

Proposed Final for Public Comment

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

**2009
QUALIFIED
ALLOCATION PLAN**

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1. INTRODUCTION

1.1 Background

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

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

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

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

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

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

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

1.2 General and Specific Goals

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

1.2(B) General Goals. For projects that are not financed through tax-exempt bonds the LIHTC program is a competitive program. See Section 3 for the process and requirements for tax credits to projects financed by tax-exempt bonds. The federal government establishes the State Annual Credit Authority which limits the dollar amount of tax credits that ADOH may allocate to qualifying projects, and detailed eligibility standards and priority uses for available tax credits. The State's Annual Tax Credit Authority is insufficient to fund all applications. This Plan explains the competitive process that ADOH uses to allocate its annual authority for 9% tax credits in 2009. Applications for tax credits for projects that are financed through tax-exempt bonds and that have received confirmation of private activity bond volume cap shall be reviewed as provided herein on a first-come, first-served basis. See Section 3.1. In furtherance of the statutory provisions affecting the program, ADOH has established the following general goals for allocating tax credits in Arizona:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

2. APPLICATIONS FOR TAX CREDITS

2.1 Amount of the State Annual Credit Authority

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

2.2 Maximum Tax Credit Reservation

2.2(A) If the amount of tax credits available for reservation in an allocation round is less than \$11.0 million, then, the amount of credits available to a project shall be limited to the project's qualified eligible basis and no more than two projects may be reserved tax credits for any one Owner, Developer, Co-Developer or affiliate of the Developer or Co-Developer.

2.2(B) If the amount of tax credits available for reservation in an allocation round is greater than or equal to \$11.0 million, then the maximum Reservation for any single project or scattered site project shall be \$1,200,000 of the state's annual credit authority or as necessary to maximize the allocation of tax credits and no more than a total of \$2.4 million in any year for any one Owner, Developer, Co-Developer or affiliate of the Developer or Co-Developer with multiple projects. ADOH may award tax credits for a maximum of two projects each year to a Developer, Co-Developer and any affiliate of the Developer or Co-Developer provided one of the projects is a project located in a rural area. Applicants proposing large projects with total costs that exceed the maximum tax credit amount for a single project must divide the project and compete for the additional tax credits by submitting applications in subsequent Allocation Years. A Reservation of tax credits for one phase of a large project does not guarantee a Reservation of credits for subsequent phases in later Allocation Years.

2.3 Multiple Projects

For applications subject to Section 2.2(B), if ADOH determines that multiple applications in the same year constitute a single project, ADOH may deny the applications, or combine them into a single application. A reservation or an allocation, as determined by ADOH, shall not exceed the amount ADOH determines is necessary for the financial feasibility of the project and its viability as a qualified low-income housing project.

ADOH, in its discretion, may treat multiple applications for projects located within the same demographic or market area with common ownership or Development Team members as a single application if it identifies two or more of the following factors in separate applications: the Maximum Tax Credit Reservation as described in Section 2.2(B); projects that target similar populations; large project size in relation to market, market saturation, commonality of design; shared amenities; commonality of application for funding from ADOH, HUD or other housing authorities.

2.4 Timetable and Application Submission Location

ADOH may hold one or more tax credit application rounds pursuant to this Plan. Applicants must submit to ADOH one original and two complete copies of an application and a non-refundable application fee of

\$3,500 for each application on or before 4:00 P.M. of the application submittal date as announced by ADOH in an Information Bulletin published on the ADOH website. If the deadline date falls on a holiday or weekend, applications shall be due on the next business day. Applications must be received at the reception desk of the Arizona Department of Housing located at 1110 West Washington Street, Suite 310, Phoenix, Arizona 85007. Facsimile and e-mail submissions shall not be accepted.

2.5 Application Format

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

2.6 Application Review Process for Projects that are not Bond Financed

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

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

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

2.6(B)(1)(a) Complete application. The application must be complete and submitted according to form. The applicant must submit one original and two copies of a complete and accurate application organized in the prescribed sequence and format, as required by this Plan and by the "Low-Income Housing Tax Credit Program Application Forms and Instructions," together with the non-refundable application fee. All application forms must be completed and submitted as required by this Plan. ADOH shall not accept any additional information, amendment or change to the application after the deadline date. Notwithstanding the foregoing, ADOH may make written inquiries to the applicant, architects, engineers, financial institutions and the local governments in order to complete the eligibility documentation or to verify the information

submitted. ADOH shall consider such supplemental documentation for eligibility purposes only, and shall not consider the supplemental information in scoring the application.

2.6(B)(1)(b) Designation of Set-aside Category. An application must elect one Set-aside category. Applications that fail to elect a set-aside category or elect multiple set-aside categories are ineligible for reservation of tax credits. See Form 1-1, Set-Aside Election.

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

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

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

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

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

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

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

2.6(B)(4) Waiver of Requirements. Applicants may request that ADOH waive specific requirements of this Plan. Waiver requests shall be supported by a detailed narrative explanation sufficient to permit ADOH to determine that: 1) waiver of the requirement is consistent with Section 42 of the Internal Revenue Code and its implementing regulations, and IRS guidance, 2) waiver of the requirement accomplishes the purposes and objectives of this Plan; and, 3) the waiver shall not adversely affect the feasibility of the project.

2.6(B)(5) Set-Asides. Applicants must designate one set-aside category in which the application shall compete. For set-aside information see Section 2.8;

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

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

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

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

2.6(B)(10) Tax Credit Reservation. ADOH, based upon an evaluation of applications and in its sole discretion, shall reserve tax credits in each set-aside, preference being given to projects with the highest competitive score that: 1) meet threshold and eligibility requirements; 2) demonstrate a strong market demand; 3) have received the written consent of the local government; and, 4) and meet underwriting requirements. ADOH, shall issue a letter notifying the applicant of the tax credit reservation, which shall include: 1) a request for payment of the reservation fee described in Section 6.5; 2) instructions for application for a Carryover Allocation described in Section 2.15; 3) a description of the requirements for meeting the 10% Cost Test according to Section 2.16; and, 4) other conditions that must be satisfied.

