



## Low Income Housing Tax Credit Program

# 2009

# ***Qualified Allocation Plan***

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**STATE OF ARIZONA**  
**Low-Income Housing Tax Credit Program**

**2009**  
**QUALIFIED**  
**ALLOCATION PLAN**

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## 1. INTRODUCTION

### 1.1 Background

1.1(A) The federal low-income housing tax credit (“LIHTC” or “tax credit”) <sup>1</sup> program was established by the Tax Reform Act of 1986, codified in Section 42 of the Internal Revenue Code of 1986, as amended (“IRC Section 42”) to encourage construction and rehabilitation of low-income rental housing. The Arizona Department of Housing (“ADOH”) is the housing credit agency responsible for allocating tax credits to owners of qualifying residential rental projects. The Revenue Reconciliation Act of 1989 amended IRC Section 42 by adding Section 42(m), which requires allocating agencies to allocate low-income housing tax credits pursuant to a Qualified Allocation Plan (“QAP,” “Plan,” or “Allocation Plan”).

IRC Section 42(m)(1) provides as follows:

- (B) QUALIFIED ALLOCATION PLAN--For purposes of this paragraph, the term 'Qualified Allocation Plan' means any plan--
- (a) which sets forth selection criteria to be used to determine housing priorities of the housing credit agency which are appropriate to local conditions,
  - (b) which also gives preference in allocating housing credit dollar amounts among selected projects to--
    - (I) projects serving the lowest income tenants, and
    - (II) projects obligated to serve qualified tenants for the longest periods,
    - (III) projects which are located in Qualified Census Tracts (as defined in subsection (d)(5)(c) and the development of which contributes to a concerted community revitalization planand
  - (c) which provides a procedure that the agency (or an agent or other private contractor of such agency) will follow in monitoring for noncompliance with the provisions of this section and in notifying the Internal Revenue Service of noncompliance with the provisions of this section which such agency becomes aware of and in monitoring for noncompliance with habitability standards through regular site visits.
- (C) CERTAIN SELECTION CRITERIA MUST BE USED--The selection criteria set forth in a Qualified Allocation Plan must include--
- (a) project location,
  - (b) housing needs characteristics,
  - (c) project characteristics including whether the project includes the use of existing housing as part of a community revitalization plan,
  - (d) sponsor characteristics,
  - (e) tenant populations with special housing needs,
  - (f) public housing waiting lists,
  - (g) tenant populations for individuals with children, and

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<sup>1</sup> The defined terms that are used in this Plan are in Section 9, Definitions. Terms that are defined in Section 9 are capitalized with the exception of commonly used terms such as “applicant” and “project.”

(h) projects intended for eventual tenant homeownership.

(D) APPLICATION TO BOND FINANCED PROJECTS--Subsection (h)(4) shall not apply to any project unless the project satisfies the requirements for Allocation of a housing credit dollar amount under the Qualified Allocation Plan applicable to the area in which the project is located.

1.1(B) There are two methods for obtaining a tax credit Allocation: (i) through an application submitted pursuant to this Plan and (ii) tax-exempt bond financing.

1.1(C) Changes to the Plan

1.1(C)(1) Annual Plans. **DISCLAIMER:** ADOH may submit a new proposed plan with substantial changes for public review and comment from time to time. Persons intending to submit an application for tax credits for a competitive round should recognize that ADOH may add, delete, or substantially change eligibility requirements, set-asides, competitive point categories, and underwriting requirements for a new plan. **Applicants making business decisions regarding a project or potential project in anticipation of the provisions of new plan do so at their own risk.**

1.1(C)(2) Changes to approved plans. As provided by I.R.C. § 42(m)(1)(A)(iv) ADOH may in its discretion make significant changes to this Plan. Although ADOH will make every effort to avoid substantial changes to the Plan after a competitive round has been announced such changes may be necessary from time to time to respond to changing market conditions, address critical needs, and maximize the allocation of tax credits. ADOH may conduct one or more competitive rounds under a plan upon appropriate notice to the public.

1.1(C)(3) Changes to this Plan or other tax credit program related procedures due to the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5, ("the ARRA"), including grants of low-income housing credit ceiling to state allocating agencies described in Section 1602 of the ARRA, and the appropriation of funds for financing of certain LIHTC projects through the HOME Investment Partnership Program described under Title XII of the ARRA shall be announced by ADOH through a public notice at a later date.

## 1.2 General and Specific Goals

1.2(A) **Annual Tax Credit Ceiling.** Since the Arizona Department of Housing was established in 2002, the department has allocated tax credits valued at nearly \$800 million to projects located throughout Arizona. The LIHTC program has resulted in the production of affordable housing for low and moderate-income households throughout Arizona.

1.2(B) **General Goals.** For projects that are not financed through tax-exempt bonds the LIHTC program is a competitive program. See Section 3 for the process and requirements for tax credits to projects financed by tax-exempt bonds. The federal government establishes the State Annual Credit Authority which limits the dollar amount of tax credits that ADOH may allocate to qualifying projects, and detailed eligibility standards and priority uses for available tax credits. The State's Annual Tax Credit Authority is insufficient to fund all applications. This Plan explains the competitive process that ADOH uses to allocate its annual authority for 9% tax credits in 2009. Applications for tax credits for projects that are financed through tax-exempt bonds

and that have received confirmation of private activity bond volume cap shall be reviewed as provided herein on a first-come, first-served basis. See Section 3.1. In furtherance of the statutory provisions affecting the program, ADOH has established the following general goals for allocating tax credits in Arizona:

1.2(B)(1) To maximize the number of affordable rental housing units added to the existing housing stock;

1.2(B)(2) To develop affordable rental housing units in areas with the highest market demand while avoiding concentration of affordable properties in distressed areas;

1.2(B)(3) To develop affordable rental housing units necessary to satisfy a critical need in an area;

1.2(B)(4) To allocate tax credits to projects that provide the greatest overall public benefits;

1.2(B)(5) To allocate all tax credits;

1.2(B)(6) To encourage development and preservation of appropriate rental housing for people and families that need governmental assistance to find and maintain suitable, habitable, and affordable rental housing in the private marketplace;

1.2(B)(7) To enable substantial rehabilitation of existing rental housing in order to prevent losses to the existing supply of affordable units;

1.2(B)(8) To prevent the loss from the existing stock of low-income rental housing of those units under expiring contracts with federal agencies or subject to prepayment which, without the Allocation of tax credits, would be converted to market rate units;

1.2(B)(9) To maximize the utilization of tax credits;

1.2(B)(10) To provide an equitable distribution of tax credits across the state;

1.2(B)(11) To provide opportunities for participation in the tax credit program to all qualified sponsors of low-income rental housing; and,

1.2(B)(12) Provide local government entities with notice and opportunity to comment on tax credit development proposed within their jurisdictions.

1.2(C) **Specific Goals**. In addition, in allocating tax credits, ADOH seeks to achieve specific goals. These are:

1.2(C)(1) To use tax credits in connection with rental housing "projects serving the lowest income tenants," see I.R.C. §42(m)(1)(B)(ii)(I);

1.2(C)(2) To use tax credits in connection with rental housing "projects obligated to serve qualified tenants for the longest periods," see I.R.C. §42(m)(1)(B)(ii)(II);

1.2(C)(3) To make tax credit funding available to proposals to serve low-income populations -- including large families, homeless persons, persons with special needs, and senior citizens;

1.2(C)(4) To hold competition among only those projects considered sound investments of public funds;

1.2(C)(5) To expend the minimum amount of public funds necessary to accomplish program goals;

1.2(C)(6) To administer the LIHTC program in a manner that encourages timely project completion and occupancy; and,

1.2(C)(7) To encourage the highest available quality and design standards for projects financed with tax credits.

1.2(D) From year to year, the state may supplement these general goals with more specific goals in order to meet specific affordable housing needs.



## 2. APPLICATIONS FOR TAX CREDITS

### 2.1 Amount of the State Annual Credit Authority

For calendar year 2009, the amount used under Section 42(h)(3)(C)(ii) to calculate any state's LIHTC program credit ceiling amount is the greater of (i) \$2.30 multiplied by the state's population or (ii) \$2,275,000. These figures are adjusted annually for inflation. Arizona's LIHTC program credit ceiling amount for the calendar year 2009 is \$14,950,414. The amount of tax credits available through this Plan in any allocation round is the annual tax credit ceiling adjusted by the amount of tax credits already allocated, tax credits returned, tax credits carried over from the previous year, and any national pool tax credits that the state may receive.

### 2.2 Maximum Tax Credit Reservation

The amount of credits available to a project shall be limited to the project's qualified eligible basis and no more than two projects may be reserved tax credits for any one Owner, Developer, Co-Developer or affiliate of the Developer or Co-Developer.

In the event of a competitive round under this Plan after the 2009 calendar year, the Department may limit the maximum amount of tax credits available for a reservation in a separate notice.

### 2.3 Limitations on Reservation of Tax Credits

2.3(A) **Multiple Projects**. If ADOH determines that multiple applications in the same year constitute a single project, ADOH may deny the applications, or combine them into a single application. A reservation or an allocation, as determined by ADOH, shall not exceed the amount ADOH determines is necessary for the financial feasibility of the project and its viability as a qualified low-income housing project. ADOH, in its discretion, may treat multiple applications for projects located within the same demographic or market area with common ownership or Development Team members as a single application if it identifies two or more of the following factors in separate applications: any Maximum Tax Credit Reservation as may be imposed by the Department as described in Section 2.2; projects that target similar populations; large project size in relation to market, market saturation, commonality of design; shared amenities; commonality of application for funding from ADOH, HUD or other housing authorities.

2.3(B) **Limitation Based on Concentrations of Projects in Certain Market Areas**. Notwithstanding set-aside amounts or competitive scores, ADOH may in its sole discretion, limit the number of developments in a specific market or geographical area if ADOH determines that there is insufficient demand or that a particular project would have adverse impact on low income housing developments existing in a give market area. In the event that multiple applications are submitted for a given market area that cannot support all of the projects, ADOH may select one or more applications that will best serve market demand or has less of a negative impact than the others. ADOH may, in its discretion, refuse to reserve credits to any project if ADOH determines that the given market area cannot support the project. If multiple applications are filed for a given market area proposing to serve different populations (e.g., elderly, family or Special Needs Populations), ADOH shall analyze the applications to ensure that no project will be redundant or have adverse impact on the other applications or existing projects in the given area.

2.3(C) **Limitation Based on Types of Projects Located in Small Population Centers**. For Census Designated Places with populations of 50,000 or less according to the 2000 U.S. census data, an ADOH may limit

Reservation or Allocation of tax credits to no more than one family, one senior, and one Special Needs Project in any year.

## 2.4 Timetable and Application Submission Location

ADOH may hold one or more tax credit application rounds pursuant to this Plan. Applicants must submit to ADOH one original and two complete copies of an application and a non-refundable application fee of \$3,500 for each application on or before 4:00 P.M. of the application submittal date as announced by ADOH in an Information Bulletin published on the ADOH website. If the deadline date falls on a holiday or weekend, applications shall be due on the next business day. Applications must be received at the reception desk of the Arizona Department of Housing located at 1110 West Washington Street, Suite 310, Phoenix, Arizona 85007. Facsimile and e-mail submissions shall not be accepted.

## 2.5 Application Format

Application materials must be in 8-1/2 x 11 format, placed in one or more adequate sized three ring binders, indexed and tabbed as described in this Plan. Exceptions: (1) all drawings/plans may be included unbound if they do not lend themselves to the 8-1/2 x 11 formats. All such plans should be in the smallest practical (readable) format. The maximum acceptable drawing size is C-size; and (2) items of significant volume (such as an Appraisal, Market Demand Study, capital needs assessment or environmental reports) may be submitted as separate bound items. Each application must comply with the format and content of this Plan and present to ADOH a clear, unambiguous and complete application by the deadline date. ADOH may reject any application that does not conform to the requirements of this Plan or is submitted after the deadline date.

## 2.6 Application Review Process for Projects that are not Bond Financed

2.6(A) **Overview.** For projects that are not financed with tax-exempt bonds, ADOH shall evaluate all applications in a competitive review process. Generally, applications that pass the threshold determination shall be reviewed for eligibility. See Section 2.7. Eligible applications shall be assigned to the appropriate set-aside, if any, scored, and underwritten. Tax credits shall be reserved to eligible applications in each set-aside, preference being given to applications with the highest competitive score until the amount of tax credits reserved equals the amount of tax credits available for the round. Scoring means auditing the applicant self-scores by verifying support for the points claimed, and deducting points according to the criteria set forth in Section 2.9. Underwriting includes review of the project described in the application for feasibility, viability, quality, market demand, compliance with design standards, and public benefit utilizing the criteria described in Section 7.

2.6(B) **Review Process.** ADOH shall take the following steps in processing applications and reserving and allocating credits:

2.6(B)(1) **Threshold determinations.** Applications that fail to comply with the threshold requirements set forth below shall not receive further review and are ineligible for a Reservation of tax credits.

2.6(B)(1)(a) Complete application. The application must be complete and submitted according to form. The applicant must submit one original and two copies of a complete and accurate application organized in the prescribed sequence and format, as required by this Plan and by the

“Low-Income Housing Tax Credit Program Application Forms and Instructions,” together with the non-refundable application fee. All application forms must be completed and submitted as required by this Plan. ADOH shall not accept any additional information, amendment or change to the application after the deadline date. Notwithstanding the foregoing, ADOH may make written inquiries to the applicant, architects, engineers, financial institutions and the local governments in order to complete the eligibility documentation or to verify the information submitted. ADOH shall consider such supplemental documentation for eligibility purposes only, and shall not consider the supplemental information in scoring the application.

2.6(B)(1)(b) **Designation of Set-aside Category.** An application may designate one or more Set-aside categories. Applications that fail to demonstrate the requisite applicant or project characteristics for a designated set-aside shall not receive a reservation of tax credits in that set-aside. See Form 1-1, Set-Aside Election.

2.6(B)(1)(c) **Application fees.** Applications must be accompanied by the application fee described in Sections 6.1 and 6.2. ADOH shall deem an application ineligible if an application fee payment does not clear to ADOH’s deposit account.

2.6(B)(1)(d) **Authorized signatures.** All documents that require a signature must be signed by the applicant’s authorized representative. An applicant must be an existing legal entity authorized to conduct business in Arizona and in good standing with the office of the Secretary of State of Arizona. See Section 2.7(B)(12). ADOH shall not consider forms signed on behalf of an entity that is not duly formed or by a representative without authority.

2.6(B)(1)(e) **Current Accounts.** At the time of the application is submitted, no member of the Development Team may be in default on a low-income housing financial obligation to ADOH, HUD, or to any local government body or housing authority in Arizona.

2.6(B)(1)(f) **Local government acknowledgement and consent.** The application must provide evidence of local government acknowledgement and consent as required by Sections 2.6 (B)(7) and 2.7(B)(7).

2.6(B)(1)(g) **Disqualification.** An application must not be subject to disqualification as provided in Section 4.5.

2.6(B)(2) **Eligibility Determination.** ADOH shall review the application and any other information pertaining to the applicant and other Development Team members to determine if the eligibility criteria in Section 2.7 have been met. **ADOH shall deny an application for tax credits that fails to meet eligibility requirements regardless of its audited score.**

2.6(B)(3) **Verification of Information.** ADOH may verify representations, information, and data in an application with public information and information and statistics available through recognized subscription services.

2.6(B)(4) **Waiver of Requirements.** Applicants may request that ADOH waive specific requirements of this Plan. Waiver requests shall be supported by a detailed narrative explanation sufficient to permit ADOH to determine that: 1) waiver of the requirement is consistent with Section 42 of the Internal Revenue Code and its implementing regulations, and IRS guidance, 2) waiver of the requirement

accomplishes the purposes and objectives of this Plan; and, 3) the waiver shall not adversely affect the feasibility of the project.

2.6(B)(5) **Set-Asides.** Applicants may designate one or more set-aside categories in which the application shall compete. For set-aside information see Section 2.8;

2.6(B)(6) **Competitive Score.** Each eligible project shall be reviewed and receive points based on the scoring criteria set forth in Section 2.9 of this Plan. No application shall be scored higher than the applicant's self score. An application must provide a factual basis and documentary support for points claimed. Claims for points that fail to meet the criteria in Section 2.9 or that are not supported by the application shall be denied. In the event that an applicant claims points in mutually exclusive point criteria, ADOH shall deduct the points that are not supported by the application. Except as provided in Section 2.6(B)(3), applications shall be scored based **SOLELY** on the information supplied in the application.

2.6(B)(7) **Letter of Acknowledgement and Consent from Local Government.** ADOH shall notify the local government entity where the project is located and request that the entity provide a letter of acknowledgement and consent to the project in the form of Exhibit B. The notification shall be sent directly from ADOH following the Eligibility Review. *The letter shall be signed by the City or County Manager or be adopted by resolution of the governing body.* An application shall be deemed ineligible in the event that the local government entity either fails to provide the letter or otherwise indicates that the proposed affordable housing project is unfavorable.

2.6(B)(8) **Underwriting.** Eligible projects shall be underwritten before any Reservation of credits is made. ADOH shall establish the Reservation amount following the procedures in Section 2.2, "Maximum Tax Credit Reservation," and underwrite the projects as provided in Section 7, "Underwriting," of this Plan.

2.6(B)(9) **Reservation List.** ADOH, based upon evaluation of all applications and in its sole discretion, shall establish and make available to the public a Reservation List describing projects receiving an allocation. The final allocation shall be determined by ADOH, in its sole discretion, in accordance with Section 7 of this Plan.

2.6(B)(10) **Tax Credit Reservation.** ADOH, based upon an evaluation of applications and in its sole discretion, shall reserve tax credits as follows:

2.6(B)(10)(a) First to projects in each set-aside, preference being given to projects with the highest competitive score that: 1) meet threshold and eligibility requirements; 2) demonstrate a strong market demand; 3) have received the written consent of the local government; and, 4) and meet underwriting requirements.

2.6(B)(10)(b) Second to projects that have not designated or do not qualify for a set-aside, preference being given to projects with the highest competitive score that: 1) meet threshold and eligibility requirements; 2) demonstrate a strong market demand; 3) have received the written consent of the local government; and, 4) and meet underwriting requirements.

2.6(B)(10)(c) ADOH shall reserve tax credits to a project through a letter notifying the applicant of the tax credit reservation, which shall include: 1) a request for payment of the reservation fee described in Section 6.5; 2) instructions for application for a Carryover Allocation described in Section 2.15; 3) a

description of the requirements for meeting the 10% Cost Test according to Section 2.16; and, 4) other conditions that must be satisfied.

2.6(B)(11) **Correction and Clarification of Applications.** It is the duty of the applicant to submit an application that is complete and accurate. After an application has been submitted, ADOH may not allow an applicant to supplement an application with additional information. Incomplete or carelessly assembled applications may not qualify for a reservation of tax credits. ADOH in its discretion may allow an applicant to correct a clerical error. If information contained in an application is contradictory or confusing, ADOH may request the applicant to clarify the application. Applicants must respond to a request for clarification or to correct a clerical error by no less than five business days after receipt of a written request by ADOH.

## 2.7 Eligibility Requirements

### 2.7(A) General Requirements.

2.7(A)(1) The project and Development Team as appropriate must meet the eligibility requirements set forth in this Section.

2.7(A)(2) Information contained in the application shall be sufficient to permit ADOH to conclude that the project complies with the requirements of I.R.C. § 42, A.R.S. § 35-728(E), and this Plan. The materials described in this section are minimum requirements, additional information and materials shall be submitted as may be necessary to permit ADOH to evaluate the feasibility, financial feasibility, and viability of the proposed development.

2.7(B) **Eligibility.** Applications must meet each of the following eligibility requirements. ADOH shall reject the application if these requirements are not met.

2.7(B)(1) **Payment of ADOH Fees.** The application fee is due with the application. ADOH shall reject any application that is not accompanied by the application fee.

2.7(B)(2) **Cover Letter.** A complete application must contain a cover letter that describes the project, the target AMI and rent structure, public benefit of the project, any special characteristics of the project, and any other information deemed pertinent to the project. Include the cover letter at the front of the application before the numbered tabs.

### 2.7(B)(3) **Real Property Acquisition and Control**

2.7(B)(3)(a) Acquisition of Real Property including existing buildings. ADOH shall deny any application for tax credits if it concludes that the application fails to disclose the true cost to the project of acquisition of project real property. When the project real property is acquired from a party that has an identity of interest with or is an affiliate of a Development Team member or otherwise through other than an arm's length transaction, the application must be supported by the following additional materials:

- (i) A detailed explanation of how the property was acquired and held by the related party and the date, and consideration for the transfer between the related party and the project owner and any other pertinent information material to the determination of the cost of acquiring project property;

(ii) An Appraisal.

2.7(B)(3)(b) Control of all real property designated for the project must be evidenced by a written, enforceable commitment to transfer the land to the project owner, a recorded deed or long term lease in the project owner's name, a lease option or by a fully executed purchase contract or purchase option to the project owner. If a purchase contract or purchase option is submitted, the agreement must provide for, respectively, either a closing date or an initial term lasting until the period ending no less than 180 days after the deadline date for submittal of the application. The applicant must submit the following to ADOH (enclose all required documents at Tab 9):

(i) A "Status (Condition) of Title Report" for the property dated within 60 calendar days of the date of the application by a title insurer licensed in Arizona. The title report must not include any conditions or requirements materially and substantially adverse to the feasibility of the project.

(ii) If the project or a Development Team member holds fee title to the property, then provide a copy of HUD 1 Settlement Statement or other settlement statement prepared for the buyer and seller at the closing.

(iii) With the exception of projects that are located on governmental or Tribal land, the applicant must establish that the project has legal control of the property by submitting a recorded deed, purchase agreement, purchase or lease option, lease agreement (for a term at least equal to the duration of the Extended Use Agreement), or a resolution by a governmental agency that owns the property.

(iv) For projects that are located on government or Tribal lands, the applicant must establish legal control of the property by submitting: (1) an agreement between the project owner and the Tribe or other government to enter into a lease of specific real property for a term at least equal to the duration of the Extended Use Agreement, and (2) a resolution of a Tribe or other government agency authorizing the Tribe or government entity to enter into the agreement. For Tribal leases only, ADOH may consider the length of the lease to be the original term of the lease plus the term of any option to renew, provided that the option to renew is held solely by the applicant.

(v) In cases requiring use of powers of eminent domain by the local government, the applicant must enclose evidence that a condemnation lawsuit has been filed for the specific parcels of real property upon which the project may be situated together with the court's order of possession.

(vi) If the applicant is submitting a purchase agreement, option, or lease agreement to acquire the real property, the purchase agreement, purchase or lease option, or lease agreement must specify purchase price or rental amount. The term of any lease agreement must be a minimum of 30 years.

(vii) Any option, with available extensions, should be of sufficient duration that the project can close on the land prior to the end of the year, subject to the issuance of the Reservation.

2.7(B)(4) **Satisfactory Progress and Compliance.** ADOH may reject applications for projects having Development Team members that do not meet the requirements of Section 4.2 (Satisfactory Progress) of this Plan or have failed to comply with the tax credit requirements and conditions in previous applications or developments including, but not limited to, payments due on ADOH loans, payment of any other fees as described under Section 2.76(B)(1) and Section 6 of this Plan, or if Development Team

members have outstanding compliance issues with any other subsidized programs as described in Section 2.9 (F)(5).

2.7(B)(5) **Qualified Project.** The project must be a qualified residential rental project, which meets the requirements of IRC Section 42. See Sample Legal Opinion, Exhibit E.

2.7(B)(6) **Placed in Service.** The project must not have been Placed in Service prior to the date the applicant filed the application. See Sample Legal Opinion, Exhibit E.

2.7(B)(7) **Local Government Acknowledgement and Consent.** Submit a letter attached at Tab 2, signed by the chief executive of the local government jurisdiction where the project is located acknowledging that the governing jurisdiction has notice of and consents to the project and that provides the chief executive or the governmental body of the jurisdiction an opportunity to comment on the project. Negative comments by the chief executive or governing body of the local government jurisdiction shall be grounds for rejection of the application. Please be advised that local governments may have independent requirements for obtaining the letter. ADOH strongly recommends that applicants contact local governments early.

2.7(B)(8) **Form 3 and Applicant's Certifications.** Form 3 must be complete and accurate, and signed by the appropriate party. The applicant is required to certify as provided in the applicant Affidavit, Release, and Oath (included in Form 3, "Low-Income Housing Tax Credit Application") including a certification that ADOH's Mandatory Design Guidelines (Exhibit D) shall be complied with in the construction of the project and that, if they are not, an acknowledgement that all credits awarded to the project may be surrendered to ADOH. Enclose at **Tab 3**, Form 3 and the Applicant Affidavit, Release and Oath.

2.7(B)(9) **IRS Form 8821.** Applicants are required to submit complete and executed copies of IRS Form 8821, "Tax Information Authorization," for the applicant and each Development Team member who has a financial interest in the project, authorizing ADOH as "Appointee" to receive from the IRS available information regarding any "Financial Beneficiary's" conduct of its business with the Internal Revenue Service ("IRS") relating to the Low-Income Housing Tax Credit Program. Such information received from the Internal Revenue Service may be used by ADOH in its sole discretion to disqualify an application pursuant to Section 4 of this Plan. Enclose IRS Form 8821 at **Tab 3**, behind the Applicant Affidavit, Release, and Oath.

2.7(B)(10) **Legal Opinion.** The application must include an opinion of counsel opining that the project meets the requirements of I.R.C. § 42. The application must be provided by an attorney in accordance with Arizona Supreme Court Rules 31 and 33 on professional letterhead and should at a minimum address the issues suggested in Exhibit E "Sample Legal Opinion." The opinion should be as detailed as possible describing all the unique characteristics of the development and how those characteristics qualify for the tax credit program. The legal opinion must clearly address the 10-Year Rule regarding the eligibility for acquisition tax credits. If the legal opinion submitted in the application is unsatisfactory, ADOH may require the applicant to update the legal opinion or require an additional opinion from another attorney at the sole expense of the applicant. Enclose legal opinion at **Tab 4**.

2.7(B)(11) **CPA Opinion.** At the time of application or at the time that the applicant submits 10% Cost Test materials required by Section 2.16, the applicant must provide an opinion of a Certified Public Accountant, licensed or otherwise authorized to provide such an opinion that the project meets the requirements of I.R.C. § 42. The opinion must be on professional letterhead and in substantially similar form to Exhibit E-1 "Sample CPA Opinion."

2.7(B)(12) **Legal Formation, Licensing, and Business Registration.** The application must include evidence that the applicant, Developer, and every member of the Development Team that holds an interest in the project are duly formed legal entities authorized to transact business in the State of Arizona and in good standing with the Arizona Corporation Commission or the Office of the Secretary of State of Arizona. Enclose at **Tab 6** of the application the Certificates of Good Standing or Existence, as appropriate, and all other documentation required under this Section.

2.7(B)(12)(a) Corporations. If the applicant or Developer is incorporated in Arizona, then provide a Certificate of Good Standing, issued by the Arizona Corporation Commission and dated not earlier than 30 days prior to the deadline date, should be submitted. Applicants and developers incorporated in another state and doing business in Arizona should submit the following: a Certificate of Good Standing or its equivalent from the state of incorporation dated not earlier than 30 days prior to the deadline date **and** a Certificate of Authority to Transact Business in Arizona or a Certificate of Good Standing for such foreign corporation, issued by the Arizona Corporation Commission and dated not earlier than 30 days prior to the deadline date.

2.7(B)(12)(b) Limited Partnerships. If the applicant or Developer is a limited partnership organized under the laws of Arizona, then the applicant must provide a Certificate of Existence, issued by the Arizona Secretary of State and dated not earlier than 30 days prior to the deadline date. Applicants and developers organized under the laws of another state and doing business in Arizona should submit the following: a Certificate of Existence or its equivalent from the state of organization, dated not earlier than 30 days prior to the deadline date, **and** an Arizona Certificate of Foreign Limited Partnership from the Arizona Secretary of State or a Certificate of Existence dated not earlier than 30 days prior to the deadline date.

2.7(B)(12)(c) Limited Liability Companies. If the applicant or Developer is a limited liability company organized under the laws of Arizona, then provide a Certificate of Good Standing, issued by the Arizona Corporation Commission, dated not earlier than 30 days prior to the deadline date, should be submitted. Applicants and developers organized under the laws of another state and doing business in Arizona should submit the following: a Certificate of Good Standing or its equivalent from the state of organization dated not earlier than 30 days prior to the deadline date **and** an Arizona Certificate of Authority to Transact Business in Arizona issued by the Arizona Corporation Commission and dated in the year of application or a Certificate of Good Standing for such foreign limited liability company dated not earlier than 30 days prior to the deadline date.

2.7(B)(13) **Non-Profit Information.** Projects seeking consideration as Non-Profit Projects shall provide the information and materials described in this paragraph. Under Tab 7, the applicant must submit evidence that the applicant is a current 501(c)(3) or (4) entity. In addition, the applicant must execute and enclose at **Tab 7** Form 7, a "Certificate of Non-Profit Participation," and all other evidence required. In the case where a governmental or tribal agency is applying for non-profit consideration, it must provide the appropriate 501(c)(3) or (4) documentation, a letter from the executive officer of the local governmental or tribal agency. "Non-profit Projects" are projects in which a qualified non-profit organization (i.e., an IRC Section 501(c)(3) or (4) organization) owns an interest (directly or through a partnership) and materially participates within the meaning of IRC Section 469(h)(i) in the development and operation of the project throughout the compliance period. **The non-profit organization may not itself be an Affiliate of or controlled by a for-profit organization.** Material participation is defined at IRC Section 469(h)(i) as involvement "in the operations of the activity on a basis that is regular, continuous and substantial." The ADOH defines "substantial" as having the authority or right to,



among other things, participate in the decision-making process for design, location, materials, and management of the project. In addition, ADOH requires that the non-profit organization provide: (1) IRS documentation of status 501(c)(3) or 501(c)(4); (2) a description of the nonprofit organization and its activities, to include the promotion of affordable housing in its articles; (3) evidence that it or its officers or members have experience in developing or operating low-income housing; (4) evidence (in the letter of intent received from the investment syndicator) that it holds the right of first refusal to acquire the project following the fifteen-year compliance period; (5) evidence that it has developed an operating plan for the project covering its role in developing and managing the project, including its participation in the Developer fee; its control of project reserves; its plan for maintenance, replacement, and renovation; and its oversight of marketing and of compliance with IRC Section 42; (6) the names of board members of the nonprofit organization; (7) the names and resumes of all paid full-time staff; (8) the sources of funds for annual operating expenses and current programs; (9) evidence of financial capacity in the form of Financial Statements for the past two years; and (10) Form 7, "Certificate of Non-Profit Participation," certifying that the nonprofit organization will materially participate in the development and operations of the project on a basis which is regular, continuous, and substantial.

**2.7(B)(14) Development Team.** The application must demonstrate that the Development Team possesses the capacity and experience necessary to undertake and complete the project.

2.7(B)(14)(a) The Developer must demonstrate that it and Co-developer possess the experience and the organizational and financial capacity necessary to successfully complete the proposed project and any other projects under construction, or have developed projects of comparable size and financing complexity.

2.7(B)(14)(b) The applicant must designate a general contractor in the tax credit application or as a condition of a carryover allocation, see Sections 2.15, 2.16, that meets the following requirements:

(i) Except for projects located on tribal trust land, the designation of a general contractor must include evidence that the general contractor is licensed, and authorized to transact business in Arizona.

(ii) Designation of a general contractor under this subparagraph must also include current Financial Statements of the general contractor for the prior two years. .

(iii) Performance and payment bonds. The designation of the general contractor shall also include evidence of performance and payment bonds up to the total amount of the construction contract that are payable through placed in service.

(iv) Substitution of letter of credit for bonds. ADOH will waive the requirement for a bond described in subparagraph (iii), above, if the three following conditions are met: (1) the general contractor closed out construction contracts on at least five (5) LIHTC projects placed in service in Arizona or at least ten (10) LIHTC projects placed in service in Arizona or any other allocating jurisdictions; (2) waiver by construction lender of its right to require the general contractor to obtain a performance and a payment bond; and, (3) issuance of a letter of credit with a AAA-rated lending institution naming ADOH as a third-party beneficiary in the amount of no less than 25% of the total amount of the construction contract that is available to the project through placed in service .

2.7(B)(14)(c) The property management company must demonstrate that it possesses the experience and capacity to manage the project as required by I.R.C. § 42, the requirements of other applicable federal and state programs, and this Plan. In determining whether the property management company identified in the application has the requisite experience and capacity, ADOH may consider the following:

(i) whether the property management company will make staff available to the project that has managed tax credit properties for a period of five years or more;

(ii) whether the property management company will make staff available to the project that have industry-standard training and are certified to manage tax credit properties;

(iii) whether the property management company has unresolved compliance issues at two or more properties within the period beginning two years before the date of the deadline for submittal of the application. See Section 2.9(F)(5)(B)(i)(1) for points deducted from developer experience points for failure to resolve compliance issues.

2.7(B)(14)(d) The applicant must enclose at **Tab 8**, Form 8, an identification of development parties and Financial Statements of the Developer or Co-Developer, which must be in full and final form.

2.7(B)(14)(e) ADOH may check the references and credit of the applicant and other Development Team members as it deems necessary to determine capacity under this paragraph.

2.7(B)(14)(f) ADOH requires that developers execute and submit Form 8-2 (Authorization for Release of Information) allowing ADOH to gather information from other state allocating agencies.

**2.7(B)(15) Additional Requirements for Identities of Interest Among Development Team Members.**

There exists an “identity of interest” between the Developer, the property management company or architect and any other Development Team member or prospective member if there is **any** financial or ownership interest, direct or indirect, between the Developer and the other person. ADOH may review other identities of interest among members of the Development Team and may reduce fees to be paid by the Developer to another Development Team member.

2.7(B)(15)(a) If there is an identity of interest between the Developer and the Builder, the total Developer, Consultant, and Builder fees shall be limited to the Developer fee plus the Builder’s overhead and general requirements. See Section 7.3(B)(2)(g)(iii).

2.7(B)(15)(b) Projects proposing financing from permanent lenders with an identity of interest in the applicant, or in any development team member that holds an interest in the project, must provide the most recent complete Financial Statements and audited Financial Statements for the prior three years for the related permanent lender.

2.7(B)(15)(c) In the event that a project proposes syndication or equity investment through an entity with an identity of interest in or that is otherwise controlled by a development team member that holds an interest in the project, ADOH may deny a reservation of tax credits, or in the alternative if ADOH concludes that sufficient third-party control exists, ADOH may condition a reservation of tax credits upon financial or performance guarantees or other commitments as ADOH may deem necessary.

2.7(B)(15)(d) ADOH may deny an application that proposes a property management company that has an identity of interest with the Developer or Co-developer, if actions or omissions the Developer, Co-developer, or Property Management Company meet the requirements for two five-point deductions of Developer Experience points described in Section 2.9(F)(5)(b)(i). In the alternative, for the purposes of this paragraph, ADOH may condition a reservation of tax credits upon designation of a Property Management Company that does not have an identity of interest with the Developer or Co-developer.

2.7(B)(15)(e) Enclose at **Tab 8** of the application a completed Form 8, disclosing in Section 13 every Owner of the Developer, the Builder, and the Consultant.

**2.7(B)(16) Compliance with Land Use and Zoning Regulations.** The application must demonstrate that the applicable land use and zoning restrictions permit the proposed project use until the end of the Extended Use Period.

