and federal ordinances and laws including, but not limited to:
  - a. Local zoning ordinances.
  - b. The construction code utilized by the local government unit where the development is located. In the absence of locally adopted codes, the International Building Code (2012), the International Plumbing Code (2012), the International Mechanical Code (2012), the National Electrical Code (2011), and/or the International Residential Code (2012) must be used.
  - c. The Fair Housing Act of 1968, as amended. In addition, proposals receiving federal, state, county, or municipal funding may be required to comply with the Architectural Barriers Act of 1968, Section 504 of the Rehabilitation Act of 1973, and the Americans with Disabilities Act, all as amended.
  - d. If applicable, the Federal Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 ("URA") and/or Missouri Revised Statute 523.205.
  - e. If applicable, The Lead Paint Poisoning Prevention Act, HUD Guidelines for the Evaluation and Control of Lead Based Paint in Housing, and the MHDC Lead Based Paint Policy.
3. All developments with twelve (12) or more units are required to have a minimum of 5% of the units (rounded up to the nearest whole number) designed in compliance with one of the nationally recognized standards for accessibility to wheelchair users and an additional 2% of the units (rounded up to the nearest whole number) usable by those with hearing or visual impairments.
4. All new construction projects, regardless of number of units, shall be designed and constructed in accordance with the principles of universal design, as detailed in MHDC Form 1200, Design/Construction Compliance Guidelines. This requirement is in addition to the requirement for accessibility of persons with mobility, hearing and/or visual impairments as outlined in item #3 above.
5. Rehabilitation developments with special needs set-aside units must meet item #3 above and must increase the number of units incorporating the principles of universal design to a percentage equal to or greater than the special needs set-aside percentage. The requirements set forth in #3 above for accessibility, hearing, and visual impairments can be included in the units incorporating universal design.
6. Provide facilities, amenities, and equipment appropriate for the population being served by the development.
7. Be designed to meet the established construction budget and utilize construction materials that extend the longevity of the building including materials, products, and equipment which are more durable than standard construction materials. Products must clearly reflect upgrades from standard construction grades and be economical to maintain.
8. If the development involves new construction, utilize sustainable building techniques and materials to meet the current standards of one of the certification levels of the following green building rating systems: Enterprise Green Communities, any of the LEED rating systems, or the National Green Building Standard (ICC 700 or "NGBS"). In addition, to meet the sustainable housing requirement, the applicant must:

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- a. Demonstrate at the time of application, Firm Submission (as defined in the Developer's Guide), and construction completion that the development will meet or has met the design and construction requirements for any certification level offered by the three accepted rating systems. The development is not required to receive formal certification, but must be designed and built in such a manner that it could receive formal certification. Green building criteria utilized must be clearly documented for MHDC staff's review and confirmation.
  - b. Have at least one development team member who is an accredited green building professional with proven experience in sustainable design and/or construction. The team member must be a LEED AP®, LEED Green Associate™ or a Certified Green Professional™. If the development is not being formally certified, the development team member must document the pledged green building standards with pictures, provide a signed and scored scoring tool, and a brief narrative during the construction process.
9. If a development contains more than twelve (12) units and involves rehabilitation, applicants are required to conduct pre-development testing and energy audits of existing buildings to identify energy savings opportunities. The analysis can be a stand-alone document, or incorporated in either the Physical or Capital Needs Assessment reports provided it is in a separate section by itself, and must be prepared by an assessor/rater certified through the Building Performance Institute (BPI), Residential Energy Services Network Home Energy Ratings Systems (RESNET), or ENERGY STAR. The energy audit will be submitted with the initial application for the project.
  10. Pay at least federal prevailing wage to all laborers and mechanics employed in the construction of the development, as determined and posted by the United States Department of Labor for the locality of the development and current within ten (10) days of construction closing. Developments consisting of buildings with four (4) or fewer floors must use the Davis-Bacon residential construction category and developments consisting of buildings with five (5) or more floors must use the Davis-Bacon building construction category.
  11. Have contracts that are both reasonable and competitively priced for both hard and soft costs.
  12. Adhere to the contractor fee limitations described in Section C(6)(b) below.
  13. Commit to contract with Section 3 businesses as may be dictated by regulations tied to federal funding sources and as more thoroughly set out in the Developer's Guide. A Section 3 Plan (as defined in the Developer's Guide) signed by the owner/developer and the general contractor must be reviewed and approved by MHDC staff prior to Firm Commitment issuance.
  14. MBE/WBE Participation Standard is set at a minimum of 10% for MBEs and 5% for WBEs for both hard and soft costs. This applies to developments with more than six (6) units. The Participation Standard may be satisfied by MBE/WBE businesses providing competitively-priced services/materials in the following categories:
    - Hard costs for the actual physical cost of construction, which include, but are not limited to, general contracting, grading, excavation, concrete, paving, framing, electrical, carpentry, roofing, masonry, plumbing, painting, asbestos removal, trucking and landscaping.
    - Soft costs, which include, but are not limited to, planning, architectural, relocation, legal, accounting, environmental, engineering, surveying, consulting fees, title company, disbursing company, market study, appraisal and soils report.

The calculation of participation rates shall include all line items for which services or materials are provided to the development; provided however, that developer fees may be, but are not required to be, included in the calculation of participation rates. Development costs that do not include actual services or materials, such as public sector financing fees, reserves, land acquisition, building acquisition, construction interest, construction period taxes, tax credit allocation fees, tax credit monitoring fees, and bond issuance cost, shall not be included in the calculation. Calculations are based on work actually performed by the contractor. When the MBE/WBE is not performing the work but is the named contractor, credit will be given for twenty percent (20%) of the contract amount.

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A utilization plan, committing in detail, how the applicant intends to meet the Participation Standard MUST be signed by the owner/developer(s) and included in the application. MBE/WBE entities providing soft cost services must be identified at the time of application. Evidence of MBE/WBE proposals and certifications for hard costs will be required as part of the firm submission requirements or no later than five (5) days prior to construction loan closing. In the event there is also an award of HOME funds, there may be additional requirements (e.g., Section 3) that must be met to be in compliance with federal regulations.

15. HUD published a Final Rule in the Federal Register on July 24, 2013 to amend the HOME Program regulations. These amendments to the HOME regulations represent the most significant changes to the HOME Program in seventeen (17) years. The Final Rule will be enforced on all MHDC projects funded with HOME funds as required by law. Information on the new HOME Rule can be found at: <https://www.onecpd.info/>. Please refer to MHDC's HOME Program Guide for additional information.
16. For mixed-income developments, when feasible and practicable, MHDC requires the affordable units be distributed proportionately throughout each building and each floor of each building of the development and throughout the bedroom/bath mix and type. Both market rate and affordable units must have the same design regarding unit amenities and square footage. Amenities include, but are not limited to, fireplaces, covered parking, in-unit washer/dryers, etc.
17. If receiving federal historic credits and/or state historic credits, developments must waive the right to opt out of the Declaration of Land Use Restriction Covenants for Low-Income Housing Tax Credits ("LIHTC LURA") to be recorded and choose to extend the Compliance Period for an additional fifteen (15) years.

## C. Underwriting Standards

MHDC has adopted the following underwriting standards for all developments seeking a Federal LIHTC or State LIHTC allocation under this Plan. Meeting these standards does not constitute a representation regarding the feasibility or viability of the development and does not guarantee or imply an allocation will be made.

Applicants should refer to and rely upon the Developer's Guide while completing an application under the NOFA as it provides a more detailed description of the underwriting standards and expectations of MHDC. MHDC will not award Federal LIHTCs and/or State LIHTCs based solely on the lowest development costs. The mission of MHDC is to provide high-quality affordable housing with long-term viability that contributes to the community. MHDC staff reserves the right to adjust assumptions according to market conditions at the time of application.

1. **Rents.** The proposed rents must be reasonable for the population being served and appropriate for the market in which the development is located. Rents must meet the requirements of the various financing sources in the application and, at a minimum, must meet the requirements of the Code to be eligible for a tax credit allocation under this Plan. Tax credit rents should be at least 15% less than market rents. In rare instances, area market rate rents may be depressed due to deteriorating conditions. Therefore, area market rate rents could be less than tax credit rents. If a development includes both tax credit and market rate units, the market rate unit rents must be at least 15% higher than tax credit rents. This does not apply to special needs housing properties.
2. **Development Cost Minimums.** For rehabilitation developments seeking 9% Credit, the total construction costs must equal or exceed 40% of the total replacement costs. Bond Developments located in rural areas (non-MSA) must have total construction costs of at least 15% of the total replacement costs. Bond Developments located in urban areas (MSA) must have total construction costs of at least 20% of the total replacement costs.
3. **Development Cost Maximums.** The maximum total development cost for a development cannot exceed the current Maximum Development Cost Limits published on the MHDC website. Maximum

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Development Cost Limits are determined using the HUD method of calculating the 221(d)(3) total replacement cost limits. MHDC reserves the right, on rare occasions, to allow exceptions to the cost limit on a case-by-case basis if unique development characteristics that meet or exceed the standards and goals of this Plan are incorporated into the proposal.

