

**TABLE OF CONTENTS**

<b>1.</b>	<b>INTRODUCTION</b>	
1.1	Background	<u>1615</u>
1.2	General and Specific Goals	<u>1615</u>
<b>2.</b>	<b>APPLICATION FOR TAX CREDITS</b>	
2.1	Amount and Allocation of State’s Annual Credit Authority	<u>1917</u>
2.2	Tax Credit Reservation	<u>1917</u>
2.3	Application Deadlines, Timetable and Application Submission Location	<u>2018</u>
2.4	Application Format	<u>2119</u>
2.5	Eligibility Requirements	<u>2119</u>
2.6	2012 Set-Asides	<u>2220</u>
2.7	Project Scoring	<u>2321</u>
2.8	Tie Breaker	<u>2927</u>
2.9	Threshold	<u>3027</u>
2.10	Carryover Allocation	<u>5048</u>
2.11	10% Cost Requirements	<u>5149</u>
2.12	Equity Closing	<u>5149</u>
2.13	Compliance Monitoring	<u>5250</u>
2.14	Marketing Plan	<u>5250</u>
2.15	Environmental Reports	<u>5351</u>
<b>3.</b>	<b>4% TAX CREDITS WITH TAX EXEMPT BOND FINANCING</b>	<u>5452</u>
<b>4.</b>	<b>GENERAL REGULATIONS</b>	
4.1	False Filing	<u>5755</u>
4.2	Satisfactory Progress	<u>5755</u>
4.3	Return of Credits	<u>5755</u>
4.4	Extended Use Period	<u>5856</u>
4.5	Material Changes	<u>5856</u>
4.6	Disclaimer and Limitation of Liability	<u>5957</u>
<b>5.</b>	<b>FINAL TAX CREDIT ALLOCATION</b>	
5.1	Requirements for Issuance of Final Allocation (IRS Form 8609)	<u>6159</u>
5.2	Final Allocation Underwriting	<u>6361</u>
<b>6.</b>	<b>FEES</b>	
6.1	Tax Credit Application Fee	<u>6462</u>
6.2	Gap Financing Review Fee	<u>6462</u>
6.3	Reservation Fee, Determination Fee and Final Allocation Fee	<u>6462</u>
6.4	Tenant Ownership Fees	<u>6462</u>
6.5	Carryover Allocation and 10% Late Fees	<u>6462</u>
6.6	Administration Fees	<u>6462</u>
6.7	Compliance Monitoring Fees	<u>6462</u>
<b>7.</b>	<b>UNDERWRITING</b>	
7.1	Underwriting Requirements	<u>6664</u>
7.2	Calculation of Credits	<u>7068</u>

8.	<b>PROJECT COMPLIANCE MONITORING</b>	
8.1	Project Compliance Monitoring	<u>7270</u>
8.2	Compliance Monitoring Requirements	<u>7270</u>

DRAFT 4

### EXHIBITS

The following Exhibits and Forms are included with the LIHTC application. Exhibits D & L are available on ADOH's website as individual Exhibits. **\*\*EXHIBITS WILL NOT BE INCLUDED IN THE DRAFT QAP\*\***

Exhibit A	Site Amenities Supporting Documentation
Exhibit B	Sample CPA Opinion
Exhibit C	Sample Legal Opinion
Exhibit D	Year 2012 Mandatory Design Guidelines
Exhibit E	Year 2012 DDA and QCT
Exhibit F	Sample 10% Cost Test Letter
Exhibit F-1	Project Cost Form
Exhibit G	Sample Final Cost Certification Letter
Exhibit H	Imputed Incomes/Allowable Rents
Exhibit L	Market Demand Study Guide
Exhibit N	Supportive Services Plan
Form 2	Self-Score Sheet
Form 2-1	Set-Aside Election Form
Form 3	LIHTC Application
Form 7	Certification of Qualified Non-Profit Participation
Form 8	Development Team Experience
Form 8-1	Development Experience
Form 8-2	Authorization for Release of Information of Developer
Form 8-3	Management Company Experience
Form 8-4	Authorization for Release of Information of Management Company
Form 9	Job Creation – <del>Final Site Plan and Final Plat</del> <u>Evidence of Submitted Civil Engineering and Construction Document</u> Approval
Form 9-1	Job Creation – Civil Engineering and Construction Document Approval
Form 10	Planning and Zoning Verification
Form 16	Architect's Certificate
Form 17	Sustainable Development Checklist
Form 20	Occupancy Preferences/Commitment to Service Provider
Form 22	Targeting Low Income Levels
Form <del>28</del> <u>26</u>	Efficient Use of Tax Credits
Form <del>29</del> <u>27</u>	Waiver of Qualified Contract
<b><u>Form 28</u></b>	<b><u>Community Revitalization</u></b>
Form 30	Project Schedule
Form 8609-1	Contractor's Certificate
Form 8609-2	Operational Risk Management Practices

## DEFINITIONS

The following definitions shall apply to both the QAP and LIHTC Application for the year 2012. Terms that are not specifically defined in the QAP shall be interpreted using common meanings typically accepted in the tax credit multi-family housing development industry, but will be ultimately interpreted by the ADOH in its discretion.

“10% Cost Test” means the requirement of I.R.C. § 42(h)(1)(E)(ii) that 10% of the reasonably expected basis in the project has been incurred within one (1) year from the date of Allocation.

“10-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 I.R.C. §167(k) or the Tax Reform Act of 1986 for buildings placed in service before July 30, 2008.
- B. The 10-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.

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

“Abandoned Property” means mortgage or tax foreclosure proceedings have been initiated for that property, no mortgage or tax payments have been made by the pre-foreclosure property owner for at least 120 days, and the property has been vacant for at least 120 days. Tax payments may be made by the party initiating the mortgage or tax foreclosure proceedings.

“Acquisition Credits” means the 4% Tax Credits (as announced monthly by the IRS) awarded by ADOH in connection with the acquisition costs of an existing building.

“Administration Fee” means the \$1,500.00 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. See Section 4.5.

“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).

“Affiliate” means any Person or entity which directly or indirectly owns or controls another Person by having any family relationship, ownership interest or a Controlling Interest in that Person.

“Affordable Housing” means a multifamily residential rental development using one or any combination of the following funding sources: Low Income Housing Tax Credits; HUD HOME Investment Partnerships Sections 202, 207, 220, 223, 231, 811, and HOPE VI programs; Native American Housing Assistance and Self Determination Act; USDA/RD Sections 514 and 515 programs; or the Arizona Housing Trust Fund.

“Allocation” means the award of Tax Credits by ADOH to the Owner of a 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.

“Applicable Fraction” means as provided by I.R.C. § 42(c)(1)(B).

“Applicable Percentage” means as provided by I.R.C. § 42(b) as currently amended by the Housing and Economic Recovery Act of 2008, (Pub. L. 110-289, 122 Stat. 2654).

“Applicant” means an existing legal entity or an individual submitting an Application for LIHTC for a Project pursuant to the Allocation Plan.

“Application” means the Low Income Housing Tax Credit Application in Section 2.4 hereof.

“Appraisal” means an estimate of the value of Project real property based on market information, including comparable properties, that is current through the period ending no earlier than (six) 6 months before the deadline for submittal of the application; and that is prepared in accordance with the Uniform Standards of Appraisal Practice by an analyst who does not have a Controlling Interest in the Development Team, bond issuer or user of bond proceeds does not have a Controlling Interest 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, published by HUD, adjusted for family size, used by the IRS as a reference in establishing income levels for the LIHTC Program (e.g., “60% of AMGI,” “50% 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.

“Arizona-based Non-Profit Organization” means a Non-Profit Organization that provides its non-profit services through an office and personnel located in Arizona as of the date of the Application.

“Authorized Signatory” means an individual who is authorized to execute a binding document on behalf of a corporation, partnership or other legal entity.

“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.

“Blight” means areas and neighborhoods with obsolete or inadequate infrastructure, unsanitary and unsafe conditions, as well as areas where a large number of building structures are dilapidated or are generally described as deteriorated, as defined by HUD.

“Blighted Structure” means one or more structures that exhibit objectively determinable signs of deterioration sufficient to constitute a threat to human health, safety, and public welfare.

“Builder” means the general contractor.

“Capital Needs Assessment (CNA)” means the assessment as set forth in Section 2.9(AA)(1).

“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 Late Fee” means an additional fee of \$250.00 per day if the information required under Section 2.10 of this Plan is submitted after the date specified in the Notice of Reservation.

“CDBG” means Community Development Block Grant program.

“Census Designated Place (CDP)” means a statistical entity, defined for each decennial census according to Census Bureau guidelines, comprised of 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 the person identified in Form 3 and Tab 8/Form 8 as the Co-Developer who is also one of two or more Developers of the same Project and which will actively participate in the development of the Project, and will receive at least 10% of the Developer fee.

“Code” and “I.R.C.” mean the Internal Revenue Code.

“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.

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

“Community Facility” means community room, clubhouse, recreation center or similar area for use by residents. Lobbies and laundry facilities must not be considered within the scope of this definition.

“Community Revitalization Area” means ~~an area in which the proposed Project’s rehabilitation will support community preservation. The proposed Project must be in an area that has been identified by the Local Government as an area in which there is a need for improvement in housing and business locations to benefit the community and preserve the neighborhood.~~ **an area designated by HUD as a Federal Empowerment Zone, Federal Enterprise Community or Neighborhood Revitalization Strategy Area (NRSA)**

“Community Services Facility” means a facility building as described in I.R.C. § 42(d)(4)(C)(iii).

“Compliance Manual” means the LIHTC Program Compliance Manual developed by ADOH.

“Compliance Monitoring Fees” means those certain fees described in Section 6.7.

“Compliance Training” means instructional programs taught by authorized providers on operating and managing Projects in conformance with the requirements of I.R.C. § 42, Reg. 1.42-5, the QAP and the LURA. Approved Compliance Training providers are: ADOH, Compliance Solutions, THEOPRO and Spectrum.

“Compliance Period” means the compliance period for a building that begins with the first year of the building’s Tax 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 fifteen 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. The holder of a more than 50% ownership in a legal entity is automatically determined to have a Controlling Interest in that legal entity.

“Controlling Person” is a Person who has Controlling Interest in another Person.

“Council of Governments” or “COG” 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 Region 4 counties of La Paz, Mohave and Yuma; Central Arizona Association of Governments (“CAAG”), serving the Region 5 counties of Gila and Pinal; and South Eastern Arizona Governments Organization (“SEAGO”), serving the Region 6 counties of Cochise, Graham, Greenlee and Santa Cruz.

“DDA” means a difficult development area designated by HUD as an area that has high construction, land and utility costs, relative to the AMGI.

“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 or of the day stated in the Reservation Letter for the Carryover Allocation Agreement.

“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 from the 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 I.R.C. § 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 pursuant to I.R.C. § 42(m).

“Developer” means the person identified in Form 3 and Tab 8/Form 8 as the developer for the Project, who must be listed in any agreement regarding the development fee as the person receiving a majority of the Developer Fee, is responsible for preparing the Project for residential use as a LIHTC Project and is responsible for ensuring that a material portion of all phases of the development process are accomplished.

“Developer Fee” means the amount identified in the Form 3 and partnership agreement for the Project as the fee being paid to the Developer.

“Development Team” means the entities and professionals assembled to develop and manage the Project, typically including the Applicant, Owner, Developer(s), Co-Developer(s) and general partner, or any other related entities in which the Developer has an identity of interest.

“DSCR” means debt service coverage ratio.

“Elderly Person” means a household composed of one or more persons at least one of whom is 62 years of age or more at the time of initial occupancy.

**“Eligible Basis” means the depreciable basis of residential rental housing eligible for Tax Credits.**

“Eligible Basis Analysis” means the analysis described in Section 7.2A.

“Equity Investor” means a limited partner or investor member who contributes capital to a limited partnership or to a limited liability company that will own and operate the low-income housing Project. Equity Investors will provide the capital requirements of the limited partnership or limited liability company either in the form of a single contribution at the time of entry or a staged level of contributions.

“Extended Use Period” means the term of the LURA and must be a minimum of fifteen years after the termination of the Compliance Period, which has a term of fifteen years.

“Federal Subsidy or Federally Subsidized” for the purposes of tax credits, Federal Subsidies include a federal, state or local grant that is funded by a federal source. Examples of federal grants include HOME Investment Partnership Act (HOME funds), Community Development Block Grants or Urban Development Action Grants. Section 8 federal rental assistance does not constitute federal grants for purposes of I.R.C. § 42(d)(5). Below market federal loans do not constitute a Federal Subsidy under HERA. Use of these financing sources may require reductions in eligible basis or reductions in a Project’s maximum Applicable Credit Percentage (see I.R.C. § 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 or any additional outstanding fees owed to ADOH.

“Financial Statements” means a complete and accurate balance sheet, income statement, cash-flow statement, 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 the 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.

“Foreclosed Property” means a property which “has been foreclosed upon” at the point that, under state or local law, the mortgage or tax foreclosure is complete. Foreclosure is deemed complete after the title of the property has been transferred from the former property owner under some type of foreclosure proceeding or transferred in lieu of foreclosure after foreclosure proceedings have been initiated, in accordance with state or local law.

“Forward Allocation” is as defined in Section 2.2D.

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

“Gap Analysis” means the second analysis for calculating credits to determine that the project has not been overfunded with tax credits. See Section 7.1(B) for calculation.

“GAP Financing” means State Housing Funds up to \$750,000 per project to be used to reduce the gap between ADOH approved total development costs and permanent sources of funds.

“Historic Preservation Project” means a project with (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, or (iii) that is located within an area that has been zoned as a historic area. 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.

“Home Energy Rating System” or “HERS” means a rating system for a home energy analysis of home design and construction plans established by the Residential Energy Services Network, a nonprofit membership corporation whose standards are officially recognized by the US Government and mortgage industry.

“Horizontal Improvements” means permits have been issued and construction has commenced on grading of the land, installation of utilities including, but not limited to, water, sewer, and power, and the installation of paving, curbs and gutters, which are substantially complete.

“Housing First” model or project means a particular housing approach that moves the homeless individual or household immediately from the streets or homeless shelters to their own apartments, instead of using intermediate levels of housing such as transitional housing programs, and then providing supportive services in a manner that emphasizes a non-coercive approach.

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

“IREM” stands for The Institute of Real Estate Management which is an international community of real estate managers across all property types dedicated to ethical business practices and maximizing the value of investment real estate.

“IRS” means the Internal Revenue Service.

“LIHTC” or “Tax Credit” means the Low-Income Housing Tax Credit program under I.R.C. § 42.

“LEED for Homes” means the consensus-developed, third party-verified, voluntary rating system developed by the US Green Building Council which promotes the design and construction of high-performance green homes.

“LEED for Homes Gold Certification” means a certification that the LEED-certified home is designed and constructed in accordance with the rigorous guidelines of the LEED for Homes green building certification program and has met the standards labeled as “gold” by the US Green Building Council in the LEED for Homes rating system.

“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 Organization holds the right to 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 I.R.C. § 42(g)(2)) and the individuals occupying such Unit meet the income limitation applicable under I.R.C. § 42(g)(2) for the Project.

“LURA” means the “Extended Low-Income Housing Commitment” required by IRC § 42(H)(6) which must be in the form of a Declaration of Affirmative Land Use and Restrictive Covenants Agreement (commonly referred as the “LURA”) that is recorded and runs with the land on which the Project is developed, restricting the use of land by the Owner and its successors and assigns to the terms and conditions of the Project, as approved by ADOH.

“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 Section 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 4.5.

“Max” or “Maximum Points” means the highest amount of points that may be awarded by the ADOH in each scoring category.

“Native American Housing Assistance and Self Determination Act” means the Native American Housing Assistance and Self Determination Act of 1996, P.L. 104-330 (25 U.S.C. 4101 - 4212), as amended. The Native American Housing Assistance and Self-Determination Act of 1996 was passed to simplify and reorganize the system of providing housing assistance to Native American communities to help improve the unsatisfactory conditions of infrastructure in Indian Country. The legislation proposed to accomplish this reform by reducing the regulatory strictures that burdened Tribes attempting to use their housing grants, and created a new program division of the Department of Housing and Urban Development that combined several previously used programs into one block operation committed to the task of Tribal housing.

“National Apartment Association” is a membership association based out of Virginia that is an advocate for quality rental housing in the multifamily housing industry.

“Non-Profit Organization” means an existing entity formed and maintained as an I.R.C. § 501(c)(3) or (4) organization and is exempt from the tax under I.R.C. § 501(a).

“Non-Profit Project” means Projects in which a qualified Non-Profit Organization owns an interest of at least fifty one percent (51%) of the general partner interest in the Project, and materially participates within the meaning of I.R.C § 469(h) in the development and operation of the Project throughout the Compliance Period and the Extended Use Period.

“Non-Profit Set-Aside” means the tax credits allocated by the State to meet the requirement under I.R.C. § 42(h)(5) to allocate at least 10% of the State housing credit ceiling for any calendar year to projects involving a qualified Non-Profit Organization (as such organization is defined under I.R.C. § 42(h)(5)(C)) which owns an interest of at least fifty one percent (51%) of the general partner interest in the Project, and materially participates (within the meaning of I.R.C. § 469(h)) in the development and operation of the Project throughout the Compliance Period and the Extended Use Period. I.R.C. § 42(h)(5)(C) defines a qualified Non-Profit Organization as any organization if such organization is described in paragraph (3) or (4) of I.R.C. § 501(c) and is exempt from the tax under I.R.C. § 501(a), such organization is determined by the State housing credit agency not to be affiliated with or controlled by a for-profit organization and one of the exempt purposes is the fostering of low-income housing. I.R.C. § 469(h) defines material participation as involvement in the operations of an activity on a basis that is regular, continuous and substantial.

“Obsolescence” means a loss in value due to factors outside the property lines of the subject property that adversely affect the usability and value of the subject property or its actual or potential income.

“On-site” means directly located on the property of the Project.

“Operating Expenses” 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.

“Permanent Financing” means the difference between total development costs and tax credit equity contributions.

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

“Phase I Environmental Report” means a report prepared for a real estate holding which identifies potential or existing environmental contamination liabilities.

“Placed in Service” means: 1) 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 2) with respect to rehabilitation expenditures that are treated as a separate new building, those buildings are placed in service at the close of any 24-month period over which the expenditures are aggregated.

“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% 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 this paragraph, once made, is irrevocable. For purposes of this paragraph, any property must 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 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.

“OCT” is a LIHTC qualified census tract area determined by HUD wherein the average median income of the households in the area is less than 60% of the county median income, or where the poverty rate is greater than 25%.