2.7 Eligibility Requirements

2.7(A) General Requirements.

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

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

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

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

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

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

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

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

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

- (i) A "Status (Condition) of Title Report" for the property dated within 30 calendar days of the date of the application by a title insurer licensed in Arizona. The title report must not include any conditions or requirements materially and substantially adverse to the feasibility of the project.
- (ii) If the project or a Development Team member holds fee title to the property, then provide a copy of HUD 1 Settlement Statement or other settlement statement prepared for the buyer and seller at the closing.
- (iii) With the exception of projects that are located on governmental or Tribal land, the applicant must establish that the project has legal control of the property by submitting a recorded deed, purchase agreement, purchase or lease option, lease agreement (for a term at least equal to the duration of the Extended Use Agreement), or a resolution by a governmental agency that owns the property.

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

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

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

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

2.7(B)(4) Satisfactory Progress and Compliance. ADOH may reject applications for projects having Development Team members that do not meet the requirements of Section 4.2 (Satisfactory Progress) of this Plan or have failed to comply with the tax credit requirements and conditions in previous applications or developments including, but not limited to, payments due on ADOH loans, payment of any other fees as described under Section 2.76(B)(1) and Section 6 of this Plan, or if Development Team members have outstanding compliance issues with any other subsidized programs as described in Section 2.9 (F)(5).

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

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

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

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

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

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

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

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

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

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

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

2.7(B)(13) **Non-Profit Information**. Projects seeking consideration as Non-Profit Projects shall provide the information and materials described in this paragraph. Under Tab 7, the applicant must submit evidence that the applicant is a current 501(c)(3) or (4) entity. In addition, the applicant must execute and enclose at **Tab 7** Form 7, a “Certificate of Non-Profit Participation,” and all other evidence required. In the case where a governmental or tribal agency is applying for non-profit consideration, it must provide the appropriate 501(c)(3) or (4) documentation, a letter from the executive officer of the local governmental or tribal agency. “Non-profit Projects” are projects in which a qualified non-profit organization (i.e., an IRC Section 501(c)(3) or (4) organization) owns an interest (directly or through a partnership) and materially participates within the meaning of IRC Section 469(h)(i) in the development and operation of the project throughout the compliance period. **The non-profit organization may not itself be an Affiliate of or controlled by a for-profit organization.** Material participation is defined at IRC Section 469(h)(i) as involvement “in the operations of the activity on a basis that is regular, continuous and substantial.” The ADOH defines “substantial” as having the authority or right to, among other things, participate in the decision-making process for design, location, materials, and management of the project. In addition, ADOH requires that the non-profit organization provide: (1) IRS documentation of status 501(c)(3) or 501(c)(4); (2) a description of the nonprofit organization and its activities, to include the promotion of affordable housing in its articles; (3) evidence that it or its officers or members have experience in developing or operating low-income housing; (4) evidence (in the letter of intent received from the investment syndicator) that it holds the right of first refusal to acquire the project following the fifteen-year compliance period; (5) evidence that it has developed an operating plan for the project covering its role in developing and managing the project, including its participation in the Developer fee; its control of project reserves; its plan for maintenance, replacement, and renovation; and its oversight of marketing and of compliance with IRC Section 42; (6) the names of board members of the nonprofit organization; (7) the names and resumes of all paid full-time staff; (8) the sources of funds for annual operating expenses and current programs; (9) evidence of financial capacity in the form of Financial Statements for the past two years; and (10) Form 7, “Certificate of Non-Profit Participation,” certifying that the nonprofit organization will materially participate in the development and operations of the project on a basis which is regular, continuous, and substantial.

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

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

2.7(B)(14)(b) Excepting projects located on tribal trust land, the general contractor must demonstrate that it is licensed, bondable for total project cost, and authorized to transact business in Arizona. The application must include the current Financial Statement and audited Financial Statements of the general contractor for the prior two years. ADOH may deny an application for a project that proposes a general contractor that cannot provide Financial Statements as required by this paragraph.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

2.7(B)(17) Financial Ability to Proceed. The application must demonstrate that the Development Team has secured funding sources necessary to undertake and complete the project. As evidence of

commitments for funding sources the applicant must enclose at **Tab 11** the following required documents:

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

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

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

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

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

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

(i) Evidence that the third-party guarantor is an existing legal entity, in good standing, and authorized to do business in Arizona; and,

(ii) Third-party guarantor's Financial Statements and annual reports for the last three years and most recent quarterly statement;

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

or returned to ADOH. See Section 7.3(C)(1)(d) and (e) for additional information about underwriting for debt-service coverage.

2.7(B)(18) **Market Demand.** The application must demonstrate market demand for the project through a Market Demand Study that meets the requirements of Section 7.4 and the Market Study Guide, see Exhibit L to this Plan. The market study must be included at **Tab 12**. ADOH may determine the Market Demand Study supplied with the application to be unsatisfactory and may require additional information at the sole expense of the applicant. Also see Section 2.5, "Application Format." ADOH may verify information and conclusions in the Market Demand Study through alternative sources.

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

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

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

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

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

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

2.7(B)(24) **Marketing Plan.** The applicant must include at **Tab 20** an affirmative marketing plan in accordance with fair housing requirements that demonstrates how the project will meet lease up requirements consistent with I.R.C. § 42 and the any requirements of the equity investors and permanent lenders to the project. The marketing plan shall specifically address any potentially adverse demographic, rent-up or capture rate information in the application for the primary market area

identified in the Market Demand Study. If applicant has designated certain units for a Special Needs Population, the marketing plan must indicate how the population will be targeted.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

2.7(B)(28) **Community Revitalization.** For applicants claiming points for projects located in community revitalization areas, the applicant must enclose at **Tab 23** the information and materials described in Section 2.9(F)(7) and Form 23, signed by an authorized representative of the municipality or county, stating that the project is within the boundaries of the designated housing priority area. See Section 2.9(F)(7) for explanation of points available to projects located in revitalization areas.