4. **Construction Cost Analysis.** MHDC may hire an independent third party to provide an up-front construction analysis for all approved developments in excess of six (6) units. This analysis would be performed after Firm Submission documents (plans and specs) have been submitted. If it is determined the costs submitted are either excessive or deficient, MHDC may adjust the amount of Federal LIHTC, State LIHTC, and/or loan funds allocated to the development prior to closing. This review will also include a replacement reserve analysis for all proposed rehab, preservation, or conversions (except for RD properties).
5. **Increase in Eligible Basis.** Developments located in a Qualified Census Tract or in a Difficult Development Area, as defined below, may be eligible to increase eligible basis by 30%.
  - a. Qualified Census Tract. Developments located in areas designated by HUD as Qualified Census Tracts,.
  - b. Difficult Development Areas. Developments located in areas designated by HUD to be difficult to develop.
  - c. State Designated Difficult Development Areas. Pursuant to §42(d)(5)(B)(v) of the Code, MHDC may establish criteria to designate additional properties approved for 9% Credits to be treated as located in a difficult development area For purposes of this Plan, to qualify for such an increase, properties must meet at least one (1) of the following criteria:
    - i. Be determined to meet the qualifications of the Preservation Priority;
    - ii. Be determined to meet the qualifications of the Special Needs Priority and demonstrate the property owner will incur direct costs in addition to costs covered by third parties in the provision of services to enhance the residential stability and independence of special needs residents;
    - iii. Be determined to meet the qualifications of the Service Enriched Priority;
    - iv. Be a family development located in a county whose median income is below the 2015 statewide median income, as established and published by HUD, and propose to set aside 20% of the total units to be occupied by households earning between 60% and 80% of the area median income (workforce units), calculated using the appropriate income limits; or
    - v. Be part of a larger mixed-use economic development area. For a development to qualify as part of a mixed-use economic development area, it must:
      1. Be part of a mixed-use economic development area that includes different housing types for different household income levels, new retail/office/light industrial space that creates new permanent jobs, and new public space or activity centers designed for users of the area; or
      2. Be part of a Transit Oriented Development (“TOD”) plan. The TOD plan must be centered around and integrated with a transit stop and the proposal must be located within 1,750 feet of a transit stop. The TOD plan must be mixed-use, mixed-income, pedestrian friendly, and of appropriate density for a TOD.

MHDC will decide, in its sole discretion, what evidence and what types of development will qualify for an increase in eligible basis for mixed-use economic development areas. An important factor is that the MHDC development is not the only development, and the MHDC development will enhance the overall plan, rather than be the overall plan. It is expected the plan, of which the MHDC development is a part of, contemplates the

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development of multiple buildings over an area of reasonable size. This will not apply to a singular structure, regardless of location.

Further details regarding difficult development area requirements can be found in the Developer's Guide.

**6. Developer and Contractor Fee Limits.** Developer and contractor fees are limited as follows:

a. **Developer Fee.** For the purposes of the developer fee limit, "Developer Fee" is defined as the sum of the developer fee and consultant fees including, but not limited to, the following types of consultants: development and/or credit, application, historic, MBE/WBE, and Section 3 consultants. Development costs paid for by a previous owner are not considered when calculating developer fee, even if the cost of the previous work is included in the sales/purchase contract.

i. **New Construction Developments** are limited to the lesser of: (a) 15% of total replacement costs for the first \$4,000,000 of total replacement costs and 10% for any additional amount of total replacement costs, or (b) the per-unit calculation from the chart below. Only 25% of the developer fee (excluding deferred amounts) may be payable at closing, with an additional 25% permitted at 50% completion. MHDC reserves the right to further restrict the amount of developer fee payable during construction.

ii. **Acquisition-Rehabilitation and Historic Preservation Developments** are limited to the lesser of: (a) the sum of 8% of acquisition costs for the first \$2,000,000 of acquisition costs, 6% of any additional acquisition costs, 15% of the first \$4,000,000 of non-acquisition total replacement costs and 10% of any additional non-acquisition total replacement costs, or (b) the per-unit calculation from the chart below.

iii. **Acquisition-Rehabilitation Developments where an Identity of Interest Relationship Exists between the Seller and the Buyer of Real Estate** is limited to the lesser of: (a) the sum of 3% of acquisition costs, 15% of the first \$4,000,000 of non-acquisition total replacement costs and 10% of any additional non-acquisition total replacement costs, or (b) the per-unit calculation from the chart below. NOTE: This does not apply to entities or individuals who meet either one of the following criteria: (1) the developer has owned the property for less than four (4) years; or (2) the developer has submitted an unsuccessful LIHTC rehabilitation application for the property within four (4) years of acquisition and has not owned the property for more than six (6) years.

iv. **Per-Unit Developer Fee Maximum for i, ii, and iii above:**

For units 1-40	\$20,000 per unit
For units 41-100*	\$17,500 per unit
For units 101-150*	\$15,000 per unit
For units 151+*	\$12,500 per unit

\* Please see Section III.B.b. Development Size, for further information on developments which contain more than 50 affordable units.

The Conditional Reservation Agreement approved developer fee cannot be increased for any reason without Commission approval.

b. **Contractor Fees.** Contractor fees are limited for general requirements, overhead, and builder's profit and cannot exceed 14% of the total construction costs less the sum of general requirements, overhead, and builder's profit. Bonding costs and permit costs shall not be included in the calculation of contractor fee limits for general requirements, overhead, and builder's profit. This limitation on contractor fees should be incorporated into the construction contract. A cost certification is required from the contractor and the limit imposed by this Plan cannot be exceeded.

Builder's Profit maximum 6% of construction costs;

Builder's Overhead 2% of construction costs; and

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General Requirements 6% of construction costs.

All general requirement items in the Fin-115 must be included in the calculation of the maximum amount for general requirements, regardless of the party who pays for the items.

**7. Tax Credit Amount.** The Code and the State Tax Relief Act require MHDC allocate to a development no more than the Federal LIHTC and State LIHTC amounts (respectively) which MHDC determines necessary to ensure the financial feasibility of the development and its viability as a qualified low-income housing development throughout the Compliance Period (as defined in the Code). MHDC retains the right, in its sole discretion, to reserve a lesser amount of Federal LIHTC and/or State LIHTC than the amount(s) requested on the application, to reserve less Federal LIHTC and/or State LIHTC than would result by using an applicable fraction of 100%, and/or to deny approval of any Federal LIHTC and/or State LIHTC amount. MHDC will evaluate each proposed development utilizing the selection criteria found in this Plan and the Developer's Guide. MHDC staff will underwrite each application using the monthly applicable percentage for 9% developments unless federal legislation is passed prior to Commission approval of applications which allows the applicable percentage to be a minimum of 9%. The determination of the Federal LIHTC and State LIHTC amounts necessary will be conducted at the following processing stages:

- a. The time of application;
- b. The time of Conditional Reservation Agreement issuance;
- c. The time the approved Firm Commitment and Carryover Allocation are issued and/or a Letter of Determination (also known as a "42(m) Letter") is issued, if applicable; and
- d. The time the development is placed in service (after all project costs are finalized and a third party cost certification has been completed) and requests issuance of IRS Form(s) 8609.

**8. Maximum Credit Amount.** The maximum amount of annual federal 9% Credit that can be allocated to any individual development is \$700,000 ("Maximum Credit Amount"). However, in MHDC's sole discretion, for any development determined to be eligible for a basis boost (see Section II.C.5 above), the maximum annual federal 9% Credit is up to \$910,000 (after the basis boost). MHDC, in its sole discretion, can make exceptions on a case-by-case basis when justified by development size and feasibility. The annual state 9% Credit shall be limited to an amount necessary for the feasibility of the development, but in no event can it exceed \$700,000 without Commission approval.

Bond Developments receiving 4% Credit allocations will not be limited, beyond what is dictated by the Code, in the amount of Federal LIHTC allocated. Bond Developments are subject to a \$700,000 cap in annual State LIHTC and subject to a fiscal year cap total authorization of \$6,000,000. The Commission, in its sole discretion, can make exceptions on a case-by-case basis when justified by development size and feasibility. The State LIHTC is not an "as of right" credit and approval is subject to Commission action.

MHDC has the right to lower the maximum amount of annual State LIHTC for purposes of application review and approval as a result of statutory changes or limitations placed on the State LIHTC by the Commission or the state legislature.

**9. Additional Credit.** Owners can apply for an increase in Federal LIHTC and/or State LIHTC amounts in subsequent years if a development's eligible basis has increased. Additional credits may be awarded if:

- a. The development meets the requirements of the most recent Plan;
- b. There are additional Federal LIHTCs and/or State LIHTCs available;
- c. MHDC is satisfied the additional amount is necessary for the financial feasibility and viability of the development; and

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- d. The increased amount of Federal LIHTC and/or State LIHTC does not exceed MHDC's Maximum Credit Amount.

**10. Subsidy Layering Review.** Section 911 of the Housing and Community Development Act of 1992 and Section 102 of the Department of Housing and Urban Development Reform Act of 1989 have placed limitations on combining the 9% Credit and 4% Credit with certain HUD and other federal programs. The limitations currently apply to a number of programs under the jurisdiction of the HUD Office of Housing including, but not limited to, Section 221(d)(3), 221(d)(4), 223(f) and 542(c) mortgage insurance, Flexible Subsidy, and project-based Section 8 rental assistance programs (collectively, "HUD Housing Assistance").

As part of a Memorandum of Understanding ("Subsidy Layering MOU"), dated May 8, 2000, between HUD and MHDC, developments using the Federal LIHTC with HUD Housing Assistance are subject to a subsidy layering review by MHDC.