2.7(B)(16)(a) The application must contain documentation that the proposed project meets all land use requirements and restrictions applicable to the project location. In addition to a certification by a local government official (see Form 10) that the proposed project complies with land use restrictions for the area in which it is located, the application shall include a map clearly indicating the zoning classification of the area and a copy of the applicable land use regulation describing the uses permitted under the applicable zoning designation. Include at **Tab 10** of the application ADOH Form 10, "Project Zoning Certification," and other documentation required under this Section.

2.7(B)(16)(b) ADOH may deny applications for projects that are conditionally zoned if any condition raises a substantial question about the feasibility of the project. The zoning conditions must be satisfied before ADOH may allocate any tax credits received or as otherwise required by ADOH when the reservation is made. Projects with conditional zoning shall be ineligible for Project Readiness Points under Section 2.7(F)(14).

2.7(B)(16)(c) In the event that zoning restrictions do not apply to the project property, the application must include documentation from the appropriate governmental entity confirming that no zoning restrictions apply.

2.7(B)(16)(d) For projects located on tribal lands, ADOH may consider a tribal resolution as a substitute for a zoning certification. The tribal resolution should state that the project shall be located in an area where the zoning requirements established by the tribal government permit the project or, if there are no specific zoning requirements, in an area in which the tribal government authorizes the project to be constructed and operated.

**2.7(B)(17) Financial Ability to Proceed.** The application must demonstrate that the Development Team has secured funding sources necessary to undertake and complete the project. As evidence of commitments for funding sources the applicant must enclose at **Tab 11** the following required documents:

2.7(B)(17)(a) A letter of interest from a tax credit syndicator proposing the terms and pricing of purchase of tax credits allocated to the project.

2.7(B)(17)(b) Copies of letters of interest from all sources of debt financing including construction and permanent lenders that include a complete and detailed description of the terms of any proposed loan such as (i) a term sheet (ii) amount of the loan, (iii) interest rate, including all points, (iv) amortization period, if applicable, (v) term of the loan, (vi) loan-to-value factor, (vii) maximum and minimum debt service coverage allowable (not required if the permanent lending source is a governmental or tribal entity), (viii) all commitment and/or origination fees, (ix) and a description of all other fees directly attributed to the funding of the loan.

2.7(B)(17)(c) Copies of letters of interest from all government sources other than ADOH that provide a complete and detailed description of the terms of any proposed loan or funding agreement. However, applicants seeking funding from a governmental or quasi-governmental funding source, other than Gap Financing through ADOH, that has not issued a funding decision prior to ADOH's application deadline, must submit a Letter of Interest or Intent from the funding source with the application.

2.7(B)(17)(d) For projects proposing a developer's loan or "deferred developer's fee" or seller carry-back financing, insert the schedule for repayment of any such fee or charge deferred in the permanent financing tables (Form 3, items 20 and 21) of the application and the pro forma. In addition include at Tab 11 copies of promissory notes or other loan documents memorializing a developer's loan. Deviation from the terms and term of any deferral under this paragraph are material changes requiring prior written approval by ADOH.

2.7(B)(17)(e) If applicable, include a commitment from the entity facilitating any operating deficit reserve/escrow funds. See Section 2.7(B)(24).

2.7(B)(17)(f) Guarantees. The application must include fully executed agreements for any sponsor or investor guarantee or commitment to equity funding or guarantee to cover operating deficits for the project. Any such guarantee must extend for the duration of the compliance period. If the project proposes a third-party guarantor, the third-party guarantor is required to submit the following:

- (i) Evidence that the third-party guarantor is an existing legal entity, in good standing, and authorized to do business in Arizona; and,
- (ii) Third-party guarantor's Financial Statements and annual reports for the last three years and most recent quarterly statement;

2.7(B)(17)(g) In determining whether a project has demonstrated financial ability to proceed, ADOH may consider whether the Letter of Interest or Intent, Award Letters, or Commitment Letters meet the requirements of this paragraph; the enforceability of the commitment; whether a lender or investor possesses the financial capacity to make a specific loan or investment; and whether lenders are licensed to conduct business in the state. A change in the financing source or financing terms after Reservation of credits may result in all or a part of the credits being recaptured or reduced by, or returned to ADOH. See Section 7.3(C)(1)(d) and (e) for additional information about underwriting for debt-service coverage.

2.7(B)(18) **Market Demand.** The application must demonstrate market demand for the project through a Market Demand Study that meets the requirements of Section 7.4 and the Market Study Guide; see Exhibit L to this Plan. The market study must be included at **Tab 12**. ADOH may determine the Market

Demand Study supplied with the application to be unsatisfactory and may require additional information at the sole expense of the applicant. Also see Section 2.5, "Application Format." ADOH may verify information and conclusions in the Market Demand Study through alternative sources.

**2.7(B)(19) Special Needs Populations.** Applicants proposing projects that serve special needs populations and seniors who are 62 years old or older must identify Special Needs Populations to be served by the project and the supportive services to be provided by completing and executing Form 13 and form 13-1. The application must include copies of any service plans or agreements. Enclose Form 13-1, and all documentation required by Form 13-1 at **Tab 13** as detailed in Section 2.9(F)(10). If the supportive services include a rent subsidy, ADOH may require applicants to submit proof of a subsidy source to help pay the rent for these units for the 15-year compliance period and show a line item on the operating budget paying for the services provided. See Form 3, Item 18.

**2.7(B)(20) Priority Market Need.** The applicant must complete Form 16 and enclose it at **Tab 16**. **Tab 16** must be accurate and match Item 15 of Form 3. Tax credit unit income and rent thresholds cannot exceed the maximum established by IRC Section 42 (60% AMGI when using the 40/60 convention or 50% AMGI when using the 20/50 convention). The maximum rent threshold is based on the income level selected on Form 16.

*Example: If the 40% AMGI rent level is selected on Form 16, then the rents may not exceed the maximum allowable rent per IRC Section 42. However, the income of a qualified tenant may exceed the 40% AMGI level by a maximum variance of 5% unless IRC Section 42 or other federal requirements prohibit such a variance.*

**2.7(B)(21) Tenant Lease Purchase.** Projects claiming points for Tenant Lease Purchase must include at **Tab 17** of the application all the information required under Section 2.9(F)(4).

**2.7(B)(22) Preservation.** Projects claiming points under Section 2.9(F)(1) "Historic Preservation, Section 2.9(F)(2) "Acquisition/Rehabilitation" or Section 2.9(F)(3) "Preservation of Existing Subsidized Housing" must enclose at **Tab 18** all documentation required under those sections.

**2.7(B)(23) Monitoring Compliance.** The applicant must include at **Tab 19** a plan that describes how the project will meet the requirements of I.R.C. § 42, the requirements of other applicable housing programs, and state and local requirements. The applicant must also demonstrate that the entities responsible for operation and management of the property possess the training and education necessary to comply with all applicable program requirements. See Section 8 of this Plan for specific compliance monitoring requirements.

**2.7(B)(24) Marketing Plan.** The applicant must include at **Tab 20** an affirmative marketing plan in accordance with fair housing requirements that demonstrates how the project will meet lease up requirements consistent with I.R.C. § 42 and the any requirements of the equity investors and permanent lenders to the project. The marketing plan shall specifically address any potentially adverse demographic, rent-up or capture rate information in the application for the primary market area identified in the Market Demand Study. If applicant has designated certain units for a Special Needs Population, the marketing plan must indicate how the population will be targeted.

**2.7(B)(25) Development Budget.** The applicant must demonstrate project financial feasibility, in part, by including a development budget in a form satisfactory to ADOH, see Form 3, item 24. See, Specific Underwriting Standards, Section 7.3(B)(2).

2.7(B)(26) **Pro Forma and Operating Expenses.** The applicant must include at **Tab 21** a 15-year pro forma and operating expense data.

(i) The 15-year pro forma must be signed by the senior lender (or the syndicator/investor if the project is funded 100% by equity) that exclusively reflects the following language verbatim: “We acknowledge that this pro forma substantially matches the assumptions used in our underwriting and due diligence of the mortgage (or equity investment).”

(ii) The pro forma must precisely reflect the rent structure in the application, all lenders’ assumptions such as principal and interest payments, cash flow obligations, non-rental income, detailed operating expenses, required reserves, annual fees, debt service coverage ratio etc., as well as other characteristics that impact the financial feasibility (for example, cost of Supportive Services). The 15-year pro forma must mirror the operating assumptions and rent structure as shown in the application.

(iii) If the pro forma reflects negative cash flow in any year, the application shall demonstrate the funding and utilization of an operating deficit escrow account or describe the source of the operating deficit funds. A commitment from the entity facilitating the operating deficit reserve/escrow funds needs to be included at **Tab 11** with the other funding source documents.

(iv) The 15-year pro forma may reflect rental assistance only if such assistance is evidenced at **Tab 11** with the other funding source documents.

(v) Applicants shall submit at least two forms of data supporting the operating expenses stated in the pro forma (for example, database information from similar projects, comparable project information as illustrated in a Market Demand Study, IREM information or National Apartment Association information). ADOH may require submission of the audited Financial Statements for comparable projects owned by the applicant. Rehabilitation projects may submit 3 years of historical information as evidence of operating expense assumptions.

2.7(B)(27) **Project Location.** The applicant must include at **Tab 22** of the application: (1) an 8x10 map or fold-up map clearly indicating the project location; (2) detailed directions to the site from the nearest major intersection; (3) an additional 8x10 or fold-up map indicating the following facilities located within 2 miles of the proposed development:

2.7(B)(27)(a) Existing LIHTC or any other governmental subsidized housing developments

2.7(B)(27)(b) Retail centers

2.7(B)(27)(c) Medical complexes

2.7(B)(27)(d) Recreational Facilities

2.7(B)(27)(e) Educational Facilities

2.7(B)(27)(f) Large scale employment centers

2.7(B)(27)(g) Public transportation

2.7(B)(28) **Community Revitalization.** For applicants claiming points for projects located in community revitalization areas, the applicant must enclose at **Tab 23** the information and materials described in

Section 2.9(F)(7) and Form 23, signed by an authorized representative of the municipality or county, stating that the project is within the boundaries of the designated housing priority area. See Section 2.9(F)(7) for explanation of points available to projects located in revitalization areas.

**2.7(B)(29) Utility Allowance Schedule.** The applicant must include at **Tab 24** of the application: (1) “will serve” letters from the local utility providers indicating water, sewer, and electrical utilities are available to the site; and (2) a copy of the most recent and current utility allowance schedule from the local Public Housing Authority, utility company or other source as provided by Treasury Regulation 1.42-10 and ADOH Information Bulletin 02-09. The current utility allowance schedule is the basis for the utility allowances entered on page 6 of the application. The utility allowance schedule, published by the local Public Housing Authority, utility company must be accompanied by a letter from the issuing authority dated no sooner than 30 days prior to the date of application submission. The letter from the issuing authority must state that the utility allowance schedule submitted is the current schedule. Applicants proposing a utility allowance schedule based on the Energy Consumption Model must demonstrate that the schedule was prepared by a RESNET Certified Rater Member in accordance with the requirements described in ADOH Information Bulletin 02-09, January 20, 2009.

**2.7(B)(30) Drawings and Plans.** The applicant must include at **Tab 25** the preliminary drawings and renderings of the development including:

2.7(B)(30)(a) A site plan showing the site topography, general development of the site, the building and parking location, and proposed landscaping;

2.7(B)(30)(b) The facility building layout and net floor area for projects proposing a Community Facility or Community Services Facility;

2.7(B)(30)(c) Plans and elevations for each proposed building and clubhouse.

**2.7(B)(31) Water Conservation.** All newly constructed and rehabilitated properties must incorporate reasonable Water Conservation measures including but not limited to alternative and low-flow toilets, low-volume showerheads, aerator or flow restrictor devices in the faucets, front-loading or horizontal-axis washers, and Xeriscape Landscaping. Documentation of project design considerations for Water Conservation should be included in **Tab 25**.

**2.7(B)(32) Property Design Standards.** The application for all newly constructed and rehabilitated properties must demonstrate compliance with the current Uniform Building Code, Uniform Mechanical Code, the Uniform Plumbing Code (1994 Editions), the National Electric Code (1993 Edition), the 2006 International Energy Code, the International Building Code and the Federal Fair Housing Act (42 U.S.C. §§ 3601, et seq. and 24 C.F.R., Part 100, Subpart D), the Arizona Fair Housing Act (A.R.S. §§ 41-1491 through 41-1491.37), and HUD Fair Housing Regulations (24 C.F.R. Part 100, subpart D), the Uniform Federal Accessibility Standards (Section 504 of the 1973 Rehabilitation Act) and the Americans with Disabilities Act (42 U.S.C. §§ 12101 through 12213). The applicant must include at **Tab 26**, a completed Exhibit Y, signed by the Architect for the project certifying that the project meets the above design standards. Exhibits W1 and W2 are to be submitted with the 8609 package.

**2.7(B)(33) Lead-based Paint.** If the project includes a building or structure that was built before January 1, 1978, the applicant must have a lead-based paint inspection completed by a certified lead-based paint inspector. That inspector must prepare and the applicant must include in its application at **Tab 26** a complete copy of that report. If the report indicates the presence of lead-based paint, the applicant must

include at **Tab 26**: (1) a written amelioration plan for the elimination and disposal or encapsulation of the lead-based paint, and (2) a written on-going maintenance plan to manage the lead-based paint.

2.7(B)(34) **Project Schedule.** The applicant must complete and execute Form 27 and insert it at **Tab 27**.

2.7(B)(35) **Capital Needs Assessment.** Applicants are required to provide to ADOH a capital needs assessment (“CNA”) for all rehabilitation and combined acquisition and rehabilitation projects. Insert at **Tab 28** a CNA that meets the requirements outlined below. ADOH may determine the CNA report is unsatisfactory and may require additional information at the sole expense of the applicant.

2.7(B)(35)(a) Applicants must include a statement from the architect or engineer that the report was prepared according to ADOH’s CNA Guidelines and that the information included is accurate and that the report can be relied upon by ADOH to present a true assessment of the proposed rehabilitation budget and immediate repairs required at the property.

2.7(B)(35)(b) The CNA shall examine and analyze the following building components:

- (i) Site, including topography, drainage, pavement, curbing, sidewalks, parking, landscaping, amenities, water, storm drainage, gas and electric utilities and lines;
- (ii) Structural systems, both substructure and superstructure, including exterior walls and balconies, exterior doors and windows, roofing system, and drainage;
- (iii) Interiors, including Unit and common area finishes (carpeting, vinyl tile, plaster walls, paint condition, etc.), Unit kitchen finishes and appliances, Unit bathroom finishes and fixtures, and common area lobbies and corridors;
- (iv) Mechanical systems, including plumbing and domestic hot water, HVAC, electrical, and fire protection; and
- (v) Elevators.

2.7(B)(35)(c) The CNA report shall include the following major parts:

- (i) **Critical Repair Items.** All health and safety deficiencies or violations of housing quality standards, requiring immediate remediation. If the project has tenants, these repairs are to be made a first priority.
- (ii) **Two-Year Physical Needs.** Repairs, replacements, and significant deferred and other maintenance items that need to be addressed within 24 months of the date of the CNA. Include any necessary redesign of the project and market amenities needed to restore the property to the standard outlined in this Plan, Exhibit D. These repairs are to be included in the development budget and funded by construction-period sources of funds.
- (iii) **Long-Term Physical Needs.** Repairs and replacements beyond the first two years that are required to maintain the project’s physical integrity over the next twenty (20) years, such as major structural systems that will need replacement during the period. These repairs are to be funded from the reserves for replacement account.
- (iv) **Analysis of Reserves for Replacement.** An estimate of the initial and monthly deposit to the reserves for replacement account needed to fund long-term physical needs, accounting



for inflation, the existing reserves for replacement balance, and the expected useful life of major building systems. This analysis should not include the cost of the critical repair items, the two-year physical needs, or any work items that would be treated as operating expenses.

(v) Phase I Environmental Report. All applicants must submit a Phase I Environmental Report.

2.7(B)(35)(d) The professional preparing CNA report must:

(i) Be an architect or mechanical/structural engineer licensed by the state.

(ii) Conduct site inspections of a minimum of 35 percent of all units. Units shall be randomly sampled while taking into consideration the Unit size mix, e.g., one-bedroom, two-bedroom, etc. All vacant units must be inspected.

(iii) Identify any physical deficiencies as a result of (i) visual survey, (ii) review of pertinent documentation, and (iii) interviews with the property owner, management staff, tenants, community groups, and government officials.

(iv) Identify physical deficiencies, including critical repair items, two-year physical needs, and long-term physical needs. These should include repair items that represent an immediate threat to health and safety and all other significant defects, deficiencies, items of deferred maintenance, and material building code violations that would limit the expected useful life of major components or systems.

(v) Explain how the project will meet the requirements for accessibility to persons with disabilities. Identify the physical obstacles and describe methods to make the project more accessible, and list needed repair items in the rehabilitation plan.

(vi) Prepare a rehabilitation plan, addressing separately all two-year and long-term physical needs.

(vii) Prepare a replacement reserve schedule, including an estimate of the initial and annual deposits, accounting for inflation and based on a 20-year term.

(viii) Conduct a cost/benefit analysis of each significant work item in the rehabilitation plan (items greater than \$5,000) that represents an improvement or upgrade that will result in reduced operating expenses (e.g., individual utility metering, extra insulation, thermo-pane windows, setback thermostats). Compare the cost of the item with the long-term impact on rent and expenses, taking into account the remaining useful life of building systems.

2.7(B)(36) **Internet Access.** All units shall be wired with three networks back to a central location: 1) a network for phone using CAT-5 wire; 2) a network for television using COAX cable, and 3) a network for data using CAT-5 wire.

2.7(B)(37) **Registration with Social Serve.** Applicants who receive an Allocation must agree to register the units with socialserve.com and maintain such registration with socialserve.com for the duration of the Compliance Period.

2.7(B)(38) **ADOH Signage.** Applicants who receive an award of tax credits must erect a sign at the construction site indicating that the project is funded through the ADOH and listing the sources of

funds. The sign must be a minimum size of 24 inches high by 36 inches wide, include a minimum 5-inch high ADOH logo and text printed at a minimum 72-point font. An individual ADOH sign does not have to be provided if incorporated into a larger group sign. Applicants must submit an 8x10 photograph of the signage to ADOH evidencing that the requirement has been met.

2.7(B)(39) **Special Provisions for Projects Seeking Stimulus Package Funding.** All provisions of this paragraph shall be construed in conjunction to federal guidance and regulations implementing the provisions of the ARRA relating to the LIHTC program.

**2.8 2009 Set-Asides**

2.8(A) **Set-Aside Categories:** Annual tax credit ceiling amounts shall be set-aside for one senior project, two tribal projects, and at least one project with substantial participation by a nonprofit. In a competitive round under this Plan after the 2009 calendar year, the Department may designate additional set-aside categories through notice as provided by Section 1.1(C)(2).

<b>SENIOR</b>	One Senior project allocating 100% of their units to Seniors (62 or older or handicapped) with Supportive Services. Projects competing under this set-aside must comply with Section 2.9(F)(11)(b).
<b>TRIBAL</b>	Two projects located on Tribal Lands
<b>NONPROFIT</b>	20% of the state’s annual credit authority is set-aside for “non-profit projects,” as defined in Section 2.7(B)(13) of this Plan. Only nonprofit projects that meet all of the eligibility requirements shall be eligible for an allocation of nonprofit set-aside credits. The allocation of non-profit set-aside credits shall be based on the rankings of non-profit projects under the scoring system.

2.8(B) **Set-Asides and Reservation of Tax Credits.** In the event that there is more than one qualified application in a set-aside category, then ADOH shall allocate tax credits first to the highest-scoring applications meeting all eligibility requirements and underwriting criteria in the set-aside categories. Unallocated balances in one or more set-aside categories shall be allocated to the eligible and feasible project that may be fully funded. If the unallocated balance is sufficient to fund more than one application, then reservation shall be made to the eligible and feasible project with the highest audited score unless ADOH determined that another eligible project best serves market demand, the policy objectives of this Plan, and the public interest.

2.8(C) **Supplemental Allocation Set Aside.** \$900,000.00 of the state’s annual low-income housing tax credit authority is reserved by for projects that need additional credits because of material errors of ADOH or projects with severe hardships. The amount that may be reserved or allocated under this subparagraph may also be supplemented by the amount of credits returned that were originally reserved in prior Allocation Years.

2.8(C)(1) **Severe Hardship.** Requests based on severe hardships may be submitted from January 1<sup>st</sup> through June 1<sup>st</sup> of the Allocation Year, or until funds are exhausted, along with an additional application fee of \$2,500. Hardship requests must be documented to the satisfaction of ADOH and must demonstrate an increase in hard costs directly caused by an unforeseeable circumstance outside the

Developer's control that jeopardizes completion of the project and that may be mitigated through an award of additional tax credits. Applications for hardship credits shall include the following materials:

- (i) A narrative explanation justifying the amount of additional tax credits requested consistent with this paragraph;
- (ii) A revised and updated Development Budget, Form 3, item 24;
- (iii) The contractor's estimate of the additional hard costs; and,
- (iv) An opinion of a CPA demonstrating that the increased costs may be characterized as qualified eligible basis for the purposes of I.R.C. § 42.

2.8(C)(2) **Maximum Credit Allocation.** ADOH may deny an application for a supplemental allocation of tax credits to projects s already allocated the maximum credit allocation allowed by eligible basis limits in the year that the application for supplemental allocation is made. In determining whether a supplemental allocation may be reserved to a project, ADOH may also consider the amount of gap financing intended or pledged to the project.

2.8(C)(3) **Unreserved Supplemental Allocation Amounts.** Supplemental allocation set-aside amounts not reserved to specific projects by August 15<sup>th</sup>, or such earlier date that may be selected by the Director, may be reserved for any project that received a partial Allocation of credits, or a project eligible for returned credits.

2.8(D) Those projects meeting the eligibility requirements, but not ranking high enough to receive tax credits during the Allocation Year application round, may be eligible to receive returned tax credits. Depending upon availability, returned tax credits may be allocated to the next highest scoring projects that meet threshold criteria, eligibility requirements, and underwriting review as described above.

## 2.9 Project Scoring

2.9(A) ADOH shall award points based solely on the information submitted in the application. ADOH may verify information submitted in the application with publicly available information and information available from subscription services. See Section 2.6(B)(3).

2.9(B) A self-scoring sheet shall be provided with the application and shall require the applicant's signature. It is to be submitted behind the cover letter at **Tab 1**.

2.9(C) No application shall be scored higher than the applicant's self score. An application must provide a factual basis and documentary support for points claimed. ADOH may deny a claim for points if the correct forms or required information are not submitted, or are not submitted at the correct tab, or if information available to ADOH negates a claim for points. In the event that an applicant claims points in mutually exclusive point criteria, ADOH may deduct the points that are not supported by the application.

2.9(D) ADOH may count Employee Units as 60% Low-Income Units in making scoring calculations.

2.9(E) The applicant’s commitment to serve specific populations as set-asides shall be binding for the duration of the Extended Use Period and shall be included in the recorded Extended Use Agreement. ADOH shall monitor resident files to determine that the set-asides are being honored.

2.9(F) ADOH shall score projects in the following 16 categories:

**2.9(F)(1) Historic Preservation:** up to 40 points

15 points – Fifteen points are available for the following projects: (i) consisting of one or more structures individually listed in the National Register of Historic Places as evidenced by a letter from the National Parks Service, State Historic Preservation Office (SHPO), or tribal equivalent thereof, or (ii) consisting of one or more structures certified by the National Parks Service, SHPO Office or certified local government as contributing to a Register District (a Register District is a designated area listed in the National Register, or listed under state statute or local ordinance as substantially meeting the requirements for listing of districts in the National Register), or (iii) a project located within an area that has been zoned as an historic area as evidenced by a copy of the municipal zoning ordinance that was adopted on or before the deadline date and a letter from the local municipality indicating that the design will meet the requirements outlined in the zoning ordinance. Applications for historic preservation of existing rental housing shall be supported by a relocation plan. (At **Tab 18**, submit the appropriate evidence as identified above.)

25 points – Twenty-five points are available for projects that have received a certification signed by the National Park Service for Historic tax credits. Applications for historic preservation of existing rental housing shall be supported by a relocation plan. (At **Tab 18**, submit the certification signed by the National Park Service).

**2.9(F)(2) Acquisition/ Rehabilitation:** up to 30 points

2.9(F)(2)(a) Thirty points are available to projects proposing acquisition of an existing building. The points available depends on the pro rata rehabilitation hard costs per unit less property acquisition costs (see Form 3, item 24, section I) and site demolition and preparation costs (see Form 3, item 24, section II) as described in the table, below:

<i>Hard Cost of Rehabilitation per Unit</i>	<i>Points Awarded</i>
\$20,000+	30
\$15,000-19,999	10

2.9(F)(2)(b) Projects containing acquisition/rehabilitation and new construction components shall qualify for points in this category only if the rehabilitation units total 50% or more of the total project and the acquisition/rehabilitation is 100% of the acquired units.

2.9(F)(2)(c) ADOH shall deny a claim for acquisition/rehabilitation points if it concludes that the scope of demolition of the existing building requires the project to be properly characterized as new construction.

2.9(F)(2)(d) Applicants should identify the project as a rehabilitation or acquisition/rehabilitation project and fully explain the acquisition and scope of rehabilitation work in the cover letter. The type of rehabilitation improvements and the amount of rehabilitation costs shall be appropriate for the project and proportionate to the benefit as determined by ADOH based on the application and a Capital Needs Assessment, see Section 2.7(B)(35). ADOH may utilize the services of an independent cost estimator in

determining whether the rehabilitation costs are reasonable. The applicant shall be responsible for the costs of the cost estimator. Cost of rehabilitation per Unit is determined by adding direct construction costs and appliances, then dividing that sum by the number of qualified rehabilitation units.

2.9(F)(2)(e) Applications for acquisition/rehabilitation of existing rental housing shall be supported by a relocation plan. The relocation plan shall comply with the Uniform Relocation Assistance Act, 42 U.S.C. § 4621, *et seq.*

**2.9(F)(3) Preservation of Existing Subsidized Housing:** up to 40 points

Up to 40 Points are available to projects that preserve existing program or project-based rental assistance, such as project-based Section 8, RD or other program-based rental assistance that would otherwise be lost. The number of points available for Preservation of Existing Subsidized Housing shall not exceed the product, rounded down to the next whole number, of forty times the ratio of the number of Section 8 or RD rental assistance units to the total number of units. Applications for preservation of existing subsidized housing shall be supported by a relocation plan.

Example: A 100-unit project in which 27 project-based rental assistance units will be rehabilitated will receive  $40 \times 27 \div 100 = 10.8$ , which rounds down to 10 points.

**Note: points shall only be given in one area of Preservation, not all three (Historic Preservation, Acquisition/Rehabilitation, Subsidized Housing).**

**2.9(F)(4) Tenant Lease Purchase:** 3 points

3 points - shall be awarded if 100% of the project is designed for tenant home ownership opportunities after the 15-year compliance period.

2.9(F)(4)(a) Eligibility Requirements.

- (i) Tenant Lease Purchase points are limited to single family, duplex or four-plex projects of no more than 60 units.
- (ii) The project design must incorporate units, amenities, and open common areas that are consistent with common expectations for multifamily housing.
- (iii) ADOH may refuse to consider a claim for tenant lease purchase points for projects proposing to serve tenants with incomes less than 60% AMI.

2.9(F)(4)(b) Submittal requirements. At **Tab 17**, provide:

- (i) A letter of intent from a qualified non-profit organization to purchase the units, including how the purchase price may be calculated at the end of the 15- year compliance period should no qualified tenants be identified who are willing to operate the project as a rental project for the remaining term of the LURA;
- (ii) A detailed description of the ownership proposal to include:
  - (1) a strategy that incorporates an exit strategy;

- (2) home-ownership financial counseling services;
- (3) how the eligible tenants will be identified and offered a right of first refusal;
- (4) how the units will be priced in accordance with IRC Section 42(i)(7);
- (5) the manner in which homebuyer assistance will be generated from the project and provided to the homebuyer; and
- (6) proposed sale agreement.

2.9(F)(4)(c) Post allocation requirements. Projects awarded points under this paragraph shall be required to execute and record an Extended Use Agreement that indicates the provisions set forth above for the remaining compliance period. Also, there are additional fees associated with these points. (See Section 6, Fees.)

**2.9(F)(5) Developer Experience Points for New Construction or Rehabilitation:** Maximum of 15 points awarded for Developer experience category.

**2.9(F)(5)(a) Points Available.**

- (i) Up to 15 points are awarded for projects proposing significant participation by a Developer(s) or Co-developer with a demonstrated track record in the timely completion of new construction or rehabilitation of tax credit housing as described in the following table.

Number of Projects	Points Awarded
5+	15
3-4	12

- (ii) In scoring this category, ADOH shall count the number of residential tax credit projects Placed in Service by the Developer, any Co-Developer, and any person who holds at least an equity interest in either the Developer or Co-Developer. These points are not available based on the experience of Consultants or other Development Team professionals. If a project relies on a Co-Developer’s experience, the applicant must submit to ADOH, as part of **Tab 8**, a written agreement between the Developer and the Co-Developer that explains the length of time that the Co-Developer will be associated with the development of the project and the scope of the Co-Developer’s participation in the development of the project.

- (iii) In order to claim points for developer experience, the following developers must submit reference letters demonstrating successful completion of the requisite number of residential rental projects using the LIHTC program from allocating agencies in states outside Arizona:

- (1) Developers who have not previously received an Reservation of tax credits in Arizona; and,
- (2) Developers that are organized under the laws of a state other than the State of Arizona; and,
- (3) Developers who do not maintain an office with a street address in Arizona; and,

- (4) Developers who have not paid Arizona payroll taxes for a least two employees for the three-month period preceding the March 15<sup>th</sup> of the current Allocation Year.
- (iv) Attach at **Tab 8 Form 8-1** and any additional lists of residential rental housing projects developed by the Developer, any Co-Developer and any person who owns part of either the Developer or the Co-Developer, reference letters, and business information necessary to support a claim for points under this paragraph. (Include the name of the Developer or other Person, name of the project, address of the project, city, state, number of Residential Rental Units, and the role the Developer played in development of the project.)
- (v) ADOH requires that developers execute and submit Form 8-2 (Authorization for Release of Information) allowing ADOH to contact other state allocating agencies including ADOH. Attach at **Tab 8 Form 8-2**.

**2.9(F)(5)(b) Points Deducted:**

- (i) ADOH may deduct five (5) points from the amount of claimed and confirmed developer experience points for each and every instance within five years prior to the date of application that:
- (1) a Developer, Co-Developer, or property manager failed to resolve compliance issues with the Department consistent with Section 8.2(F), or with any other state allocating agency within six months of notification of non-compliance;
  - (2) a Developer or Co-Developer failed to complete a project with features or amenities for which competitive points were received without the express written consent of ADOH;
  - (3) a Developer or Co-Developer failed to notify ADOH of Material Changes to an application as required by Section 4.7;
  - (4) a Developer or Co-Developer failed to make satisfactory progress consistent with Sections 2.7(B)(4) and 4.2;
  - (5) a project fails to request an IRS Form 8609 within 120 calendar days that the project is Placed in Service;
  - (6) a project fails to provide a project schedule on Form 27.

**2.9(F)(6) Rent Restricted Units Set-Aside for 50% and 40% AMGI Tenants:** A maximum of 35 points for any combination of set-asides of Low-Income Units at 50 or 40 AMGI (15 points for 50% AMGI and 20 points for 40% AMGI). See Section 2.7(B)(20) Priority Market Need for guidance regarding the income and rent restrictions regarding these points. Attach at **Tab 16** of the application Form 16, "Commitment to Lower-Income Set-Aside."

\*(NOTE: This calculation is based on total number of Low-Income Units in the project. AMI is equal to or less than 40 or 50% AMGI).

2.9(F)(6)(a) Points available for units designated for 50% AMGI Tenants.

<i>50 % AMGI Rural Points</i>	<i>50% AMGI Urban Points</i>
45% += 15	45% += 15
21-44% = 10	21-44%= 10
10-20%= 5	10-20%= 5

2.9(F)(6)(b) Points available for units designated for 40% AMGI Tenants.

Up to 20 points are awarded for rent restricting a percentage of total units for populations at 40% AMGI. Rents shall be restricted for the Low-Income Units to ensure that households pay no more than 30% of the applicable income limit during the Extended Use Period.

<i>40% AMGI Rural Points</i>	<i>40% AMGI Urban Points</i>
35%+=20	35%+=20
16-34%=15	16-34%=15
5-15%=10	5-15%=10

2.9(F)(6)(c) Points available under paragraph (a) and (b) are cumulative.

**2.9(F)(7) Development Location - Community Revitalization Projects:** 15 points

Fifteen points are available for projects located in the following areas:

2.9(F)(7)(a) Priority housing areas designated by the local government as evidenced by the following documents:

(i) A local governing body resolution or ordinance or planning document dated at least 9 months prior the application deadline that designates a priority housing area that exceeds the area of the proposed development by at least a factor of ten; and,

(ii) Certification on **Form 23** by the local governing body or its chief operating officer that the project is wholly located in the priority housing area; and that the priority housing area meets at least one of the following criteria:

(1) an area that the local government entity has designated as a redevelopment project, conservation project, or rehabilitation district, or as blighted, deteriorated, deteriorating or if not rehabilitated, likely to deteriorate by reason that the buildings, improvements or other facilities in such area are subject to one or more of the following conditions: dilapidation, obsolescence, overcrowding, inadequate ventilation, light or sanitation, excessive land coverage, deleterious land use, or faulty otherwise inadequate design, quality or conditions;

(2) an area designated as lacking the housing needed to induce manufacturing, industrial, commercial, governmental, educational, entertainment, community development, healthcare or non-profit enterprise or undertaking to locate or remain in such area;

(3) an area designated as an area where government assistance is necessary to induce private enterprise and investment to construct or rehabilitate decent, safe and sanitary housing and supporting facilities that will meet the needs of low and moderate income persons and families; and,

(iii) A comprehensive plan does not qualify as a certification of a revitalization area.



2.9(F)(7)(b) The points will also be awarded if the property is located within one of the following housing priority areas:

- (i) Federal Empowerment Zones or Federal Enterprise Communities
- (ii) Established HUD Neighborhood Revitalization Strategy Areas
- (iii) Established Colonias as designated by the United States Department of Agriculture or HUD
- (iv) Geographic areas or parcels of property that are established by the local government as part of a comprehensive affordable housing plan.

2.9(F)(7)(c) Include at **Tab 23** for projects claiming points under paragraph 2.7(F)(7)(a):

- (i) Local government ordinance or resolution, planning document excerpts;
- (ii) Maps showing boundaries of the housing priority area and the location of the project within that area. The map must clearly show the names of the roads, streets or other boundaries of the housing priority area and also clearly reflect the location of the project on such roads or streets;
- (iii) Form 23, Certification by local government body or chief operating officer;

2.9(F)(7)(d) Include at **Tab 23** for projects claiming points under paragraph 2.7(F)(7)(b):

- (i) Maps showing boundaries of the housing priority area and the location of the project within that area. The map must clearly show the names of the roads, streets or other boundaries of the housing priority area and also clearly reflect the location of the project on such roads or streets;
- (ii) Certification by local government body or chief operating officer that the project is located in one of the housing priority areas described in 2.7(F)(7)(b).