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

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

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

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

2.7(B)(30)(c) Elevations for each proposed building and clubhouse; and,

2.7(B)(30)(d) The applicants claiming Project Readiness Points, see Section 2.9(F)(14) must submit copies of the final plans and specifications that were submitted to the local government for approval at the time of carryover.

2.7(B)(31) **Phase I Environmental Report.** The applicant must include at Tab 31 a Phase I Environmental Report and, in the event that the project contemplates financing through any program administered by HUD, then an Environmental Review Record shall be required in accordance with HUD regulations, see 24 C.F.R. Pt. 58.

2.7(B)(32) **Water Conservation.** All newly constructed and rehabilitated properties must incorporate reasonable Water Conservation measures including but not limited to alternative and low-flow toilets, low-volume showerheads, aerator or flow restrictor devices in the faucets, front-loading or horizontal-axis washers, and Xeriscape Landscaping. Documentation of project design considerations for Water Conservation should be included in **Tab 25**.

2.7(B)(33) **Property Design Standards.** The application for all newly constructed and rehabilitated properties must demonstrate compliance with the current Uniform Building Code, Uniform Mechanical Code, the Uniform Plumbing Code (1994 Editions), the National Electric Code (1993 Edition), the 2006 International Energy Code, the International Building Code and the Federal Fair Housing Act (42 U.S.C. §§ 3601, et seq. and 24 C.F.R., Part 100, Subpart D), the Arizona Fair Housing Act (A.R.S. §§ 41-1491 through 41-1491.37), and HUD Fair Housing Regulations (24 C.F.R. Part 100, subpart D), the Uniform Federal Accessibility Standards (Section 504 of the 1973 Rehabilitation Act) and the Americans with Disabilities Act (42 U.S.C. §§ 12101 through 12213). The applicant must include at **Tab 26**, a completed Exhibit Y, signed by the Architect for the project certifying that the project meets the above design standards. Exhibits W1 and W2 are to be submitted with the 8609 package.

2.7(B)(34) **Lead-based Paint.** If the project includes a building or structure that was built before January 1, 1978, the applicant must have a lead-based paint inspection completed by a certified lead-based paint inspector. That inspector must prepare and the applicant must include in its application at **Tab 26** a complete copy of that report. If the report indicates the presence of lead-based paint, the applicant must include at **Tab 26**: (1) a written amelioration plan for the elimination and disposal or encapsulation of the lead-based paint, and (2) a written on-going maintenance plan to manage the lead-based paint.

2.7(B)(35) **Project Schedule.** The applicant must complete and execute Form 27 and insert it at **Tab 27**.

2.7(B)(36) **Capital Needs Assessment.** Applicants are required to provide to ADOH a capital needs assessment (“CNA”) for all rehabilitation and combined acquisition and rehabilitation projects. Insert at **Tab 28** a CNA that meets the requirements outlined below. ADOH may determine the CNA report is unsatisfactory and may require additional information at the sole expense of the applicant.

2.7(B)(36)(a) Applicants must include a statement from the architect or engineer that the report was prepared according to ADOH’s CNA Guidelines and that the information included is accurate and that the report can be relied upon by ADOH to present a true assessment of the proposed rehabilitation budget and immediate repairs required at the property.

2.7(B)(36)(b) The CNA shall examine and analyze the following building components:

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

2.7(B)(36)(c) The CNA report shall include the following major parts:

- (i) Critical Repair Items. All health and safety deficiencies or violations of housing quality standards, requiring immediate remediation. If the project has tenants, these repairs are to be made a first priority.
 - (ii) Two-Year Physical Needs. Repairs, replacements, and significant deferred and other maintenance items that need to be addressed within 24 months of the date of the CNA. Include any necessary redesign of the project and market amenities needed to restore the property to the standard outlined in this Plan, Exhibit D. These repairs are to be included in the development budget and funded by construction-period sources of funds.
 - (iii) Long-Term Physical Needs. Repairs and replacements beyond the first two years that are required to maintain the project's physical integrity over the next twenty (20) years, such as major structural systems that will need replacement during the period. These repairs are to be funded from the reserves for replacement account.
 - (iv) Analysis of Reserves for Replacement. An estimate of the initial and monthly deposit to the reserves for replacement account needed to fund long-term physical needs, accounting for inflation, the existing reserves for replacement balance, and the expected useful life of major building systems. This analysis should not include the cost of the critical repair items, the two-year physical needs, or any work items that would be treated as operating expenses.
 - (v) Phase I Environmental Report. All applicants must submit a Phase I Environmental Report.
- 2.7(B)(36)(d) The professional preparing CNA report must:
- (i) Be an architect or mechanical/structural engineer licensed by the state.
 - (ii) Conduct site inspections of a minimum of 35 percent of all units. Units shall be randomly sampled while taking into consideration the Unit size mix, e.g., one-bedroom, two-bedroom, etc. All vacant units must be inspected.
 - (iii) Identify any physical deficiencies as a result of (i) visual survey, (ii) review of pertinent documentation, and (iii) interviews with the property owner, management staff, tenants, community groups, and government officials.
 - (iv) Identify physical deficiencies, including critical repair items, two-year physical needs, and long-term physical needs. These should include repair items that represent an immediate threat to health and safety and all other significant defects, deficiencies, items of deferred maintenance, and material building code violations that would limit the expected useful life of major components or systems.
 - (v) Explain how the project will meet the requirements for accessibility to persons with disabilities. Identify the physical obstacles and describe methods to make the project more accessible, and list needed repair items in the rehabilitation plan.
 - (vi) Prepare a rehabilitation plan, addressing separately all two-year and long-term physical needs.
 - (vii) Prepare a replacement reserve schedule, including an estimate of the initial and annual deposits, accounting for inflation and based on a 20-year term.

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

2.7(B)(37) **Internet Access.** All units shall be wired with three networks back to a central location: 1) a network for phone using CAT-5 wire; 2) a network for television using COAX cable, and 3) a network for data using CAT-5 wire.

2.7(B)(38) **Registration with Social Serve.** Applicants who receive an Allocation must agree to register the units with socialserve.com and maintain such registration with socialserve.com for the duration of the Compliance Period.

