

# MISSOURI HOUSING DEVELOPMENT COMMISSION

## 2020 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 September 25, 2020**

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# MHDC 2020 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”). MHDC also administers the State Low Income Housing Tax Credit Program (“State LIHTC”) under Sections 135.3500-363 et seq. of the Missouri Revised Statutes, as amended (the “State Act”).

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 Federal LIHTC and State 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 Federal and State 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:

- a. Per Capita Credits. Calculated based on the state population and the per capita rate set by the IRS.
- b. 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.
- c. 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.
- d. 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 Act which provides that any development eligible for a Federal LIHTC allocation is eligible for a State LIHTC allocation. State LIHTC up to an amount equal to seventy percent (70%) of the available and authorized Federal LIHTC allocation amount may be authorized under this Plan. The amount of State LIHTC authorized for a development cannot exceed the Federal LIHTC amount authorized. For any given development, MHDC shall determine, in its sole discretion, the amount of State LIHTC (if any) necessary for the financial feasibility of the development and shall make allocations of State LIHTC based on that determination.

The anticipated amount of the Annual 9% Credit Authority for Missouri will be announced in the NOFA (defined herein) 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. For any given development, MHDC shall determine, in its sole discretion, the amount of State LIHTC (if any) necessary for the financial feasibility of the development and shall make allocations of State LIHTC based on that determination.

While the NOFA will 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 \$3 million per fiscal year. 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.

## **State LIHTC Accelerated Redemption Pilot Program**

For FY2020, MHDC will establish a pilot program for developments that wish to accelerate redemption of State LIHTC (“AR Applications”). Up to twenty (20) percent of the total developments recommended by staff and approved by the MHDC Board may be selected for this pilot program, which shall only be open to developments that elect in their application to participate in this accelerated redemption pilot. AR Applications are subject to the same review as general pool standard redemption applications, including, but not limited to, all four phases of the reservation process as set out in this QAP. Developers may submit two separate applications in order to apply for both the accelerated redemption pilot program and also under the general pool of standard redemption for State LIHTC.

State LIHTC for developments selected for this accelerated redemption pilot program will be issued so that the annual State LIHTC amount available for redemption in the first five (5) years of the tax credit redemption period will be equal to the annual issuance amount of the allocated Federal LIHTC. The remainder of State LIHTC will be issued where the remaining balance of State LIHTC will be equally distributed annually over the remaining years of the tax credit redemption period.

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

The Multifamily Rental Housing Production Program’s Notice of Funding Availability (the “NOFA”), will be published immediately following the Commission’s formal approval of the 2020 Plan and the proposed 2020 NOFA. The NOFA will describe the types and amounts of funding available and the due date for applications. In addition to tax credits, the NOFA will reflect funding from the following sources: MHDC Fund Balance, HOME, and National Housing Trust Fund. In addition, the NOFA may reflect additional funding that may be made available to, and administered by, MHDC through any other source. Any such additional funding will be detailed in the NOFA. The NOFA will be published to MHDC’s website: <http://www.mhdc.com/nofa/default.htm>. MHDC may also publish a separate NOFA for 4% Credits (if any, the 4% NOFA).

To be considered for a 9% Credit or 4% Credit allocation, an application must be submitted in accordance with this Plan, the NOFA or 4% NOFA (as applicable), and the Developer’s Guide. MHDC shall have the

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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 may elect to accept applications for 4% Credits that do not include a request for other MHDC-administered funds on a rolling basis from October 01, 2020 – August 31, 2021. Should MHDC elect to accept any applications on a rolling basis, such election will be set forth in the 4% NOFA. Please note that MHDC-administered funds include State LIHTC. MHDC reserves the right to establish subsequent NOFAs and application rounds as it determines necessary.

Approval of 9% Credit applications and 4% Credit applications will take place at a public Commission meeting, notice of which shall be made in accordance with the provisions of RSMo §610 including, but not limited to, being posted on the MHDC website. 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 2020 is Friday, October 30, 2020. All deadlines are subject to change should the NOFA or the 4% NOFA need to be revised or modified or as deemed necessary in the sole discretion of MHDC. 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, Missouri 64105) according to the deadline and terms 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 and/or 4% 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 for a property listed publicly by MHDC as real estate owned and available for public bid are not required to submit an application fee.

## F. Application Scoring Model

For 2020, as an additional aid in awarding 9% and 4% LIHTCs, MHDC will use an evaluation rubric against which applications shall be scored. The model is described in detail within this Plan and further information and guidance is included in the Developer's Guide.

## 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. These include, but are 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(s), general partner(s), syndicator(s), investor(s), lender(s), architect(s), general contractor(s), sub-contractor(s), attorney(s), management agent(s), etc.

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2. All participants must adhere to all federal, state, and local laws, as well as any and all applicable regulations, guidance, revenue rulings and the like as may be promulgated by the IRS, HUD, or any other federal or state agency. Participants are solely responsible for ensuring their own compliance with any such laws, regulations, and guidance, and are encouraged to seek the advice of their own legal counsel with respect to such compliance.
3. Any individual or entity awarded Federal LIHTC and/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.
4. When available and feasible, best efforts must be employed to use local vendors, suppliers, contractors, and laborers.
5. 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.
6. All participants must agree to abide by the MHDC Workforce Eligibility Policy, as the same may be amended from time-to-time.
7. Pursuant to the Fair Housing Act (42 U.S.C. 3601 et seq., and including any and all regulations and guidance promulgated by HUD thereunder), discrimination on the basis of race, color, religion, national origin, sex, disability or familial status is strictly prohibited. In addition to prohibiting discrimination, the Fair Housing Act also imposes an obligation to affirmatively further the goals of the Fair Housing Act. MHDC is fully committed to affirmatively furthering fair housing by taking meaningful actions to promote fair housing choice, overcome patterns of segregation, and eliminate disparities in access to opportunity, and consequently, MHDC will consider the extent to which a certain development affirmatively furthers fair housing when deciding which developments should be recommended for funding.
8. In addition to the requirements set forth in Paragraph 7, above, and also in addition to any other requirements set forth in federal, state, or local law, the Commission requires occupancy of housing financed or assisted by MHDC be open to all persons, regardless of race, color, religion, national origin, ancestry, sex, age, disability, actual or perceived sexual orientation, gender identity, marital status, or familial status. 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, national origin, ancestry, sex, age, disability, actual or perceived sexual orientation, gender identity, marital status, or familial status.
9. The applicant must provide evidence that the chief executive officer (or the equivalent) of the local jurisdiction within which the development is located has been notified of the application submitted. Examples of executive officers or their equivalents can be found in MHDC's Developer's Guide.
10. 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 Fund Balance loan, an MHDC HOME loan, an MHDC HOME grant, or an MHDC NHTF loan) are required to:

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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 (2018), the International Plumbing Code (2018), the International Mechanical Code (2018), the National Electrical Code (2017), and/or the International Residential Code (2018) must be used. On a case by case basis, and upon the review of a formal waiver request submitted by an applicant, MHDC may in its sole discretion review exceptions to some of the requirements under the applicable Code. MHDC recommends the waiver be requested and approved before application submission.
  - 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. In all rehabilitation proposals, the scope of work shall address work to be done in all units within the development. Should any unit not require work, documentation as such must be noted in the scope of work. No units shall be left unaddressed.
6. 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.
7. Provide facilities, amenities, and equipment appropriate for the population being served by the development.
8. 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.
9. 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:
  - 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 any new construction projects must

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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.

