

# low income housing tax credit



## allocation plan 2012

This plan was adopted by the Colorado Housing and Finance Authority Board of Directors

on December 15, 2011, and approved by the Governor of Colorado

on





# low income housing tax credit allocation plan

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## section 1

### Federal Requirements for the Qualified Allocation Plan (the “QAP” or “Plan”)

Each year the state allocating agency for the Federal Low Income Housing Tax Credit (LIHTC) program is required to publish a Plan describing the process for allocation of the housing credits. In Colorado, Colorado Housing and Finance Authority (CHFA) is the state housing credit agency. CHFA is responsible for preparing the annual Plan and making it available for review by interested parties before approval by the Governor of Colorado and final publication.

Section 42 of the Internal Revenue Code (the “Code”) is the federal statute governing the tax credit program. Many terms used in this Plan are defined in Section 42 or in related IRS regulations or other guidance, and readers are referred to these materials for their proper interpretation. In accordance with Section 42, each state allocating agency must have a Plan:

- Which sets forth selection criteria to be used to determine housing priorities
- Which gives preference among selected projects to:
  - Projects serving the lowest income
  - Projects obligated to serve qualified tenants for the longest periods
  - Projects located in a QCR and the development of which contributes to a concerted community revitalization plan
- Which includes the following selection criteria:
  - Project location
  - Housing needs characteristics
  - Project characteristics
  - Sponsor characteristics
  - Tenant populations with special housing needs
  - Tenant populations of individuals with children
  - Public housing waiting lists
  - Projects intended for eventual tenant ownership
  - Projects that are energy efficient
  - Projects of a historic nature

Further, the Code states:

- The credit dollar amount allocated to a project shall not exceed an amount necessary for the financial feasibility of the project and its viability as a qualified low income housing project throughout the credit period.

- The allocating agency shall consider the sources and uses of funds, the total financing planned for the project, and the reasonableness of the developmental and operational costs of the project.

The 2012 QAP conforms to all of the Plan requirements summarized above. For the 2012 QAP, CHFA encouraged suggestions and comments from the affordable housing industry and held meetings with its Tax Credit Advisory Group on important tax credit issues. Housing professionals and experts representing a wide range of interests and specialties participated in these discussions and contributed to the development of the 2012 QAP. CHFA wishes to publicly acknowledge their contribution and to thank them for their time and effort.

### Tax Credit Advisory Group

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Mark Welch

## Main Street Zoning Subcommittee

Henry Burgwyn  
Tim Dolan  
Troy Gladwell  
Ismael Guerrero  
Rodger Hara  
John Parvensky  
Jeff Romine  
George Thorn

In addition, as required by the Code, CHFA presented the draft allocation plan for public review and comment at a public hearing held at CHFA's Denver office on October 5, 2011. An additional public hearing was held in CHFA's Grand Junction office on September 27, 2011. CHFA also solicited input via an online survey that was sent to subscribers of CHFA's eNews and was available on CHFA's website.

Notwithstanding anything herein to the contrary, in order to assure that the QAP has the flexibility to adjust to changing market conditions, CHFA, in its sole discretion, may waive any section of the QAP (not otherwise required by Section 42) which would under such circumstances hinder the ability of CHFA to meet the goals and priorities of the QAP.



## section 2

### Guiding Principles and Priorities

Demand for the housing credits regularly exceeds supply. In determining how and where to allocate the credit, CHFA must consider the need for affordable housing throughout the state of Colorado. The purpose of this section is to provide details on the process for the selection, reservation, and allocation of federal tax credits to create and maintain quality rental housing units for low and very low income households in the state of Colorado. The Guiding Principles, Priorities, and Criteria for Approval that are described in the subsections below are all critical elements in evaluating and selecting projects for approval.

#### Guiding Principles

Listed below are CHFA's Guiding Principles for the selection of projects to receive an award of tax credits.

- To support rental housing projects serving the lowest income tenants for the longest period of time
- To support projects in a QCT, the development of which contributes to a concerted community revitalization plan
- To provide for distribution of housing credits across the state
- To provide opportunities to a variety of qualified sponsors of affordable housing, both for-profit and nonprofit
- To distribute housing credits to assist a diversity of populations in need of affordable housing, including homeless persons, persons in need of supportive housing, senior citizens, and families
- To support new construction of affordable rental housing projects as well as acquisition and/or rehabilitation of existing affordable housing projects, particularly those at risk of converting to market rate housing
- To reserve credits for as many rental housing projects as possible while considering the Priorities and Criteria for Approval in the following sections
- To reserve only the amount of credit that CHFA determines to be necessary for the financial feasibility of a project and its viability as a qualified low income housing project throughout the credit period

## Priorities

For 2012, CHFA has established the following housing priorities (not listed in any order of preference) to distribute housing credit among projects targeting:

- Homeless Persons  
Projects serving these populations should provide supportive services to help maintain or increase independence;
- Persons with Special Needs  
Projects serving these populations should provide supportive services to help maintain or increase independence;
- Seniors  
Projects serving seniors should provide amenities attractive and beneficial to seniors;
- The acquisition and rehabilitation of existing affordable properties, including those with subsidized low income rental units facing conversion to market rate units  
Projects within this category that are determined by CHFA to be potentially financially feasible utilizing noncompetitive 4 percent credits will be encouraged to consider pursuing tax exempt financing and 4 percent credits rather than the competitive 9 percent credit;
- Counties with populations of less than 175,000  
Communities within this category that have identified a need for affordable housing, yet lack experienced LIHTC developers, are encouraged to partner with an experienced LIHTC developer on a consultant or fee basis;
- Market Areas of pent-up demand for affordable housing  
Submarkets where overall rental vacancy rates are lower than 4 percent; and
- Transit Oriented Development (TOD) Sites  
Projects within this category are within one fourth of a mile of a fixed rail station that is existing or under construction at the time of the LIHTC application.

## Criteria for Approval

The CHFA Tax Credit Committee (the Committee) is the voting body that selects projects for approval. CHFA's Executive Director/CEO or delegated designee will then make the final approval. For additional information about the Committee, please refer to Section 3.A.6. The Committee will consider projects that are consistent with Code requirements, the Guiding Principles, and Priorities, and which meet the following criteria:

### **Market Conditions**

A proposed project that indicates a strong demand for its units in the Primary Market Area (PMA) will be viewed more favorably by CHFA in the competitive process. CHFA will consider the stability of existing tax credit and market rate properties in the primary market area (PMA) of the proposed project, including vacancy rates, rent concessions, or reduced rents. In reviewing project applications, CHFA will look more favorably on a project that is in a PMA where there are lower vacancy rates and fewer concessions or reduced rents. In addition, staff will carefully analyze the assumptions made in the market study regarding capture rates and overall demand. CHFA will look more favorably on a project that doesn't require high captures rates or that doesn't need to assume high in-migration to achieve lower capture rates. CHFA's consideration of the demand for a project's units will include, but are not limited to:

- Low capture rates
  - Applicants with projects that indicate capture rates exceeding 25 percent will be expected to explain why the project's units are needed in the area;
  - Minimal amount of increase in capture rates when the project's units are added to the PMA
    - Applicants with projects that indicate capture rate increases of more than 6 percent will be expected to explain why the project's units are needed in the area;
- Most recent Point In Time Study for homeless units;
- Most recent USDA Study for rural farmworker units;
- In-migration considered only where warranted and documented; and
- Considering whether the project's proposed rents appear achievable in the PMA.

**Readiness-to-Proceed**

The threshold requirements of readiness-to-proceed are outlined further in this Plan. As part of the overall evaluation of the project's readiness, CHFA will pay particular attention to the ability of the sponsor to meet all the carryover requirements including securing financing and tax credit commitments from the sources identified in the application within 12 months of application reservation.

**Overall Financial Feasibility and Viability**

The Code states, "the housing credit dollar amount allocated to a project shall not exceed the amount the housing credit agency determines is necessary for the financial feasibility of the project and its viability as a qualified low income housing project throughout the credit period".

CHFA, therefore, will review each application to determine the minimum amount of credit needed for a project's financial feasibility, including, but not limited to determining whether a project would be feasible with non-competitive 4 percent credits. All applicants are encouraged to perform a self-assessment prior to submitting their application to determine whether their proposed project would be financially feasible as a non-competitive 4 percent credit project.

The Code also states that the allocating agency shall consider the sources and uses of funds, the total financing planned for the project, and the reasonableness of the developmental and operational costs of the project.

CHFA, therefore, will review the sources and uses of funds as part of its evaluation of financial feasibility and viability of each project. While CHFA recognizes that sources of funds are estimates at the preliminary application stage, preliminary applications should include only sources and amounts of funds that are reasonably expected to be obtained. CHFA will consult other funding providers as to their availability of funds.

CHFA will also consider such items as debt coverage ratios throughout the 15-year pro forma period, the ability to pay deferred developer fees from cash flows, operating reserve amounts, and annual operating expenses. While still acknowledging that there are legitimate circumstances that allow for a waiver of certain underwriting criteria (e.g., lower vacancy rates for 100 percent occupied project-based Section 8 deals, lower PUPA for independent senior deals), projects that exceed the underwriting criteria will be considered to be stronger deals.

### **Experience and Track Record of the Development and Management Team**

CHFA will evaluate the experience and track record of the development team, which includes the applicant and/or sponsor and management agent, CPA, attorney, architect, and general contractor. CHFA prefers, but does not require that developers, including those from out of state, use architects and general contractors located in Colorado whenever feasible.

The following criteria will be considered in evaluating the applicant's experience and track record. Additional consideration will be made for applicants that may not meet all of the criteria below who partner with experienced LIHTC developers or consultants.

### **Experience and Track Record Criteria**

- The applicant's and/or sponsor's ability to demonstrate sufficient capacity and financial stability to construct and operate the proposed project.
- The development team's experience in developing and operating projects similar to the proposed project.
- The applicant's and/or sponsor's track record of completing affordable housing projects within the required time frames and within the established budget. Applicants that do not have a record of consistently requesting additional credits (supplemental credits) may be viewed more favorably in the competitive process.
- The applicant's and management agent's experience and track record of marketing and leasing affordable housing units on a timely basis.
- The development team's track record regarding compliance with affordable housing programs and other programs administered by CHFA. CHFA will evaluate the development team to identify if it has a history of chronic and/or substantive noncompliance with CHFA, other state agencies, lenders, or tax credit investors. Compliance includes, but is not limited to submission of fees, reports, and required documents within the established timelines and timely response to outstanding compliance items from management reviews and inspections. Please refer to Threshold #4 of Section 3.A.2 for additional information about outstanding non-compliance.

**Project Costs**

CHFA recognizes the wide range of project costs throughout the state, including such items as land costs, zoning processes, tap fees, parking requirements, etc. CHFA will evaluate the cost reasonableness of a project considering the costs per unit and tax credits requested per unit as well as other factors such as the location of the site, the size and type of project, the populations to be served, and the availability and use of other funding sources.

**Proximity to Existing Tax Credit Projects**

CHFA must monitor the distribution of tax credit projects across the state as well as in particular submarkets. In some cases, CHFA may need to make choices between two credible applications based on the number of tax credit projects in a particular market or area of the state. Attention will also be paid to any recent reservations made in a particular market or area of the state. Recently approved projects should be afforded the opportunity to lease-up without direct competition from another tax credit project located in the same PMA. Particular attention will also be paid to existing projects that are not achieving pro forma rents.

**Site Suitability**

Sites will be evaluated on the basis of suitability and overall marketability including, but not limited to proximity to schools, shopping, public transportation, medical services, parks/playgrounds; conformance with neighborhood character and land use patterns; site suitability regarding slope, noise (e.g., railroad tracks, freeways), environmental hazards, flood plain, or wetland issues.

CHFA reserves the right to not approve project proposals notwithstanding their compliance with the aforementioned Guiding Principles or Priorities if the proposals do not meet the Criteria for Approval.

## section 3

### Tax Credit Allocation Process

The Code generally requires that federal tax credit allocations be made by the state housing credit agency at the time a qualified building is placed-in-service (available for occupancy). The Code also permits housing credit agencies to award carryover allocations (allows an additional two years to complete the project) to projects which are not ready for placement in service by year-end but which have incurred, or will incur within a period of 12 months, more than 10 percent of the total project costs. In addition, CHFA uses a process that permits sponsors to obtain a “preliminary reservation” of tax credits at an earlier stage in the development process than is required for an allocation. Consequently, CHFA requires that applicants have incurred more than 10 percent of the total project costs within 12 months of receiving a preliminary reservation of tax credits.

Tax exempt private activity bond-financed projects are eligible for federal tax credits without having to compete for the state’s annual housing credit dollar amount (“housing credit ceiling”), but are also subject to review by CHFA and are required by the Code to satisfy the requirements for an allocation of federal credits under the Plan. See section 7 for application instructions. Such projects are also subject to the compliance monitoring requirements as described in section 12 herein.