**2.9(F)(8) Development Location—Projects in a QCT, DDA or outside an MSA:** 10 points are available to projects located within a Qualified Census Tract (QCT) or Difficult Development Area (DDA), or outside of a Metropolitan Statistical Area (MSA) as designated by HUD (See Exhibit C). Projects located in certain high cost areas that are eligible for the increase in tax credit amount, see I.R.C. § 42(d)(5)(C), including buildings designated for increased tax credit by ADOH pursuant to I.R.C. § 42(d)(5)(C)(v) also qualify for ten points under this paragraph. ADOH may deny a claim for points under this paragraph if ADOH concludes that the project is located in an area where affordable units comprise 25% or more of total rental units for properties containing 15 rental units or more.

**2.9(F)(9) Family Project:** 10 points

10 points may be awarded for projects in which at least 20% of the Low-Income Units are three or four bedrooms and have a minimum of two bathrooms.

**2.9(F)(10) Projects Serving Special Needs Populations:** 10 points

10 points may be awarded to projects of which at least 5% of the project is reserved for tenants with special needs. ADOH may deny an application for tax credits to a project that is required to provide supportive services to tenants including Special Needs Populations, if the application fails include the information

required by this section. ADOH may cancel a reservation, or revoke an allocation of tax credits for a project that received points under this section or a reservation of tax credits if the project fails to provide supportive services described in the application or as required by the Extended Use Agreement or a supportive services agreement that has been approved by ADOH.

2.9(F)(10)(a) Supportive services agreement. Applicants must provide evidence of coordination with agencies specializing in services to tenants with special housing needs, a client source (e.g. letters from a referring agency, etc.) and service agreement for each population served, which also must be inserted at **Tab 13**. This agreement must be on the service entity's letterhead, signed and dated by both parties.

2.9(F)(10)(b) Preapproval of supportive service provider. The applicant must obtain written preapproval by ADOH of the supportive service provider. The applicant must submit preapproval documentation under **Tab 13** for each entity that will be providing services, including Forms 13 and 13-1. ADOH shall respond with an evaluation letter approving or objecting to the proposed supportive services provider by no later than fifteen days before the deadline date for application for a competitive round. Applications that are not pre-approved by ADOH or do not demonstrate satisfactory experience serving Special Needs Populations shall not be eligible for these points.

2.9(F)(10)(c) Applicants claiming points under this section must provide evidence of funding source to be used by service agency. Sufficient evidence consists of grant agreements for Shelter Plus Care, Supportive Housing Funds, Project-Based Section 8, and contracts with Behavioral Health Organizations. Applicant must provide a line item in the operating budget for the cost of agency services.

2.9(F)(10)(d) Post reservation requirements. ADOH may require that the supportive service described in the application be included in the Extended Use Agreement before issuing a final Allocation and may monitor performance of these set-asides throughout the compliance period. See Section 7.3(C)(2)(a)(iii) for treatment of the costs of supportive services.

## **2.9(F)(11) Senior Projects**

2.9(F)(11)(a) 10 points are available for projects serving 80% or more elderly individuals. Units serve elderly individuals if at least one individual in the household is 55 years of age or over.

2.9(F)(11)(b) 15 points are available for projects serving individuals who are 62+ years of age or who are Physically Disabled that offer Supportive Services).

(i) Projects serving persons 62 years old or older shall not propose units with more than two bedrooms.

(ii) The application must include the same supporting documentation as projects serving special needs populations, see Section 2.9(F)(10). Supportive services for seniors 62 years old or older shall promote the resident's quality of life and independence while providing efficient delivery of Supportive Services to the residents.

(iii) Post reservation requirements. The tenant file must include proof of date of birth or proof of the qualifying disability.

2.9(F)(11)(c) Applicants should indicate this intention on Form 3 of the application and enclose at **Tab 15** Form 15, "Commitment to Set-Aside Units for Senior Population," along with the supporting documentation required by that form, and Exhibit N.

**2.9(F)(12) Mixed Income:** 10 points

10 points are available for projects serving mixed income populations. Points shall be awarded based on the percentage of market rate units in the project (total market rate units divided by total units in the project).

<b>% Market Rate Units</b>	<b>Points</b>
50%	10
40-49%	8
30-39%	6
20-29%	4
10-19%	2

**2.9(F)(13) Rural Area Development:** maximum 15 points

Projects located in Rural Areas may claim 15 points for Rural Area Development.

Fifteen points for Rural Area Development are also available for projects that are receiving new funding from the United States Department of Agriculture (USDA) for new construction, acquisition/rehabilitation, and preservation projects through the Section 515/514/516 and Section 538 programs. Letter of intent from the USDA Rural Development Authority should be provided at **Tab 11**.

**2.9(F)(14) Project Readiness:** 10 points

10 points are available for projects that demonstrate readiness to commence construction. Project Readiness points are intended to reward projects that are ready to commence construction in the near term. Generally, to qualify for Project Readiness points the project should be ready to submit for building permit approval. Conditionally zoned projects, see Section 2.7(B)(16)(b), do not qualify for project readiness points. ADOH may consider a project ready for construction if the applicant demonstrates each of the following at the time of application:

2.9(F)(14)(a) Current, exclusive, and unconditional control of the project property through deed or lease for a term of no less than 30 years in the name of the ownership entity.

(i) Control cannot be conditioned through any mechanism such as an option to reconvey the deed in the event that the project does not receive an Allocation.

(ii) Applicants must submit a copy of real estate purchase settlement statements showing the land has been transferred to the ownership entity (that will own the development).

2.9(F)(14)(b) A clearance letter from the state or tribal historical preservation organizations;

2.9(F)(14)(c) A certification letter from the state or tribal historical preservation organizations for applicants claiming points for historical preservation under section 2.9(F)(1);

2.9(F)(14)(d) Pre-approval of project design by the local government body or other demonstration that the applicant is ready to submit for building permit approval at the time the application is filed;

2.9(F)(14)(e) An executed construction contract with a contractor licensed and authorized to do business in the State of Arizona; and

2.9(F)(14)(f) The construction lender's term sheet stating terms and conditions of the construction loan that is executed and signed by both parties.

2.9(F)(14)(g) Phase I Environmental Report. The applicant must provide a copy of the Phase I Environmental Report and, in the event that the project contemplates financing through any program administered by HUD, then an Environmental Review Record shall be required in accordance with HUD regulations, see 24 C.F.R. Pt. 58.

2.9(F)(14)(j) All documentation listed above must be submitted to support a claim for project readiness points and should be attached at **Tab 29**.

2.9(F)(14)(k) Post reservation requirements. Projects receiving Project Readiness Points must provide ADOH copies of the final plans and specifications that were submitted to the local government for approval at the time of carryover. Failure to comply with the requirements of this subparagraph may result in cancellation of a reservation of tax credits, see Section 2.16.

**DISCLAIMER: The competitive scoring category for project readiness is not intended nor shall it be construed as an incentive to purchase project property in advance of a reservation of tax credits. Development team members make all business decisions including disbursement of funds or incurring any liability for a project or project property at their own risk. See also, Section 4.10 Disclaimer and Limitation of Liability.**

**2.9(F)(15) Sustainable Development/Transit Oriented Development: up to 15 points**

2.9(F)(15)(a) 10 points are available for projects located within the Phoenix or Tucson Metropolitan Statistical Areas that demonstrate at least three of the following indicators of sustainable development:

- (i) Project located within a three-mile radius of a major employment center, concentration of employment centers, or community amenities, such as medical facilities, educational institutions, and shopping;
- (ii) Project located one mile or less from a mass transit route or light rail line;
- (iii) Project located within a three-mile radius of city center or some other readily identifiable concentration of local government offices;
- (iv) Project served by existing roads, utilities, and communications infrastructure.

2.9(F)(15)(b) 10 points are available for projects located in areas other than the Phoenix or Tucson Metropolitan Statistical Areas that are within one-half mile of a United States, state, or county highway or other arterial and no more than 5 miles from a major employment center, concentration of employment centers, city center, or other readily identifiable concentration of local government offices.

2.9(F)(15)(c) An additional 5 points are available to projects demonstrating four of the following transit oriented design characteristics set forth below. A claim for points under this subparagraph must be supported by an appropriate map.

- (i) Project located within a one half-mile radius of a major employment center;
- (ii) Project located within a one half-mile radius of post-secondary educational institutions;
- (iii) Project located within a one half-mile radius of an identifiable concentration of retail commercial enterprises;
- (iv) Project located within a one half-mile radius of a readily identifiable concentration of local government offices;
- (v) Project located one half-mile or less from a mass transit route or light rail line;

2.9(F)(15)(d) All documentation supporting a claim for Sustainable Design should be attached at **Tab 30**.

2.9(F)(15)(e) No more than 15 points are available under this subsection.

**2.9(F)(16) Cities, Towns and/or Counties Not Receiving an Allocation in the Last Three (3) Years:** 10 points

10 points may be awarded to projects that are located within a city, town or county of the state that has not had a Tax Credit Allocation within its geographical limits within the past three (3) years. In order to qualify for points under this paragraph, the last project in the city, town or county must have received tax credits prior to January 1, 2006, have been Placed in Service no later than December 31, 2007, and must have been continuously operating through and up to the date that tax credits are allocated in the 2009 allocation round.

**NOTE: The Market Demand Study must also support the need for affordable housing located within the geographical limits.**

## **2.10 Rents**

The project's LIHTC rent shall be 10% below market rents in the area the project is going to be built, as evidenced by the Market Demand Study. **Rents in areas for which 50% or more of the market demand is attributable to tenants exiting substandard, or overcrowded housing or housing lacking complete plumbing, the maximum allowable rent shall be 20% below market rents, see Section 7.3(C)(3)(b)(ii).** Please note that the calculation of rent must include any utility allowances and any rent tax imposed by the municipality in which the project is located. The budget should show a line item for the tax.

## **2.11 Tiebreaker**

In the event two projects in the queue have the same adjusted competitive score, ADOH shall reserve tax credits to the project receiving the most points according to the following tiebreaker criteria:

Tiebreaker Criteria (possible points = 12)

1. Efficient use of credits per tax credit unit: 1 point (calculation shall be made before QCT and DDA adjustments)
2. Rehabilitation projects: 4 points
3. Rural area development: 1 point
4. Sole non-profit: 1 point
5. Efficient use of tax credits per occupant: up to 2 points
6. Hard Cost per bedroom: up to 3 points
7. In the event that two projects both located in either the Phoenix or Tucson metropolitan areas have the same audited score, then to the application with evidence of intent for funding with the greatest amount of funds provided by the city: 1 point.

These are not bonus points and are not added to the project's total score. This scoring system only determines the ranking of projects with the same final score under the Program's competitive scoring process.

**2.12 Amount and Allocation of Annual Tax Credit Authority**

All of Arizona's available Allocation Year tax credit ceiling, and previous years' tax credits returned after January 1 of the Allocation Year or tax credits made available from the National Pool, shall be available for Reservation in the Allocation Year, except that portion of the tax credit authority already reserved or designated to the supplemental allocation set-aside. This section may be revised as necessary to accommodate changes and provisions of the American Recovery and Reinvestment Act of 2009.

Returned tax credits that were not reserved in the current Allocation Year may 1) be added to the annual tax credit authority as permitted by IRC Section 42, or 2) be added to the supplemental allocation set-aside.

**2.13 Reservations Cancellation of Reservations**

2.13(A) Tax Credits shall first be reserved for the highest scoring projects in each of the "set-aside" categories described in Section 2.8 that meet eligibility and underwriting requirements. ADOH shall determine the actual Reservation based upon the project application. Although the Reservation may not necessarily equal the amount requested, the Reservation shall not exceed the amount requested. Projects receiving a Reservation of tax credits shall be disclosed to the public on a list of projects in order of application number, along with the name of the project, project location, set-aside category, and annual tax credit amount.

2.13(B) ADOH shall notify successful applicants that tax credits have been reserved to a project through a reservation letter. The letter may condition the reservation upon satisfaction of specific requirements. Failure to satisfy the conditions explained in the letter may result in cancellation of the reservation.

2.13(C) In the event that ADOH concludes that it has reserved or allocated tax credits in excess of the annual tax credit ceiling, ADOH may cancel a tax credit reservation or revoke an allocation of tax credits as may be necessary consistent with the requirements of I.R.C. § 42(h)(7)(B) and this Plan. ADOH may, in its sole discretion, elect to fund the amount of tax credits exceeding the annual tax credit ceiling from the amount of tax credits allocated to ADOH in the following tax credit year.

## 2.14 Allocation of Returned Credits

ADOH shall allocate tax credits that have been returned and those it has received from the National Pool to projects that were not fully funded during the allocation round and to the supplemental allocation set-aside as needed. ADOH may carry forward remaining tax credits to the next calendar year as permitted under IRC Section 42. Any applicant not receiving tax credits in the current Allocation Year must submit an application in order to compete for tax credits in subsequent years. ADOH reserves the right not to reserve or allocate tax credits for any project regardless of ranking under the project scoring criteria, if it determines, in its sole discretion, that an Allocation for such project does not further the purpose and goals set forth in IRC Section 42 or in the Plan, or otherwise attempts to circumvent the goals and requirements of the Plan or ADOH.

## 2.15 Carryover Allocation

2.15(A) **Carryover Allocation.** Projects that will place buildings in service after December 31, 2009 or as otherwise indicated in the reservation letter, may receive a Carryover Allocation. Except as may be otherwise specified in a reservation letter, ADOH allows a Carryover Allocation of tax credits for projects that have expended, within six (6) months of the Allocation of credits, **more than 10%** (including land costs) of the reasonably expected basis in the project by the close of the second calendar year.

2.15(B) **Conditions for Carryover Allocation.** ADOH may condition a carryover allocation as necessary to ensure the timely and substantial progress of the project including but not limited to the 10% Cost Test requirements described in Section 2.16.

2.15(C) **Carryover Allocation Agreement.** A Carryover Allocation Agreement document shall be sent to the applicant for signature following the Reservation of credits, after which a letter outlining the requirements to meet the 10% Cost Test shall be mailed. The finalized Carryover Allocation Agreement shall be completed at the time that the 10% Cost Test requirements are met as outlined in Section 2.16.

## 2.16 10% Cost Test and Other Required Documentation

Applicants with an executed Carryover Allocation shall meet the 10% Cost Test by no later than 12 months after the Allocation is made or as may otherwise be required by IRC Section 42(h)(1)(E)(ii). To determine if a project with a Carryover Allocation is or has progressed in a satisfactory manner, the IRS requires a test of whether the amount of qualified costs which have been accrued or expensed within the six months described above is greater than 10% of the reasonably expected basis (eligible basis plus land). Failure to submit a complete application for the Carryover Allocation including all the materials described in this paragraph may result in cancellation of the reservation of tax credits. Satisfaction of the 10% Cost Test shall be certified by an independent auditor's report and submitted to ADOH in 8-1/2 x 11 format, placed in an adequately sized three ring binder on or before the date designated in the reservation letter, and shall include the following:

2.16(A) An updated application (ADOH **Form 3**);

2.16(B) Per building Eligible Basis information required on **Table A** (ADOH supplied form).

2.16(C) A 10% Cost Test strategic plan, which includes the following items:

2.16(C)(1) A CPA or tax attorney's opinion which attests to the basis in the land, eligible basis, and amount of tax credits reserved for the project and the amount of cost to be incurred to satisfy the 10%

Cost Test, as referenced in Section 2.16 of this Plan (the form of this opinion may be similar to **Exhibit E-1** "Sample CPA Opinion"); and

2.16(C)(2) A Certification in the form of an Independent Auditor's Report (**Exhibit F**) and "Project Cost Form" (**Exhibit F-1**) completed by an independent third-party certified public accountant or tax attorney, on firm letterhead, that 10% or more of the reasonably expected basis in the Project has been incurred by the date set forth in the reservation letter. If the developer fee is included in the 10% Cost Test basis it must be reasonable (should not be greater than 20% of the total developer fee and should not include fees that will be deferred). A certification that is equal to or less than 10% may result in ADOH revoking the Carryover Allocation due to unsatisfactory progress.

2.16(D) Evidence, from the appropriate state agencies or commissions, that the entity that will own the project is an existing legal entity authorized to transact business in the state and the ownership entity's taxpayer identification number. If the applicant does not have a fully formed qualified legal entity that will own the property to which ADOH can assign the Allocation of tax credits, then Satisfactory Progress 2.16(as described in Sections 2.7(B)(4) and 4.2.) has not been met and ADOH may reject the application, and the Allocation of tax credits shall be forfeited.

2.16(E) A deed in the name of the ownership entity and an Appraisal of the land or acquired project. On government or tribal lands, evidence of a fully executed, irrevocable lease between the Developer/Owner and the tribal or other government for a specific rental amount and a term equal to or longer than the Extended Use Period and, for tribal lands, evidence that all necessary approvals have been secured from the tribe, the BIA and other governmental agencies.

2.16(F) Phase I Environmental Report. The applicant must provide a copy of the Phase I Environmental Report and, in the event that the project contemplates financing through any program administered by HUD, then an Environmental Review Record shall be required in accordance with HUD regulations, see 24 C.F.R. Pt. 58.

2.16(G) Evidence of a binding commitment to the ownership entity for all construction and permanent financing and for the equity placement.

2.16(H) Construction lender's appraisal, if available.

2.16(I) A copy of the syndication or investment agreement for the equity capital.

2.16(K) In accordance with IRC Section 42(m)(2)(B)(i) and Section 2.7(B)(16) herein, all updated, draft and firm financing documents in existence including, but not limited to, the equity syndication prospectus (offering memorandum or equity letter), limited partnership agreement, operating agreement or joint venture agreement, partnership administration services agreement, development agreement, any amendments to the aforementioned documents, and any relevant agreement between and among the relevant parties setting forth the terms of the financial arrangements, final Commitment Letters and mortgage documents.

2.16(L) Designation of a general contractor as required by Section 2.7(B)(14)(b) along with complete copies of all applicable construction contracts for the project. For applications that did not previously identify a contractor, provide an updated Form 8, see Section 2.7(B)(14).



2.16(M) A letter from the State Historic Preservation Office (SHPO) identifying the structure as individually listed in the National Register of Historic Places or location of a project within an area that has been zoned an historic area or tribal equivalent.

2.16(N) Projects not previously Placed in Service must provide evidence that the project complies with all applicable zoning, set-back, and other site-specific land use regulations and requirements. Projects that received Readiness Points, see Section 2.9(F)(13), must submit copies of building permits. See Section 6.3 for separate deadlines relating to building permits.

2.16(O) Copy of the plans and specifications for the project (submit copy to ADOH and Arizona Energy Office)

2.16(P) Updated Form 27 – Project Schedule, see Section 2.7(B)(34).

2.16(Q) Payment of all applicable fees to ADOH.

2.16(R) Any additional information requested by ADOH.

## **2.17 Forward Commitments**

ADOH may consider commitments of tax credits from the following year's annual tax credit ceiling amount for projects that received a partial allocation or qualify for returned or supplemental tax credits. In the event that ADOH reserves returned or supplemental credits to a project such that the project is partially funded, then ADOH may reserve to the project credits from the following year's annual tax credit ceiling amount. In any event, the amount of tax credits reserved to project in the subsequent allocation round may be no more than the amount needed to fully fund the project based on review and underwriting at the time that the forward commitment credits are reserved. Forward commitments may be granted by ADOH in its sole discretion for the purpose of maximizing the allocation of tax credit amounts available in the current tax credit year. See Section 2.20(C) for forward commitments as a remedy for material error.

## **2.18 Disclosure of LIHTC Application Materials**

Public disclosure of LIHTC applications shall be as provided by Title 39, Chapter 1 Article 2 of the Arizona Revised Statutes. ADOH may redact information or withhold records that are protected from disclosure pursuant to Arizona law. ADOH may withhold market demand studies from disclosure in the absence of an express written waiver of proprietary right or confidentiality from an author or applicant who has declared a proprietary right or confidentiality of a market demand study submitted to ADOH.

## **2.19 Expiration of Applications**

Applications that were neither Reserved nor denied tax credits by shall no longer be eligible for Reservation of tax credits as of the date of announcement of a subsequent allocation. Projects that are denied may reapply and compete in subsequent years to be considered for tax credits. All fees paid to ADOH are non-refundable.

## 2.20 Finality of Allocation and Reconsideration Determination of Eligibility and Adjustment of Audited Score

2.20(A) Reservations of tax credits, Carryover Allocations, and issuance of IRS Form 8609 by ADOH are final.

2.20(B) After ADOH announces Reservations of tax credits, unsuccessful applicants may request a meeting with program staff to discuss the application. ADOH may also accept written questions concerning its scoring of items in an applicant's application. Questions must be based solely on facts provided in the applicant's original application. A final decision denying an application for tax credits shall provide notice of the right to administrative appeal pursuant to Arizona Revised Title 41, Chapter 6, Article 10.

2.20(C) In the event that ADOH determines that a material error prevented an otherwise qualifying project from receiving a Reservation or an Allocation, the project may be eligible for returned of tax credits as provided by Section 2.14. In extraordinary situations ADOH may, in its sole discretion, elect to forward commit tax credits from a subsequent annual tax credit ceiling amount *only as may be necessary* to correct a material error and avoid prejudice to other projects that received a Reservation or an Allocation. If the otherwise qualifying project does not receive a Reservation of returned credits by the end of the application year, then ADOH may refund the application fee, or at the election of the applicant waive the application fee for submission of the application for the subsequent application round.

2.20(D) The financial and other risks associated with holding or carrying property for LIHTC program development is solely the responsibility of the applicant and the Development Team. See Section 4.10.

### **3. TAX CREDITS FOR DEVELOPMENTS FINANCED WITH STATE VOLUME CAP BOND AUTHORITY**

#### **3.1 Determination of tax credits for Tax-Exempt Bond Projects**

3.1(A) IRC Section 42(h)(4) allows low-income housing projects financed with tax-exempt bonds to be eligible for 4% tax credits if they meet the minimum requirements of the Plan. Applications for projects financed with tax-exempt bonds may be submitted to ADOH as soon as applicants receive confirmation of volume cap allocation from the Finance Division of the Arizona Department of Commerce (phone: 602-771-1112, fax: 602-771-1208). At the time of final Allocation, applicants sponsoring tax-exempt bond financed Tax Credit projects shall be required to pass all eligibility requirements (see Section 2.7), adhere to all General Regulations set forth in this Plan, and comply with all applicable requirements under Section 5, "Final Tax Credit Allocation." Applicants should consult with their legal advisors to determine a project's eligibility. Applications for eligible tax-exempt bond projects may be submitted and ADOH may allocate such tax credits outside the normal application round. The review of an application for a Determination of Qualification under IRC Section 42(m)(1)(D) may occur in conjunction with the tax-exempt bond hearing that is required under A.R.S. Section 35-726(E).

3.1(B) Tax-exempt bond financed projects may receive tax credits on the full amount of their eligible basis only if at least 50% of the project's "aggregate basis" of any building and land upon which the building is located is financed with tax-exempt bonds. Tax-exempt bond projects with funding gaps, requesting Gap Financing through ADOH to fill those funding gaps, must submit an application at the same time that the applicant submits its tax credit application. See Sections Section 7.3(B)(3)(d) and 6.2 for Gap Financing requirements. The procedures followed by ADOH in processing applications for bond-financed projects are set forth below.

#### **3.1(C) Upon application:**

3.1(C)(1) ADOH may review tax credit applications at any time of the year after the applicant has received a final resolution from the bond issuing authority. An applicant must submit a complete tax credit application, at least 30 calendar days prior to the hearing required by Section 35-726 (E) of the Arizona Revised Statutes ("Section 35-726 (E) hearing"). The applicant must use the current year tax credit application forms. The application must be accompanied by the appropriate application fee.

3.1(C)(2) To fully utilize 4% tax credits for tax-exempt bond projects, the applicant must include a letter from a certified public accountant or tax attorney at **Tab 1** that attests that 50% or more of the project's aggregate basis of any building and land upon which the building is to be located is "financed" by the tax-exempt obligation.

3.1(C)(3) ADOH shall determine whether the applicant and the project comply with all eligibility requirements of the Plan.

3.1(C)(4) The applicant must submit a certification that principal payments on the bonds will be applied within a reasonable period of time to redeem bonds that funded the financing for the project.

3.1(C)(5) ADOH shall perform the first of two feasibility analyses to determine the amount of credits necessary for the viability of the project. For projects subject to the requirements of A.R.S. § 350726(E), ,

ADOH shall complete underwriting and comparison of the application submitted for the Section 35-726(E) hearing before making a Determination of Qualification of tax credits. ADOH feasibility analysis will include an underwriting of the project in accordance with ADOH's current standards as set forth in this Plan.

3.1(C)(6) The applicant must pay all required fees to ADOH when due.

3.1(D) After Volume Cap allocation for the bonds:

3.1(D)(1) ADOH may issue a Determination of Qualification letter after both the Section 35-726 (E) hearing and after ADOH issues an approval letter.

3.1(D)(2) The applicant shall submit to ADOH a written election statement, referencing IRC Section 42(b)(2)(A)(ii)(II). This election statement shall certify that the applicant has chosen to lock in the applicable percentage as of the Placed-in-Service date or as of the month that the tax-exempt bonds are issued. If the latter is elected:

3.1(D)(2)(a) The certification must specify the percentage of the aggregate basis of the building and the land on which the building is located that is financed with bond proceeds;

3.1(D)(2)(b) The certification must state the month in which the bonds are issued;

3.1(D)(2)(c) The certification must state that the month in which the bonds are issued is the month elected for the applicable percentage to be used in the building;

3.1(D)(2)(d) The certification must be signed by the applicant;

3.1(D)(2)(e) The applicant must provide the original notarized election statement to ADOH before the close of the 5<sup>th</sup> calendar day following the end of the month in which the bonds are issued. If this certification is not received by that date, then ADOH must use the percentage based on the Placed in Service date; and

3.1(D)(2)(f) The applicant must provide ADOH with a signed statement from the governmental unit that issued the bonds that certifies: (1) the percentage of the aggregate basis of the building and the land on which the building is located that is financed with bond proceeds and (2) the month in which the bonds were issued.

3.1(D)(3) At the Placed-in-Service date, the applicant shall submit to ADOH: (a) a completed cost certification, and (b) an opinion of the applicant's certified public accountant that 50% or more of the aggregate basis for any building included within the project and the land on which the building is located are financed with tax-exempt bonds, and (c) an opinion of the applicant's counsel that the project is eligible to receive tax credits under IRC Section 42(h)(4). At this point ADOH may perform the final feasibility analysis of the project. Projects that fail to submit the materials described in this paragraph to ADOH on or before the period ending two years after the date of the Determination of Qualification letter described in paragraph (B)(1) of this section are subject to additional fees as provided in Section 6.5(D) of this Plan.

3.1(D)(4) The applicant shall submit to ADOH the recorded Extended Land Use Agreement and Consent and Subordination Agreement for the project along with certifications that:

3.1(D)(4)(a) The bonds issued to finance all or a portion of the project have received an allocation of the state's private activity bond volume cap pursuant to 26 U.S.C. § 146;

3.1(D)(4)(b) That principal payments on the bonds shall be applied within a reasonable period of time to redeem bonds the proceeds of which were used to provide financing for the project; and

3.1(D)(4)(c) That the governmental unit which issued the bonds made a determination under rules similar to those set forth in IRC Section 42 (m)(2)(A) and (B) that the housing credit dollar amount for the project 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.

3.1(D)(5) If the requirements of IRC Section 42 and this Plan are satisfied, ADOH may issue IRC Form 8609 for the project at the applicable credit percentage under IRC Section 42(B)(2) and may file the original of the election statement with the original of the Form 8609 with the appropriate IRS Form 8610.

## **4. GENERAL REQUIREMENTS**

### **4.1 False Filing**

An application, including all exhibits, appendices and attachments thereto, made to ADOH for an award of low-income housing tax credits, including any materials filed at a later time with ADOH in connection with an application, is considered to be an “instrument” for the purposes of A.R.S. Section 39-161. According to that statute, knowingly including any false information in or with the application is a class 6 felony. Such an act may also result in barring the applicant and Development Team members from future awards of low-income housing tax credits. In addition, false filing may be subject to the provisions of A.R.S. Section 13-2311 (designating as a class 5 felony the conduct of business with any department or agency of this state by knowingly using any false writing or document).

### **4.2 Satisfactory Progress**

4.2(A) Applicants who have previously received a Determination of Qualification, Reservation or Allocation in Arizona or any other state must make Satisfactory Progress and be in substantial compliance with the requirements of federal law with respect to all prior projects before ADOH may consider a new application. If the applicant fails to demonstrate satisfactory progress, ADOH may recapture the Reservation or Allocation of tax credits and reject any new application from the same applicant, Development Team, and any person with an ownership interest in the applicant, or a member or members of the applicant or Development Team.

4.2(B) Applicants that have received previous Allocations must demonstrate Satisfactory Progress towards any project Placed in Service. Applicants that have not closed on construction loans or utilized bond proceeds for construction within 240 days of Allocation are not eligible for future awards without a written waiver request explaining the circumstances causing and justifying the delay. Waivers for any delay shall be granted or denied by ADOH in its sole discretion. All applicants that have received a Determination of Qualification or Reservation, Carryover Allocation or Allocation may be required to report on project progress, using the “Bi-Monthly Performance Report”, accompanied by a brief narrative, every 60 calendar days after receipt of the determination, Reservation, Carryover Allocation or Allocation. Applicants with projects that include tax credits that have not received a final Allocation must make a written request for an approval of the deviation from the approved project schedule submitted with the application. Projects that are not preceding according to the original project schedule submitted, and approved amendments, may be subject to revocation due to lack of satisfactory progress.

4.2(C) ADOH may monitor both the progress and quality of construction. If progress or quality has not been satisfactory, ADOH may report significant deficiencies to any funding source, to other members of the project team, and to the applicant.

### **4.3 Change of Ownership**

ADOH’s prior written approval is required for any kind of change of ownership of the applicant. Once a determination, Reservation, Carryover Allocation or Allocation has been issued for a project, transfer of ownership of that project (sale of ownership of any kind) may constitute an automatic event of revocation by ADOH. ADOH may revoke or reverse a determination, Reservation, Carryover Allocation or Allocation or reduce the amount of tax credits at any time.

#### **4.4 Revocation of a Notice of Eligibility for 4% Tax-Exempt Bond Credits, or Reservation or Carryover Allocation for 9% Tax Credits.**

ADOH may deny or revoke a notice of eligibility for 4% tax-exempt bond credits, Reservation or Carryover Allocation for 9% tax credits for any project. Denial or revocation may occur at ADOH's sole discretion, due to actions taken by the applicant, Affiliate or project owner from time of the up to the Placed in Service date, for any of the following reasons:

- 4.4(A) Subsequent regulations issued by the Department of Treasury or the Internal Revenue Service.
- 4.4(B) Information submitted to ADOH is determined to be fraudulent.
- 4.4(C) Failure to pay fees including late fees described in Section 6.5(D).
- 4.4(D) Failure to meet eligibility requirements, as outlined above, or other requirements of this Plan.
- 4.4(E) Site evaluation and suitability based on the market impact on other affordable housing developments within the primary market area, the proximity to railroad tracks, freeways, excessive noise levels and general site suitability and other conditions regarding clean title, easements, floodplains or wetland issues.
- 4.4(F) Failure to make Satisfactory Progress as defined in Section 4.2 of this Plan.
- 4.4(G) Instances of curable or incurable noncompliance existing at any time during the compliance period for any federal or state subsidized project located in any state.
- 4.4(H) Failure by an Applicant or Owner to promptly notify ADOH of any material or adverse changes from the original application.
- 4.4(I) Material Changes without written approval of ADOH.
- 4.4(J) Change in the unit design, square footage, unit mix, number of units, and number of buildings described in an application for tax credits without the written approval of ADOH.
- 4.4(K) Debarment by HUD or other federal and state programs, bankruptcy, criminal indictments and convictions.
- 4.4(L) Failure to comply with federal or state fair housing laws.
- 4.4(M) Other cause demonstrating the failure of the applicant or the project to be qualified or meet the requirements of federal or state law or the requirements of the applicable tax credit program.

#### **4.5 Disqualification**

ADOH may reject an application if the applicant, including any person with a Controlling Interest in the applicant or other members of the Development Team have: (a) failed to make Satisfactory Progress in the construction or rehabilitation of any project; (b) not corrected compliance problems in other tax credit projects as provided in Section 8.2(F); (c) not paid, when due, ADOH's compliance monitoring fees or any other fees

required by ADOH; (d) filed with ADOH any materials containing false information, documents, or instruments, whether in the Allocation Year or prior program years; (e) failed to build a previously-approved project in conformity with the terms, provisions, and agreements contained in the application submitted to ADOH, in the applicable year's Allocation Plan, and in the Extended Use Agreement for the project, including but not limited to, the terms, provisions and agreements to conform to the minimum design standards, install equipment, amenities, or design features to serve a specific target population, to provide a specific mix of Unit sizes, to serve Special Needs Populations, or to set aside a certain number of units for persons at or below a specific percent AMGI; (f) developed or partially developed prior projects that are poorly constructed, evidence substandard workmanship, or do not comply with ADOH's minimum design standards; or, (g) been convicted, are currently under indictment or complaint, been found liable or is currently accused of fraud in this state or any other state, or misrepresentation relating to: (1) the issuance of securities, (2) the development, construction, operation, or management of any tax credit or other government subsidized housing program, (3) the conduct of the business of the applicable party, in any criminal, civil, administrative or other proceeding, or (4) any filing with the Internal Revenue Service in any state; (h) have been suspended or debarred by HUD. ADOH may reject an application if it concludes that a Development Team member does not have the expertise and the organizational and financial capacity to undertake the project described in the application.

#### **4.6 Extended Use Period**

Pursuant to IRC Section 42, the state requires that all recipients of tax credits enter into an initial 15-year compliance requirement and an additional extended use restriction for at least an additional 15 years after the initial compliance requirement, extending the total commitment to a minimum of 30 years. Prior to the issuance of Form 8609(s), the Owner of the project shall execute and record with the county recorder where the project is located, such an Extended Use Agreement, which shall constitute a restrictive covenant running with the property upon which the project is located. The agreement shall be in the form provided by the state and is available from ADOH upon request. See Section 5.2 (10).

#### **4.7 Material Changes**

Development Team members holding an interest in the project must deliver a project as described in the application for tax credits. ADOH must approve in writing any material change deviation from the project described in the application.

4.7(A) Submittal and consideration of a request for a material change. In order to obtain ADOH approval of a Material Change, the applicant must submit a written request to ADOH explaining the change and the reasons justifying the change. A \$1,000 administration fee must accompany the written request. ADOH may not consider the request unless the fee is included. Because of ADOH's statutory mandate to award tax credits only to the extent they are necessary for project feasibility, the applicant must communicate in writing any proposed Material Change in the project immediately to ADOH for an assessment of the impact on final underwriting and Allocation. The written request must include the applicant's reasons under IRC Section 42 or in this Allocation Plan for believing that the change is permissible. Projects applying for a Material Change shall be underwritten to the standards in the Allocation Plan of the year that tax credits were awarded. The applicant must submit to ADOH written approvals of the Material Change from the local government, the lender, and the syndicator as discussed below.



#### 4.7(B) Specific Material Changes:

4.7(B)(1) Change of Location and Use. ADOH shall not allow an applicant to change the location of a project once the application has been submitted. Notwithstanding the foregoing, ADOH, may allow a project relocation prior to the carryover allocation of tax credits if the new site for the project is within the census tract specified in the application, ADOH receives the written approval of the unit of local government, and the need for relocation was unforeseeable and beyond the Developer's control at the time of application. If an applicant changes the location of a project without the written approval of ADOH, ADOH may revoke the tax credits determined for the project. A change in the use of a project (e.g., elderly, family) after the application has been submitted may not be allowed except with the written approval of both the unit of local government and ADOH. See also below "Complex Material Changes" if the change in location involves an increase in project costs.