If a development involves rehabilitation, applicants are required to conduct pre-development testing and energy audits of existing buildings to identify energy savings opportunities. The minimum standard for energy audits is ASHRAE Level 1. 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. All applications for MHDC funding must establish the development will include sufficient broadband infrastructure in accordance with Narrowing the Digital Divide through Installation of Broadband Infrastructure in New Construction and Substantial Rehabilitation of Multifamily Rental Housing, 81 FR 92626 (the "HUD Broadband Rule"). Applicants are encouraged to review the HUD Broadband Rule and to seek the advice of counsel to determine compliance. The application should specifically address compliance with the HUD Broadband Rule in the narrative and should describe in sufficient detail how the particular development will comply with the HUD Broadband Rule.
11. Have contracts that are both reasonable and competitively priced for both hard and soft costs. Copies of the contracts must be provided to MHDC.
12. 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. If required by such federal funding sources, 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.
13. 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, extensive environmental abatement, 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 study, 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.

14. HUD published a Final Rule in the Federal Register on July 24, 2013 to amend the HOME Program regulations. The Final Rule will be enforced on all MHDC projects funded with HOME funds as required by law. Information on the HOME Rule can be found at: <https://www.onecpd.info/>. Please refer to MHDC's HOME Program Guide for additional information.
15. All developments requesting and receiving approval for Low-Income Housing Tax Credits (LIHTC), fund balance loans, HOME funds, HTF, or Risk Share insurance are required to pass an environmental review as a condition of financing, and must also commit to identifying and satisfying any existing environmental conditions to the satisfaction of MHDC and/or HUD as detailed in the Developer's Guide and the MHDC Form 1400 (MHDC Environmental Review Guidelines).

Developments receiving HOME funds, HTF, or HUD/MHDC Risk Sharing Insurance must comply with all state and federal environmental rules and regulations, specifically including but not limited to, 24 CFR § 50.4, 24 CFR § 58.6, 24 CFR § 58.5 and any additional rules, regulations, or procedures required by HUD or MHDC.

16. For mixed-income developments not electing the Average-Income Minimum Set-Aside (as defined herein), 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, when feasible and practicable. 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. When Average-Income Minimum Set-Aside is elected, skewing the unit configuration such that unit Area Median Income ("AMI") designations are not reasonably distributed throughout the development will not be allowed in the initial unit designations and throughout the affordability period.
18. 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 (as defined in the Code) for an additional fifteen (15) years.
19. A development may include multiple buildings if it has similarly constructed units, is located on the same or contiguous tracts of land, is owned by the same federal taxpayer and is financed pursuant to a common plan of financing. A development with multiple buildings that is proposing a mixed income structure must have low-income units in each building of the development. Scattered site buildings on noncontiguous tracts of land may also qualify if the development meets all of the other requirements described above and the development is 100 percent rent and income restricted, however, costs associated with the development of a separate community building may not be eligible for tax credits unless the building contains a residential rental unit.
20. All applications for MHDC funding must establish an Infectious Disease Management Plan (ID Plan) to be adopted and followed by the property management agent in response to an outbreak of COVID-19, other infectious disease, or comparable circumstances. The ID Plan should be prepared in accordance with guidance from the Centers for Disease Control (CDC) or other appropriate local health authorities. Details of what the Plan must address are detailed in the MHDC Developer's Guide.

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## C. Underwriting Standards

MHDC has adopted the following underwriting standards for all developments seeking a Federal LIHTC and/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. Units with tax credit rents that are designated at 60% AMI should be at least 15% less than market rents. If a development includes both tax credit and market rate units, the market rate unit rents must be at least 15% higher than 60% AMI designated rents. However, in rare instances, MHDC may accept a less than 15% rent differential where true area market rate rents may be depressed. Therefore, area market rate rents could be less than tax credit rents. This does not apply to developments applying under the Set-aside Preferences.
2. **Development Cost Minimums.** For rehabilitation developments seeking 9% or 4% Credits, the total construction costs must equal or exceed 40% of the total replacement costs. On a case by case basis, and upon submission of reasonable and well-documented justification, MHDC may in its sole discretion permit exceptions to the 40% threshold.
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 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 up to 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;

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- ii. Be determined to meet the qualifications of the Set-aside Preferences 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 vulnerable persons and 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 2020 statewide median income, as established and published by HUD, and propose to set aside 15% to 25% 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.

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.

A detailed definition of “Identity of Interest” is located in the Developer’s Guide.

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 60 affordable units.

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

In cases where there is a consultant or co-General Partner, the applicant must fill out “Developer/Co-Developer/Consultant Fee Structure Exhibit” detailing the responsibilities and amounts earned of each party. If the consultant is not providing development guarantees, whether to any lender or any other partner or member of the ownership entity, then the maximum allowable consultant fee cannot exceed thirty percent (30%) of the total developer fee.

- 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 must 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

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. **Appraisal.** MHDC will hire an independent third party to provide an appraisal for all approved developments. If the subject property is an operating Section 8 property, MHDC appraisal guidelines will require the as-is value to be based on market rents and expenses per HUD Multifamily Accelerated Processing (MAP) underwriting guidelines. Any value created by Section 8 rents that exceed market rents (‘overage’ or ‘overhang’) will not be considered. The intended users of the appraisal will be MHDC, the sponsors of the development and their investors and any potential mortgagees.
8. **Tax Credit Amount.** The Code and the State Act require that 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. MHDC retains the right, in its sole discretion, to reserve a lesser amount of LIHTC than the amount(s) requested on the application, to reserve less LIHTC than would result by using an applicable fraction of 100%, and/or to deny approval of any LIHTC (as defined in the Code). 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 acquisition credits for 9% developments, and 4% developments. The applicable percentage rate is fixed at 9% for new and rehabilitation credits for 9% developments. 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.
9. **Maximum Credit Amount.** The annual Federal 9% and State 9% Credit shall be limited to an amount necessary for the feasibility of the development, but in no event can the Federal 9% and State 9% Credit be awarded without Commission approval (“Initial Approval Amount”). The maximum amount of Credit that can be allocated to any one development without further Commission approval is the Initial

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Approval Amount plus 10% of the Initial Approval Amount (“Maximum Credit Amount”). In MHDC’s sole discretion, for any development determined to be eligible for a basis boost (see Section II.C.5 above), the annual Federal 9% and State 9% Credit shall be limited to an amount necessary for the feasibility of the development.

Bond Developments receiving 4% Credit allocations will not be limited, beyond what is dictated by the Code, in the amount of Federal LIHTC allocated.

MHDC has the right to lower the amount of annual Federal and/or 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.

**10. 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
- d. The increased amount of Federal LIHTC and/or State LIHTC does not exceed MHDC’s Maximum Credit Amount.

**11. 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.

**12. 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.

**13. 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;
- c. An acknowledgement by the lender that any participation loan is subject to the terms and conditions of MHDC’s Participation Loan Agreement. The lender must agree to MHDC’s required deal terms. The form of Participation Loan Agreement is available on MHDC’s website; and

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- d. The election of the Average-Income Minimum Set-Aside is acknowledged and affirmed, if applicable.