#### 3.A Preliminary Reservation and Application Process

##### Quiet Period

Beginning in 2012, CHFA will implement a “Quiet Period” as a part of the competitive preliminary application process. The Quiet Period for each active competitive round will begin at the time of the due date of the Letters of Intent and end upon the issuance of the tax credit reservations. During the Quiet Period, communication about an active preliminary application between applicants and CHFA will be limited to Tax Credit Allocation staff for the purpose of responding to requests for technical assistance or to answer staff questions. Applicants planning to apply for competitive tax credits will not meet with or contact CHFA employees (other than the CHFA Allocation Staff) to discuss proposed or submitted applications during this period. CHFA will encourage applicants to direct third-party supporters to contact CHFA or submit support correspondence prior to the due date of the application. The purpose of the Quiet Period is to create a fair and consistent process for all applicants in the competitive rounds, ensuring that awards are based on the individual merits of each project and to eliminate any potential interference from undue influence or lobbying from the applicant or its supporters. The Quiet Period only applies to preliminary applications during an active round and not to any other projects, applications, or issues.

Applicants for the competitive (9 percent) tax credit must submit a Letter of Intent Form, (which is available on the CHFA website at [www.chfainfo.com/multifam/multifamily\\_developers/LIHTC%20allocation/LIHTC%20allocation.icm](http://www.chfainfo.com/multifam/multifamily_developers/LIHTC%20allocation/LIHTC%20allocation.icm)) along with a letter of engagement from a CHFA-approved market analyst to Paula Harrison via the Tax Credit portal, [LIHTCApps@chfainfo.com](mailto:LIHTCApps@chfainfo.com) or by fax at 303.291.5711 no later than 5:00pm MST on the submittal dates listed below or the application will not be accepted. A completed market study that meets the requirements of the Market Study Guide (see Appendix A) completed by an approved market analyst must be submitted at the time of the submission of the application. The market analyst must contact CHFA's appraiser, Kim Dillinger, at [kdillinger@chfainfo.com](mailto:kdillinger@chfainfo.com), prior to commencement of the study. Once the analyst has contacted Kim, they must then download the "Comparison Chart" and a "Unit and Project Amenities" chart located on CHFA's website at [www.chfainfo.com/multifam/multifamily\\_developers/LIHTC%20allocation/market\\_study.icm](http://www.chfainfo.com/multifam/multifamily_developers/LIHTC%20allocation/market_study.icm).

These charts are to be completed separately from the market study (this does not eliminate any market study guide requirements) and submitted in Microsoft Word format via the secure file delivery site at the time of application submission.

Depending on market conditions, if a proposed project is located in the same market area as a tax credit project that has already received a tax credit reservation, consideration for a formal application may be postponed until the current tax credit project has had the opportunity to lease-up and market conditions have improved.

### 3.A.1 Application Submittals

CHFA will hold two competitive rounds for applicants in 2012. A total of \$11.25 million in annual credit is available for 2012, including a set-aside of up to \$1.25 million of the total reserved for the Denver Housing Authority HOPE VI project. Additional information about this project can be found in Section 3.F. The remaining \$10 million will be available in two competitive rounds according to the schedule below:

Letter of Intent deadline is February 1, 2012

Application deadline March 1, 2012

Letter of Intent deadline is June 1, 2012

Application deadline July 2, 2012

All documents must be delivered to the CHFA offices no later than 5:00pm MST on the above-listed notification dates, without exception.

CHFA reserves the right to change the above dates by posting notice of such change on CHFA's website ([www.chfainfo.com](http://www.chfainfo.com)) not less than 45 days prior to the affected submittal date. In order to assure that the QAP has the flexibility to adjust to changing market conditions, CHFA reserves the right to provide not less than \$5 million and not more than \$7 million in annual credit for the first round without prior notice. Any credit returned from prior reservations or carryovers may be used in any subsequent 2012 rounds without prior notice. If the full credit amount for the first round is not reserved, the remaining amount will be carried forward to the second round. If the total annual amount of \$11.25 million is not reserved in 2012, the remaining amount will be carried forward to 2013. Applications for the noncompetitive tax credit for projects financed with private activity bonds will be accepted throughout the year, except during the month of December. See section 7 for more details regarding notification and application requirements.

Because applications will be accepted throughout the calendar year, all underwriting will be done with the underwriting requirements that are in place at the time of the application, including the rent, income limits, and basis limits.

If an application does not receive a reservation due to a lack of available credit, it may be reconsidered in the following application round provided that a Letter of Intent is submitted on or before the due date for the following application round. All preliminary applicants will be charged a \$3,000 application fee including applicants resubmitting applications in subsequent rounds.

If CHFA learns that any principal or management agent that is involved with a proposed project has serious and/or repeated performance or noncompliance issues in Colorado or any other state at the time of application, the application will be rejected. The prior performance considered might include, but is not limited to, progress made with previous tax credit reservations, project compliance, and payment of monitoring fees.

#### **Open Records Act Request**

As part of the application certification, the applicant acknowledges that the application and all materials submitted by applicants constitute public records within the meaning of the Colorado Open Records Act (Colorado Revised Statutes section 24-72-210 et seq.). The applicant further acknowledges and agrees, as part of the application certification, that CHFA will not treat any part of the application and submissions as a record that is not subject to release to the public, unless such material is segregated and clearly designated as falling within an exception to the Colorado Open Records Act. Otherwise, CHFA will make such material available for inspection and copying (for a charge of \$0.25 per page) upon the request of any person. As part of the application certification, the applicant further acknowledges and agrees that even material which is so segregated and designated may become public subject to release upon a successful challenge by a member of the public.

## 3.A.2 Threshold Criteria for Preliminary Tax Credit Applications

The first five items described in this section must be provided at the time of the application submittal by the applicable application deadline as listed in Section 3.A.1 and are not subject to the five-day cure period referenced in section 3.A.4.

### **Threshold #1 Minimum Score**

All applications must score a minimum of 130 points under “Scoring” in order to be considered for a reservation. The minimum score threshold must be met at the time of application. Include supporting documentation under the Scoring tab.

### **Threshold #2 Site Control**

The applicant must demonstrate full control of all land and buildings included in the project through a fully executed agreement such as an option agreement, a purchase or sale agreement, or other similar instruments. Warranty deeds must be recorded. Site control must be demonstrated at the time of application. Include two hard copies under the Site Control tab.

### **Threshold #3 Market Study**

A CHFA-approved analyst who is completely unaffiliated with the developer and/or owner of the proposed project, and has no financial interest in the proposed project must prepare the market study. Prior to commencing a market study for the proposed project, the market analyst must notify CHFA by contacting Kim Dillinger at [kdillinger@chfainfo.com](mailto:kdillinger@chfainfo.com) or 303.297.7361 of the intent to undertake a market study and must follow the format and content requirements contained in the Market Study Guide (see Appendix A). Once the analyst has contacted Kim, they must download the “Comparison Chart” and the “Unit and Project Amenities” chart located on CHFA’s website at [www.chfainfo.com/multifam/multifamily\\_developers/LIHTC%20allocation/LIHTC%20allocation.icm](http://www.chfainfo.com/multifam/multifamily_developers/LIHTC%20allocation/LIHTC%20allocation.icm). These charts are in Microsoft Word format and are to be completed separately from the market study (this does not eliminate any market study guide requirements) and submitted to CHFA via the secure file delivery site at the time of application submission. Failure to comply with market study requirements will result in a denial of the study and the application. Submit one hard copy and one PDF version via email.

The market study must match the submitted application regarding income targeting, unit mix, unit sizes, and rents. If the market study and application do not match, the application will not be processed and will be returned to the applicant.

**Threshold #4****Outstanding Noncompliance**

Applications will not be accepted if there are any outstanding IRS forms, 8823, Report of Noncompliance; or noncompliance with the provisions of the LURA on any projects which are owned or managed by the applicant or the applicant's management agent. Whether affiliated or unaffiliated, consideration will be given to circumstances in which CHFA is required to issue an 8823 for occurrences outside the control of management, such as accidents or acts of nature.

**Threshold #5****2009 Electronic Spreadsheet Application**

A completed spreadsheet application is required. This can be found on the CHFA website at [www.chfainfo.com](http://www.chfainfo.com) or a copy can be requested via email at [pharrison@chfainfo.com](mailto:pharrison@chfainfo.com).

**Threshold #6****Readiness-to-Proceed**

- Evidence of current zoning status (new construction) from the applicable zoning office - If the site is not properly zoned, provide evidence that the required change will be in place at the time the carryover application is due (approximately 14 months from the preliminary application date). If the site is zoned properly, provide evidence that other approvals, such as site plan approval, will be in place at the time the carryover application is due. Projects that are properly zoned at the time of the preliminary application may be given priority in the selection process.
- Phase I and/or Phase II Environmental; send one electronic version of each via the secure file delivery site.
- Schematic drawings (for new construction); send electronic version via the secure file delivery site; plans and specifications are not required at the preliminary application stage
- Cost estimate from third-party cost estimator or general contractor (for new construction); send electronic version via the secure file delivery site.
- Capital Needs Assessment from a Third-Party Cost Estimator or General Contractor (acquisition/rehabilitation); send electronic version via the secure file delivery site.

### **Threshold #7**

#### **Successful Project Team Experience**

The developer must provide evidence that the developer has multifamily rental housing development experience and that the management company, the consultant (if any), the legal firm, and the accounting firm engaged by the applicant have experience with LIHTC projects. Resumes must be provided for the entire project team. In addition, the management company must have experience related to population specific projects (i.e., independent senior, homeless, etc.). If the developer has no LIHTC experience, using a consultant or fee developer with LIHTC experience is required. An applicant with no experienced LIHTC practitioner on the development team will not be accepted and the application will be returned.

### **Threshold #8**

#### **Energy Efficiency Requirements**

All applicants must agree to meet Enterprise Green Communities requirements in order to apply for credits. Applicants must complete the Enterprise Green Communities Criteria Checklist and score a minimum of 30 points for acquisition/rehab projects and 35 for new construction projects, certifying that the project will meet or exceed the Enterprise Green Communities requirements or the equivalent of those requirements for new construction or rehabilitation as applicable. Additional information can be found under section 8 of the QAP and in the application.

### **Threshold #9**

#### **Narrative**

The Narrative must be submitted in Microsoft Word format and follow the document template located on CHFA's website at [http://www.chfainfo.com/multifam/multifamily\\_developers/LIHTC%20allocation/LIHTC%20allocation.icm](http://www.chfainfo.com/multifam/multifamily_developers/LIHTC%20allocation/LIHTC%20allocation.icm).

The Narrative provides an opportunity for the applicant to describe the characteristics of the project and why the applicant believes it should be selected above others for an award of credit. It must include a description of the project as proposed; detailed type of construction; population being served; bedroom mix; location; amenities; services, if provided; description of energy efficiencies; type of financing; local, state and federal subsidies; etc.

The Narrative will be posted on the website for public viewing along with the applicant report.

For preliminary application submittals in 2012, the application package must include all of the documents listed in the following Required Threshold Documents list, using the preliminary tabs provided (will be mailed after Letter of Intent is received) and where indicated, electronic documents must be submitted via the secure file delivery site (instructions will be mailed after Letter of Intent is received).

	document	hard copy	electronic
1	Electronic application	X	Excel
2	Application fee	X	
3	Cost estimate from a third party general contractor, cost estimator or architect	X	Excel
4	Letter of interest from lender for construction and permanent financing for residential and commercial space if applicable	X	
5	Letter of interest from syndicator/equity investor	X	
6	Evidence of contact with soft fund sources	X	
7	Utility allowances worksheet with amounts circled	X	
8	Evidence of property tax exemption, if applicable	X	
9	Supporting documents for scoring	X	
10	Narrative: must include description of the project as proposed; detailed type of construction; population being served; bedroom mix; location; amenities; services, if provided; description of energy efficiencies; type of financing; local, state, and federal subsidies; etc	X	Word
11	Location maps	X	PDF
12	Schematic drawings, elevation, site plan, and floor plan (plans and specs are not required)		PDF
13	Timeline	X	
14	Phase I environmental report - the report must not be older than 12 months from the date of the application for tax credits. If the Phase I identifies any Recognizable Environmental Hazards (RECs) additional reports addressing the RECs should be submitted with the application, including a Phase II Environmental report, no older than 12 months from the date of the application for tax credits, if the Phase I report recommends that a Phase II be conducted.		PDF

15	Zoning status documentation; must be from zoning department	X	
16	Site control documentation	X	PDF
17	Market study	X	PDF
18	For acquisition/rehabilitation projects provide the following:		
	An attorney's opinion that the ten-year rule requirements are met	X	
	If the existing project is currently federally assisted, the applicant must provide evidence of the existing federal assistance to be exempt from the ten-year rule requirement. An attorney's opinion is not required if the applicant provides evidence of the exemption from the ten-year rule (e.g., Section 8 Housing Assistance Payment or HAP contract or RHS Rental Assistance Contract).	X	
	A third-party Capital Needs Assessment (see Appendix B for Capital Needs Assessment requirements)		PDF
	An appraisal with the land value calculated separately from the building value	X	PDF
For acquisition of unrestricted properties or acquisition/rehab of existing affordable properties, a relocation plan for addressing the potential displacement of current residents. Such a plan must include a budget for providing moving and utility hook-up costs for all residents that wish to move or that are required to move. An owner certification must be provided that all residents have been informed of the availability of such funds.	X		
19	Enterprise Green Communities Certification	X	Excel

### 3.A.3 Site Evaluation

After a review of the Preliminary Application, CHFA staff will conduct a site visit to determine general site suitability. Sites will be evaluated on the following: proximity to schools, shopping, public transportation, medical services, parks/playgrounds; marketability; conformance with neighborhood character and land use patterns; site suitability regarding slope, noise (e.g., railroad tracks, freeways), environmental hazards, flood plain, or wetland issues. When applicable, CHFA staff may contact local officials to get input on the support for the project.