“Qualified Contract” is as defined in I.R.C. § 42(h)(6)(F) which states: the term “qualified contract” means a bona fide contract to acquire (within a reasonable period after the contract is entered into) the non low-income portion of the building for fair market value and the low-income portion of the building for an amount not less than the applicable fraction (specified in the extended low-income housing commitment)

of (i) the sum of (I) the outstanding indebtedness secured by, or with respect to, the building, (II) the adjusted investor equity in the building, plus (III) other capital contributions not reflected in the amounts described in subclause (I) or (II), reduced by (ii) cash distributions from (or available for distribution from) the project. If no qualified buyer is produced within the 365-day period, the owner may be released from all use restrictions and obligations. However, if the owner refuses to sell the property, it must abide by the extended use restrictions enacted by the Revenue Reconciliation Act. This option is only available to owners who did not waive their right to seek a qualified contract or agree to a longer use agreement when signing their restricted use agreement with the state housing finance authority.

“Reg” means Internal Revenue Treasury Regulations.

“Rehabilitation” or “Rehab” or “Rehabilitated” means to restore to good condition, operation or capacity.

“Reservation” means a 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.

“Reservation Fee” - the Reservation Fee is calculated as 10% of the annual credit allocation. (8% of the 10% reservation fee is due and payable at Reservation with the remaining 2% of the 10% reservation fee due and payable at final allocation.)

“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. Reg. §§ 1.103-8(a) 8(i).

“Reservation List” shall mean as defined in Section 2.2(B).

“Rural Development” means economic and community development actions or initiatives taken to improve the economy and quality of life of communities and individuals in non-urban areas.

“Rural Project” means a Project located 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 a Project which is comprised of separate buildings that are considered a single Project if the buildings meet the following criteria:

- A. Consist of no more than six (6) non-contiguous parcels within a 15-mile radius of each other;
- B. All buildings in the Project must be under the ownership of one entity;
- C. All units in the scattered site application must be managed by one entity;
- D. All buildings in the Project must be developed under one common plan of financing and considered as a single Project by all funding sources;
- E. The scattered sites must be appraised as a single proposed development; and
- F. Otherwise meets the requirements of I.R.C. § 42(g)(7) when it is placed in service.

“Set-Aside” means (1) a specific type of housing development category that the ADOH has identified as a priority for allocating tax credits or (2) an identified number of housing units that the Owner will agree to be held for use by tenants with a certain level of income or by tenants in a particular group.

“Site Control” means Applicant’s evidence of ownership or control over the land required for the project in the form of: a) a binding commitment to transfer land to the Owner,; b) a recorded deed with the Owner as grantee, c) a long term lease with the Owner as the lessee or d) a lease option between Owner and owner of the land as such owner is recorded in the jurisdiction of the property provided the lease option is not terminable at the property owner’s discretion until 180 days after the Deadline Date for submittal of the Application.

“Special Needs Populations” means 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 will include:

- A. Homeless Individual(s): a person(s) who has lived: 1) in places not meant for human habitation such as cars, parks, sidewalks, abandoned buildings, etc.; 2) in an emergency or shelter facility; or 3) in a transitional housing facility (not permanent housing).
- B. Seriously Emotionally Disturbed: a person(s) 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.
- C. Developmentally Disabled Persons: a person(s) 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.
- D. Victims of Domestic Violence: as certified by a referral agency.
- E. Individuals Suffering from Chronic Substance Abuse: as certified by a referral agency.

“Stalled Project” means a Project where property development activities were commenced, but have been inactive for a period of 12 months or longer, and that has never been placed in service for its intended purpose, as determined in the ADOH’s discretion.

“State” means the State of Arizona.

“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.

“State Housing Fund” or “SHF” means funds in a single housing program that are comprised of Federal HOME resources from HUD and state resources from the State Housing Trust Fund (HTF).

“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” means services provided by the service provider to help residents enhance their way of living and achieve self-sufficiency. 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. For the purposes of scoring, the ADOH may determine that certain Supportive Services must be offered on-site to obtain points in a particular Project scoring category.

“Sustainable Development” means generally, a pattern of resource use that aims to meet human needs while preserving the environment so that these human needs can be met not only in the present, but also for generations to come and means more specifically, a description of the products, approaches or methods that are used to meet these general resource aims.

“Syndication Rate” means a ratio that reflects the price to the Project for \$1.00 of tax credits awarded.

“Tribe” or “Tribal” means a federally recognized Native American Indian tribe.

“Total Direct Construction Costs” means the costs to construct the Project which matches the construction contract and line 52 on Form 3 of the development budget.

“Uniform Standards of Appraisal Practice” means the guidance as published and amended by the Appraisal Standards Board of the Appraisals Foundation for quality control standards applicable for real property, personal property, intangibles, and business valuation appraisal analysis and reports in the United States and its territories.

“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.

“USDA/RD” means United States Department of Agriculture/Rural Development.

“VASH” means Veterans Affairs Supportive Housing.

“Vertical Improvements” means permits have been issued and construction has commenced on vertical project improvements which include buildings, walls, swimming pools, etc.

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

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

## 1. INTRODUCTION

### 1.1 Background

- A. The federal Low-Income Housing Tax Credit (“LIHTC” or “Tax Credit”) program was established by the Tax Reform Act of 1986, and codified in Section 42 of the Internal Revenue Code of 1986, as amended (“I.R.C. § 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 I.R.C. § 42 by adding § 42(m), which requires allocating agencies to allocate Low-Income Housing Tax Credits pursuant to a Qualified Allocation Plan (“QAP”, “Plan”, or “Allocation Plan”). I.R.C. § 42(m) describes the purposes and requirements for this Plan.
- B. There are two methods for obtaining a Tax Credit Allocation pursuant to this Plan: 1) through a competitive application process, and 2) tax-exempt bond financing.
- C. Changes to the Plan.
1. Annual Plans. **DISCLAIMER:** ADOH may submit a new proposed plan with substantial changes for public review and comment. ADOH may add, delete, or substantially change eligibility requirements, Set-Asides, scoring, threshold and underwriting requirements for a new plan.
  2. Changes to Approved Plans. ADOH may in its discretion make changes to this Plan. In accordance with I.R.C. § 42(m)(1)(A)(iv), written explanation will be made available to the general public for any allocation of a housing credit dollar amount which is not made in accordance with established priorities and selection criteria of the ADOH. 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. Should changes to this Plan or other tax credit programs occur, ADOH must post a public notice on the ADOH website and email a notification of the same to all applicants. Changes to this Plan due to changes in the applicable federal law must be announced by ADOH through a public notice.
  3. Modifications to Plan. ADOH may modify this Plan, including its compliance and monitoring provisions, from time to time, or for any other reasons as determined by ADOH: 1) to reflect any changes, additions, deletions, interpretations, or other matters necessary to comply with I.R.C. § 42 or regulations promulgated there-under; 2) to respond to changes in the market for affordable housing; 3) 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 I.R.C. § 42; or 4) to cure any ambiguity, supply any omission or correct any defect or inconsistent provision with this Plan or I.R.C. § 42.

### 1.2 General and Specific Goals

- A. General Goals. The selection criteria set forth in this Allocation Plan include, in part, consideration of: (1) Development location; (2) housing needs characteristics; (3) Development characteristics, including whether Project uses existing housing as part of a community revitalization plan; (4) sponsor characteristics; (5) tenant population with special housing needs; (6) the existence of a public housing waiting list; (7) tenant populations of individuals with children; (8) Projects intended for eventual tenant ownership; and (9) permanent supportive housing. For projects that are not financed

through tax-exempt bonds, the LIHTC program is a competitive program. For the process and requirements for Tax Credits to projects financed by tax-exempt bonds, see Section 3 of this Plan. In furtherance of the statutory provisions affecting the program, ADOH has established the following general goals for allocating Tax Credits in Arizona:

1. To maximize the number of affordable rental housing units added to the existing housing stock;
2. To develop affordable rental housing units in areas with the highest market demand while avoiding concentration of affordable properties in distressed areas;
3. To develop affordable rental housing units necessary to satisfy a critical need in an area;
4. To allocate Tax Credits to projects that provide the greatest overall public benefits;
5. 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;
6. To enable substantial rehabilitation of existing rental housing in order to prevent losses to the existing supply of affordable Units;
7. 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;
8. To maximize the utilization of Tax Credits;
9. To provide an equitable distribution of Tax Credits across the State;
10. To provide opportunities for participation in the Tax Credit program to all qualified sponsors of low-income rental housing; and
11. To provide Local Government entities with notice and opportunity to comment on Tax Credit development proposed within their jurisdictions.

B. **Specific Goals.** In allocating Tax Credits, ADOH seeks to achieve specific goals. These are:

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);
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);
3. To make Tax Credit funding available to projects serving low-income populations – including families with children, homeless persons, veterans, and elderly citizens;
4. To hold competition to determine those projects considered sound investments of public funds;
5. To expend the minimum amount of public funds necessary to accomplish program goals;
6. To administer the LIHTC program in a manner that encourages timely Project completion and occupancy;
7. To encourage the highest available quality and design standards for Projects financed with Tax Credits; and
8. To develop and promote Sustainable Development.



## 2. APPLICATION FOR TAX CREDITS

### 2.1 Amount and Allocation of the State's Annual Credit Authority

**Annual Tax Credit Ceiling.** 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 typically insufficient to fund all applications. This Plan explains the competitive process that ADOH uses to allocate its annual authority for 9% tax credits in 2012.

For calendar year 2012, the amount used under I.R.C. § 42(h)(3)(C)(ii) to calculate any state's LIHTC program credit ceiling amount is the greater of 1) \$2.20 multiplied by the state's population, or 2) \$2,525,000.00. These figures are adjusted annually for inflation. Arizona's LIHTC program credit ceiling amount for the calendar year 2012 is approximately \$13,000,000.00. 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 Tax Credit Reservation

**Maximum Reservation.** The amount of Tax Credits awarded to any one (1) Project must be the lesser of the Eligible Basis Analysis or the Gap Analysis. ~~No A Developer may submit more than one (1) Project under this Plan, but the ADOH will not award Tax Credits for more than two (2) Projects having the same Developer, including any Co-Developer or any affiliate of a Developer or Co-Developer that is acting as a Developer or Co-Developer on a Project, with the same Developer. Tax Credits will be limited to no more than \$1,500,000 per Project for Projects in a Set-Aside category. For Projects awarded Tax Credits outside of the Set-Aside category, Projects with the same Developer will be awarded no more than \$1,500,000 in Tax Credits; and no one (1) Developer, including any per Project, and Projects whose Developer is not the Developer on any other Project awarded Tax Credits under this Plan are eligible to receive up to \$2,500,000 in Tax Credits. For the purposes of the Maximum Reservation, the term "Developer" includes the Developer, Co-Developer or any affiliate of a Developer or Co-Developer that is acting as a Developer or Co-Developer on a Project, will be awarded more than \$3,000,000 in Tax Credits through this Plan.~~ In the event of a competitive round under this Plan after the 2012 calendar year, ADOH may limit the maximum amount of Tax Credits available for a reservation in a separate notice.

- A. **Tax Credit Reservation.** ADOH, based upon an evaluation of applications and in its sole discretion, must reserve Tax Credits as follows:
1. First, to Projects in each Set-Aside category, preference being given to Projects with the highest competitive score that: 1) meet eligibility and threshold requirements; 2) demonstrate a strong market demand; and 3) meet underwriting requirements. One Project may satisfy more than one Set-Aside category.
  2. Second, to Projects that have not designated or do not qualify for a Set-Aside category, preference being given to Projects with the highest competitive score that: 1) meet threshold and eligibility requirements; 2) demonstrate a strong market demand; and 3) meet underwriting requirements.
  3. 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 I.R.C. § 42 or in the Plan, or otherwise attempts to circumvent the goals and requirements of the Plan or ADOH.

4. ADOH must reserve Tax Credits to a Project through a letter notifying the Applicant of the Tax Credit Reservation. ADOH may condition the Reservation upon satisfaction of specific requirements which may include, without limitation, a request for payment of the Reservation Fee, requirements for meeting the Carryover Allocation, and requirements for meeting the 10% Cost Test. Failure to satisfy the conditions explained in the letter may result in cancellation of the Reservation.
- B. **Reservation List.** ADOH will establish and make available to the public a list describing Projects receiving an allocation in the order described in this Section along with the name of the Project, Project location, Set-Aside category, and annual Tax Credit amount (“Reservation List”). Applicants who receive a Reservation of Tax Credits will receive a letter, which shall include the Applicant’s score.
- C. **Allocation of Returned Credits.** ADOH may allocate Tax Credits that have been returned and those it has received from the national pool to projects that were not fully funded. ADOH may carry forward remaining Tax Credits to the next calendar year as permitted under I.R.C. § 42. Returned Tax Credits may be allocated to the next highest scoring Projects that meet eligibility requirements, threshold criteria and underwriting review.
- D. **Forward Allocations.** ADOH may consider committing Tax Credits from the following year’s annual Tax Credit ceiling amount to Projects submitting an Application under this Plan (a “Forward Allocation”) for those Projects that (1) received a partial allocation solely for the purpose of maximizing the Allocation of Tax Credits available in the current Tax Credit year, (2) in the event that ADOH determines that a material error prevented an otherwise qualifying Project from receiving a Reservation, or (3) in the event the ADOH, in its sole discretion, determines that a Forward Allocation of up to twenty five percent (25%) of the 2013 Tax Credit ceiling may benefit the creation of new jobs in the 2012 year. If a Forward Allocation is made to Applicant based on review and underwriting at the time that the Forward Allocation credits are reserved, Applicant may not request any additional credits in the subsequent year with respect to that same Project, nor may a Developer, including any Co-Developer or any affiliate of a Developer or Co-Developer that is acting as a Developer or Co-Developer on a Project exceed the \$3,000,000 Maximum Reservation stated in Section 2.2 of this Plan.
- E. **Unsuccessful Applicants.** After ADOH announces the Reservation of Tax Credits, the ADOH will provide a letter to the unsuccessful Applicants with the total scoring of the items in the Application. Unsuccessful Applicants may request a meeting with program staff to discuss their Application. ADOH may also accept written questions concerning its scoring. Questions must be based solely on facts provided in the Applicant’s original Application. A final decision denying an Application for Tax Credits will provide notice of the right to administrative appeal pursuant to A.R.S. §§ 41-1092 through 1092.12. An unsuccessful application for reservation of tax credits shall expire on the date the governor approves a subsequent Plan, December 31, 2012, or otherwise upon notice by ADOH.

### 2.3 Application Deadlines, Timetable, and Application Submission Location

- A. **Allocation Rounds.** ADOH may hold one or more Tax Credit Application rounds pursuant to this Plan.

- B. **Application Deadline and Payment of Fee.** A non-refundable application fee of \$5,000.00 for each Application is due on or before 4:00 P.M. March 1, 2012, or as may be otherwise announced by ADOH in an information bulletin published on the ADOH website. Bound, hard-copy applications must be submitted to the reception desk of the Arizona Department of Housing located at 1110 West Washington Street, Suite 310, Phoenix, Arizona 85007. Online Applications will be submitted through the ADOH website. **FACSIMILE AND E-MAIL SUBMISSIONS WILL NOT BE ACCEPTED.**

## 2.4 Application Format

Applicant must submit one (1) hard copy and one (1) electronic submittal, of the complete Application. Hard copy Application materials must be in 8-1/2 x 11 format, placed in one (1) adequate sized three ring binder, indexed and tabbed as described in this Plan. **Exceptions:** All drawings/plans may be included unbound if they do not lend themselves to the 8-1/2 x 11 formats. All such plans must be in the smallest practical (readable) format. The maximum acceptable drawing size is C-size. Items of significant volume (such as an Appraisal, Market Demand Study or Capital Needs Assessment) may be submitted as separate bound items. Each Application must comply with the format and content of this Plan. ADOH may reject any Application that does not conform to the requirements of this Plan or is submitted after the Deadline Date. In the event that there is a discrepancy with respect to any information provided in the Application materials, ADOH will consider the hard copy Application as the primary source document. ADOH retains the sole discretion in determining and interpreting whether an Application or Project meets state law, federal law or the Plan criteria, terms, conditions or definitions.

## 2.5 Eligibility Requirements

ADOH will evaluate all Applications in a competitive review process except those financed with tax exempt bonds. ADOH may deny an Application for Tax Credits that fails to meet eligibility requirements regardless of its score. Applications that meet the eligibility requirements must be scored and then reviewed for threshold requirements under their appropriate Set-Aside category, if any.

**The following criteria must be met in order to meet the eligibility requirements:**

- A. **Application Submittal and Fees.** One (1) original Application organized in the prescribed sequence and format, as required by this Plan, must be accompanied by a \$5,000.00 Application fee. ADOH will deem an Application ineligible if an Application fee payment does not clear to ADOH's deposit account.
- B. **Proof of Online Application Submittal.** Applicant must provide the e-mail confirmation submittal provided by ADOH at the time the online Application is uploaded.
- C. **Application Workshop.** Developer, Co-Developer or Consultant, must submit a certificate of attendance from the 2012 LIHTC Application workshop.
- D. **Developer Compliance Training.** Developer, Co-Developer or Consultant must attend Compliance Training at a minimum of every five (5) years. Developer must provide a Compliance Training certificate as a part of the 2012 LIHTC Application.
- E. **Authorized Signatures.** All documents that require a signature must be signed by the Applicant's authorized representative. Applicant must be an existing legal entity authorized to conduct business in Arizona and in good standing with the applicable Arizona state agency for the type of Applicant entity. ADOH will not consider forms signed on behalf of an entity that is not duly formed or by a representative without authority.

- F. **Current Accounts.** At the time 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 or housing authority in Arizona.
- G. **Satisfactory Progress and Compliance.** ADOH may reject Applications for Projects having Development Team members that did not meet the requirements of a previous year's Plan. In addition, ADOH may reject Applications from any Developer who has failed to comply with the Tax Credit requirements and conditions in previous Applications or Projects including, but not limited to, payments due on ADOH loans or payment of any other fees as described in Section 6 of this Plan.
- H. **Acknowledgement and Consent from Local Government.** ADOH will notify the Local Government where the Project is located and request that the Local Government provide a letter of acknowledgement and consent to the Project. The Local Government will be required to respond to ADOH within thirty days from the date of the letter. An Application must be deemed ineligible in the event that the Local Government either fails to provide the letter or otherwise indicates that the proposed Project is unfavorable.
- I. **Disqualification.** ADOH may reject an Application if the Developer or general partner, including any Person with a Controlling Interest in either have: 1) failed to make Satisfactory Progress in the construction or rehabilitation of any federally subsidized project; 2) not corrected compliance problems in other Tax Credit Projects as provided in Section 8; 3) not paid, when due, ADOH's Compliance Monitoring Fees or any other fees required by ADOH; 4) filed with ADOH any materials containing false or misleading information, documents, or instruments, whether in the Allocation Year or prior program years; 5) 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 LURA for the Project, including but not limited to, the terms, provisions and agreements relating to features for a Special Needs Populations or specific target population, the identified Unit sizes, or the set aside for a certain number of Units for persons at or below a specific percent AMGI; 6) developed or partially developed prior Projects that are poorly constructed, evidence substandard workmanship, or do not comply with ADOH's minimum design standards; 7) within the last five years was terminated or removed by any other member of the Development Team from a Project that was previously awarded tax credits in this State; 8) owned or developed a Project on property that has received a notice of default prior to foreclosure that has not been cured, is in the process of a foreclosure or has been fully foreclosed upon while the Applicant, Developer, general partner, or person with a Controlling Interest in any of these entities, owned the property; 9) has 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: a) the issuance of securities, b) the development, construction, operation, or management of any Tax Credit or other government subsidized housing program, c) the conduct of the business of the applicable party, in any criminal, civil, administrative or other proceeding, or d) any filing with the Internal Revenue Service in any state; or 10) been suspended or debarred by HUD. ADOH may reject an application if it concludes that any Development Team member: 1) does not have the expertise or either the organizational or financial capacity to undertake the Project described in the Application or 2) has been previously terminated or removed from a tax credit Project.