Please note that, 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. This includes sources that will be contributed outside of the typical timeline of the proposal. For those sources that do not have a hard commitment (i.e. City HOME Funds or Federal Home Loan Bank loans and grants), MHDC must be made aware of the approval process and alternative financing in the event the funds are not approved.

14. **Service Escrow** If the developer proposes an escrow for services, and that escrow is not funded by a grant specific to the development services, the developer must contribute at least 50% of the escrow amount from the developer fee. Developments requesting priority status will be reviewed on a case by case basis and the extent of services will be taken into consideration. Developments offering services, but not selecting the priority and not receiving a services grant, will be one hundred percent (100%) developer funded and should be deducted from the Developer's Fee.

## III. 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. An application seeking a boost (up to 30%) in tax credits must explain the need for the additional tax credits in the FIN-100 and the Exhibit A to Form 2013.

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:

- 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, and further guidance on material participation is outlined in the Developer's Guide; 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, and MHDC guidelines, will be met and what share of profits, losses, and fees go to the nonprofit organization.

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2. **HOME CHDO Set-aside.** MHDC will endeavor to set-aside 15% of HOME Funds to be loaned or granted to Community Housing Development Organizations (“CHDO”) as CHDO Set Aside. Certain legal, organizational, and other requirements apply for nonprofit organizations to qualify for CHDO status (24 CFR Part 92.2). If the development is seeking HOME funds under the CHDO Set-aside, the CHDO must be the sole general partner (in the case of a limited partnership) or sole managing member (in the case of a limited liability company) of the ownership entity to qualify.

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. CHDO’s Certificate of Incorporation;
- ii. Articles of Incorporation and By-Laws;
- iii. Missouri Certificate of Good Standing;
- iv. IRS letter evidencing nonprofit status;
- v. MHDC Nonprofit Questionnaire which describes the organization’s role in detail, including how material participation pursuant MHDC guidelines, will be met and what share of profits, losses, and fees go to the nonprofit organization; and,
- vi. CHDO Recertification Form R-100 with all attachments.

3. **Set-aside Preferences (9% Applications eligible for up to 30% boost in eligible basis).**

MHDC will endeavor to set aside 33% of Federal and State LIHTC (4% Credit and 9% Credit) for developments containing units qualifying under the Set-aside Preferences (including the IEH units, as such term is defined herein) outside the geographic set-aside, subject to the quality of the applications received under the Set-aside Preferences and their ability to meet selection criteria and underwriting requirements described in this Plan. The Set-aside Preferences shall consist of two separate and distinct priorities: Special Needs and Vulnerable Persons, as defined and set forth in more detail below. Developments applying under the Set-aside Preferences must select either the Special Needs Priority or the Vulnerable Persons Priority, but not both.

a. **Special Needs Priority**

Developments providing housing opportunities for persons with special needs are strongly encouraged. Developments committing to a special needs set-aside of at least 10% of the total units, will receive a preference in funding (“Special Needs Priority”) as one of the Set-aside Preferences. For purposes of administering the Federal and State LIHTC, a person with special needs is a person who is: (a) physically, emotionally or mentally impaired or is experiencing, or being treated for, or has a diagnosis or a history of mental illness; or (b) developmentally disabled.

Developments funded under the Special Needs Priority 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 identified units and from local service agencies which will provide a network of services capable of assisting each type of special needs population defined above. For purposes of the Special Needs Priority, 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 identified special needs populations. MHDC acknowledges that circumstances may require a change in the Lead Referral Agency during the life of the development, but the developer must contact MHDC’s Asset Management department in the event a change is necessary.

Rents should be as affordable as possible to special needs households. Affordability can be accomplished through project-based or tenant-based subsidies. The Lead Referral Agency is responsible for coordinating tenant-based rental assistance with service providers or governmental agencies,

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whenever necessary and possible. In the absence of project-based or tenant-based assistance, the owner should consider other methods to ensure rents are affordable to special needs households. If proposed rents for special needs units are above 30% AMI rents, the applicant must provide evidence that special needs tenants will qualify at 30% of their income for the special needs unit proposed rents. In no circumstance should special needs tenants pay more than the greater of 30% AMI rents, or 30% of their income towards rents.

Developments wanting to be considered for the Special Needs Priority must fully complete the applicable sections of the application and provide the following supplemental documentation with their application. Refer to the Developer's Guide for further guidance. The referral process must include soliciting and accepting referrals from service agencies that serve all types of special needs populations. Applicants should also detail how the marketing will reach all special needs populations by including the following:

- i. A draft referral and support agreement with the Lead Referral Agency;
- ii. Special Needs Marketing Plan Exhibit; and
- iii. Rental assistance commitment letters (if applicable).

## **b. Vulnerable Persons Priority**

It is the policy of MHDC, as the housing finance agency of the state of Missouri, to support housing for vulnerable persons. Developments committing to a set-aside of at least 10% of the total units for vulnerable persons, will receive a preference in funding ("Vulnerable Persons Priority") as one of the Set-aside Preferences. A vulnerable person is a person who is: (a) homeless, as defined by HUD, including survivors of domestic violence and human or sex trafficking; or (b) a youth transitioning out of foster care.

Applicants must submit documentation demonstrating they have obtained commitments from a Lead Referral Agency which will refer vulnerable persons qualified to lease identified units and from local service agencies which will provide a network of services capable of assisting each type of vulnerable person defined above. For purposes of the Vulnerable Persons Priority, 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 identified vulnerable persons populations. MHDC acknowledges that circumstances may require a change in the Lead Referral Agency during the life of the development, but the developer must contact MHDC's Director of Asset Management in the event a change is necessary.

Rents should be as affordable as possible to vulnerable persons. Affordability can be accomplished through project-based or tenant-based subsidies. The Lead Referral Agency is responsible for coordinating tenant-based rental assistance with service providers or governmental agencies, whenever necessary and possible. In the absence of project-based or tenant-based assistance, the owner should consider other methods to ensure rents are affordable to vulnerable persons. If proposed rents for units identified for vulnerable persons are above 30% AMI rents, the applicant must provide evidence that vulnerable persons tenants will qualify at 30% of their income for the vulnerable persons unit proposed rents. In no circumstance should vulnerable persons tenants pay more than the greater of 30% AMI rents, or 30% of their income towards rents.

Developments wanting to be considered for the Vulnerable Persons Priority must fully complete the applicable sections of the application and provide the following supplemental documentation with their application. The referral process must include soliciting and accepting referrals from service agencies that serve all types of vulnerable persons. Applicants should also detail how the marketing will reach all vulnerable persons by including the following:

- iv. A draft referral and support agreement with the Lead Referral Agency;
- v. Vulnerable Persons Marketing Plan Exhibit; and
- vi. Rental assistance commitment letters (if applicable).



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## c. Set-aside Preferences Housing Reserve Fund

All applications submitted under the Set-aside Preferences must include \$1,000 per set-aside unit as a payment to the Set-aside Preferences Housing Reserve Fund (formerly the Special Needs Housing Reserve Fund) which has been established by MHDC. Each development approved pursuant to the Set-Aside Preferences must contribute to this reserve. Such contribution must be made no later than construction completion when other reserves are normally funded. These funds will be held by MHDC and used, as necessary, to temporarily assist developments funded under the Set-aside Preferences that have experienced unforeseen operational issues (for example, the loss of rental assistance). Deposits to the Set-aside Preferences Housing Reserve Fund are intended for use for all special needs developments, commencing with 2014 approvals, and all developments funded under the Set-aside Preferences commencing with 2018 approvals, and are intended to replace the need for each property to establish a separate reserve for unexpected costs specifically related to developments funded under the Set-aside Preferences or the former 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).