2.7(B)(39) **ADOH Signage.** Applicants who receive an award of tax credits must erect a sign at the construction site indicating that the project is funded through the ADOH and listing the sources of funds. The sign must be a minimum size of 24 inches high by 36 inches wide, include a minimum 5-inch high ADOH logo and text printed at a minimum 72-point font. An individual ADOH sign does not have to be provided if incorporated into a larger group sign. Applicants must submit an 8x10 photograph of the signage to ADOH evidencing that the requirement has been met.

2.7(B)(40) **Special Provisions for Projects Seeking Stimulus Package Funding.** All provisions of this paragraph shall be construed in conjunction to federal guidance and regulations implementing the provisions of the ARRA relating to the LIHTC program.

2.8 2009 Set-Asides

2.8(A) **SET-ASIDE CATEGORIES:** If the amount of annual tax credits available for allocation in a competitive round is less than \$11.0 million, then there shall be no separate set-asides for urban and rural projects, and tax credits shall be set-aside for one senior project, two tribal projects, and at least one project with substantial participation by a nonprofit.

URBAN	A total of \$4,800,000 is available for projects located in Maricopa and Pima Counties. Projects located in Maricopa and Pima Counties seeking funding through the United States Department of Agriculture Rural Development Program shall compete in the Rural Set-Aside.
	Acquisition/Rehabilitation: Acquisition/Rehabilitation development located in an urban area where 100% of the units undergo rehabilitation
RURAL	Not less than 10% of annual credit authority is set aside for projects to be located in Rural Areas. These projects may compete for overall credit authorization. <u>If no application meeting the requirements of this Plan for Rural Areas is submitted, rural set-aside funds may be used in one of the other designated set-asides.</u> Acquisition/Rehabilitation: Acquisition/Rehabilitation

	<p>development located in an Rural Area where 100% of the units undergo rehabilitation</p> <p>Rural Council of Governments In the event that there is more than one eligible project in a rural Council of Government Region, preference shall be given to an eligible project located in a Council of Government Region in which no project received a reservation regardless of the adjusted competitive score.</p>
SENIOR	<p>One Senior project allocating 100% of their units to Seniors (62 or older or handicapped) with Supportive Services. Projects competing under this set-aside must comply with Section 2.9(F)(11)(b).</p>
TRIBAL	<p>Two projects located on Tribal Lands</p>
NONPROFIT	<p>20% of the state’s annual credit authority is set-aside for “non-profit projects,” as defined in Section 2.7(B)(13) of this Plan. Only nonprofit projects that meet all of the eligibility requirements shall be eligible for an allocation of nonprofit set-aside credits. The allocation of non-profit set-aside credits shall be based on the rankings of non-profit projects under the scoring system.</p>

2.8(B) ANNUAL APPLICATION ROUND

2.8(B)(1) Applicants must designate one of the set-aside categories described above in which the application is to complete. See Section 2.6 (B)(5) above. In the event that there is more than one qualified application in a category, then ADOH shall allocate tax credits first to the highest-scoring applications meeting all eligibility requirements and underwriting criteria in the set-aside categories. Unallocated balances in one or more set-aside categories shall be allocated to the eligible and feasible project that may be fully funded. If the unallocated balance is sufficient to fund more than one application, then reservation shall be made to the eligible and feasible project with the highest audited score unless ADOH determined that another eligible project best serves market demand, the policy objectives of this Plan, and the public interest.

2.8(B)(2) **LIMITATION OF PROJECTS IN SOME SET-ASIDE CATEGORIES:** For Census Designated Places with populations of 50,000 or less according to the 2000 U.S. census data, an ADOH may limit Reservation or Allocation of tax credits to no more than one family, one senior, and one Special Needs Project in any year.

2.8(B)(3) **EXCEPTION TO SELECTION BASED ON COMPETITIVE SCORES.** Notwithstanding set-aside amounts or competitive scores, ADOH may in its sole discretion, limit the number of developments in a specific market or geographical area if ADOH determines that there is insufficient demand or that a particular project would have adverse impact on low income housing developments existing in a give market area. In the event that multiple applications are submitted for a given market area that cannot support all of the projects, ADOH may select one or more applications that will best serve market demand or has less of a negative impact than the others. ADOH may, in its discretion, refuse to reserve credits to any project if ADOH determines that the given market area cannot support the project. If multiple applications are filed for a given market area proposing to serve different populations (e.g., elderly, family or Special Needs Populations), ADOH shall analyze the applications to

ensure that no project will be redundant or have adverse impact on the other applications or existing projects in the given area.

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

2.8(C)(1) SEVERE HARDSHIP. Requests based on severe hardships may be submitted from January 1st through June 1st of the Allocation Year, or until funds are exhausted, along with an additional application fee of \$2,500. Hardship requests must be documented to the satisfaction of ADOH and must demonstrate an increase in hard costs directly caused by an unforeseeable circumstance outside the Developer's control that jeopardizes completion of the project and that may be mitigated through an award of additional tax credits. Applications for hardship credits shall include the following materials:

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

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

2.8(C)(3) UNRESERVED SUPPLEMENTAL ALLOCATION AMOUNTS. Supplemental allocation set-aside amounts not reserved to specific projects by August 15th, or such earlier date that may be selected by the Director, may be reserved for any project that received a partial Allocation of credits, or a project eligible for returned credits.

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

2.9 Project Scoring

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

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

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

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

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

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

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

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

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

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

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

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

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

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

2.9(F)(2)(d) Applicants should identify the project as a rehabilitation or acquisition/rehabilitation project and fully explain the acquisition and scope of rehabilitation work in the cover letter. The type of rehabilitation improvements and the amount of rehabilitation costs shall be appropriate for the project and proportionate to the benefit as determined by ADOH based on the application and a Capital Needs Assessment, see Section 2.7(B)(36). ADOH may utilize the services of an independent cost estimator in determining whether the rehabilitation costs are reasonable. The applicant shall be responsible for the costs of the cost estimator. Cost of rehabilitation per Unit is determined by adding direct construction costs and appliances, then dividing that sum by the number of qualified rehabilitation units.