## 2.6 2012 Set-Asides

In the event that there is more than one qualified Application in a Set-Aside category, ADOH will allocate Tax Credits first to the highest-scoring Applications meeting all eligibility, threshold, and underwriting requirements in the order of Set-Aside categories below. Applicants that request consideration in a Set-

Aside category must have a minimum score of 100 to qualify for each category, **and no one Project awarded Tax Credits under the 2012 Set-Aside categories will receive more than \$1,500,000 in Tax Credits through this Plan.** Applicants not selected in a Set-Aside category will be evaluated with other Applications for the remaining available Tax Credits.

<b>SUPPORTIVE HOUSING</b>	One (1) permanent supportive housing Project with a minimum of thirty (30) Units set aside for chronically homeless individuals with a preference for Veterans at thirty percent (30%) AMI.
<b>RURAL</b>	Two (2) Projects located in rural areas; each Project located in a separate rural COG (“NACOG”, “WACOG”, “SEAGO” & “CAAG”).
<b>TRIBAL</b>	<del>One</del> <b>Two (2) Projects</b> located on Tribal lands <b>with a preference for Veterans.</b>
<b>NON-PROFIT</b>	15% of the State’s annual credit is Set-Aside for “Non-Profit Projects” as defined in this Plan. Only Non-Profit Projects that meet all of the threshold requirements in Section 2.9(G) will be eligible for an allocation of Non-Profit Set-Aside credits. If a Non-Profit Project qualifies for an allocation in another Set-Aside, as stated in this Section 2.6, it will also contribute to satisfying the 15% of the State’s annual credit requirement for the Non-Profit Set-Aside.

## 2.7 Project Scoring

Project scoring means review of the Applicant’s self-scores by verifying that support for the points claimed is provided in the Application, based on the criteria set forth in this Section. ADOH will award or deduct points based solely on the information submitted in the Application. An Applicant must provide documentary support as proof and evidence of the points claimed, as mandated in Section 2.9 of this Plan. ADOH may deny or deduct a claim for points if the correct forms or required information to support the points claimed are not submitted, or are not submitted at the correct tab, or if information available to ADOH negates a claim for points. ADOH will not consider waiver requests with respect to any scoring category stated in this Section 2.7.

**ADOH will score Projects in the following categories:**

**2.7(A)                      Developer Experience                      10 points max                      Section 2.9(H)/Tab 8**

LIHTC Experience: Up to 10 points are available to Developers and Co-Developers who demonstrate that they have experience in the development of LIHTC or Federally Subsidized low income housing projects based on criteria below:

- a. One Project Placed in Service: **2 points**
- b. Two Projects Placed in Service: **4 points**
- c. Three Projects Placed in Service: **6 points**
- d. Four Projects Placed in Service: **8 points**
- e. Five or more Projects Placed in Service: **10 points**

**2.7(B)                      Job Creation                      35 points                      Section 2.9(I)/Tab 9**

**ADOH makes no representation that this scoring category will be present in future Plans. Applicants are strongly cautioned against making commitments under this Section 2.7(B) in this year, or future years that will be detrimental if Tax Credits are not awarded to the Applicant.**

Applicants must meet all requirements stated below, **and as described in Tab 9,** by the deadlines stated in and further described in Tab 9 to obtain points in this scoring category:

1. Project Owner must ~~own the land on which the Project will be built, or the Local Government, a charitable organization or a private party has agreed to donate~~ **demonstrate Site Control of** the land on which the Project will be built;
2. Project must have final site plan or final plat approval; and
3. Project must have **submitted to** the **appropriate** Local Government's approval of **Agency** civil engineering **plans** and construction documents ~~which are ready to be submitted for permits,~~ and **obtained** a completed Phase I Environmental Report dated after September 1, 2011.

**2.7(C) Site Selection 10 points max Section 2.9(M)/Tab 13**

1. Project is located within an Urban area:  
Up to **ten (10) points** are available to Projects with facilities in the below categories that are located within ½ mile or less in a straight line radius of the Site.
  - A. Grocery store: **2 points**
  - B. Medical facility: **2 points**
  - C. Retail shopping: **2 points**
  - D. Community or senior center: **2 points**
  - E. Education facilities: **2 points**
2. Project is located within a Rural area:  
Up to **ten (10) points** are available to Projects with facilities in the below categories that are located within a 2 mile straight line radius of the Site.
  - A. Grocery store: **2 points**
  - B. Medical facility: **2 points**
  - C. Retail shopping: **2 points**
  - D. Community or senior center: **2 points**
  - E. Education facilities: **2 points**

**2.7(D) Sustainable Development 20 points max Section 2.9(Q)/Tab 17**

This scoring category is available for Projects that are following one of the below approaches to Sustainable Development.

1. **Twenty (20) points** are available to Projects that are pursuing the LEED for Homes Gold certification path.
2. **Ten (10) points** are available to Projects that follow the performance-based path for energy efficiency based on the Home Energy Rating System (“HERS”) index beyond the baseline index of 85. If Applicant chooses the HERS approach, Applicant may gain up to an additional ten (10) points by choosing prescriptive elements from the Materials and Indoor Air Quality options (up to five (5) points), and/or Water Efficiency options (up to five (5) points).
3. **Up to twenty (20) points** are available to Projects that follow the prescriptive-based path. Use the Section below to calculate prescriptive-based path points.

**Materials and Indoor Air Quality (up to 5 points)**

SYSTEM COMPONENT	Construction Use	2012 SUSTAINABLE CRITERIA	Points Avail.
Material Selection	New and Rehab	All adhesives and finishes applied on site utilize zero VOC products. All carpets are Green Label Plus (“Green Label Plus”) certified by the Carpet and Rug Institute.	2.0

Flooring	New and Rehab	Hard surface flooring materials used throughout the dwelling units (excludes sheet vinyl).	2.0
Exhaust Fans	Rehab	Install power vented bath fans that exhaust to the exterior.	1.0
Exhaust Fans	Rehab	Install power vented range hoods that exhaust to the exterior.	1.0
Fresh Air	New and Rehab	Install an energy-recovery ventilator (“ERV”) in the dwelling units.	2.0
Preoccupancy Flush	New and Rehab	Seal all registers and any open duct work during construction and perform an extended occupancy flush (run all ventilation fans with the windows open) for 48 hours prior to occupancy (does not need to be 48 contiguous hours).	0.5
Smoke-free Building	New and Rehab	Enforce a “no smoking” policy in all common and individual living areas in all buildings (as per Enterprise Sustainable Communities standard 7.17).	0.5
Construction Waste Management	New and Rehab	Develop and implement a construction waste management plan to reduce the amount of materials to less than three pounds per square foot of conditioned space sent to the landfill.	1.0

**Water Efficiency (up to 5 points)**

SYSTEM COMPONENT	Construction Use	2012 SUSTAINABLE CRITERIA	Points Avail.
Toilets	New and Rehab	Dual flush toilets throughout.	1.0
Showerheads	New and Rehab	Maximum flow rate of 1.6 GPM	1.0
Kitchen Faucets	New and Rehab	Maximum flow rate of 2.0 GPM	0.5
Bathroom Faucets	New and Rehab	Maximum flow rate of 0.5 GPM	0.5
Water Distribution	New and Rehab	Insulate all hot water pipes (R-4 or greater) OR install a hot water recirculation system with the main recirculation loop insulated (R-4 or greater)	1.0
Irrigation	New and Rehab	Install a recycled gray water, roof water, collected site run-off or water from a municipal recycled water system for the irrigation system.	3.0
Turf	New and Rehab	In landscaping areas, use no turf or artificial turf only.	1.0

**Energy Efficiency (up to 10 points)**

SYSTEM COMPONENT	Construction Use	2012 SUSTAINABLE CRITERIA	Points Avail.
Thermal Performance: Roof	New and Rehab	Improve the U value of the roof system by 15% over the current International Energy Conservation Code® (“IECC®”) requirements for climate zone.	2.0
Thermal Performance: Roof II	New and Rehab	Radiant barrier on all residential roofs – emissivity rating of 0.35 or lower.	0.5

Thermal Performance: Wall	New and Rehab	Improve the U value of the wall system by 15% over the current IECC® requirements for climate zone.	2.0
Reduced Heat Island Effect (*Applicable to warm climate locations only with less than 4,000 Humidification, Dehumidification, Desalination (“HDD”) per noaa.gov)	New and Rehab*	ROOFING: Install roofing materials with high reflectivity and high emittance ratings for a minimum of 75% of roof area. Low Slope roof (2:12 and less); minimum Solar Reflective Index “SRI”) of 78. Steep Slope roof (greater than 2:12); minimum SRI of 29.	2.0
	New*	Paving: Use open grid pavement and/or light-colored, high-albedo materials with a minimum SRI of greater than or equal to 29 for at least 30% of the site’s hardscaped area.	2.0
	New*	Plantings: Locate trees or other plantings to provide shading for at least 50% of sidewalks, patios and driveways within 50 feet of the residential units. Shading must be calculated for noon August 1 <sup>st</sup> , when the sun is directly overhead, based on five years’ growth.	2.0
Passive Solar Design	New*	Shading: Design shading for at least 80% of the south, west and east facing windows that is appropriate for the climate zone.	0.5
		Orientation: Optimize the orientation of the building (or at least 75% of the square footage in the multi-building campus) such that the ratio of southern wall area to west (or east) facing wall area is equal or greater than 2:1.	0.5
		Clerestory windows: Provide clerestory windows for optimized day lighting, ventilation, and passive solar heating where appropriate, for at least 50% of the square footage of the Project.	0.5
		Thermal mass: Provide internal, exposed thermal mass (e.g. tile floor, concrete floor, internal cmu wall) with a surface area that is at least 15% of the net square footage of each dwelling Unit. Thermal mass must be located in at least 75% of the dwelling Units and in any community spaces.	0.5
Renewable Energy (e.g. Solar PV and Solar Thermal)	New and Rehab	One or multiple renewable energy systems large enough to off-set the estimated residential annual energy load by 10% and maximized use of incentives. This will require the residential units to be master metered.	8.0
		One or multiple renewable energy systems large enough to off-set the estimated residential annual energy load by 5% and maximized use of incentives. This will require the residential units to be master metered.	4.0
		Site, design, engineer and wire the development to accommodate installation of solar PV in the future. This will require the residential units to be master metered.	1.5
		One or multiple renewable energy systems large enough to off-set the estimated common area energy load by 50% and maximized use of incentives.	4.0
Windows	New and Rehab	Install high performance windows that meet or exceed Energy Star (“Energy Star”) criteria. <a href="http://www.energystar.gov/index.cfm?c=windows_doors.pr_anat_window">http://www.energystar.gov/index.cfm?c=windows_doors.pr_anat_window</a>	2.0
Duct Leakage	New and Rehab	Keep the system (including air handler and ducts) entirely within the conditioned envelope or install a ductless system.	1.5



High Efficiency heating, ventilation and air-conditioning (“HVAC”)	New and Rehab	Install a high efficiency HVAC system with a minimum SEER rating of 14. Furnaces must be greater than or equal to 92 AFUE and boilers must be greater than or equal to 87 AFUE. *All Units.	1.0
		Install a very high efficiency HVAC system with a minimum SEER rating of 16. Furnaces must be greater than or equal to 94 AFUE and boilers must be greater than or equal to 90 AFUE. *All Units.	4.0
Water Heating	New and Rehab	Install an energy efficient hot water distribution system that meets one of the following requirements: <ul style="list-style-type: none"> <li>- Electric water heater: EF ≥ 0.95</li> <li>- Gas water heater: EF ≥ 0.65</li> <li>- Gas tankless water heater: EF ≥ 0.8</li> <li>- Electric tankless water heater: EF ≥ 0.99</li> <li>- Heat pump water heater</li> </ul>	1.5
Lighting	New and Rehab	Install an Energy Star advanced lighting package using only Energy Star labeled fixtures. The advanced lighting package consists of a minimum of 60% Energy Star hard-wired fixtures and 100% Energy Star-qualified ceiling fans (if any).	2.0

**2.7(E) Transit Oriented Design 35 points max Section 2.9(R)/Tab 18**

1. Project is located in a certain proximity of a Frequent Bus Transit System (See Section 2.9(R)(1)): **15 points**
2. Project is located in a certain proximity of High Capacity Transit Station (See Section 2.9(R)(2)): **20 points**

**2.7(F) Occupancy Preferences Up to 15 points max Section 2.9(T)/Tab 20**

1. Households with Children: **Five (5) points** are available to Projects in which 30% of the total Units are offered on a preferential basis to households with children and of which 30% of the total Units are three or four bedroom Units. Additional points are available to Applicants who offer the following services:
  - a. Project is located within a school district rated “B” or better by the Arizona State Department of Education. Applicant should refer to the following website for school district ranking: <http://www.azed.gov/blog/2011/05/12/top-school-district-ranking/>: **5 points**
  - b. Childcare center is located at or within a ½ mile straight line radius of Project: **2 points**
  - c. On-site before/after school program: **1.5 points**
  - d. On-site computer training every two months: **0.5 points**
  - e. On-site job training, search assistance and/or placement every two months: **0.5 points**
  - f. On-site quarterly credit and financial counseling/education: **0.5 points**
2. Elderly Person Project: **Five (5) points** are available to Projects in which 100% of the Units are reserved for Elderly Persons who are 62 years of age or older. The Applicant must not propose Units with more than two bedrooms. The Project must offer Supportive Services. Additional points are available to Applicants who offer the following services.
  - a. Senior center is located at or within a ½ mile straight line radius of Project: **3 points**
  - b. On-site weekly transportation services provided to residents: **3 points**
  - c. On-site blood pressure or other health screening every two months: **2 points**

- d. On-site health promotion/disease prevention/recreation/wellness classes every two months: **2 points**
- 3. **Veterans Project: Ten (10) points** are available to Projects in which at least 50% of the Project will serve single adult Veterans, with a minimum of 25 units set aside to serve the target population. The Project must offer Supportive Services. Additional points are available to Applicants who offer the following service.
  - a. On-site assistance with case management services: **5 points**

**2.7(G) Developer/Non-Profit Arrangement 10 points max Section 2.9(U)/Tab 21**

**10 points** are available to Projects in which a Developer or Non-Profit Organization who is a Developer, contracts with an Arizona-based Non-Profit Organization. The Non-Profit Organization must materially participate during the design process in exchange for at least 10% of the total Developer Fee and provide Supportive Services for the Compliance Period and the Extended Use Period.

**2.7(H) Targeting Low Income Levels 35 points max Section 2.9(V)/Tab 22**

Select the % of restricted Low-Income Units per the Area Median Gross Income (AMGI). **DO NOT ROUND % UP.**

<u>Low Income Units at 50% AMGI</u>	<u>RURAL</u>	<u>Low Income Units at 40% AMGI</u>
40% += <b>15 points</b>		30% += <b>20 points</b>
21-39% += <b>10 points</b>		16-29% += <b>15 points</b>
10-20% = <b>5 points</b>		5-15% = <b>10 points</b>
	<u>URBAN</u>	
45% += <b>15 points</b>		35% += <b>20 points</b>
21-44% += <b>10 points</b>		16-34% = <b>15 points</b>
10-20% = <b>5 points</b>		5-15% = <b>10 points</b>

**2.7(I) Tenant Lease Purchase 10 points max Section 2.9(W)/Tab 23**

**Applicants with Projects seeking points for this scoring category are not eligible for points under Section 2.7(P).**

**10 points** are available to Projects in which 100% of the Project is intended for tenant ownership after the 15 year Compliance Period.

**2.7(J) Local Government Financing 10 points max Section 2.9(X)/Tab 24**

**10 points** are available to (a) Projects in which either (a) at least 10% of the Permanent Financing, excluding the Deferred Developer Fee, is from a Local Government and the funding jurisdiction has with a population of less than 500,000; or (b) the Project is Projects that include a HOPE VI transaction, as evidenced by a copy of the approval letter from HUD. For the purposes of this scoring category, Permanent Financing does not include the Deferred Developer Fee and must have a term of no less than ten (10) years.

**2.7(K) Acquisition/Rehab; or Acquisition/Demo and New Construction of a Blighted Structure or Stalled Project Up to 27 points max Section 2.9(Y)/Tab 25**

Project may qualify in only one of the two categories (1, or 2) below:

- 1. Acquisition/Rehab: **20 points**

For the calendar year 2012, the per low-income unit qualified basis amount for rehabilitation expenditures under I.R.C. § 42(e)(3)(A)(ii)(II) is \$6,200. Applicant must demonstrate that rehabilitation expenditures are at minimum \$6,200 per low-income unit and the amount must be substantiated by the CNA. See Section 2.9(Y) for CNA requirements.

Foreclosed Property: **Additional 5 points**  
 Project is located in a Local Government’s Community Revitalization Area: **Additional 1 point**  
 Historic Preservation Project: **Additional 1 point**  
**Maximum Points for the Category** **2726 points**

2. Acquisition/Demo and New Construction of a Blighted Structure or Stalled Project: **15 points**  
 Foreclosed Property: **Additional 5 points**  
 Project is located in a Local Government’s Community Revitalization Area: **Additional 1 point**  
**Maximum Points for the Category** **2120 points**

**2.7(L) QCT or DDA 1 point max**

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1 point is available to Projects located within a QCT or DDA as designated in Exhibit E.

**2.7(M) Rural Area Development 20 points max**

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- A. Projects located outside of Maricopa and Pima Counties. **15 points**
- B. Projects funded by USDA/RD through Section 514/515/516 or 538 Programs. **5 points**

**2.7(N) Applicant Entity 5 points max**

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5 points are available to Projects in which the final Owner is the Applicant. Applications wherein the “Applicant” is identified as the partner, general partner, a member, managing member or officer of the final Owner may not claim points under this category.

**2.7(O) Efficient Use of Tax Credits 10 points max Section 2.9(Z)/Tab 26**

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10 points are available if the total development costs for a **New Construction Project** as stated in the development budget on Form 3, do not exceed the HUD 221d3 limits per unit based on bedroom size.