### 3.A.4 Application Review

Upon submission by the applicant and review by CHFA of the above information, CHFA staff will contact the applicant to discuss any issues or concerns with the information submitted or with the proposed site. In order for reservation decisions to be made in as timely a manner as possible, the applicant will have 5 business days to address any concerns or issues. If the requested information is not received by the deadline, staff decisions regarding a recommendation for a reservation will be made using only the information already submitted and could result in the denial of the application. Significant changes to the application after submission may result in a denial of the application.

### 3.A.5 Applicant Presentations

After the site evaluation and application review, but before the applications are considered for approval, all applicants will be given the opportunity to present their project and the merits of their application to CHFA's Tax Credit Committee (the Committee). CHFA staff will contact applicants to schedule the presentations and project representatives will be given a certain amount of time for their presentation subject to certain parameters, which will be described in more detail in the 2012 application once it is revised and made available. The purpose of the presentation process is to give applicants an additional opportunity to highlight their project's strengths by speaking directly to the Committee.

### 3.A.6 Preliminary Reservation – Approval Process

After review of the items above and any additional requested information, staff will present the proposed projects to the CHFA Tax Credit Committee (the Committee) who will recommend approval to the Executive Director/CEO or delegated designee. Committee members will consist of the Chief Operating Officer, the Chief Financial Officer, the Director of Commercial Lending, the Director of Asset Management, the Director of Marketing and Strategic Development, the Manager of Multifamily Loan Production, the Manager of Multifamily Program Compliance, two members appointed by the Executive Director who are not employees of CHFA, and, as a nonvoting member, the General Counsel or assigned designee. The Committee will consider projects that meet the Code requirements and QAP criteria including the Guiding Principles, Priorities, and Criteria for Approval.

Projects that receive approval from the CHFA Executive Director/CEO or delegated designee are given a preliminary reservation of tax credits. Preliminary reservations are valid for 12 months from the date of the preliminary reservation letter and evidence of CHFA's intention to allocate credits in the subsequent calendar year. Projects that receive a preliminary reservation in 2012 will receive an allocation in 2013. Projects that do not meet the carryover allocation requirements within the 12-month period will lose the reservation and may not re-apply for a minimum of six months unless CHFA receives a notification in writing from the applicants returning credit prior to the 12-month deadline. Preliminary reservations may be made subject to such conditions as CHFA determines necessary or appropriate to assure that the project will timely meet the goals of this Plan, including, without limitation, the project's progress toward completion and compliance with CHFA and federal tax credit requirements. Quarterly reports updating the progress in securing construction, permanent financing, and tax credit equity will be required for all projects that have received a preliminary reservation. If CHFA learns that any principal or principal's management agent that is involved with a proposed project has serious and/or repeated performance or noncompliance issues in Colorado or any other state at the time of application, the application will be rejected. The prior performance considered might include, but is not limited to progress made with previous tax credit reservations, project compliance, and payment of monitoring fees.

### 3.A.7 CHFA Discretionary Authority

CHFA reserves the right, in its sole discretion, to (i) carry forward a portion of the current year's housing credit ceiling for allocation in the next calendar year, and (ii) under certain conditions, issue a reservation or, in the case of projects that have already placed-in-service, a binding commitment for some portion of the next year's housing credit ceiling.

### 3.A.8 Jurisdiction Notification

The Code requires that the state allocating agency notify the chief executive officer of the local jurisdiction where each proposed project is located. A notification will be sent to the affected jurisdiction immediately after an application is submitted and deemed complete. The jurisdiction will then be given an adequate opportunity to comment on the proposed project. CHFA will consider the comments and may contact the local jurisdiction for additional information. CHFA will also send a notice to the local housing authority, if applicable.

### 3.A.9 Status Reporting

Projects receiving reservations may be required to provide reports, in a format prescribed by CHFA, outlining progress toward placement in service. Information requested will be project-specific and may include, but is not limited to such items as zoning and other local project approvals, firm debt, equity and/or gap financing commitments, and construction progress towards project completion. Projects that will not be placed-in-service in the year that the reservation is given may also be required to provide information regarding the sponsor's ability to meet Code and CHFA requirements to obtain a carryover allocation.

### 3.A.10 Changes to Project

A reservation of tax credits is based upon information provided in each project application. Until a project is placed-in-service, any material changes to the project, such as changes in the site, scope, costs, or design as submitted in the application will require written notification to and approval by CHFA. Any request for a change in ownership is subject to the provisions of paragraph 3.O. Changes in project characteristics that were the basis, in whole or in part, of CHFA's decision to reserve credits, may result in a revocation of the reservation or a reduction in the amount of the tax credit reservation.

### 3.A.11 Revocation of Reservations

A preliminary reservation is subject to revocation should the project sponsor fail to timely comply with the conditions thereof, including failure to provide evidence satisfactory to CHFA of financial feasibility, sufficient progress toward placement in service, or eligibility for a carryover allocation. CHFA may also, in its sole discretion, ask sponsors with preliminary reservations to pay an additional fee to retain their reservations. Such fee, if paid, would be credited towards the allocation fee.

### 3.A.12 Equitable Distribution of Unit and Affordability Mix

For mixed income projects, CHFA requires that low income set-aside units be distributed proportionately throughout each building, and to the extent possible, each floor of each building of the project and throughout the bedroom/bath mix and type subject to the Code's "available unit rule" requirements. Both market rate and low income units must have the same design regarding unit amenities and square footage. Amenities include, but are not limited to fireplaces, covered parking, in-unit washer/dryers, and mountain views.

For projects that are 100 percent low income, CHFA requires that, subject to the Code's "available unit rule" requirements, the units at different targeting levels (40 percent AMI, 50 percent AMI, etc.) be distributed proportionately throughout each building, throughout the bedroom/bath mix and type, and, to the extent possible, throughout each floor or each building of the project. All targeting levels must have the same design regarding unit amenities and square footage. Amenities may include, but are not limited to fireplaces, covered parking, in-unit washer/dryers, and mountain views.

Regardless of the income mix of the property, Section 42 requires that charges for services other than housing will not be considered rent if the services are optional and practical alternatives exist. As an example, a project may offer a limited number of garages. The additional charge would not be considered in the maximum rent calculation if the garages were not included in basis and practical alternatives existed; in this case, free surface parking. CHFA interprets "practical alternatives" to mean that there would be at least one free surface space for each unit. Local codes may require more than one space. For projects that contain 100 percent structured parking, the number of spaces required would be that required by local code and the maximum rents for all low income units must include parking.

## 3.B Carryover Allocations

Applicants that receive a preliminary reservation must either place the project in service or meet the carryover allocation application requirements listed below within 13 months from the date of the preliminary reservation. Applications for a carryover allocation may be submitted prior to the 13-month deadline but no sooner than January 1 of the year following the preliminary reservation.

Applicants must allow CHFA at least 30 days for processing and review of the complete Carryover Application before the Carryover Allocation Agreement will be released. Applications must be received at least 30 days prior to the deadline when locking in the APR. Projects that meet the carryover allocation requirements must place in service not later than the close of the second calendar year following the calendar year of the allocation. Quarterly reports updating the progress of construction completion along with photos will be required for all projects that have received a carryover allocation. For carryover application submittals in 2012, the application package must include the following:

	document	hard copy	electronic
1	Electronic application with any revisions	X	Excel
2	Application fee	X	
3	Utility allowances worksheet with amounts circled	X	
4	Narrative update if changes from preliminary; planning approval (applicant must provide evidence that an application for all required building permits has been submitted to the issuer of such permits)	X	
5	Site plan and floor plan on 8 ½ x 11 paper		PDF
6	Certificate as to Ownership and Basis	X	
7	CPA Opinion letter and 10% test	X	
8	Attorney Opinion letter	X	
9	Architect certification: Certification of the architect, who has designed the project, that the project has been designed to comply with the requirements of all applicable local, state, or federal fair housing and other disability-related laws, however denominated. The certification must clearly state that the project will comply with the following laws: local building codes; Colorado Fair Housing Act, as amended; Colorado Standards for Residential Construction (C.R.S. Section 9-5-112); Federal Fair Housing Act, as amended; and the Americans with Disabilities Act, as amended. The architect certification must also state that the project has been designed to meet or exceed the Enterprise Green Community requirements in section 8 of the QAP. The owner is required to certify to the above in the case of an acquisition/rehabilitation project that does not employ an architect.	X	

10	Evidence of enforceable financing commitments for all loans and grants; Applicant must provide evidence that all enforceable financing commitments for loans, grants, and equity from the sale of tax credits have been secured. An “enforceable commitment” means that the authorized body (Investment Committee, Loan Committee, Board, etc.) of the funding source has given approval and the commitment is subject only to those conditions which are totally under the control of the sponsor to meet. The terms and conditions of the commitment must be clearly identified. Application and commitment fees shall have been paid or must be required to be paid upon closing. Documentation of owner equity (equity other than that obtained from the sale of tax credits) must be listed in the “Project Financing” worksheet of the Carryover Application.	X	
11	Partnership agreement: The partnership agreement must be fully executed and must identify the equity commitment, the equity factor and pay-in schedule, and a Deferred Developer Fee date certain repayment date. In addition, the agreement must list the terms of all funding sources, loans, equity pay-in, equity contributions, and the requirements of section 4.A, “Minimum Operating Reserve Requirements.” The agreement must state the amount of the operating reserve and the amount must equal or exceed the operating reserve approved by CHFA. The partnership name and tax ID must also match the Certificate as to Ownership and Basis, Attorney Opinion, and CPA Opinion.		PDF
12	Enterprise Green Communities Certificate	X	

If there are any issues or concerns from a staff review of the items submitted for the carryover allocation, staff will document those concerns in writing and the developer will have an opportunity to address those issues. In order for carryover decisions to be made in as timely a manner as possible, the applicant will have 10 business days to address any concerns or issues. If the requested information is not received by the deadline, the preliminary reservation is subject to revocation.

A carryover allocation is for a specific credit amount; however, a sponsor may request allocation of additional credits in a subsequent year or round (see section 3.J.) if credit is available. The carryover credit amount may be reduced, if warranted, at the time a final allocation is made. Note: This provision does not apply to projects financed with private activity bonds.

## Recapture of Carryover Allocations

CHFA retains the right to recapture a carryover allocation of credits to a project prior to the end of the two-year carryover allocation period allowed under the Code. Each carryover allocation will be subject to a written agreement that will contain conditions, obligations, and deadlines that are precedent to a final allocation of tax credits by CHFA. Should the project or owner fail to comply with all such terms and conditions, CHFA may, in its sole discretion, rescind the carryover allocation and make the recaptured credits available for other projects.

## 3.C

### Placed-In-Service Application

(see Section 7.B for Private Activity Bond-financed projects)

Projects that received a carryover allocation of federal credits must be placed-in-service by the end of the second calendar year following the year of the allocation ("Year 2") or the tax credits are subject to recapture. If a project places in service in Year 2, but the applicant will not have all of the required documentation completed by this time, 8609(s) will not be issued in Year 2. A written notification of the placed-in-service date must be provided to CHFA within fifteen (15) days of the actual placed-in-service date. Regardless of the placed-in-service date, a Placed-in-Service Application, with the items below included, must be submitted no later than the first business day in November of Year 2, without exception. This is needed so that CHFA is able to record the LURA prior to the end of the first year of the credit period for each building in a project. The Placed-in-Service Application packet includes:

	document	hard copy	electronic
1	Certificate(s) of Occupancy or Temporary Certificate(s) of Occupancy	X	
2	Photographs of the completed building(s), identified by address and Building Identification Number(s) (BIN)	X	
3	Form 8609 Certificate detailing placed-in-service date for every building, must match the TCOs, COs or Certificate of Substantial Completion	X	
4	Legal description of property		Word
5	Partial Subordination to the LURA from every lien holder	X	
6	Following completed worksheets of the Final Application: Project Information, Project Financing, Applicant Info – Development Team, and Unit Mix and Rents	X	
7	For rehabilitation projects: evidence that the placed-in-service requirements for rehabilitation have been met	X	

The remaining requirements for the final allocation must be received within six (6) months from the date of receipt of the Placed-in-Service Application. Starting with the seventh month, a \$2,000 per month late fee may be assessed until the remaining requirements are received.

### 3.D Final Allocations

CHFA will make final allocations of tax credits no later than the end of the year in which an eligible building or project which has received a reservation or a carryover allocation is placed-in-service unless CHFA decides, in its sole discretion, to issue a binding commitment of the next year's housing credit ceiling. The credit amount that will be allocated is based on CHFA's final determination of the qualified basis for the building or project based on an accountant's certification of final costs provided by the sponsor and a final determination of the credit amount as outlined in section 3.H. The credit amount allocated may be less than the amount reserved or allocated on a carryover basis. Also, a sponsor may request additional federal credit in accordance with section 3.J if credit is available.