4.7(B)(2) Changes to Principals. Substitution of a general or limited partner, or a syndicator or permanent lender may constitute a Material Change, and therefore, must be reviewed by ADOH. If ADOH determines there is no negative effect on the project's feasibility, the change may not be considered material and no fee is due.

4.7(B)(3) Complex Material Changes. Complex Material Changes, (e.g. restructurings that involve a change in the number of units or in the amount of borrowed funds, or in the sources of funds), shall be reviewed following the guidelines below:

4.7(B)(3)(a) Unforeseeable circumstances or the imposition of extraordinary governmental rules and regulations, if fully documented and justified, may be viewed as reasons to approve a Material Change.

4.7(B)(3)(b) When a project is underwritten as the result of a Material Change, any decrease in the scoring or ranking of the project may not be allowed.

4.7(B)(3)(c) Requests for a Material Change necessary to prevent substantial hardship to the project or its feasibility may be considered for approval by ADOH on a case-by-case basis.

4.7(B)(3)(d) If, without approval of a waiver at the time of application, cost caps are later exceeded and create a need for additional funding, ADOH resources shall not be a source of the additional funding. In addition, ADOH may consider the presence of newly found sources of governmental or non-governmental funds in a project as evidence that ADOH housing funds are not needed in the project. If that occurs, ADOH may reduce or eliminate its contribution to the project.

4.7(B)(3)(e) When the Material Change involves a restructuring, all commitments (e.g., set-asides, amenities) must be proportionately the same as at time of application.

4.7(B)(3)(f) Changes to the amount and term of any source of funds including acceleration of repayment of deferred fees or seller carry-back charges from the assumptions in the Permanent Financing Table and the Pro forma are material changes that require the prior written approval of ADOH.

4.7(C) Failure to obtain ADOH approval. If the project fails to obtain ADOH's prior written approval to a Material Change, ADOH may recapture or reduce all or part of the tax credits determined or reserved for the project.

#### **4.8 Distribution of Units**

Projects shall allocate the low and moderate-income units among the different sized units to reflect the same percentage distribution as the number of different size units to the total number of units. A greater percentage of the low and moderate income units may, however, be allocated to the larger units. Additionally, low and moderate-income units shall be distributed throughout the project so that tenants of those units may have equal access to and enjoyment of all common facilities of the project.

#### **4.9 Amendments to the QAP**

ADOH may modify this Plan, including its compliance and monitoring provisions, from time to time, or for any other reasons as determined by ADOH: (i) to reflect any changes, additions, deletions, interpretations, or other matters necessary to comply with IRC Section 42 or regulations promulgated there-under; (ii) to respond to changes in the market for affordable housing; (iii) to insert such provisions clarifying matters or questions arising under this Plan as are necessary or desirable and that are contrary or are inconsistent with this Plan or IRC Section 42; or (iv) to cure any ambiguity, supply any omission or correct any defect or inconsistent provision with this Plan or IRC Section 42.

#### **4.10 Disclaimer and Limitation of Liability**

4.10(A) ADOH makes no representations to the applicant, Developer, Owner, or syndicator or to any other person as to project eligibility or compliance with the Code, Treasury Regulations, or any other laws or regulations governing the Low-Income Housing Tax Credit program.

4.10(B) Applicants, development team members, and investors participate in the tax credit program at their own risk. No member, officer, agent or employee of ADOH or the State of Arizona shall be liable for any claim arising out of, or in relation to, any project or the tax credit program, including claims for repayment of construction, financing, carrying costs, any loss resulting from a decision of the Internal Revenue Service, or consequential damage or loss of any kind incurred by an applicant, Developer, Owner, lender, investor, syndicator or any other person. Applicants shall be required to execute a release and indemnification of ADOH and related parties as part of the application of tax credits and as a condition of final Allocation of tax credits.

#### **4.11 Return of Tax Credits**

If at any time ADOH concludes that a project no longer meets the requirements of I.R.C. § 42 or this Plan, ADOH may cancel a Reservation or recapture tax credits allocated through a Carryover Allocation or a Letter of Qualification (for Tax-Exempt Financed Developments). Recaptured tax credits that were reserved or allocated in a competitive round shall be considered returned to ADOH. In the event that ADOH requires a return of a tax credits Reservation, ADOH shall give notice to the applicant. Returned tax credits shall be made to other eligible projects as provided in this Plan.

## **5. FINAL TAX CREDIT ALLOCATION**

### **5.1 Final Tax Credit Allocation and First Year Certification by ADOH**

ADOH makes a final determination of the amount of tax credits at the time the project is Placed in Service in accordance with the requirements of I.R.C. § 42. For the final allocation of tax credits, the project must submit Final Allocation materials to ADOH as required by I.R.C. § 42 and Section 5.2 of this Plan. ADOH evaluates the project's final costs and the amount of revenues from the sale of the tax credits. ADOH's final evaluation may require review of documentary support for development costs including but not limited to invoices, canceled checks and contracts. Accordingly, ADOH encourages developers to keep detailed records of construction costs. ADOH, in its sole discretion, may reduce credits based on its final evaluation and require a return of tax credits to ADOH. The applicant must submit an 8609 package within 120 calendar days of the last building being Placed in Service. Form 8609 submittals received by ADOH after the 120-day deadline must be accompanied by payment of the late fee described in Section 6.5(D) of this plan. Along with the 8609 package, the applicant must also submit a complete copy of an Appraisal of the project and the property prepared by an Arizona certified general real estate appraiser indicating the value of land and buildings separately. At the time of a final Allocation, ADOH and the applicant shall execute and record an Extended Use Agreement. Evidence of that recording must be presented to ADOH before the issuance of IRS Form 8609(s). Applicants shall receive a final Allocation of tax credits as described below.

### **5.2 First Year Certification and Issuance of Final Allocation (IRS Form 8609)**

For buildings that are Placed in Service as part of a qualified project (by December 31<sup>st</sup> following the 24 months of closing of the bonds or from issuance of a Carryover Allocation), and upon compliance with all requirements of the Code and ADOH, ADOH shall issue an IRS Form 8609 for each building as of the time the building is Placed in Service. ADOH shall issue the Form 8609 after the applicant fully pays all fees, and submits the items described below in 8.5x11 format, bound in a three-ring binder, and tabbed accordingly:

- (1) Project Information Update;
- (2) An updated application (ADOH Form 3);
- (3) A 15 year pro forma, in the form stated in Section 2.7(B)(26) of this Allocation Plan, starting with the Placed-in-Service date;
- (4) A permanent lender's final appraisal of the project;
- (5) All certificates of occupancy, issued by the appropriate governmental authorities, for qualifying buildings that must indicate the dates the buildings were Placed in Service and the addresses of those buildings;
- (6) A Final Cost Certification in the form of an independent auditor's report prepared by a Certified Public Accountant certifying the final cost according to Generally Accepted Accounting Principles for projects with more than 10 units as required by IRS Regulation 1.42-17; as follows:

- (a) The auditor must certify to ADOH the full extent of all sources of funds and all development costs for the project including any federal, state, and local subsidies that apply (or that the applicant expects to apply) to the project.
  - (b) The auditor must prepare the required schedule of development costs based on the method of accounting used by the applicant for federal income tax purposes, and it must detail the project's total costs as well as those costs that may qualify for inclusion in eligible basis under IRC Section 42.
  - (c) The applicant must make the required certifications on the Certificate of Actual Costs Form satisfactory to ADOH. See Exhibit G. IRS Regulation 1.42-17 also requires that projects with greater than 10 units submit a Certified Public Accountant's audit report on the schedule of project costs.
- (7) The applicant's building-by-building tax credit computation (on ADOH form Table A);
- (8) A letter from the permanent lender summarizing the terms and conditions of the permanent loan. Upon closing of the permanent loan, the applicant must submit copies of the executed promissory note and deed of trust to ADOH;
- (9) A promissory note from the project's ownership entity payable to the Developer in an amount sufficient to cover any Deferred Developer Fee. Other forms of obligation to pay may be substituted if allowed under the definition of Deferred Developer Fee and if they include the following: (a) the interest rate; (b) the term of repayment; (c) the source of repayment and proof that the source of repayment is supported by cash flow projections or a binding commitment from a party capable of repayment; and (d) if there is a lien, language stating that the lien is subordinate to other liens relating to permanent financing;
- (10) An Extended Use Agreement and Consent and Subordination Agreement signed by the applicant (form provided by ADOH).
- (a) The Extended Use Agreement for compliance with I.R.C. § 42(h)(6) in a form of a declaration of covenants, conditions, and restrictions effective for a period of at least 30 years satisfactory to ADOH shall be executed and recorded at the time of the final Allocation. The Extended Use Agreement shall specify the units set-aside for lower income tenants, the percentage of median income tenants served, as otherwise appropriate for the project described in the application including, special needs characteristics of tenants, tenant ownership, amenities, Supportive Services and other commitments or requirements.
  - (b) All agreements to be signed and recorded by December 31st must be submitted to ADOH not later than December 1st of that same year;
  - (c) Applicants who have received a Determination of Qualification or Reservation and Carryover Allocation of tax credits and desire to have the Extended Use Agreement completed and recorded by the end of the year must request it by no later than November 1 . Any requests submitted after the November 1st deadline may not be completed by the end of the year.
- (11) One 8-x 10-inch color photograph of at least one of the project's buildings with signage;
- (12) A completed form stating the project's first credit year (ADOH provided form);

- (13) Fully executed partnership, operating, or joint venture agreements and other agreements between the project and the equity investor;
- (14) An investor certification letter (ADOH sample form provided);
- (15) Completed Fair Housing Checklist signed by the project architect. See Exhibit Y;
- (16) Except as provided by item 19 below, written certification from the architect that the project meets the Design Standards described in Section 2.7(B)(32) of this Plan. See Exhibit Y;
- (17) Completed and signed certification from the contractor that the project was built in compliance with the plans and specs provided by the architect. See Exhibit W2;
- (18) Completed and signed Placed-In-Service Acknowledgement (ADOH provided form) for each building in the project;
- (19) Certification from the Arizona Energy Office that the project complies with the 2006 International Energy Conservation Code (IECC) (contact Ken Pencost of the Energy Office at the Arizona Department of Commerce: (602) 771-1149);
- (20) Completed Exhibit X – Operational Risk Management (ADOH provided form);
- (21) Proof of flood insurance, as applicable;
- (22) Any additional information requested by ADOH;
- (23) Final Allocation fee, if applicable;

### **5.3 Final Allocation Underwriting**

Prior to the issuance of IRS Form 8609(s), ADOH underwrites the project using the information provided in Section 5.2. ADOH shall also perform a Funding Gap analysis. Unreasonable costs, changes in financing sources, funding amounts, or excess equity may reduce the final amount of tax credits. ADOH reserves the right to adjust the high cost provision of Section 42(d)(5)(c) or the applicable credit percentage at final underwriting.

**6. FEES**

**6.1 Tax Credit Application Fee**

An application fee of \$3,500 is due ADOH at the time of submission of the application. Applications shall be rejected unless accompanied by this fee. **Under no circumstances shall the application fee be refunded by ADOH.**

NOTE: Please note that in accordance with the recent Rev. Ruling, 2004-82, application fees for applying for LIHTC are no longer allowed in basis.

**6.2 Additional Application Fees for Projects Proposing Financing through ADOH**

Applicants requesting Gap Financing through from ADOH for a LIHTC project shall submit an Application for Gap Financing to ADOH as required by Section 7.3(B)(3)(d) along with their application for tax credits and shall include payment of the Gap Financing application fee in the amount of \$3,500.00

**6.3 Supplemental Allocation Application Fee**

Applicants experiencing severe hardship see Section 2.8(C)(1) must submit an additional application fee of \$2,500 to ADOH. Hardship requests must be documented to the satisfaction of ADOH and must demonstrate the existence of an unforeseen emergency situation where the completion of the project is jeopardized without an award of additional tax credits.

**6.4 Building Permit Extension Fee**

Within 275 calendar days after execution of the Carryover Allocation Agreement, the Developer must submit ADOH evidence of appropriate building permits allowing for construction of the project, issued by the appropriate local government entity. If the Developer requires additional time, ADOH may grant a 30-day extension upon payment of a \$3,500 extension fee together with a written request for the extension, which must explain the reasons for the extension request. After two extensions, however, ADOH may revoke an Allocation, if it determines that the applicant has not achieved Satisfactory Progress in accordance with Section 2.7(B)(4) and Section 4.2.

**6.5 Reservation Fee and Final Allocation Fee**

ADOH assesses a Reservation Fee and a Final Allocation Fee on 9-percent and 4-percent tax credit projects as provided in the table below. ADOH calculates the total Reservation Fee as a percentage of tax credits requested by the applicant and the Final Allocation Fee as a percent of the amount of tax credits allocated.

<b>The fees are payable as follows:</b>	<b>% of Tax Credits Allocated payable at Eligibility or Reservation</b>	<b>% of Tax Credits Allocated payable at Final Allocation</b>
For Profit Applicants	8%	2%
Non-Profit Sponsored Applicants	6%	2%

(A) The Reservation Fee is payable after determination that an application represents a feasible and viable tax credit project with a likelihood of completion. The applicant must pay the Reservation Fee to ADOH prior to issuance of a Reservation of tax credits.

(B) The Final Allocation Fee of 2% is payable upon the issuance of an Allocation of credit as evidenced by the IRS Form 8609. The applicant must submit the Final Allocation Fee together with the final allocation information submitted in accordance with Section 5 of this Plan and prior to issuance of the IRS Form 8609(s). The Final Allocation Fee is 2% of the final tax credits allocated.

(C) Fees Assessed on Additional Credits. Reservation and Final Allocation Fees shall be assessed on the amount of any additional credits allocated for either 4% or 9% credits.

(D) Miscellaneous Late Fees. Materials submitted to ADOH in support of a carryover allocation or a final allocation of tax credits after any deadline set forth in this Plan or established by ADOH through public notice must include a late fee in the amount of \$1,000.00. Failure to submit the late fee described by this paragraph may result in delay in review of the submitted materials and possible cancellation of a reservation or revocation of an allocation of tax credits.

## **6.6 Applicant's Obligation for Fee Payment**

ADOH assesses the non-refundable application, reservation fee, and Final Allocation Fee for the purpose of covering the costs and expenses of processing an application to the point where the applicant may receive a final Allocation. If an application, Reservation, or Carryover Allocation is denied due to action or inaction by the applicant, the fees are nonetheless due and payable to ADOH upon demand. Notwithstanding ADOH's determination of the amount of the final allocation of tax credits, no Reservation fee and Final Allocation Fee shall be refundable by ADOH.

## **6.7 Tenant Ownership Fees**

Applicants with applications that include tenant ownership shall pay an additional \$4,000 legal review fee at the same time that they pay the determination or Reservation Fee.

## **6.8 Carryover Allocation Late Fees**

ADOH charges a Carryover Allocation late fee of \$250 per day for any part of a Carryover Allocation submittal received after the deadline date specified by ADOH in the reservation letter. Carryover information not received by the close of business of the deadline established by ADOH may result in the project not receiving a Carryover Allocation. In extreme circumstances, such as a late Reservation of tax credits, ADOH may waive the Carryover Allocation late fees.

## **6.9 10% Cost Test Late Fees**

If the Developer requires additional time to submit the information required under Section 2.16, ADOH may grant extensions of 30 calendar days upon payment of the \$3,500 extension fee. After three extensions ADOH may refuse to grant any further extensions and may cancel a reservation of tax credits for failure to make Satisfactory Progress in accordance with Sections 2.7(B)(4) and 4.2. ADOH may impose a \$500 per day fee for documentation regarding items in Section 2.16 of the Plan submitted after the announced deadline dates. No

documentation may be accepted after close of business on the announced dates. ADOH may cancel the reservation and notify the applicant if documentation is submitted later than the deadline.

#### **6.10 Administration Fees**

Applicants must submit a fee of \$1,000 to ADOH before any interim underwriting requested by the applicant or additional underwriting required by ADOH due to a Material Change is performed. If the applicant fails to pay the Administration Fee, ADOH may recapture all tax credits allocated to the project.

#### **6.11 Compliance Monitoring Fees**

Every applicant for a project that receives an Allocation must pay to ADOH an annual, non-refundable monitoring fee. The monitoring fee is \$65 per Low-Income Unit, and is due annually whether or not a physical inspection is conducted on the property. The monitoring fee is due on or before March 15<sup>th</sup> of each year along with the submission of the annual report.

ADOH assesses a \$100 late fee for every 30 days that the applicant is delinquent in paying the monitoring fee after March 15<sup>th</sup>.

#### **6.12 Fees Are Not Refundable**

All fees set forth in this Section 6 are nonrefundable.



## **7. UNDERWRITING**

### **7.1 General Requirements**

ADOH's underwriting review of applications for tax credits focuses on the feasibility and the long-term viability of the project as affordable housing, compliance of the proposed project with LIHTC and other applicable program requirements, project affordability, and provision for required design features and amenities. ADOH seeks to balance the cost of development against the long term viability of a project while preserving affordability requirements for low-income residents. ADOH also evaluates whether the addition of affordable multifamily rental stock in the project location justifies the risk of loss of taxpayer funds and how affordability may be preserved through long-term project viability.

7.1(A) Minimum Allocation Necessary. ADOH reserves and allocates tax credits at the minimum level needed to realize the financial feasibility and viability of a project consistent with the requirement of I.R.C. § 42 and this Plan throughout the end of the Extended Use Period.

7.1(B) Applications must describe projects that are feasible and viable.

7.1(B)(1) The application must demonstrate that all requirements, conditions, and constraints for development and placement in service have been or shall be met.

7.1(B)(2) A proposed project must be financially feasible.

7.1(B)(2)(a) ADOH determines whether the sources of funds are sufficient to develop the project described in the application.

7.1(B)(2)(b) ADOH considers whether public funds and investor funds supported by tax credits are appropriately leveraged.

7.1(B)(2)(c) ADOH determines whether all costs described in the development budget are appropriate, necessary, and reasonable.

7.1(B)(3) A proposed project must be financially viable consistent with affordability requirements through the tax credit period, the compliance period, and the extended use period.

7.2(B)(3)(a) A proposed project shall demonstrate market demand for targeted tenants necessary to generate revenues sufficient to maintain project viability from the commencement of the tax credit period through the compliance period.

7.2(B)(3)(b) A proposed project shall generate sufficient income to fund project reserves and cover operating expenses and debt service of the project.

### **7.2 Underwriting Process**

7.2(A) A project shall be reviewed for feasibility and viability at least three times: (1) before a Reservation of tax credits; (2) as part of the 10% Cost Test review; and (3) when a project is Placed in Service. ADOH, in its sole discretion, may request an update to any information contained in the application or thereafter provided to ADOH as may be necessary to determine project feasibility and viability. For projects proposing funding

with Gap Financing through ADOH, ADOH may underwrite a project at the time of construction loan closing for projects partially funded by ADOH .

7.2(B) **Determination of Project Cost Reasonableness.** Each time that it reviews a project for feasibility and viability, ADOH reviews the reasonableness of all project costs in order to calculate the amount of eligible basis for the project. Failure to demonstrate cost reasonableness may be the basis for the denial, reduction, or return of a reservation or allocation of credits.

7.2(C) ADOH analyzes and, if necessary, adjusts the project cost in accordance with this Plan. ADOH analyzes and adjusts the proposed income, operating expenses, and net operating expenses as necessary as hereafter described. ADOH analyzes and adjusts development costs, permanent financing amounts, public funding amounts, developer fees, anticipated rents, operating costs, vacancy rates, and other financial considerations of a project as necessary in accordance with this Plan.

7.2(D) **Requests for Information.** ADOH may request that the applicant provide information necessary to clarify or settle a question raised by an application. The applicant must deliver the requested information or an explanation of why the information requested is unavailable by no later than 10 business days from the date of receipt of the request from ADOH. Failure to timely reply to a request for information may be grounds for denial of an application.

7.2(E) **Errors.** ADOH may deny reservations to applications that contain material errors including contradictory information, incorrect numbers, and mathematical errors.

7.2(F) **Interpretation of underwriting requirements.** The underwriting requirements set forth in this section shall be construed as a whole with the intent of maximizing the affordable housing stock in Arizona by facilitating development of feasible multifamily rental housing that will be viable through the end of the extended use period and that fully leverage available public funding including tax credits.

7.2(G) **Waiver requests.** Generally, ADOH may grant a waiver or agree to relax an underwriting standard upon a specific request submitted with the application that is supported by the appropriate explanation and documentation. Standards for which waivers are not considered are specifically noted below.

### 7.3 Specific Underwriting Standards

7.3(A) **Project Feasibility.** ADOH may deny an application or revoke an allocation for tax credits if it concludes that a proposed project is not feasible. ADOH may condition a reservation of tax credits upon demonstration of compliance with any criteria that ADOH deems necessary to ensure project feasibility. In determining that a project is feasible, ADOH considers all factors pertaining to development and completion of the project described in the application to ADOH including but not limited to:

7.3(A)(1) Whether the project is consistent with the requirements of I.R.C. § 42, A.R.S. § 35-728(C), and other applicable federal and state program requirements;

7.3(A)(2) Whether the site is compatible with development, completion, and successful operation of the project;

7.3(A)(3) Whether the development team has the expertise and the organizational and financial capacity and capability to deliver the project described in the application within the time constraints of

I.R.C. § 42 and this Plan. In determining whether the development team has the expertise and the organizational and financial capacity to undertake the project ADOH may consider information included in the application and all materials and information available to ADOH including but not limited to the following:

7.3(A)(3)(a) The history of satisfactory progress on affordable housing projects, and program compliance history of the Development Team.

7.3(A)(3)(b) The financial capacity and credit worthiness of the Development Team, permanent lenders, and investors.

7.3(A)(3)(c) The relevant experience of property and asset management staff as necessary.

7.3(A)(4) Any evidence that the project is not compatible with local land-use requirements and building codes;

7.3(A)(5) The availability of necessary utilities;

7.3(A)(6) Whether the project complies with design standards and proposes necessary and reasonable amenities and community facilities; and,

7.3(A)(7) Whether all ground-floor units are adaptable for the physically disabled and comply with the relevant provisions of the Federal Fair Housing Act (42 U.S.C. §§ 3601, et seq. and 24 C.F.R., Part 100, Subpart D), the Arizona Fair Housing Act (A.R.S. §§ 41-1491 through 41-1491.37), and HUD Fair Housing Regulations (24 C.F.R. Part 100, subpart D), the Uniform Federal Accessibility Standards (Section 504 of the 1973 Rehabilitation Act) and the Americans with Disabilities Act (42 U.S.C. §§ 12101 through 12213);

7.3(B) **Project Financial Feasibility.** ADOH may deny an application or revoke an allocation for tax credits if it concludes that a proposed project is not financially feasible. Consistent with allocation of tax credits through a competitive process as described in this Plan, ADOH may condition a reservation of tax credits upon demonstration of compliance with any criteria that ADOH deems necessary to ensure project financial feasibility. In determining that a project is financially feasible, ADOH considers all factors pertaining to development and completion of the project described in the application to ADOH including but not limited to:

7.3(B)(1) Applications shall disclose all sources of funding requested or received for a project in the application and the sources of funds shall meet the uses of funds.

7.3(B)(1)(a) Equity and Debt Financing.

7.3(B)(1)(a)(i) ADOH may deny an application that is not supported by a firm commitment from sources of equity and debt financing. See Section 2.7(B)(17) Financial Ability to Proceed.

(ii) ADOH may cancel a reservation or revoke an allocation of tax credits in the event of a change in a source or the terms of equity or debt financing calls into question to feasibility or viability of a project.

7.3(B)(2) Development Costs. Applications shall disclose all uses of funds.

7.3(B)(2)(a) The application must be supported by a complete estimated project development budget in a form satisfactory to ADOH. See Section 2.7(B)(25).

7.3(B)(2)(b) ADOH may deny an application that fails to include a project development budget that addresses all salient project features in a form satisfactory to ADOH including but not limited to: common area facilities, community facilities, elevators, interior hallways, laundry facilities, maintenance facilities, management offices, offices, storage facilities, swimming pools, amenities for projects serving tenants with special needs, and other features that may be required by an applicable federal or state program.

7.3(B)(2)(c) ADOH may deny an application that fails to include a project development budget that addresses all salient unit appliances in a form satisfactory to ADOH including but not limited to: disposals, dishwashers, or any similar feature that may be required by an applicable federal or state program.

7.3(B)(2)(d) ADOH may deny an application if the costs set forth in the development budget are not complete, reasonable, and necessary. ADOH may evaluate development budget costs based on the costs of projects of comparable size and type, tenant mix, unit mix, location and amenities. ADOH may draw comparable costs from industry standard sources, from information collected by ADOH from multifamily projects in the state, and in consultation with construction cost experts.

7.3(B)(2)(e) Per unit development cost limits. Applications for projects proposing residential development costs in excess of \$175,000 per unit must demonstrate that the per-unit cost is justified by local conditions or is necessary to a historic preservation project. The per-unit cost is calculated by dividing the total project costs by the total number of residential units. Considerations that may justify development costs exceeding the limits described in this paragraph include but are not limited to, small-size projects, projects located in QCT's, or DDA's, in a federally designated empowerment zone, or a federal enterprise community, projects with deep rent targeting, projects sponsored by local nonprofit organizations, or difficult substantial rehabilitation projects.

7.3(B)(2)(f) Development cost threshold for acquisition/rehabilitation projects. ADOH may refuse to reserve or allocate tax credits for rehabilitation expenditures that are less than greater of:

(i) Twenty percent (20%) of the adjusted basis of the building; or

(ii) \$15,000 hard costs for each Low-Income Unit in the building not to include property acquisition and site demolition and preparation costs.

(iii) For the purposes of this subparagraph, only rehabilitation expenditures for the Low-Income Units or for common areas that substantially benefit the Low-Income Units are counted. Rehabilitation expenditures for units other than Low-Income Units cannot be used to meet this requirement. In mixed income properties both the low-income and the market rate units must be rehabilitated to the same standard (at least \$15,000 per Unit). ADOH does not consider requests for waiver of the provisions of this subparagraph.

7.3(B)(2)(g) Treatment of specific development costs.

(i) Acquisition Cost Limits.

- (1) ADOH may reject land and building acquisition costs in excess of appraised value. Land and building acquisition costs must be supported by an Appraisal that confirms claimed real property acquisitions costs as part of carryover documentation, or, if the project does not require carryover, at final Allocation (see Section 5.3).
- (2) If the cost of acquisition of real property for multi-story multifamily projects that exceed the limits set forth in the table below, then the application must submit a plat or site plan on which all undeveloped land has been clearly identified.

<b>Bedrooms</b>	<b>Net Area Per Unit (Sq. Ft.)</b>
0-Bedroom	1,700
1-Bedroom	2,200
2-Bedroom	3,500
3-Bedroom	4,200
4-Bedroom	4,800

(ii) Construction finance costs.

- (1) The development budget must include a complete breakdown of all construction finance costs. ADOH may verify construction finance costs against the information in the commitment letter from the construction lender.
- (2) ADOH may use a lower construction finance cost if it concludes that the costs described in the application are unreasonable.
- (3) Subsequent modification or change in construction finance costs may result in a cancellation of a reservation or revocation of an allocation of tax credits.
- (4) Unreasonable construction finance costs include but are not limited to: interest costs substantially above market rates, and loan origination and other fees that exceed 2% of the principle amount of the construction loan.
- (5) The construction finance costs includable in eligible basis for calculation of tax credits may not exceed the reasonable finance costs incurred during the first twenty four months of the construction loan.

(iii) Developer Fee, Overhead, and Consultant Fee Limits. The total amount includable in eligible basis for the developer fee, overhead, and consultant fees shall be limited as provided in the table below:

- (1) New Construction—No Identities of Interest

**Developer Fee, Overhead, and Consultant Fee Limits  
As A Percent Of Total Eligible Basis In  
Cost Categories I-V of the Development Budget**

**If Developer has an identity of interest with the Builder, Builder’s Profit will be excluded from Eligible Basis for the purposes of this calculation.**

<b>Number of Units</b>	<b>Percent Allowed</b>
1-15	18%
16-30	17%
31-45	16%
46-60	15%
61+	14%

(2) Acquisition Rehabilitation—No Identities of Interest. For acquisition/rehabilitation projects, the total amount for developer fees, overhead, and consultant fees shall not exceed the amount stated in the table set forth above plus 14% of the acquisition cost that may be included in eligible basis for existing buildings as described in I.R.C. § 42(d)(2).

(3) For the purposes of paragraph 7.3(B)(2)(g)(iii), ADOH may reduce the percentages set forth in the above table, as necessary to minimize the use of tax credits or public funds through a subsidy layering analysis and as may be necessary in the event that there is an identity of interest between the Developer and the Contractor/Builder.

(4) For the purpose of paragraph 7.3(B)(2)(g)(iii), consultant fees shall not include fees for consultants normally used in the development process, such as market analysts, environmental consultants, and fees for a construction manager/consultant deemed by ADOH to duplicate costs in the construction contract.

(iv) Construction Contractor/Builder Profit, Overhead, and General Requirements Limits. ADOH shall not allow builders profit, overhead, and general requirements costs as a percentage of total project cost that exceed the percentages set forth in the table below. The limits shall apply to the aggregate of the “Total: Site and Demolition,” the “Subtotal: Direct Construction,” and the line item “Community Buildings,” on the Development Budget, Form 3 Item 24, Sections II and III, of the application. Please note that if an Identity of Interest exists between the Developer and the Builder, then the Builder’s profit shall be limited to 2% of total development costs.

<b>Builder’s Profit, Overhead* and General Requirements**</b>	<b>Percent of Costs</b>				
	1-15	16-30	31-45	46-60	61+
Project size in units	1-15	16-30	31-45	46-60	61+
<i>Builder’s Profit (with Identity of Interest), or</i>	2	2	2	2	2
Builder’s Profit	6	5.75	5.5	5.25	5
Builder’s Overhead	3	2.75	2.5	2.25	2
General Requirements	6	5.75	5.5	5.25	5
Total Maximum Percentage	15	14.25	13.5	12.75	12

For the purposes of 7.3(B)(2)(g)(iv):

- (1) Builder’s overhead may include a percentage for main office expenses for the job.

- (2) General requirements may include project-related site costs such as temporary fencing, providing utilities to the site during construction, job site supervisor, job site office and similar costs.
- (3) ADOH may reject contingency costs that include Builder's Profit, Overhead, and General Requirements.
- (v) Reserves. The development cost budget shall include amounts for project reserves as follows:
- (1) Rent-up Reserve. The development budget shall include an amount not less than six-months of debt service during the lease-up period or stabilization of the development. The rent-up reserve can only be used to pay first debt payments during this time period. After the lease-up or stabilization period has ended the project owner may release the rent-up reserve.
- (2) Operating Reserve. The development budget shall include a sum of not less than to six months of operating expenses.
- (3) Replacement Reserve. The development budget shall include a six-month replacement reserve at \$250 per unit for new construction and \$350 per unit for acquisition/rehabilitation projects.
- (4) ADOH does not consider any waiver requests for the reserve amounts set forth in this paragraph.
- (vi) Treatment of Above Standard Quality Market Rate Units. Pursuant to I.R.C. § 42(d)(3)(B) the adjusted basis of a building must be reduced by an amount equal to the portion of the adjusted basis of the building attributable to the cost of above-average quality market-rate units. For market rate units that only exceed the average cost per square foot of the unit had the unit been built as a low-income unit by 15% or less, an applicant may elect to deduct the excess cost of the market-rate units from the eligible basis of a building.

7.3(B)(3) Applications describing funding gaps may be denied. ADOH may, but is not required to, give written notice that an application contains funding gaps, whether discovered as originally proposed or through the underwriting review process, and may require the applicant to explain the gap or identify additional funding within five (10) business days after the date of the written notice from ADOH. If, after notice from ADOH, the applicant fails to submit proof of additional funding, satisfactory to ADOH, the application may be denied or the allocation revoked.

7.3(B)(3)(a) Determination of a funding gap. A project has a funding gap if the sources of funds are less than the uses of funds. ADOH multiplies the proposed tax credit equity amount by the syndication rate (the price the equity investor commits to pay for the tax credits) to determine the amount of equity financing. The amount of equity financing plus all other sources of funds must meet the proposed uses of funds. ADOH shall announce an assumed price for tax credits at the time an allocation round is announced. Applicants proposing a tax credit price exceeding the assumed price must demonstrate a firm, enforceable commitment from an equity investor that has no identities of interest with the developer and the entity that will own and control the project.

7.3(B)(3)(b) Changes to this Plan due to the American Recovery and Reinvestment Act of 2009 (“the ARRA”), including grants of low-income housing credit ceiling to state allocating agencies described in Section 1602 of the ARRA; and the appropriation of funds for financing of certain LIHTC projects through the HOME Investment Partnership Program described under Title XII of the ARRA shall be announced by ADOH through a public notice at a later date.

7.3(B)(3)(c) Funding Gap Analysis—Layering Analysis. ADOH may deny an application, cancel a reservation of tax credits, or cause return of tax credits allocated to a project if it concludes at anytime prior to issuance of I.R.S. Forms 8609 for the project that the tax credits and public sources of funding are excessive.

(i) Applications may be denied that do not maximize available debt financing from private sources. ADOH may adjust the amount of tax credits reserved or allocated to a project to maximize the amount of available debt financing. ADOH may consider information gathered from experts or third parties to determine whether the applicant has committed the maximum amount of private sources of funds available to the project.

(ii) In determining whether tax credits or public funds are excessive ADOH considers whether the relative amount of tax credits or federal subsidy results in a proportional increase the number of affordable units or eligible program beneficiaries assisted;

(iii) To determine the maximum allowable public funds available to a project, ADOH requires that the commercial debt service ratio (the quotient obtained by dividing the net annual operating income by the total commercial annual loan payment amount) be no greater than 1.30 (130%). For the purpose of this paragraph, ADOH considers the debt service coverage and loan to value ratios established by the lender in its commitment letter as required by Section 2.7(B)(17) Financial Ability to Proceed. For minimum debt service requirements, see Section 7.3(C)(1)(f).

7.3(B)(3)(c)(iv) ADOH may adjust tax credits as necessary to maximize loan payments. ADOH may consider loan terms (e.g., interest rate and amortization period) from the lender’s commitment letter.

(v) For projects in which the land was acquired in other than an arm’s length transaction between unrelated parties, ADOH may reduce the amount ADOH gap financing by the amount that the fair market value of the property exceeds the actual acquisition cost.

(vi) For projects proposing 100% equity funding ADOH may calculate the cost of financing of any gap at the prevailing interest rate and term for senior or primary debt, using standard underwriting criteria.

7.3(B)(3)(d) Gap financing through ADOH. Applications proposing Gap Financing through ADOH may be denied, or a reservation for tax credits may be cancelled, or an allocation of tax credits revoked if an application fails to comply with any of the following requirements:

(i) Applications proposing financing with Gap Financing through ADOH shall include a complete application for Gap Financing including the Gap Financing application fee described in Section 6.2, however, ADOH may consider applications for Gap Financing for projects with reservations or allocations of tax credits if ADOH determines in its sole discretion that the need for additional funds was not foreseeable at the time of application.