10 points are available if the total development costs for an **Acquisition/Rehabilitation Project** as stated in the development budget on Form 3, are 10% or more below the HUD 221d3 limits based on bedroom size.

**2.7(P) Waiver of Qualified Contract 5 points max Section 2.9(AA)/Tab 27**

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5 points are available to Applicant’s who waive their right to apply for a Qualified Contract.

**2.7 (Q) Community Revitalization 5 points Section 2.9(AB)/Tab 28**

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**5 points are available to Applicants with Projects located in a HUD designated Federal Empowerment Zone, Federal Enterprise Community or Neighborhood Revitalization Strategy Area (NRSA).**

**2.8 Tiebreaker**

In the event two (2) projects have the same adjusted competitive score, ADOH will reserve Tax Credits to the Project according to the following tiebreaker criteria:

- A. First, to Applicants with the most Efficient Use of Tax Credits per unit; and
- B. Second, to Applicants in order of the time the Application was date stamped and received by ADOH.

## 2.9 Threshold

Applications must include threshold requirements to support a claim for points in each Project scoring category and to provide information for underwriting purposes. ADOH may make written inquiries in order to verify the information submitted and to provide further information for the purposes of underwriting. ADOH may verify representations, information, and data in an Application with public information and statistics available through recognized subscription services. ADOH will consider such supplemental documentation received from the ADOH inquires or verifications for threshold and underwriting purposes only, and will not consider the supplemental information in scoring the Application. Documentation must be included at the specified TAB (“TAB”) as noted below if Applicant is seeking points in the applicable Project scoring category. In its sole discretion, ADOH may consider clarifying information submitted in a particular TAB with other information submitted in the Application.

### A. TAB 1: Cover Letter, Waiver of Requirements.

1. Cover Letter. Applicant must provide a cover letter that describes the Project, the target AMGI and rent structure, public benefit, any special characteristics, and any other information deemed pertinent.
2. Waiver of Requirements. With the exception of Section 2.7 Scoring, 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 I.R.C. § 42, its implementing regulations and IRS guidance, 2) waiver of the requirement accomplishes the purposes and objectives of this Plan; and 3) the waiver must not adversely affect the feasibility of the Project. Each waiver request must be submitted on a separate sheet of paper and inserted behind the cover letter. ADOH considers requests for waivers on a case by case basis and waivers may be denied in the ADOH’s sole discretion. In the event that a waiver request is granted, ADOH will notify the Applicant in writing.

### B. TAB 2: Self Score Sheet & Set-Aside Election.

1. Insert executed Form 2 “Self-Score Sheet.”
2. Insert executed Form 2-1 “Set-Aside Election.” An Applicant may designate one or more Set-Aside categories. Applications that fail to demonstrate the requisite Applicant or project characteristics for a designated Set-Aside will not qualify for a Reservation of Tax Credits in that Set-Aside category.

### C. TAB 3: Application & Certifications.

1. Complete and execute Form 3.
2. Complete, execute and insert the Gap Financing Application behind Form 3.
3. Complete, execute and insert behind the Gap Financing Application, executed copies of IRS Form 8821, “Tax Information Authorization”, for the Applicant and every team member with a Controlling 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 IRS

relating to the Low-Income Housing Tax Credit Program. Such information received from the IRS may be used by ADOH in its sole discretion to disqualify an Application pursuant to this Plan.

- D. **TAB 4: CPA Opinion.** Applicant must provide, on CPA letterhead and in substantially similar form to Exhibit B, an opinion which includes all reductions to eligible basis, i.e. solar credits, grants.
- E. **TAB 5: Legal Opinion.** The Applicant must include a legal opinion opining that the Project meets the requirements of I.R.C. § 42 and that the Project has not been Placed in Service prior to the LIHTC Application date. The legal opinion must be provided by an attorney, on professional letterhead, in accordance with Arizona Supreme Court Rules 31 and 33 and must at a minimum address the issues stated in Exhibit C. If Acquisition Credits are being requested in connection with an Acquisition/Rehabilitation Project only, the legal opinion must clearly address the 10-Year Rule regarding the eligibility for Acquisition Credits. If the legal opinion submitted in the Application does not meet the requirements of I.R.C. § 42, ADOH may require the Applicant to update the legal opinion.
- F. **TAB 6: Legal Formation, Licensing, and Business Registration.** The Applicant must include evidence that the Applicant, Developer and Co-Developer 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 the State of Arizona.
1. **Corporations.** If the Applicant, Developer or Co-Developer is a corporation, provide the Articles of Incorporation and Bylaws. If the Applicant, Developer or Co-Developer was incorporated in Arizona, provide a certificate of good standing issued by the Arizona Corporation Commission confirming the legal existence of the entity as of the date of the certificate (“Certificate of Good Standing”) and dated not earlier than 30 days prior to the Deadline Date. Applicants, Developers and Co-Developers incorporated in another state and doing business in Arizona must submit a certificate of good standing or its equivalent from the state of incorporation confirming the legal existence of the entity dated not earlier than 30 days prior to the Deadline Date and a certificate of good standing to transact business in Arizona (“Certificate of Authority”) for such foreign corporation, issued by the Arizona Corporation Commission and dated not earlier than 30 days prior to the Deadline Date.
  2. **Limited Partnerships.** If the Applicant, Developer or Co-Developer is a limited partnership organized under the laws of Arizona, provide a certificate of existence issued by the Arizona Secretary of State confirming the legal existence of the entity (“Limited Partnership Certificate of Existence”) and dated not earlier than 30 days prior to the Deadline Date. Applicants, Developers and Co-Developers organized under the laws of another state and doing business in Arizona must submit the following a limited partnership certificate of existence or its equivalent from the state of organization confirming the legal existence of the entity, dated not earlier than 30 days prior to the Deadline Date **and** an Arizona Certificate of Authority from the Arizona Secretary of State dated not earlier than 30 days prior to the Deadline Date.
  3. **Limited Liability Companies.** If the Applicant, Developer or Co-Developer is a limited liability company, then provide the Articles of Organization and Operating Agreement. If the Applicant, Developer or Co-Developer is organized under the laws of Arizona, provide a certificate of existence, issued by the Arizona Corporation Commission confirming the legal existence of the entity (“LLC Certificate of Existence”), dated not earlier than 30 days prior to the deadline date. Applicants, Developers, and Co-Developers organized under the laws of another state and doing

business in Arizona must submit the following: a certificate of existence or its equivalent from the state of organization confirming the legal existence of the entity dated not earlier than 30 days prior to the Deadline Date and an Arizona Certificate of Authority issued by the Arizona Corporation Commission for such foreign limited liability company dated not earlier than 30 days prior to the Deadline Date.

G. **TAB 7: Non-Profit Organization Information.** Projects competing in the Non-Profit Set-Aside and those projects with a Non-Profit Organization partnering with a Developer, or Non-Profit Organization who is a Developer, must provide the information and materials described in this paragraph.

1. The Applicant must complete and execute Form 7, certifying that the Non-Profit Organization will materially participate in the development and operations of the Project on a basis which is regular, continuous, and substantial. The ADOH defines “substantial” as having the authority or right to participate in the decision-making process for design, location, materials, and management. The Non-Profit Organization may not itself be an Affiliate of or be controlled by a for-profit organization.
2. ADOH requires that the Non-Profit Organization provide:
  - a. IRS documentation of I.R.C. § 501(c)(3) or 501(c)(4) status (for a Non-Profit Organization formed under Tribal governing law and that is not required under Tribal governing law to obtain IRS documentation of its status, the Tribal agency may submit documentation that the Tribal nonprofit organization is formed and maintained in a substantially similar manner as an organization formed and maintained under I.R.C. § 501(c)(3) or (4));
  - b. A copy of the Non-Profit Organization’s Articles of Incorporation and Bylaws, and all relative amendments, one of which must contain a description of the Non-Profit Organization and its activities that include the fostering of low-income housing in its Articles of Incorporation or Bylaws, as may be amended.
  - c. Evidence that it or its officers or members have experience in developing or operating low-income housing;
  - d. 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;
  - e. Evidence that the Non-Profit Organization has developed an operating plan for the project covering its role in developing and managing the Project, including its minimum participation in the Developer Fee, its control of Project reserves, its strategy for maintenance, replacement, and renovation, and its oversight of marketing and of compliance with I.R.C. § 42;
  - f. The names of board members of the nonprofit organization;
  - g. The sources of funds for annual operating expenses and current programs; and
  - h. Evidence of financial capacity and solvency in the form of Financial Statements for the prior two full calendar years.
  - i. If the Applicant has requested consideration under the Non-Profit Set-Aside, Applicant must provide evidence that it owns an interest of at least fifty one percent (51%) of the general partner interest in the Project.

H. **TAB 8: Development Team.** The Applicant must demonstrate that the Development Team possesses the experience and financial capacity necessary to undertake and complete the Project, and that the Developer and Co-Developer, as applicable, have developed Projects of comparable size and financial complexity.

1. Applicant must provide the following information:
  - a. Insert a completed Form 8.
  - b. Include an organizational chart that describes the relationship whether through ownership, control or contract between the Applicant, Developer, Co-Developer and Owner.
  - c. Include a copy of the legal document demonstrating the authority of the Applicant to bind the Owner such as, a limited partnership agreement, operating agreement for a limited liability company, a development services agreement, or similar agreement. If the limited partnership agreement, operating agreement, or development services agreement has not been finalized, then ADOH will accept a provisional agreement with a warranty that the requisite authority will be made a part of any such agreement at the time of closing with the Tax Credit Equity Investor and the construction lender.
  - d. Provide a narrative describing the experience of the Development Team as it relates to the development of the proposed Project, and include resumes that specifically identify the officers or supervisory employees of the Developer who possess the knowledge and experience required by this paragraph and as otherwise necessary to support a claim for points for Developer experience.
  - e. Include evidence of financial capacity and solvency in the form of Financial Statements of the Developer for the prior two full calendar years.
  - f. The Developer identified in the Application must demonstrate that it has developed the Project(s) for which it is requesting points in the Developer experience category from concept through lease up, conversion of the construction loan, and issuance of IRS Forms 8609 for Tax Credit Projects.
  - g. Insert a completed Form 8-1, including a signed acknowledgement regarding any property in the process of foreclosure or that was foreclosed as described in Section 2.7(A).
  - h. Insert a completed Form 8-2.
  - i. Provide explanation of an identity of interest designated under Development Team Information on Form 3 Item 7.

I. **TAB 9: Acquisition, Site Control and Job Creation**

1. Acquisition – Appraisal Requirements.
  - a. New Construction Project. A land only Appraisal of real property must be provided as part of the Application submittal. ADOH will allow the lesser of the purchase price or appraised value.
  - b. Acquisition/Rehab Project. The Appraisal must include separate values for the land and the buildings.
2. Site Control. To establish Site Control for threshold requirements, the Applicant must submit the following to ADOH:

- a. A “Title Commitment” for the property dated within 60 calendar days of the date of the Application by a title insurer licensed in Arizona. The title commitment must not include any conditions or requirements materially and substantially adverse to the feasibility of the Project.
  - b. If the Applicant has a binding commitment to transfer the land to the Owner then the Applicant must submit a copy of the executed commitment.
  - c. An Owner who holds fee title to the property must provide a copy of the recorded deed listing the Owner as the grantee and a settlement statement prepared by the title company evidencing the purchase of the property.
  - d. If the Applicant has entered into a lease agreement, the lease agreement must be submitted and the term must be a minimum of 30 years.
  - e. If a purchase contract, lease option, or purchase option is submitted, a copy of the agreement must be submitted and the relative agreement must provide for 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.
  - f. For Projects that are located on government or Tribal lands, Applicant must establish legal control of the property by submitting: i) an agreement between the Project Owner and the Tribe to enter into a lease of specific real property for a term at least equal to the duration of the LURA, and ii) a resolution of a Tribe or Local Government authorizing the Tribe or Local Government 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.
  - g. In cases requiring the 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 or real property upon which the Project may be situated together with the court’s order of possession.
3. Job Creation. Job Creation points are only intended for those Projects that are ready to commence construction, are zoned for its intended use, and can be placed in service before December 30, 2013. Conditionally zoned projects do not qualify for Job Creation points. Failure to comply with all of the requirements stated in this paragraph 3 will result in a reduction in points, which may result in a previously qualifying Project, to be disqualified from receiving an Allocation of Tax Credits under this Plan. To establish Job Creation readiness, Applicant must provide evidence of each of the following: **To confirm Applicant’s understanding of the requirements of this scoring category, ADOH will require any Applicant who receives Job Creation points, and a subsequent Reservation of Tax Credits, to execute an agreement with ADOH that states that in the event the Applicant fails to meet any of the required deadlines stated herein, Job Creation points will be forfeited, and the Project will be rescored. In the event, that the rescoring results in a noncompetitive score, any reserved Tax Credits will be recaptured pursuant to a Cancellation of Tax Credits Agreement. There will be no waivers or consideration granted by ADOH with respect to any Job Creation threshold requirements, nor will any required deadlines be extended.**

To establish Job Creation readiness, Applicant must provide evidence of each of the following:



- a. **Between September 1, 2011 and March 1, 2012:** Applicant must obtain an updated Phase I Environmental Report for the Project.
- b. **At Application Date:** Applicant must submit a letter stating that it is seeking points in the Job Creation scoring category, it has read Section 2.7(B) and this section, and it understands that it may not qualify for Tax Credits if it does not meet the requirements or deadlines with respect to the Job Creation category.
- c. **No later than May, 1, 2012 at 4pm:** Applicant must provide evidence of each of the following: ~~site ownership control, final site plan or final plat approval, approved evidence that civil engineering and plans (including, but not limited to, grading paving, water, sewer and utilities), and building plans (all building construction documents ready to befor the Project), have been submitted for permits to the appropriate Local Government Agency, and a completed Phase I Environmental Report dated after September 1, 2011.~~
1. ~~Site Ownership. In order to support a claim for points for site ownership, an Applicant must provide a recorded property deed that lists the Owner as the owner of the land on which the Property will be built, sufficient documentation that the Project will be located or is located on the land listed on the property deed and a title report dated within 30 days from May 1, 2012 evidencing that the Owner owns the land. The recording requirement of the property deed can be satisfied for Projects located on Tribal Lands, by providing evidence that the property deed has been submitted to the Bureau of Indian Affairs for recording prior to May 1, 2012. Additionally, Applicant can support a claim for points for site ownership through a Donation of Land by Local Government, a charitable organization or a private party.2. Site Ownership by Donation of Land by Local Government, Charitable Organization or Private Party Control.~~ Applicant must provide an executed agreement by and between the Local Government, charitable organization or private party and the Applicant or Owner, evidencing the intent of the Local Government, charitable organization or private party to donate land where the Project is to be located, and evidence that the Applicant will have site ownership of the donated land no later than July 16, 2012 at 4pm. **The purchase contract or purchase option, lease or lease option or a commitment to donate the land on which the Project is to be built, and the relative agreement must provide a commitment by all parties to close escrow prior to July 16, 2012. A resolution of the Local Government to donate the land is a sufficient commitment. Land may also be donated by a private party or a charitable organization. For a donation of land, the** donation may be conditioned upon the Project receiving a Reservation of Tax Credits. ~~A resolution of the Local Government to donate the land is sufficient.~~ A property is still considered donated by the Local Government, charitable organization or private party, if the Applicant or Owner must pay certain amounts to the Local Government, charitable organization or private party for costs, improvements or processing fees.
- ~~3.2.~~ **The Project's Final Site Plan or Final Plat Approval.** Applicant must ~~demonstrate that the provide evidence of Final Site Plan or Final Plat approval for the proposed Project from the~~ appropriate Local Government Agency ~~has approved the Project's final site plan or final plat. The final stage of the approval process by the Local Government Agency of the final site plan or final plat must be completed by this deadline. Applicant must insert a completed Form 9, signed by an Authorized Signatory of the Local Government, and provide~~ a copy of the approved ~~final site plan or final plat~~ **Final Site**

**Plan or Final Plat to ADOH including the name and contact information for the Local Government Agency who provided the approval.**

- ~~4. Approved 3. Evidence of Submitted Civil Engineering and Construction Documents.~~  
 Applicant must demonstrate that civil engineering and building permit(s) are ready to be issued by ~~provide evidence that civil engineering plans (including, but not limited to, grading paving, water, sewer and utilities), and building plans (all building construction documents for the Project), have been submitted to the Local Government Agency, along with a name and contact information for~~ the appropriate Local Government agency based on approved site, civil engineering and building plans for all proposed Project units ~~Agency, with a copy to ADOH,~~ and a Phase I Environmental Report dated after September 1, 2011. Applicant must ~~insert a completed Form 9-1, including a list of approved~~ **also provide Form 9, signed by the Project's architect and civil engineer that the plans submitted to the appropriate Local Government Agency are 100% complete. Form 9 should also include a list of submitted** plans, and if applicable, approved ~~submitted~~ plan number(s), ~~signed and be countersigned~~ by an Authorized Signatory of the Local Government.

**d. No later than July 16, 2012 at 4pm:**

- 1. Applicant must provide evidence of Site Ownership. In order to support a claim for points for site ownership, an Applicant must provide a recorded property deed, or a recorded property lease with the terms stated below:**
- a. If a property deed is submitted, the deed must show that it has been recorded with the applicable county recorder.**
  - b. If a property lease is submitted, a copy or memorandum of the executed and recorded property lease must be provided, and the term must be a minimum of 30 years plus any time before the Project's Tax Credit period begins.**
  - c. Provide sufficient documentation that the Project will be located or is located on the land listed on the property deed or property lease.**
  - d. The property deed or lease must list the Owner as the owner or lessee of the land on which the Property will be built.**
  - e. A title report dated within 30 days prior to July 16, 2012 must be submitted evidencing that the Owner owns the land or that a copy or memorandum of the Lease has been recorded, as applicable.**
  - f. d. — No later than July 16, 2012 at 4pm:** For those Projects in which a Local Government, charitable organization or private party is donating the land for the Project, Applicant must provide a recorded property deed that lists the Owner as the owner of the land on which the Property will be built, sufficient documentation that the Project will be located or is located on the land listed on the property deed and a title report dated within 30 days from July 1, 2012 evidencing that the Owner owns the land, all by no later than July 16, 2012 at 4 pm. The recording requirement of the property deed ~~deed~~ **lease** can be satisfied for Projects located on Tribal Lands, by providing evidence that the property ~~deed~~ **lease** has been submitted to the Bureau of Indian Affairs for recording prior to July 16, 2012.