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

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

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

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

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

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

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

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

- (i) Tenant Lease Purchase points are limited to single family, duplex or four-plex projects of no more than 60 units.
- (ii) The project design must incorporate units, amenities, and open common areas that are consistent with common expectations for multifamily housing.

(iii) ADOH may refuse to consider a claim for tenant lease purchase points for projects proposing to serve tenants with incomes less than 60% AMI.

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

(i) A letter of intent from a qualified non-profit organization to purchase the units, including how the purchase price may be calculated at the end of the 15- year compliance period should no qualified tenants be identified who are willing to operate the project as a rental project for the remaining term of the LURA;

(ii) A detailed description of the ownership proposal to include:

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

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

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

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

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

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

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

associated with the development of the project and the scope of the Co-Developer's participation in the development of the project.

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

- (1) Developers who have not previously received an Reservation of tax credits in Arizona; and,
- (2) Developers that are organized under the laws of a state other than the State of Arizona; and,
- (3) Developers who do not maintain an office with a street address in Arizona; and,
- (4) Developers who have not paid Arizona payroll taxes for a least two employees for the three-month period preceding the March 15th of the current Allocation Year.

(iv) Attach at **Tab 8** Form 8-1 and any additional lists of residential rental housing projects developed by the Developer, any Co-Developer and any person who owns part of either the Developer or the Co-Developer, reference letters, and business information necessary to support a claim for points under this paragraph. (Include the name of the Developer or other Person, name of the project, address of the project, city, state, number of Residential Rental Units, and the role the Developer played in development of the project.)

(v) ADOH requires that developers execute and submit Form 8-2 (Authorization for Release of Information) allowing ADOH to contact other state allocating agencies including ADOH. Attach at **Tab 8** Form 8-2.

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

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

6) a project fails to provide a project schedule on Form 27.

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) an area that the local government entity has designated as a redevelopment project, conservation project, or rehabilitation district, or as blighted, deteriorated, deteriorating or if not rehabilitated, likely to deteriorate by reason that the buildings, improvements or other facilities in such area are subject to one or more of the following conditions: dilapidation, obsolescence,

- overcrowding, inadequate ventilation, light or sanitation, excessive land coverage, deleterious land use, or faulty otherwise inadequate design, quality or conditions;
- (2) an area designated as lacking the housing needed to induce manufacturing, industrial, commercial, governmental, educational, entertainment, community development, healthcare or non-profit enterprise or undertaking to locate or remain in such area;
- (3) an area designated as an area where government assistance is necessary to induce private enterprise and investment to construct or rehabilitate decent, safe and sanitary housing and supporting facilities that will meet the needs of low and moderate income persons and families; and,
- (iii) A comprehensive plan does not qualify as a certification of a revitalization area.

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

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

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

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

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

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

2.9(F)(8) Development Location—Projects in a QCT, DDA or outside an MSA: 10 points are available to projects located within a Qualified Census Tract (QCT) or Difficult Development Area (DDA), or outside of a Metropolitan Statistical Area (MSA) as designated by HUD (See Exhibit C). Projects located in certain high cost areas that are eligible for the increase in tax credit amount, see I.R.C. § 42(d)(5)(C), including buildings designated for increased tax credit by ADOH pursuant to I.R.C. § 42(d)(5)(C)(v) also qualify for ten points

under this paragraph. ADOH may deny a claim for points under this paragraph if ADOH concludes that the project is located in an area where affordable units comprise 25% or more of total rental units for properties containing 15 rental units or more.

2.9(F)(9) Family Project: 20 points

20 points may be awarded for projects in which at least 40% of the Low-Income Units are three or four bedrooms and have a minimum of two bathrooms.

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

10 points may be awarded to projects of which at least 5% of the project is reserved for tenants with special needs. ADOH may deny an application for tax credits to a project that is required to provide supportive services to tenants including Special Needs Populations, if the application fails include the information required by this section. ADOH may cancel a reservation, or revoke an allocation of tax credits for a project that received points under this section or a reservation of tax credits if the project fails to provide supportive services described in the application or as required by the Extended Use Agreement or a supportive services agreement that has been approved by ADOH.

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

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

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

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

2.9(F)(11) Senior Projects

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

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

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

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

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

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

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

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

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

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

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

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

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

10 points are available for projects that demonstrate readiness to commence construction. Project Readiness points are intended to reward projects that did not qualify for a reservation tax credits in the previous allocation round and that fulfill or satisfy all the conditions necessary to begin construction. Generally, to qualify for Project Readiness points the project should be ready to submit for building permit approval. Conditionally zoned projects, see Section 2.7(B)(16)(b), do not qualify for project readiness points. ADOH may consider a project ready for construction if the applicant demonstrates each of the following at the time of application:

2.9(F)(14)(a) That the identical project did not qualify for reservation of tax credits in the previous allocation round. For the purpose of this paragraph, the 2008 Annual Allocation Round and the 2008 Resubmittal Allocation Round shall be considered as the same allocation round. The applicant, developer, and characteristics of the project must be identical to the previous application. Readiness points are not available for first submittals of applications for subsequent phases of a project. "Identical project characteristics" means no material change to project location, designated set-aside, project design from the previous application, or the information specified in the 2008 Form 3, items 2, 7, 10, 11, 12, or 13.

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

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

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

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

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

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

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

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

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

2.9(F)(15) Sustainable Development/Transit Oriented Development: 10 points

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

(i) Project located within a three-mile radius of a major employment center, concentration of employment centers, or community amenities, such as medical facilities, educational institutions, and shopping;

(ii) Project located one mile or less from a mass transit route or light rail line;

(iii) Project located within a three-mile radius of city center or some other readily identifiable concentration of local government offices;

(iv) Project served by existing roads, utilities, and communications infrastructure.

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

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

2.9(F)(15)(d) No more than 10 points are available under this subsection.