The application for a final allocation is the same spreadsheet application used for the preliminary reservation and carryover allocation, updated by the applicant. Reasonable year-end deadlines for final allocation requests will be established in order to permit timely review and preparation of documents.

Sponsors must request a final allocation of federal tax credits by the deadline established by CHFA for the year in which an eligible project is placed-in-service. CHFA may establish deadlines, posted on the CHFA website, earlier than year-end in order to efficiently complete its reviews and documents.

## 1. Final Allocation Application Requirements

For final application submittals in 2012, the application package must include the following:

	document	hard copy	electronic
1	Electronic application with any revisions		Excel
2	Application fee, if not paid with the carryover application	X	
3	Signed project budget worksheet	X	
4	Signed project financing worksheet	X	
5	Signed Enterprise Green Communities Final Certification and other documents to verify compliance as requested by CHFA	X	
6	Partial Subordination Agreement(s) from all lien holders with original signature(s)	X	
7	Utility allowance, updated with amounts circled	X	
8	Agreement with local public housing authority that the project is accepting tenants from their waitlist	X	
9	CPA Opinion by an independent tax accountant, including the correct tax identification number and legal ownership name	X	
10	Attorney Opinion by independent tax attorney, including the correct tax identification number and legal ownership name	X	
11	Form C-1, total square footage must match the unit mix and rents and final building profile in the Excel application		Excel
12	Certificate of Occupancy and/or Temporary Certificate of Occupancy for every building. Certificate of Substantial Completion for rehabilitation projects for acquisition credits, proof of the date the project was placed in service for acquisition purposes	X	

13	Building photos identified by address and BIN	X	
14	Form 8609 Certificate detailing placed-in-service date for every building, must match the TCO's, CO's or Certificate of Substantial Completion	X	
15	Compliance training certificate or notification of training at CHFA	X	
16	Compliance monitoring fee	X	

A minimum of 30 days is required for processing and review of the complete final application. The IRS Form 8609 will be released once all the requirements listed (including the recorded LURA) have been met to the satisfaction of CHFA.

### 3.E

#### Amount of Credit Available Annually

The annual per capita federal tax credit amount available to Colorado for 2012 is \$2.20 for each state resident. CHFA is also permitted by the Code to carry forward any unused credits from the prior year for allocation in the current year (“carry forward credits”). CHFA may also have available for re-allocation, credits recovered from projects that have received carryover allocations in previous years and are no longer able to utilize them (“returned credits”).

### 3.F

#### Set-Asides

##### **IRS Code Required Nonprofit Set-Aside**

The Code requires that at least 10 percent of the annual federal housing credit ceiling be set-aside for the entire year for projects in which 501(c)3 or 501(c)4 nonprofit organizations (having an express purpose of fostering low income housing) own an interest in the project and materially participate in the project and operation of the project throughout the compliance period. This could result in reserving tax credits to a lower ranking project in order to meet the nonprofit set-aside requirement. Such nonprofit organizations may not be affiliated with, nor controlled by, a for-profit organization. Material participation is defined in Section 469(h) of the Code as “involved in the operations of the activity on a basis which is regular, continuous, and substantial.” Note: The set-aside does not apply to projects financed with private activity bonds.

##### **HOPE VI Set-Aside**

Starting in 2011, a five-year set-aside is being provided for South Lincoln Homes (also known as Mariposa), sponsored by the Denver Housing Authority, which is located at the 10th and Osage light rail station in Denver and received an award of HOPE VI funds.

The set-aside is being provided for the project due to the following expected benefits to its community as well as the entire state:

- Bringing in millions of federal dollars that would otherwise not be available to the state;
- Preservation of affordable public housing by transforming aging and obsolete public housing projects into vibrant mixed use developments;
- Increasing the number of affordable housing units in the area;
- Bringing in a significant number of additional housing choice vouchers that the housing authority can assign to other housing projects.

South Lincoln Homes received a set-aside amount of \$1,050,000 in annual credits in 2011. Thereafter during the five-year period, the annual credit amount may fluctuate but will not exceed the maximum credit award pursuant to the applicable year's QAP. The aggregate set-aside for this project will not exceed \$5,250,000.

The set-aside will continue to be incorporated into the QAPs for the years of 2011 through 2015. Each QAP for those years will be subject to approval by the Governor.

Each application for credits will be subject to all of the requirements of the corresponding year's QAP, including the requirement that no more credit will be reserved for the project than CHFA determines is necessary for the project's financial feasibility and viability as a low income housing project.

#### **Additional Requests for Set-Asides**

Due to the limited amount of per capita credit available, no additional requests for set-asides will be considered in 2012.

### 3.G Maximum Credit Award

Except for projects financed with private activity bonds, CHFA will accept applications for no more than \$1,250,000 of the annual per capita federal credit for any one project or any one applicant, or affiliate of such applicant. As long as an application is active (meaning the applicant has not yet received CHFA approval of the enforceable financing commitments and executed entity documents), the amount requested in the application will count against the \$1,250,000 cap. For purposes of this section, "Affiliate" means any person (as defined below) who (i) directly or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with the applicant; or (ii) owns or controls any outstanding voting securities, partnership interests, membership interests, or other ownership interests of the applicant; or (iii) is an officer, director, employee, agent, partner, or shareholder of the applicant; or (iv) has an officer, director, employee, agent, partner, or shareholder who is also an officer, director, employee, agent, partner, or shareholder of the applicant.

"Person" means an individual, partnership, limited liability company, corporation, trust, or other entity.

"Control" 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 ownership of voting securities or other ownership interest, or otherwise.

Notwithstanding the forgoing provisions, a person who provides consulting or turn-key project services to an applicant on a strictly fee-for-service basis and not for a share of revenues, ownership interest, or other incentive compensation will generally not be considered an Affiliate, provided that CHFA reserves the right to make such determination based on a review of the facts and circumstances in individual cases.

### 3.H Determination of Tax Credit Amount

The Code requires that CHFA not allocate to a project a housing credit dollar amount in excess of the amount of federal credit that CHFA determines necessary for the financial feasibility of the project and its viability as a qualified low income housing project throughout the credit period. CHFA will evaluate each proposed project taking into account such factors as it determines relevant, including, but not limited to, the following items:

1. Project cost, including the reasonableness of cost per unit, developer fees and overhead, consultant fees, builder profit and overhead, and syndication costs (for acquisition/rehabilitation projects or rehabilitation only; hard costs for rehabilitation, not including costs for acquisition or any soft costs, must be at least the greater of 20 percent of eligible basis or \$7,600 per unit in order to be eligible for tax credits);
2. Sources and uses of funds and the total financing planned for the project, including the ability of the project to service debt;
3. Project income and expenses, including a determination of the reasonableness of the proposed operating costs;
4. The proceeds or receipts expected to be generated by reason of tax benefits;
5. The percentage of the credit dollar amount used for project costs other than the cost of intermediaries;
6. The use of federal funds and other assistance (applicable HUD subsidies will be subject to a subsidy layering review based on HUD's most current subsidy layering review guidelines as further explained in section 3.1., below); and
7. Other factors which may be relevant to the economic feasibility of the project such as the area economy or the housing market.

Based on this evaluation, CHFA will estimate the amount of tax credits to be reserved for the project. This determination is made solely at CHFA's discretion and is in no way a representation as to the actual feasibility of the project. Rather, it will serve as the basis for making reservations of tax credits for projects competing for credit from the federal housing credit ceiling or it will serve as an initial determination of credit amount with respect to a project financed by private activity bonds. The amount of tax credits may change during the allocation process due to variations in cost, mortgage amount, tax credit percentage, syndication proceeds, etc.

This analysis to determine the tax credits necessary will be done (i) at the time of preliminary application, (ii) at the time a carryover allocation is approved (if applicable), and (iii) at the time the project is placed-in-service (after all project costs are finalized and a third-party cost certification has been completed).

If there are changes in sources and/or uses of funds or other material changes at these times, CHFA will adjust the tax credit amount to reflect the changes and the tax credit amount may be reduced.

## Calculation of Tax Credit Amount

CHFA will estimate the credit amount needed by a project using three calculation methods. The amount of credits reserved will be based on the smallest of the amounts resulting from these calculation methods. This determination is made solely at CHFA's discretion, and is not a representation of the feasibility or viability of the project. CHFA retains the right to reserve less than the amount produced by application of the three calculation methods. The calculation methods are as follows:

### Method One

#### Qualified Basis Calculation

- Eligible basis multiplied by the applicable fraction (the lesser of percentage of floor space allocable to the low income units or the percentage of the low income units out of total rental units in the project)
- Qualified basis multiplied as follows:
  - Qualified acquisition costs multiplied by applicable percentage rate = annual credit amount
- Qualified new construction or rehab costs
  - Multiplied by applicable percentage rate = annual credit amount

#### **Applicable Percentage Rate (APR)**

For new construction and rehabilitation competitive credits, CHFA will use the APR published at the time of application. Under the Housing and Economic Recovery Act (HERA), the APR for new construction and rehabilitation competitive credits was temporarily fixed at 9 percent. However, unless Congress passes federal legislation that extends the 9 percent APR, projects that do not place in service before December 31,

2013, do not have the ability to lock in the 9 percent APR and will be required to use the applicable monthly published APR. The APR may be locked in to the current monthly APR at the time of carryover allocation by election under Code Section 42(b)(1)(A)(ii).

For competitive acquisition credits, CHFA will use the APR published at the time of application. The APR may be locked in by the sponsor at the time of carryover allocation by election under Code Section 42(b)(1)(A)(ii). For projects financed with private activity bonds, CHFA will use the APR published at the time of application and the APR may be locked in at the time the bonds are sold. If the election has not been made previously, the APR used at final allocation will be the percentage prescribed by the Secretary of the Treasury for the month in which the building(s) is placed-in-service. To find the current APR, please visit the following web page:

[www.novoco.com/low\\_income\\_housing/facts\\_figures/federal\\_rates.php](http://www.novoco.com/low_income_housing/facts_figures/federal_rates.php)

## Method Two Gap Calculation

- Total uses of funds minus total sources (excluding equity from the sale of tax credits) of funds = gap (equity needed from tax credits)
- Gap divided by tax credit equity factor divided by 10 years = annual federal credit amount

CHFA will select, at least annually, an equity factor based on market conditions. At the time of the Preliminary Application, the equity factor to be used for this calculation is listed in the project financing worksheet of the Preliminary Application. If there is a firm equity commitment in place at this time, use the equity factor contained in the commitment.

At the time of the carryover allocation, there is a requirement that the project has an executed partnership entity document that clearly states the equity factor. That equity factor is to be used in the gap calculation for the carryover allocation.

The equity factor to be used at final allocation will be the actual equity factor contained in the executed taxpayer partnership agreement.

## Method Three Cost Basis Limit Calculation

- This method compares project development costs with standards originally based on HUD's Maximum Mortgage Limits for the Section 221(d) (4) mortgage insurance program. These standards will be modified on an annual basis prior to the end of the calendar year based on ongoing reviews of construction cost resource publications. The unit mix and size, construction features, and location are considered as part of the analysis. The current year's limits will be listed in the application. Projects are limited to the basis limits in effect at the time of allocation.

## Basis Boost Determinations

The Code allows for a 30 percent basis boost for projects located in one of the following areas:

- **Qualified Census Tracts** (listed in the application)  
Designated by HUD as areas where 50 percent or more of the households have an income of less than 60 percent of the area median income; and
- **Difficult Development Areas (DDAs)** (listed in the application):  
Designated by HUD as areas experiencing high construction, land, and utility costs relative to the area median income. (Note: DDAs are redesignated annually.) Projects in a DDA that receive a reservation may need to meet allocation requirements earlier than the deadline indicated in the Preliminary Reservation Letter in order to retain the DDA designation
- **CHFA Basis Boost**  
CHFA is authorized to award up to a 30 percent "basis boost" to buildings that it determines need the boost to be economically feasible. This basis boost, however, is not available to projects that qualify for a basis boost because they are already in a HUD Qualified Census Tract or DDA. The request must be supported by a narrative that details the reasons for the financial need for the CHFA basis boost. The CHFA basis boost only applies to new construction and rehab eligible basis of competitive (9 percent) LIHTC projects. This basis boost does not apply to noncompetitive 4 percent projects.

The basis boost options above do not apply to acquisition basis.

## Contractor and Developer Fee Limits

CHFA will limit contractor (builder's profit and overhead) fees and developer fees in calculating the amount of tax credits to be allocated to a proposed project as indicated below (a reduction in fees will result in a reduction of total project costs and eligible basis). HUD also restricts these fees for projects subjected to the subsidy layering review (See section 3.I).

## Aggregate Builder's Profit, Overhead\* as a Percent of Hard Construction Costs

Calculated by multiplying the total costs of the following categories by the allowable percentage rate from the table below:

- New Structures/Rehabilitation
- Onsite Work
- Contingency
- Accessory Structures

project type	number of units	w/identity of interest***	w/o identity of interest***
rehab and new construction	75 units +	6%	8%
	31-74 units	8%	10%
	30 units or less	10%	12%

\* Overhead must be project-related and may include a percentage for main office expenses for the job

\*\* Identity of interest between sponsor, developer, builder, and/or subcontractors. An identity of interest will be assumed if any of the following factors are present: common financial interest; any family members; individual and corporation where 50 percent or more of outstanding stock is owned by that individual; members of the same controlled group of corporations; a partnership and each of its partners; a corporation and each of its shareholders.