- e. **No later than October 18, 2012 at 4pm:**
1. ~~No later than two weeks prior to the scheduled Equity Closing~~ **equity closing** or at least October 18, 2012 at 4pm, Applicant must provide draft ~~Equity Closing~~ **equity closing** documents.
  2. **Applicant must provide copies of civil engineering and building permits for the Project to ADOH, along with a completed Form 9-1, which evidences that the appropriate Local Government Agency has approved the civil engineering plans and building plans for the Project, appropriate permits have been issued, and construction can commence including, grading, paving, water, sewer, utilities and building or buildings and such other improvements as may be necessary to complete the Project as presented to ADOH.**
  3. **Applicant must provide a Project schedule with a start of construction no later than November 1, 2012, that evidences the completion of the Project no later than November 15, 2013. The schedule must include major activities and durations. The Project schedule must be certified by the General Contractor, as true and accurate, and contain an acknowledgement by the General Contractor that he is capable of completing construction as stated barring unforeseen Project delays.**
- f. **No later than November 1, 2012 at 4pm:** Applicant must provide evidence of construction commencement, and legal documents evidencing closing with the equity partner and construction lender as stated in Section 2.9(K)(1) and (2). ~~Applicant must provide the following supporting documentation:~~
1. ~~Copies of civil engineering and building permit(s) issued by the appropriate Local Government agency.~~
  2. ~~Construction schedule, including the date for start of construction, description of planned activities and duration of each, and date of construction completion, sufficient to demonstrate that the Project is able to be placed in service before December 30, 2013.~~
- g. **No later than November 9, 2012 at 4pm:** Applicant must provide dated photos of the site evidencing ~~evidence~~ that construction activities have commenced and are ongoing for a consecutive period of five (5) days. **of the Project commenced on November 1, 2012, and can proceed until completion of the Project as projected in the Project schedule. ADOH reserves the right to inspect the Project site to ensure that construction has commenced, and that there is continuous construction activity.**
- J. **TAB 10: Planning and Zoning Verification.** Applicant must insert a completed Form 10, signed by an Authorized Signatory of the Local Government, and provide will-serve letters for water and sewer signed by an Authorized Signatory of the utility provider acknowledging that the utilities provided will meet the needs of the Project.
- K. **TAB 11: Financial Ability to Proceed.** Applicant must demonstrate that the Developer has funding sources necessary to complete the Project to such a point that the ADOH can properly issue the Form 8609. Applicant must provide the following documentary support:
1. **Letter of Interest or Intent from Tax Credit Syndicator.** A Letter of Interest or Intent from a Tax Credit syndicator proposing the terms and pricing of purchase of tax credits allocated to the

Project. For Applicants claiming Job Creation Points, Syndicator must acknowledge, in the writing to the ADOH that, (a) the requirements in this Plan for Job Creation Points, (b) that Applicant will be able to close prior to November 1, 2012 at 4pm and (c) that failure to meet all requirements and deadlines for Job Creation points will result in a reduction of points awarded to the Project which may result in the a previously qualifying Project to be disqualified from receiving an Allocation of Tax Credits under this Plan.

2. **Letters of Interest or Intent from Other Sources of Financing.** Copies of Letters of Interest/Intent from all sources of financing that include: a term sheet, to include the amount of the loan, interest rate, including all points, amortization period, if applicable, term of the loan, loan-to-value factor, minimum debt service coverage allowable (not required if the permanent lending source is a governmental or Tribal entity), all commitment and/or origination fees, and a description of all other fees directly attributed to the funding of the loan. For Applicants claiming Job Creation Points, the construction and permanent lenders must acknowledge, in writing to the ADOH that, (a) the requirements in this Plan for Job Creation Points, (b) that Applicant will be able to close on the construction loan prior to November 1, 2012 at 4pm and (c) that failure to meet all requirements and deadlines for Job Creation points will result in a reduction of points awarded to the Project which may result in the a previously qualifying Project to be disqualified from receiving an Allocation of Tax Credits under this Plan.
3. **Pro Forma and Operating Expenses.** Include a 15-year pro forma. See Section 7.1 for assumptions relating to operating expenses.
  - a. The pro forma must 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.
  - b. If the pro forma reflects negative cash flow in any year, the Application must 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 funding the operating deficit reserve/escrow funds must be included with the other funding source documents.
  - c. The pro forma may reflect rental assistance if supported by the other funding source documents.
  - d. Applicants proposing operating expenses that are not compliant with Section 7 of this Plan must submit at least two (2) forms of data supporting the feasibility and reasonableness of the operating expenses stated in the pro forma (for example, 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 if the proposed operations are not compliant with Section 7.
  - e. The pro forma income and expense must trend at 2.00% and 3.00% respectively. Annual replacement reserve obligations must trend at 3.00%.
- L. **TAB 12: Market Demand Study.** The Applicant must include a Market Demand Study that meets the requirements of the Exhibit L, Market Demand Study guide.
- M. **TAB 13: Site Selection.** Applicant must provide an 8.5x11 map indicating which of the following facilities are located on or within a ½ mile straight line radius or 2 mile straight line radius of the

Project, depending on the Project scoring category. The radius must be shown on the map. Facilities on the exact ½ mile and 2 mile radius line must have a majority of their square footage on or within the category radius line. For any facility on the radius line, Applicant must submit sufficient proof of square footage at this Tab or the facility will not be considered for points for the category. The facilities must be clearly identified by name within the 8.5x11 map, and clearly state that category within which the Applicant is claiming points. Applicant must indicate the approximate square footage and distance to the Project for each facility on either the 8.5x11 map or on an additional page submitted at this Tab. See Exhibit A for requirements for mapping the Project and facilities.

1. Existing LIHTC or any other governmental subsidized housing developments
  2. Grocery store: Applicant must provide evidence of full scale grocery store/supermarket or neighborhood market of at least 5,000 gross interior square feet where staples, fresh meat, and fresh produce are sold.
  3. Medical facility: Applicant must provide evidence of a medical clinic, or hospital (not merely a private doctor's office).
  4. Retail shopping: Applicant must provide evidence of a shops or businesses offering general goods or services.
  5. Community or Senior Center: Applicant must provide evidence of community or senior center offering daily programs and services specifically designed for members of the public or seniors.
  6. Education facilities: Applicant must provide evidence of an elementary, middle, or high school that children or residents living in the development may attend. Schools demonstrated, at the time of Application, to be under construction and to be completed and available to the residents prior to the housing development completion are considered in place at the time of Application for purposes of this scoring category.
- N. **TAB 14: Utility Allowance Schedule.** The Applicant must include a copy of the current utility allowance schedule, published by the local public housing authority or utility company estimate, along with a letter from the issuing authority dated no sooner than 30 days prior to the date of Application submission confirming the date of the most recent utility allowance schedule. Utility allowances based on the energy consumption model must be prepared by qualified professional as described in this paragraph. ADOH considers energy raters and auditors who are certified and currently in good standing with Residential Energy Services Network ("RESNET") to be "qualified professionals" for the purposes of the utility allowance regulation. Furthermore, the qualified professional must not be related to the building owner, Property Manager or any other entities owned or controlled by these parties within the meaning of I.R.C. § 267(b) or § 707(b). In addition, Applicants who obtain estimates based on the energy consumption model must provide ADOH with documentary evidence that the estimate was prepared by a qualified professional consistent with the requirements of this paragraph. An Owner MUST review the basis on which utility allowances have been established at least once during each calendar year and must update the allowance if required.
- O. **TAB 15: ~~Drawing~~Drawings and Plans.** The Applicant must include preliminary drawings and renderings of the development including:
1. A site plan showing the site topography, general development of the site, streets bordering the site, the building and parking location;

2. The building layout and net floor area for Projects proposing a Community Facility, the areas for programs under Section 2.7(F), or Community Services Facility; and
  3. Plans and elevations for each proposed building and clubhouse.
- P. **TAB 16: Property Design Standards for New Construction and Rehabilitated Properties.** Insert Form 16, Architect’s Certificate, stating that the architect has read Exhibit D Mandatory Design Guidelines, and certifies that the project complies with the requirements.
- Q. **TAB 17: Sustainable Development.** Insert Form 17, signed by the architect certifying that all sustainable development products/systems applying for points under Section 2.7(D) are included in design documents/specifications. Form 17 must be resubmitted along with the Application for final Allocation of Tax Credits. If the Applicant has selected LEED for Homes Gold Certification for this Project scoring category, the Applicant must provide a letter from architect confirming that Project is pursuing the LEED for Homes Gold Certification path in lieu of Form 17.

### **Prescriptive Categories**

These categories were developed in conjunction with the LEED for Homes and Enterprise Sustainable Communities, Inc., a 501(c)(3) organization (“Enterprise Sustainable Communities”). For clarifications on individual line items and terms, refer to the LEED for Homes reference guide:

[http://www.usgbc.org/Store/PublicationsList\\_New.aspx](http://www.usgbc.org/Store/PublicationsList_New.aspx)

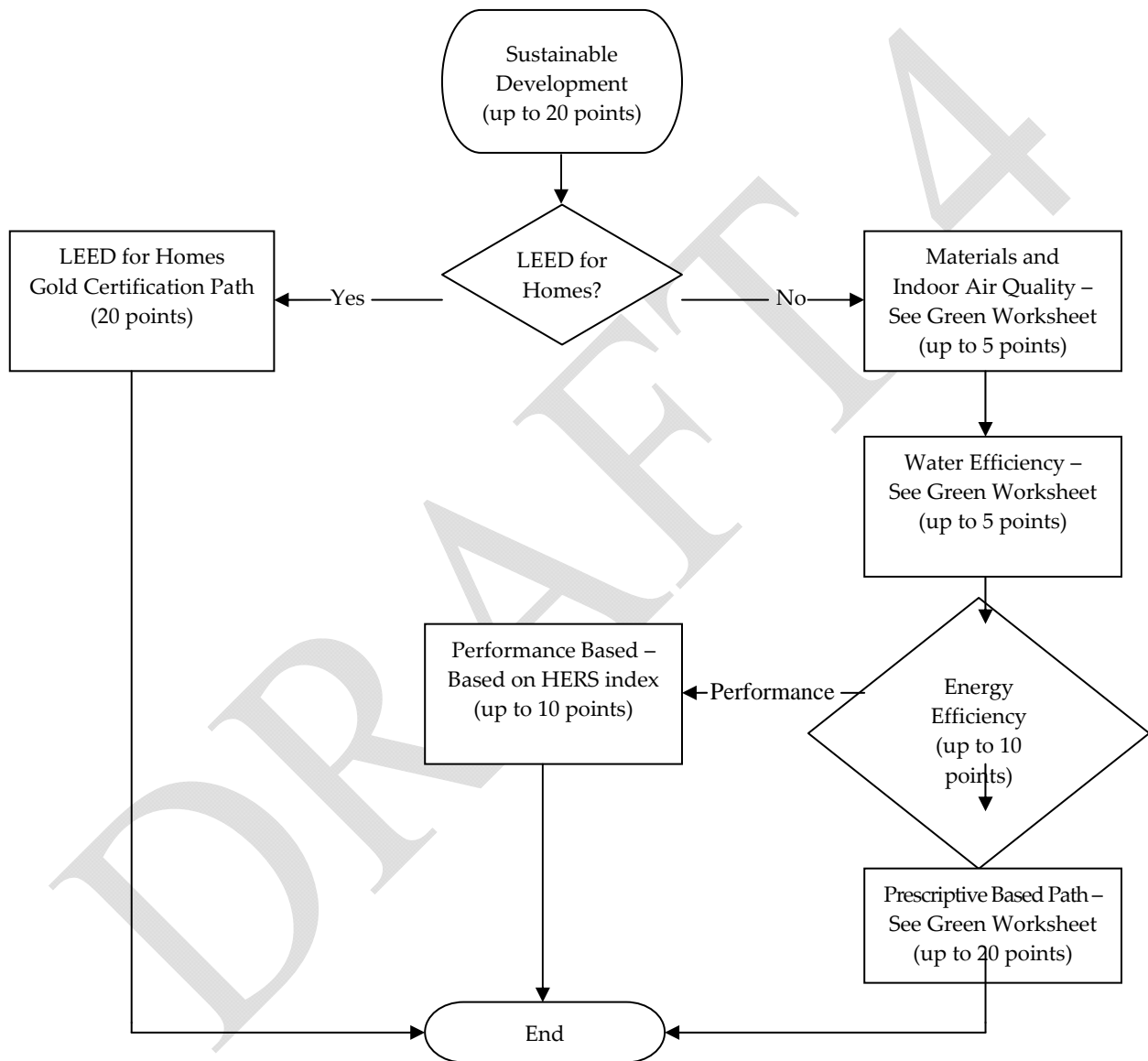
and the Enterprise Sustainable Communities criteria 2008:

<http://www.practitionerresources.org/cache/documents/666/66641.pdf>.

To be awarded any Sustainable Development points under Section 2.8(B), specific sustainable product details, building methods/applications and/or systems are required to be listed on Form 17 at the time of the initial Application and at final Tax Credit Allocation. The architect and/or builder is required to list all of the Sustainable Development products, building methods and energy systems corresponding to the respective point categories claimed. The architect must specify and ensure the use of all claimed Sustainable Development products. The architect, and the Arizona Energy Office (“AEO”), will be required, at Final Tax Credit Allocation, to certify that all specified Sustainable Development point criteria have been met and are consistent with Project contracts, work orders, or delivery receipts.

**PLEASE NOTE: AEO will require 10-days’ notice prior to scheduling inspections and confirmation that the construction superintendent is available to accompany the AEO representative throughout the entire inspection.**

There are three (3) available paths for obtaining the Sustainable Development points as shown on the following diagram:



For Projects that use the LEED for Homes Gold Certification path, a copy of the LEED for Homes Gold Certification checklist must be included with the Application. The checklist can be found at the following website:

<http://www.usgbc.org/ShowFile.aspx?DocumentID=3658>

All non-LEED Projects must include the Project’s Sustainable Development specification list at the time of Application to apply for Sustainable Development points. Product detail must be sufficient enough to allow ADOH to verify the appropriate cost of the proposed product/system.

For Projects that use the performance-based path for energy efficiency, provide verification demonstrating the projected energy efficiency of the least efficient dwelling Units.

1. In New Construction, 1 point will be awarded for each point awarded by the Home Energy Rating System (HERS) beyond the baseline index of 85, with a maximum score of 15 points (e.g., a HERS index of 65).
2. In moderate and substantial Rehabilitation Projects, perform energy analysis, utilizing a Home Performance Contractor participating in the Arizona Home Performance with Energy Star Program. The Home Performance Contractor must evaluate the existing building condition and identify cost-effective energy improvements by preparing an energy improvement report. A 15% improvement in the energy efficiency is the baseline. 1 point will be awarded for each percent reduction in the energy efficiency after the first 15%, with a maximum score of 20 points (e.g., a 35% reduction in energy usage).

The projected, pre-construction HERS index must be submitted to the ADOH once the construction drawings have been completed and the final HERS index must be submitted at 8609 submission. This category is available for Projects that have a maximum of four (4) stories. Common areas must use construction materials and methods consistent with those used in the dwelling Units.

To verify the projected HERS score at the time of Application, Applicant must provide a certification from a HERS consultant that the Project's schematic design has been reviewed and it is possible for Applicant to achieve the projected HERS score. In the event Applicant does not meet the projected HERS score, ADOH will withhold issuance of 8609s until Applicant provides ADOH with a method to correct the HERS score and the correction is completed.

For renewable energy system points, a separate additional financial worksheet must be provided showing all of the applicable financial incentives including, but not limited to: energy tax credits (include syndication agreements or IRC § 1603 exchange documentation for valuing these credits), power purchase agreements (include PPAs, if applicable), federal state and local tax deductions, enhanced/accelerated depreciation values, manufacturer's rebates and property tax assessment exemptions, credits or offsets. See Form 17.

The same Sustainable Development specification list must be resubmitted in conjunction with Form 16 – Architect's Certificate affirming that all of the specified materials, methods or systems listed were in fact included in the project. Be advised that failure to include all scored elements will result in a loss of points on future ADOH projects.

- R. **TAB 18: Transit Oriented Design.** The Project must be located at or within the distances stated below of a Frequent Bus Transit System or a High Capacity Transit Station. Applicant must provide a map to scale, as shown in Exhibit A to this Plan, evidencing that the proposed site is within the required distance in relation to the Frequent Bus Transit System or High Capacity Transit Station, and evidence that all requirements in this Section are met for each transit oriented design type.
1. **Frequent Bus Transit System.** A "Frequent Bus Transit System" must meet the below listed frequency of stops and travel depending on the location of the Project. The bus route corridor must also provide one or more bus stops that are at or within a quarter mile (1,320') straight line radius of the proposed site and the transit agency must confirm that there currently are no plans to move the route(s) to a different corridor or to reduce bus service map and stops. Bus routes that do not meet ~~this~~these criteria are not a "Frequent Bus Transit System." A "headway" as used in this Plan, means the time interval between two buses traveling in the same direction on the same route.
    - a. "Frequent Bus Transit" for a Project located in the Greater Phoenix Area must have:



- Minimum 30 minute weekday headways 6am to 6pm.
  - Minimum 30 minute headways 6am to 6pm on weekends days.
  - Minimum 15 hours of service on weekdays, minimum 12 hours on weekend days.
- b. “Frequent Bus Transit” for a Project located in Tucson is defined as:
- Minimum 30 minute weekday headways 6am to 6pm.
  - Minimum 1 hour headways 6am to 6pm on weekends days.
  - Minimum 12 hours of service on weekdays, minimum 10 hours on weekend days.
- c. “Frequent Bus Transit” for a Project located in the balance of the State is defined as:
- Minimum 1 hour weekday headways 9am to 5pm.
  - Minimum 8 hours of service on weekdays.
2. High Capacity Transit.
- a. A High Capacity Transit Station (“High Capacity Transit Station”) includes light rail transit, commuter rail, intercity rail and streetcar but does not include bus transit.
- b. Proposed site is to be located at or within a half mile (2,640’) straight line radius of a High Capacity Transit Station. Applicant must provide map to scale as shown in Exhibit A to this Plan.
- c. High Capacity Transit Station includes; (1) all existing stations, and (2) the three (3) mile extension to ~~Downtown Mesa~~ **downtown Mesa, Arizona. The three (3) mile extension includes the current funded extension through Mesa Drive. The further extension to Gilbert Rd. is unfunded, and is therefore not considered part of the extension.**
- S. **TAB 19: Supportive Housing Development.** A permanent supportive housing project means a Housing First model which centers on providing chronically homeless individuals with housing quickly and then providing Supportive Services and employment that target the specific needs of the individual. Services provided through Permanent Supportive Housing can include, but are not limited to, health care, substance abuse treatment, mental health treatment, employment counseling, supported employment, connections with mainstream benefits like Medicaid and such other benefits.
- Requirements:
1. A minimum of 30 housing Units of the Project must be dedicated to chronically homeless individuals at 30% AMGI. Highest priority in this set-aside will be given to Projects that meet the requirements stated herein and have the most housing Units dedicated to chronically homeless individuals.
  2. Documented support for the Project from the Local Government in which the Project is located.
  3. Adequate financial support must be in place in order for the Project to be viable. Residents of a Housing First project are charged 30% of their income, if any, for rent. Therefore, adequate financial support must be demonstrated. In most cases, some type of rental assistance would be required.