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

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

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

2.10 Rents

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

2.11 Tiebreaker

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

Tiebreaker Criteria (possible points = 12)

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

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

2.12 Amount and Allocation of Annual Tax Credit Authority

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

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

2.13 Reservations Cancellation of Reservations

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

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

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

2.14 Allocation of Returned Credits

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

2.15 Carryover Allocation

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

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

2.16 10% Cost Test and Other Required Documentation

The HERA amendments to IRC Section 42(h)(1)(E)(ii) requires applicants with an executed Carryover Allocation to meet the 10% Cost Test by no later than 12 months after the Allocation is made. ADOH requires applicants to comply with 10% Cost Test requirements by no later than six (6) months after a reservation is made. To determine if a project with a Carryover Allocation is or has progressed in a satisfactory manner, the IRS requires a test of whether the amount of qualified costs which have been accrued or expensed within the six months described above is greater than 10% of the reasonably expected basis (eligible basis plus land). Failure to submit a complete application for the Carryover Allocation including all the materials described in this paragraph may result in cancellation of the reservation of tax credits. Satisfaction of the 10% Cost Test shall be certified by an independent auditor's report and submitted to ADOH in 8-1/2 x 11 format, placed in an adequately sized three ring binder on or before the date designated in the reservation letter, and shall include the following:

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

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

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

2.16(C)(1) A CPA or tax attorney's opinion which attests to the basis in the land, eligible basis, and amount of tax credits reserved for the project and the amount of cost to be incurred to satisfy the 10% Cost Test, as referenced in Section 2.16 of this Plan (the form of this opinion may be similar to **Exhibit E-1** "Sample CPA Opinion"); and

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

2.16(D) Evidence, from the appropriate state agencies or commissions, that the entity that will own the project is an existing legal entity authorized to transact business in the state and the ownership entity's

taxpayer identification number. If the applicant does not have a fully formed qualified legal entity that will own the property to which ADOH can assign the Allocation of tax credits, then Satisfactory Progress 2.16(as described in Sections 2.7(B)(4) and 4.2.) has not been met and ADOH may reject the application, and the Allocation of tax credits shall be forfeited.

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

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

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

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

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

2.16(J) Complete copies of all applicable construction contracts for the project. For applications that did not previously identify a contractor, provide an updated Form 8, see Section 2.7(B)(14).

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

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

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

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

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

2.16(P) Any additional information requested by ADOH.

2.17 Forward Commitments

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

2.18 Disclosure of LIHTC Application Materials

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

2.19 Expiration of Applications

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

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

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

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

2.20(C) In the event that ADOH determines that there was a material error with respect to determination of eligibility or auditing of scores that prevented an otherwise qualifying project from receiving a Reservation or an Allocation, the project may be eligible for returned of tax credits as provided by Section 2.14. If the otherwise qualifying project does not receive a Reservation of returned credits by the end of the application year, then ADOH may refund the application fee, or at the election of the applicant waive the application fee for submission of the application for the subsequent application round.

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

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

3.1 Determination of tax credits for Tax-Exempt Bond Projects

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

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

3.1(C) Upon application:

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

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

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

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

3.1(C)(5) ADOH shall perform the first of two feasibility analyses to determine the amount of credits necessary for the viability of the project. For projects subject to the requirements of A.R.S. § 350726(E), , ADOH shall complete underwriting and comparison of the application submitted for the Section 35-

726(E) hearing before making a Determination of Qualification of tax credits. ADOH feasibility analysis will include an underwriting of the project in accordance with ADOH's current standards as set forth in this Plan.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3.1(D)(4)(c) That the governmental unit which issued the bonds made a determination under rules similar to those set forth in IRC Section 42 (m)(2)(A) and (B) that the housing credit dollar amount for the project does not exceed the amount necessary for the financial feasibility of the project and its viability as a qualified low-income housing project throughout the credit period.

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

4. GENERAL REQUIREMENTS

4.1 False Filing

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

4.2 Satisfactory Progress

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

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

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

4.3 Change of Ownership

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

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

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

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

4.5 Disqualification

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

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

4.6 Extended Use Period

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

4.7 Material Changes

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

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

4.7(B) Specific Material Changes:

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

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

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

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

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

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

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

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

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

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

4.8 Distribution of Units

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

4.9 Amendments to the QAP

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

4.10 Disclaimer and Limitation of Liability

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

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

4.11 Return of Tax Credits

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

5. FINAL TAX CREDIT ALLOCATION

5.1 Final Tax Credit Allocation and First Year Certification by ADOH

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

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

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

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

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

- (13) Fully executed partnership, operating, or joint venture agreements and other agreements between the project and the equity investor;
- (14) An investor certification letter (ADOH sample form provided);
- (15) Completed Fair Housing Checklist signed by the project architect. See Exhibit Y;
- (16) Except as provided by item 19 below, written certification from the architect that the project meets the Design Standards described in Section 2.7(B)(33) of this Plan. See Exhibit Y;
- (17) Completed and signed certification from the contractor that the project was built in compliance with the plans and specs provided by the architect. See Exhibit W2;
- (18) Completed and signed Placed-In-Service Acknowledgement (ADOH provided form) for each building in the project;
- (19) Certification from the Arizona Energy Office that the project complies with the 2006 International Energy Conservation Code (IECC) (contact Ken Pencost of the Energy Office at the Arizona Department of Commerce: (602) 771-1149);
- (20) Completed Exhibit X – Operational Risk Management (ADOH provided form);
- (21) Proof of flood insurance, as applicable;
- (22) Any additional information requested by ADOH;
- (23) Final Allocation fee, if applicable;

5.3 Final Allocation Underwriting

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

6. FEES

6.1 Tax Credit Application Fee

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

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

6.2 Additional Application Fees for Projects Proposing Financing Through ADOH

Applicants requesting joint LIHTC/State Housing Fund funding shall remit a supplemental application fee in the amount of \$2,500 along with their application for tax credits.

6.3 Supplemental Allocation Application Fee

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

6.4 Building Permit Extension Fee

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

6.5 Reservation Fee and Final Allocation Fee

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

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

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

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

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

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

6.6 Applicant's Obligation for Fee Payment

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

6.7 Tenant Ownership Fees

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

6.8 Carryover Allocation Late Fees

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

6.9 10% Cost Test Late Fees

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

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

6.10 Administration Fees

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

6.11 Compliance Monitoring Fees

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

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

6.12 Fees Are Not Refundable

All fees set forth in this Section 6 are nonrefundable.