4. **Service-Enriched Housing (eligible for up to 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 to enhance tenant housing stability and independence 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. The desired outcomes are for tenants to stay housed, have social and community connections, improve their physical and mental health, increase their income and employment, and to be satisfied with the services and housing. 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's services must target a specific population. Examples include, but are not limited to:

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

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. Although MHDC expects applicants that have elected the service-enriched priority to provide services for the full term of the MHDC imposed affordability period, MHDC will accept service provider commitments for renewable three year terms. Longer commitments will be viewed more favorably. MHDC acknowledges that circumstances may require a change in service provider during the life of the development. Services for family and senior developments include, but are not limited to, the following examples.

Family properties:

- a. Regularly-held resident meetings;
- b. After-school programs for children;
- c. Financial literacy courses for adults;
- d. Parents as Teachers program offered through the local school district;

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- e. Credit and/or budget counseling;
- f. Life skills and employment services;
- g. Nutrition and cooking classes;
- h. Domestic violence survivor, including human or sex trafficking support and counseling;
- i. Computer lab or computer check-out program;
- j. Food pantry;
- k. Daycare services;
- l. College preparation counseling;
- m. Clothes closet;
- n. Library;
- o. Back to school programs;
- p. Youth sports activities;
- q. Teen support groups;
- r. Good neighbor and tenant rights classes;
- s. Job training and job placement services; and
- t. Reentry programs for ex-offenders.

## Senior properties:

- a. Regularly-held resident meetings;
- b. Transportation to shopping and medical appointments;
- c. Nutrition and cooking 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. Periodic health screenings;
- g. Assistance preparing a Vial of Life;
- h. Exercise program such as the Arthritis Foundation Exercise Program;
- i. Monthly community activities (i.e., pot luck dinners, holiday events, bingo);
- j. Access to fitness equipment;
- k. Food pantry or access to a mobile food pantry if available;
- l. Housekeeping; and
- m. 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. Refer to the Developer's guide for further guidance:

- 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. Letters of intent from service providers anticipated to participate in the development's services program; and
  - iii. Service coordinator job description
5. **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 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.

In order to be considered for this priority, the applicant must include the following 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. A physical needs assessment or, for RD applications, an "as-is" CNA that meets USDA-RD requirements;
  - v. 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 and MHDC indicating the need for preservation is required (please see v. below if the proposed preservation development has an RD loan);
  - vi. If the proposed development includes USDA-RD financing, the application must include a letter of preservation from MHDC and 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
  - vii. All requests to MHDC for preservation letters must be made no later than 30 days prior to application submission deadline.
6. **CDBG-DR.** Applications that include CDBG-DR leveraged funds as a source are strongly encouraged. These applications must obtain a Letter of Intent from the Missouri Department of Economic Development (DED) and include this letter with their application submission. CDBG Disaster Recovery (CDBG-DR) funding is authorized under Title I of the Housing and Community Development Act of 1974, as amended. DED has earmarked approximately \$10 million to be paired with LIHTC for new construction of affordable housing developments in two areas. Van Buren with a zip code of 63965 and Jefferson City with a zip code of 65101. Up to 5 million will be awarded in each of the two areas. Each applicant is eligible for up to \$5,000,000. Applicants interested in leveraging LIHTC equity with this funding source should refer to the Developer's Guide and DED for more information regarding the CDBG-DR program.
7. **Independence Enabling Housing Units (eligible for up to 30% boost in eligible basis).** This program is designed to promote independent living amongst our special needs population. Independence Enabling Housing ("IEH") units that are developed to serve special needs individuals who wish to live independently but who may need additional assistance from a caregiver who resides in a Companion Living ("CL") unit that is associated with a specific IEH unit are encouraged. Developments with IEH units ("IEH Developments") are part of the Set-Aside Preference, and as such are part of the stated 33% Federal and State LIHTC goal stated in Section III(3), above.

These IEH and CL units should be designed in such a manner that the IEH and CL units are conveniently located to each other and are part of a larger development that is inclusive to all persons. The design of the units must satisfy the requirements of Universal Design and be accessible to all persons regardless of any particular type of disability or condition. The units must be distributed evenly within a given development and must maintain equivalent access to the amenities and services that the development

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may provide. For this program, the minimum set-aside of Set-Aside Preference units will be waived and a maximum set-aside of 30% established. Developers should engage a lead referral agency to assist with the design and management of these units.

8. **Veteran's Housing (eligible for up to 30% boost in eligible basis)** Applicants developing Service-Enriched Housing targeting Veterans are eligible for this priority. Developments must offer significant services tailored to the Veteran tenant population. Provided services should enhance Veteran tenant housing stability and independence. A substance abuse program must be included in the proposal.

At time of application, letter(s) of intent for service commitment(s) shall be in place with a provider(s) who specialize in, or have substantial experience in, providing services to Veteran populations. If the applicant does not engage with a third-party service provider, support must be provided in the application which demonstrates the substantial experience the applicant has with providing services to Veteran populations.

Developments applying under the Veteran's Housing priority are subject to any and all requirements of the Service-Enriched priority in addition to any specific requirements that are set forth for the Veteran's Housing priority.

Developments wanting to be considered under the Veteran's Housing priority must fully complete the applicable sections of the application including, but not limited to, all sections required by the Service-Enriched priority.

In addition applicants must provide the following with their application:

- i. A detailed supportive services plan detailing: 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 Veteran tenants, including access to supportive services, transportation, and proximity to community amenities. MHDC prefers the services be onsite or near the proposed development;
  - ii. Letters of intent from those service providers associated with the development's Veterans programs; and
  - iii. Service coordinator job description.
9. **Workforce Housing (eligible for 30% boost in eligible basis)**. Developments in counties with a median income less than the 2020 statewide median income (as established and published by HUD) are eligible for the basis increase, provided that 15% to 25% 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 the rents in the development that are at or below 60% AMI. The published income limits for each development's county still apply and must be used for determining resident eligibility.
10. **Opportunity Areas**. MHDC encourages affordable housing developments in opportunity areas by targeting communities that meet the following criteria: access to high-performing school systems, transportation and employment; as well as being located in a census tract with a 15% or lower poverty rate. **Family developments** that meet these criteria will receive a preference in funding. Family developments proposed in opportunity areas are required to include an affirmative marketing plan that proactively reaches out to families currently living in census tracts where the poverty rate exceeds 40%. The plan must include a Special Marketing Reserve to assist in initial relocation expenses for families with children. Note that the minimum unit size for a family development in an opportunity area is two-bedroom. Developments that apply under this priority must also apply under the Service-Enriched Priority. MHDC will, on a case by case basis with reasonable and well documented justification, allow flexibility for meeting all four criteria for qualification. Please refer to the Market Study Guidelines

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which specifies how data on each of these criteria is to be collected. Below are examples of services for this type of family development:

- i. Regularly-held resident meetings;
- ii. After-school programs for children;
- iii. Financial literacy courses for adults;
- iv. Credit and/or budget counseling;
- v. Life skills and employment services;
- vi. Computer lab or computer check-out program;
- vii. Daycare services;
- viii. College preparation counseling;
- ix. Library;
- x. Back to school programs;
- xi. Youth sports activities;
- xii. Teen support groups, and
- xiii. Good neighbor and tenant rights classes.