4. The Supportive Services provider must provide a Supportive Services plan as outlined in Exhibit N and demonstrate proven capacity and experience to serve chronically homeless individuals.
5. Project must meet minimum architectural requirements of the Housing First model such as a secured single point of entry to the building, community room spaces and offices for Supportive Services commensurate to number of units, as well as the other requirements.
6. A preference for Veterans must include: (1) a commitment to make available case management services to address the bio-psycho-social needs of tenants including connection to veteran-specific services and resources as part of its Supportive Services plan and (2) a veteran-specific outreach plan. The service provider listed in the Supportive Services plan must have a minimum of two years' experience providing the required services stated in this paragraph. Developments with project-based HUD VASH vouchers will be considered as having met this standard because HUD VASH includes Veterans Administration provided case management Services. Otherwise, these services must be clearly described in the Supportive Service Plan. Letters of support and collaboration from the nearest Veterans Administration Hospital or community based outreach clinic and the Arizona Department of Veterans Services are required to demonstrate coordination of veteran-specific resources and services.

T. **TAB 20: Occupancy Preferences.**

1. Households with Children. Projects in which 30% of all Units are reserved for households comprised of individuals with children and of which 30% of the total Units are 3 or 4 bedrooms. Applicant must provide a description of the Projects specific design elements and facility programs that serve the needs of individuals with children. Insert Form 20 and the Supportive Services plans outlined in Exhibit N. Costs for Supportive Services must be reflected as a line item in the annual operating expenses (Form 3). If Applicant is claiming additional points for services provided to residents of the Project, each facility, and service provider for which Applicant is claiming additional points, must be identified by name. **Additionally, if claiming points for a school district rated "B" or better, Applicant must show evidence from the Arizona Department of Education that this requirement is met, by providing supporting documentation from the following website: <http://www.azed.gov/blog/2011/05/12/top-school-district-ranking/>.**
2. Elderly – 62 years of Age and Older. Applicants proposing Projects that serve the elderly who are 62 years and older must not propose Units with more than two bedrooms. Supportive Services must promote the residents' quality of life and independence while providing efficient delivery of Supportive Services to the residents. Insert Form 20 and Supportive Services plans outlined in Exhibit N. Costs for Supportive Services must be reflected as a line item in the annual operating expenses (Form 3). If Applicant is claiming additional points for services provided to residents of the Project, each facility, and service provider for which Applicant is claiming additional points, must be identified by name.
3. Veterans Project. Applicants proposing Projects in which 50% of the Project will serve single adult Veterans, with a minimum of 25 units set aside to serve the target population must offer Supportive Services. The Supportive Services must include: (1) a commitment to make available case management services to address the bio-psycho-social needs of tenants including connection to veteran-specific services and resources as part of its Supportive Services plan and (2) a veteran-specific outreach plan. The service provider listed in the Supportive Services plan must have a minimum of two years' experience providing the required services stated in this paragraph.

Developments with project-based HUD VASH vouchers will be considered as having met this standard because HUD VASH includes Veterans Administration provided case management Services. Otherwise, these services must be clearly described in the Supportive Service Plan. Letters of support and collaboration from the nearest Veterans Administration Hospital or community based outreach clinic and the Arizona Department of Veterans Services are required to demonstrate coordination of veteran-specific resources and services. Insert Form 20 and Supportive Services plans outlined in Exhibit N. Costs for Supportive Services must be reflected as a line item in the annual operating expenses (Form 3). If Applicant is claiming additional points for services provided to residents of the Project, each facility, and service provider for which Applicant is claiming additional points, must be identified by name.

- U. **TAB 21: Developer/Non-Profit Arrangement.** To evidence a an arrangement between the parties, the Applicant must provide an executed agreement between the Developer or Non-Profit Organization who is a Developer, and the Arizona-based Non-Profit, which sets forth the Non-Profit Organization's duties with respect to their role as the service provider for the Project; and which includes language that the Non-Profit Organization will receive a minimum of 10% of the total developer fee received by the Developer or Non-Profit Organization who is a Developer, for the Non-Profit Organization's material participation (within the meaning I.R.C. § 469(h)), during the development phase of the Project. To be an "Arizona-based Non-Profit" the Non-Profit Organization must provide its non-profit services through an office and personnel located in Arizona as of the date of the Application. The Non-Profit Organization is entitled to collect an annual fee for acting as the service provider for the Project. Applicant must submit information required in Exhibit N for the Non-Profit Organization. In addition to the requirements noted in this Section, the Non-Profit Organization must be an active partner and provide the Supportive Services that are listed at Tab 19 or Tab 20, appropriate for the residents of the Project, and materially participate in planning, design and management of the Project for the Compliance Period and the Extended Use Period. In the event a Non-Profit Organization enters into an agreement with an organization that is related to the Non-Profit Organization through common control to be a service provider for the Project, Applicant must provide: (1) supporting documentation evidencing that the service provider entity is a separate and distinct entity, such as formation documents, (2) evidence of a separate tax identification number as assigned by IRS; and (3) evidence that the service provider entity is receiving at least 10% of the Developer Fee.
- V. **TAB 22: Targeting Low Income Levels.** Insert completed Form 22. The information provided in Form 22 will be binding on the Applicant in the event that the information provided in Form 22 is inconsistent with Form 3.
- W. **TAB 23: Tenant Lease Purchase.** Applicants must demonstrate in an ownership proposal that 100% of the Project is designed for eventual home ownership.
1. Tenant lease purchase points are limited to single family, duplex, fourplex or townhome style Projects.
  2. Project must be designed at the time of Application for eventual home ownership and demonstrate that the design will meet the subdivision and building code requirements, including fire department requirements of the Local Government that exist at the time of Application, as evidenced by a letter from the Local Government.

3. Submittal Requirements:
- a. A letter of intent from either a) a qualified Non-Profit Organization, b) tenant cooperative, c) resident management corporations, d) tenants or e) government agencies to purchase the Units.
  - b. A detailed description of the ownership proposal to include:
    - i. An exit strategy that incorporates a valuation estimate/calculation per I.R.C. § 42;
    - ii. Home-ownership financial counseling services;
    - iii. How the eligible tenants will be identified and offered a right of first refusal;
    - iv. How the Units will be priced in accordance with I.R.C. § 42(i)(7);
    - v. The manner in which homebuyer assistance will be generated by the Applicant or Owner and provided to the homebuyer; and
    - vi. A draft of the proposed sale agreement.
4. Post Allocation Requirements. Projects awarded points under this paragraph will be required to execute and record an LURA that indicates the provisions set forth above for the remaining Compliance Period. There are additional fees associated with these points stated in Section 6.4 of this Plan.
- X. **TAB 24: Financing Commitment from Local Government.** Points will be awarded if a Local Government with a population of less than 500,000 provides 10% or more of the Permanent Financing, excluding the Deferred Developer Fee for the Project, **and has term of no less than ten (10) years,** as evidenced by a letter of commitment or funding resolution from city council or the governing group of the town or county, or if the Project is a HOPE VI transaction, a copy of the approval letter from HUD for the HOPE VI funds must be included.
- Y. **TAB 25: Acquisition/Rehabilitation and Acquisition/Demolition and New Construction of a Blighted Structure or a Stalled Project**
1. Acquisition/Rehabilitation. Applicant should note that only Projects that include the Acquisition and Rehabilitation of existing multifamily developments, shall qualify for points in this scoring category.
    - a. Projects containing Acquisition/Rehabilitation and New Construction components shall qualify for points in this category only if the rehabilitation Units totals 50% or more of the total Project, and 100% of the ~~acquired~~those Units must be rehabbed. Projects with rehabilitation Units less than 50% of the total Project, will be considered New Construction.
    - b. Applicant must identify the Project as an Acquisition/Rehabilitation Project and fully explain the acquisition and scope of rehabilitation work in the cover letter. The rehabilitation improvements and the amount of rehabilitation costs will be based on the Capital Needs Assessment (“CNA”). ADOH may utilize the services of an independent cost estimator in determining whether the rehabilitation costs are reasonable and meet the requirements of this Plan. The Applicant will be responsible for the costs of the cost estimator. Cost of rehabilitation per Unit is determined by dividing “Total Direct Construction Costs” on Form 3 by the number of Units.

- c. Applications for Acquisition/Rehabilitation of existing rental housing must be supported by a relocation plan, if applicable. The relocation plan must comply with the Uniform Relocation Assistance Act, 42 U.S.C. § 4621, *et seq.*
- d. An Appraisal is required with separate values for land and building.
- e. The CNA report must be prepared by a qualified professional, architect or engineer, who has no financial interest in the Project and no identity of interest with the Developer. For purposes of this Scoring Category, a “qualified professional” is a licensed professional, architect or engineer, who can substantiate a minimum of five years’ experience providing CNA reports in accordance with ADOH standards, and who performs the assessment and supplies ADOH with their professional opinion of the property’s current overall physical condition. This includes the identification of significant deferred maintenance, existing deficiencies, and material building code violations that affect the property’s use and its structural or mechanical integrity. Furthermore, the CNA must 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, interior 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.
  - v. Elevators (if applicable).
  - vi. Provide building life cycle study to economically justify either rehabilitation or demolition. Provide a comparative analysis to determine cost feasibility of either a rehabilitation or demolition option.
- f. The CNA must also include the following major parts:
  - i. 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. Repairs, replacements, and significant deferred and other maintenance items that need to be addressed within twenty-four 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 and Exhibit D.
  - iii. Repairs and replacements beyond the first two years that are required to maintain the Project’s physical integrity over the next twenty years, such as major structural systems.
- g. The professional preparing the CNA report must:

- i. Conduct site inspections of a minimum of 35% of all Units. Units must be randomly sampled while taking into consideration the Unit size mix, e.g., one-bedroom, two-bedroom, etc. All vacant Units must be inspected.
  - ii. Identify any physical deficiencies as a result of 1) visual survey, 2) review of pertinent documentation, and 3) interviews with the property owner, management staff, tenants, community groups, and government officials.
  - iii. Identify physical deficiencies, including critical repair items, two-year physical needs, and long-term physical needs. These must 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.
  - iv. 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.
  - v. Prepare a rehabilitation plan, addressing separately all two-year and long-term physical needs.
  - vi. Conduct a cost/benefit analysis of each significant work item in the rehabilitation plan (items greater than \$5,000.00) 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.
- h. If requesting additional points under this Section for a Foreclosed Property, Applicant must provide the following information.
- i. Foreclosed Property: Applicant must provide evidence that the property has become Foreclosed Property within the past five years, such as a copy of the recorded Trustee's deed issued under A.R.S. § 33-811 or if the property mortgage has been foreclosed by a court action, the recorded certificate of the foreclosure issued under A.R.S. § 33-728, ~~728~~ **and a copy of the trustee sale guaranty with title report including Schedule B and if The foreclosing party may be listed on the Trustee's deed or recorded certificate of foreclosure issued as part of the foreclosure proceedings. If** the Applicant, Owner, Developer or a Controlling Person of any of these entities is not listed on the trustee's deed or recorded certificate as the purchaser, then the Applicant must also provide the purchase and sale agreement, lease or lease option ~~with~~ **between the foreclosing party and** the Applicant, Developer, Owner or a Controlling Person of any of these entities showing that the Applicant has Site Control over that foreclosed property. Projects that became Foreclosed Property or are in the process of foreclosure while Applicant, Developer, Owner (or a Controlling Person of any of these entities) owned the property are not eligible for points in this category. Projects to be located on Foreclosed Property that were sold **either as part of the foreclosure process or by the foreclosing party as the owner after the foreclosure proceedings** to an independent third party who has in turn sold the Foreclosed Property to the Applicant, Developer, Owner (or a Controlling Person of these entities) or granted Site Control to the Applicant, are not eligible for points in this category. **For the purposes of this paragraph, an**

**independent third party does not include the Applicant, Developer, Owner or Controlling Person of one of these entities.**

~~i. If requesting additional points under this Section for a Community Revitalization Area, Applicant must provide the following information:~~

~~i. Community Revitalization Area: 1) Letter from the Local Government which specifically: a) describes the Project and confirms its understanding of the plans for its rehabilitation; b) defines the neighborhood or area that the Project will be located in and confirms that improvement is needed in that neighborhood or area's housing and business locations; c) describes intended uses of the Project; d) states that the Project's rehabilitation is compatible with the Local Government's goals for that area, and how the Local Government anticipates that the Project will materially benefit the neighborhood or area; and e) how the proposed Project will fit with the City's approved revitalization plan (if applicable), and 2) certification from the architect detailing how the Project will conform to the surrounding neighborhood.~~

~~j-i. If requesting additional points under this Section for Historic Preservation Project, Applicant must provide the following information:~~

~~Historic Preservation Project: evidence that the Project (i) consists 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) consists 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) the 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.~~

2. Acquisition/Demolition and New Construction of a Blighted Structure or Stalled Project. Applicant must provide evidence and documentation to satisfactorily substantiate to ADOH that the property has outlived its economic usefulness as follows:

a. Assessment of Obsolescence:

- i. CNA report substantiating demolition is a more cost effective option than rehabilitation.
- ii. Market analysis confirming new design accommodates market demand better than existing design (example: a motel with studio Units where the market demand is for families).
- iii. Dated photo of each building taken no more than 60 days before the Application Deadline Date.

b. Additional Requirements for a Blighted Structure:

- i. No demolition permit may be issued, nor will demolition activity commence prior to the deadline date for submittal of Applications. Development activity undertaken prior to satisfaction of cross-cutting federal regulatory requirements may disqualify a project for Gap Financing through federal sources.
  - ii. If applicable, Applicant must provide a relocation plan which complies with the Uniform Relocation Assistance Act, 42 U.S.C. § 4621, *et seq.*
  - iii. The Project must have been Placed in Service for its intended use.
  - iv. Applicant must provide a letter from Local Government stating the structure meets the QAP's definition of a Blighted Structure. In the event that the Local Government does not issue a determination of blight, Applicant must provide a letter stating the Local Government's policy, and provide documentary support such as notices of violation of: (1) Local Government's codes or regulations or, (2) of the recorded covenants, conditions and restrictions for the property, as well as a third party report indicating that the existing structure meets the QAP's definition of Blighted Structure.
  - v. The Blighted Structure must cover at least twenty percent (20%) of the site, and to evidence the site coverage, the Applicant must provide a site plan with an engineer's certification of a minimum 20% coverage of the site by the Blighted Structure. In the event that the proposed Project will cover multiple parcels, Applicant may aggregate all parcels to meet the Blighted Structure requirement of twenty percent (20%) site coverage.
  - vi. If requesting additional points under this Section with respect to a Foreclosed Property, provide evidence as stated above this Section (Y)(h)(i). The limitations stated in Section Y(h)(i) apply to this category as well.
  - ~~vii. Community Revitalization: provide evidence as stated above in this Section Y(i)(i). The limitations stated in Section Y(i)(i) apply to this category as well.~~
- c. Additional Requirements for a Stalled Project.
- i. Property must be a foreclosed or abandoned property:
  - ii. Foreclosed Property: provide evidence as stated above in this Section Y(h)(i). The limitations stated in Section Y(h)(i) apply to this category as well.
  - ~~iii. Community Revitalization: provide evidence as stated above in this Section Y(i)(i). The limitations stated in Section Y(i)(i) apply to this category as well.~~
  - iii. ~~iv.~~ Abandoned Property: provide evidence that mortgage or tax foreclosure proceedings have been initiated for that property, no mortgage or tax payments have been made by the property owner for at least 120 days and the property has been vacant for at least 120 days.
  - iv. ~~v.~~ Property must be a Stalled Project: provide evidence that no work has taken place within the last twelve (12) months by substantiating when the last work occurred other than to meet Local Government's codes or regulations on condition of the property or to maintain the value and safety of the property such as fencing or boarding. Provide a copy of last inspection report stating that no work appears to have occurred on the site within the last twelve (12) months. Provide acknowledgment from Local Government



that no permits have been issued for work in the last twelve (12) months and that no demolition permits have been issued prior to date of Application.

- ~~v.~~ ~~vi.~~ Horizontal Improvements must be substantially completed – provide engineer’s report and permits supported by photos detailing work that has been completed.
- ~~vi.~~ ~~vii.~~ Vertical Improvements must be started – provide engineer’s report and permits supported by photos detailing work that has been completed.
- ~~vii.~~ ~~viii.~~ No demolition permit may be issued. Applicant acknowledges that no demolition activity will commence prior to the deadline date for submittal of Applications or the Application may not receive points. Development activity undertaken prior to satisfaction of cross-cutting federal regulatory requirements may disqualify a project for Gap Financing through federal sources.

**Z. TAB 26: Efficient Use of Tax Credits**

Use Applicant must submit Form 26, and use the table below for the scoring calculation for total development costs based on number of bedrooms and size.

US Department of Housing and Urban Development						
Section 221d3 and 234 Per Unit Limits						
Published August 1, 2011						
Bedroom Size	Yavapai County	Coconino County	Maricopa & Yuma Counties	Cochise, Douglas, Mohave, Pima, Santa Cruz Counties	Greenlee, La Paz Navajo and Pinal Counties	Apache, Gila and Graham County
0 Bedroom	\$ 133,504	\$ 132,485	\$ 123,823	\$ 122,294	\$ 117,198	\$ 114,651
1 Bedroom	\$ 153,930	\$ 152,755	\$ 142,767	\$ 141,004	\$ 135,129	\$ 132,192
2 Bedroom	\$ 185,645	\$ 184,228	\$ 172,182	\$ 170,056	\$ 162,971	\$ 159,428
3 Bedroom	\$ 237,631	\$ 235,817	\$ 220,398	\$ 217,677	\$ 208,607	\$ 204,072
4 Bedroom	\$ 264,730	\$ 262,709	\$ 245,532	\$ 242,500	\$ 232,396	\$ 227,344
Projects with an Elevator						
0 Bedroom	\$ 140,494	\$ 139,422	\$ 130,306	\$ 128,697	\$ 123,335	\$ 120,654
1 Bedroom	\$ 161,054	\$ 159,824	\$ 149,374	\$ 147,530	\$ 141,383	\$ 138,309
2 Bedroom	\$ 195,842	\$ 194,347	\$ 181,640	\$ 179,397	\$ 171,922	\$ 168,185
3 Bedroom	\$ 253,354	\$ 251,420	\$ 234,981	\$ 232,080	\$ 222,410	\$ 217,575
4 Bedroom	\$ 278,105	\$ 275,982	\$ 257,937	\$ 254,752	\$ 244,138	\$ 238,830

**AA. TAB 27: Waiver of Qualified Contract**

After the fourteenth year of the 15-year Compliance Period, LIHTC property owners can opt out of the program by selling the property to certain buyers for a Qualified Contract price. The owner would have to signal its intent to sell the property to the state Housing Finance Agency, which would then have one year to find a qualified buyer. Insert a completed Form ~~29, 27,~~ signed by Applicant.