The Subsidy Layering MOU requires HUD and MHDC to share information on the developer's disclosure of sources and uses of funds for all developments financed with both the Federal LIHTC and HUD Housing Assistance. This review is designed to ensure such developments do not receive excessive federal assistance.

**11. Use of HOME.** Funding from the HOME Investment Partnership Act ("HOME") is a resource that may be available to assist in the development of affordable housing. For a development with HOME funding to qualify for the 9% Credit and remain in basis, the HOME funds must be structured as a loan. If structured as a grant, the amount of such grant will be deducted from eligible basis.

**12. Development Financing Commitments/Letters of Intent (LOI).** MHDC requires a preliminary commitment letter at the time of application for all non-MHDC sources of financing. Updated commitment letters are required at Firm Submission for approved applications. Applications must clearly state whether or not they are requesting a participation loan. Applicants requesting an MHDC Fund Balance participation loan should include a letter of intent from their preferred lending institution(s) which states:

- a. That the lender is willing to take a co-first lien position with MHDC;
- b. The amount that the lender is willing to loan; and
- c. An acknowledgement by the lender that any participation loan is subject to the terms and conditions of a Participation Loan Agreement with MHDC.

Otherwise, MHDC reserves the right to determine appropriate loan financing for the project.

If an application includes multiple non-MHDC commitments/LOIs, the applicant must specify which commitment should take precedence over the other(s).

All financing commitments, including Federal LIHTC and State LIHTC equity, must be included with the application and reflected within the FIN-100.

## III. RESERVATION PROCESS

### A. Housing Priorities

The following housing priorities have been established by MHDC to encourage the development of certain types of housing in certain locations. A more detailed description of the priorities and the requirements for consideration under the priorities is available in the Developer's Guide. An application seeking a priority under one or more of the priorities listed below must still satisfy all other selection criteria and successfully compete against other applications.

**1. Nonprofit Involvement Set-aside.** Pursuant to the Code, at least 10% of the 9% Credit available must be allocated to developments that involve a qualified nonprofit organization ("Nonprofit Priority").

Section 42(h)(5)(C) of the Code defines a qualified nonprofit organization as:

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- a. A 501(c)(3) or (c)(4) nonprofit organization;
- b. Having an express purpose of fostering low-income housing;
- c. One that will own an interest in the development and materially participate in the development and operation of the development throughout the Compliance Period. Material participation is defined in §469(h) of the Code as “involved in the operations of the activity on a basis which is regular, continuous, and substantial”; and
- d. Is not affiliated with, nor controlled by, a for-profit organization.

Developments wanting to be considered for this priority must fully complete the applicable sections of the application and provide the following with the application:

- i. Nonprofit Organization’s Certificate of Incorporation;
- ii. Articles of Incorporation and By-Laws;
- iii. Missouri Certificate of Good Standing;
- iv. IRS letter evidencing nonprofit status; and
- v. MHDC Nonprofit Questionnaire which describes the organization’s role in detail, including how material participation pursuant to §469(h) of the Code will be met and what share of profits, losses, and fees go to the nonprofit organization.

2. **Special Needs Priority (eligible for 30% boost in eligible basis)**. Developments providing housing opportunities for persons with special needs are strongly encouraged. Developments committing to a special needs set-aside of no less than 10% of total units, up to a maximum of 100% of total units, will receive a preference in funding (“Special Needs Priority”). A person with special needs is a person who is: (a) physically, emotionally or mentally impaired or suffers from mental illness; (b) developmentally disabled; (c) homeless, including survivors of domestic violence and sex trafficking; or (d) a youth aging out of foster care.

A development with a special needs set-aside cannot give preference to potential residents based upon having a particular disability or condition to the exclusion of persons with other disabilities or conditions. Applicants must submit documentation demonstrating they have obtained commitments from a Lead Referral Agency which will refer special needs households qualified to lease targeted units and from local service agencies which will provide a network of services capable of assisting each type of special needs population defined above. A “Lead Referral Agency” is a service provider agency that will provide tenants and services to the community through the later of (i) the completion of the Compliance Period, or (ii) the completion of the affordability period connected to any MHDC loan on the development. The Lead Referral Agency should demonstrate the ability to serve the targeted special needs population.

MHDC will endeavor to set aside 33% of Federal LIHTC and State LIHTC, 4% Credit and 9% Credit for developments containing units qualifying under the Special Needs Priority outside the geographic set-aside, subject to the quality of the special needs applications received and their ability to meet selection criteria and underwriting requirements described in this Plan.

Applications submitted with special needs units must include \$1,000 per special needs unit as a payment to the Special Needs Housing Reserve Fund which has been established by MHDC. This reserve will be funded by each development at construction completion when other reserve funds are normally funded. These funds will be held by MHDC and used, as necessary, to temporarily assist special needs properties that have experienced unforeseen operational issues (for example, the loss of rental assistance). Deposits to the Special Needs Housing Reserve Fund are intended for use for all special needs developments, commencing with 2014 approvals, and are intended to replace the need for each property to establish a separate special needs reserve. Guidelines for the application and use of reserve funds are posted on MHDC’s website (Rental Production, General Forms and Other Resources).

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Developments wanting to be considered for the Special Needs Priority must fully complete the applicable sections of the application and provide the following with their application:

- i. A draft referral and support agreement with the Lead Referral Agency;
  - ii. A description of Lead Referral Agency's experience, its ability to provide access to support services, and its capacity to maintain relationships with the managing agent and community service providers throughout the Compliance Period. The description should include the agency's mission and years of experience working with the identified population;
  - iii. A marketing plan demonstrating how the development will be affirmatively marketed to persons with special needs, the screening criteria to be used, and the willingness of all parties to negotiate reasonable accommodations to facilitate the admittance of persons with disabilities into the development;
  - iv. Documentation of supportive services appropriate to each type of special needs population;
  - v. An affordability plan addressing the type(s) of rental assistance or rent structure that may be utilized to make special needs units affordable to special needs households with extremely low income; and
  - vi. A detailed services budget describing how services will be implemented for the special needs population being targeted (Form SNH-103).
- 3. Service-Enriched Housing (eligible for 30% boost in eligible basis).** Service-Enriched Housing enhances the connection between affordable housing and supportive services. MHDC recognizes the advantages of supportive housing to individuals, communities and on public resources. To encourage more comprehensive housing environments for vulnerable populations, proposals offering significant services tailored to the tenant population will receive a preference in funding ("Service Enriched Priority"). Developments which offer substantial services and a greater number of services increase the competitiveness of their application. Proposed services should take into account the unique characteristics of residents and help them to identify, access, and manage available resources. Other benefits of a well-planned and properly funded program may include reduced resident turnover, improved property appearance, and greater cooperation between residents and management.

To be considered under the Service Enriched Priority, a development must target a specific population. Examples include, but are not limited to:

- a. Elderly households;
- b. Individuals with children;
- c. Formerly homeless individuals and families;
- d. Individuals with physical and/or developmental disabilities;
- e. Individuals diagnosed with mental illness; and
- f. Children of Tenants.

The applicant should demonstrate it has experience with the population in question. If the applicant does not have experience with the specified population, it should have a commitment(s) from a service provider(s) who does have the necessary experience. Any commitments should run until the later of (i) the completion of the Compliance Period, or (ii) the completion of the affordability period connected to any MHDC loan on the development.

Below are examples of services for both family and senior developments.

Family properties:

- a. Regularly-held resident meetings;
- b. After-school programs for children;
- c. Financial literacy courses for adults;

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- d. Parents as Teachers program offered through the local school district;
  - e. Credit and/or budget counseling;
  - f. Life skills or job application training;
  - g. Nutrition classes;
  - h. Domestic violence survivor support and counseling;
  - i. Computer lab or computer check-out program;
  - j. Food pantry;
  - k. Daycare services;
  - l. College preparation counseling;
  - m. Clothes closet; and
  - n. Library.
1. Senior properties:
- a. Regularly-held resident meetings;
  - b. Transportation to shopping and medical appointments;
  - c. Nutrition classes;
  - d. Enrichment classes such as seminars on health issues, prescription drugs, Medicare, the internet;
  - e. Coordination with an agency that provides assistance with paying bills and balancing checkbooks;
  - f. Annual health screenings;
  - g. Assistance preparing a Vial of Life;
  - h. American Red Cross I'M OK program;
  - i. Exercise program such as the Arthritis Foundation Exercise Program;
  - j. Monthly community activities (i.e., pot luck dinners, holiday events, bingo);
  - k. Access to fitness equipment;
  - l. Food pantry or access to a mobile food pantry if available;
  - m. Housekeeping; and
  - n. Computer lab or check-out program.