- 11. Opportunity Zones.** MHDC understands the potential role of Opportunity Zones in the economic development of distressed communities and encourages affordable housing developments in Opportunity Zones that have commitments of Opportunity Fund Investment(s). Opportunity Zones are census tracts in distressed communities designated by state and federal governments targeted for economic development; and an Opportunity Fund is a new investment vehicle created as part of the Tax Cuts and Jobs Act of 2017 to incentivize investment in Opportunity Zones. Further details regarding Opportunity Zones, including a link to the list of the Designated Qualified Opportunity Zones, can be found in the Developer's Guide.

## RESERVATION PROCESS

### A. Document Review –PHASE I

1. **Document Review Guidelines.** The Document 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. 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 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.

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- c. **Good Standing with Other Entities.** Any member of the development team that is the owner or general partner of a LIHTC development who is currently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any Federal, State, or local department or agency may be denied participation in the NOFA, in MHDC's sole and absolute discretion.
- d. **Consistent with Applicable Law.** As previously stated in the Participant Standards, the submitted proposal must comply with all federal, state, and local laws, as well as any and all applicable regulations, guidance, revenue rulings and the like as may be promulgated by the IRS, HUD, or any other federal or state agency. Participants are solely responsible for ensuring their own compliance with any such laws, regulations, and notices, and are encouraged to seek the advice of their own legal counsel with respect to such compliance. Examples of such requirements include, but are not limited to:

**Code Requirements.** The proposal must meet all requirements set forth in the Code and all relevant Treasury Department regulations, notices, and rulings.

**Fair Housing Requirements.** As previously stated in the Participant Standards the submitted proposal must comply with the Fair Housing Act.

**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.

- e. **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 may be rejected.
2. **Threshold Documents.** All threshold 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 threshold document will result in an application being eliminated from consideration. Below is a list of the threshold document categories ("Threshold Documents"), some of which require multiple documents. The required Threshold Document categories are:
- a. **Executed FIN-100.** A completed and executed FIN-100 with appropriate certifications and elections made.
  - b. **Application Fee.** A check for the appropriate application fee. A check returned for any reason will result in that application being rejected.
  - c. **Development Narrative.** A narrative meeting the requirements set forth in the Developer's Guide. An incomplete narrative will result in the application being eliminated from consideration.
  - d. **Financing Commitments.** Commitments for all non-MHDC financing sources, including commitments for all tax credit equity to be utilized.

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- e. **Local Jurisdiction Contact Verification.** Evidence that the following officials have been contacted.
    - i. Chief Executive of the local jurisdiction;
    - ii. State Senator;
    - iii. State Representative, and
    - iv. Executive Director of the local public housing authority.
  
  - f. **Economic Impact to Missouri.** The applicant should provide information and data within the FIN-100 concerning the economic impact of the proposed development. At a minimum, the applicant should provide the following:
    - i. a description of the proposed services that will be performed and/or the proposed products that will be provided by Missourians;
    - ii. the number of employees in Missouri, if the developer has existing operations in Missouri
    - iii. the percent of hard and soft costs expected to be paid to Missouri-based firms, vendors and /or suppliers;
    - iv. the total number of months between initial construction closing and construction completion; and
    - v. for senior and permanent supportive housing development proposals, projected Missouri savings in Medicaid expenses. Permanent supportive housing combines and links permanent, affordable housing with flexible, voluntary services designed to help the tenants stay housed and build the necessary skills to live as independently as possible.
3. **Secondary Documentation Review.** 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 five (5) or more secondary review documents are missing or are incomplete at the time the application is submitted, the application will be rejected. If four (4) 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 include but are not limited to:
- a. **Digital Media.** Digital media with the required electronic documents as noted on the MHDC FIN-125
  - b. **Site Review Information.** MHDC requires multiple site information documents to conduct the site review described below.
  - c. **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.
  - d. **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. For 2020 applications, a market study may be submitted to MHDC up to 1 week after the NOFA deadline if the application includes a formal waiver request signed by MHDC. The waiver must have been signed by MHDC before the applicable NOFA deadline.
  - e. **Seller Site Control.** The seller site control documents, as described in the Developer’s Guide.
  - f. **Local Jurisdiction Contact Verification.** In addition to other contact verification required by the Code as described in 2e above under Threshold Documents, provide evidence that the Superintendent of Schools (if applicable) and Councilperson(s)/Alderman(s) have been contacted.

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- g. **Statutorily Required Documents.** Various state and federal statutes and regulations require certain documents be submitted by the developer/applicant at the time of application.
- h. **Housing Priority Documentation.** Additional documentation required pursuant to the priority the applicant is applying under, if applicable.
- i. **Zoning.** Evidence of proper zoning. Should the land require rezoning, the application should include the waiver discussed in the scoring section below.
- j. **Architectural Information.** Documents regarding the design, cost, and historic designation of the building.
- k. **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. For rehabilitation proposals, the green building requirement is highly encouraged but optional; however, rehabilitation developments that will achieve and maintain a green building standard should also provide such documentation.
- l. **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. Permanent displacement of tenants is strongly discouraged. The applicant must take all reasonable steps to minimize the displacement of existing tenants.
- m. **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.
- n. **PHA Approved Utility Allowance Schedule.** Provide the most current utility allowance schedule from the local public housing authority (PHA) or the HUD Utility Schedule Model (HUSM).
- o. **Developer-General Partner Information.** Information regarding the developer and any general partner(s) who are not affiliates of the developer.
- p. **Management Agent Information.** Information regarding the proposed management agent.
- q. **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.
- r. **Self-Scoring.** Provide a completed copy of the MHDC Application Self-Scoring form.

## B. Priority Scoring – PHASE II

Applications that pass the Document Review – PHASE I will be divided into two (2) groups for the Priority Scoring – PHASE II. Applications will be assigned to one (1) of the two (2) groups below.

### 1. Priority Group

Applications that meet one or more of the following development types below qualify for the Priority Group and will be assigned forty-five (45) points in addition to points earned in General Scoring – Phase III.

- Workforce Housing;
- Non-Profit as defined in section III of this QAP;
- Service Enriched, including Veterans Housing;
- Special Needs, Vulnerable Populations, and Independence Enabling;
- Preservation;
- CDBG-DR;
- HOME CHDO



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- Opportunity Area, as defined in Section III of this QAP; or
- Opportunity Zone, as enacted under the 2017 Tax Cuts and Jobs Act

## 2. Non-Priority Group

Applications that do not qualify for the Priority Group are designated Non-Priority Group applications and assigned zero (0) Phase II points.

## C. General Scoring – PHASE III

Applications must earn at least 100 combined points in Phases II and III to qualify for Underwriting – PHASE IV review and be considered for funding. Applications that do not earn at least 100 combined points in Phases II and III will not be considered for funding.

The following chart summarizes the point categories in Phase III.