## Aggregate Developer Fee and Consultant\* Fee Limits as a Percent of Certain Project Costs\*\*

Calculated by subtracting the following costs from the Total Project Costs and applying the allowable percentage rate from the table below:

- Any reduction from the Contractor Fee calculation (above)
- Land
- Developer Fee Category
- Consultant Fees Categories
- Project Reserves

project type	number of units	percent allowed
substantial rehabilitation & new construction	51 units or more	12%
	50 units or less	15%

\* Consultant fee (in lieu of or as part of the developer fee) is defined as a fee to a third party(ies) for performing tasks that a developer would normally perform, e.g., prepare tax credit application and loan application, manage local government approvals, act as owner agent during project construction.

\*\* Certain project costs: Total cost to complete the project, minus the cost of land, developer fees, consultant fees, and project reserves. In the case of acquisition and rehabilitation projects, this calculation requires documentation in the appraisal for the value of the land only.

An increase of the percent allowed, up to 5 percent, may be requested for homeless projects that are serving tenants at or below 30 percent AMI. The increase in equity provided by the additional annual credit must be committed to provide supportive services or a rental subsidy for such tenants. Evidence of the commitment must be provided with the application and such commitments will be reflected in the LURA. A minimum of 15 percent of the total units in the project must be at or below 30 percent AMI. For those projects subject to the HUD subsidy layering review, this change is subject to approval by HUD

### 3.1 Subsidy Layering Review

Section 911 of the Housing and Community Development Act of 1992 and Section 102 of the Department of Housing and Urban Development Reform Act of 1989 have placed limitations on combining LIHTCs with certain HUD and other federal programs. The limitations currently apply to a number of programs under the jurisdiction of the HUD Office of Housing, including, but not limited to Section 221(d)(3), 221(d)(4), 223(f) and 542(c) mortgage insurance, flexible subsidy, and project-based Section 8 assistance.

As part of a Memorandum of Understanding (MOU) between HUD and CHFA, projects combining LIHTCs with these programs will be subject to a subsidy layering review by CHFA. The MOU requires that HUD and CHFA share information on the developer's disclosure of sources and uses of funds and on project costs for all projects financed with a combination of federal tax credits and HUD housing assistance. This review is designed to ensure that such projects do not receive excessive assistance. Under the subsidy layering review, developer fees and contractor overhead, profit, and general requirements are limited to those percentages listed in section 3.H. HOME or CDBG funding, when combined solely with tax credits, do not trigger the subsidy layering review process.

## 3.J Additional Federal Credits

Sponsors may apply for an increase in federal tax credit amounts (supplemental credits) in subsequent years if a project's eligible basis has increased, additional credit is available, and the need is due to circumstances beyond the control of the developer. A request for supplemental credits may only be made at the time of the carryover or final application and must include the following:

- A narrative explaining the reason for the need for additional credit and stating the sponsor's planned contribution towards filling the funding gap
- The carryover or final application that includes the requested supplemental credit amount

Supplemental credits may be awarded if (i) there are additional credits available, (ii) CHFA is satisfied that the additional amount is necessary for the financial feasibility and viability of the project, and (iii) the increased amount of credits does not exceed CHFA's basis limits for the year of allocation. Such applications will be subject to the same competitive application process described above in section 3.A, unless the request is for \$100,000 or less in annual credit. In any case, there is no guarantee that additional credits will be awarded to a project. A fee of \$1,000 will be assessed for requests of additional credit.

Projects are not eligible for additional federal credits if they have not been awarded a supplemental allocation by December 31st of the year in which the project is placed-in-service.

De minimus increases due to changes in the APR do not require a formal request or the additional \$1,000 credit request fee. Staff is authorized to grant de minimus increases based on changes to the APR from preliminary application to carryover (where applicable) to final application.

For projects financed with private activity bonds, additional credits may be awarded if (i) CHFA is satisfied that the additional amount is necessary for the financial feasibility and viability of the project, and (ii) the increased amount of credits does not exceed CHFA's basis limits for the year of allocation. The \$1,000 additional credit fee will not be assessed for projects financed with private activity bonds.

## 3.K Sponsor Elections

### 1. APR for Federal Credits

The APR for the competitive acquisition (4 percent) and the competitive new construction and rehabilitation (9 percent) credit projects may be locked in at two points in the allocation process: (i) the month in which such building is placed-in-service, or (ii) at the election of the taxpayer, at the time of a carryover allocation. CHFA's Carryover Allocation Agreement provides a space for such election. However, unless Congress passes federal legislation that extends the 9% APR, projects that do not place in service before December 31, 2013 do not have the ability to lock in the 9% APR and will be required to use the applicable monthly published APR.

### 2. Gross Rent Floor

Section 42(g)(2)(A) of the Code provides that a low income unit is "rent restricted" if the gross rent for such unit does not exceed 30 percent of the imputed income limitation applicable to the unit. Under Revenue Procedure 94-57, the effective date of the income limitation used to establish the gross rent floor is the time CHFA initially allocates a housing credit dollar amount to the project (that is, the date of a carryover allocation, or if no carryover allocation is made, the date of final allocation) unless the sponsor designates a building's placed-in-service date as the effective date for the gross rent floor. Such designation must be made by advising CHFA in writing no later than the placed-in-service date. The Carryover Allocation Agreement provides a space for such designation. The gross rent floor for projects not seeking a carryover allocation will be the date of final allocation, which ordinarily closely follows the placed-in-service date. For projects financed with tax exempt bonds, the effective date of the income limitation used to establish the gross rent floor is the date CHFA initially issues a determination letter to the building, unless the sponsor designates a building's placed-in-service date as the effective date for the gross rent floor. Such designation must be made by advising CHFA in writing no later than the placed-in-service date.

### 3. Begin Credit Period

Section 42(f)(1) of the Code defines the credit period for federal tax credits as the 10 taxable years beginning with (i) the taxable year in which the building is placed-in-service, or (ii) at the election of the taxpayer, the succeeding taxable year.

### 3.L LURA

Section 42(h)(6) of the Code requires that a project be subject to “an extended low income housing commitment”. CHFA complies with these requirements with the execution and recording of a LURA at the time of the final allocation of credits. The LURA sets forth, as covenants running with the land for a minimum of 30 years (or additional years if the project owner has committed to a longer use period), the low income unit set-asides, the percentages of median income to be served, the special housing needs units committed to (if any), and such other requirements as CHFA may apply based on the Plan.

The project owner will be required to have all lien holders of a project complete and sign a Partial Subordination to the LURA, which will subordinate their liens to certain Code required provisions of the LURA which survive foreclosure.

### 3.M Administration of Plan

CHFA reserves the right to resolve all conflicts, inconsistencies, or ambiguities, if any, in this Plan or which may arise in administering, operating, or managing the reservation and allocation of credits or Colorado’s LIHTC program and the right, in its sole discretion, to modify or waive, on a case-by-case basis, any provision of this Plan that is not required by the Code. All such resolutions or any such modifications or waivers are subject to written approval by the Executive Director/CEO, Chief Operating Officer, or Director of Commercial Lending and are available for review, as requested, by the general public.

### 3.N Amendments

CHFA reserves the right to amend this Plan from time to time, pursuant to the Code, for any reason, including, without limitation (i) to reflect any changes, additions, deletions, interpretations, or other matters necessary to comply with Section 42 of the Code or regulations promulgated hereunder; (ii) to cure any ambiguity, supply any omission, or cure or correct any defect or inconsistent provision in this Plan; (iii) to insert such provisions clarifying matters or questions arising under this Plan as are necessary or desirable and are not contrary to or inconsistent with this Plan or Section 42 of the Code; (iv) to modify identified housing needs and selection criteria reflecting those needs, based upon continuing assessment of such needs, provided that no such amendment shall retroactively affect a reservation of credit previously made under this Plan; and (v) to facilitate the award of credits that would not otherwise be awarded. All such amendments shall be fully effective and incorporated herein upon the Board's adoption of such amendments. This Plan also may be amended as to substantive matters at any time following public notice and public hearing, and approval by the Board and by the governor of the state.

### 3.O Transfers of Reservations and Carryover Allocations

Initial determinations, reservations, and carryover allocations generally may not be transferred or assigned by an applicant to a third party. However, an applicant may assign a reservation or carryover allocation to an entity in which the applicant is the managing general partner, managing member, or such other capacity in which the applicant will exercise control of such other entity. In addition, where funding from governmental entities requires changes to the ownership, CHFA may, at its sole discretion, permit such a change.



## section 4

### Underwriting Criteria

CHFA has adopted minimum underwriting standards for all projects that wish to apply for tax credits under this Plan, including projects financed with private activity bonds that are applying for the noncompetitive tax credit. These standards must be met at the time of preliminary application, carryover application (for competitive credits), and final application. Projects that do not meet the following minimum standards will not be considered for a reservation of tax credits. Implementation of these standards does not constitute a representation of the feasibility or viability of the project.

#### 4.A

##### Minimum Operating Reserve Requirements

The total project budget must include minimum operating reserves equal to four months of projected annual operating expenses and four months of debt service payments. This is a minimum requirement. However, market study results regarding lease-up projections may require a larger reserve amount. Reserves must remain with the project for a minimum of three years from the time the project is placed-in-service. These requirements, as well as provisions for reserve account reductions over time as project benchmarks are achieved, must be contained in the entity partnership agreement and may not be removed from the entity partnership agreement without the consent of CHFA. Project-based Section 8 projects may substitute the reserves purchased from the seller and transferred by HUD if they equal or exceed the minimum operating reserves.

CHFA will consider developer/owner guarantees in lieu of the above requirements. Exceptions may be considered only after a review of the developer/owner's financial capacity and liquidity, developer track record of previous projects, and the number and amount of outstanding guarantees for other projects. Such guarantees must be in place at the time of the carryover allocation for competitive, 9 percent deals, and therefore referenced in the executed partnership agreement. For private activity bond-financed deals, the guarantees must be in place at the time of initial determination.

#### 4.B

##### Minimum Replacement Reserve Requirements

Minimum replacement reserves must equal \$250/unit annually for new construction senior projects and \$300/unit annually for rehabilitation and new construction family projects. CHFA will consider an adjustment to the rehabilitation replacement reserve based on the extent of the rehabilitation. Capitalized replacement reserves may also substitute for the annual per unit requirement depending on the amount to be capitalized which may include the existing reserves for project-based Section 8 projects.

## 4.C

### Minimum Pro Forma Underwriting Assumptions

The following minimum underwriting assumptions must be used for the 15-year pro forma provided as part of the application. These are minimum requirements. Results of the market study may require different, more conservative assumptions.

1. Vacancy Rate  
Seven percent on all project income, 10 percent vacancy rate for any retail/commercial income, and 5 percent for any projects receiving a project-based Section 8 subsidy.
2. Annual Rental Income Growth  
Two percent and 3 percent for any project receiving a project-based Section 8 subsidy.
3. Annual Operating Expense Growth  
Three percent

#### Per Unit Per Annum Operating Expenses (PUPA)

\$3,900 excluding replacement reserves, higher for projects that are providing additional services, and \$4,600 for project-based Section 8 projects; \$20,000 for licensed assisted living facilities or a lower amount based on three years of audited financials. For senior-only projects, a lower PUPA may be accepted if documentation of actual expenses from an existing senior-only deal is made available. A lower PUPA may be accepted for projects that are exempt from real estate taxes if evidence of the exemption and county estimates of per unit taxes is provided.

4. Debt Coverage Ratio  
Minimum 1.15 to 1.0 for all amortized debt throughout the initial 15-year pro forma period. Projects with debt coverage ratios that exceed 1.3 to 1.0 may be eligible for less credit than the amount calculated as per section 3.H of the Plan. All projects that utilize Section 8 project-based subsidy will be underwritten with the rents according to the lesser of the HAP contract rents, or tax credit rent limits. These limits are based on data published annually by HUD. If the Section 8 contract administrator is willing to allow rents above these limits, the project may receive the additional income in practice, but it will be underwritten using the lower rent projections regardless of the length of the Section 8 contract. These projects will be underwritten at the more conservative revenue levels to best serve the project's long term financial viability.

## section 5

### Scoring Criteria

Proposed projects that meet the minimum application and underwriting requirements will be scored based on the criteria described below. Proposed projects must meet the minimum score of 130 points (60 for private activity bond projects), which are earned in the primary and secondary criteria. These criteria are explained in more detail below.

1. Primary Selection Criteria

A proposed project must earn points in both of the primary selection criteria (low income targeting and low income use period) to be eligible for credits in Colorado.

2. Secondary Selection Criteria

Proposals earning points under both primary selection criteria will also be evaluated based on the secondary selection criteria, which relate to area housing needs, project characteristics, project location, sponsor characteristics, tenant population characteristics, and public housing waiting lists.