Developments wanting to be considered under the Service Enriched Priority must fully complete the applicable sections of the application and provide the following with their application:

- i. A detailed supportive services plan explaining the type of services to be provided, who will provide them, how they will be provided, and how they will be funded. The plan should include, but is not limited to, a description of how the development will meet the needs of the tenants, including access to supportive services, transportation, and proximity to community amenities. MHDC prefers the services be onsite or near the proposed development;
  - ii. A project-specific services budget which includes a breakdown of both sources and uses (Form SNH-103);
  - iii. Letters of intent from service providers anticipated to participate in the development's services program; and
  - iv. A detailed description of the service provider's experience, including if the service provider previously received a Federal LIHTC and/or State LIHTC allocation for a Serviced Enriched property.
- 4. Preservation (eligible for 30% boost in eligible basis).** The preservation of existing affordable housing will receive a preference in funding ("Preservation Priority"). To qualify for the Preservation Priority, a development must meet at least one (1) of the following criteria and, if receiving federal historic credits and/or state historic credits, must waive the right to opt out of the Declaration of Land Use Restriction Covenants for Low-Income Housing Tax Credits ("LIHTC LURA") to be recorded against the development for an additional fifteen (15) years beyond the Compliance Period:
- a. Have and continue to use, if possible, project-based rental assistance and/or operating subsidy;
  - b. Have a loan made prior to 1985 from any of the following loan programs: HUD 202/811, 221(d)(3) or (d)(4), 236, or USDA RD 515;

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- c. Participate in HUD's Mark-to-Market restructuring program; or
- d. Have a previous allocation of low-income housing tax credits in which the first year of the Credit Period (as defined in §42(f)(1) of the Code) was 1999 or earlier, and be in or have completed the final year of the Compliance Period for all buildings in the development.

To be considered under the Preservation Priority, the following must be included with the application:

- i. Copies of all loan notes and regulatory agreements encumbering the property;
  - ii. A copy of any project-based income or operating subsidy agreements and rent schedules;
  - iii. Audited financial statements for the development covering the three (3) most recent years;
  - iv. If the development has HUD or MHDC financing or is encumbered by a LIHTC LURA or an MHDC Regulatory Agreement ("Regulatory Agreement"), then a letter from HUD or MHDC indicating the need for preservation is required (please see v. below if the proposed preservation development has an RD loan);
  - v. If the proposed development includes USDA-RD financing, the application must include a letter addressed to MHDC from the RD State Office indicating (1) RD support for the application, and (2) the applicant has met with either the RD State Office or Area Specialists prior to preparing/submitting the application to MHDC. The purpose of the meeting is to review the entire structure of the proposal with RD including, but not limited to, a discussion of the proposed scope of work, Capital Needs Assessment ("CNA"), financing structure, rents charged, operating budget, the potential amount of additional RD required Replacement Reserves, and any other unique feature or complexities pertaining to the development application. It is recommended applicants supply RD with a copy of the "as-is" CNA prior to this meeting; and
  - vi. A physical needs assessment or, for RD applications, an "as-is" CNA that meets USDA-RD requirements.
5. **MBE/WBE.** This priority is only available to developments with more than six (6) units.

A preference in funding ("MBE/WBE Priority") will be given to an application that reflects:

- a) An MBE/WBE Developer, a Developer group that includes an MBE/WBE, and/or a Developer Mentor/Protégé relationship; or
- b) MBE/WBE participation percentages significantly greater than the MBE/WBE Participation Standard of 10% for MBE and 5% for WBE for both hard and soft costs (as further detailed in the Developer's Guide).

The Mentor/Protégé Relationship shall be designed to support, promote, and develop the knowledge, skill and ability of the MBE/WBE protégé in a manner intended to assist in the growth and development of the MBE/WBE as a developer.

Applicants seeking the MBE/WBE Priority pursuant to a) above must provide a comprehensive Utilization Plan (as defined in the Developer's Guide) signed by the owner/developer detailing the role of, and functions to be performed by, the MBE/WBE. The roles and functions of the MBE/WBE must be those typically performed by the owner/developer. Applicants must also submit proof of MBE/WBE certification with the application. Applicants seeking the MBE/WBE Priority pursuant to b) above must provide a comprehensive Utilization Plan signed by the owner/developer detailing how the applicant intends to significantly exceed the MBE/WBE Participation Standard.

Applicants seeking the MBE/WBE Priority must include a history of MBE/WBE participation with the application.

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6. **Property Disposition.** Applicants may compete for the purchase of real estate owned by MHDC (“Property Disposition Priority”). The application must propose an acquisition/rehabilitation transaction that will be evaluated on its merits according to the selection criteria and its ability to demonstrate potential long-term success as an affordable housing property.

To qualify for the Property Disposition Priority, the development must be listed publicly by MHDC as real estate owned and available for competitive bid and the following must be included with the application:

- i. A signed option contract representing the applicant’s offer to purchase the MHDC-held property on the MHDC option contract form. The MHDC form will be made available on the MHDC website in conjunction with any MHDC-owned real property that is publicly posted.
- ii. Any other certifications or documents required by MHDC and made available on the MHDC website in conjunction with the listing of any MHDC-owned real property.

7. **Compliance Period and Affordability.** MHDC encourages developments providing quality housing with low affordable rents for an extended period of time. As a result, a preference in funding will be given to applications that agree in advance to waive the right to opt out of the LIHTC LURA at the end of the Compliance Period and maintain the development as affordable housing for a minimum of thirty (30) years (“Extended Use Priority”). This priority is not available to developments with historic credits or single-family homes.

8. **50% AMI.** A preference in funding will be given to applications that set aside at least 25% of total units to households earning less than or equal to 50% of area median income (“50% AMI Priority”). Rents for households earning less than or equal to 50% of area median income must be at least 15% less than rents actually charged to households earning up to 60% of area median income. This priority is not available to developments with project-based rental assistance.

9. **Workforce Housing (eligible for 30% boost in eligible basis).** Developments in counties with a median income less than the 2015 statewide median income (as established and published by HUD) are eligible for the basis increase, provided that 20% of the total units in the development are set aside for households earning between 60% and 80% (workforce units) of the area median income. Rents in the 60%-80% units should be different than tax credit rents in the development. The intent is to capture the households that are just over the tax credit income limits but still have a need for quality affordable housing. The published income limits for each development’s county still apply and must be used for determining resident eligibility.

10. **Transit Oriented Development (TOD) (eligible for 30% boost in eligible basis).** The following criteria will be considered in the determination of a development’s ability to meet the definition of a TOD:

- i. The development must be located within 1,750 feet of a transit stop.
- ii. The master development plan must include a balanced mix of uses, providing residents the ability to live, work, and shop in the same neighborhood.
- iii. Transit service at the stop must be frequent (every 15-30 minutes).
- iv. The transit service must offer increased mobility choices and good transit connections.
- v. The master development must include significant retail development.
- vi. The master development must include a mix of housing choices (rental and for-sale, affordable and market-rate).
- vii. The development must include a mix of transportation choices, including biking and walking.

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11. **Redevelopment Plan.** Applications that are a part of a redevelopment plan which has been approved/adopted by a local government will receive a preference in funding. The application must include a letter from the local authorizing official that the proposed development is a part of the redevelopment plan.
12. **High-Opportunity Area.** MHDC encourages affordable housing developments in high-opportunity areas by targeting communities that meet the following criteria: access to high-performing school systems, transportation and employment; as well as located in a census tract with 15% or lower poverty rate. Developments that meet these criteria will receive a preference in funding. Please refer to the Market Study Guidelines which specifies how data on each of these criteria is to be collected.

## **B. Selection Criteria**

All submitted applications which successfully make it to the competitive review stage will be evaluated by MHDC staff using the selection criteria described below. The selection criteria incorporate both the federal preferences and selection criteria as described in §42(m)(1)(B)(ii) and §42(m)(1)(C) of the Code. The selection criteria must include:

- Project location;
- Housing needs characteristics;
- Project characteristics, including whether the project involves the use of existing housing as part of a community revitalization plan;
- Projects intended for eventual tenant ownership;
- Tenant populations with special housing needs;
- Sponsor characteristics;
- Tenant populations of individuals with children;
- Public housing waiting lists;
- Energy efficiency; and
- Historic character.

States must give preference among selected developments to:

- Those serving the lowest income tenants;
- Those serving qualified tenants for the longest period of time; and
- Projects located in Qualified Census Tracts, the development of which contributes to a concerted community revitalization plan.

States may include such other criteria as they deem appropriate and, except for the specified preference items, there are no requirements as to the relative weight of the various factors.

Additional LIHTC responsibilities of MHDC include:

- Assurance that the amount of tax credits allocated does not exceed the amount “necessary for the financial feasibility of the project and its viability as a qualified low income housing project throughout the Credit Period”;
- Evaluation of all projects for consistency with this Plan and for credit need, including projects using tax exempt bond financing;
- Execution of an agreement for “an extended low income housing commitment” for every project. This agreement must be recorded as a restrictive covenant binding on all successor owners, and must allow low income individuals the right to enforce the commitment in state court; and
- Monitoring of compliance with the provisions of §42 of the Code and notifying the Internal Revenue Service of any noncompliance.

### **1. Geographic Region.**

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An attempt will be made to allocate the 9% Credit (both federal and state) across the state on a population proportionate basis, with the state divided into the following areas:

- a. **St. Louis Region - 33%:** Franklin, Jefferson, St. Charles, St. Louis City and St. Louis counties.
- b. **Kansas City Region - 19%:** Cass, Clay, Jackson, Platte and Ray counties.
- c. **Out State Region - 48%:** All other counties.

2. **Development Characteristics.** It is important the development's characteristics are appropriate for the intended tenant population. The following characteristics will be reviewed closely:

**a. Tenant Population**

It is important MHDC fund developments offering quality affordable housing to the populations that need it in the locations where it is needed. Items given consideration with regard to the intended tenants include:

- i. Tenant populations with special housing needs, such as persons with physical and/or developmental disabilities, homeless individuals and families, the elderly, and other underserved and/or at risk populations;
- ii. Individuals with mental illness;
- iii. Individuals on public housing waiting lists;
- iv. Individuals with children;
- v. Youth aging out of foster care;
- vi. Developments serving the lowest income tenants; and
- vii. The quantity, quality, and suitability of services provided or offered to the tenants.