7. UNDERWRITING

7.1 General Requirements.

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

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

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

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

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

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

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

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

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

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

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

7.2 Underwriting Process

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

with State Housing Fund monies, ADOH may underwrite a project at the time of construction loan closing for projects partially funded by the State Housing Fund.

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

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

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

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

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

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

7.3 Specific Underwriting Standards

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7.3(B)(2)(e) Per unit development cost limits. Proposals for residential development costs in excess of 125.0% but less than 200.0% of the Department of HUD's most recent 221(d)(3) base mortgage limit for a three-bedroom elevator building (currently \$251,394 per unit) must be justified with an appropriate narrative explanation. Applications proposing a per-unit cost in excess of 200.0% of the HUD 221(d)(3) mortgage limit or a per-unit cost in excess of \$200,000 must clearly and convincingly demonstrate that the per-unit cost is justified by local conditions or is necessary to a historic preservation project. The per-unit cost is calculated by dividing the total project costs by the total number of residential units. Considerations that may justify development costs exceeding the limits described in this paragraph include but are not limited to, small-size projects, projects located in QCT's, or DDA's, in a federally designated empowerment zone, or a federal enterprise community, projects with deep rent targeting, projects sponsored by local nonprofit organizations, or difficult substantial rehabilitation projects.

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

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

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

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

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

(i) Acquisition Cost Limits.

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

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

(ii) Construction finance costs.

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

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

- (1) New Construction—No Identities of Interest

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

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

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

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

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

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

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 (with Identity of Interest), or	2	2	2	2	2
Builder’s Profit	6	5.75	5.5	5.25	5
Builder’s Overhead	3	2.75	2.5	2.25	2
General Requirements	6	5.75	5.5	5.25	5
Total Maximum Percentage	15	14.25	13.5	12.75	12

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

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

- (2) General requirements may include project-related site costs such as temporary fencing, providing utilities to the site during construction, job site supervisor, job site office and similar costs.
- (3) ADOH may reject contingency costs that include Builder's Profit, Overhead, and General Requirements.
- (v) Reserves. The development cost budget shall include amounts for project reserves as follows:
- (1) Rent-up Reserve. The development budget shall include an amount not less than one sixth of the of the total debt service payment amounts for the first three years of operation.
- (2) Operating Reserve. The development budget shall include a sum of not less than to six months of operating expenses.
- (2) Replacement Reserve. The development budget shall include an amount necessary to fund the replacement reserve at \$350 per unit for new construction and \$450 per unit for acquisition/rehabilitation projects.
- (3) Operating Deficit Reserve. The development budget shall include an amount not less than six-months of debt service during the lease-up period or stabilization of the development. The operating deficit reserve can only be used to pay first debt payments during this time period.
- (4) ADOH does not consider any waiver requests for the reserve amounts set forth in this paragraph.
- (vi) Treatment of Above Standard Quality Market Rate Units. Pursuant to I.R.C. § 42(d)(3)(B) an the adjusted basis of a building must be reduced by an amount equal to the portion of the adjusted basis of the building attributable to the cost of above-average quality market-rate units. For market rate units that only exceed the average cost per square foot of the unit had the unit been built as a low-income unit by 15% or less, an applicant may elect to deduct the excess cost of the market-rate units from the eligible basis of a building.

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

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

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

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

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

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

(iii) To determine the maximum allowable public funds available to a project, ADOH requires that the commercial debt service ratio (the quotient obtained by dividing the net annual operating income by the total commercial annual loan payment amount) be no greater than 1.30 (130%) for projects with less than 50 units and 1.20 (120%) for projects of 50 units or more for each year in the compliance period. For the purpose of this paragraph, ADOH considers the debt service coverage and loan to value ratios established by the lender in its commitment letter as required by Section 2.7(B)(17) Financial Ability to Proceed. For minimum debt service requirements, see Section 7.3(C)(1)(f). See also Section 2.7(B)(17), “Financial Ability to Proceed,” for discussion of coverage ratios less than 1.00.

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

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

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

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

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

(ii) The application shall demonstrate compliance with the requirements of the tax credit and any other source program including the Americans with Disabilities Act (42 U.S.C. § 12101 et seq.) Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794), the eligibility and underwriting requirements of this Plan, and any requirements or conditions described in an applicable notice of funding availability.

(iii) State Housing Funds shall not supplant funding available from other sources, see Section 7.3(B)(3)(c) Funding Gap Analysis-Layering Analysis:

(1) Applications must demonstrate that alternative funding is not available.

(2) ADOH may reduce or revoke a commitment to State Housing Funds if it determines that the funds are no longer necessary to the project.

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

(iv) The application shall provide contingencies in the event that State Housing Fund monies are unavailable. In the event that State Housing Funds become unavailable to a project ADOH shall afford the applicant a reasonable period of time to secure an alternate source of funding;

(v) To determine whether a project is eligible to receive gap financing with State Housing Funds ADOH considers the following in addition to the considerations of this section:

(1) Whether State Housing Funds will maximize the allocation of tax credits;

(2) The condition of the market;

(3) Whether the proposed project satisfies a critical need;

(3) The sources and possible sources of alternative funding for the project;

(4) Minimizing the risk of loss of taxpayer funds including consideration of the organizational and financial capacity and the program compliance history of the Development Team; and,

(5) Any identities of interest among the project owner, developer, and sources of equity capital and debt financing.

(vi) Security for ADOH gap financing. Projects seeking gap financing through ADOH shall execute the appropriate loan documents in forms satisfactory to ADOH. All debt service that is senior to the annual payment to ADOH shall be paid as described according to the 15-year pro

forma approved by ADOH. ADOH shall not be bound by separate payment terms contained in any partnership agreement, operating agreement, or any other control agreement binding the project and its investors.

7.3(B)(3)(e) Limitations on the amount of tax credits reserved or allocated.