- (ii) The application shall demonstrate compliance with the requirements of the tax credit and any other source program including the Americans with Disabilities Act (42 U.S.C. § 12101 et seq.) Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794), the eligibility and underwriting requirements of this Plan, and any requirements or conditions described in an applicable notice of funding availability.
- (iii) ADOH Gap Financing shall not supplant funding available from other sources, see Section 7.3(B)(3)(c) Funding Gap Analysis-Layering Analysis:
- (1) Applications must demonstrate that alternative funding is not available.
  - (2) ADOH may reduce or revoke a commitment to Gap Financing if it determines that the funds are no longer necessary to the project.
  - (3) For projects in which the land was acquired in other than an arm's length transaction between unrelated parties, ADOH may reduce the amount ADOH gap financing by the amount that the fair market value of the property exceeds the actual acquisition cost.
- (iv) The application shall provide contingencies in the event that Gap Financing monies are unavailable. In the event that Gap Financing funds become unavailable to a project ADOH shall afford the applicant a reasonable period of time to secure an alternate source of funding;
- (v) To determine whether a project is eligible to receive Gap Financing through ADOH, ADOH considers the following in addition to the considerations of this section:
- (1) Whether Gap Financing will maximize the allocation of tax credits;
  - (2) The condition of the market;
  - (3) Whether the proposed project satisfies a critical need;
  - (3) The sources and possible sources of alternative funding for the project;
  - (4) Minimizing the risk of loss of taxpayer funds including consideration of the organizational and financial capacity and the program compliance history of the Development Team; and,
  - (5) Any identities of interest among the project owner, developer, and sources of equity capital and debt financing.
- (vi) Security for ADOH Gap Financing. Projects seeking gap financing through ADOH shall execute the appropriate loan documents in forms satisfactory to ADOH. All debt service that is senior to the annual payment to ADOH shall be paid as described according to the 15-year pro forma approved by ADOH. ADOH shall not be bound by separate payment terms contained in any partnership agreement, operating agreement, or any other control agreement binding the project and its investors.
- 7.3(B)(3)(e) Limitations on the amount of tax credits reserved or allocated.

(i) The amount of tax credits available to a project is limited to the maximum amount described in Section 2.2 and 7.3(B)(3)(c).

(ii) **Qualified Eligible Basis.** The amount of tax credits reserved or allocated to a project may not exceed the qualified eligible basis of the project pursuant to I.R.C. § 42 and this Plan. The qualified eligible basis shall be reduced by the amount of certain sources of funds as provided by I.R.C. § 42 consistent with the ARRA. The qualified eligible basis may be adjusted by the effective applicable percentage as required by I.R.C. § 42.

(iii) **Increase in credit for projects located in certain high cost areas.** As provided by I.R.C. § 42(d)(5)(C), an increase in tax credits up to 130% of eligible basis is available to projects located in Qualified Census Tracts, Difficult to Develop Areas, and for certain projects designated by ADOH for eligibility for the increase in credit pursuant to I.R.C. § 42(d)(5)(C)(v).

(iv) Unless ADOH declares otherwise in a separate notice, increased tax credits pursuant to I.R.C. § 42(d)(5)(C)(v) are available anywhere in the state for applications submitted in a competitive round under the 2009 QAP.

**7.3(C) Project Viability.** ADOH may deny an application or revoke an allocation for tax credits if it concludes that a proposed project is not viable. ADOH may condition a reservation of tax credits upon demonstration of compliance with any criteria that ADOH deems necessary to ensure project viability. In determining project viability ADOH considers whether estimated project revenues are sufficient to cover operating costs through the end of the 15-year compliance period.

**7.3(C)(1) Treatment Permanent Financing Costs.**

7.3(C)(1)(a) ADOH evaluates permanent financing costs based on the information provided in the commitment letters and letters of intent submitted in the application.

7.3(C)(1)(b) ADOH may deny an application if the assumptions in the 15-year pro forma required by Section 2.7(B)(26) of this Plan are inconsistent with the terms of the commitment letter or letter of intent.

7.3(C)(1)(c) ADOH may consider internal economic and financial market assessments and information when it evaluates the financial viability of the project based on.

7.3(C)(1)(d) **Deferred developer fees.** The developer fee may not exceed 40% of the total developer fee and may not be deferred for a term of greater than 13 years.

7.3(C)(1)(e) At the end of the term of any permanent loan or at the close of the compliance period, which ever is later, the project owner's net equity in the project shall be sufficient to cover the outstanding balance of any loan including any balloon payment.

7.3(C)(1)(f) **Debt service requirements for primary debt.**

(i) For the term of any permanent loan or the duration of the compliance period, which ever is longer, the quotient (the debt service coverage ratio) obtained by dividing the net annual operating income by the total annual debt service payments for all loans shall be no less than 1.20 (120%) for each year of operation. ADOH may consider a minimum debt service ratio of 1.15 for

projects with commitments for loan guarantees or rent assistance through HUD or the United States Department of Agriculture Rural Development Authority.

(ii) For the term of any permanent loan or the duration of the compliance period, which ever is longer, the total annual debt service payments for all permanent loans, including loans or loans that are payable from available cash flow, shall not be less than the total net annual operating income for the project in each year of operation.

7.3(C)(1)(g) Debt service requirements for subordinate debt. ADOH may reserve tax credits to projects proposing subordinate debt structures that meet the following requirements:

(i) The senior debt meets the maximum guidelines described in paragraph 7.3(B)(3)(c)(iii).

(ii) The quotient (the debt coverage service ratio) obtained by dividing the net annual operating income by the cashflow after debt service shall be greater than or equal 1.00 for any year in the compliance period

### 7.3(C)(2) **Operating Costs.**

7.3(C)(2)(a) ADOH may deny an application that does not propose reasonable and necessary operating costs.

(i) ADOH assumes operating costs for new construction at \$4,200 per unit per year and for acquisition/rehabilitation \$4,500 per unit per year. ADOH may consider lower operating costs supported by credible and verifiable evidence of operating costs for LIHTC projects operated by the Development Team. ADOH may establish from time to time estimates of operating costs based on information gathered by ADOH from rental properties in the state and in consultation with property managers and other experts. ADOH may underwrite to higher operating costs for projects proposing specialized or unique characteristics such as rehabilitation of buildings located in historic areas.

(ii) The operating cost limits described in subparagraph (i), above, shall include an amount for property management expenses that shall not exceed 7% of effective gross income ("EGI"), for projects of 30 units or more, and 9% for projects of less than 30 units. ADOH may deny a claim for property management expenses less than the amount specified in this subparagraph upon failure to provide documentation sufficient to allow ADOH to verify the amount claimed.

(ii) Operating costs proposed for a property must be reasonable, necessary, and customary with respect to projects of comparable size and type, mix, location and amenities. ADOH may exclude proposed operating costs arising from outside the project property.

(iii) Treatment of the cost of supportive services. In determining project viability, ADOH may exclude costs related to supportive services described in the application. The cost of supportive services must be set forth in a separate budget. ADOH may deny an application for tax credits or a claim for competitive points if the application fails to demonstrate sufficient funding to sustain supportive services during the compliance and extended use periods. See Sections 2.9(F)(10) and 4.4 for requirements for projects proposing Supportive Services for tenants.

(iv) Applicants relying on operating costs for projects located outside of Arizona must submit information sufficient to permit ADOH to determine, with reasonable certainty, that the proposed operating costs are valid for the market in which the proposed project is located. ADOH may refuse to consider out-of-state cost information that is for projects that are not controlled by the applicant or that are not supported by the information required by this subparagraph. The factors ADOH may consider in determining whether proposed out-of-state operating costs are valid include but are not limited to: the characteristics of rental facilities from which the proposed cost data are drawn including the rent structure; and the age of the project; the ratio of property management staff to the number of rental units; and, relative area median incomes, population densities, fair market rents, and utility allowances.

7.3(C)(2)(b) In determining project viability ADOH estimates funding of project operating reserves for new construction at the rate \$250 per unit per year, and for Acquisition/Rehabilitation projects at \$350 per unit per year.

7.3(C)(2)(c) As part of the application, the applicant must submit a written certification from the treasurer's or assessor's office of the local government and any governmental entity that has taxing authority over the real property upon which the project is located that the project is exempt from real property taxes (e.g., has a non-profit exemption). If the applicant fails to submit certification of the property tax exemption the applicant must include the property taxes in the operating expenses. Applicants proposing housing for priority populations must present two operating budgets in their applications:

- (i) For the costs of operating the project, less those increased costs attributable to serving the priority populations; and
- (ii) Indicating the increased Operating Costs attributable to serving priority populations.

### 7.3(C)(3) **Operating Revenues and Losses.**

7.3(C)(3)(a) Sources of Revenue. ADOH recognizes income from apartment rents (as restricted) and other project-related ancillary sources including but not limited to revenues from laundry and other vending facilities and parking/garage rentals.

7.3(C)(3)(b) Rents. For the purpose of determining project viability rental revenues shall be based on the minimum available rent as follows:

- (i) Maximum allowable rents permitted under of I.R.C. § 42.
- (ii) Rents no more than 10% less than the competitive market rents being charged for the same type units in the primary market area identified in the market study, however, rents in areas for which 50% or more of the Net New Household market demand is attributable to tenants exiting substandard, or overcrowded housing or housing lacking complete plumbing, the maximum allowable rent shall be 20% below market rents;
- (iii) Rents that do not exceed the amount affordable to the target population;

7.3(C)(3)(c) Ancillary Revenues. For the purposes of determining the viability of a project ADOH assumes ancillary income at no more than \$20/Unit/month. ADOH may consider a higher amount of

ancillary income based on at least three (3) years of audited operating statements (including income and expense statements) for similar situated properties.

7.3(C)(3)(d) Losses.

(i) ADOH may adjust proposed operating revenues to reflect projected vacancy rates described in the Market Demand Study or in other market information available to ADOH. Absent credible and convincing evidence of a lower vacancy rate for the primary market area, ADOH assumes a vacancy rate of 8%.

(ii) ADOH may adjust proposed operating revenues to reflect projected credit losses described in the Market Demand Study or market information otherwise available to ADOH.

## 7.4 Rental Market Considerations

7.4(A) ADOH may deny an application that is not supported by a market study that complies with QAP Section 2.7(B)(18), the ADOH Market Study Guide, see Exhibit L, and the requirements of this Section using the most current data available as of six months prior to the deadline for submittal of application or in the event that there is no deadline, the date of the application.

7.4(B) ADOH may deny an application that fails to demonstrate strong new market demand for the type of low-income housing proposed. ADOH may consider any information included in the market study.

7.4(C) ADOH may deny an application that contains a market study that fails to address all salient features of a project including but not limited to market rate units, multiple-use projects, commercial/retail or other non-affordable components, and location in a high crime area.

7.4(D) ADOH may deny an application supported by a market study that fails to clearly describe the effective date of the study consistent with the requirements of paragraph 7.4(A) or fails to specifically identify the age of all data and third-party information including but not limited to demographic information and rates of population change, rental market, and vacancy data, and the dates of any interviews. The date of a submittal letter for a market study may not be considered as evidence of the effective date of the market study unless the letter expressly includes the information described in the previous sentence.

7.4(E) ADOH may deny an application if it concludes that the number of units proposed in the application may adversely affect the financial viability of existing housing stock in the primary market area.

7.4(F) ADOH may deny an application containing a market study that fails to objectively and explicitly justify the limits of the primary market area consistent with the requirements of the ADOH Market Study Guide.

7.4(G) ADOH may deny an application that is supported by a market study that fails to describe reasonable and appropriate ameliorating considerations for negative market information including but not limited to: vacancy rates that exceed underwriting standards, high property or violent crime rates, and excessive gross or net capture rates.

## 7.5 Post Reservation Considerations

Determination of Cost Reasonableness. At the time a project submits documents for 10% Cost Test compliance or for issuance of I.R.S. Forms 8609, the project must submit a detailed as-built development budget in a form satisfactory to ADOH along with other documents necessary to permit ADOH to verify the reasonableness of the costs of the project. Upon completion of the project the applicant shall submit a copy of the permanent lender's appraisal (or, if there is no permanent lender, an Appraisal satisfactory to ADOH). As a part of the underwriting for a final allocation, ADOH requires that the total of all permanent sources of funds not exceed 130% of the market value of a project located in an established market.

## 8. COMPLIANCE MONITORING

### 8.1 Project Compliance Monitoring

8.1(A) ADOH is required to monitor and inspect projects for compliance with IRC Section 42, Treasury Regulation 1.42-5, the requirements (set-asides, income restrictions, rent skewing, affordability period, amenities and services, etc.) elected in the application and agreed upon in the Extended Use Agreement, and upon which ADOH based its award of tax credits.

8.1(B) The IRC also requires that ADOH publish and institute monitoring procedures as part of the approved QAP. This compliance monitoring procedure applies to **all** projects for which tax credits are allowable. Accordingly, ADOH must monitor all projects allocated tax credits since January 1, 1987.

8.1(C) ADOH has prepared a **Low-Income Housing Tax Credit Program Compliance Manual** for all Program participants. The manual outlines ADOH's compliance monitoring procedures and reporting requirements. The manual includes samples of all annual reports, certifications, etc. Twice-annual training is offered by ADOH on the **Compliance Manual** and owners'/managers' compliance responsibilities.

8.1(D) The Code also allows ADOH to collect fees from owners to cover the cost of administering the compliance-monitoring program. Monitoring fees are set forth in Section 6.10 above.

### 8.2 Compliance Monitoring Procedure

The Owner of a qualified LIHTC project for which tax credits are allowable is required to comply with the following:

8.2(A) Record Keeping. The Owner must maintain accurate records for each building in the low-income housing project. These records must include:

8.2(A)(1) The total number of Residential Rental Units in the building, including the number of bedrooms and the square footage of each Residential Rental Unit.

8.2(A)(2) The total number of Low-Income Units in the building.

8.2(A)(3) The total number of occupants in each Low-Income Unit.

8.2(A)(4) The rent charged on each Residential Rental Unit in the building, including any utility allowance.

8.2(A)(5) The Low-Income Unit vacancies in the building.

8.2(A)(6) The number and household eligibility criteria for all special set-aside units in the building.

8.2(A)(7) The rentals of the next available units in each building including when and to whom rented.

8.2(A)(8) The character and use of the non-residential portion of the building that was included in the building's eligible basis under the Code (i.e., facilities that are available on a comparable basis to all

residents and for which no separate fee is charged for use of the facilities, or facilities reasonably required by the project).

8.2(A)(9) Documentation regarding the eligible and qualified basis of each building as of the end of the first year of the tax credit period.

8.2(A)(10) For each low-income household:

- (i) Completed rental application, including the tenants' certification of assets.
- (ii) Tenant income certification form, including all required signatures.
- (iii) Documentation supporting each household's income certification (third-party verifications, asset certification, asset documentation and verification if more than \$5,000 in value).
- (iv) Documentation of student status.

8.2(A)(11) Current-year utility allowance schedule.

8.2(A)(12) Documentation from a medical doctor licensed in Arizona or prepared by a recognized social service or health service agency that qualify a tenant for low-income units set-aside for the Special Needs Population and any documentation that identifies any special accommodations that the tenant may require.

8.2(B) Record Retention. Owners are required to keep all records for each building for a minimum of six years after the due date (with extensions) for filing the federal income tax return for that year. The Owner must retain the records for the first year of the credit period for at least six years beyond the due date (with extensions) for filing the federal income tax return for the last year of the compliance period of the building.

8.2(C) Certification. The Owner must certify the following, under penalty of perjury, at least annually through the end of the compliance period:

8.2(C)(1) That the project complied with the requirements for special set-asides on which the Allocation was based (e.g., 20%, 30%, 40%, 50% AMGI), as applicable.

8.2(C)(2) At least 20% of the Residential Rental Units in the project are both rent restricted and occupied by individuals whose income is 50 percent or less of the AMGI.

8.2(C)(3) At least 40% of the Residential Rental Units in the project are both rent restricted and occupied by individuals whose income is 60 percent or less of the AMGI.

8.2(C)(4) That the Owner/agent has received an annual **Tenant Income Certification** (commonly called the "TIC") form from each low-income resident and verifying documentation to support that certification.

8.2(C)(5) That the entire project/building was occupied by LIHTC residents and the Internal Revenue Service has or has not provided a waiver for the annual recertification of resident income.



8.2(C)(6) That each Low-Income Unit was rent restricted as defined in the Code.

8.2(C)(7) That all units in the project are for use by the general public and are not used on transient basis.

8.2(C)(8) That each building in the project is in decent, safe, and sanitary condition and in good repair taking into account local health, safety, building codes, and HUD's Uniform Physical Condition Standards, see 24 CFR 5.703.

8.2(C)(9) That all resident facilities included in the eligible basis of any building in the project were provided on a comparable basis without a separate fee to all residents in the project.

8.2(C)(10) That there was no change in the applicable fraction of any building in the project (or, if there was a change, a description of the change). (Applicable fraction is defined as the percentage of qualified s in a building or the percentage of tax credit floor space to rentable floor space in a building, whichever is less.)

8.2(C)(11) That there has been no change in any building's eligible basis under the Code (or that there has been a change, with an explanation of the change).

8.2(C)(12) That a **Declaration of Affirmative Land Use and Restrictive Covenants Agreement** as described in the Code is in effect for projects receiving Allocations on or after January 1, 1990.

8.2(C)(13) That the project complied with the requirements of all federal or state housing programs (e.g., RD assistance, HOME, Section 8, tax-exempt financing), as applicable.

8.2(C)(14) That, if the Owner received its Allocation set-aside for projects involving "qualified non-profit organizations," the non-profit entity materially participated in the operation of the development within the meaning of IRC Section 469(h).

8.2(C)(15) That if a Low-Income Unit in the project becomes vacant during the year, reasonable attempts are made to rent that Unit or the next available Unit of comparable or smaller size to residents having a qualifying income before any unit in the project is rented to a resident not having a qualifying income.

8.2(C)(16) That if the income of the residents of a Low-Income Unit increases above 140% of the limit allowed in the Code, the next available Unit of comparable or smaller size shall be rented to residents having a qualifying income.

8.2(C)(17) For buildings with four units or less, whether any of the units in the building were occupied by the Owner or a Person related to the Owner for the preceding year.

8.2(C)(18) Whether, for the preceding year, the project was the recipient of a federal grant or other Federal Subsidy that would cause a reduction in eligible basis.

8.2(C)(19) That the state or local government unit responsible for making building code inspections did not issue a report of a violation for the project for the preceding 12 month period.

8.2(C)(20) That the Owner has not refused to lease a Unit to an applicant due to the applicant holding a HUD Section 8 voucher or certificate.

8.2(C)(21) That the project has received no finding of discrimination under The Fair Housing Act (an adverse final decision by HUD, an adverse final decision by a substantially equivalent state or local fair housing agency, or an adverse judgment from a Federal court).

8.2(C)(22) That the Owner has not evicted or terminated the tenancy of any existing tenant of any Unit (other than for good cause) or increased the gross rent with respect to a Unit not otherwise permitted by Section 42, applicable throughout the entire compliance period.

8.2(D) Reviews and Inspections. Before ADOH issues the IRS Form 8609 or the end of the second calendar year following the year the last building in a project is Placed in Service, whichever is first, ADOH conducts on-site inspections of all new buildings in the project and, for at least 20% of the project's Low-Income Units, ADOH inspects the units and reviews the low-income certifications, the documentation supporting the certifications, and the rent records for the tenants in those units.

8.2(D)(1) ADOH conducts on-site inspections of all buildings in each low-income housing project at least once every three years, beginning after the Placed-in-Service date. For at least 20% of the project's Low-Income Units selected by ADOH, ADOH inspects the units (including all vacant units) and review the low-income certifications, the documentation supporting such certifications, and the rent record.

8.2(D)(2) ADOH follows HUD's inspection protocol under 24 CFR § 5.703 in conducting physical inspections. ADOH selects units for physical inspection and review files only at the time of the on-site visit.

8.2(E) Liability. The Owner is responsible for compliance. ADOH is not liable for an Owner's noncompliance.

8.2(F) Correction of Non-Compliance Condition.

8.2(F)(1) ADOH shall provide written notice of noncompliance to the Owner if:

- (i) ADOH has not received the Annual Certification Report with attachments by the due date.
- (ii) ADOH finds that the project is out of compliance with any of the provisions of IRC Section 42.

8.2(F)(2) The Owner shall have 30 calendar days from the date of notice of noncompliance to provide any missing information for the Annual Certification Report. The Owner shall have 60 calendar days from the date of notice of noncompliance to correct issues. ADOH may grant an extension of up to 120 calendar days if the Owner demonstrates good cause for the extension to the satisfaction of ADOH.

8.2(F)(3) ADOH is required to file IRS Form 8823, "Low- Income Housing Credit Agencies Report of Noncompliance," with the IRS within 45 calendar days of the end of the allowable correction period. ADOH must report all noncompliance issues whether corrected or not. ADOH may explain the nature of the noncompliance or failure to certify and state whether the noncompliance has been corrected. The IRS, not ADOH, shall make any determinations as to the applicability of recapture penalties.

8.2(F)(4) ADOH must perform inspections of the project and perform on-site audits of the resident certification forms and supporting documentation throughout the first 15 years of the compliance period and any agreed-upon extended compliance period. ADOH shall notify the Owner in writing of the scheduling of any such inspection or audit.

## 9. DEFINITIONS

The following definitions shall apply to both the QAP and QAP application for the year 2009 Program

"10% Cost Test" refers to the requirement of IRC Section 42(h)(1)(E)(ii) that 10% of the reasonably expected basis in the project (as of the close of the second calendar year) have been incurred before the end of the year in which the Allocation is made and the project must be Placed in Service no later than the second calendar year following the year of the Allocation.

"10% Cost Test Late Fee" means the fee due in the amount of \$3,500 if a Developer requests an extension to submit required documents to receive a Carryover Allocation in accordance with Section 2.12.

"ADOH" means the Arizona Department of Housing, which is the housing credit agency authorized to allocate federal low-income housing tax credits in the State of Arizona pursuant to A.R.S. Section 35-728(B).

"Administration Fee" means \$1,000 fee due from the applicant in the event the applicant requests an interim underwriting or ADOH requires an additional underwriting due to, among other things, a Material Change.

"Affiliate" means any Person, who directly or indirectly, owns or controls another person by having any family relationship, ownership interest or a Controlling Interest in that person.

"Allocation" means the award of tax credits by ADOH to the Owner of an LIHTC project. The Allocation is set forth in a binding agreement between ADOH and the Owner.

"Allocation Year" means the calendar year for the current annual allocation authority for which LIHTC applications are submitted.

"American Recovery and Reinvestment Act of 2009" or "ARRA" or "Stimulus Bill" means Public Law 111-5 enacted February 17, 2009.

"Applicant" means an existing legal entity submitting an application for LIHTC for a project pursuant to the Allocation Plan.

"Appraisal" when referring to a submittal required by this Plan means: (1) an estimate of the value of project real property be based on market information including comparable properties that is current through the period ending no earlier than six months before the deadline for submittal of the application that is (2) be prepared in accordance with the Uniform Standards of Appraisal Practice by an analyst who is not associated with the development team, bond issuer or user of bond proceeds and who is authorized to render the appraisal in Arizona. An appraisal that deviates from the requirements of this paragraph must provide a detailed explanation of why the deviation cannot be avoided.

"Area median gross income" or "AMGI" means the measure of household income, adjusted for family size, used by the IRS as a reference in establishing income levels for the LIHTC Program (e.g., "60 percent of AMGI," "50 percent of AMGI") and as the base in calculations that yield maximum rents by number of bedrooms. See the "Imputed Incomes/Allowable Rents" tables appended to this Plan at Exhibit H.

"A.R.S." means the Arizona Revised Statutes, as amended from time to time.

“Award Letter” means a letter from a governmental or quasi-governmental agency, e.g., the Federal Home Loan Bank, stating that funds in a specific amount are awarded or are to be awarded to the project in a specific time frame.

“Builder” means the general contractor that is a member of the project’s Development Team.

“Capital Needs Assessment (“CNA”) means the assessment as set forth in Section 2.7(B)(35).

“Carryover Allocation” means an Allocation made to the project if the project will not be Placed in Service by close of the calendar year of the Allocation.

“Carryover Allocation Fee” means an additional fee of \$250 per day if the information required under Section 2.12 of this Plan is submitted after December 1 of the Allocation year.

“Census Designated Place (CDP)” means a statistical entity, defined for each decennial census according to Census Bureau guidelines, comprising a densely settled concentration of population that is not within an incorporated place, but is locally identified by a name. CDPs are delineated cooperatively by state and local officials and the Census Bureau, following Census Bureau guidelines. Beginning with Census 2000 there are no size limits.

“Co-Developer” means one of two or more developers of the same project.

“Code” and “IRC” mean the Internal Revenue Code.

“Common Area Facilities” means on-site laundry facilities, site office, maintenance and storage areas, community rooms, community service facilities as described in Exhibit D.

“Commitment Letter” means a written commitment from a lender or other provider of funds, representing a commitment to provide financing and stating the amount, interest rate, fees, term of the loan, debt service coverage, security, and repayment terms, subject only to reasonable, commercially-acceptable contingencies.

“Community-Based Non-Profit” means an organization qualified under IRC Section 501(c)(3) or (4), that has as one of its approved exempt purposes the provision of affordable housing, and its membership is drawn from and representative of the community it serves.

“Community Facility” means community room, clubhouse, recreation center or the like. Lobbies and laundry facilities shall not be considered within the scope of this definition.

“Community Services Facility” means a facilities building as described in IRC Section 42(d)(4)(C)(ii).

“Compliance Period” means the compliance period for a building begins with the first year of the building’s Credit period, the first taxable year in which the Owner claims tax credits for the project of which the building is a part, and lasts for 15 consecutive taxable years.

“Consultant” means an advisor to the Development Team or to any member of the Development Team.

“Controlling Interest” means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a person, whether through the means of ownership, position, contract, or otherwise.

“Council of Governments Regions” means one of the four rural Councils of Governments in Arizona serving regional planning districts. The four rural councils and the districts they serve are: Northern Arizona Council of Governments (**NACOG**), serving the Region 3 Counties of Apache, Coconino, Navajo and Yavapai Counties; Western Arizona Council of Governments (**WACOG**), serving the Counties of LaPaz, Mohave and Yuma in Region 4; Central Arizona Association of Governments (**CAAG**), serving Region 5: the Counties of Gila and Pinal; and South Eastern Arizona Governments Organization (**SEAGO**), serving Region 6, the counties of Cochise, Graham, Greenlee and Santa Cruz.

“Deadline Date” means on or before 4:00 p.m. Mountain Standard Time of the day designated by ADOH as the last day to submit an application for a competitive allocation round.

“Deferred Developer Fee” means a certain sum of money owed to the Developer and evidenced by a promissory note, partnership agreement, or other written agreement acceptable to ADOH, such fee to be repaid subject to the applicable project’s cash flow after payment of operating expenses of the project and after payment of debt service for all superior liens.

“Determination of Qualification” means a letter issued by ADOH in accordance with IRC Section 42(m), that indicates that the project, which has utilized tax-exempt financing, qualifies for an amount of tax credits and is in compliance at the time of the letter with all rules established by this Plan.

“Determination of Qualification Fee” means the fee payable after ADOH determination that an application represents a feasible and viable project with a likelihood of completion and it is payable prior to the issuance of a Determination of Qualification or Reservation. (See Section 6.4)

“Developer” means any legal entity or person, which provides or arranges for design, financing, or construction services in connection with a Project.

“Development Team” means the entities and professionals assembled to develop and manage the project, typically comprising the Developer(s), general partner, contractor, property management company, tax attorney, certified public accountant, and all other project Consultants.

“Employee Unit” means a Unit set aside by project management as a Residential Rental Unit for a manager, or a maintenance person, and/or a security officer (see Arizona Department of Housing LIHTC Compliance Manual, Section 3.2.1.). ADOH considers Residential Rental Units as Low-Income Units. Industry standards indicate that one manager’s Unit and one maintenance person’s Unit are needed per one hundred units. One security officer’s Unit per project is allowed if management can show that the Unit is reasonably required. Project management, in its discretion, may designate such units for employees or return them to service as Low-Income Units as circumstances dictate. In accordance with IRS Revenue Ruling 92-61, while these units are employee units they shall be included in the eligible basis of the building but shall be excluded from both the numerator and the denominator of the applicable fraction. In mixed-income properties, ADOH assumes that any employee units are taken from the low-income rather than the market-rate side.

“Extended Use Agreement” means a covenant that runs with the land on which the project is developed, restricting the use of land by the Owner and its successors to the terms and conditions of the project, as approved by ADOH.

“Extended Use Period” means the total minimum commitment of 30 years by the Owner under the Extended Use Agreement.

“Extended Warranty” means any construction warranty with an initial term of two years or more.

“Federal Subsidy” for the purposes of tax credits, Federal Subsidies include federal grants and below market rate federal loans through programs such as those administered by HUD (with some exceptions for CDBG and HOME) and Rural Development, tax-exempt financing and other locally administered low-interest loans or grants from federal sources. Use of these financing sources may require reductions in eligible basis or reductions in a project’s maximum Applicable Credit Percentage (see IRC Section 42(d)(5)(A) and 42 (i)).

“Final Allocation Fee” means the fee payable upon the issuance of IRS Form 8609 equal to 2% of the Allocation.

“Financial Statements” means a complete and accurate income statement, cash-flow statement, balance sheets and accompanying notes prepared according to Generally Accepted Accounting Principles.

“Financial Beneficiary” means a Person who is to receive a financial benefit of: a) 3% or more of total estimated project cost if total estimated project cost is \$5 million or less, and b) 3% of the first \$5 million and 1% of any costs over \$5 million if total estimated project cost is greater than \$5 million. This definition does not include the Owner of the tax credit project unless the Owner is also the Developer or the Builder and meets the above financial requirements.

“Funding Gap” means the amount by which projected development funds exceed projected available funds.

“Gap Financing” means funding through one or more programs administered by ADOH that may be available to a project to fill an Equity Gap.

“Hard Costs” refers to project development costs described by Form 3, Item 24, Sections II and III, Site Demolition and Preparation and Direct Construction Costs. Hard costs do not include off site costs unless such costs are chargeable to the project in accordance with I.R.C. § 42.

“HERA” refers to the *Housing and Economic Recovery Act of 2008*, Pub.L. 110-289, and its changes to the Low Income Housing Tax Credit program.

“Historic Preservation Project” means: (i) a structure individually listed in the National Register of Historic Places, or; (ii) a structure certified by the National Parks Service as contributing to a Register District. A Register District is a designated area listed in the National Register, or listed under state statute or local ordinance as substantially meeting the requirements for listing of districts in the National Register.

“HUD” means the United States Department of Housing and Urban Development.

“Identify of Interest” means any financial or ownership interest, direct or indirect, between Developer and another Person.

“Land Control” means applicant’s evidence of ownership or control over the land required for the project in the form of: (i) a binding Commitment Letter from a governmental entity to transfer land to applicant; (ii) a recorded deed with applicant as grantee, (iii) a long term lease with applicant as grantee or (iv) a lease option or fully executed purchase option agreement between applicant and Owner of property as recorded in jurisdiction of property.

“LIHTC” means the Low-Income Housing Tax Credit program, a program of the Internal Revenue Service that provides federal income tax credits to owners of qualifying residential rental projects.

“Letter of Interest or Intent” means the documentation addressed to the applicant/Developer of an interest or intent to provide funding, setting forth the writer’s intention to negotiate the financing and stating the amount, interest rate, security, repayment terms and including the minimum debt service coverage ratio and loan-to-value ratio used by the lender to size the financing, as applicable. If the sole Developer of the project is a non-profit organization, the Letter of Interest or Intent from the investment syndicator must state that the non-profit holds the right of first refusal to acquire the project following the fifteen-year compliance period. Such letters or documents may be subject to reasonable, commercially acceptable contingencies, as determined by ADOH in its sole discretion.

“Local Government” means the governing body of the city, town, county or tribal government having jurisdiction over the real property upon which the project will be located.

“Low-Income Unit” means any Unit in a project if the Unit is rent restricted (as defined in IRC Section 42 (g)(2)) and the individuals occupying such Unit meet the income limitation applicable under IRC Section 42 (g)(2) for the project.

“Major Life Activities” for the purpose of the American Disabilities Act means “functions such as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.” See 45 CFR § 84.3(j)(2)(ii).

“Market Demand Study” means a third party report that outlines the overall market demand for a project within a defined market area and identifies, with significant detail, the current supply of similar units, demographics, and economics contained within the market area.

“Material Changes” are as described in Section 4.7.

“Maximum Tax Credit Reservation” means a maximum Reservation for any single project or Scattered Site project. One Owner, Developer, Co-Developer or Affiliate of the Developer or Co-Developer with multiple projects cannot exceed a total of \$2.7 million dollars in any Allocation year.

“Metropolitan Statistical Area” is used in this Plan as defined by the Office of Management and Budget (OMB) “Standards for Defining Metropolitan and Micropolitan Statistical Areas” published on December 27, 2000, in the Federal Register (65 FR 82228 - 82238).

“Operating Costs” means the fixed and variable expenses of operating the project, including but not limited to taxes, insurance, utilities, management, and replacement reserves, but excluding debt service.

“Owner” means the legal entity that ultimately owns the project and to which tax credits will be allocated.

“Person” means an individual, partnership, corporation, trust or other entity.

“Physically Disabled Persons” means people who have physical impairments that substantially limit one or more major life activities as defined in 45 CFR § 84.3(j)(2)(ii) or have a record of such impairment.

“Placed in Service” means: (i) for a new or existing building used as residential rental property, the date on which the building is ready and available for its specifically assigned function, i.e., the date on which the first Unit in the building is certified as being suitable for occupancy in accordance with state or local law; and (ii) rehabilitation expenditures that are treated as a separate new building are placed in service at the close of any 24-month period over which the expenditures are aggregated.

“Primary Permanent Funding” means the loan secured by the first lien on the project plus any additional notes secured by subordinate liens on the project, which represent additional debt service requirements intended to be paid from sale proceeds or operating income generated by the project.

“Project” means any project for residential rental property if the project meets the requirement of subparagraph (A) or (B) whichever is elected by the taxpayer:

(A) 20-50 Test - The project meets the requirements of this subparagraph if 20 percent or more of the residential units in such project are both rent-restricted and occupied by individuals whose income is 50 percent or less of area median gross income.

(B) 40-60 Test - The project meets the requirements of this subparagraph if 40 percent or more of the residential units in such project are both rent-restricted and occupied by individuals whose income is 60 percent or less of area median gross income.

Any election under this paragraph, once made, is irrevocable. For purposes of this paragraph, any property shall not be treated as failing to be residential rental property merely because part of the building in which such property is located is used for purposes other than residential rental purposes. Scattered Sites may be considered to be one project if the Scattered Sites meet the above definition and the requirements in the “scattered sites” definition in this Section.

“Property Manager” or “Property Management Company” means the entity responsible for marketing, maintenance, and tenant relations for a building financed with tax credits under this Plan.

“Redevelopment Area” means an area determined by official action of the governing body of the municipality or county to be either:

(a) An area in which a majority of the structures are residential or an area in which there is a predominance of buildings or improvements, whether residential, and which, by reason of dilapidation, deterioration, age or obsolescence, inadequate provision for ventilation, light, air, sanitation, open spaces, high density of population and overcrowding or the existence of conditions which endangers life or property by fire and other causes, or any combination of these factors, is conducive to ill health, transmission of disease, infant mortality, juvenile delinquency or crime, and is detrimental to the public health, safety, morals or welfare; or,

(b) An area that because of the predominance of defective or inadequate street layout in relation to size, adequacy, accessibility or usefulness, unsanitary or unsafe conditions, deterioration of the site or other improvements, diversity of ownership, tax or special assessment delinquency exceeding the fair value of the land, defective or unusual conditions of title, improper subdivision or obsolete platting or the existence of conditions which endanger life or property by fire and other causes, or any combination of these factors, substantially impairs or arrests the sound growth of the municipality, retards the provision of housing accommodations or constitutes an economic or social liability and is a menace to the public, health, safety, morals or welfare in its present condition and use.