Category	Points Possible
Development Characteristics	81
Use of Resources	52
Development Team	30

## DEVELOPMENT CHARACTERISTICS

### Income Targeting

0 – 10 points

Developments that target a percentage of units to lower income households will be awarded points as described below. Evaluation will be based on LIHTC income determination guidelines. The maximum number of points an application can receive is ten (10) points. Proposals are not eligible for Income Targeting points if they have Project Based Section 8, Rural Development Rental Assistance, Public Housing Assistance or are applying under the Income Averaging set-aside:

Percentage of Units at Income Level (St. Louis and Kansas City MSAs)	Points
15% or greater of the units affordable to households at 30% AMI	10
10% or greater of the units affordable to households at 30% AMI	6
10% or greater of the units affordable to households at 40% AMI	4
10% or greater of the units affordable to households at 50% AMI	2

Percentage of Units at Income Level (Springfield, Columbia, Joplin, Jefferson City, Cape Girardeau and St. Joseph MSAs)	Points
12.5% or greater of the units affordable to households at 30% AMI	10
7.5% or greater of the units affordable to households at 30% AMI	6
7.5% or greater of the units affordable to households at 40% AMI	4
7.5% or greater of the units affordable to households at 50% AMI	2

Percentage of Units at Income Level (All other counties not included above)	Points
10% or greater of the units affordable to households at 30% AMI	10
5% or greater of the units affordable to households at 30% AMI	6
5% or greater of the units affordable to households at 40% AMI	4
5% or greater of the units affordable to households at 50% AMI	2

### Mixed Income Development

10 points

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Developments that have at least 10% market rate units or Income Averaging Units at 80% AMI will be awarded ten (10) points.

## **Tenant Ownership** 5 points

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Developments intended for 100% eventual tenant ownership at the end of the 15-year compliance period will receive 5 points. To qualify for the points, the owner must provide a detailed tenant ownership plan that complies with the Internal Revenue Code and is acceptable to MHDC. Additional details are provided within MHDC’s “Homeownership Policy.”

## **Services** Up to 10 points

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Developments that qualify for the Service Enriched Priority and commit to provide services that fall under the Service Parameters as reflected below may receive up to two (2) points per Service Parameter. Applications must include a fully executed letter of intent for each Service Parameter to receive points for that category. In awarding points, MHDC will evaluate the quality of services provided, the correlation between the services or programs to the tenant population, the service delivery plan and the duration of the commitment (minimum of 3 years).

<b>Service Parameters</b>
Housing Stability
Increased Income and/or Employment
Physical and/or Mental Health
Quality of Life
Social and Community Connection

## **Special Needs / Vulnerable Population** 5 points

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Developments that qualify for the Set-Aside Preference and commit to setting aside 15% or more of the units for special needs and/or vulnerable population tenants will receive five (5) points.

## **Previous Phase Success** 1 point

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Phase II development proposals will be awarded one (1) point if the previous phase has a vacancy rate of less than five percent and has a waiting list. Points are not eligible to subsequent phases.

## **Site Location** 0-15 point

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1. All developments qualify for category (1a) or (1b) points; developments will not receive points for both.
  - a. Households spending more than 50% of gross monthly income on housing are termed severely cost burdened. Applications that propose a development in a county where the percentage of severe cost burdened renter households exceeds 10% as identified in the 5-Year Strategic Plan for Affordable Housing for the State of Missouri – 2020 published on the MHDC website will be awarded points as described below. :

<b>Percentage of Severe Cost Burdened Renter Households</b>	<b>Points</b>
Greater than 20%	10
Greater than 15%	7
Greater than 10%	5

- b. Family sites in an Opportunity Area as described within this Plan will be awarded seven (7) points.

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2. Developments that are located in rural underserved counties as defined by MHDC will receive five (5) points. Counties that qualify as MHDC designated rural underserved counties will be published at [http://www.mhdc.com/rental\\_production/2020-fy-items/index.htm](http://www.mhdc.com/rental_production/2020-fy-items/index.htm).

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## **Economic Development**

5 points

Development proposals with a significant connection to other economic development in the community (“Supporting Economic Activity”) will receive five (5) points. The applicant must include each of the following:

1. Detailed description of the specifics of the Supporting Economic Activity and how it supports the need for affordable housing;
2. Detailed description of how the jobs created by the Supporting Economic Activity support the need for the income targeted affordable housing units proposed in the application;
3. List of all resources committed to the Supporting Economic Activity;
4. Description of the impact of the proposed housing development to the overall economic development in the community and;
5. Description of the community, including housing, commercial, infrastructure, amenities and services.

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## **Preservation**

10 points

Development proposals that qualify for the Preservation priority will be awarded ten (10) points

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## **Zoning**

10 points

Developments that show evidence that the site is properly zoned to allow the proposed development at the time of application submission will be awarded ten (10) points. If the site is not properly zoned, the applicant may still earn 10 points in this category if a formal waiver request signed by MHDC is included in the application. To be approved for the waiver, the applicant must include with their waiver request a letter from the appropriate governmental body describing what needs to be done to be in compliance and the time frame for achieving such compliance. The waiver must have been signed by MHDC before the applicable NOFA deadline. If there is no zoning, a letter from the locality stating that no zoning exists is acceptable as evidence that the proposed development is allowed at the proposed site.

## **USE OF RESOURCES**

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### **Leveraged Funds**

0 – 10 points

Developments that have executed Letters of Intent (LOIs) for unaffiliated party grant funds, capital campaign funds, federal funds, energy/utility rebates/incentive program funds, and/or municipal funds will be awarded points based on the percentage of award as it relates to the Total Development Budget. Loans from private institutions or other entities may be counted as leverage funds if the interest rate is below the 2-year Treasury Rate (as of October 1, 2020) plus 200 basis points for construction loans, and is below the 10-year Treasury Rate (as of October 1, 2020) plus 200 basis points for permanent loans. The below table will be used to score points for permanent loans. Qualified construction loans will receive five (5) points if the amount of the construction loan is greater than or equal to 50% of the total development costs. Applicant may receive points for both construction loans and permanent loans. Those points will be added together but in no circumstances can that total exceed 10 points.

<b>Percentage of Leveraged Funds</b>	<b>Points</b>
Greater than 2.5%	3
Greater than 5%	5
Greater than 7.5%	10

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Historic Tax Credit Equity does not qualify as leveraged funds.

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## **Federal Historic Tax Credits** 5 points

Developments that have executed LOIs for Federal Historic Tax Credits will be awarded five (5) points. Applications requesting State Historic Tax Credits will not be awarded the five (5) points.

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## **National Housing Trust Fund** 5 points

Development that request and qualify for National Housing Trust Fund funds will be awarded five (5) points.

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## **HOME CHDO** 10 points

Developments that qualify for the HOME CHDO set-aside and are not requesting Low Income Housing Tax Credits will be awarded ten (10) points.

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## **Total Development Costs** 10 points

Applications that are submitted under the MHDC defined Total Development Cost Maximum will be awarded ten (10) points.

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## **Rental Assistance** 5 points

Development proposals that include committed rental assistance for at least 15% of units will be awarded five (5) points. Developments with Rural Development, Project Based Section 8 or Public Housing will be eligible for the points in this category. MHDC will accept rental assistance commitments for at least three year terms. Longer commitments will be viewed more favorably in the Underwriting Phase.