**b. Development Size**

All applications submitted for consideration are limited to fifty (50) affordable units in a proposal. Exceptions may include, but are not limited to, applications proposing a:

- i. Mixed-income development;
- ii. Development to replace existing public housing and/or subsidized housing
- iii. Development where at least 25% of the units are set aside as Special Needs housing units;
- iv. Development that includes serviced enriched housing features;
- v. Development that preserves existing affordable housing;
- vi. Development that is part of a municipal redevelopment plan; or
- vii. Senior housing development.

**c. Type**

The type of development being proposed is an important characteristic and affects how the other selection criteria are applied. Developments will be evaluated on how they contribute to the goal of this Plan and the mission of MHDC. Developments fall into at least one of the following types:

- i. New construction;
- ii. Historic rehabilitation/adaptive reuse;
- iii. Acquisition/rehabilitation of existing housing; or
- iv. Developments intended for eventual tenant ownership.

Regardless of type, developments that obligate themselves to serve qualified tenants for the longest period of time are given extra consideration.

**d. Site**

Each site will be reviewed by MHDC staff to determine the overall suitability of the site for affordable housing and for the intended population. Site reviews will consider:

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- i. Marketability, or the likelihood that the site and improvements will be accepted by the target population;
  - ii. Presence of environmental issues and concerns;
  - iii. Neighborhood characteristics and land uses; and
  - iv. Proximity to appropriate amenities and services.
- e. Design**
- The design of each development will be examined closely to assess its appropriateness for the site, the market, and the population being served. The following will be taken into account when evaluating the application:
- i. Access into and out of the site and parking;
  - ii. Placement of buildings on the site;
  - iii. Development amenities;
  - iv. Type and quality of materials;
  - v. Energy efficiency and overall sustainability;
  - vi. Condition and suitability of structures being reused;
  - vii. Scope of work for rehabilitation or renovation;
  - viii. Population appropriate design features (for example, universal design features, interior and exterior common spaces, storage space, accessibility, adaptability, safety features, etc.); and
  - ix. Exterior Design aesthetics that blend well with the surrounding area.
- 3. Market Characteristics.** It is important the development's characteristics are appropriate for the market in which it is located. Please refer to the Market Study Guidelines for further guidance. The following will be analyzed for each proposal:

**a. Development Location**

Where a development is located affects almost all of the other selection criteria. Important considerations for location include, but are not limited to:

- i. New construction and conversion proposals must meet the following criteria:
  - o The proposed development shall not be located where the total of publically subsidized housing units (as defined in the Market Study Guidelines) equal more than 20% of all units in the census tract where the development will be located.
  - o If the proposed development is located in the Kansas City or St. Louis Region, it shall not be located within a one (1) mile radius of any development that:
    - (a) has been approved for State LIHTC, Federal LIHTC, HOME, or Fund Balance funding through MHDC within the previous two (2) fiscal-year funding cycles; and
    - (b) is less than 90% leased-up at the time of application submission.

Exceptions to the previous two criteria may include, but are not limited to, applications proposing a:

- o Mixed-income development;
- o Development to replace existing public housing and/or subsidized housing
- o Development where at least 25% of the units are set aside as Special Needs housing units;
- o Development that includes serviced enriched housing features;
- o Development that preserves existing affordable housing;
- o Development that is part of a municipal redevelopment plan; or
- o Senior housing development.

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- ii. Location in a qualified census tract that will contribute to a concerted community revitalization plan;
- iii. Whether existing housing is used as part of a community revitalization plan;
- iv. Location in a community with demonstrated new employment opportunities and a proven need for workforce housing;
- v. Infill of existing stable neighborhoods; and
- vi. Commission-designated targeted areas.

## **b. Housing Needs**

Developments must address the affordable housing needs of the state, region, and locality where they will be located. Important considerations regarding market need include:

- i. Number and growth of the population and intended tenant population in the market area;
- ii. Presence, condition, occupancy, and comparability of other affordable housing developments in the market area;
- iii. Presence, condition, occupancy, and comparability of market rate housing in the market area;
- iv. Capture rate for the proposed development; and
- v. Housing needs of the special needs population in the market area.

No application proposing the delivery of new units will be approved if it is deemed by MHDC to adversely impact any existing MHDC development(s), exist in a questionable market, or create excessive concentration of multifamily units.

4. **Development Team Characteristics.** A development team's experience with affordable housing, MHDC, and the type of development being proposed is important. The following development team members will be evaluated: Developer(s), General Partner(s), Management Agent, Syndicator(s)/Investor(s), Contractor, Architect, Sustainable Design Team, Consultant(s), Lead Referral Agency (for special needs housing), and the service provider (for service-enriched housing).

Evaluations will assess the experience, performance, financial strength and capacity to complete the proposed development in a timely and efficient manner.

Items considered will include, but are not limited to:

- i. Number of affordable developments completed;
- ii. Occupancy of developments owned and/or managed;
- iii. Number of developments in the planning and development stages;
- iv. Performance, quality, and condition of previously completed developments
- v. Previous and outstanding compliance issues; and
- vi. Performance regarding MHDC deadlines for previous funding awards.

The proposed general partner, developer, and general contractor will be assessed for their capacity to successfully manage the pre-development, closing, construction, and lease-up of the proposed development in addition to previously approved developments currently in those stages of development.

Development team members not in good standing with MHDC or its programs will not be approved for funding.

5. **Feasibility.** Applications will be evaluated to determine feasibility and viability throughout the Compliance Period using the assumptions provided by the applicant. MHDC will evaluate:

### a. Sources

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All developments must demonstrate sufficient sources are available to assure feasibility. For non-MHDC sources, a commitment letter from the proposed provider indicating the amount and terms of financing must be included with the application. The type of financing and the source of all financing will be taken into consideration.

b. **Uses**

Development costs must be reasonable and competitive for the type of development and location being proposed. Sources and uses must balance.

c. **Income**

Rents must be appropriate for the market and affordable for the intended population. Other sources of income must be documented to determine feasibility or the size of MHDC debt, if any.

d. **Expenses**

Operating expenses must be adequate, reasonable, competitive, and appropriate for the market and type of development being proposed.

e. **Long-Term Viability**

Operating projections must indicate the development is viable for the greater of (i) the entire Compliance Period, (ii) the term of any MHDC financing, or (iii) HOME affordability period (if applicable).

f. **Timing**

The timing of due diligence, financing commitments, and regulatory approvals will be considered when assessing an applicant's ability to proceed. Consideration will be given to applicants demonstrating they can proceed in a timeframe consistent with the requirements of the Code or, for tax-exempt bond-financed applications and/or applications utilizing historic tax credits, the allocation process established by the Missouri Department of Economic Development.

g. **Investment Potential**

Applications will be evaluated for their potential to attract investors for the Federal LIHTC and State LIHTC, if applicable, based on the potential amount of Federal LIHTC, State LIHTC, if applicable, the size of the proposed development, the market, the experience and strength of the development team and financial feasibility. The strength and previous performance of all investors will be taken into consideration during the feasibility review.

MHDC will not allocate a credit amount exceeding the amount necessary to assure development feasibility.

**6. Community Impact.** MHDC seeks to allocate funding to developments that appropriately and efficiently improve their communities. Impact will be influenced by:

a. **Elected Official and Community Support.** Community support should highlight the importance of the development to the community and the impact it will have.

b. **Catalytic Effect.** Developments that will successfully encourage further development or redevelopment in the community are encouraged, as are developments that are part of a larger community redevelopment effort or part of a concerted community revitalization plan.

c. **Community Needs.** How a development will address the needs of the population and community it intends to serve is important. The existing stock of affordable housing and demographic trends in the area will influence the needs of the community and ability of the development to meet those needs.

## C. Application Review

Unless an application is rejected during one of the preceding stages, it will undergo each of the five staff review stages described below. If an application is rejected during the Initial, Primary Documentation, or

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Secondary Documentation Review, a written explanation of the reason for the rejection will be provided to the applicant. An application checklist, application forms, and program guides can be found at [www.mhdc.com](http://www.mhdc.com) (through the Rental Production link). See the Developer's Guide for additional information regarding the application review process.