“Reservation” means a non-binding, written statement issued by ADOH to the applicant after the application round indicating that ADOH has reserved for the project a specific amount of tax credits which shall receive an Allocation upon the project’s satisfaction of certain conditions.

“Reservation Fee” means the fee to process an application to the point of a Determination which is equal to 8% of tax credits requested, for for-profit and 6% for non- profit developers.

“Residential Rental Unit” means an area legally licensed or permitted for use as a living space containing a sleeping area, bathing and sanitation facilities, and cooking facilities equipped with a cooking range, refrigerator, and sink, all of which are separate and distinct from other residential rental units. *Federal Tax Regulations (FTR) 1.103-8(a) 8(i)*.

“Rural Area” means a “rural area” as defined in 7 C.F.R § 3550.10 and all locations outside of Maricopa and Pima Counties.

“Satisfactory Progress” means that the applicant, including any person with an ownership interest in the applicant or Development Team member, has presented evidence, satisfactory to ADOH, that each Project for which the applicant has received a Determination of Qualification, Reservation, or Allocation in Arizona or any other state, has been Placed in Service on time or otherwise is progressing without unreasonable delay through the various phases of development, i.e., financing, permitting, construction, certificate of occupancy, and rehabilitation.

“Scattered Sites” means projects that meet the following criteria:

1. consist of no more than six (6) non-contiguous parcels within a 15-mile radius of each other;
2. consist of no more than 200 units;
3. all buildings in the project must be under the ownership of one entity;
4. all units in the scattered site application must be managed by one entity;
5. all buildings in the project must be developed under one common plan of financing and considered as a single project by all funding sources;
6. to receive the 130% increase in basis allowed under IRC Section 42, all parcels making up the project must be located within a QCT or DDA;
7. the scattered sites must be appraised as a single proposed development; and
8. each parcel within the proposed project must meet all applicable threshold and scoring criteria.

“Senior Project” means “housing for older persons” as defined in Section 807(b)(2) of The Fair Housing Act, 42 U.S.C. § 3607, as it may be amended from time to time.

“Special Needs Populations” ADOH includes the homeless, the seriously mentally ill, the physically disabled, individuals infected with the human immune-deficiency virus or other populations with specialized housing needs. Other populations with specialized housing needs may include:

- Homeless Individual(s): a person(s) who has lived: a) in places not meant for human habitation such as cars, parks, sidewalks, abandoned buildings, etc.; b) in an emergency or shelter facility; c) in a transitional housing facility (not permanent housing).
- Seriously Emotionally Disturbed, i.e., persons between birth and age 18 who currently or at any time during the past year have had a diagnosable mental, behavioral, or emotional disorder that resulted

in a functional impairment which substantially interferes with or limits the person's role or functioning in family, school, or community activities. Seriously emotionally disturbed persons are to be certified by a referral agency recognized by ADOH.

- Developmentally Disabled Persons suffering from a severe, chronic condition attributable to a physical or mental impairment manifesting itself before the age of 22 and likely to continue indefinitely. Developmentally disabled persons are to be certified by a referral agency recognized by ADOH.
- Victims of Domestic Violence as certified by referral agency recognized by ADOH.
- Individuals Suffering from Chronic Substance Abuse, as certified by a referral agency recognized by ADOH.

"State Annual Credit Authority" means the total amount of tax credits allocated to the state by the IRS each year based on the population of the state and multiplied by a dollar amount per resident that is adjusted annually for inflation.

"Supportive Housing" means affordable permanent independent rental housing for persons who are homeless or have disabilities. These populations are limited, however, to the following groups: Homeless Individuals; seriously mentally ill; Seriously Emotionally Disturbed; physically disabled; Developmentally Disabled Persons; victims of AIDS/HIV; Victims of Domestic Violence; and Individuals Suffering from Chronic Substance Abuse. See definition of "Special Needs Populations", above for more complete definitions of these groups. Supportive services are provided to residents of supportive housing on an as-needed basis for as long as they are needed, with the purpose of helping residents achieve maximum possible self-sufficiency and maintain their permanent housing. Supportive services may be provided directly by the Owner or through coordination with existing service agencies and may be delivered through a combination of both on- and off-site service delivery mechanisms, with the provision that an on-site service coordination capacity must be maintained.

"Supportive Services" means services such as attendants, housekeeping, assistance with activities of daily living, transportation, and training provided by the Owner to help residents maintain their lifestyle and achieve self-sufficiency.

"Syndication Rate" means a ratio that reflects the price to the project for \$1.00 of tax credits awarded.

"Ten-Year Rule", means the following:

(A) In order for an existing building to qualify as part of a tax credit project, the applicant must acquire the building from an unrelated person who:

- (1) Has held the building for at least ten years at time of the application, and
- (2) Did not make substantial improvements during that period that are subject to 60-month amortization under IRC Section 197(k) or the Tax Reform Act of 1986.

(B) The Ten-Year Rule may be waived by the United States Secretary of the Treasury in the case of distressed sales of certain federally-assisted projects, prepayment of mortgages that result in buildings being converted to market use, buildings acquired from failed depository institutions, and single family residences used for no other purpose than a principal residence by the Owner.

(C) The legal opinion provided by counsel for the applicant must provide a detailed analysis of the Placed in Service dates and acquisition dates for Projects submitting an application in conjunction with the 10-Year Acquisition Credits.

(D) An appraisal that separates the appraised value of the land from the appraised value of the building must be submitted with the application when 10-year acquisition credits will be claimed.

“Unit” means any accommodation containing separate and complete facilities for living, sleeping, eating, cooking, and sanitation (e.g. a residential dwelling, consisting of one apartment, one single family home, one half of a duplex, etc.). Such accommodations may be served by centrally located equipment such as air conditioning or heating.

“Water Conservation” means the preservation and careful management of water resources.

“Xeriscape Landscaping”, by definition, is landscaping designed specifically for areas that are susceptible to drought, or for properties where Water Conservation is practiced.

**Exhibit B**  
**Sample Letter of Acknowledgement**  
**State of Arizona Low Income Housing Tax Credit Program**  
*This form is sent to local jurisdictions by the Arizona Department of Housing*

Date

Contact  
Municipality  
Address  
City

RE: Project Name

Dear City/Town Manager:

The State of Arizona has received an application for a reservation of tax credits within the corporate limits of the ([Municipality](#)). A description of the project is enclosed. As you may know, the Low Income Housing Tax Credit (LIHTC) program offers a developer federal tax credits to promote the development of affordable rental housing for families earning no more than 60% of the area median income. The project developer is, ([Developer Name](#)), the contact person for this project ([Name](#)), may be reached at ([Phone Number](#)). Please complete the enclosed letter and return it to the Arizona Department of Housing (address noted on the enclosed letter) by ([Date](#)) at 5:00 P.M. This will enable the Arizona Department of Housing to incorporate your comments in our assessment of the project. In addition, please attach a letter of comment on the project's market study and any disagreements that you may have with the market study. A copy of the market study is available from the developer.

*Should the Arizona Department of Housing not receive the enclosed letter by the stipulated date, it shall deem the community to be not in support of the project and reject the application.*

Your review should occur consistent with applicable Fair Housing laws in Arizona. Please consult competent legal advice and/or the Attorney General Fair Housing Division at (602) 542-5025 should you require assistance in this regard. While the State does not require formal action by the local governing body, you may wish to consider this for the project.

Thank you for your assistance and cooperation on this matter. Please contact me at (602) 771-1031 for any further information you may require. Please remember that time is of the essence concerning this issue.

Sincerely,

Randy Archuleta  
Rental Program Administrator

Enclosure

**COMMUNITY LETTER OF ACKNOWLEDGEMENT**

**Exhibit B**

*This form is sent to local jurisdictions by the Arizona Department of Housing*

Date: \_\_\_\_\_

Arizona Department of Housing  
Attn: Rental Program Administrator  
1110 W. Washington, Suite 310  
Phoenix, Arizona 85007

Dear Manager:

The \_\_\_\_\_ of \_\_\_\_\_ has received your letter notifying us that the proposed development \_\_\_\_\_ is under consideration by the Arizona Department of Housing for an allocation of Low Income Housing Tax Credits.

I. We have reviewed the aforementioned project and find that:

The proposed acquisition and development of the above referenced project will provide safe and affordable housing that will comply with Fair Housing Laws in Arizona. It is believed that the proposed project is also consistent with the housing policies, strategies, priorities and procedures of this municipality. Accordingly, the application proposed for this development is supported by this municipality.

The proposed acquisition and development of the above referenced project does not appear to be consistent with the housing policies, strategies, priorities and procedures of this municipality. Therefore, this municipality does not support the proposed development.

II. Market demand study:

We have reviewed the market demand study and/or appraisals for the proposed project, dated, and have attached any comments regarding this study.

We have not reviewed the market demand study and/or appraisal.

The undersigned has the authority to bind the \_\_\_\_\_ with respect to the matters set forth in this letter. Please contact me at \_\_\_\_\_ for any further information you may need on this matter.

Sincerely,

\_\_\_\_\_  
(Name)

\_\_\_\_\_  
(Title)

\_\_\_\_\_  
(City/Town/County)

## Exhibit C

### Year 2009 Difficult Development Areas and Qualified Census Tracts

The following locations are considered "Metropolitan Difficult Development Areas" in Arizona  
(Subject to annual revision by the ADOH as updated by the Housing and Urban Development (HUD):

**Metropolitan Areas:**

Coconino County (Flagstaff, AZ MSA), Yavapai County (Prescott, AZ MSA), Yuma County (Yuma, AZ MSA)

**Metropolitan Qualified Census Tracts:**

<b>Coconino County:</b>	8.00	10.00	18.00	9411.00	9422.00	9445.00		
<b>Mohave County:</b>	9404.00							
<b>Maricopa County:</b>	Phoenix-Mesa-Scottsdale, AZ MSA							
202.02	506.03	608.00	614.00	716.00	822.02	926.00	927.04	927.05
927.11	928.00	929.00	931.04	1033.04	1033.05	1033.06	1045.01	1046.00
1071.02	1072.01	1086.01	1090.00	1091.00	1092.00	1096.04	1098.01	1101.00
1102.00	1103.00	1107.01	1112.02	1112.03	1114.01	1115.01	1116.02	1121.00
1122.01	1122.02	1123.02	1125.07	1126.01	1126.02	1127.00	1128.00	1129.00
1131.00	1132.01	1132.02	1132.03	1133.00	1134.00	1135.00	1136.01	1136.02
1137.00	1138.00	1139.00	1140.00	1141.00	1142.00	1143.01	1143.02	1144.01
1144.02	1145.00	1146.00	1147.01	1147.02	1147.03	1148.00	1149.00	1150.00
1151.00	1152.00	1153.00	1154.00	1155.00	1156.00	1158.01	1158.02	1159.00
1160.00	1161.00	1162.03	1166.02	3187.00	3191.01	3191.02	3192.00	3200.02
4213.02	4214.00	4216.02	4220.01	9407.00	9410.00	9411.00		

**Pima County:** Tucson, AZ MSA

1.00	3.00	4.00	5.00	9.00	10.00	13.01	13.02	14.00
15.00	21.00	22.00	23.00	24.00	25.03	26.01	27.01	28.01
28.02	31.01	37.02	38.01	38.02	39.02	41.04	41.11	43.20
45.09	51.00	9406.00	9407.00	9408.00				

**Pinal County:**

4.0010.00	12.00	15.00	19.00	20.00	9406.00	9410.00	9411.00	
9412.00								

**Yuma County:** Yuma, AZ MSA

1.003.02	4.01	106.00	114.01	115.01	116.00			
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**Nonmetropolitan Qualified Census Tracts:**

<b>Apache County:</b>	9401.00	9426.00	9427.00	9440.00	9441.00	9442.00	9443.00	
	9449.00	9451.00						

<b>Cochise County:</b>	6.00	8.00	9.00					
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<b>Gila County:</b>	9402.00	9404.00						
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<b>Graham County:</b>	9405.00							
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<b>Navajo County:</b>	9401.00	9403.00	9410.00	9411.00	9423.00	9424.00	9444.00	
	9445.00	9447.00	9448.00					

<b>Santa Cruz County:</b>	9964.02							
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**Nonmetropolitan Difficult Development Areas:**

Apache County	Cochise County	Gila County	Graham County	La Paz County
Navajo County	Santa Cruz County			

## **Exhibit D**

### **Arizona Department of Housing (ADOH) Year 2009**

### **Mandatory Design Guidelines for Multifamily Rental Housing**

The following Design Guidelines have been developed to assist architects and developers to understand the factors considered by the Arizona Department of Housing (the “ADOH”) in the evaluation of multifamily rental housing. The ADOH generally yields to the local jurisdiction in all matters pertaining to development and construction standards. Therefore, if a local jurisdiction has published more restrictive standards than those stated below; the standards of the local jurisdiction will apply. The ADOH will expect the finished product to be substantially similar to what was represented in the Application. This representation pertains to building materials, amenities, and equipment. The ADOH must approve any Material Change or it may result in a reduction or recapture of tax credits.

The ADOH values excellence in design because well-designed housing meets the needs of tenants, attracts market renters and promotes community acceptance of housing financed by the ADOH. All projects must meet or exceed each of these standards, as well as the minimum requirements of all applicable building codes and regulations. In addition, projects must meet ADA and Fair Housing Requirements.

Where the ADOH’s minimum standards are in conflict with HUD or State Housing Fund requirements for the design and construction of manufactured housing, the HUD or State Housing Fund requirements will prevail. For items not covered by the HUD or State Housing Fund requirements, e.g., site drainage and site lighting, the ADOH’s minimum standards will prevail.

#### **GENERAL DESIGN**

Provisions must be made for handicapped access in conformance with the requirements of federal and state law including the Fair Housing Act and the Americans with Disabilities Act.

The building design should be appropriate and integrated into the topography and neighborhood.

The density characteristics and building design should conform to those of the surrounding area.

Amenities should reflect the desires of the target market. Amenities should be shown clearly on the plans and should be fully described within the narrative portion of the application package. Laundry facilities and community rooms should be proportioned to the total number of units.

#### **BUILDING CODE STANDARDS**

1. All projects financed and built under the program are to meet or exceed the following development standards:
  - Uniform Building Code, Uniform Mechanical Code, Uniform Plumbing Code (1994 Editions), International Building Code
  - National Electrical Code (1993 Edition)
  - 2006 International Energy Conservation Code (IECC)
  - Federal Fair Housing Act (42 U.S.C. § 3601 et seq.), Arizona Fair Housing Act (A.R.S. § 41-1491 to 41-1491.37), and the HUD Fair Housing Regulations (24 C.F.R. Part 100, Subpart D)
  - Uniform Federal Accessibility Standards (Section 504 of the 1973 Rehabilitation Act) and the Americans with Disabilities Act, as applicable.

## **INTERIOR DESIGN**

All residential dwelling units must meet minimum unit size requirements. The square footage measurements below will be for heated square feet only. They are measured finished interior wall to finished interior wall, and do not include exterior wall square footage. Unheated areas such as patios, decks, porches, stoops, or storage rooms cannot be included.

Efficiency	450 net square feet
1 bedroom	650 net square feet
2 bedroom	800 net square feet
3 bedroom	1,050 net square feet
4 bedroom	1,200 net square feet

1. The minimum bedroom size is 120 net square feet.
2. Kitchens must be equipped with pantries or broom closets.
3. Other features which must be provided include:
  - Linen closets outside bathrooms
  - Bulk storage for items like snow tires, suitcases and sport equipment. (This may be located outside each unit.)

## **LARGE UNIT DESIGN (applicable to units having three or more bedrooms)**

The common spaces of units should be proportionately larger as the number of bedrooms increases.

Three-bedroom units must have at least 1.75 baths and four-bedroom units must have 2 full baths.

## **EXTERIOR DESIGN**

Low maintenance exteriors should be planned.

A complete landscape plan, which maximizes existing natural features or otherwise enhances open space, is required. Wherever possible, native plants should be used. Maintenance systems (e.g. sprinkler and irrigation systems) must be installed to maintain landscaping.

“Xeriscape Landscaping”, by definition, is landscaping designed specifically for areas that are susceptible to drought, or for properties where water conservation is practiced.

Trash removal areas must be screened.

Buildings and dwelling units must be individually marked with visible, contrasting identifying devices to minimize the response time for receiving aid by police and/or emergency personnel. The building identifying devices must be well lighted from dusk till dawn.

Single lever deadbolts and eye viewers are required on all entry doors to residential units.

## **ON-SITE PLAYGROUND AREAS**

Recreational facilities must be provided for different age groups. (For example, sandboxes within sight of units for children under 5, “tot lots” for ages 5 to 12, and a basketball court for ages 12 and older.)



Play areas and playgrounds for children should be located away from high automobile traffic patterns, and situated so that the play area is visible from the maximum number of dwelling units possible for safety.

Designated play areas and playgrounds are considered “common areas”, and must be on an accessible route per accessibility codes.

A bench must be provided at playgrounds to allow a child’s supervisor to sit and rest comfortably. The bench must be anchored permanently, must be on an accessible route, and must be weather resistant. All benches must have a back.

A “warning” sign must be posted to advising residents and guests that using the playground is at their own risk. The sign must be posted at a visible location, and use contrasting colors for better identification.

### **HOUSING FOR SENIORS**

Projects that are intended to serve 80% or more elderly individuals (persons that are 55 years of age or older) must consist of single story buildings or multi-level buildings with elevators serving all levels of the building.

### **REHABILITATION PROJECTS**

Applications must propose a scope of work appropriate to the building(s), as reflected in the Physical Needs Assessment, but should not involve unnecessary work. Proposals must address the following elements:

All Additions, Alterations or Renovations shall comply with IECC 2006 [EB] 101.2.2.2

HVAC replacements and new installations shall include:

- Seal all accessible duct connections including the drywall to boot connections with duct mastic or approved equivalent.
- Installation of new duct systems shall comply with the new construction Energy Conservation Air Distribution Systems standard.
- Room Pressures shall comply with the new construction Energy Conservations standard.

Insulation

- Insulation must be installed such that there are no gaps, voids, compression or wind intrusion of the insulation. The insulation and air barrier (e.g. sheetrock) must be continuous and aligned in all cases.

Making “common areas” handicapped accessible.

Improving site and exterior dwelling lighting, landscaping/fencing, and installing finish material that will withstand extended weathering in the project’s location.

Adding porches or other aesthetic features to enhance the exterior quality and interest of the project.

Use energy-efficient related products to replace inferior ones, including insulated windows and doors, and adding additional insulation.

Improving heating and cooling units, plumbing fixtures, water heaters, toilets, sinks, faucets and tub/shower units, especially with use of water conserving equipment and systems.

Improving quality of interior conditions and fixtures, including carpet, vinyl, interior doors, painting, drywall repairs, cabinets, appliances, light fixtures and mini-blinds.

Where possible, upgrading bathrooms and kitchens.

## **COMMON AREA FACILITIES**

### **On-Site Laundry Facilities**

Laundry facilities are required at all developments with twenty or more residential dwelling units.

There must be a minimum of one washer and one dryer per twelve dwelling units if washer/dryer hookups are not available in each dwelling unit. If hookups are available in each dwelling unit, there must be a minimum of one washer and one dryer per twenty dwelling units.

A "folding" table or countertop must be installed.

The laundry room must have a window and adequate entrance lighting, which must be on from dusk to dawn to assist in greater security during evening hours.

### **Community/Office Space**

All special needs and elderly developments must have a community room on site or immediate access to such space on an adjacent property.

All developments consisting of twenty (20) residential dwelling units or more must have a site office of at least 200 square feet (inclusive of handicapped toilet facility) and a maintenance room of at least 100 square feet.

### **Community Service Facility**

A Community Service Facility must be designed to serve primarily individuals whose income is 60 percent or less of AMGI, under Section 42(d)(4)(c)(iii). This requirement will be satisfied if the following conditions are met:

First, the facility must be used to provide services that will improve the quality of life for community residents. Second, the taxpayer must demonstrate that the services provided at the facility will be appropriate and helpful to individuals in the area of the project whose income is 60 percent or less of AMGI. This may, for example, be demonstrated in the market study required to be conducted under section 42(m)(1)(A)(iii), or another similar study. Third, the facility must be located on the same tract of land as one of the buildings that comprise the qualified low-income housing project. Finally, if fees are charged for services provided, they must be affordable to individuals whose income is 60 percent or less of area median income.

The project must be located in either a QCT or DDA area, and services must be provided throughout the compliance period.

### **Specific Construction Features**

The following represent *minimum* design standards to be met by each tax credit project. These minimum requirements (or alternatives of equal or greater quality and durability) will be imposed on every Applicant, regardless of project size, amenities, or geographic location, unless the standards required by a local jurisdiction exceed those established by the ADOH.

The Applicant will be required to certify in the Applicant Affidavit, Release and Oath (see Form 3, "Low-Income Housing Tax Credit Application") that these minimum design features will be complied with in the construction of the project and that, if they are not, credits will be surrendered to the ADOH. The Applicant will also be required to certify full compliance with these standards prior to issuance of IRS Forms 8609.

All construction features in the LIHTC project should conform to goals of attractiveness, utility, efficiency, and long-term durability. All features should be designed for long-term extended use (50-year minimum). A specific goal of the program is to minimize monthly tenant Operating Costs.

The project architect should provide relief on all surfaces by designing varied building heights and rooflines and distinctive window and entry door detail. The architect should vary building orientations along the street as well as building masses, clusters, and colors.

### 1. Site Work

- Termite treatment is required as part of site work.
- Site planning for drainage. Minimum slopes required for proper drainage are:
  - Slopes away from foundations: 5% first 10 feet (6 inches in first 10 feet)
  - Slopes on paved areas: can be a minimum of 0.7% for asphalt, 0.5% if a concrete valley gutter is installed; 1% (1/8 inch per foot)
  - Exterior grade should be shown a minimum of 6-8 inches below the top of slabs on grade.

### 2. Foundation and Slabs

- Soils report required by an Arizona Registered Engineer
- Cast in place concrete foundations suited to specific locations (design for local frost depth where applicable), designed by a registered professional.
- Four-inch minimum concrete slab on four inches of ABC aggregate, or as designed by an Arizona Registered Structural Engineer. Concrete slabs, including carports and driveways, should be reinforced if directed by the soils report using the following methods or equivalent:
  - 6x6 10/10 WWF wire mesh, centered in the slab vertically, OR
  - Polypropylene fibers in the concrete mix for slabs (Fibermesh is a typical manufacturer). Application of the product should be in the proportions and according to the recommendations of the manufacturer.
  - Post-tensioned tendons as designed by an Arizona Registered Structural Engineer following the additional recommendations of a Geotechnical Report of the soil conditions by an Arizona Registered Geotechnical Engineer.

**Note: All slabs and foundations must be designed by an Arizona Registered Structural Engineer.**

### 3. Frame and Stucco Construction

- Stucco: three coat cement stucco with metal expansion joints or 3/8" fiber-reinforced stucco on wire lathe, on one-inch foam insulation board.

- Frame: 2x4 or 2x6 wood or metal studs in exterior and party walls, 2x4 in other walls. The choice of 2x4 or 2x6 will be dictated by the methods selected to meet International Energy Conservation Code requirements, sound barrier requirements, and engineer's specifications. Exterior walls should be designed to achieve a U-value of .056. Wood floor framing with 3/4" or 5/8" plywood sheathing and lightweight concrete or equivalent gypsum topping.

#### 4. Roof

- Concrete tile roof or architectural grade shingles with a minimum life of 40 years on one layer 40 lb. felt with wood truss framing, minimum slope 3:12. Flat roofs must have a minimum 3/8"/1' slope.
- In rehab work where existing flat roofs are present properly drained, built-up roofs should be constructed with a minimum of 72# fiberglass cap sheet with mineral surface over three layers of at least 30# felt with the base layer nailed to the plywood decking.
- An Arizona Registered Structural Engineer must design roof trusses.
- Roof Sheathing should be called out on the Roof Framing Plan. Required: minimum 1/2 inch exterior grade plywood or 1/2 inch exterior grade OSB (oriented strand board). All sheathing must be gapped 1/8 inch on the edges and ends with metal clips appropriately installed on the trusses.

#### 5. Electrical

- All standard basic service and lighting must conform to National Electric Code (1993 or later) and local codes. Smoke detectors must be hard-wired.

#### 6. Plumbing

- Copper, CPVC or PEX for domestic water, PVC outside and for sanitary (polybutylene piping is prohibited).
- Durable fixtures. All bathroom sinks and toilets to be porcelain. Enamel finish steel tub with PVC tile or cultured marble surrounds, prefinished wall panels or a one-piece epoxy resin tub/shower unit or four-piece acrylic tub/surround or shower/surround
- Durable toilet accessories; medicine cabinet with mirror.
- Water Conservation devices, e.g., alternative and low-flow toilets, low-volume showerheads, aerator or flow restrictor devices in the faucets, and front-loading or horizontal axis washers

#### 7. Energy Conservation

Project must comply with the 2006 International Energy conservation Code (IECC). Compliance with this code shall be determined in accordance with Sections 101.3.1 and 101.3.2 of the IECC. Construction documentation shall be submitted for review in accordance with Section 104 of the IECC.

- Insulation:
  - Insulation must be installed such that there are no gaps, voids, wind intrusion or

compression of the insulation. The insulation and the air barrier (e.g. sheetrock) must be continuous and aligned in all cases. Sound insulation is required in party walls.

- Minimum HVAC efficiencies
  - AC: 13 SEER
  - Heat Pump: 13 SEER and 7 HSPF
  - Combustion furnace: 80% AFUE

Note: Electric resistance heating can be used only if the Owner documents, utilizing the IECC Systems Analysis (Chapter 4) approach that the utility costs for the structure are equal to or less than the IECC standards design of like architectural characteristics. The analysis will be completed utilizing a combustion furnace for the standard design with an efficiency value of 80% AFUE.

- Air Distribution Systems:
  - All joints in the air distribution system shall be sealed with duct mastic or approved equivalent.
  - For duct systems located outside the conditioned space, total duct leakage in CFM, measured at 25 Pascals pressure, shall be less than or equal to 3% of the square footage served by the system (e.g., 1,000 sq. ft. unit x 3% + 30 CFM allowable leakage).
  - Airflow to each room will match design airflow calculations to within +/- 10%.
- Room Pressure

Under normal operating conditions, an air handler cannot create room pressures with a magnitude greater than +/- 3.0 Pascals, with reference to outside, anywhere in the Unit.

- Indoor Air Quality
  - Exhaust hoods above gas ranges must be vented to the outside.
  - Unvented combustion appliances (fireplaces, heaters or gas logs) are not allowed.
  - A carbon monoxide detector, hardwired, shall be installed in all Units with an attached garage or with any combustion appliance located in the conditioned space.

### **Inspections of Energy Conservation Features-**

#### **Contact Arizona Energy Office at (602) 771-1149**

Inspections of energy features are to be carried out by AEO or approved agent. The initial inspection will be on the building plans approved by the local governing body and then will be carried out randomly, on approximately 10% of the Units. The Developer must notify AEO of the construction schedule to facilitate

inspections that need to be completed at various phases of construction. AEO will document all items that pass inspection and will consult with the Construction Superintendent on items that do not pass.

Inspections will include:

- Building plan review: after the local government body has approved the building plans, one set of construction plans must be submitted to the AEO prior to the beginning of construction.
- Insulation inspection (pre-sheetrock) to verify R-value and that there are no gaps, voids or compression of the insulation.
- Verification of HVAC equipment efficiency.
- Duct testing of completed system (pre-sheetrock) to verify leakage amounts and duct R-values.
- Room airflow on completed Units.
- Room pressures on completed Units.
- Window Inspection
- Verification of carbon monoxide detector installation where required.

#### 8. Doors

- Solid wood, hollow wood when used with exterior-rated glue, fiberglass or insulated metal ~~outside~~ doors with wood or metal frame. Paint grade pre-hung hollow-core interior doors with residential grade finish hardware.

#### 9. Floors

- Carpet, VCT and sheet vinyl.
- Base of painted wood, vinyl, rubber or MDF compressed wood.

#### 10. Walls & Ceilings

- Painted ½" gypboard, moisture resistant at wet areas, type 'X' at areas required by prevailing building code.

#### 11. Appliances

- Range/oven, exhaust hood above range, refrigerator, disposal, dishwasher.

#### 12. Cabinets

- Solid wood or particleboard with durable laminate; durable laminate counter tops.

#### 13. Exterior Stairs, Entrance Landings, and Balconies

- Should be constructed of precast concrete treads on painted steel framing with painted steel handrails or according to a system of equivalent or greater durability and quality.

#### 14. Exterior Fencing.

- Fence the property (masonry preferred) to limit access of non-residents, as appropriate and desired by the affected jurisdiction. Gates are not required unless specified by the local jurisdiction.

#### 15. Exterior Finish

- Select a finish material that will withstand extended weathering in the project location.
- Desert and mountain localities: three-coat cement stucco with metal expansion joints, or 3/8 inch, fiber-reinforced stucco on wire lath, on 1-inch foam insulation.
- Mountain localities at higher elevations; various siding products (fiberboard, mineral board or vinyl) may be substituted for stucco if warranted by the manufacturer for a minimum of 40 years.

#### 16. Site Lights

- For security purposes, provide adequate site lighting, especially at the rear of the buildings and for walkways, parking, corridors and stairways.

## Exhibit E

### Sample Legal Opinion

Date:

Rental Programs Administrator  
Arizona Department of Housing  
1110 West Washington, Suite 310  
Phoenix, Arizona 85007

Dear Administrator:

This opinion letter is rendered on behalf of \_\_\_\_\_ in connection with the application of \_\_\_\_\_ (the "Applicant") for an allocation of low-income housing credits pursuant to Section 42 of the Internal Revenue Code of 1986 as amended (the "Code"), by the Arizona Department of Housing (the "ADOH").

We have reviewed the following:

1. Organizational documents (as applicable, the articles of incorporation, bylaws, operating agreement or partnership agreement) of the Applicant;
2. Proposed or actual organizational documents (as applicable, the articles of incorporation, bylaws, operating agreement or partnership agreement) if available, of the proposed owner and operator ("Owner") of the project located at \_\_\_\_\_ (the "Project").
3. The ADOH's 2009 Qualified Allocation Plan (the "QAP") and the required form of the Declaration of Affirmative Land Use and Restrictive Covenants Agreement (the "LURA") which is an extended low-income housing commitment agreement with the ADOH which, when recorded, will contain certain restrictive covenants running with the Project as specified in Section 42 (h)(6) of the Code: and
4. Such other documents as necessary to render the opinions set forth below.

As to questions of fact material to our opinion, we have relied upon, and assumed due and continuing compliance with the provisions of the documents, and have relied on certifications, covenants and presentations by the Applicant or Owner furnished to us without undertaking to verify these items by independent investigation. We are not aware of any facts that are inconsistent with these assumptions.

At the time of allocation for low-income housing credits, the Owner is required to enter into the LURA. For the purpose of this opinion we have assumed the execution, delivery, and the recording of the LURA and continuing compliance with the terms of the LURA.

Based upon the foregoing, we are of the opinion, as of this date, that:

1. The Applicant, and Owner if currently organized, are duly organized, validly existing and in good standing under the laws of the State of Arizona. Additionally, the Applicant and the Owner have the power under its respective organizational documents to construct, rehabilitate or otherwise acquire and operate the Project, to submit an application to the ADOH for tax credits, to comply with the terms of the LURA and to perform such other actions as are necessary to comply with the Allocation Plan and Section 42 of the Code.
2. Type of Project.
  - a. New Construction Project. The Project will be constructed by the Applicant and will constitute new buildings whose original use will commence with the Applicant; or



b. Acquisition/Rehabilitation Project.

- (1) Based on representations of the Applicant, the Project to be purchased by the Applicant or Owner will be constructed by the Applicant or Owner and contains existing buildings that the Applicant has or will substantially rehabilitate (as that term is defined in the Code) and, as required by Section 42(d)(2)(b);
  - (2) The Building was not previously placed in service by the Applicant or the Owner or any person who was a related person, with respect to the Applicant or Owner at the time it was previously placed in service; and;
  - (3) Except as provided in Section 42(f)(5), a credit is allowable under Section 42(a) by reason of Section 42(e) with respect to the building.
3. \_\_\_ percent (\_\_\_\_\_) or more of the residential units in the project will be rent restricted within the meaning of Section 42(g)(2) of the Code and will be occupied by individuals whose income is \_\_\_\_\_percent (\_\_\_\_\_% ) or less of the area median gross income.
  4. All residential units of the Project will be suitable for occupancy and will be used on a non-transient basis as that term is defined by Section 42(i)(3) of the Code.
  5. The gross rent (as defined in Section 42(g)(2)(B) of the Code) paid by individuals in residential units included in the calculation for qualification as a low-income housing project does not exceed thirty percent (30%) of the income limitations as set forth in the Code.
  6. Except as provided in the Code, no other person related to the Applicant or Owner as a partner (as defined by Section 42(d)(2)(D)(iii) of the Code) will occupy a residential unit.
  7. Any buildings in the Project will meet the above criteria within twelve (12) months after such building is placed in service and all buildings in the project previously placed in service will meet these criteria at the time any later building in the Project is placed in service.
  8. The Applicant or the Owner will comply with these representations for at least fifteen (15) years to include any extended use period as specified in Section 42(h)(6) of the Code.
  9. The Project will be eligible for an allocation of low-income housing tax credits under section 42 of the Code.

Sincerely,

---

Signature

---

Type or Print Name

**THIS EXHIBIT IS TO BE COMPLETED AND EXECUTED ON FIRM LETTERHEAD**

## Exhibit E-1 Sample CPA Opinion

Date

Rental Programs Administrator  
Arizona Department of Housing  
1110 W. Washington, Suite 310  
Phoenix, AZ 85007

RE: **Project Name**

Dear Administrator:

We have reviewed the detailed breakdown of costs for the project known as **Project Name** located in **City**, Arizona.

Based on the above documents, the qualified basis of the project eligible for an allocation of low-income housing credit pursuant to Section 42 of the Internal Revenue Code of 1986, as amended, is determined as follows:

Acquisition & Land Costs	\$
Professional Fees	\$
Construction Costs	\$
Construction Loan Costs	\$
Permanent Loan Financing Costs	\$
Syndication Costs	\$
Miscellaneous Soft Costs	\$
Developer's Overhead & Fees	\$
Project Reserves	\$
Other Costs	\$
<b>Total Estimated Project Costs</b>	<b>\$</b>

Less Land Cost	\$
Less Other Non-Eligible Costs	\$
Eligible Basis	\$
Applicable Fraction (Lesser of low income units or floor space)	\$
Qualified Basis	\$
Allowance for DDA or QCT	\$
Adjusted Basis	\$
Applicable Percent	\$
<b>Calculated Annual Tax Credit</b>	<b>\$</b>

The Reserved Credit Allocation is allocated to the buildings on the basis of \_\_\_\_\_% qualifying for the low-income housing credit. As reflected above, the qualified basis of the project would be eligible for a tax credit of \_\_\_\_% (adjusted for interest rate as determined monthly by the Internal Revenue Service) if the project meets the requirements of Internal Revenue Code Section 42.