Regardless of numerical ranking, the scoring does not operate to vest in an applicant or project any right or reservation or allocation of tax credits in any amount. CHFA will in all instances reserve and allocate tax credits consistent with its sound and reasonable judgment, prudent business practices, and the exercise of its discretion. Specifically, but without limiting the generality of the foregoing, CHFA reserves the right not to reserve or allocate tax credits to any applicant or project, regardless of that applicant's point ranking, if the CHFA Executive Director/CEO or delegated designee determines, in their sole and absolute discretion, that (i) a reservation or allocation for such applicant or project does not further the purpose and goals set forth in section 2 hereof, (ii) the applicant's proposed project is not financially feasible or viable, or (iii) there is not a substantial likelihood that the project will be able to meet the requirements for carryover or final allocation in a timely manner. For purposes of these determinations, the information that may be taken into account includes, but is not limited to comments of officials of local governmental jurisdictions, the market appropriateness of the project, market information from sources other than the submitted market study, and the sponsor's (including any principal's) prior experience and performance with Colorado's and other states' affordable housing programs and federal or other states' affordable housing programs. The prior performance considered would include, but is not limited to progress made with previous tax credit reservations, project compliance, and payment of monitoring fees.

## 5.A Primary Selection Criteria

### 1. Low Income Targeting

The Code mandates that to be eligible for Low Income Housing Tax Credits, a project must meet one of two minimum thresholds: either a minimum of 20 percent of the total project units must be rent restricted for and occupied by tenants with incomes of 50 percent or less of the AMI; or a minimum of 40 percent of the total project units must be rent restricted for and occupied by tenants with incomes of 60 percent or less of the AMI. This threshold election is made on the IRS Form 8609 and is irrevocable. The tenants of these rent-restricted units are to pay no more than 30 percent of the imputed income limitation applicable to the unit for both rent and utilities. The income and rent limits are adjusted for household size.

Low income targeting points given as follows [applicants must choose either threshold (a) or (b) below and may also choose (c)] if the requirements therein are met; projects located in all counties will be allowed to use the weight factor of 50 for selecting the 60 percent AMI threshold, a weight factor of 72.5 for selecting the 50 percent AMI threshold, and a weight factor of 92.5 for selecting the 40 percent AMI threshold. Because applications will be accepted throughout the calendar year, the current county median income at the time of the application will be used to determine eligibility for a weight factor adjustment. The median income amount will be updated when new AMI levels are published by HUD.

#### (a) Threshold 40 percent at 60 percent AMI

percent of AMI	number of rent-restricted units	percent of rent-restricted units a÷b	weight	points
60%	(a) _____	_____	X <u>50.0</u>	= _____
50%	(a) _____	_____	X <u>72.5</u>	= _____
40%	(a) _____	_____	X <u>92.5</u>	= _____

note: No more than 60 percent of total number of low income units can be designated as serving tenants at or below 40 percent of the AMI for purposes of determining the points in the 40 percent AMI category unless the project has project-based rental assistance or operating subsidies.

Additional points for counties  
under \$49,800 AMI = \_\_\_\_\_

**total of rent**  
restricted units (b) \_\_\_\_\_      **total points** = \_\_\_\_\_

(b) Threshold 20 percent at 50 percent of AMI

percent of AMI	number of rent-restricted units	percent of rent-restricted units a÷b	weight	points
50%	(a) _____	_____	X <u>72.5</u>	= _____
40%	(a) _____	_____	X <u>92.5</u>	= _____

note: No more than 60 percent of total number of the low income units can be designated as serving tenants at or below 40 percent AMI for purposes of determining the points in the 40 percent AMI category unless the project has project-based rental assistance or operating subsidies.

Additional points for counties under \$49,800 AMI = \_\_\_\_\_

**total of rent restricted units** (b) \_\_\_\_\_ **total points** = \_\_\_\_\_

(c) Targeting 30 percent AMI or below

Additional points will be awarded for projects that target extremely low income residents. Developers of housing for the homeless must have at least five years experience in the development and management of housing for the homeless. Projects providing housing for the homeless must provide a range of supportive services to the residents, at no cost to the residents, in order to receive the additional points. Supportive services might include, but are not limited to, case management, job training and/or placement, continuing education, transportation, childcare, and health care. These services must be provided by a service provider(s) with a minimum of three years' experience in the related field of service provision. Documentation must be provided. Projects claiming points in this section cannot also claim points under section 5.B.5.

extremely low income targeting (select one)	total points
<input type="checkbox"/> 10% of total units at or below 30% AMI 5 Points	_____
<input type="checkbox"/> 20% of total units at or below 30% AMI 10 Points	
<input type="checkbox"/> 30% of total units at or below 30% AMI 15 Points	

note: No more than 60 percent of total number of the low income units can be designated as serving tenants at or below 40 percent AMI for purposes of determining the points in the 40 percent AMI category unless the project has federally funded project-based rental assistance or operating subsidies.

## 2. Extended Low Income Use

The Code requires that the low income occupancy and rent restrictions be maintained during the initial compliance period of 15 years [Section 42(i)(1)]. In addition, the occupancy restrictions must be maintained for an extended use period of an additional 15 years [Section 42(h)(6)(D)] subject to termination by foreclosure or the qualified contract process [Section 42(h)(6)(F)]. The Code also requires that state allocating agencies give priority to projects with the longest low income use period. Therefore, CHFA requires a minimum waiver of five (5) years of the rights to termination using the qualified contract process to be considered for evaluation.

CHFA will award points for projects that receive federal tax credits which waive any rights to terminate the extended use period under Section 42(h)(6)(E)(i)(II) of the Code in the following increments:

- 15 Years of Compliance + 5 Years of Waiver – 10 points
- 15 Years of Compliance + 10 Years of Waiver – 20 points
- 15 Years of Compliance + 15 Years of Waiver – 30 points
- 15 Years of Compliance + 20 Years of Waiver – 34 points
- 15 Years of Compliance + 25 Years of Waiver – 38 points

## Homeownership Options

Projects wishing to convert to homeownership at the end of the 15-year compliance period may do so under the provisions of the Code. CHFA will accept no more than two applications per calendar year that intend to convert to homeownership. Such projects are limited to a maximum of 34 points under the scoring for this section. As these projects will be rental housing for a minimum of 15 years, they will be underwritten as a rental project and are subject to the same underwriting criteria in section 4 of this Plan.

The following conditions generally apply:

- The units must be single family detached or townhouse;
- Intention to convert must be expressed in writing at the time of application;
- Applicant must submit a comprehensive plan that includes, but is not limited to provisions for repair or replacement of heating system, water heater, and roof prior to sale; limitation on equity upon subsequent sales; homeownership classes for potential homebuyers; and requirements for extent of stay in rental unit in order to be eligible for purchase;
- Purchaser must occupy unit as primary residence;
- Units must be initially marketed to existing rental residents, including those that, at the time of sale, exceed 60 percent AMI. Remaining units not sold to existing renter households must be sold to households earning 80 percent or less of AMI; and
- Low income units that are not sold to their residents must remain rental units, subject to low income and rent restrictions for the term of the LURA.

For the conversion of existing projects to affordable homeownership, see Appendix D, CHFA Policy Regarding the Release of the LURA.

### Community Revitalization Plan

CHFA will award one point for projects located in a qualified census tract that contribute to a Community Revitalization Plan and through their formation, are an important part of a broader or comprehensive program of neighborhood improvement, and which have the capability of fundamentally changing the character of a neighborhood.

The sponsor must show in measurable terms how the community will be impacted. This should include local municipal support articulated in a community plan or in the form of significant funding commitments from the local unit of government, or evidence of substantial major investment in the area that is consistent with an existing comprehensive community plan for improvement at the proposed site. These funding commitments or major investments should not be received solely from the development of Tax Credit properties. Generally, the overall development plan should include municipal support, private investment, and/or private commitments to the redevelopment area.

## 5.B Secondary Selection Criteria

### 1. Housing Need Characteristics

Points may be earned under this category if the area where the proposed project is located is experiencing housing problems. Based on HUD's 1991 Comprehensive Housing Affordability Strategy (CHAS) regulations, households with housing problems include those that (i) occupy units with significant physical defects; (ii) are overcrowded; and/or (iii) have a cost burden of greater than 30 percent of annual income for gross housing costs, as determined by 1990 U.S. Census Data.

The C-1 table in the application is a listing, by county or metropolitan area, of the percentage of renter households with incomes below 51 percent AMI experiencing housing problems. The C-2 table in the application is a listing, by county or metropolitan area, of the number of renter households experiencing housing problems. Sponsors should review these exhibits, and identify the location of the proposed project (a city or, if the city is not listed, the county), to determine the appropriate number of points for that area.

Sponsors may submit additional data from local, state, and area Council of Governments (COGS), a Community Housing Development Organization (CHDO) or credible independent study for CHFA's consideration. The data must be quantitative and specifically address the above-identified issues or, if the project will house special needs tenants, the data must address these needs.

### 2. Project Location

Five points may be earned for proposed projects to be located in a community that has an identified community housing priority (e.g., supports a local, regional, or state plan; a neighborhood plan or some other community-sponsored need assessment; master plan; etc.) or to be located at an existing or planned Transit Oriented Design (TOD) site\*. Applicant must provide evidence, clearly demonstrating the project fits into the community's need.

\* A TOD site is defined as that which is within a quarter mile of an existing fixed rail station or one that is currently under construction.

### 3. Project Characteristics

Points may be earned for the following:

- a. (10 points) Project that provides housing for mixed income projects (i.e., that have no more than 80 percent tax credit-eligible units), including projects financed with private activity bonds. CHFA requires that subject to the Code's "available unit rule" requirements, low income set-aside units be distributed proportionately throughout the bedroom/bath mix and type. Both market rate and low income units must have the same design regarding unit amenities and square footage. (See section 3.A.12.)
- b. (Five points) Projects of 50 or fewer units
- c. (Five points) Rehabilitation of blighted buildings or locally or federally designated historic structures. Blighted buildings are buildings that are in severe disrepair, including, but not limited to boarded up, abandoned, or uninhabitable buildings, all of which have serious building code violations. Rehabilitation expenditures must be at least \$7,600 in hard costs per unit to be eligible for rehabilitation credits. Substantial rehabilitation projects that are changing the building's use to residential but do not fit the above description of a blighted building do not qualify for points under this category.
- d. (15 points) Preservation projects. Defined as existing tax credit projects that are eligible for acquisition/rehabilitation credits that are retaining their current income targeting; projects eligible for acquisition/rehabilitation credits that have federally subsidized rental assistance (HUD Section 8, Rural Development Section 515, etc.).

#### 4. Applicant Characteristics

Points may be earned for the following:

(Five points) Applicant is a Colorado-based 501(c)3 or 501(c)4 tax exempt organization, having an express purpose of fostering low income housing, or a Colorado public housing authority; is the sole general partner (either itself or through its or a related subsidiary); and will from the time of application materially participate\* in the development and operation of the project throughout the compliance period. A Colorado-based tax exempt organization is defined as an entity that has a base of operations in Colorado, including offices and a full time staff whose responsibilities include the project of housing in Colorado. Entities that are merely registered with the Colorado Secretary of State as a nonprofit, but whose staff works and lives in another state, do not meet the definition of a Colorado-based tax exempt organization. Projects receiving points under this category will be considered as part of the nonprofit set-aside under section 3.F. Applicants must provide the Nonprofit Questionnaire, Articles of Incorporation, By-Laws, IRS Determination letter, Certificate of Good Standing from the Colorado Secretary of State, and the list of the Board of Directors with dates of appointment and other organizational affiliation.

\* Materially participate is defined in Section 469(h) of the Code as "involved in the operation of the activity on a basis which is regular, continuous, and substantial".

#### 5. Tenant Populations with Special Housing Needs

Eight points may be earned for the set-aside of at least 33 percent of the units for special needs tenant populations listed below. Applicant must provide evidence of a client source (e.g., letters from referring agencies, marketing plans, etc.). A sample agreement is included in the Scoring worksheet in the application. This agreement must be typed on the entity's letterhead, must be signed and dated by both parties, and a copy must be included with the application in order to receive points. Documentation must be provided that demonstrates previous experience for the entities that will be providing services and managing the property. These units must be held available and rented only to these populations. (The minimum set-aside of 33 percent may be waived if any state regulations restrict the number of special needs units in a project. Waivers will be considered on a case-by-case basis and only with documentation of state-imposed restrictions.) Projects claiming points in this section cannot also claim points under section 5.A.1.(c).

### **Supportive Housing for Nonelderly Special Needs Tenants**

Eligible individual or family (under Section 42 of the Code) who (a) lacks a fixed, regular, and adequate nighttime residence; and (b) has a primary nighttime residence that is: (i) a supervised publicly or privately operated shelter designed to provide temporary living accommodations (including welfare hotels, congregate shelters, and transitional housing); (ii) an institution that provides a temporary residence for individuals intended to be institutionalized; or (iii) a public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings. The term "Homeless Individual" does not include any individual imprisoned or otherwise detained under an act of the Congress or a state law.

The project must provide services, such as job counseling, transportation, education, etc., to the homeless clients in order to receive points under this section.

### **Homeless**

Housing facilities serving persons with chronic, sometimes severe, disabilities (e.g., developmental, mental illness, AIDS, physical handicap). The focus is on providing a stable, long term living environment, access to appropriate services, and in many cases, meals and assistance with tasks of daily living.