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

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

(iii) Increase in credit for projects located in certain high cost areas. As provided by I.R.C. § 42(d)(5)(C), an increase in tax credits up to 130% of eligible basis is available to projects located in Qualified Census Tracts, Difficult to Develop Areas, and for certain projects designated by ADOH for eligibility for the increase in credit pursuant to I.R.C. § 42(d)(5)(C)(v). ADOH may deny the increase in credit under this paragraph if it concludes that low-income multifamily rental housing has become sufficiently concentrated to jeopardize the viability of existing low-income residential housing in the area in which the project is located or deny low-income tenants a reasonable choice of areas in which to live in Metropolitan Statistical Areas within the state that exceed 500,000 in population.

(iv) ADOH may allow increased tax credits pursuant to I.R.C. § 42(d)(5)(C)(v) if the application demonstrates that the project has received any two of the following indicia of substantial local government support:

- (1) Debt financing with local government funds amounting to five percent or more of the total development cost of the project.
- (2) An official act effecting waiver or abatement of local property taxes for a period of five years or more.
- (3) An official act waiving or abating impact fees that would otherwise have been assessed on a market rate multi-family rental development of similar size.
- (4) An official act providing for an accelerated process for land use approval and permitting of the project.

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

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

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

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

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

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

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

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

(i) For the term of any permanent loan or the duration of the compliance period, which ever is longer, quotient (the debt service coverage ratio) obtained by dividing the net annual operating income by the total annual debt service payments for all loans shall be no less than 1.30 (130%) for projects with less than 50 units and equal to 1.20 (120%) for projects of 50 units or more for each year of operation..

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

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

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

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

7.3(C)(2) Operating Costs.

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

(i) In the absence of credible and convincing evidence of a lower operating cost, ADOH may assume operating costs for new construction at \$5,000 per unit per year and for acquisition/rehabilitation \$5,400 per unit per year. ADOH may establish from time to time estimates of operating costs based on information gathered by ADOH from rental properties in the state and in consultation with property managers and other experts. ADOH may underwrite

to higher operating costs for projects proposing specialized or unique characteristics such as rehabilitation of buildings located in historic areas.

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

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

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

7.3(C)(2)(b) In determining project viability ADOH estimates funding of project operating reserves for new construction at the rate \$350 per unit per year, and for Acquisition/Rehabilitation projects at \$450 per unit per year.

7.3(C)(2)(c) In determining project viability, ADOH may assume a property management expense of 7% of effective gross income ("EGI"), for projects of 30 units or more, 9% for projects of less than 30 units. ADOH may deny any waiver request that fails to offer an acceptable justification.

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

(i) For the costs of operating the project, less those increased costs attributable to serving the priority populations; and

(ii) Indicating the increased Operating Costs attributable to serving priority populations.

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

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

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

(i) Maximum allowable rents permitted under of I.R.C. § 42.

(ii) Rents no more than 10% less than the competitive market rents being charged for the same type units in the primary market area identified in the market study, however, rents in areas for which 50% or more of the Net New Household market demand is attributable to tenants exiting substandard, or overcrowded housing or housing lacking complete plumbing, the maximum allowable rent shall be 20% below market rents;

(iii) Rents that do not exceed the amount affordable to the target population;

7.3(C)(3)(c) Ancillary Revenues. For the purposes of determining the viability of a project ADOH assumes ancillary income at no more than \$20/Unit/month. ADOH may consider a higher amount of ancillary income based on at least three (3) years of audited operating statements (including income and expense statements) for similar situated properties.

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

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

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

7.4 Rental Market Considerations.

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

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

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

7.4(D) ADOH may deny an application supported by a market study that fails to clearly describe the effective date of the study consistent with the requirements of paragraph 7.4 (A) or fails to specifically identify the age of all data and third-party information including but not limited to demographic information

and rates of population change, rental market, and vacancy data, and the dates of any interviews. The date of a submittal letter for a market study may not be considered as evidence of the effective date of the market study unless the letter expressly includes the information described in the previous sentence.

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

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

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

7.5 Post Reservation Considerations

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

8. COMPLIANCE MONITORING

8.1 Project Compliance Monitoring

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

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

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

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

8.2 Compliance Monitoring Procedure

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) Completed rental application, including the tenants' certification of assets.

(ii) Tenant income certification form, including all required signatures.

(iii) Documentation supporting each household's income certification (third-party verifications, asset certification, asset documentation and verification if more than \$5,000 in value).

(iv) Documentation of student status.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

8.2(F) Correction of Non-Compliance Condition.

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

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

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

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

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

9. DEFINITIONS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

“Capital Needs Assessment (“CNA”) means the assessment as set forth in Section 2.7(B)(32).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

“Material Changes” are as described in Section 4.7.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- Homeless Individual(s): a person(s) who has lived: a) in places not meant for human habitation such as cars, parks, sidewalks, abandoned buildings, etc.; b) in an emergency or shelter facility; c) in a transitional housing facility (not permanent housing).

- Seriously Emotionally Disturbed, i.e., persons between birth and age 18 who currently or at any time during the past year have had a diagnosable mental, behavioral, or emotional disorder that resulted in a functional impairment which substantially interferes with or limits the person's role or functioning in family, school, or community activities. Seriously emotionally disturbed persons are to be certified by a referral agency recognized by ADOH.
- Developmentally Disabled Persons suffering from a severe, chronic condition attributable to a physical or mental impairment manifesting itself before the age of 22 and likely to continue indefinitely. Developmentally disabled persons are to be certified by a referral agency recognized by ADOH.
- Victims of Domestic Violence as certified by referral agency recognized by ADOH.
- Individuals Suffering from Chronic Substance Abuse, as certified by a referral agency recognized by ADOH.

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

"State Housing Fund" means a combination of federal and state dollars administered by ADOH. Available federal dollars come from the HOME Investment Partnership Program and state dollars are made available through the Arizona Housing Trust Fund.

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

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

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

"Ten-Year Rule", means the following:

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

- (1) Has held the building for at least ten years at time of the application, and

(2) Did not make substantial improvements during that period that are subject to 60-month amortization under IRC Section 197(k) or the Tax Reform Act of 1986.

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

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

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

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

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

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