Specifically, Section 42(g)(1) defines the term “qualified low income housing project” as any project for residential rental property if the project meets the requirements of subparagraph (A) or (B) whichever is elected by the taxpayer:

- (A) 20–50 Test: The project meets the requirements of the subparagraph if 20% or more of the residential units in such project are both rent-restricted and occupied by individuals whose income is 50% or less of area median gross income.
- (B) 40-60 Test: The project meets the requirements of this subparagraph if 40% or more of the residential units in such project are both rent-restricted and occupied by individuals whose income is 60% or less of area median gross income.

Any election under Section 42(g)(1), once made, shall be irrevocable. For purposes of Section 42(g)(1), any property shall not be treated as failing to be residential rental property merely because part of the building in which such property is located is used for purposes other than residential rental purposes.

To avoid recapture of the tax credit, the project must remain a qualified low-income housing project throughout the compliance period. If at the close of any taxable year in the compliance period, the amount of qualified basis of the building with respect to the taxpayer is less than the amount of such basis as of the close of the preceding year, the taxpayer will be subject to the recapture provisions.

The estimated basis is calculated in accordance with the provisions of IRC Section 42 and, based solely on the line item descriptions provided and the stated tax credit rate, the applicant is eligible for \$\_\_\_\_\_ in annual low-income housing tax credits.

Finally, it is our opinion that the project is not subject to a reduction on basis due to the application of the “at risk” rules under Section 42(a)(1) and the five (5) Technical Assistance Memorandums, or “TAMS”, issued by the Internal Revenue Service.

Sincerely,

**THIS EXHIBIT IS TO BE COMPLETED AND EXECUTED ON FIRM LETTERHEAD**

**Exhibit F**  
**Example 10% Cost Test Letter**  
**Independent Auditor's Report**

Date:

To: Arizona Department of Housing  
Rental Programs Administrator  
1110 W. Washington, Suite 310  
Phoenix, AZ 85007

and

(the "Owner")  
Street  
City, State Zip Code

Re: **Project Name**

We have audited the accompanying Certification of Costs Incurred (Exhibit F-1) of the Owner for \_\_\_\_\_(the "Project") as of (**Date**). Exhibit F-1 is the responsibility of the Owner and the Owner's management. Our responsibility is to express an opinion on Exhibit F based on our audit.

We conducted our audit in accordance with generally accepted auditing standards. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether Exhibit F-1 is free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in Exhibit F-1. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall presentation of Exhibit F-1. We believe that our audit provides a reasonable basis for our opinion.

The accompanying Exhibit F-1 was prepared in conformity with the accounting practices prescribed by the Internal Revenue Service (IRS) under the accrual method of accounting and by the Arizona Department of Housing (the "ADOH"), which is a comprehensive basis of accounting other than generally accepted accounting principles.

In our opinion, Exhibit F-1 referred to above presents fairly, in all material respects, costs incurred for the Project as of (**Date**) on the basis of accounting described above.

In addition to auditing Exhibit F-1 we have, at your request, performed certain agreed-upon procedures, as enumerated below, with respect to the Project. These procedures, which were agreed to by the Owner and the ADOH, were performed to assist you in determining whether the Project has met the 10% test in accordance with Internal Revenue Code Section 42(h)(1)(E) and Treasury Regulation Section 1.42-6. These agreed-upon procedures were performed in accordance with standards established by the American Institute of Certified Public Accountants. The sufficiency of these procedures is solely the responsibility of the specified users of the report. Consequently, we make no representations regarding the sufficiency of the procedures below either for the purpose for which this report has been requested or for any other purpose.

We performed the following procedures:

- We calculated, based on estimates of total development costs provided by the Owner, the Project's total reasonably expected basis, as defined in Treasury Regulation 1.42-6, to be **(Amount)** as of **(Date)**.
- We calculated the reasonably expected basis incurred by the Owner as of **(Date)**, to be **(Amount)**.
- We calculated the percentage of the development fee incurred by the Owner as of **(Date)**, to be **(Percent)** of the total development fee.
- We compared the reasonably expected basis incurred as of **(Date)**, to the total reasonably expected basis of the Project, and calculated that **(Percent)** had been incurred as of **(Date)**.
- We determined that the Owner uses the accrual method of accounting, and has not included any construction costs in carryover Allocation basis that have not been properly accrued.
- Based on the amount of total reasonably expected basis listed above, for the Owner to meet the 10% test in accordance with Internal Revenue Code Section 42(h)(1)(E) and Treasury Regulation Section 1.42-6, we calculated that the Project needed to incur at least **(Amount)** of costs prior to **(Date)**. As of **(Date)**, costs of at least **(Amount)** had been incurred, which is approximately **(Percent)** of the total reasonably expected basis of the Project.

We were not engaged to, and did not, perform an audit of the Owner's financial statements or of the Project's total reasonably expected basis. Accordingly, we do not express such an opinion. Had we performed additional procedures, other matters might have come to our attention that would have been reported to you.

This report is intended solely for the information and use of the management of the Owner and for filing with the ADOH and should not be used by those who have not agreed to the procedures and taken responsibility for the sufficiency of the procedures for their purposes.

---

*City, State*

**(Date)**

**THIS EXHIBIT IS TO BE COMPLETED AND EXECUTED ON FIRM LETTERHEAD**

**Exhibit F-1**  
**Project Cost Form**

COST ITEMS	ESTIMATED /ACTUAL PROJECT COST	REASONABLY EXPECTED BASIS	Amount paid or accrued as of _____
<b>ACQUISITION COSTS</b>			
Land			
Building(s)			
Closing Cost			
Legal Fees			
<b>CONSTRUCTION</b>			
Off-Site Improvements			
Site Work			
Landscaping & Fencing			
Demolition			
Direct Construction Costs			
Personal Property			
Other:			
<b>FEES AND PERMITS</b>			
Governmental Fees			
General Requirements			
Builder's Overhead			
Builder's Profit			
Construction Contingency			
Davis Bacon Requirement Costs			
<b>PROFESSIONAL FEES</b>			
Architect fee-design			
Architect fee-supervision			
Engineering fee			
Soils Report, Environmental			
Legal Fees			
Other:			
<b>CONSTRUCTION (INTERIM) LOAN COST</b>			
Construction Loan fees			
Construction interest			
Insurance			
Loan Credit Enhancement			
Taxes-construction period only			
Credit Report			
Title and Recording			
Other (explain):			

COST ITEMS	ESTIMATED /ACTUAL PROJECT COST	REASONABLY EXPECTED BASIS	Amount paid or accrued as of _____
<b>PERMANENT LOAN COSTS</b>			
Loan Origination Fee			
Loan Credit Enhancement			
Cost of Issue			
Underwriting Discount			
Bond Premium			
Legal Fees			
Title and Recording			
Other (explain):			
<b>SYNDICATION COSTS</b>			
Organizational (Partnership)			
Legal & Accounting Fees			
Bridge Loan fees and expenses			
Other (explain):			
<b>MISCELLANEOUS SOFT COSTS</b>			
Appraisal			
Market Study			
Tax Credit Fees			
Consultants or processing agents			
Marketing			
Other (explain):			
<b>DEVELOPER OVERHEAD &amp; FEES</b>			
Developer overhead			
Developer fee			
Consultant fee			
<b>SUBTOTAL DEVELOPER FEES</b>			
<b>PROJECT RESERVES</b>			
Stabilization (Rent-up) Reserves			
Operating Reserves			
Other (explain):			
<b>TOTAL DEVELOPMENT COST</b>			
<b>PERCENT OF REASONABLY EXPECTED BASIS EXPENSED/ACCRUED</b>			

**Exhibit G**  
**Final Cost Certification Letter**  
**Independent Auditor’s Report**

Date:

To: Arizona Department of Housing  
Rental Programs Administrator  
1110 W. Washington, Suite 310  
Phoenix, AZ 85007

and

(the “Owner”)  
Street  
City, State Zip Code

Re: [Project Name](#)

We have audited the costs included in the accompanying Arizona Department of Housing Final Cost Certification (the “Final Cost Certification”) of **Name** (the “Owner”) for **Name** (the “Project”) as of **(Date)**. The Final Cost Certification is the responsibility of the Owner and the Owner’s management. Our responsibility is to express an opinion on the Final Cost Certification based on our audit.

We conducted our audit in accordance with generally accepted auditing standards. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the Final Cost Certification is free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the Final Cost Certification. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall Final Cost Certification presentation. We believe that our audit provides a reasonable basis for our opinion.

The accompanying Final Cost Certification was prepared in conformity with the accounting practices prescribed by the Internal Revenue Service under the accrual method of accounting and in conformity with the format and qualified Allocation plan rules set by the Arizona Department of Housing (the “ADOH”), which is a comprehensive basis of accounting other than generally accepted accounting principles.

In our opinion, the Final Cost Certification presents fairly, in all material respects, the actual costs of **(Amount)** and eligible basis of **(Amount)** of the Owner for the Project as of **(Date)**, on the basis of accounting described above and as demonstrated in the attached Final Cost Certification Application Development Budget.

This report is intended solely for the information and use of the owner and the management of the Owner and for filing with the Arizona Department of Housing and should not be used for any other purpose. We have no financial interest in the Project other than in the practice of our profession.

**City, State**

**(Date)**

<b>THIS EXHIBIT IS TO BE COMPLETED AND EXECUTED ON FIRM LETTERHEAD</b>
--



**Exhibit H**  
**CERTIFICATION OF QUALIFIED NON-PROFIT ORGANIZATION**

For purposes of IRC Section 42, with respect to the application for an allocation of Low Income Housing Tax Credits for the \_\_\_\_\_ project (the "Project"), the \_\_\_\_\_, an Arizona non-profit organization (the "Company"), makes the following representations and certifications under penalty of perjury:

1. The Company is exempt from federal taxation under IRC Section 501(a) as an organization described in IRC Section 501(c)(3).
2. One of the purposes of the Company stated in its Articles of Incorporation is the fostering of low income housing.
3. The Company owns an interest in the Project (directly or through a partnership or limited liability company).
4. The Company will materially participate (within the meaning of IRC Section 469(h)) in the development and operation of the Project throughout the Project compliance period.
5. The Company is not affiliated with, or controlled by, a for-profit organization.
6. The Company maintains a business office in the State of Arizona staffed by at least one full-time employee.

Dated this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

Company:

\_\_\_\_\_  
\_\_\_\_\_  
By: \_\_\_\_\_  
Its: \_\_\_\_\_

State of \_\_\_\_\_)

County of \_\_\_\_\_)

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 200\_\_ by \_\_\_\_\_, the \_\_\_\_\_ of \_\_\_\_\_, an \_\_\_\_\_, on behalf of the \_\_\_\_\_.

(Seal and Expiration Date)

\_\_\_\_\_  
Notary Public

## **Exhibit L**

### **MARKET STUDY GUIDE**

#### **General Requirements for a Market Study:**

Arizona Department of Housing (ADOH) requires an independent, comprehensive, current, and professional Market Study for each proposed development. The Market Study must be prepared no more than six months before the Application is submitted to ADOH. A Market Analyst, unaffiliated with the Applicant, Developer, Lender, and/or Syndicator and experienced in multi-family rental housing, must prepare the study. The Market Study must be prepared using the market study requirements in ADOH's Market Study Guide. Market studies that do not conform to the requirements will be submit to further review and possibly not accepted until a conforming study is submitted.

ADOH may reject an application if it determines, in its sole discretion, that the Market Study:

- (1) Is not in final form;
- (2) Has not been executed by the analyst;
- (3) Deviates from the requirements of this Guide; or,
- (4) Fails to include an analyst's certification that substantially complies with Addendum 1 to this Guide.

ADOH will consider all facts and circumstances in making this determination, including the possible disruption caused by unneeded units entering the market at low rents. As a protection against the saturation of low-income units and to ensure absorption of new units, ADOH will approve no more than one family, one elderly, and one special needs category project (one project for each special needs category) per Tax Credit round in a community with a population of 50,000 or less.

ADOH receives a large number of market studies as part of the application process for financing and requests for rental housing Tax Credits. By requiring specific information in all market studies, ADOH will be able to assess housing needs in competing communities through a comparison of similar characteristics. By requiring that all market studies be prepared in accordance with a specific outline, ADOH will be able to perform a more comprehensive and expeditious review. The objective of the Market Study must demonstrate the existence of sufficient demand for the proposed development in the market area. ADOH also wants to ensure the proposed development will not cause undue economic harm on the existing rental stock in the market area.

In its review of supply and demand, the Market Study must focus on the type of low-income housing development being proposed (i.e., elderly, large family, populations with special housing needs) as well as the income and rent levels proposed for the project. The Market Study must demonstrate strong demand for the type of low-income housing project proposed, as evidenced by growth of income qualified renter households in the market area, relatively low vacancy rates, comparable rent levels, and strong absorption rates at comparable properties in the market area. The Market Analyst is required to solicit the opinion of those knowledgeable of the housing submarket in the community where the proposed development is located. These experts include, but not limited to appropriate government officials (housing, planning, or economic development), local experts (i.e. brokers, developers, chambers of commerce), and colleges or universities. The opinions of these experts must be recorded in the Market Study. The Applicant must provide these officials a copy of the Market Study as soon as it is available. The table below provides contact information for housing departments for Arizona communities of population of 100,000 or more:

City of Phoenix	(602) 262-6291
City of Tucson	(520) 791-4171
City of Mesa	(480) 644-2168
City of Glendale	(623) 930-3671
City of Scottsdale	(480) 312-4304
City of Tempe	(480) 350-2912
City of Chandler	(480) 782-3200
Town of Gilbert	(480) 503-6893
Town of Peoria	(623) 773-7167

In addition, the local government entity must submit a letter commenting on the conclusions of the Market Study and issue any disagreements it may have with the Market Study. ADOH issues a letter to the appropriate government entity requesting their response to the Market Study. ADOH shall notify the Applicant of any such disagreement so that the Market Analyst can issue a response.

All assumptions and sources of data used within the Market Study must be clearly documented. All demographic tables must include both absolute numbers and corresponding percentages (% growth or % of total). All data and information that applies to a specific area such as a primary market area, competitive market area, difficult to develop area, or a particular qualified census tract, the data and information shall clearly identify the specific area to which it applies.

Following its review of the Market Study, ADOH, in its sole discretion, may request additional market information from the Applicant, the Applicant's Market Analyst, or another Market Analyst. Additional comment from the local government before reserving Tax Credits may be required.

The following Market Study Outline establishes the minimum requirements of ADOH. Market Analysts are expected to include any additional information that may be relevant and necessary to the analysis.

#### Market Study Outline:

The Market Study must be prepared based on the following outline. The order and names of each section detailed in this outline must be used.

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## I. Introduction

### A. Objectives of the Market Study

This section provides a brief overview of the project including, but not limited to, the following items:

1. Project Name
2. Location (address/intersection and City/Town, longitude, latitude)
3. Type of project (new construction or rehab)
4. Market segment served (family, elderly, special needs)
5. Income targeting (60%, 50%, 40%, 30% AMI; public housing; market rate)
6. Number of units

Also, the entity that commissioned the Market Study must be identified including entity name, contact name, address, and phone number. This section must also explain any assumptions and limiting conditions that the Market Study is subject to.

### B. Qualifications of the Analyst

This section of the study must include a one to two page summary of the analyst's qualifications and experience in conducting market studies for income-restricted rental housing properties.

### C. Certification Letter

The Market Analyst must include the Certification Letter provided as ADDENDUM 1.

## II. Executive Summary

The Executive Summary must outline the most pertinent findings of each section of the Market Study. The Executive Summary should not exceed five pages. It must provide brief summaries of the proposed development, site evaluation, market area, demographic and economic trends, rental housing market, comparable market rents, capture rate analysis, and conclusions. A table detailing the characteristics of the proposed development and conclusions of the market study must be provided. The following table includes the minimum information and format required. Other information may be added.

Quick Project Details			
Location		Description	
Project Name:		Project Type:	<i>New Construction or Rehab</i>
City/Town:		Total Units:	
County:		Low Income Units:	
Address/Intersection:		Market Rate Units:	
Census Tract:		Unit Types:	
		Income Set Asides:	
		Target Population:	<i>Family, elderly, or special needs</i>
<b>Demand, Absorption, and Occupancy</b>			
Target Vacancy Rate:			
Projected Absorption Rate:			
Projected Lease-Up Period:			
New Households Capture Rate (Project Total):			

### **III. Proposed Project Summary**

#### **A. Project Description**

The Market Analyst must incorporate the Project Summary Table provided as ADDENDUM 2 to describe the proposed unit mix, unit size, gross rents, utility allowances, and collected rents. In addition, the analyst must specify utility responsibility and the anticipated date of opening. A description of the number of proposed buildings, their appearance (e.g., 40% brick/60% stucco with tiled roof), number of stories, and construction type (i.e., walk-up, townhouse, high-rise with elevator) must be provided as well.

For rehabilitation projects, current rents, current and historical vacancy rates, and waiting lists must be described. A current rent roll and waitlist is required. Also, an analysis of the number of existing units occupied by residents who are expected to be income-eligible for the proposed development is required.

If the property is mixed to include retail, office or other commercial uses, describe the expected synergies and potential conflicts between and among each use. The analyst must analyze and discuss possible conflicts arising from the separate uses including but no limited to the separate parking requirements for each.

#### **B. Proposed Unit and Project Amenities**

The Market Analyst must incorporate the Amenities Table provided as ADDENDUM 3 to describe the unit and project amenities being proposed. The number and type of parking spaces proposed must be described, as is the net (heated) square footage of the community building (if proposed). The proposed rent for any optional amenities must be described.

For rehabilitation projects, a detailed list of the proposed improvements must be included as well. (This can be provided by the developer and included as an Addendum to the study.)

### **IV. Proposed Site Analysis**

#### **A. Site Description**

The Market Analyst must personally visit the proposed site. The site location must be described using the nearest roadways (streets and/or highways). The physical features of the proposed site must be described (i.e. flat, undeveloped, agricultural, rocky, etc). Other information to be documented includes the size of the proposed site (in acres) and the census tract the site is located. The census tract of the proposed site is available from the Census Bureau at the following link.

[http://factfinder.census.gov/servlet/AGSGeoAddressServlet?\\_programYear=50&\\_treeId=420&\\_lang=en&\\_sse=on](http://factfinder.census.gov/servlet/AGSGeoAddressServlet?_programYear=50&_treeId=420&_lang=en&_sse=on)

The project location must be described in terms of characteristics of the neighborhood and sub-market with respect to schools, transportation, employment centers, shopping, community services, and public facilities, just to name a few. A discussion of the current land uses of property adjacent to the proposed development must be included. The condition of surrounding land uses must be described. The positive and negative

attributes of the proposed site and surrounding neighborhood must be discussed. Also, the impact of the site and neighborhood on project marketability must be examined.

Describe site selection process and explain why this site was selected.

Include a map showing the site and important neighborhood facilities and amenities. Be sure to include a distance scale on the map (i.e. 1" = 2 miles).

#### **B. Site Access and Visibility**

The roadway(s) providing access to the proposed development must be described and the latest available traffic counts must be described. Traffic count surveys are generally readily available from a community or county. To the extent that a traffic count survey is either unavailable or does not cover the roadways adjacent to the proposed site, a statement to that effect must be made. The Market Analyst must describe the proposed site's roadway frontage (in feet) and evaluate the proposed site in terms of its visibility from the adjacent roadways. If the site is located along a secondary roadway, its proximity to the nearest major roadway must be described. The analyst must discuss any difficulties with visibility and access including (but not limited to) highways, power lines, railroad tracks, or landfills. The impact that these difficulties and any other location consideration relevant to the market and marketability of the proposed site must be evaluated.

#### **C. Proximity to Community Services**

The Market Analyst must incorporate the Proximity to Community Services Table provided as ADDENDUM 4. Distance (in miles) must be described as travel distance (i.e., calculated along dedicated roadways), not as direct distance or "as the crow flies." However, direct distance must be described for the nearest site detractors (i.e., excessive noise generators and health hazards, etc.) where appropriate. Include a map detailing the locations of the community services in relation to the proposed site. Be sure to include a distance scale on the map (i.e. 1" = 2 miles).

#### **D. Site Photographs**

Color photographs of the subject site from various vantage points must be included. Also, color photographs of adjacent properties and streetscapes must be included as well. All photographs must be described (e.g., view of the site, looking northeast from Main Street / view from the site, looking west toward the adjacent single family home).

### **V. Market Area Analysis**

#### **A. Market Area Description**

The Market Area is the geographic area in which the subject development will compete with similar properties for residents. It is the area in which properties of the same use are affected by the same economic, demographic, and supply and demand factors. It is also the smallest geographic area from which the subject development will draw most of its residents. Primary Market Area must be a contiguous functional region with similar uses and demographic trends.

The Market Area must be justified. The Analyst must provide a narrative describing the methodology and rationale used to determine the market area. The narrative must include the names and telephone numbers of the local officials, experts, or other persons with submarket knowledge interviewed and the summaries of the salient points of those interviews of local officials who assisted in the determination of the market area. Local officials and experts include but are not limited to city or county administrators, economic





- Population by Race – 2000 Census (SF1 – Table P4)
  - Population by Age – 2000 Census, Current Year, 5-year projection (SF1 – Table P12)
  - Households by Tenure (i.e. renters vs. owners) – 2000 Census (SF1 – Table H4)
  - Households by Age of Householder – 2000 Census, Current Year, 5-year projection (SF1 – Table P21)
  
  - Renter Households by Age of Householder – 2000 Census (SF1 – Table H16)
  - Renter Households by Household Size – 2000 Census (SF1 – Table H15)
- The 2000 Census data can be found using the following link.

[http://factfinder.census.gov/servlet/DatasetMainPageServlet?\\_program=DEC&\\_lang=en&\\_ts=113323938939](http://factfinder.census.gov/servlet/DatasetMainPageServlet?_program=DEC&_lang=en&_ts=113323938939)

Market studies addressing a proposed development serving persons with disabilities must include the 2000 distribution of Noninstitutionalized Population with Disabilities by Type of Disability. This data is available from the Census 2000 Summary File 3 (SF 3), Table P41.

In addition to reporting the requested data in table format, the Market Analyst is expected to provide a narrative analysis of the data provided and its potential impact on demand for the proposed development.

#### **B. Household Income**

Distributions of Household Income within the Market Area must be provided in table format for 2000 the current year, and 5-year projection. The 2000 current estimated median household income among all households, owner households, and renter households must be described.

Distributions of Income among Renter Households must be provided in table format for 2000 current year and the anticipated year of project opening. **The Market Analyst shall project the Distribution of Income among Renter Households to the anticipated year of project opening.**

Market studies addressing a proposed development serving an age-restricted population must include Distributions of Income among Owner Households by Age, as well as Distributions of Income among Renter Households by Age. Age cohorts of 10 years must be used, when applicable and where available. The distributions can be limited to those age cohorts applicable to the proposed development (i.e., age 55+ or age 62+).

For all tables, income cohorts of no more than \$5,000 must be used, when applicable and where available. Households with income over \$50,000 can be condensed into a single cohort.

All tables must include both the numbers and correlating percentages

#### **C. Employment**

The potential demand for the proposed development is a function of the local and regional economy. The Market Analysis is required to provide an analysis of current and forecasted economic conditions and how they relate to demand for additional new rental housing.

The economy of the market area and the region surrounding the market area must be addressed with a minimum of the following information.

- Employment by industry – current year and forecast period (5 year projection)
- Total employment growth – Current year through forecast period (5 year projection).
- Unemployment rate – Current year through forecast period (5 year projection).
- Major current employers and estimated employment within 20 minute drive time (urban projects) and 45 minute drive time (rural projects).
- Average annual wages by industry – Current year through forecast period (5 year projection).
- Anticipated expansions, closures, and any new employment planned within drive times described above
- Proposed transportation improvements and detrimental changes.

The Market Analyst must provide the above information for the relevant market area if available. Otherwise, metro area or countywide figures are suggested. In the case of employment by industry, total employment and percent of total employment must be reported. For total employment growth, total employment and percentage growth must be provided.

Employment and wage data can be found from a number of sources including the Arizona Department of Economic Security and the U.S. Bureau of Labor Statistics. Use the following links for further information.

<http://www.workforce.az.gov/> or <http://www.bls.gov/>

#### **D. Housing**

In order to characterize the existing housing stock in the market area, a number of data tables from the 2000 Census are required. At a minimum, the following data should be reported in table format using both absolute numbers and percent of total. No current year estimates or projections are required. The 2000 Census table numbers are also noted.

- Units in Structure (SF3 – Table H30)
- Vacancy Status (SF3 – Table H8)
- Tenure by Year Structure Built (SF3 – Table H34)
- Tenure by Rooms (SF3 – Table H26)
- Tenure by Plumbing Facilities by Occupants per Room (SF3 – Table H22)
- Gross Rent (SF3 – Table H62)
- Gross Rent as a Percentage of Household Income (SF3 – Table H69)
- Value of Owner-Occupied Housing Units (SF3 – Table H74)

The Market Analyst must address the affordability of home ownership alternatives available to the target population within the Market Area, and its impact on the proposed rental housing development. If applicable the analyst must address the chain of substitution principle and comment on the potential impact of homeownership on Class A properties, which in turn impacts Class B and LIHTC properties.

#### **E. Requirements for Projects Proposing Non-affordable Components**

Market Studies supporting projects that propose non-affordable components such as market-rate units or mixed-use (i.e. non-residential commercial or retail) components of a project shall comply with the following:

- (1) The Market Study must clearly identify and account for the demand for the non-affordable component of a project; and,
- (2) For projects with non-affordable income producing components, the market study must reasonably address the demand for each non-affordable component and the consequences of poor market performance of the non-affordable component on demand for the affordable rental units. At a minimum a market study for a project with a mixed-use component shall include the following elements:
  - (a) A justification of the construction of the project's competitive market/trade area ("CMA") as required by this Guide for the primary market area for residential rental properties.
  - (b) A gap analysis analyzing the current supply and demand conditions within the CMA for the proposed use.
  - (c) A 5-year forecast for supply and demand factors within the CMA.
  - (d) An explanation of the optimal tenant mix for commercial space(s) based on the CMA construction analysis described in paragraph 7(l)(ix)(2)(a).
  - (e) An analysis and explanation of achievable rents and any competitive advantage offered by the project.
  - (f) Estimated vacancy rates with best case, worst case, and expected scenarios.
  - (g) Estimated lease up time frames with best case, worst case, and expected scenarios.
  - (h) An explanation of the suitability of the proposed mixed use for the project as a whole, i.e., demonstration that the proposed use is complementary and synergistic with other uses or components of the project.
  - (i) An explanation and analysis of ingress/egress (both pedestrian and vehicular) and parking needs for the total project.
  - (j) An explanation of other functional constraints such as commercial delivery, trash disposal, odor control, ventilation, and other constraints reasonably contemplated by the proposed project.
  - (k) Evidence of any pre-leasing interest in the property.

#### **F. Crime Analysis and Maps**

In conjunction with crime information analysis and communications with knowledgeable local market participants (Section V Market Area Description), the analyst is expected to provide ADOH with a commentary and analysis on neighborhood crime trends and perceptions integrating all pertinent information.

Include a map of the Primary Market Area showing property and violent crime for the most recent period, as well as a map showing crime data for the prior 12 months. Describe if there are any special enforcement zones or concentration efforts on behalf of law enforcement within or adjacent to the PMA.

If the controlling jurisdiction does not provide mapping, the analyst can provide the most recent data and the prior year data for violent and property crime statistics in tabular form.

## VII. Supply Analysis

### A. Rental Housing Overview

The Market Analyst must conduct a large enough survey of the existing rental stock within the market area to provide an accurate overview of the entire rental housing market. In addition to market rate properties, this survey must include all Tax Credit (9%) and Bond (4%) developments.

The following information must be provided at a minimum. If certain information is not available, provide as much information as possible. In addition to tables, the Market Analyst must include a narrative summarizing the overall condition of the rental housing market with the market area.

Following is a breakdown of data and information required (to the extent it is available).

#### Historical and Current Rental Inventory

- Current rental inventory in the market area for market rate and Tax Credit/Bond units (separately) detailing number of units by unit type, average gross rents by unit type (adjusted for utilities), average unit sizes by unit type, and vacancy rates
- Historical & current vacancy rates and new units constructed for the entire rental market
- Historical & current vacancy rates and new units constructed for Tax Credit and Bond developments
- Historical & current vacancy rates for Government Subsidized developments (if applicable)
- Seasonality of market
- List of LIHTC and Bond developments including number of units, income set asides, current vacancy rates, and year built
- Provide a map showing the locations of the LIHTC and Bond developments in the market area

#### Current Rents & Concessions

- Current gross rents for comparable and competitive projects in the market area. This must include all Tax Credit and Bond projects as well as any market rate properties offering rents effectively equal to those proposed rents at the subject property.
- Discuss trends in rent increases/decreases during the most recent years – compare and contrast to vacancy trends.
- Discuss initial and renewal concession trends at competitive properties.
- Evaluate how and to what extent (if any) rents are overstated due to concessions or other factors
- Provide information on historical, current, and projected monthly rent concessions, if offered

#### Absorption and Waiting Lists

- Absorption experience of recently-completed market rate projects
- Absorption experience of recently-completed Tax Credit and Bond developments
- Waiting list of existing developments considered most comparable to the proposed development.
- Wait lists used as evidence of demand must be submitted and have been recently updated; waitlists not updated within the past 3 months shall be considered stale and unreliable.
- This can include income-appropriate waiting lists from local housing authorities.

### Properties Under Construction or Planned

- Identify all Tax Credit and Bond properties in the market area that are either under construction or planned. If there are no developments in the planning stages or under construction, a statement to that effect must be provided.
- Identify any market rate developments either under construction or planned that have rents similar to those offered by the subject property
- Provide a map showing the locations of all LIHTC and Bond properties either under construction or planned
- For each project under construction or planned, provide information such as unit types offered, unit sizes, average rents, estimated completion date, and the extent of any lease-up activity (if available)

Lists of Tax Credit and Bond properties already completed and currently under development can be found at the following links.

[http://azcms.housingaz.com/uploads/RENTAL%20APPLICATIONS/LIHTC/Tax\\_Credit\\_Projects\\_1987\\_Current.pdf](http://azcms.housingaz.com/uploads/RENTAL%20APPLICATIONS/LIHTC/Tax_Credit_Projects_1987_Current.pdf)

[http://azcms.housingaz.com/azcms/uploads/RENTAL%20APPLICATIONSMF\\_Bond\\_Revenue\\_Applications\\_List.pdf](http://azcms.housingaz.com/azcms/uploads/RENTAL%20APPLICATIONSMF_Bond_Revenue_Applications_List.pdf)

### **B. Comparable Properties**

The Market Analyst is required to identify those properties that are considered comparable to and will compete directly with the proposed development. Comparable market information shall be drawn from properties that are located in and are, as much as reasonably possible, fairly evenly distributed throughout the primary market area. This requirement shall be strictly construed. Comparable properties are those developments with similar financing, developments serving the same target population, developments offering similar amenity packages, and/or developments offering similar rents. This analysis is intended to illustrate the projects competitive position with respect to other housing choices within the PMA. These include Tax Credit and Bond properties as well as market rate complexes (if applicable).

Proposed rents and unit sizes at the subject property must be compared to those offered at the comparable properties in the market area. The following information is required in table format.

1. Compare subject property to Tax Credit and Bond properties including a breakdown by unit type, unit size, current concessions, and current rent.
2. Compare subject property to comparable market rate properties including a breakdown by unit type, unit size, current concessions, and current rent.
3. If the proposed project includes any 3 bedroom or larger units the analyst must survey the PMA and identify all single family rental units available for rent during the survey period. The analyst must quantify the number of rentals found and describe the quality, asking rents and amenity levels of these properties. If asking rents for single family properties are within \$100 of any concession adjusted rent used as a rent comparable, the single family units must be included in the competitive supply analysis section of the market study. Properties with 80% or more subsidized units/tenants (project based rents, HUD, RD) are NOT to be used as comparables to LIHTC/Bond projects unless a waiver is submitted documenting why their inclusion is warranted.
4. For projects located in rural areas, the analyst must evaluate the potential for mobile homes to be considered competitive supply. Following is a sample table

that may be used for each unit type. The analyst can create a single consolidated table or create a separate table for market properties and subsidized properties.

Comparable Property	# of Units	Unit Size	Rent per month	Rent per sf	Concessions per month	Net Rent per month	Net Rent per sf
<b>1 Bedroom</b>							
Sample Property #1	50	650	\$715	\$1.10	\$50	\$665	\$1.02
Sample Property #2	75	850	\$723	\$0.85	\$100	\$623	\$0.73
Totals / Averages	125	770	\$720	\$0.93	\$80	\$640	\$0.83
<b>Subject Property</b>	<b>35</b>	<b>625</b>	<b>\$521</b>	<b>\$0.83</b>	<b>\$0</b>	<b>\$521</b>	<b>\$0.83</b>
<b>% difference from Comparables</b>		<b>-18.8%</b>	<b>-27.6%</b>	<b>-10.8%</b>		<b>-18.5%</b>	<b>0.4%</b>

The following information must be provided in a one-page summary sheet for each Comparable Property (if available).

1. Color photograph of a residential building representative of the entire development
2. Name, address, telephone number of the development
3. Contact person, date of contact, and mode of contact (i.e., in-person or by telephone)
4. Year of opening and year of significant renovation (if applicable)
5. Amenities (both unit- and project-related), including parking provisions
6. Source of heat, water heating, and cooking (i.e., electric, natural gas, propane, etc.)
7. Utility responsibility (i.e., tenant-paid or owner-paid)
8. Number of units distributed by structure type (e.g., townhouse, garden-style, etc.) and unit type (i.e., number of bedrooms and baths within the unit)
9. Net (heated) square footage of units
10. Collected rents and estimated gross rents. (Gross rent is derived by adding the estimated cost of tenant-paid utilities to the collected rent. The applicable Utility Allowance Worksheet must be the source of the utility cost estimates.)
11. Vacancy rates by unit type
12. Program participation (e.g., HUD Section 8, RD Section 515, Tax Credit, etc.), if applicable
13. Tenant profile (e.g., family, elderly, persons with special needs, etc.)
14. Waiting lists
15. Turnover rate
16. Absorption rate (if the property is less than 3 years of age)
17. Distance from the subject property. The distance from the subject property (in miles) must be described as travel distance (i.e., calculated along dedicated roadways), not as direct distance or "as the crow flies."

For comparable developments in the planning or construction stages, provide as much of the required information (described on the preceding page) as is available, and include the development's estimated date of market entry.

## VIII. Capture Rate Analysis

The Market Analyst must describe the appropriate income range for each percent of Area Median Income (AMI) election at the proposed development.

For income-restricted Family Units, the minimum income must be based on the assumption that the household will apply up to 40% of their gross income towards their total housing expense. The maximum income must be based on the assumption that population per household will equal the number of bedrooms plus one (1). For example, the population of an efficiency unit is assumed to be 1 (i.e., zero bedrooms plus 1 equals 1), and the population of a three-bedroom unit is assumed to be 4 (i.e., 3 bedrooms plus 1 equals 4).

For income-restricted Senior Units, the minimum income must be based on the assumption that the household will apply up to 45% of their gross income towards their total housing expense. The maximum income must be based on the assumption that just one person will occupy all senior units, regardless of the number of bedrooms within the unit. The Senior Capture Rate Analysis must focus on the targeted age group (i.e., age 55+, or in the case of federally subsidized units - age 62+). Up to 10% of the age- and income-appropriate homeowners within the Market Area may be included in the Senior Capture Rate analysis. (Homeowners are not to be included in the Family Capture Rate Analysis.)