#### **6. Subsidized Housing Waiting List**

Two points may be earned by applicants who enter into a written agreement with the local public housing representative to give priority to households on waiting lists for subsidized or public housing. The information required in the written agreement is included in the Scoring worksheet, Exhibit F, in the application.



## 6.A Preliminary Reservation Fees

### 1. Application Fee

An application fee of \$3,000 is due when the Preliminary Application is submitted. The fee is nonrefundable and must be submitted with the application at the time of submittal. The \$3,000 fee is required for all preliminary applications including resubmittals of applications in subsequent rounds.

### 2. Reservation Fee

After a project has received a preliminary reservation, a reservation fee of 3 percent of the actual federal tax credit amount for which the project is eligible must be paid prior to the issuance of the Reservation Letter. The applicant will have 10 days in which to pay the reservation fee and maintain the tax credit reservation. This fee is nonrefundable and will not be adjusted if the final tax credit amount is reduced or the tax credits are returned or unused.

### 3. Reservation Hold Fee

CHFA may also charge an additional 1 percent fee to hold a reservation for a specific period which otherwise is subject to revocation as provided in section 3.A.11.

## 6.B Carryover Allocation Fees

Projects requesting carryover allocations of federal credits will be charged 2 percent of the federal tax credit carryover amount for which the project is eligible. This is due at the time the carryover application is submitted. This fee is nonrefundable and will not be adjusted if the final tax credit amount is reduced, or the tax credits are returned or unused.

## 6.C

### Final Allocation Fees

1. Final Allocation Fee

A final allocation fee of 2 percent of the federal tax credit amount for which the project is eligible is payable at the time of application for a final allocation of tax credits. If a project has paid a 2 percent fee at the time of carryover, the final allocation fee will be waived.

2. Recording Charge

A recording charge equal to \$5.00 per page plus \$6.00 per document will be due when the executed LURA is returned to CHFA for recording.

## 6.D

### Additional Credit Request Fee

1. An additional credit request fee will be charged in the amount of \$1,000 for requests of additional credit above and beyond the initial reservation credit amount. This fee however, does not apply to request for de minimus increases due to changes in the APR or requests for additional credit for projects financed with tax exempt bonds.

## 6.E

### Fees for Projects Financed with Tax Exempt Bonds

1. An application fee of 1 percent of the annual tax credit amount requested, or \$3,000, whichever is greater, is due at the time an application is submitted for review.
2. An additional 2 percent of the annual tax credit amount determined (minimum \$1,500) is due at the time an initial determination letter is issued. The applicant will have 10 days in which to pay the initial determination fee in order to maintain the initial determination. This fee is non-refundable and will not be adjusted if the final tax credit amount is reduced or the tax credits are returned or unused.

3. A final allocation fee of 2.5 percent of the annual tax credit amount allocated (minimum \$2,500.00) is payable at the time of application for a final allocation of tax credits.
4. Recording charge – A recording charge equal to \$5.00 per page plus \$6.00 per document will be due when the executed LURA is returned to CHFA for recording.

## 6.F Compliance Monitoring Fee

A compliance-monitoring fee will be assessed to cover the costs of the compliance-monitoring program. This fee will be assessed to cover the initial 15 years of the compliance period in a lump sum and is due at the time of the placed-in-service application or final application, whichever occurs first. This fee (which will be determined in the year the project receives a reservation of credit) will be based on the number of low income units, any designated manager and/or maintenance units, the compliance time period, and then present valued. The payment of this fee will be required prior to the issuance of the 8609s. The amount of the compliance-monitoring fee for the remainder of the contractual extended use period will be determined in year 15.

## 6.G Qualified Contract Processing Fees

A non-refundable qualified contract processing fee of \$2,500 will be assessed for all qualified contract requests as described in section 10. In addition, all necessary third-party costs related to processing these requests will be passed on to the owners. CHFA may require an owner to fund a deposit of up to \$30,000 to cover such costs.



## section 7

### Projects Financed with Tax Exempt Bonds

Applications for projects financed with tax exempt private activity bonds will be accepted throughout the year, except for the month of December.

Projects financed with tax exempt bonds are not eligible for the CHFA basis boost described in section 3.H. Additionally, the following sections of this Plan do not apply to projects financed with tax exempt bonds: sections 3.A-G, 3.J, 3.O. Unless otherwise stated, all other provisions of this Plan apply to projects financed with tax exempt bonds.

Under Section 42(h)(4) of the Code, projects financed with tax exempt bonds may be entitled to 30 percent present value tax credits outside the federal housing credit ceiling. The bonds must have received an allocation of private activity bond cap pursuant to Section 146 of the Code, and principal payments on the bonds must be applied within a reasonable period to redeem the bonds. Credits are allowed for that portion of a project's eligible basis that is financed with the tax exempt bonds. If 50 percent or more of a project's aggregate basis (land and building) is so financed, the project is entitled to credits for up to the full amount of qualified basis.

Projects financed with tax exempt bonds are required by the Code to apply through the state credit agency for an allocation and for a determination that the project satisfies the requirements of this Plan. CHFA may accept the underwriting criteria of the permanent lender and/or the provider of credit enhancement if a summary of the financial analysis performed by the lender that addresses the criteria of section 4 of this Plan is provided to CHFA. Otherwise, the criteria in section 4 of this Plan will be applied. CHFA has established 60 points as the minimum number of points which a tax exempt bond-financed project will have to score under the Scoring worksheet in the application to be considered for tax credits in Colorado. Sponsors may submit an application at any time, except for the month of December, in accordance with the following process.

The applicant must notify CHFA in writing that an application has been submitted to the issuer of bonds. The applicant must also notify CHFA if the project is seeking mortgage insurance through the Federal Housing Administration (FHA), or credit enhancement from another source.

## 7.A Threshold Criteria for Noncompetitive (4 percent) Tax Credit Applications

### **Threshold #1 Minimum Score**

All applications must score a minimum of 60 points under “Scoring Criteria” in order to be considered for an initial determination. All applicants must agree to a minimum five-year waiver of the right to terminate the extended use period. The minimum score threshold must be met at the time of application.

### **Threshold #2 Site Control**

The applicant must demonstrate full control of all land and buildings included in the project through a fully executed agreement such as an option agreement, a purchase or sale agreement, or other similar instruments. Warranty deeds should be recorded. Site control must be demonstrated at the time of application. Include two hard copies under the Site Control tab.

### **Threshold #3 Market Study**

A CHFA-approved analyst who is completely unaffiliated with the developer and/or owner of the proposed project and has no financial interests in the proposed project must prepare the market study. Prior to commencing a market study for the proposed project, the market analyst must notify CHFA (Kim Dillinger at [kdillinger@chfainfo.com](mailto:kdillinger@chfainfo.com) or 303.297.7361) of the intent to undertake a market study and must follow the format and content requirements contained in the Market Study Guide (Appendix A). Once the analyst has contacted Kim, they must then download the “Comparison Chart” and a “Unit and Project Amenities” chart located on CHFA’s website at [www.chfainfo.com/multifam/multifamily\\_developers/LIHTC%20allocation/market\\_study.icm](http://www.chfainfo.com/multifam/multifamily_developers/LIHTC%20allocation/market_study.icm). These charts are in Word format. These charts are to be completed separately from the market study (this does not eliminate any market study guide requirements) and submitted back via the Tax Credit portal, [LIHTCApps@chfainfo.com](mailto:LIHTCApps@chfainfo.com), at the time of application submission.

Failure to comply with market study requirements will result in a denial of the study and the application. Submit one hard copy and one PDF version via email.

The market study must match the submitted application regarding income targeting, unit mix, unit sizes, and rents. If the market study and application do not match, the application will not be processed and will be returned to the applicant.

**Threshold #4**  
**Outstanding Noncompliance**

Applications will not be accepted if there are any outstanding IRS forms; 8823s, Report of Noncompliance; or any noncompliance with the provisions of the Land Use Restriction Agreement (LURA) on any projects which are owned or managed by the applicant or the applicant's management agent. Whether affiliated or unaffiliated, consideration will be given to circumstances in which CHFA is required to issue an 8823 for occurrences outside the control of management, such as accidents or acts of nature.

**Threshold #5**  
**Readiness-to-Proceed**

- Evidence of current zoning status (new construction); If the site is not properly zoned, provide evidence as to when the required change will be approved. If the site is zoned properly, provide evidence as to when other approvals, such as site plan approval, will be in place.
- Phase I and/or Phase II Environmental; send one PDF version of each to Tax Credit portal, LIHTCApps@chfainfo.com
- Schematic Drawings for New Construction; send one PDF version to Tax Credit portal, LIHTCApps@chfainfo.com
- Cost Estimate from Third-Party Cost Estimator or General Contractor -New Construction; send one PDF version of each to Tax Credit portal, LIHTCApps@chfainfo.com
- Capital Needs Assessment (Acquisition/Rehabilitation) from a Third-Party Cost Estimator or General Contractor; send one PDF version to Tax Credit portal, LIHTCApps@chfainfo.com

**Threshold #6  
Development Team Experience**

The developer must provide evidence that the developer has multifamily rental housing development experience and that the management company, the consultant, if any, the legal firm, and the accounting firm engaged by the applicant have experience with low income housing tax credit projects. Resumes must be provided for the entire project team. In addition, the management company must have experience related to population-specific projects (i.e., independent senior, homeless, etc.). If the developer has no LIHTC experience, a consultant or fee developer with LIHTC experience is highly recommended.

**Threshold #7  
Energy Efficiency Requirements**

All applicants must agree to meet Enterprise Green Communities requirements in order to apply for credits. Applicants must complete a Colorado Green Communities Certification (under the Energy Efficiency Requirement tab of the application), certifying that the project will meet or exceed the Enterprise Green Communities requirements or the equivalent of those requirements for new construction or rehabilitation as applicable. Attachments should be submitted along with the application as needed to describe the energy efficiency items that are not covered by the Colorado Green Communities Certification. Additional information can be found under section 8 of the Plan and in the application.

**Threshold #8  
2010 Excel Spreadsheet Application**

For preliminary application submittals in 2012, the application package must include the following documents using the preliminary application tabs provided (will be mailed after letter of intent is received) and where indicated, electronic documents must be submitted. Electronic documents may be submitted on disc or via the Tax Credit portal, LIHTCApps@chfainfo.com:

	document	hard copy	electronic
1	Electronic application		Excel
2	Application fee	X	
3	Cost estimate from a third party general contractor, cost estimator, or architect	X	
4	Letter of interest from lender for construction and permanent financing	X	
5	Letter of interest from syndicator/equity investor	X	
6	Evidence of contact with soft fund sources	X	
7	Utility allowances worksheet with amounts circled	X	
8	Evidence of property tax exemption, if applicable	X	
9	Supporting documents for scoring	X	
10	Narrative, must include description of the project as proposed, detailed type of construction, population being served, bedroom mix, location, amenities, services if provided, description of energy efficiencies, type of financing, local, state and federal subsidies, etc.		Word
11	Location maps		PDF
12	Schematic drawings, elevation, site plan, and floor plan		PDF
13	Timeline	X	
14	Phase I Environmental - the report must not be older than 12 months from the date of the application for tax credits. If the Phase I identifies any Recognizable Environmental Hazards (RECs) additional reports addressing the RECs should be submitted with the application including a Phase II Environmental report, no older than 12 months from the date of the application for tax credits, if the Phase I report recommends that a Phase II be conducted. (provide electronic version only – no hard copy required).		PDF

15	Zoning status documentation; must be from zoning department	X	
16	Site control documentation	X	PDF
17	Market study	X	PDF
18	For acquisition/rehabilitation projects provide the following:		
	An attorney's opinion that the ten year rule requirements are met. If the existing project is currently federally assisted, the applicant must provide evidence of the existing federal assistance to be exempt from the 10-year rule requirement	X	
	A third-party Capital Needs Assessment (see Appendix B for Capital Needs Assessment requirements)		PDF
	An appraisal with the land value calculated separately from the building value	X	
	For acquisition of un-restricted properties, a relocation plan for addressing the potential displacement of current residents. Such a plan must include a budget for providing moving and utility hook-up costs for all residents that wish to move or that are required to move. An owner certification must be provided that all residents have been informed of the availability of such funds.	X	
	Certification of the architect, who has designed the project, that the project has been designed to comply with the requirements of all applicable local, state or federal fair housing and other disability-related laws, however denominated. The certification must clearly state that the project will comply with the following laws: local building codes, Colorado Fair Housing Act, as amended, Colorado Standards for Residential Construction (C.R.S. Section 9-5-112), Federal Fair Housing Act, as amended, the Americans with Disabilities Act. The architect certification must also state that the project has been designed to meet or exceed the energy efficiency requirements in section 8 of the QAP. The owner is required to certify to the above in the case of an acquisition/rehabilitation project that does not employ an architect.	X	

19	Enterprise Green Communities Certificate	X	Excel
20	Bond Inducement Resolution	X	
The following documents are not required with the preliminary application; however, they are required prior to the issuance of the Initial Determination Letter			
21	Agreement for Section 42(m)(2)(D) Determination (not required for CHFA issued bonds)	X	
22	Issuer Certificate (CHFA will prepare when CHFA is the issuer)	X	
These documents are required when the bonds are sold:			
23	Election of APR - Original	X	
24	Designation of Gross Rent Floor	X	
25	Executed Partnership Agreement: This must be submitted when completed by all parties to the partnership agreement. Must list the terms of all funding sources, loans, equity pay-in, equity contributions, and the requirements of section 4.A, "Minimum Operating Reserve Requirements". The agreement must state the amount of the operating reserve and the amount must equal or exceed the operating reserve approved by CHFA and this provision must not be removed from the agreement without CHFA's approval.		PDF

## 7.A.1 Site Evaluation

After review of the Preliminary Application, CHFA staff will conduct a site visit to determine general site suitability. Sites will be evaluated on the following: proximity to schools, shopping, public transportation, medical services, parks/playgrounds; marketability; conformance with neighborhood character and land use patterns; site suitability regarding slope, noise (e.g., railroad tracks, freeways), environmental hazards, flood plain, or wetland issues.