1. **Initial Review.** The Initial Review will be conducted to determine if the applicant and its application meet the following requirements:
  - a. **Organized Application.** Each application must be submitted in a three-ring binder and organized with tabs according to the MHDC FIN-125. Applications that are not organized will be eliminated from further consideration. A complete application consists of (1) an electronic application (a link will be provided on MHDC's website); (2) one tabbed, three-ring binder with all required exhibits and original signatures, where required; (3) digital media containing electronic exhibits; and (4) the appropriate application fee. The MHDC FIN-125 will identify exhibits to be submitted in the three-ring binder and exhibits to be submitted digitally. Three-ring binder and digital media exhibit names must match the FIN-125 exhibit names. Acceptable forms of digital media include, but are not limited to, a CD-R, DVD, or a USB flash drive. MHDC staff has the right, in its sole discretion, to waive an exhibit requirement on a case-by-case basis upon the review of a formal waiver request submitted by an applicant prior to the applicable NOFA deadline.
  - b. **Good Standing with MHDC.** Any member of the development team that is the owner or general partner of a LIHTC development currently in non-compliance due to site audits or a failure to comply with the owner's reporting requirements will be denied participation in the NOFA. In addition, any development team member not in compliance or good standing with any other MHDC program will similarly be denied participation. Should MHDC learn any principal involved with a proposed development has serious and/or repeated non-performance or non-compliance issues in Missouri or any other state before or after the time of application, the application will be rejected. Prior performance considered may include, but is not limited to, progress made with a previous Conditional Reservation Agreement, Firm Submission, execution of Firm Commitment, closing, cost certification, development compliance, payment of fees and/or violation of the MHDC Workforce Eligibility Policy.
  - c. **Consistent with Code Requirements.** The proposal must meet all requirements set forth in the Code and all relevant Treasury Department regulations, notices, and rulings.
  - d. **Consistent with Fair Housing Requirements.** The submitted proposal must meet all requirements of The Fair Housing Act of 1968, as amended.
  - e. **Consistent with Internal Revenue Service Memorandum of Understanding.** MHDC and the IRS have executed a Memorandum of Understanding ("IRS MOU") to improve the administration of the Federal LIHTC. Under the terms of this IRS MOU, all developers must complete IRS Form 8821 (Rev. 9-98), Tax Information Authorization, as a condition of consideration for an allocation of 9% Credit or 4% Credit. An executed IRS Form 8821 for the developer, and all key principals of the developer and general partnership must be included as part of the application.
  - f. **Consistent with Tax Credit Accountability Act.** Under the provisions of the Tax Credit Accountability Act (R.S.Mo. 135.800-135.830), all developers/applicants must complete all necessary forms and reporting requirements during the reservation process, the allocation process, and for a period of three (3) years following the issuance of State LIHTC by MHDC. All developers must complete MDOR Form 8821 (Rev. 11-03), Missouri Department of Revenue Authorization For Release of Confidential Information, as a consideration for the allocation of the State LIHTC. MHDC will obtain tax clearance for the developer/applicant from the Missouri Department of Revenue at the time of application. Should the developer, general partner, or any key principal be found to have outstanding tax liens or delinquent taxes, for federal or state taxes, the related application will be rejected.
2. **Primary Documentation Review.** All primary documents must be complete, fully-executed, and submitted by the application deadline. An exact list of documents can be found on the MHDC FIN-125. A missing primary document, documents in draft form, or documents missing signatures will result in an application being rejected. Below is a list of the primary document categories ("Primary

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Documents”), some of which require multiple documents. The required Primary Document categories are:

- a. **Application Certification Page.** An Application Certification Page signed in the appropriate places.
  - b. **Digital Media.** Digital media with the required electronic documents as noted on the MHDC FIN-125.
  - c. **Application Fee.** A check for the appropriate application fee. A check returned for any reason will result in that application being rejected.
  - d. **Development Narrative and Development Questionnaire.** A narrative meeting the requirements set forth in the Developer’s Guide and a Development Questionnaire demonstrating how the proposal meets the selection criteria.
  - e. **Site Review Information.** MHDC requires multiple site information documents to conduct the site review described below.
  - f. **Applicant Site Control.** Applicants should refer to the Developer’s Guide for more information regarding site control and a thorough description of the required site control documents.
  - g. **Market Study.** A market study meeting MHDC requirements and dated within six (6) months of the application due date. The market study must be prepared by an experienced market analyst shown on MHDC’s approved provider list (not an affiliated company).. See the Market Study Guidelines and Market Study Standards for Rental Housing Developments (MHDC Form 1300) for further guidance.
  - h. **Financing Commitments.** Commitments for all non-MHDC financing sources, including commitments for all tax credit equity to be utilized.
3. **Secondary Documentation Review.** All secondary documentation must be submitted by the application deadline for an application to receive consideration. The FIN-125 contains an exact list and explanation of the required documentation. If six (6) or more secondary review documents are missing or are incomplete at the time the application is submitted, the application will be rejected. If five (5) or fewer secondary documents are missing or are incomplete at the time the application is submitted, the applicant will be notified in writing of deficient items and a date by which deficiencies must be cured (“Cure Date”). If the requested documents are not received by the Cure Date, the application will be rejected. Below is a list of the secondary documentation categories (“Secondary Documents”), some of which require multiple documents. The Secondary Document categories are:
- a. **Seller Site Control.** The seller site control documents, as described in the Developer’s Guide.
  - b. **Public Official Contact Verification or Support Letters.** Proper evidence that the appropriate officials have been contacted. In the case of the chief elected official, state senator, and state representative for the development location, a response letter from the official regarding the development is encouraged. Other letters or resolutions of support are not required, but are welcome.
  - c. **Statutorily Required Documents.** Various state and federal statutes and regulations require certain documents be submitted by the developer/applicant at the time of application.
  - d. **Housing Priority Documentation.** Additional documentation required pursuant to the priority the applicant is applying under, if applicable.
  - e. **Zoning.** Evidence of proper zoning.
  - f. **Architectural Information.** Documents regarding the design, cost, and historic designation of the building.
  - g. **Sustainable Housing Information.** New construction applications must provide documentation demonstrating how the development will achieve and maintain the green building standard identified in the Development Characteristics Worksheet. Rehabilitation proposals that will achieve and maintain a green building standard should also provide such documentation.

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- h. **Relocation and Existing Multifamily Operations Data.** For proposals with existing tenants (commercial or residential) who may be either temporarily or permanently relocated as a result of the proposed development, provide the applicable relocation documents.
  - i. **Homeownership Information.** For developments interested in providing tenants homeownership opportunities after the end of the Compliance Period, provide a homeownership proposal and a waiver of the right to opt out of the LIHTC LURA for an additional fifteen (15) years after the end of the Compliance Period.
  - j. **PHA Approved Utility Allowance Schedule.** Developments using HOME funding must use the HUD Utility Schedule Model when determining the utility allowance. The HUD Utility Schedule Model is located at: <http://huduser.org/portal/resources/utimodel.html>. For all other developments, provide a copy of the PHA-approved utility allowances for the location and type of development proposed in effect at the time of application.
  - k. **Developer-General Partner Information.** Information regarding the developer and any general partner(s) who are not affiliates of the developer.
  - l. **Management Agent Information.** Information regarding the proposed management agent.
  - m. **MBE/WBE Utilization Plan.** A Utilization Plan signed by the owner/developer detailing how the applicant intends to meet or exceed the MBE/WBE Participation Standard.
4. **Site Review.** During the application review process, MHDC staff will conduct a review of each proposed site (“MHDC Site Review”). Each proposed site location must have a sign posted identifying it as a proposed MHDC development. The MHDC Site Review will consist of a staff site visit and a determination regarding the feasibility, marketability, appropriateness of the site(s) for the intended population, and assessment of any perceived environmental issues. The results of MHDC Site Review play an important role in the Competitive Review. For rehabilitation and conversion applications, MHDC staff expects to be able to enter the buildings.
5. **Competitive Review.** Once an application has gone through the Initial, Primary Documentation, Secondary Documentation, and Site Review stages and is considered complete to MHDC staff’s satisfaction, it will undergo a Competitive Review (“Competitive Review”). The Competitive Review uses the established priorities and selection criteria to determine funding recommendations. All factors are considered and those applications deemed, at the sole discretion of MHDC staff, to best meet the goals of MHDC will be recommended to the Commission for formal approval.
6. **Notifications.** The Code requires MHDC, as the Housing Credit Agency, to notify the chief executive officer of the local jurisdiction where each proposed development is located. If an application satisfies the Initial Review and Primary Documentation Review requirements, a notification will be sent to the chief executive officer of the local jurisdiction, the state senator and state representative for the district of the proposed development, and the executive director of the local public housing authority. Those notified will be given an opportunity to comment on the proposed development and MHDC will consider the comments received and may contact the local jurisdiction for additional information. MHDC will also publish a notice in a regional newspaper requesting public comment on the development. Public hearings will be held in various locations throughout the state to afford the public an opportunity to comment on developments proposed in a given region.

## D. Conditional Reservation

Applications receiving Commission approval will be awarded a conditional reservation shortly after Commission approval (“Conditional Reservation”). A Conditional Reservation will describe the type, amount(s), terms, and requirements applicable to the development in question. Conditional Reservations will be subject to the requirements MHDC staff determines necessary or appropriate to assure the development will meet the goals of this Plan in a timely manner.

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All developments receiving a Conditional Reservation must submit a Firm Submission package no later than the date established in the Conditional Reservation.

For at least one (1) year after the last building is placed in service, monthly rents cannot exceed the MHDC-approved rents reflected in the Firm Commitment and as determined at Final Allocation. Any increase in annual rents must be approved by MHDC staff.

A Conditional Reservation is subject to rescission should the development fail to comply in a timely manner with the conditions thereof. This includes, but is not limited to, failure to provide evidence satisfactory to MHDC staff of financial feasibility or sufficient progress toward Firm Submission, closing, and placement in service.

## IV. ALLOCATION PROCESS

### A. Carryover Allocation

For developments with 9% Credit reservations, the Code allows an allocation of Federal LIHTC to a qualified building(s) that will not be placed in service in that year (“Carryover Allocation”), provided that:

1. The building(s) is/are placed in service no later than December 31 of the second calendar year following the year of allocation; and
2. The taxpayer’s basis in the building(s) is more than 10% of the reasonably expected basis as of the date that is one (1) year after the Carryover Allocation (Code §42(h)(1)(E)(ii)) (“10% Test”). The reasonably expected basis is the expected basis of the building(s) as calculated on December 31 of the second calendar year following the year the Carryover Allocation is made.