**AB. TAB 28: Community Revitalization**

**Applicant must submit a completed Form 28, indicating whether the Project is located in a HUD designated Federal Empowerment Zone, Federal Enterprise Community or Neighborhood Revitalization Strategy Area (NRSA), and provide supporting documentation from HUD to evidence that the Project is located therein. Applicant should refer to the following website to determine if their Project falls into one of the above mentioned Community Revitalization areas: [www.http://egis.hud.gov/ezrclocator/](http://egis.hud.gov/ezrclocator/).**

## 2.10 Carryover Allocation

Projects that will not place buildings in service before December 31, 2012, must request a Carryover Allocation Agreement (the “Carryover Agreement”) by submitting the information below no later than December 1<sup>st</sup> unless otherwise provided in the Reservation letter.

Failure to satisfy the requirements and execute the Carryover Agreement by the Deadline Date in the Reservation letter may result in cancellation of the Reservation of Tax Credits. The person signing the Carryover Agreement must have authority to bind the Owner. ADOH will not execute the Carryover Agreement until the Owner has met all the requirements listed below in addition to any additional requirements as may be described in the Reservation letter.

- A. Updated Form 3 to include pages 1 through 3;
- B. Current Certificate of Good Standing or Certificate of Existence, as applicable for Owner, or if previously provided, Applicant must provide an updated Certificate;
- C. Completed project schedule;
- D. Documentation for Employer Identification Number (“EIN”); and
- E. Receipt of the Reservation Fee.

## 2.11 10% Cost Test Requirements

The IRS requires that Owners of Projects receiving a Tax Credit Allocation which are not Placed in Service in the year their Allocation is made must meet the 10% Cost Test to have a valid Carryover Agreement. The 10% Cost Test due date will be 12 months from the issuance of the Tax Credit Reservation Letter.

To satisfy the 10% Cost Test, the Owner must demonstrate it has incurred or expensed by the Deadline Date stated in the Reservation letter qualified costs in an amount that is greater than 10% of the reasonably expected basis in the Project (including land costs) at the close of the second calendar year. If I.R.C. § 42(h)(1)(E)(ii) is more restrictive, it will govern.

**The following items are required to be submitted for the 10% Cost Test. ADOH will perform its second underwriting at this time:**

- A. Updated Form 3;
- B. Independent auditor’s report; and
- C. Certification of costs incurred.

## 2.12 Equity Closing

**The following items are required to be submitted at least two weeks prior to the equity closing. ADOH will perform its third underwriting at this time.**

- A. Updated Form 3;
- B. Evidence of land ownership;
- C. Final documents for all sources of financing for the Project;
- D. A 15-year pro forma 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 financial statement substantially matches the assumptions used in our underwriting”;
- E. Complete Syndication or investor agreement, including all exhibits;
- F. Executed construction contracts;
- G. Building permits;
- H. Evidence that plans and specifications have been submitted to the Arizona Energy Office;
- I. Construction lender’s appraisal;
- J. Form 16 - Architect Certification evidencing compliance with Exhibit D Mandatory Design Guidelines and Sustainable Development points;
- K. Updated project schedule;
- L. Any unpaid fees owed to ADOH;
- M. 8x10 photograph of an erected sign at the construction site listing all sources of financing. 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; and
- N. A resume demonstrating that the Property Management Company 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 will consider the following:
  - 1. Whether the Property Management Company will make staff available to the Project that have managed Tax Credit properties for a period of five (5) years or more;
  - 2. 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; and
  - 3. Whether the Property Management Company has unresolved compliance issues at two (2) or more properties within the period beginning two (2) years before the date of the deadline for submittal of the Application.
- O. Insert a completed Form 8-3 “Management Company Experience.”
- P. Insert a completed Form 8-4 “Authorization for Release of Information,” for the Property Management Company.

**2.13 Compliance Monitoring.**

- A. Include 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.
- B. The Applicant must 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.

**2.14 Marketing Plan.** The Applicant must include 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 any requirements of the Equity Investors and permanent lenders to the Project. The marketing plan must 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 certain population, the marketing plan must indicate how the population will be targeted. To obtain a copy of HUD Form 935-2a, reference the following website:

<http://www.hud.gov/offices/adm/hudclips/forms/files/935-2a.pdf>

In the event that the Project is at less than seventy five percent (75%) occupancy after six months from the Placed in Service date, the Owner is strongly encouraged to contact the local public housing authority to occupy the units from the current, public housing waiting list.

**2.15 Environmental Reports.** Applicant must provide a Phase I and a full environmental impact report. 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 enclose a complete copy of the inspection report. If the report indicates the presence of lead-based paint, the Applicant must include: 1) a written amelioration plan for the elimination and disposal or encapsulation of the lead-based paint, and 2) a written ongoing maintenance plan to manage the lead-based paint.

### **3. 4% TAX CREDITS WITH TAX-EXEMPT BOND FINANCING**

#### **Determination of Tax Credits for Tax-Exempt Bond Projects**

I.R.C. § 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 law and 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 Arizona Commerce Authority (phone: 602-845-1200). At the time of Initial Application, Applicants sponsoring tax-exempt bond financed Tax Credit Projects will be required to pass all eligibility requirements stated in Section 2.5 of this Plan, adhere to all general regulations set forth in this Plan and comply with all applicable requirements under Section 5 of this Plan. 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 I.R.C. § 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).

Tax-exempt bond financed Projects may receive Tax Credits in the full amount of their eligible basis only if at least 50% of the Projects “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 must submit an Application for such Gap Financing at the same time that the Applicant submits its Tax Credit Application. See Gap Financing requirements. The procedures followed by ADOH in processing Applications for bond-financed projects are set forth below.

#### **A. Upon Application:**

1. ADOH may review Tax Credit Applications at any time of the year after the Applicant has received a final bond 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 A.R.S. § 35-726(E) (“§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.
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 4 – “CPA Opinion,” that certifies that 50% or more of the Projects aggregate basis of any building and land upon which the building is to be located is “financed” by the tax-exempt obligation.
3. ADOH will determine whether the Applicant and the Project comply with all eligibility requirements of the Plan.
4. The Applicant must submit a certification that principal payments on the tax-exempt bonds will be applied within a reasonable period of time to redeem bonds that funded the financing for the Project.
5. ADOH will 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. §35-726(E), ADOH will complete underwriting and comparison of the Application submitted for the §35-726(E) hearing before making a Determination of Qualification of Tax Credits. ADOH’s feasibility analysis will include an underwriting of the Project in accordance with ADOH’s current standards as set forth in this Plan.
6. The Applicant must pay all required fees to ADOH when due.

**B. After Volume Cap Allocation for the Bonds:**

1. ADOH may issue a Determination of Qualification letter after both the §35-726(E) hearing and after ADOH issues an approval letter.
2. The Applicant must submit to ADOH a written election statement, referencing I.R.C. § 42(b)(2)(A)(ii)(II). This election statement must 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:
  - a. The certification must specify the percentage of the aggregate basis of the building and the land on which the building is located financed with tax-exempt bond proceeds;
  - b. The certification must state the month in which the tax-exempt bonds are issued;
  - c. The certification must state that the month in which the tax-exempt bonds are issued is the month elected for the applicable percentage to be used in the building;
  - d. The certification must be signed by the Applicant;
  - 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 tax-exempt 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
  - f. The Applicant must provide ADOH with a signed statement from the governmental unit that issued the tax-exempt bonds that certifies: i) the percentage of the aggregate basis of the building and the land on which the building is located that is financed with tax-exempt bond proceeds, and ii) the month in which the tax-exempt bonds were issued.

- C. **Final Tax Credit Allocation.** The Applicant must submit to ADOH: 1) a completed cost certification, 2) 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 3) an opinion of the Applicant's counsel that the Project is eligible to receive Tax Credits under I.R.C. § 42(h)(4). At this point ADOH will 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 of this Plan.

**D. The Applicant must submit to ADOH the recorded LURA and Consent and Subordination Agreement for the Project along with certifications that:**

1. The tax-exempt 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;
2. The principal payments on the tax-exempt bonds must 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. The governmental unit which issued the tax-exempt bonds made a determination under rules similar to those set forth in I.R.C. § 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.

- E. If the requirements of I.R.C. § 42, State law and this Plan are satisfied, ADOH may issue I.R.C. Form 8609 for the Project at the applicable credit percentage under I.R.C. § 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.

DRAFT 4

## **4. GENERAL REGULATIONS**

### **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. § 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. § 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**

- 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 cancel 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.
- B. Applicants that have received previous Allocations must demonstrate Satisfactory Progress. Applicants that have not closed on construction loans before December 31<sup>st</sup> of the calendar year following the year 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 will 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 will 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 of Qualification, 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.
- 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, and the Project may be subject to revocation due to lack of Satisfactory Progress.

### **4.3 Return of 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, a Carryover Allocation Agreement or a Determination of Qualification(s). Tax Credits that were reserved in a competitive round will be considered returned to ADOH. In the event that ADOH requires a return of a Tax Credit Reservation, ADOH will give notice to the Applicant. 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 up to the Placed in Service date, for any of the following reasons:

- A. Subsequent regulations issued by Department of Treasury or the Internal Revenue Service.
- B. Information submitted in the Project Application to ADOH is determined to be fraudulent.
- C. Failure to pay fees including late fees described in Section 6.
- D. Failure to make Satisfactory Progress as defined in Section 4.2 of this Plan or failure to meet the deadlines stated in this Plan.
- E. Instances of curable or incurable noncompliance existing at any time during the Compliance Period and the Extended Use Period for any federal or state subsidized Project located in any state.
- F. Failure by an Applicant or Owner to promptly notify ADOH of any material or adverse changes from the original application.
- G. Material Changes without written approval of ADOH.
- H. 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.
- I. Debarment by HUD or other federal and state programs, bankruptcy, criminal indictments and convictions.
- J. Failure to comply with federal or state fair housing laws.
- K. 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.

#### 4.4 Extended Use Period

Pursuant to I.R.C. § 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 must execute and record with the county recorder where the project is located, a LURA which must constitute a restrictive covenant running with the property upon which the project is located. The agreement must be in the form provided by the ADOH and is available from ADOH upon request.

#### 4.5 Material Changes

Development Team members with an ownership 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.

- 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 \$1,500.00 Administration Fee must accompany the written request. ADOH will 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 I.R.C. § 42 or in this Allocation Plan for believing that the change is permissible. Projects

applying for a Material Change will 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.

**B. Specific Material Changes.**

1. Change of Location and Use. ADOH will not allow an Applicant to change the location of a Project once the Application has been submitted. Notwithstanding the foregoing, ADOH may allow 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 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 Local Government and ADOH.
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 Projects feasibility, the change may not be considered material and no fee is due.
3. Complex Material Changes. Complex Material Changes such as restructurings that involve a change in the number of units, in the amount of borrowed funds, or in the sources of funds will be reviewed following the guidelines below:
  - a. Unforeseeable circumstances or the imposition of extraordinary governmental rules and regulation, if fully documented and justified, may be viewed as reasons to approve a Material Change.
  - b. A request for Material Change will be denied if it results in a change in the project score, the eligibility for a Set-Aside, or failure of the project to meet eligibility or threshold requirements.
  - c. Notwithstanding subparagraph b, above, ADOH may approve a request for a Material Change as necessary to further the goals of this Plan.
  - d. When the Material Change involves a restructuring, all commitments (e.g., Set-Asides, amenities) must be proportionately the same as at time of Application.

- 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.

**4.6 Disclaimer and Limitation of Liability**

- A. ADOH makes no representations to the Applicant, Developer, Owner, syndicator or to any other Person as to Project eligibility or compliance with the Code, IRS treasury regulations, or any other laws or regulations governing the Low-Income Housing Tax Credit program.
- B. Applicants, Development Team members, lender, Equity Investors and syndicator participate in the Tax Credit program at their own risk. No member, officer, agent or employee of ADOH or the State will 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 IRS, or consequential damage or loss of any kind incurred by an Applicant, Development Team member, lender, Equity 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.

- C. **Disclosures.** Public disclosure of LIHTC Applications shall be as provided by Title 39, Chapter 1 Article 2 of the Arizona Revised Statutes. Applicants must only enter confidential information such as taxpayer identification numbers and financial statements at the specific locations required by the Application materials or the QAP. All information included in an Application submitted to ADOH is subject to disclosure to the public unless specifically exempted from disclosure by statute. Applicants must redact confidential information from documents if the information is not specifically required by ADOH. ADOH may redact information or withhold records that are protected from disclosure pursuant to Arizona law.

## 5. FINAL TAX CREDIT ALLOCATION

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 Tax Credit Allocation, the Project must submit final Tax Credit Allocation materials to ADOH as required by I.R.C. § 42. ADOH evaluates the Projects 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. ADOH, in its sole discretion, may reduce credits based on its final evaluation and require a return of Tax Credits to ADOH.

### 5.1 **Requirements for 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:

- A. Updated Form 3;
- B. A 15 year pro forma starting with the Placed in Service;
- C. Final Appraisal of the Project;
- D. 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;
- E. 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:
  1. 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.
  2. 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 Projects total costs as well as those costs that may qualify for inclusion in eligible basis under I.R.C. § 42.
  3. 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.
- F. The Applicant's building-by-building tax credit computation (on ADOH form Table A);
- G. 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, recorded deed of trust, and recorded consent and subordination agreement;
- H. A promissory note from the Owner 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: 1) the interest rate; 2) the term of repayment; 3) 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 4) if there is a lien, language stating that the lien is subordinate to other liens relating to permanent financing.

- I. The LURA 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 prior to the time of the final Tax Credit Allocation. The LURA shall specify the Units Set-Aside for lower income tenants, and the percentage of median income tenants served, both of which must be consistent with the project described in the Application.
  1. Evidence of that recording must be presented to ADOH before the issuance of IRS Form 8609(s).
  2. Applicants who desire to have the LURA completed and recorded by the end of the year must request it by no later than November 1<sup>st</sup>. Any requests submitted after the November 1<sup>st</sup> deadline may not be completed by the end of the year.
  3. All agreements to be signed and recorded by December 31<sup>st</sup> must be submitted to ADOH not later than December 1<sup>st</sup> of that same year.
- J. One (1) 8x10 inch color photograph of at least one of the Projects buildings with signage;
- K. A completed form stating the Projects first credit year (ADOH provided form);
- L. Fully executed partnership, operating, or joint venture agreements and other agreements between the Project and the Equity Investor;
- M. An Equity Investor certification letter (ADOH sample form provided);
- N. Written certification from the architect that the Project meets the design standards of this Plan. See Form 16;
- O. Completed and signed certification from the contractor (Contractor's Certificate – Form 8609-1) that the Project was built in compliance with the plans and specifications provided by the architect and as described in the Application;
- P. Completed and signed Placed in Service Acknowledgement (ADOH provided form) for each building in the Project;
- Q. Certification from the Arizona Energy Office that the project complies with the 2006 International Energy Conservation Code® (IECC®) (contact Terry Rother (602) 771-1253 or Scott Watters (602) 771-1139 of the Energy Office at the Arizona Department of Commerce);
- R. Completed Form 8609-2 – Operational Risk Management (ADOH provided form);
- S. Proof of flood insurance, or verification that property is not located in a flood zone;
- T. Completed and executed Form 17. The architect is required to certify that all specified green point criteria have been met. Supporting details such as contracts, work orders, delivery receipts, etc., are required to be submitted to certify green products were incorporated into the Project as planned;
- U. Final Allocation Fee;
- V. As built survey of completed Project; and
- W. Any additional information requested by ADOH.

## 5.2 Final Allocation Underwriting

Prior to the issuance of IRS Form 8609(s), ADOH underwrites the Project using the information provided in Section 7.2. In addition to the limitation regarding eligible basis, ADOH limits the total amount of Tax Credits to the amount computed under the Gap Analysis, so Projects are not awarded Tax Credits in excess of the amount necessary to make the Project feasible. Unreasonable costs, changes in financing sources, funding amounts, or excess equity may reduce the final amount of Tax Credits.

DRAFT 4

## **6. FEES**

**All fees set forth in this Section 6 are Non-refundable.**

ADOH assesses all non-refundable fees described herein for the purpose of covering the costs and expenses of processing an Application to the point where the Applicant may receive a Final Tax Credit 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 Tax Credit Allocation, no Reservation Fee and Final Tax Credit Allocation Fee shall be refundable by ADOH.

### **6.1 Tax Credit Application Fee**

A Tax Credit Application fee of \$5,000.00 is due to ADOH at the time of submission of the Application. Tax Credit Applications will not be accepted unless accompanied by this fee.

### **6.2 Gap Financing Review Fee**

A Gap Financing review fee in the amount of \$3,500.00 shall be due and payable upon notice of Reservation.

### **6.3 Reservation Fee, Determination of Qualification Fee, and Final Allocation Fee**

ADOH requires payment of the Reservation Fee for 9% Tax Credits and the Determination of Qualification Fee for 4% Tax Credits. The Reservation Fee and the Determination of Qualification Fee is calculated as 8% of the annual amount of Tax Credits. The Reservation Fee is due and payable at the time of the Reservation for 9% Tax Credits. The Determination of Qualification Fee is due and payable at the time of issuance of the Determination of Qualification letter for 4% Tax Credits. The Final Tax Credit Allocation Fee in the amount of 2% of the annual amount of Tax Credits is due and payable at final allocation and prior to issuance of 8609(s).

### **6.4 Tenant Ownership Fees**

Applicants with Applications that include tenant ownership shall pay an additional \$4,000.00 legal review fee at the same time that they pay the determination or Reservation Fee.

### **6.5 Carryover Allocation and 10% Test Late Fees**

ADOH charges a Carryover Allocation and 10% Test late fee of \$250.00 per day for information received after the Deadline Date specified by ADOH in the Reservation Letter. 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 late fees.

### **6.6 Administration Fees**

An Administration fee in the amount of \$1,500.00 is due and payable to ADOH: a) if an Owner or Applicant requests additional underwriting after a Reservation has been made; and b) in the event that an Owner or Applicant requests approval of a Material Change.

### **6.7 Compliance Monitoring Fees**

Every Applicant for a Project that receives an Allocation must pay to ADOH an annual, non-refundable Compliance Monitoring Fee. The timing and amount of the annual Compliance Monitoring Fee is as

described in this Section unless the LURA applicable to the Project property specifically provides otherwise. Beginning January 2012, and until a subsequent QAP becomes effective, the annual Compliance Monitoring Fee shall be \$65.00 per Low-Income Unit, and is due annually whether or not a physical inspection is conducted on the property. Payment of the Compliance Monitoring Fee is part of the Annual Report and is due and payable by no later than March 15<sup>th</sup>.

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>.



