

**Binding Agreement to Allocate Low Income Housing Tax Credits  
from the Year Tax Credit Authority**

The New Jersey Housing and Mortgage Finance Agency ("Agency"), as the low income housing credit agency for the State of New Jersey, has reserved Year low income housing tax credits for Project Name, LITC # [REDACTED] (the "Project") which consists of # Newly Constructed or Rehabilitated? residential building(s). The Agency hereby issues to Owner Name (the "Owner") a binding agreement to allocate low income housing tax credits pursuant to 26 U.S.C. §42(h)(1)(C) and Treasury Regulations Section 1.42-8(a) in an amount not to exceed Total Annual Credit Amount, subject to the fulfillment of all terms, conditions, and requirements set forth below:

1. Payment to the Agency of an allocation fee equal to 2% of the allocated credit amount over the credit period. One half of this fee, or \$Fee shall be submitted by the earlier of November 30, 2017 or issuance of this binding agreement.
2. Submission to the Agency no later than November 30, Year of Carryover of the following Carryover documents. If you cannot meet the November 30<sup>th</sup> deadline as provided in the regulations, you may request an extension and, if approved, pay an extension fee of \$1,000 for every week the submission is late. This fee cannot be waived.
  - a. Sponsor Certification. If you are aware of any changes that have been made to any aspect of the project since application, check the second box of item #9 and be sure to attach the appropriate documentation.
  - b. 15-Year Operating Proforma signed by your first mortgage lender that exclusively reflects the following language verbatim: "We acknowledge that this proforma substantially matches the assumptions used in our underwriting of the mortgage."
  - c. Updated Breakdown of Costs and Basis
  - d. Completed Carryover Allocation Form and Table B
  - e. If available, a copy of the recorded deed conveying title to the final ownership entity. The deed book and page numbers should be clearly indicated so that NJHMFA tax credit staff can accurately complete the Deed of Easement and Restrictive Covenant for Extended Low-Income Occupancy. Upon completion, the deed restriction will be forwarded to you for review, execution and recordation.
  - f. Tax Clearance Certification from the NJ Division of Taxation.
  - g. Pre-Construction Approval letter from the Green Homes Division
3. Submission of documents illustrating satisfaction of the 10% test under 26 U.S.C. §42(h)(1)(E) no later than six months from the date the carryover allocation agreement is executed.
4. NJHMFA will reevaluate the need for tax credits in accordance with 26 U.S.C. §42(m)(2)(B) prior to the issuance of a carryover allocation and again prior to the issuance of the IRS Form 8609.
5. The maximum tax credit allocation will be subject to any changes that may be imposed by changes to the Internal Revenue Code or Federal regulations;
6. The Owner is required to submit to the Agency all relevant syndication documents, including but not limited to the Prospectus (Offering Memorandum) and any amendments thereto, limited partnership agreement and any amendments thereto, joint venture agreement and any amendments thereto, partnership administration services agreement and any amendments thereto, development agreement and any amendments thereto, any relevant agreement between and among the relevant parties setting forth terms of the financial arrangements, commitment letters, if any (firm or otherwise) and

mortgage documents (for all documents, include all exhibits and schedules);

- 7. The Owner must fully implement all promises represented in its application for tax credits by placement in service;
- 8. The Owner is under a continuing affirmative obligation to advise the Agency of any changes to any aspect of the proposed development and provide relevant information as it becomes available.

The Agency and the Owner acknowledge that this Binding Agreement constitutes an agreement under New Jersey state law binding upon the Agency, the Owner and all successors of interest in the Project.

**New Jersey Housing and Mortgage Finance Agency**

WITNESS

\_\_\_\_\_ By: \_\_\_\_\_  
 Anne Hamlin,  
 Director, Tax Credits

**Owner: Owner Name**

WITNESS

\_\_\_\_\_ By: \_\_\_\_\_  
 Authorized Representative

OWNER ACKNOWLEDGMENT

BE IT REMEMBERED, that on \_\_\_\_\_, 2017, before me, the subscriber, personally appeared \_\_\_\_\_ who, I am satisfied, is the person named in and who executed the within Instrument, and thereupon he/she acknowledged that he/she signed, sealed and delivered the same as his/her act and deed, for the purposes therein expressed.

SWORN TO AND SUBSCRIBED before me this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

\_\_\_\_\_

A Notary Public of \_\_\_\_\_

My Commission Expires on: \_\_\_\_\_