To successfully complete the 10% Test, no later than thirteen (13) months after the effective date of the Carryover Allocation, the owner must submit all of the documentation required in the Carryover Allocation, take ownership of the property, and admit the investor as the limited partner or member of the ownership entity.

The Carryover Allocation Agreement will be issued simultaneously with the Firm Commitment, according to the deadlines established in the Conditional Reservation and no later than the month of December in the year of allocation. The Carryover Allocation defines the amount of Federal LIHTC and State LIHTC allocated to the development, the low-income unit set-asides, the percentages of median income to be served, the special housing needs units committed to, if any, and any other such requirements as MHDC may choose to include. A detailed description of the Carryover Allocation is included in the Developer’s Guide. MHDC reserves the right to request additional documents or certifications it deems necessary or useful in the determination that the development remains eligible for a Carryover Allocation.

The credit amount defined in the Carryover Allocation may be reduced, if warranted.

MHDC retains the right to recapture a Carryover Allocation prior to the end of the two-year Carryover Allocation period allowed under the Code. Each Carryover Allocation will contain conditions precedent and deadlines which must be satisfied to secure a Final Allocation of Federal LIHTC and State LIHTC, if applicable. Should the development or owner fail to comply with all such conditions and deadlines, MHDC staff may, in its sole discretion, rescind the Carryover Allocation and use the recaptured credits for other developments.

### B. Final Allocation

Any Development with a Carryover Allocation that does not place in service by the end of the second year following the allocation year is subject to having its allocation of Federal LIHTC and/or State LIHTC recaptured. The placed-in-service date for new construction is the date on which the building is certified as being suitable for occupancy in accordance with state or local law. The placed-in-service date for rehabilitation is the close of the 24-month period over which the expenditures are aggregated and the

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rehabilitation process is certified as being complete. See Internal Revenue Notice 88-116 for more information about placed in service dates.

MHDC will make a final allocation of Federal LIHTC and/or State LIHTC (“Final Allocation”) after MHDC approval of all Final Allocation requirements (which includes, but is not limited to, approval of the cost certification) and conversion or permanent closing has occurred, if applicable. The Final Allocation amount is based on MHDC staff’s final determination of the qualified basis for the building(s) based on an accountant’s certification of final costs provided by the owner and a final determination of the Federal LIHTC and State LIHTC amounts. The Final Allocation may be less than the amount reserved or allocated previously.

Owners can submit a request for a Final Allocation at any time during the year but in no event should a request for Final Allocation be submitted later than two (2) months after the last building in the development is placed in service. The owner must meet all Final Allocation requirements of the Carryover Allocation to receive a Final Allocation. MHDC reserves the right to request additional documents or certifications it deems necessary or useful in determining if the development is eligible for a Final Allocation.

MHDC will not issue IRS Form 8609(s) and Missouri Eligibility Statement(s), if applicable, until the following conditions have been met (no exceptions will be made):

1. Each building in the development is a qualified low-income building as defined by the Code. No 8609(s) and/or Missouri Eligibility Statement(s) will be issued for any portion of an incomplete development.
2. The owner and the development are in compliance with the terms of the LIHTC LURA.
3. The owner has provided a complete final application package (for the entire completed development) in the format required by MHDC staff. The developer fee and the contractor’s fee allowed in the cost certification are limited to the amounts in the Firm Commitment. The developer fee is the lesser of the recalculation at cost certification following the formula in Section II(C)(6) above or the amount approved in the Firm Commitment.
4. The owner has provided a complete copy of the executed limited partnership agreement or operating agreement and all executed amended and restated partnership agreement(s) or operating agreements with all exhibits and schedules.
5. The owner has paid the tax credit fee and the compliance monitoring fee.
6. The owner representative and the management agent have successfully completed a compliance training session conducted or approved by MHDC staff and submitted proof of attendance in the form of compliance training certificates.
7. MHDC has completed its final inspection of the development.
8. MHDC has made its final determination of the credit amount and its final determination pursuant to §42(m)(2) of the Code.
9. All requirements included on the applicable MHDC checklist have been received and approved by MHDC.

Owners must file with MHDC executed copies of the 8609(s) and Missouri Eligibility Statement(s) for the first year in which credits are claimed, as indicated in the Compliance Manual (available at [www.mhdc.com](http://www.mhdc.com)).

## **C. Transfer of Reservations and Allocations**

Without MHDC’s prior consent, Conditional Reservations, Carryover Allocations and/or State LIHTC allocations are non-transferable except to an entity in which the transferring holder of the Conditional Reservation or Carryover Allocation is the general partner or controlling principal. Because all representations made with respect to the applicant, its experience, and previous participation are material to

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the evaluation made by MHDC, it is not expected that MHDC's consent will be granted for transfers to an unrelated entity unless a new application is submitted and receives Commission approval.

## D. Owner Elections

1. **Applicable Credit Percentage.** The applicable percentage (except for Bond Developments) can be locked at either (i) the month in which such building is placed in service, or (ii) at the election of the taxpayer at the time of a Carryover Allocation. The Carryover Allocation provides a space for such election.

For Bond Developments, the applicable credit percentage is established at either (i) the month in which the building is placed in service, or (ii) at the election of the taxpayer, the month in which the bonds are issued. If the latter is desired, the Election Statement (form provided by MHDC upon request) must be signed by the owner, notarized, and submitted to MHDC staff before the close of the fifth calendar day following the month in which the bonds are issued.

2. **Gross Rent Floor.** Section 42(g)(2)(A) of the Code provides a low-income unit is rent restricted if the gross rent for such unit does not exceed 30% of the imputed income limitations applicable to the unit. Under Revenue Procedure 94-57, the effective date of the income limitation used to establish the gross rent floor is the date MHDC initially allocates a housing credit dollar amount to the development. This is typically the date of a Carryover Allocation, but if no Carryover Allocation is made, the date of Final Allocation will be used unless the owner designates a building's placed-in-service date as the effective date for the gross rent floor. Such designation must be made in the initial application. The Carryover Allocation specifies which designation was made by the applicant. The effective date used for the determination of the gross rent floor for developments not seeking a Carryover Allocation will be the date of Final Allocation.

For Bond Developments, the effective date of the income limitation used to establish the gross rent floor is the date MHDC issues the 42(m) Letter for the development, unless the Owner designates a building's placed-in-service date as the effective date for the gross rent floor. Such designation must be made by advising MHDC staff in writing prior to the placed-in-service date.

The gross rent floor election does not replace the MHDC requirement that the initial monthly rents for at least one (1) year after the last building is placed in service cannot exceed the MHDC Firm Commitment approved rents. Any increases in the annual rents must be approved by MHDC staff.

3. **Credit Period.** Section 42(f)(1) of the Code defines the Credit Period for Federal LIHTC as the ten (10) taxable years beginning with (i) the taxable year in which the building is placed in service, or (ii) at the election of the taxpayer, the succeeding taxable year. The State LIHTC mirrors the Federal LIHTC requirements. If a qualified development is comprised of more than one (1) building, the development shall be deemed to be placed in service in the taxable year during which the last building of the development is placed in service. MHDC staff should be notified as each building is placed in service and provided a copy of the permanent and temporary, if any, certificate(s) of occupancy for the building.

## E. Land Use Restriction Agreement

Section 42(h)(6) of the Code requires LIHTC developments be subject to "an extended low-income housing commitment." MHDC complies with this requirement with the execution and recording of a LIHTC LURA. The LIHTC LURA sets forth the low-income unit set-asides, the percentages of median income to be served, the special housing needs units committed to, if any, and any other such requirements MHDC may include as covenants running with the land for a **minimum of thirty (30) years** (or additional years if the development owner has committed to a longer use period). MHDC staff will use the information submitted with the application, Firm Submission, the signed Firm Commitment, and items submitted in connection with the construction closing to prepare the LIHTC LURA. The LIHTC LURA will be prepared and sent to the development owner to review and will be signed by MHDC staff and the owner at the construction loan closing. If the construction loan closing is not occurring at MHDC, MHDC

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will deliver the LIHTC LURA to the closing for execution by the owner. The LIHTC LURA cannot be altered in any manner without the consent of MHDC staff.

The title company will record the LIHTC LURA with any other closing documents to be recorded. The LIHTC LURA must be recorded prior to the filing of any deed of trust or other first lien encumbrance on the development. Section 42(h)(6)(E)(ii) of the Code requires that even in the event of foreclosure, deed in lieu of foreclosure, or unwillingness to maintain the low-income status of the development, for a period of three (3) years, the following are not permitted: (i) the eviction or termination of tenancy (other than for good cause) of an existing tenant of any low-income unit, or (ii) an increase in gross rent for any low-income unit. The priority recording of the LIHTC LURA ensures all lien holders will honor these requirements of the Code. The original recorded LIHTC LURA must be returned to MHDC staff.

## **F. Bond Developments**

Under §42(h)(4) of the Code, Bond Developments may be entitled to the 4% Credit. The development must have received an allocation of private activity bond cap pursuant to §146 of the Code and principal payments on the bonds must be applied within a reasonable period to redeem the bonds. Tax credits are allowed for that portion of a development's eligible basis financed with the tax-exempt bonds. If 50% or more of a development's aggregate basis is so financed, the development is entitled to 4% Credits for up to the full amount of the qualified basis.