For market-rate units, the Market Analyst must make some reasonable determination of a maximum income level beyond which a household will not likely be a participant in the rental market. The Market Analyst must clearly explain the assumptions used in determining the appropriate income range for the proposed market rate units. For units with project-based rental assistance, the appropriate income range can extend down to \$0.

In summarizing the Capture Rate Analysis, the Market Analyst is required to use the appropriate table provided in ADDENDUM 5. There is one table for family projects and one table for senior projects. Each of these tables includes two sections: Gross Households Capture Rate and Net New Households Capture Rate. Completion of these two sections is required.

In addition to the components of demand identified on the capture rate tables, the Market Analyst is required to account for two other factors. The number of comparable low income and market rate units (if applicable) in the market area that must be absorbed to reduce the vacancy rate to normalized conditions must be determined. The Market Analyst is required to assume that normalized vacancy is no more than 8%. The second factor that must be considered is comparable low income and market rate units either under construction or planned in the market area. Also, for all Rehab projects, the estimated number of existing residents that will be income-eligible and will likely remain at the property must be subtracted from the analysis.

If the Market Analyst believes there are other sources of demand not included in the Capture Rate tables, they may be considered if the Market Analyst can justify the reason. Any additional sources of demand shall be calculated separately and be easily added or subtracted from the Capture Rate tables. If more than 50% of the project's total net new household demand is found to be contingent upon demand from: substandard, overcrowded or units lacking complete plumbing the maximum allowable rent shall be 20% below market rents.

Furthermore, if the proposed project's PMA includes 3 or more existing or approved and/or under construction LIHTC/Bond projects, and the 50% threshold above is triggered, ADOH may consider the PMA to be at an elevated risk of saturation and for cannibalism. Accordingly, ADOH may reject the capture rate outright or significantly adjust these figures. Therefore, in these circumstances the analyst has an additional burden of proof and must include relevant documentation showing recent cases in comparable market(s) where this demand actually materialized at or near the amounts forecasted without adversely affecting existing stock.

The Market Analyst must provide a narrative of what the capture rate means for the proposed development and market area. If the number of proposed units exceeds growth,

the Market Analyst must provide additional documentation of demand that does not include cannibalization of existing affordable projects.

## **IX. Conclusions**

The Market Analyst must summarize the proposed development's strengths and weaknesses in terms of the market area's rental housing market and target population. The Market Analyst must state his/her professional opinion regarding the proposed development's feasibility from a market perspective and what effect the proposed development would have on the existing market. Also, the Market Analyst must indicate any other information believed to be important to overall rental demand in the market area including comments on the appropriateness of the unit mix and proposed rents.

The Market Analyst must project an absorption rate (units per month), lease-up period (in months), and stabilized vacancy rate for the proposed development. The Market Analyst is required to properly justify the projected absorption rate, lease-up period, and stabilized vacancy rate for the proposed development. If the anticipated absorption rate causes the proposed development's initial absorption period to extend beyond one year, "replacement absorption" (i.e., the need to re-rent vacated units due to tenant turnover) needs to be factored into the Market Analyst's projection. (The subject property's absorption period is considered to start as soon as its first unit is certified for occupancy.)

For acquisition/rehabilitation projects, the Market Analyst must estimate the anticipated number of existing (program-eligible) residents who will elect to remain at the property through its renovation. With respect to the anticipated absorption period of renovation projects, the Market Analyst must describe the projection in two ways: 1) using the anticipated retention level and 2) using the assumption that no residents remain at the property.

If an unusually slow absorption rate and/or unusually low stabilized occupancy rate is anticipated, the Market Analyst must indicate if it is due more so to market-related issues or product-related issues. The Market Analyst is encouraged to make recommendations as to how the proposed development could be better structured to succeed within the market.

The Market Analyst must evaluate the impact the proposed development on the occupancy rates of all income-restricted properties within the Market Area. This evaluation must result in a table noting each income-restricted rental housing property, its current vacancy rate, and anticipated vacancy rate at the subject property's projected date of stabilized occupancy.

A list of all ADOH-Tax Credit funded rental housing properties (existing and under development), are available for review at the following sites:

[http://azcms.housingaz.com/uploads/RENTAL%20APPLICATIONS/LIHTC/Tax\\_Credit\\_Projects\\_1987\\_Current.pdf](http://azcms.housingaz.com/uploads/RENTAL%20APPLICATIONS/LIHTC/Tax_Credit_Projects_1987_Current.pdf)



**ADDENDUM 1 – Certification Letter****Arizona Department of Housing  
Market Study Certification**

The undersigned, a recognized firm of independent market analysts knowledgeable and experienced in the development of affordable rental properties, completed this Market Study of \_\_\_\_\_  
\_\_\_\_\_  
(Development Name) in \_\_\_\_\_ (Community Name), Arizona for \_\_\_\_\_  
\_\_\_\_\_  
(Developer/Applicant name).

To the best of our knowledge, all data contained in this report is correct to the extent that the local, State of Arizona, and federal recording agencies and demographic suppliers accurately record and publish this data. All projections were based on current professionally accepted methodology, and that we have primarily followed the ADOH Market Study Guidelines. If ADOH Market Study Guidelines have not been followed, then the analyst followed NCAHMA model.

The market analyst has no financial interest in the proposed project or in any other matters involving the Developer or Applicant, or their principals. The relationship of the market analyst is limited to that of an independent market analyst. The fee assessed for the study was not contingent on the proposed development or application being approved by the Arizona Department of Housing.

The market analyst made a physical inspection of the market area, reviewed all relevant data, conducted personal interviews with local apartment managers, government officials, local real estate professionals, and service providers, and independently established the conclusions for this report.

By: \_\_\_\_\_  
(Market Analyst Company)

By: \_\_\_\_\_  
(Authorized Representative)

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**NOTIFICATION OF CONFIDENTIALITY AND DECLARATION OF  
PROPRIETARY RIGHT TO MARKET DEMAND STUDY**

The attached market demand study is submitted to the Arizona Department of Housing (“the Department”) in support of the application to the Department and undersigned hereby notifies the Department as follows:

- 1) That applicant provides the attached market demand study to the Department solely for the Department’s use in evaluating and considering the related application and for use in determining the relative market demand for affordable housing in Arizona.
- 2) That although the Department shall retain custody of the attached market demand study, the study remains the property of the applicant and/or the analyst and shall be considered confidential, proprietary information of the applicant and/or the analyst for a period of no more than two years after the date of its submittal to the Department.
- 3) The applicant and/or the analyst further notify the Department that either one or both of them intend to treat the market demand study as a confidential proprietary document and shall not release the market demand study to third parties without taking reasonable and necessary steps to protect and preserve the confidential and proprietary nature of the document.
- 4) In the event that either one or both of the undersigned determine, within the two-year confidentiality period, to abandon or waive the proprietary right to the market demand study, the Department shall be notified accordingly.
- 5) The applicant and the preparing analyst understand that a market demand study submitted without executing this notification shall be considered by the Department to be records subject to public disclosure pursuant to A.R.S. Title 39, Chapter 1, Article 2.
- 6) The undersigned has legal authority to bind its principal.

For the Applicant:

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

For the Analyst:

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**ADDENDUM 2 – Project Summary Table**

UNIT TYPE	PERCENT OF AREA MEDIAN INCOME	NUMBER OF UNITS	NET SQUARE FEET	MAXIMUM ALLOWABLE GROSS RENT	RENTS AT OPENING*		
					GROSS	UTILITY ALLOWANCE	COLLECTED
EFFICIENCY/ 1 BATH	20%			\$	\$	\$	\$
	30%			\$	\$	\$	\$
	40%			\$	\$	\$	\$
	50%			\$	\$	\$	\$
	60%			\$	\$	\$	\$
	MKT			N/A	\$	\$	\$
ONE-BEDROOM/ 1 BATH	20%			\$	\$	\$	\$
	30%			\$	\$	\$	\$
	40%			\$	\$	\$	\$
	50%			\$	\$	\$	\$
	60%			\$	\$	\$	\$
	MKT			N/A	\$	\$	\$
TWO-BEDROOM/ 1 BATH	20%			\$	\$	\$	\$
	30%			\$	\$	\$	\$
	40%			\$	\$	\$	\$
	50%			\$	\$	\$	\$
	60%			\$	\$	\$	\$
	MKT			N/A	\$	\$	\$
TWO-BEDROOM/ 2 BATH	20%			\$	\$	\$	\$
	30%			\$	\$	\$	\$
	40%			\$	\$	\$	\$
	50%			\$	\$	\$	\$
	60%			\$	\$	\$	\$
	MKT			N/A	\$	\$	\$
THREE-BEDROOM/ 2 BATH	20%			\$	\$	\$	\$
	30%			\$	\$	\$	\$
	40%			\$	\$	\$	\$
	50%			\$	\$	\$	\$
	60%			\$	\$	\$	\$
	MKT			N/A	\$	\$	\$
FOUR-BEDROOM/ 2 BATH	20%			\$	\$	\$	\$
	30%			\$	\$	\$	\$
	40%			\$	\$	\$	\$
	50%			\$	\$	\$	\$
	60%			\$	\$	\$	\$
	MKT			N/A	\$	\$	\$
TOTAL							

\* \_\_\_\_\_ 200\_

MKT: Market Rate

N/A: Not Applicable

### ADDENDUM 3 – Proposed Amenities

UNIT AMENITIES	PROJECT AMENITIES
RANGE	ON-SITE MANAGEMENT
REFRIGERATOR	COMMUNITY BUILDING/ROOM*
DISHWASHER	
DISPOSAL	LAUNDRY
WASHER & DRYER	RESIDENT BUSINESS CENTER
WASHER/DRYER HOOKUPS	DAY CARE CENTER
CARPETING	EXERCISE ROOM
WINDOW COVERINGS	SWIMMING POOL
PATIO/BALCONY	PLAYGROUND
BASEMENT	TENNIS COURT
CARPORT	BASKETBALL COURT
GARAGE	RAQUETBALL COURT
INTERCOM SYSTEM	WALKING TRAIL
SECURITY SYSTEM	LAKE
OTHER:	OTHER:

\* The community building/room has \_\_\_\_\_ square feet of heated space.

**ADDENDUM 4 – Community Services and Site Area Detractions**

<b>COMMUNITY SERVICES</b>	<b>NAME</b>	<b>TRAVEL DISTANCE* FROM SITE (IN MILES)</b>
MAJOR HIGHWAY(S)		
PUBLIC BUS STOP		
MAJOR EMPLOYERS / EMPLOYMENT CENTERS		
CONVENIENCE STORE		
GROCERY		
DISCOUNT DEPARTMENT STORE		
SHOPPING CENTER / MALL		
SCHOOLS: ELEMENTARY MIDDLE / JUNIOR HIGH HIGH		
HOSPITAL		
POLICE		
FIRE		
POST OFFICE		
BANK		
SENIOR CENTER		
RECREATIONAL FACILITIES		
OTHER		

\*CALCULATED ALONG DEDICATED ROADWAYS

<b>SITE AREA DETRACTIONS</b>	<b>DIRECT DISTANCE° FROM SITE (IN MILES)</b>
ACTIVE RAILROADS	
FREEWAYS	
NATURAL WASH AREAS	
HIGH TENSION POWER LINES	
LANDFILL / GARBAGE DUMP	
OIL / CHEMICAL REFINERY	
POWER PLANT	
OTHER	

°DIRECT DISTANCE IS "AS THE CROW FLIES"

### ADDENDUM 5 – Capture Rate Analysis

FAMILY CAPTURE RATE ANALYSIS						
	30% AMI	40% AMI	50% AMI	60% AMI	MARKET RATE	TOTAL PROJECT
Appropriate Income Range	\$__ to \$__	\$__ to \$__	\$__ to \$__	\$__ to \$__	\$__ to \$__	\$__ to \$__
<b><u>Gross Households Capture Rate</u></b>						
Number of Renter Households in Current Year (20XX)						
<i>Add:</i> Number of renter households expected to be added to the market by project opening (20XX)						
<i>Equals:</i> Number of renter households at project opening						
<i>Multiply:</i> Percentage of renter households who are income eligible						
<i>Equals:</i> Number of income eligible renter households at project opening						
<i>Equals:</i> Number of age and income eligible renter households at project opening						
<i>Divide:</i> Number of units being proposed at each income range						
<i>Equals:</i> Gross Household Capture Rate						
<b><u>Net (New) Household Capture Rate</u></b>						
Number of renter households expected to be added to the market area between the current year and project opening (20XX)						
<i>Multiply:</i> Percentage of renter households who are income eligible						
<i>Equals:</i> Number of income eligible renter households expected to be added to the market area between the current year and project opening						
<i>Subtract:</i> Number of currently excess vacant units at comparable properties in the market area						
<i>Subtract:</i> Number of competitive units that are either under construction or planned in the market area						
<i>Subtract:</i> Number of existing residents that are income eligible and will likely remain at the property (REHAB Only)						
<i>Equals:</i> Net new renter households expected to be added to the market area between the current year and project opening						
<i>Divide:</i> Number of units being proposed at each income range						
<i>Equals:</i> Net (New) Household Capture Rate						

SENIOR CAPTURE RATE ANALYSIS						
	30% AMI	40% AMI	50% AMI	60% AMI	MARKET RATE	TOTAL PROJECT
Appropriate Income Range	\$__ to \$__	\$__ to \$__	\$__ to \$__	\$__ to \$__	\$__ to \$__	\$__ to \$__
<b>Gross Households Capture Rate</b>						
Number of Renter Households Age __+ in Current Year (20XX)						
<i>Add:</i> Number of renter households Age __+ expected to be added to the market by project opening (20XX)						
<i>Equals:</i> Number of renter households age __+ at project opening						
<i>Multiply:</i> Percentage of renter households age __+ who are income eligible						
<i>Equals:</i> Number of income eligible renter households at project opening						
<i>Add:</i> 10% of the age and income eligible homeowners						
<i>Equals:</i> Number of age and income eligible renter households at project opening						
<i>Divide:</i> Number of units being proposed at each income range						
<i>Equals:</i> Gross Household Capture Rate						
<b>Net (New) Household Capture Rate</b>						
Number of renter households expected to be added to the market area between the current year and project opening (20XX)						
<i>Multiply:</i> Percentage of renter households who are income eligible						
<i>Equals:</i> Number of income eligible renter households expected to be added to the market area between the current year and project opening						
<i>Subtract:</i> Number of currently excess vacant units at comparable properties in the market area						
<i>Subtract:</i> Number of competitive units that are either under construction or planned in the market area						
<i>Subtract:</i> Number of existing residents that are income eligible and will likely remain at the property (REHAB Only)						
<i>Equals:</i> Net new renter households expected to be added to the market area between the current year and project opening						
<i>Divide:</i> Number of units being proposed at each income range						
<i>Equals:</i> Net (New) Household Capture Rate						

**Exhibit N**  
**SERVICE PROVIDER QUESTIONNAIRE**

This form is used by ADOH to determine the capacity of the applicant to meet the needs of residents as described in the Supportive Services Plan Outline. All applicants requesting consideration for resident services for Special Needs Housing, Support for Families in Transition, or Elderly Housing with Supportive Services must complete and include this form with the application.

ADOH Proposed Development: \_\_\_\_\_

Name of Owner of Agent: \_\_\_\_\_

Name of Service Provider: \_\_\_\_\_

**Please attach answers to questions 1 through 11 in narrative form.**

**GENERAL INFORMATION**

1. Summarize the service provider's mission and goals for the current fiscal year.
2. How many years has the service provider been active in delivering social services? If the service provider has no experience in delivering social services, describe the service provider's experience with and knowledge of the community that the service provider will serve. Identify other community agencies with whom the service provider will collaborate.
3. Describe other activities, aside from social services, in which the service provider is engaged.

**EXPERIENCE IN SERVICE-ENRICHED HOUSING**

4. Is the service provider currently involved in service-enriched housing programs? If yes, summarize experience in providing supportive services on-site for residents. Include name of housing development(s), property Management Company, and type of services provided. If no, please describe methods that will be used to increase your company's knowledge and understanding of providing service-enriched housing.
5. Describe collaborative efforts that demonstrate the service provider's capacity to deliver supportive services. Please identify organizations or companies involved in the collaboration and the nature of the organization's involvement.

**PERSONNEL**

6. How many people are employed by the service provider organization?
7. List the job titles of personnel who will work directly with residents of the proposed property. Attach an organizational chart.
8. Attach resume(s) of key personnel who will be responsible for providing services in this proposed development. If new staff must be hired in order to implement the work at this property, attach job description(s), including qualifications and identify resources to pay for cost of salaries.
9. Are key personnel currently involved in service-enriched housing programs at other properties? If yes, explain how many properties, how many total units, where they are located, and how staff's time will be divided between current responsibilities and responsibilities at the new development.



**STAFF PROFESSIONAL DEVELOPMENT**

- 10. List the names of the professional training courses/workshops/seminars that staff who will be involved with this project have completed over the past 3 years. (List job title of staff, training attended, and date of training.)
- 11. Will participation in this service-enriched housing program require additional staff professional development? If yes, describe training and/or skills that will need to be developed or improved.

**SERVICE PROVIDER'S OFFICE LOCATION(S)**

Address of Principal Office: \_\_\_\_\_

Name/Title of Contact Person: \_\_\_\_\_

Telephone Number: (\_\_\_\_\_) \_\_\_\_\_

Fax Number: (\_\_\_\_\_) \_\_\_\_\_

E-mail: \_\_\_\_\_

Areas Served: {County(s), Neighborhood(s), etc.}

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Other Offices close to proposed development: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone: (\_\_\_\_\_) \_\_\_\_\_

Address: \_\_\_\_\_

Telephone: (\_\_\_\_\_) \_\_\_\_\_

A. Is the service provider a subsidiary of another organization?  Yes  No

If yes, please provide name and address of the parent organization and describe relationship and tax status.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

- B. Indicate the total number of clients served during the last fiscal year. Identify the amounts and sources of funding.

Client/Service Type	Number Served	Funding Level	Funding Source
Senior/Elderly Services	_____	_____	_____
Adult/Family Services	_____	_____	_____
Children/Youth Services	_____	_____	_____
Addictions	_____	_____	_____
MH/MR	_____	_____	_____
Education/Job Readiness	_____	_____	_____
Other	_____	_____	_____

- C. Has the service provider or any of its current personnel ever been involved in governmental investigation or judicial action or settlement concerning charges of a violation of local, state or federal laws or regulations concerning discrimination, fair housing violations or other civil rights laws, or concerning violations of federal, state or local regulations regarding use of funds?  Yes  No
- D. Have any service grants or contracts held by the service provider over the past five years been terminated prior to their expiration dates?  Yes  No
- E. Have any grants or contracts held by the service provider over the past five years not been renewed upon expiration?  Yes  No

If you answered **yes** to question C, D, or E, attach an explanation or any supporting documentation necessary to explain the circumstances surrounding these situations.

I certify that the information contain herein and attached is accurate and complete.

NAME OF CEO/EXECUTIVE STAFF	SIGNATURE
TITLE	ORGANIZATION NAME
DATE	

## SUPPORTIVE SERVICES PLAN OUTLINE

The submitted plan must be specific to the proposed development. A completed Service Provider Questionnaire must be included at Tab 14.

- 1) Target Population  
Define the target population and demonstrate that a significant number of residents are expected to need and benefit from the planned programs and services.
- 2) Goals/Expected outcomes
  - a) Describe the service provider's philosophy and guiding principles as they relate to providing services to elderly residents or families in transition.
  - b) Describe the specific goals of the supportive services program and how they relate to the anticipated needs of residents.  
Example: Families in Transition
    - i) To provide necessary supports, such as child-care, after-school care and transportation, to enable residents to maintain significant employment.  
Example: Senior Housing with Services
    - ii) To maintain health of residents through educational programs, health screenings, and fitness and nutrition programs.
  - c) Describe expected outcomes related to each goal and how impact/success will be measured or identified.
  - d) Describe how the program will identify and respond to the changing needs of residents over time. (Example: regularly scheduled resident meetings, needs assessments, surveys, focus groups, etc.)
- 3) Implementation of services, programs, and activities
  - a) Describe the services and activities planned for residents of the proposed development. These may include (but are not limited to) child-care programs, after-school and summer children and youth programs, counseling programs, parenting skills classes, budget education, pre-vocational training, D&A Programs, family violence prevention, crime prevention, on-site service coordination or goal-oriented case management, health services, screenings and education, housekeeping, on-site meals, transportation, benefits counseling, wellness activities, and social and recreational programming.
    - Identify the party responsible for providing each service
    - How and where will the service be provided
    - Frequency of program or activity (daily, weekly, monthly, etc.)
    - Eligibility requirements for resident participation
  - b) Describe service provider's methods to encourage resident participation.
  - c) Describe the staffing plan and supervision responsibilities. Plans that include a service coordinator position as primary component should consider the ratio of one hour per week to every five residents as a guideline.
- 4) Budget and source of funds  
Provide an annual budget that identifies the costs associated with implementation of the services identified above. Identify the source of funds. Funds must be available for the life of the program.
- 5) Evidence of coordination with community resources  
If community service providers are expected to be involved in the delivery of services for the residents, include a letter of intent to provide services that describes their intended involvement.

# Exhibit W1

## ARCHITECT'S CERTIFICATE

The undersigned, being a duly licensed architect registered in the State of Arizona, has prepared for \_\_\_\_\_ (the "Project Owner") final plans, working drawings and detailed specifications (and addenda) dated DATE (collectively, the "Plans and Specifications") in connection with certain real property located in CITY Arizona (the "Project") for which the undersigned acknowledges that the Project Owner has applied to receive low-income housing tax credits under Section 42 of the Internal Revenue Code or to finance or refinance the costs to acquire, rehabilitate, or construct the Project by borrowing proceeds from the sale of publicly issued private activity bonds.

The undersigned hereby certifies to the Project Owner and the Arizona Department of Housing that the Plans and Specifications for the Project comply with and conform in all respects to the requirements of existing law, have been duly filed with and have been approved by all appropriate governmental and municipal authorities having jurisdiction over the Project and that the Project as shown on the Plans and Specifications is in compliance with all requirements and restrictions of all applicable zoning, environmental, building, fire, health and other governmental ordinances, rules and regulations and the requirements of the appropriate board of fire underwriters or other similar body acting in and for the locality in which the Project is located. All conditions to the issuance of building permits have been satisfied.

In the opinion of the undersigned, the Project has been constructed in a good and workmanlike manner substantially in accordance with the Plans and Specifications and is free and clear of any damage or structural defects that would in any material respect affect the value of the Project. In the further opinion of the undersigned, all of the preconditions have been met justifying the issuance of (i) the permanent certificate or certificates of occupancy for the Project (or the letter or certificate of compliance or completion stating that the construction complies with all requirements and restrictions of all governmental ordinances, rules and regulations) and (ii) such other necessary approvals, certificates, permits and licenses that may be required from such governmental authorities having jurisdiction over the Project pertaining to the construction of the Project.

The Project will be in compliance with all current zoning, environmental and other applicable laws, ordinances, rules and regulations, restrictions and requirements, including, without limitation, Title III of the Americans with Disabilities Act of 1990 and the Fair Housing Act, as it relates to the following:

- \* Accessible Building Entrance on an Accessible Route: Covered multifamily dwellings must have at least one building entrance on an accessible route, unless it is impractical to do so because of terrain or unusual characteristics of the site. For all such dwellings with a building entrance on an accessible route the following six requirements apply.
- \* Accessible and Usable Public and Common Use Areas: Public and common use areas must be readily accessible to and usable by people with disabilities.
- \* Usable Doors: All doors designed to allow passage into and within all premises must be sufficiently wide to allow passage by persons in wheelchairs.
- \* Accessible Route Into and Through the Covered Dwelling Units: There must be an accessible route into and through the dwelling units, providing access for people with disabilities throughout the unit.
- \* Light Switches, Electrical Outlets, Thermostats and Other Environmental Controls in Accessible Locations: All premises within the dwelling units must contain light switches, electrical outlets, thermostats and other environmental controls in accessible locations.

- \* Reinforced Walls for Grab Bars: All premises within dwelling units must contain reinforcements in bathroom walls to allow later installation of grab bars around toilet, tub, shower stall and shower seat, where such facilities are provided.
- \* Usable Kitchens and Bathrooms: Dwelling units must contain usable kitchens and bathrooms such that an individual who uses a wheelchair can maneuver about the space.

The foregoing can be found in the Fair Housing Act Design Manual.

There is no building or other municipal violations filed or noted against the Project. All necessary gas, steam, telephone, electric, water and sewer services and other utilities required to adequately service the Project are now available to the Project. All street drainage, water distribution and sanitary sewer systems have been accepted for perpetual maintenance by the appropriate governmental authority or utility.

The Plans and Specifications do not require the installation or use of any asbestos-containing materials in connection with the construction or use of the Project.

Dated: \_\_\_\_\_

ARCHITECT SIGNATURE: \_\_\_\_\_

PRINTED NAME: \_\_\_\_\_

NAME OF COMPANY: \_\_\_\_\_

**THIS EXHIBIT IS TO BE COMPLETED AND EXECUTED ON FIRM LETTERHEAD**

**Exhibit W2**  
**CONTRACTOR'S CERTIFICATE**

The undersigned has served as the general contractor of the real property constructed at ADDRESS  
\_\_\_\_\_ (“the Project”) for NAME OF OWNER \_\_\_\_\_ (“the Project  
Owner”). The undersigned acknowledges that the Project Owner has applied to receive low-income housing  
tax credits under Section 42 of the Internal Revenue Code or to finance or refinance the costs to acquire,  
rehabilitate, or construct the Project by borrowing proceeds from the sale of publicly issued private activity  
bonds.

The undersigned hereby certifies to the Project Owner and the Arizona Department of Housing (ADOH) that  
the Project was constructed in conformity with the Plans and Specifications dated \_\_\_\_\_, 200\_\_.  
[PLEASE NOTE THAT THIS DATE MUST MATCH THE PLANS AND SPECIFICATIONS DATE IN  
ARCHITECT'S CERTIFICATE].

Dated \_\_\_\_\_, 20\_\_.

**[CONTRACTOR NAME]**

Signature: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title \_\_\_\_\_

**THIS EXHIBIT IS TO BE COMPLETED AND EXECUTED ON FIRM LETTERHEAD**

**EXHIBIT X  
OPERATIONAL RISK MANAGEMENT PRACTICES**

Project Name: \_\_\_\_\_

**COMMERCIAL GENERAL LIABILITY (CGL) DATA**

1) Insurance Company NAME \_\_\_\_\_  
 2) A.M. Best Financial Rating \_\_\_\_\_  
 3) Describe method used for selecting coverage limit  
 \_\_\_\_\_  
 4) PRIMARY CGL COVERAGE LIMITS \_\_\_\_\_  
 PER OCCURRENCE LIMIT \_\_\_\_\_  
 AGGREGATE LIMITS \_\_\_\_\_  
 5) EXCESS/UMBRELLA COVERAGE LIMITS  
 AGGREGATE LIMITS \_\_\_\_\_  
 DOES POLICY HAVE ITS OWN DEDUCTIBLE OR SIR?  
 Deductible  S I R  Both  No Umbrella/Excess  
 IF YES, DESCRIBE  
 \_\_\_\_\_  
 6) CGL POLICY DEDUCTIBLE AMOUNT  
 Deductible \_\_\_\_\_ S I R \_\_\_\_\_  
 7) BUSINESS INCOME INTERRUPTION LIMITS  
 FIXED DOLLAR AMOUNT/YR \_\_\_\_\_  
 WILL COVERAGE PAY > 1 YEAR  Yes  No

**POLLUTION LIABILITY COVERAGE**

1) INSURANCE COMPANY NAME \_\_\_\_\_  
 2) A.M. BEST FINANCIAL RATING \_\_\_\_\_  
 3) DESCRIBE METHOD USED AS BASIS FOR COVERAGE LIMIT?  
 \_\_\_\_\_  
 4) DOES THE POLICY SPECIFICALLY COVER MOLD LOSSES?  
 Yes  No  
 5) POLLUTION COVERAGE LIMITS  
 PER OCCURRENCE \_\_\_\_\_  
 AGGREGATE LIMITS \_\_\_\_\_  
 6) POLICY DEDUCTIBLE AMOUNT  
 Deductible \_\_\_\_\_ S I R \_\_\_\_\_

**COMMERCIAL PROPERTY INSURANCE DATA**

1) INSURANCE COMPANY NAME \_\_\_\_\_  
 2) A.M. Best Financial Rating \_\_\_\_\_  
 3) Describe method used as basis for Coverage Valuation  
 \_\_\_\_\_  
 4) PROVIDE SOURCE OF VALUATION (AGENT, APPRAISER, ETC)  
 \_\_\_\_\_  
 5) PROVIDE DATE OF VALUATION \_\_\_\_\_  
 6) PROPERTY COVERAGE LIMITS  
 AGGREGATE LIMIT \_\_\_\_\_  
 7) POLICY DEDUCTIBLE AMOUNT \_\_\_\_\_  
 8) EXCESS/UMBRELLA COVERAGE LIMITS  
 AGGREGATE LIMITS \_\_\_\_\_  
 DOES POLICY HAVE ITS OWN DEDUCTIBLE OR SIR?  
 Deductible  S I R  Both  No Umbrella/Excess

**APPLIES TO PROPERTIES INSURED IN A PORTFOLIO**

1) HAS A PML STUDY BEEN CONDUCTED ON THE PORTFOLIO?  
 Yes  No  
 2) PLEASE PROVIDE A COPY OF THE PML IF LESS THAN 2 YEARS OLD  
 3) IF NO PML STUDY, DESCRIBE COVERAGE VALUATION METHODOLOGY.  
 \_\_\_\_\_  
 4) TOTAL PORTFOLIO COVERAGE  
 AGGREGATE LIMITS \_\_\_\_\_

**EMPLOYMENT PRACTICES LIABILITY COVERAGE**

1) INSURANCE COMPANY NAME \_\_\_\_\_  
 2) A.M. BEST FINANCIAL RATING \_\_\_\_\_  
 3) DESCRIBE METHOD USED AS BASIS FOR SELECTING COVERAGE LIMIT  
 \_\_\_\_\_  
 4) EPL COVERAGE LIMITS  
 PER OCCURRENCE \_\_\_\_\_  
 AGGREGATE LIMITS \_\_\_\_\_  
 POLICY DEDUCTIBLE AMOUNT \_\_\_\_\_

**GENERAL RISK MANAGEMENT POLICIES & PRACTICES**

Are Vendors And Subcontractors Required To Provide Certificates Of Insurance?	<input type="checkbox"/>	<input type="checkbox"/>
Is The Ownership Entity Named As Additional Insured On The Certificates?	<input type="checkbox"/>	<input type="checkbox"/>
Does Operational Policy Include Annual Or Periodic Comprehensive Safety Surveys?	<input type="checkbox"/>	<input type="checkbox"/>
Does Operational Policy Provide Instruction For Cleaning/Preventing/Remediating Mold?	<input type="checkbox"/>	<input type="checkbox"/>
Does Your Policy Allow For Residents Dogs On Premises?	<input type="checkbox"/>	<input type="checkbox"/>
Is There A Policy Limiting The Breed Or Size Of Dog?	<input type="checkbox"/>	<input type="checkbox"/>
Does Operation Policy Have A Proactive Crime Prevention Strategy?	<input type="checkbox"/>	<input type="checkbox"/>
Are All Hazardous Chemicals Stored In Appropriate Locked Containers (I.E. Chlorine)	<input type="checkbox"/>	<input type="checkbox"/>

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**Exhibit Y**  
**FAIR HOUSING ACT ACCESSIBILITY CHECKLIST**

The following is a checklist of design and construction requirements of the Fair Housing Act (the "Act"). This checklist represents many, but not all, of the requirements to the Act. This checklist is not intended to be exhaustive; rather, it is a helpful guide in determining if the major requirements of the Act have been met in designing and constructing a particular multifamily development.

**PROJECT DESCRIPTION:**

NAME: \_\_\_\_\_

LOCATION: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**OTHER IDENTIFYING INFORMATION:**

\_\_\_\_\_  
\_\_\_\_\_

**GENERAL REQUIREMENTS**

- Development has buildings containing 4 or more units and was designed and constructed for first occupancy on or after March 13, 1991.
- If it is an elevator building, all units are "covered units."
- All units in buildings with elevators have features required by the Act.
- If it is a non-elevator building, all ground-floor units are covered units."
- All ground-floor units in buildings without elevators have features required by the Act.

NOTE: There is a narrow exception, which provides that a non-elevator building in a development need not meet all of the Act's requirements if it is impractical to have an accessible entrance to the non-elevator building because of hilly terrain or other unusual characteristics of the site.

**ACCESSIBLE BUILDING ENTRANCE ON AN ACCESSIBLE ROUTE**

- The accessible route is a continuous, unobstructed path (no stairs) through the development that connects all buildings containing covered units and all other amenities.
- The accessible route also connects to parking lots, public streets, public sidewalks and public transportation stops.
- All slopes are no steeper than 8.33%.
- All slopes between 5% and 8.33% have handrails.



- Covered units have at least one entrance on an accessible route.
- There are sufficient curb cuts for a person using a wheelchair to reach every building in the development.

#### **COMMON AND PUBLIC USE AREAS**

- At least two percent of all parking spaces are designated as handicapped parking.
- At least one parking space at each common and public use amenity is designated as handicapped parking.
- All handicapped parking spaces are properly marked.
- All handicapped parking spaces are at least 96" wide with a 60" wide access aisle which can be shared between two spaces.
- The accessible aisle connects to a curb ramp and the accessible route.
- The rental or sales office is readily accessible and usable by persons with disabilities.
- All mailboxes, swimming pools, tennis courts, clubhouses, rest rooms, showers, laundry facilities, trash facilities, drinking fountains, public telephones and other common and public use amenities offered by the development are readily accessible and usable by persons with disabilities.

#### **USABLE DOORS**

- All doors into and through covered units and common use facilities provide a clear opening of at least 32" nominal width.
- All doors leading into common use facilities have lever door handles that do not require grasping and twisting.
- Thresholds at doors to common use facilities are no greater than ½".
- All primary entrance doors to covered units have lever door handles that do not require grasping and twisting.
- Thresholds at primary entrance doors to covered units are no greater than ¾" and beveled.

#### **ACCESSIBLE ROUTE INTO AND THROUGH THE COVERED UNIT**

- All routes through the covered units are no less than 36" wide.

#### **ACCESSIBLE ENVIRONMENTAL CONTROLS**

- All light switches, electrical outlets, thermostats and other environmental controls must be no less than 15" and no greater than 48" from the floor.

#### **REINFORCED BATHROOM WALLS FOR GRAB BARS**

- Reinforcements are built into the bathroom walls surrounding toilets, showers and bathtubs for the later installation of grab bars.

**USABLE KITCHENS AND BATHROOMS**

- At least 30" x 48" of clear floor space at each kitchen fixture and appliance.
- At least 40" between opposing cabinets and appliances.
- At least a 60" diameter turning circle in U-shaped kitchens unless the cook top or sink at end of U-shaped kitchen has removable cabinets beneath for knee space.
- In bathroom, at least 30" x 48" of clear floor space outside swing of bathroom door.
- Sufficient clear floor space in front of and around sink, toilet and bathtub for use by persons using wheelchairs.

The undersigned certifies that this Checklist has been completed by the Project Architect, that the each of the items checked above is a design and construction requirement for the Project, and that the representations made in this Checklist are all true and correct to the best of my knowledge.

**PROJECT ARCHITECT:**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date