## 7. UNDERWRITING

ADOH's underwriting review of Applications for Tax Credits focuses on the feasibility and the long-term viability of the Project. 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 Underwriting Requirements

- A. A Project will be underwritten a minimum of four times: 1) at original Application, 2) at 10% Cost Test, 3) at equity closing which includes the admission of the Equity Investor and 4) when an Applicant requests its Form 8609's. ADOH may request at any time, updated information needed to perform an interim underwriting if a Material Change has occurred as defined in Section 4.5.
- B. Based on information submitted and other relevant information available to ADOH, ADOH analyzes and, if necessary, adjusts the financial considerations in accordance with this Plan. ADOH will review 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. Based on its review ADOH will make adjustments as may be necessary to determine that proposed sources of funding, development costs, and operating costs are reasonable. ADOH may deny an application for tax credits, revoke a reservation of tax credits, or deny an application for a final allocation of tax credits if ADOH concludes that:
1. Sources of funding are insufficient to finance the total development costs of the Project;
  2. Applicant fails to maximum its primary debt;
  3. Operating revenues are insufficient to ensure the viability of the Project through the end of the Compliance Period according to the standards described in this Plan;
  4. The Project does not generate sufficient income to cover operating expenses and debt service;
  5. The Application is inconsistent with the requirements of I.R.C. § 42 and A.R.S §§ 35-728(B), (C) and 41-3953;
  6. The Application is inconsistent with applicable federal law including without limitation 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 program requirements for any source of funding, and any requirements or conditions described in an applicable notice of funding availability;
  7. The Application fails to reasonably meet the underwriting standards and guidance described in this Section;
  8. The information submitted is insufficient to permit ADOH to make a determination; or
  9. A submittal contains material errors and inconsistencies including without limitation incorrect or contradictory information, incorrect numbers, and mathematical errors.
- C. ADOH underwrites to the Plan standards and guidance below:
1. Debt Service Requirements.
    - a. The debt service coverage ratio shall be no less than 1.20 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.
- b. Debt service requirements for subordinate debt. The debt service coverage ratio shall be no less than 1.00 for any year during the Compliance Period.
2. Proforma Analysis – Income/Analysis. ADOH restricts the costs in the operating budget to the costs directly associated with operating the real estate.
- a. Rental Analysis. Projects rents shall:
    - a. Not exceed the maximum allowable permitted under I.R.C. § 42; and
    - b. Undergo verification against the Market Demand Study should any adjustments to rent be made.
  - b. Additional Monthly Income. ADOH caps additional monthly income at no more than \$20 per unit per month.
  - c. Vacancy. ADOH will underwrite to a vacancy rate of 10%.
  - d. Reserves. ADOH underwrites replacement reserves for new construction at the rate of \$250.00 per unit per year, for Acquisition/Rehabilitation projects at \$350.00 per unit per year, or as specified in the partnership agreement.
  - e. Annual Operating Costs.
    - i. ADOH underwrites annual Operating Costs for new construction at \$4,200.00 per unit per year and for acquisition/rehabilitation at \$4,500.00 per unit per year.
    - ii. ADOH does not include Asset Management Fees in ordinary annual Operating Costs.
    - iii. Supportive Services costs are to be considered an additional annual Operating Cost. An operating budget including Supportive Services must equal the sum of the minimum annual Operating Cost and the cost of the Supportive Services. Unless specifically waived by ADOH, the two expenses combined must be greater than the ADOH minimum annual Operating Cost.
    - iv. Applicant must include property taxes in annual Operating Costs and the formula used to determine the real estate taxes, as part of Form 3. If exempt from property taxes, 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.
    - v. ADOH may underwrite to higher operating costs for projects proposing specialized or unique characteristics such as rehabilitation of buildings located in historic areas.
3. Development Budget. Applicants shall disclose all uses of funds including, but not limited to, commercial and/or retail space.
- a. Construction Finance Costs Limits. ADOH will use construction finance costs provided in the commitment letter from the construction lender up to a maximum amount of 2% of the construction loan. The maximum construction interest allowable in eligible basis shall be

calculated as follows: Construction Loan Amount \* Annual Interest Rate divided by 12 \* number of months of construction divided by 2.

- b. Permanent Financing Costs. ADOH evaluates permanent financing costs based on the information provided in the commitment letters and letters of intent submitted in the Application and compares it to industry standards. Permanent Financing costs requirements include:
  - i. Origination and loan fees are capped at 2% of the permanent loan amount.
  - ii. Applicants must maximize their primary debt. ADOH may adjust the amount of tax credits reserved to maximize the amount of available debt financing. ADOH may consider information gathered to determine whether the Applicant has committed the maximum amount of private sources of funds available to the Project.

ADOH will expect the Applicant to maximize its lending sources by paying at least the maximum mortgage payment described hereafter. The maximum mortgage payment on the primary permanent funding for the term of any permanent loan or the duration of the Compliance Period, whichever is longer, the quotient obtained by dividing the net annual operating income by total annual debt service payments for all loans, shall be no less than 1.20 or as modified by the debt service coverage and loan-to-value ratios established by the lender in the Letter of Interest or Intent for each year of operation. Tax credits will be adjusted, if necessary, to assume financing requiring maximum mortgage payments or such other maximum mortgage payment as is approved by the ADOH. Other mortgage terms (e.g. interest rate and amortization period) will be taken from the lender’s Letter of Interest or Commitment Letter. ADOH may consider a minimum DSCR of 1.15 for projects with commitments for loan guarantees or rental assistance through HUD or USDA/RD.

- c. Developer Fee, Overhead, and Consultant Fee Limits. Consultant and Developer Overhead Fees are included as part of the Developer Fee and the total amount includable in eligible basis shall be limited as provided in the table below.

ADOH will (10%) of the in the 4% for Projects Acquisition

<b>Developer Fee, Overhead, and Consultant Fee Limits As A Percent of Total Eligible Basis in Cost Categories I-IV of the Development Budget</b>	
<b>Number of Units</b>	<b>Percent Allowed</b>
1-30	17%
31-60	15%
61+	14%

include ten percent total Developer Fee eligible basis column claiming 4% Credits.

- d. Builder General

Profit, Overhead, and Requirement Limits.

Are calculated as a percentage of “Subtotal Direct Construction Costs” as set forth in the table below:

Builder’s Profit, Overhead, and General Requirements	Percent of Costs				
	1-15	16-30	31-45	46-60	61+
Project size in Units	1-15	16-30	31-45	46-60	61+
Builder’s profit	06.00	05.75	05.50	05.25	05.00
Builder’s overhead	03.00	02.75	02.50	02.25	02.00
General requirements	06.00	05.75	05.50	05.25	05.00
Total maximum percentage	15.00	14.25	13.50	12.75	12.00

Note: General Requirements include Project-related site costs such as temporary fencing, utilities to the site during construction, job site supervisor, job site office and similar costs.

- e. Deferred Developer Fees. The deferred developer fee may not exceed 40% of the total developer fee and may not be deferred for a term of greater than 15 years.
- f. Capitalized Reserve Minimums. The development budget must include minimum capitalized reserves as follows:
  - a. Rent-up Reserve. Six (6) months of operating expenses plus six (6) months of debt service.
  - b. Operating Reserve. Six (6) months of operating expenses plus six (6) months of debt service.
- g. Replacement Reserve. The development budget must include Replacement Reserves in the following amounts: \$250.00 per unit for New Construction, and \$350.00 per unit for Acquisition/Rehabilitation.

D. Gap Financing & Layering Analysis.

- a. Gap Financing. ADOH may provide up to \$750,000.00 in State Housing Fund for Gap Financing. Applicants that request Gap Financing from ADOH must include a supplemental Gap Financing application. Supplemental Gap Financing applications may be downloaded from ADOH’s website. Gap Financing applications must be included at Tab 3, behind Form 3. In the event ADOH receives additional Gap Financing sources, the \$750,000.00 cap as stated above may not be applicable.
- b. Layering Analysis. ADOH takes into account all public subsidies in its layering analysis. Federal regulations prohibit the layering, or excessive use, of Federal Subsidy for any project or activity. ADOH will coordinate with other public funding agencies that, by regulation or practice, undertake layering reviews of projects proposed to be funded with tax credits. During the layering analysis review, ADOH may reduce credits or ADOH Gap Financing sources if it determines that the Project has been over sourced.

- E. Market Demand Study Analysis. In ADOH’s analysis of the Market Demand Study, ADOH may 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 given 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. If multiple Applications are filed for a given market area proposing to serve different populations (e.g., elderly or households with children), ADOH will analyze the Applications to ensure that no Project will be redundant or have adverse impact on other applications or existing Projects in the given area. ADOH

may refuse to reserve credits to any Project if ADOH determines that the given market area cannot support the Project.

ADOH may deny an application due to market conditions for the following reasons:

- a. Market Demand Study does not comply with requirements in Exhibit L.
- b. Market Demand Study fails to demonstrate strong new market demand for the type of low-income housing proposed.
- c. Market Demand Study 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.
- d. Market Demand Study that fails to clearly describe the effective date 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, vacancy data, and the dates of any interviews.
- e. The number of units proposed in the application may adversely affect the financial viability of existing housing stock in the primary market area.
- f. Market Demand Study fails to objectively and explicitly justify the limits of the primary market area consistent with the requirements of the Exhibit L.
- g. The Market Demand Study 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.

Should ADOH determine the Market Demand Study supplied with the application is unsatisfactory and requires additional information, the Market Demand Study shall be updated at the sole expense of the Applicant. ADOH may verify information and conclusions in the Market Demand Study through alternative sources.

## 7.2 Calculation of Tax Credits

Tax Credits are awarded based on the lesser of two calculations, the Eligible Basis Analysis or the Gap Analysis. Both methods are included on Form 3.

A. **Eligible Basis Analysis.** Tax Credits are calculated by multiplying the Eligible Basis by 130% (ADOH has elected under I.R.C. § 42(d)(5)(C) to designate the entire State for this boost) times the Applicable Fraction times the Applicable Percentage. For Projects receiving Job Creation Points, and that will be Placed in Service before December 30, 2013, ADOH will use 9% as the “applicable percentage” for underwriting applications. ADOH will use 7.5% and 3.5% credits respectively as the “applicable percentage” for underwriting all other applications. Adjustments to Eligible Basis may be made for the following reasons:

1. Federal grant funds used to finance costs pursuant to I.R.C. § 42(d)(5)(A).
2. Amount of non-qualifying/nonrecourse financing pursuant to I.R.C. § 42(b)(1), 49(a)(1)(A).

3. Non-qualifying units and/or excess costs related to units above the average quality standard for a Low-Income Unit pursuant to I.R.C. §42 (d)(3)(A).
  4. Cost allocable to nonresidential mixed use square footage.
  5. Historic or solar tax credits.
  6. Development costs exceeding the limits set forth in this Plan.
  7. Costs associated with unapproved waivers.
- B. Gap Analysis.** In addition to the limitation regarding Eligible Basis as discussed above, Projects are not awarded credits in excess of the amount necessary to make the Project feasible. ADOH will calculate the Gap Analysis by dividing the Project Funding Gap by the Project “Syndication Rate,” by the Equity Investor ownership percentage, and by 10 years. The Projects projected sources of funds for purposes of the Gap Analysis consists of Permanent Financing.

## 8. COMPLIANCE MONITORING

### 8.1 Project Compliance Monitoring

- A. **Monitor and Inspect.** ADOH is required to monitor and inspect projects for compliance with I.R.C. § 42, Treasury Regulation 1.42-5, the QAP, and the terms of and provisions of the LURA. Generally, ADOH monitors to ensure: 1) Low-Income Units are rent restricted and occupied by qualifying tenants; 2) the property as a whole is suitable for occupancy; 3) the Owner is keeping and retaining the necessary records; and 4) the project meets the requirements (Set-Asides, income restrictions, rent skewing, affordability period, amenities and services, etc.) described in the application for tax credits.
- B. **Publish and Institute Monitoring Procedures.** The I.R.C. also requires that ADOH publish and institute monitoring procedures as part of the Plan. This compliance monitoring procedure applies to **all** Projects to which ADOH has allocated tax credits. Accordingly, Projects allocated Tax Credits since January 1, 1987, are subject to compliance monitoring except as specifically provided by the Code.
- C. **Compliance Manual and Training Requirements.**
1. **Compliance Manual.** ADOH has prepared a Low-Income Housing Tax Credit Program Compliance Manual for all Program participants. The manual describes ADOH's compliance monitoring procedures and reporting requirements. ADOH's website, [www.azhousing.gov](http://www.azhousing.gov), includes samples of all annual reports, certifications, and other documents relevant to compliance monitoring.
  2. **Management Agent Compliance Training.** Management agent Compliance Training is offered by ADOH on the **Compliance Manual** and owners'/managers' compliance responsibilities. Property Manager must attend and be certified annually on ADOH compliance monitoring. Property Managers must submit a Compliance Training certificate with the Project annual report to ADOH.
- D. **Fees.** The Code also allows ADOH to collect fees from owners to cover the cost of administering the compliance-monitoring program. Annual Compliance Monitoring Fees are set forth in Section 6 above.
- E. **Registration with Social Serve.** Applicants who receive an Allocation must agree to register the units with [socialserve.com](http://socialserve.com) and maintain such registration with [socialserve.com](http://socialserve.com) for the duration of the Compliance Period.

### 8.2 Compliance Monitoring Requirements

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

- A. **Qualified Tenants.** Low-income Units must be occupied by tenants who meet income eligibility standards described by the Code. Tenants occupying Low-Income Units must be income qualified as required by the Code.
- B. **Rent Restrictions.** The rents charged for Low-Income Units must be restricted as required by the Code.

- C. **Distribution of Units.** Projects must allocate the low and moderate-income Units among the different sized Units. 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.
- D. **Uniform Physical Condition Standards.** The Owner must maintain the Project property in compliance with physical conditions standards that include local building codes.
- E. **Annual Report.** By no later than March 15<sup>th</sup> of each year the Owner must submit the annual report that contains the following:
1. Payment of the Compliance Monitoring Fee described in Section 2.5(I);
  2. The certifications described in Section 8.2(G) on a form provided by ADOH;
  3. The Owner's financial statements (balance sheet, profit and loss, and cash flow statements) for the preceding year evidencing financial capacity and solvency;
  4. A rental schedule on a form provided by ADOH;
  5. An applicable fraction per building on a form provided by ADOH;
  6. A special commitments report on a form provided by ADOH; and
  7. The annual utility certification on a form provided by ADOH.
- F. **Record Keeping.** The Owner must maintain accurate records for each building in the low-income housing Project. These records must include:
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.
  2. The total number of Low-Income Units in the building.
  3. The total number of occupants in each Low-Income Unit.
  4. The rent charged on each Residential Rental Unit in the building, including any utility allowance.
  5. The Low-Income Unit vacancies in the building.
  6. The number and household eligibility criteria for all special Set-Aside units in the building.
  7. The rentals of the next available Units in each building including when and to who rented.
  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).
  9. Documentation regarding the eligible and qualified basis of each building as of the end of the first year of the Tax Credit period.
  10. For each low-income household:
    - a. Completed rental application, including the tenants' certification of assets.
    - b. Tenant income certification form, including all required signatures.



- c. Documentation supporting each household's income certification (third-party verifications, asset certification, asset documentation and verification if more than \$5,000.00 in value).
  - d. Documentation of student status.
  - e. For elderly family projects, the tenant file must include proof of date of birth and/or proof of the qualifying disability, if applicable.
11. Current-year utility allowance schedule.
  12. Documentation from a medical doctor licensed in Arizona or prepared by a social service or health service agency that qualifies a tenant for the Special Needs Population and any documentation that identifies any special accommodations that the tenant may require.
- G. **Record Retention.** Owners are required to keep all records for each building for a minimum of six (6) 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 (6) 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.
- H. **Certification.** The Owner must certify the following, under penalty of perjury, at least annually through the end of the Compliance Period:
1. That the Project complied with the requirements for special Set-Asides on which the Allocation was based (e.g., 20%, 30%, 40%, or 50% AMGI), as applicable.
  2. At least 20% of the Residential Rental Units in the Project are both rent restricted and occupied by individuals whose income is 50% or less of the AMGI; or at least 40% of the Residential Rental Units in the Project are both rent restricted and occupied by individuals whose income is 60% or less of the AMGI.
  3. 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.
  4. That the entire Project/building was occupied by LIHTC residents and the IRS has or has not provided a waiver for the annual recertification of resident income.
  5. That each Low-Income Unit was rent restricted as defined in the Code.
  6. That all units in the Project are for use by the general public and are not used on a transient basis.
  7. 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. 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.
  9. 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 basis in a building or the percentage of tax credit floor space to rentable floor space in a building, whichever is less.)

10. 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).
  11. That a LURA is in effect for Projects receiving Allocations on or after January 1, 1990.
  12. 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.
  13. That, if the Owner received its Allocation Set-Aside for Projects involving "qualified Non-Profit Organizations," the non-profit entity owns an interest of at least fifty one percent (51%) of the general partner interest in the Project, and materially participated in the operation of the development within the meaning of I.R.C. § 469(h).
  14. 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.
  15. 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.
  16. 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.
  17. 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.
  18. 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.
  19. 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.
  20. 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).
  21. 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.
- I. **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 Projects 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.
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 Projects Low-Income Units selected by ADOH, ADOH inspects the units (including all

- vacant units) and reviews the low-income certifications, the documentation supporting such certifications, and the rent record.
2. ADOH follows HUD's inspection protocol under 24 CFR § 5.703 in conducting physical inspections. ADOH selects units for physical inspection and reviews files only at the time of the on-site visit.
- J. **Miscellaneous Owner Responsibilities.** In addition to the responsibilities described in this Section, the Owner must:
1. Notify ADOH prior to any change in ownership.
  2. Notify ADOH prior to any change in the management agent.
  3. Perform annual tenant recertification as required by the Code.
  4. Establish the utility allowance as required by Treas. Reg. 1.42-10.
  5. Comply with the program requirements relating to the source of any funding to the Project and the Fair Housing Act (42 U.S.C. § 3601 *et seq.*), 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).
- K. **Liability.** The Owner is responsible for compliance with the requirements of the Code and the QAP. ADOH shall not be liable to third parties for claims arising from an Owner's failure to comply with the requirements of the Code or the QAP.
- L. **Correction of Non-Compliance Condition.**
1. ADOH shall provide written notice of noncompliance to the Owner if:
    - a. ADOH has not received a complete annual certification report with attachments by the due date.
    - b. ADOH finds that the Project is out of compliance with any of the provisions of the Code or the terms and provisions of the LURA.
  2. The Owner shall have 30 calendar days from the date of notice of noncompliance to correct the annual certification report. The Owner shall have 90 calendar days from the date of notice of noncompliance to correct other issues. ADOH may grant an extension of up to 180 calendar days to complete corrective action if the Owner demonstrates good cause for the extension to the satisfaction of ADOH.
  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.
  4. In the event that the owner fails to take corrective action within the cure period described in Section 8.2(K)(2), ADOH may commence legal action to enforce the duties and obligations of the Owner described in the LURA.
  5. 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.

DRAFT 4