Bond Developments are required by the Code to apply through MHDC (as the Housing Credit Agency) for an allocation of 4% Credits and for a determination the development satisfies the requirements of this Plan. Although the application does not have to compete for 4% Credits from the State Housing Credit Ceiling, applicants must submit an application during the posted NOFA period and meet all requirements of the reservation process and this Plan.

MHDC staff will review the application, determine if the development is eligible and meets the requirements of this Plan, and make an initial determination of the development's tax credit amount. At the close of the NOFA period, the Commission will approve the recommendation and ranking of successful applications for priority in the consideration for a private activity bond allocation by the Missouri Department of Economic Development ("DED").

If the bonds will be issued by a local Industrial Development Authority ("IDA"), MHDC, as the State Housing Agency, must perform an evaluation of the development according to the requirements of §42(m) of the Code. The IDA must submit a request on original letterhead to MHDC staff no later than four (4) business days prior to bond closing asking MHDC to issue the 42(m) Letter. MHDC staff will issue Building Identification Number(s) in the 42(m) Letter.

Developments receiving 4% Credits are required to follow the Final Allocation procedures described herein and to enter into a LIHTC LURA with regard to the development.

## **V. COMPLIANCE MONITORING**

Section 42(m)(1)(B)(iii) of the Code mandates that MHDC, as the State Housing Agency, monitor all placed in service tax credit developments for compliance with the provisions of the Code. Developments approved for tax credits under this Plan must follow the HUD Multifamily Tax Subsidy Project ("MTSP") income limits in effect for the metropolitan area or county in which the property is located at the time a household leases a tax credit unit. HUD income limits for the Section 8 and HOME programs will prevail, as directed by HUD regulations, for tax credit units that are also Section 8 or HOME-assisted units. The Code also mandates the Internal Revenue Service be notified by MHDC of any instance of noncompliance. In addition, MHDC staff will monitor developments for compliance with the LIHTC LURA for any additional owner commitments made in the development selection process (e.g., additional low income units or an extended low-income use period). Developers must finalize and receive approval for the unit mix and on-site management requirements prior to requesting a Firm Commitment. All owner representatives and their management agent representatives will be required to successfully complete a compliance training session conducted or approved by MHDC staff prior to the release of 8609(s) or the

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Missouri Eligibility Statement(s), if applicable. MHDC will make available to owners a Compliance Monitoring Handbook, as may be amended from time-to-time, explaining the LIHTC monitoring process in detail.

## VI. OTHER INFORMATION

### A. Program Fees

MHDC may charge developments financed under the requirements of this Plan the fees listed below. MHDC reserves the right to charge additional fees as it deems necessary in the course of administering the Federal LIHTC and State LIHTC. Further discussion of applicable fees can be found in the Developer's Guide.

- 1. Tax Credit Fee.** A fee equal to 7% of the approved annual Federal LIHTC amount must be paid with the execution of the Firm Commitment ("Tax Credit Fee"). The amount of the Tax Credit Fee is to be rounded up to the next dollar. The fee is non-refundable and will not be reduced or refunded if the Final Allocation amount is reduced or if the tax credits are returned or recaptured. If the Final Allocation amount is increased, the increased amount is subject to the fee and must be received prior to the issuance of 8609(s) and Missouri Eligibility Statement(s), if applicable. The Tax Credit Fee cannot be included in eligible basis.
- 2. Appraisal Fee.** MHDC will require an appraisal to confirm the market value of land and improvements. If the proposed purchase price is not supported by the MHDC appraisal, the purchase price may be reduced to the appraised value. MHDC staff shall order the appraisal and assess a fee of \$6,500 which must be paid with the execution of the Conditional Reservation ("Appraisal Fee"). The Appraisal Fee is non-refundable..
- 3. Construction Cost Analysis Fee.** MHDC will order and assess a fee of \$5,000 for an independent third party report to provide an upfront construction cost analysis for all approved developments in excess of six (6) units ("Cost Analysis Fee"). The Cost Analysis Fee would be due with the Firm Submission. If a third party analysis is also required by the lender or investor on the property, MHDC will endeavor to work with that party to avoid duplicate costs.
- 4. Construction Inspection Fee.** A fee will be assessed to compensate either MHDC or a third-party inspector hired by MHDC staff for construction inspections ("Construction Inspection Fee"). The amount of the Construction Inspection Fee will be based on the estimated length of the construction period. See the Developer's Guide for guidance on estimated fees for budgeting purposes.
- 5. LIHTC LURA Recording Fee.** The owner will be responsible for the fee charged for recording the LIHTC LURA with the county in which the development is located. If MHDC records the LURA, the fee is \$160.
- 6. Compliance Monitoring Fee.** A compliance monitoring fee will be assessed to cover the costs of the IRS-required compliance monitoring program ("Compliance Monitoring Fee"). The fee is \$10 per low-income unit (including employee use units) and workforce housing unit (occupied by households between 60% and 80% of the area median income) multiplied by thirty (30) years (the extended-use period). The Compliance Monitoring Fee must be paid once the last building in the development is placed in service. 8609(s) and Missouri Eligibility Statement(s), if applicable, will not be issued until MHDC receives the Compliance Monitoring Fee. The Compliance Monitoring Fee cannot be included in eligible basis.
- 7. Document Revision Fee.** A fee of \$100 per form will be charged for revisions to an 8609 or Missouri Eligibility Statement or LIHTC LURA for (i) any corrections requested that were the result of incorrect information provided to MHDC staff by the owner, and (ii) any corrections requested more than ten (10) days after owner's receipt of the 8609, Missouri Eligibility Statement, or LIHTC LURA, as applicable.

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## **B. Status Reporting**

Approved developments will be required to provide monthly progress reports in a format prescribed by MHDC staff. Information requested will be development specific and may include, but is not limited to, zoning and other local development approvals, firm debt, equity and/or gap financing, and construction progress toward development completion. Owners of developments that will not be placed in service in the year the reservation is made may also be required to provide information regarding the owner's ability to meet Code and MHDC requirements to maintain its Carryover Allocation.

## **C. Development Changes**

A reservation of Federal LIHTC, State LIHTC and/or MHDC funds is based on information provided in the development application. Until a development is placed in service, any material changes (for example, changes in the site, scope, costs, ownership or design, etc.); from what was submitted in the application will require written notification to, and approval by, MHDC. Changes of development characteristics which were the basis, in whole or in part, of MHDC's decision to reserve credits and/or provide MHDC funds may result in a revocation of the Conditional Reservation or a reduction in the amount of the tax credit award and/or MHDC funds.

## **D. Administration of the Plan**

MHDC reserves the right to resolve all conflicts, inconsistencies or ambiguities, if any, in this Plan or which may arise in administering, operating, or managing the Federal LIHTC and State LIHTC and the right, in its sole discretion, to modify or waive, on a case-by-case basis, any provision of this Plan not required by the Code. All such resolutions or any such modifications or waivers are subject to written approval by MHDC's Executive Director and are available for review, as requested, by the general public.

## **E. Amendments to the Plan**

MHDC reserves the right to amend this Plan from time-to-time for any reason including, without limitation:

1. To reflect any changes, additions, deletions, interpretations, or other matters necessary to comply with the Code or regulations promulgated thereunder;
2. To cure any ambiguity, supply any omission, or cure or correct any defect or inconsistent provision in this Plan;
3. To insert provisions clarifying matters or questions arising under this Plan as are necessary or desirable and are not contrary to or inconsistent with this Plan or the Code;
4. As to State LIHTC matters, to comply with the State Tax Relief Act; and
5. To facilitate the award of tax credits that would not otherwise be awarded.

All such amendments shall be fully effective and incorporated herein upon the Commission's adoption of such amendments. This Plan may be amended as to substantive matters at any time following public notice, public hearing, and approval by the Commission.

## **F. MHDC Discretionary Authority**

MHDC reserves the right, in its sole discretion, to:

1. Carry forward a portion of the current year's 9% Credit for allocation in the next calendar year;
2. Under certain conditions, issue a Conditional Reservation for a portion of the next year's 9% Credit;

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3. Under certain conditions, issue a binding commitment for some portion of the next year's 9% Credit;
4. Limit the number of developments in a specific market or geographic area;
5. Award a Conditional Reservation based on the amount of tax credits requested relative to the amount of funding available. This could result in awarding tax credits for a development that will fully utilize the amount available, while denying credit to a development which requested more credit than is available, without regard to location or ranking;
6. Fund fewer than the number of units proposed in an application; and
7. Assert discretionary authority concerning all aspects of an application during the underwriting process.

Section 42(m)(1)(A)(iv) of the Code requires MHDC to make available to the general public a written explanation for any exceptions made to the requirements of this Plan.

## **G. Other Conditions**

In making reservations or allocations, MHDC relies on information provided by or on behalf of the applicant. MHDC's review of documents submitted in connection with the tax credit allocation process is for its own purposes. In making reservations or allocations, MHDC makes no representations to the applicant or other party as to compliance of the development with the Code, Treasury Regulations, or any other laws or regulations governing Federal LIHTCs or State LIHTCs.

No member, director, officer, agent, or employee of MHDC shall be personally liable on account of any matters arising out of, or in relation to, the Federal LIHTC and State LIHTC.

**MISREPRESENTATIONS OF ANY KIND WILL BE GROUNDS FOR DENIAL OR LOSS OF THE TAX CREDITS AND MAY AFFECT FUTURE PARTICIPATION IN THE TAX CREDIT PROGRAM IN MISSOURI.**