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## **Credit Efficiency** 7 points

Applications will be awarded points for credit efficiency based on the eligible LIHTC amount per LIHTC bedroom using the criteria below. Applications will be divided into four categories: (1) Family New Construction; (2) Senior New Construction; (3) Family Rehab; and (4) Senior Rehab. A “safe harbor” will be determined for each category. The Average Eligible LIHTC amount per LIHTC bedroom will be determined for each category based on the eligible LIHTC amount per LIHTC bedroom data in the 2020 submitted applications. The Safe Harbor for each category is 2.5% above and 2.5% below the Average Eligible LIHTC amount per LIHTC bedroom for each respective category. Applications will be scored as follows:

<b>Credit Efficiency</b>	<b>Points</b>
Eligible LIHTC amount per LIHTC bedroom is WITHIN the Safe Harbor	3
Eligible LIHTC amount per LIHTC bedroom is BELOW the Safe Harbor	7
Eligible LIHTC amount per LIHTC bedroom is ABOVE the Safe Harbor	0

LIHTC bedrooms must meet certain size minimums, to be determined by MHDC. Minimum bedroom sizes will be published at [http://www.mhdc.com/rental\\_production/2020-fy-items/index.htm](http://www.mhdc.com/rental_production/2020-fy-items/index.htm).

Please refer to the MHDC Developer’s Guide for the exact method to calculate Credit Efficiency.

## **DEVELOPMENT TEAM**

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### **Non-Profit and HOME CHDO** 5 points

Developments that qualify for the non-profit set-aside as defined in section III of this Plan and/or developments that qualify for the HOME CHDO set-aside will be awarded five (5) points.

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## **Development Team Prior Performance**

0 – 25 points

An application will be awarded up to twenty-five (25) points based on a Development Team's prior MHDC performance. Significant cost increases, significant additional funding requests, responsiveness, timeliness, compliance with MHDC's Asset Management Division, and consistency over time will be considered. Developers, Co-developers, General Contractors, Management Agents and Syndicators will be evaluated as a team and MHDC will consider the prior 5 years. An application submitted by a developer with no prior experience with MHDC, but which includes other Development Team members that do have prior experience with MHDC will be evaluated based on the prior performance of the entire Development Team and may earn up to a maximum 25 points.

## **D. Underwriting/Selection Criteria – PHASE IV**

Points earned in Phases II and III determine qualification for review and funding consideration in Phase IV. Priority Group and Non-Priority Group applications that earn a minimum of 100 combined points in Phase II and Phase III qualify for funding consideration. MHDC reserves the right to evaluate, and recommend for funding, applications that do not earn 100 points or more to the extent necessary to meet the Geographic Region allocation goals reflected in Section D of the Reservation Process of the QAP. Final funding decisions are within the sole and complete discretion of MHDC.

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 or consisting of vulnerable persons;
- Sponsor characteristics;
- Tenant populations of individuals with children;
- Public housing waiting lists;
- Energy efficiency and overall sustainability; and
- Historic character.

Per the Code, 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 only if the development contributes to a concerted community revitalization plan, which is in-place at the time of application.

The Code also provides that 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.

MHDC will give preference in funding to Priority Group applications as defined within this Plan.

During the application review, MHDC staff may 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 sign should be posted from the time MHDC receives the application until the Commission votes to approve or not approve the application. At a minimum, the sign must identify the developer and have a contact name and phone number. The MHDC Site Review will consist of a determination regarding the feasibility, marketability, appropriateness of the site(s) for the intended population, and assessment of any perceived environmental issues. For rehabilitation and conversion applications, MHDC staff expects to

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be able to enter the buildings. Additional supporting documentation may be required if any environmental concerns are identified.

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.

## **Geographic Region.**

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. **MSA-Rural Region – 20%:** Cape Girardeau MSA (Cape Girardeau and Bollinger counties), Columbia MSA (Boone, Cooper and Howard counties), Jefferson City MSA (Callaway, Cole, Moniteau and Osage counties), Joplin MSA (Jasper and Newton counties), Springfield MSA (Christian, Dallas, Greene, Polk and Webster counties) and St. Joseph MSA (Andrew, Buchanan and DeKalb counties).
- d. **Rural Region - 28%:** All other counties.

**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 impairment and/or developmental disabilities, homeless individuals and families, seniors, and other underserved and/or at risk populations;
- ii. Individuals experiencing, or being treated for, or having a diagnosis or a history of mental illness;
- iii. Individuals on public housing waiting lists;
- iv. Individuals with children;
- v. Youth transitioning 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 sixty (60) affordable units in a proposal.

Exceptions may include, but are not limited to, applications proposing a:

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- 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 or Vulnerable Persons 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.

## **c. 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:

- i. Marketability, or the likelihood that the site and improvements will be accepted by the target population;
- ii. Presence of environmental issues and concerns, including but not limited to habitat and wetland preservation, noise, proximity to floodplains, and proximity to other potentially hazardous land uses;
- iii. Neighborhood characteristics and land uses; and
- iv. Proximity to appropriate amenities and services.

## **d. 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, including but not limited to Wi-Fi access, community space, proximity to services, health and fitness space, playgrounds, picnic shelters, community gardens, trails, proximity to transit options;
- iv. Type and quality of materials;
- v. Energy efficiency and overall sustainability, including an MHDC approved sustainability certification;
- vi. Condition and suitability of structures being reused;

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- 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.

**MBE/WBE (Minority-Owned Business Enterprise/Women-Owned Business Enterprise).** In 2018, 32% of the total number of applications approved were MBE or WBE Developer proposals. The goal for 2020 is to match the 2018 percentage. In an effort to continue to promote this Initiative, MHDC will initiate efforts to develop outreach and/or workshop opportunities for MBE/WBE developers and businesses. An MBE or WBE Developer Application is one where: (1) the Developer is an MBE or WBE; (2) the Developer Group includes an MBE or WBE; (3) there is a Developer Mentor/Protégé relationship. In addition, all applicants must commit to meet the MBE/WBE participation requirements. See the Developers Guide for further details about the MBE/WBE Initiative.

**Market Characteristics.** It is important the development's characteristics are appropriate for the market in which it is located. 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 Federal LIHTC, State 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 or Vulnerable Persons housing units;
    - o Development that qualifies for the IEH Priority;
    - o Development that includes service-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.
- ii. Location in a qualified census tract only if the development will contribute to a concerted community revitalization plan that is in-place at the time of application;
- 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 (historical examples: Joplin MSA and the City of Berekley LIHTC set-aside in 2012 in response to natural disaster).

## **b. Housing Needs**



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

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

**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 or vulnerable persons 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.

**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**

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**

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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, (iii) HOME affordability period (if applicable), or National Housing Trust Fund 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 and 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.

**Community Impact.** MHDC seeks to allocate funding to developments that appropriately and efficiently improve their communities. Impact may be weighed using:

- a. **Local Jurisdiction and Community Comments.** Comments from the local jurisdiction, including but not limited to chief executive officers and community members.
- 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.
- d. **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. The application should also include a detailed description of the plan. A Redevelopment Plan should do the following:
  - o Identify planned public and private development in the community;
  - o Identify any resources committed to development;
  - o Set clear geographic boundaries for the community;
  - o Describe the community;
  - o Address housing and non-housing development, including infrastructure, amenities, and/or services beyond credit development;
  - o Identify goals and action steps; and
  - o Identify community partners.

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**Economic Impact.** The economic impact to Missouri of a proposed development is an important factor. MHDC will evaluate the Missouri economic impact of each proposal using information within the application, items to be measured include, but are not limited to:

- Proposed services that will be performed and/or proposed products that will be provided by Missourians;
- The economic impact returned to the State of Missouri through tax revenue obligations, or otherwise;
- The Development Team’s economic presence within the State of Missouri, including Missouri employee statistics; and,
- For senior and Set-Aside Preference, including IEH, development proposals, projected Missouri savings in Medicaid expenses.

**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 and provide such individual(s) a reasonable opportunity to comment on the project. 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 a reasonable 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 publish a notice in a regional newspaper requesting public comment on the development and make the list of applications available online through [www.mhdc.com](http://www.mhdc.com) for review and comment. Public hearings will be held in person or remotely in various locations throughout the state to afford the public a reasonable opportunity to comment on developments proposed in a given region.

## IV. ALLOCATION PROCESS

### A. Conditional Reservation

Applications receiving approval will be awarded a conditional reservation shortly after 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.

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 Tax Credit Issuance (defined herein). 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.

### B. 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

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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 Federal Carryover Allocation, the owner must submit all of the documentation required in the Federal Carryover Allocation, take ownership of the property, and admit the investor as the limited partner or member of the ownership entity.

For developments with 9% Credit reservations which are receiving an allocation of State LIHTC, a State Carryover Allocation will be issued for developments that qualify to receive a Federal Carryover Allocation. The Federal Carryover Allocation Agreement may 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 reservation. The Carryover Allocation defines the amount of Federal LIHTC allocated to the development, the low-income unit set-asides, the percentages of median income to be served, the special housing needs or vulnerable persons units committed to, if any, the Building Identification Number(s) (BINs), and any other such requirements as MHDC may choose to include. The State Carryover Allocation details the amount of State LIHTC authorized and any other such requirements as MHDC may choose to include. Detailed description of the Federal Carryover Allocation and State 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 Federal Carryover Allocation or State 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 Tax Credit Issuance 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.

## **C. Tax Credit Issuance**

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

MHDC will make the issuance of tax credits of Federal LIHTC and/or State LIHTC ("Tax Credit Issuance") after MHDC approval of all Tax Credit Issuance requirements (which includes, but is not limited to, approval of the cost certification) and conversion or permanent closing has occurred, if applicable. The Tax Credit Issuance 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 Tax Credit Issuance amount may be less than the amount reserved or allocated previously.

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

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):

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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. This includes funding of all required reserves.

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)).

## D. Transfer of Reservations and Allocations

Without MHDC's prior consent, Conditional Reservations allocations, and/or Carryover 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 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 the same approval required for the initial application.

## E. Owner Elections

1. **Applicable Credit Percentage.** The applicable percentage for New Construction and Rehabilitation credits is permanently fixed at 9% (except for Bond Developments). For Acquisition credits, the applicable credit percentage 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, original hard copies of the Election of Applicable Percentage form signed by the owner and notarized and Issuer Statement Relating to Election of Applicable Percentage Election Statement from the bond issuer must be submitted to MHDC staff before the close of the fifth calendar day following the month in which the bonds are issued. Once both documents are received, MHDC staff will issue a letter to the owner confirming the month and rate that is locked.

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

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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 Tax Credit Issuance 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 Tax Credit Issuance.

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 Credit Period and applicable 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.
4. **Minimum Set-Aside Test.** Each development must make a minimum set-aside election. The Owner must make an irrevocable election in the initial application of one of the following set-aside elections:
  - a. **20/50 Minimum Set-Aside:** At least 20% of its total residential units must be both rent-restricted and occupied by qualified low-income households who earn less than 50% of the area median gross income ("AMGI") for that household size.
  - b. **40/60 Minimum Set-Aside:** At least 40% of its total residential units must be both rent-restricted and occupied by qualified low-income households who earn less than 60% of the AMGI for that household size.
  - c. **Average-Income Minimum Set-Aside:** At least 40% of its total residential units must be both rent-restricted and occupied by qualified low-income households whose income does not exceed the income limitation designated for the respective unit, where the average of the income-designated units may not exceed 60% AMGI. The unit designations will be made in 10 percent increments. Units may be designated at 30, 40, 50, 60, 70, or 80 percent AMGI.

The Average-Income Minimum Set-Aside election will not be permitted for developments which contain buildings that will be resyndicated.

## F. 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, AMGI unit designations, the special housing needs or vulnerable persons 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.

## **G. 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 a determination of the development's tax credit amount.

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 Tax Credit Issuance 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. 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).

Further information and guidance on compliance monitoring is included as supplemental to this Plan in the Developer's Guide and the MHDC LIHTC Compliance Monitoring Manual, as may be amended from time-to-time, and explains the LIHTC monitoring process in detail. Each owner is required to comply with the requirements described in the designated program manuals and guides, MHDC policies, and as set forth in the Code, and Treasury Regulation 1.42-5 provisions, including but not limited to:

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**Record Keeping and Retention.** For each year in the compliance period and extended use period, the owner or its successor in interest shall keep records for each qualified low-income building in the Project, consistent with Treasury Regulation 1.42-5. The owner or its successor in interest shall retain these records for each building in the development for at least six years after the due date (with extensions) for filing the federal income tax return for that year. The records for the initial taxable year shall be retained for at least six years after the due date for filing the federal income tax return for the last year of the compliance period and extended use period of the building.

**Annual Certifications.** The owner shall make all necessary annual certifications for the preceding 12-month period, as described in Treasury Regulations 1.42-5 and as required by MHDC.

**Review and Inspections.** MHDC will review the certifications submitted and conduct on-site inspections of the developments pursuant to the required frequency. The number of low-income housing units and certifications to be inspected must be selected according to the minimum requirements as set forth in Treasury Regulations 1.42-5 and in a manner that limits advance notice to owners that their records for a particular year will or will not be inspected. MHDC may give an owner reasonable notice, pursuant to Treasury Regulations 1.42-5, that an inspection will occur so that the owner may assemble records.

**Notice of Noncompliance.** MHDC will provide written notice to the owner of a development if found to be out of compliance pursuant to Treasury Regulation 1.42-5. The notice will describe the events of noncompliance and advise the owner of the development of the time period to correct the events of noncompliance.

**Correction Period.** The correction period shall not exceed 90 days from the date the notice of noncompliance is sent to the owner. MHDC may extend the correction period for up to six months, but only if MHDC determines there is good cause for granting the extension. During the 90-day time period, or an extension thereof, the owner shall supply any missing certifications and bring the development into compliance with the provisions of the Code and Treasury Regulation 1.42-5.

**Notice to Internal Revenue Service.** MHDC will send a written notice to the Internal Revenue Service along with an IRS Form 8823 in the event of a finding of noncompliance by an owner. Copies of the IRS Form 8823 and the Internal Revenue Service notice will be forwarded to the owner.

**Liability.** Compliance with the requirements of the Code and MHDC requirements is the responsibility of the owner of the development for which the tax credits are allowable. MHDC's obligation to monitor for compliance with the requirements of the Code does not make MHDC liable for an owner's noncompliance.

## 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 Tax Credit Issuance amount is reduced or if the tax credits are returned or recaptured. If the Tax Credit Issuance 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). 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



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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 minimum fee of \$13,500 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) 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.
8. **Plan Review Worksheet Revision Fee.** A \$25 per unit fee may be charged if a revision of the unit number assignments are required after the submission of the fully-executed Plan Review Worksheet at Cost Certification.

## 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.

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## **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. To comply with the State Act, as to State LIHTC matters; 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;
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 and/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/or 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.