## 7.A.2 Application Review

Upon submission by the applicant, and review by CHFA of the above information, CHFA staff will contact the applicant to discuss any issues or concerns with the information submitted or with the proposed site. In order for determination decisions to be made in as timely a manner as possible, the applicant will have 15 business days to address any concerns or issues. If the requested information is not received by the deadline, the application will not be processed any further.

## 7.A.3 Initial Determination

After review of the items above and any additional requested information, staff will present the proposed projects to the CHFA Tax Credit Committee (the Committee) who will recommend approval to the Executive Director/CEO or delegated designee for approval. Committee members will consist of the Chief Operating Officer, the Chief Financial Officer, the Director of Commercial Lending, the Director of Asset Management, the Director of Marketing and Strategic Development, the Manager of Multifamily Loan Production, the Manager of Multifamily Program Compliance and, as a nonvoting member, the General Counsel. Failure to pay the initial fee within 10 days of the initial determination issuance will result in the revocation of the initial determination.

Projects that receive approval from the CHFA Executive Director/CEO or delegated designee are given an initial determination of tax credits. The determination as to compliance with the Allocation Plan shall remain valid and effective through the end of the second year after the issuance of the determination letter. Because the Allocation Plan may be amended from time to time, if the project is not placed-in-service by that date, it will be necessary to redetermine compliance with the then-current Allocation Plan.

#### 7.A.4 Jurisdiction Notification

The Code requires that the state allocating agency notify the chief executive officer of the local jurisdiction where each proposed project is located. A notification will be sent to the affected jurisdiction immediately after an application is submitted and deemed complete. The jurisdiction will then be given an adequate opportunity to comment on the proposed project. CHFA will consider the comments and may contact the local jurisdiction for additional information. CHFA will also send a notice to the local housing authority, if applicable.

#### 7.A.5 Status Reporting

Projects receiving determinations may be required to provide reports, in a format prescribed by CHFA, outlining progress toward placement in service. Information requested will be project-specific and may include, but is not limited to, such items as zoning and other local project approvals, firm debt, equity and/or gap financing commitments, and construction progress towards project completion.

#### 7.A.6 Changes to Project

A determination of tax credits is based upon information provided in each project application. Until a project is placed-in-service, any material changes to the project, such as changes in the site, scope, costs, ownership, or design, as submitted in the application, will require written notification to, and approval by, CHFA. Changes in project characteristics, which were the basis, in whole or in part, of CHFA's decision to issue an initial determination of credits, including a determination as to threshold qualification, may result in a revocation of the determination.

## 7.A.7

### Equitable Distribution of Unit and Affordability Mix

For mixed income projects financed with private activity bonds, CHFA requires that subject to the Code's "available unit rule" requirements, low income set-aside units be distributed proportionately throughout each building, and to the extent possible, each floor of each building of the project and throughout the bedroom/bath mix and type. Both market rate and low income units must have the same design regarding unit amenities and square footage. Amenities include, but are not limited to, fireplaces, covered parking, in-unit washer/dryers, and mountain views.

For projects that are 100 percent low income CHFA requires that subject to the Code's "available unit rule" requirements, the units at different targeting levels (40 percent AMI, 50 percent AMI, etc.) be distributed proportionately throughout each building, throughout the bedroom/bath mix and type, and to the extent possible, throughout each floor or each building of the project. All targeting levels must have the same design regarding unit amenities and square footage. Amenities include, but are not limited to, fireplaces, covered parking, in-unit washer/dryers, and mountain views.

Regardless of the income mix of the property, Section 42 requires that charges for services other than housing will not be considered rent if the services are optional and practical alternatives exist. As an example, a project may offer a limited number of garages. The additional charge would not be considered in the maximum rent calculation if the garages were not included in basis and practical alternatives existed, in this case, free surface parking. CHFA interprets "practical alternatives" to mean that there would be at least one free surface space for each unit. Local codes may require more than one space. For projects that contain 100 percent structured parking, the number of spaces required would be that required by local code and the maximum rents for all low income units must include parking.

## 7.A.8

### Election of APR

The APR is established at either (i) the month in which the building is placed-in-service, or (ii) at the owner's election, the month in which the bonds are issued. If the latter is desired, the Election Statement (form issued by CHFA) must be signed by the owner, notarized and submitted to CHFA before the close of the fifth calendar day following the month in which the bonds are issued (see section 3.K).

## 7.B Placed-in-Service Application

A written notification of the place-in-service date must be provided to CHFA within fifteen (15) days of the actual place-in-service date. Regardless of the place-in-service date, a Placed-in-Service application, with the items below included, must be submitted no later than the first business day in November, without exception. This is needed so that CHFA is able to record the LURA prior to the end of the year in which the project places in service.

The Placed-in-Service application package includes:

	document	hard copy	electronic
1	Certificate(s) of Occupancy or Temporary Certificate(s) of Occupancy	X	
2	Photographs of the completed building(s), identified by address and Building Identification Number(s) (BIN)	X	
3	Form 8609 Certificate detailing placed-in-service date for every building, must match the TCOs, COs, or Certificate of Substantial Completion	X	
4	Legal description of property		Word
5	Partial Subordination to the LURA from every lien holder	X	
6	Following completed worksheets of the Final Application: Project Information, Project Financing, Applicant Info – Development Team, and Unit Mix and Rents	X	
7	For rehabilitation projects: evidence that the place-in-service requirements for rehabilitation have been met	X	

The remaining requirements for the final allocation must be received within six (6) months from the date of receipt of the Placed-in-Service application. Starting with the seventh month, a \$2,000 per month late fee may be assessed until the remaining requirements are received.

## 7.C

### Final Application Requirements for Noncompetitive (4 percent) Tax Credit Applications

In the year in which the project is placed-in-service, the owner must request a final allocation of credits no later than the end of the year. CHFA will provide an application package for final allocation requests. Reasonable year-end deadlines for final allocation requests will be established in order to permit timely review and preparation of documents.

IRS Form 8609 will be issued no sooner than 30 days after CHFA has received a final application, with all of the requirements listed below.

For final application submittals in 2012, the application package must include the following:

	document	hard copy	electronic
1	Electronic application with any revisions	X	
2	Application fee	X	
3	Signed project budget worksheet	X	
4	Signed project financing worksheet	X	
5	Partial Subordination from all lien holder(s) with original signature(s)	X	
6	Utility allowance, updated with amounts circled	X	
7	Agreement with local public housing authority that the project is accepting tenants from their waiting list	X	
8	CPA opinion by an independent tax accountant, including the correct tax identification number and legal ownership name	X	
9	Attorney opinion by independent tax attorney, including the correct tax identification number and legal ownership name	X	
10	Executed Partnership Agreement: This must be submitted when completed by all parties to the partnership agreement. The agreement must list the terms of all funding sources, loans, equity pay-in, equity contributions, and the requirements of section 4.A, "Minimum Operating Reserve Requirements". The agreement must state the amount of the operating reserve and the amount must equal or exceed the operating reserve approved by CHFA.		PDF
11	Form C-1, total square footage must match the unit mix and rents and final building profile in the Excel application		Excel

12	Certificate of Occupancy and/or Temporary Certificate of Occupancy for every building. Certificate of Substantial Completion for rehabilitation projects for acquisition credits, proof of the date the project was placed in service for acquisition purposes	X	
13	Building photos identified by address and BIN	X	
14	Form 8609 Certificate detailing placed-in-service date for every building, must match the TCO's, CO's or Certificate of Substantial Completion	X	
15	Compliance training certificate or notification of training at CHFA	X	
16	Compliance monitoring fee	X	
17	Enterprise Green Communities Certificate	X	

## section 8

# Energy Efficiency Requirements

### Enterprise Green Communities Criteria

In order to be eligible for LIHTC in Colorado, a project must comply with all of the mandatory provisions of the Enterprise Green Communities criteria. In addition, new construction projects must earn a minimum of 35 points from the Optional Criteria, while moderate rehabilitation projects must earn a minimum of 30 points from the Optional Criteria. CHFA may waive compliance with specific criteria if the applicant can demonstrate that the criteria creates a substantial hardship or is inadvisable for a specific project, and that an alternative proposal will meet the intent of the criteria.

Green projects must meet a minimum number of Green Communities criteria from each of the following categories:

Green projects must meet a minimum number of Green Communities criteria that include:

- **Integrated Design Process**  
Sustainable building strategies are considered from the earliest stages of project planning, with an experienced green building design specialist participating at every stage;
- **Location and Neighborhood Fabric**  
Locations that conserve resources, take advantage of existing infrastructure and civic amenities, are close to transportation, and contribute to the fabric of healthy, livable communities;
- **Site Improvements**  
Chosen to conserve natural resources, improve operational efficiencies, enhance health, and promote nonautomotive means of transit;
- **Water Conservation**  
Utilization of water-efficient appliances and fixtures, low water landscaping and irrigation, and gray water (water recaptured and recycled from showers, sinks, and clothes washers) when possible;
- **Energy Efficiency**  
A guiding principle in all stages of development, including efficient construction methods, design, and insulation of units for efficient heating and cooling; use of ENERGY STAR™ appliances; and efficient interior and exterior lighting;
- **Materials Beneficial to the Environment**  
Including reuse and recycling on the construction site to decrease waste, and use of building products and techniques that contribute to more durable, healthy, and resource-efficient buildings;

- **Healthy Living Environment**  
Including the use of safe biodegradable materials such as Low/No VOC paints and primers, adhesives, and sealants; use of materials and construction techniques to reduce mold and ensure adequate ventilation; garage isolation; and
- **Operations and Maintenance**  
Training for employees and residents to explain and assist in the preservation of the property's green character.

## CHFA Green Communities Program

"Self-Certification" by a project's sponsor will be required, which certifies that a project complies with all of the mandatory provisions of the Enterprise Green Communities criteria, including that new construction projects have earned a minimum of 35 points from the Optional Criteria, while rehabilitation projects have earned a minimum of 30 points from the Optional Criteria.

### **Self-Certification is a three-step process:**

#### Step 1 Preliminary Application

Developers download the "Green Communities Certification Excel Workbook" from CHFA's website:

[www.chfainfo.com/multifam/multifamily\\_developers/LIHTC%20allocation/Green\\_Info.icm](http://www.chfainfo.com/multifam/multifamily_developers/LIHTC%20allocation/Green_Info.icm)

Developer then completes the worksheet in the "Green Communities Intended Methods" Tab. Please note that it is not necessary to complete any of the other worksheets in the other tabs in this Workbook to meet CHFA's requirements. Developer then forwards the Workbook containing the completed Intended Methods Worksheet to CHFA with the preliminary application.

In addition, Developer executes the Self-Certification document ("Certification-Preliminary LIHTC Application" found in the Tab labeled Green Communities in the 2012 LIHTC Application) and forwards the original executed document to CHFA with the preliminary application.

## Step 2 Carryover Application

Developer conducts one or more integrative design meetings (Charettes) as appropriate for the project and submits a Green Development Plan or equivalent documentation that outlines the integrative design approach to be used for the development that demonstrates involvement of the entire project team throughout the design and development process. Please note that this does not preclude a Developer from completing Charettes for a project earlier, particularly if the applicant chooses to seek the Enterprise Green Communities Designation.

For more detailed instructions for projects receiving a Reservation in the 2011 Second Competitive Round and thereafter, please refer to Section 1.1a of the 2011 Enterprise Green Communities Criteria and Compliance Guide. For projects receiving a Reservation in 2010 and in the 2011 First Competitive Round, refer to Section 1-1 of the Green Communities Criteria and Compliance Guide 2008, both of which can be downloaded from the CHFA website:

[www.chfainfo.com/multifam/multifamily\\_developers/LIHTC%20allocation/Green\\_Info.icm](http://www.chfainfo.com/multifam/multifamily_developers/LIHTC%20allocation/Green_Info.icm)

Developer then submits the completed Green Development Plan with the Carryover Application.

## Step 3 Final Application

Developer executes the Self-Certification document (“Certification-Final LIHTC Application”, found in the “Tab labeled” Green Communities in the 2012 LIHTC Application) and forwards the original executed document to CHFA with the Final Application.

Additional instructions can be found in the Green Communities Tab of the 2012 LIHTC Application.

### Enterprise Green Communities Designation

CHFA does not require that a project attain “Enterprise Green Communities Designation”. If a developer, however, chooses to seek this designation, Enterprise offers an online process currently at no cost to affordable housing developers, which is found at the web link:

[www.greencommunitiesonline.org/tools/criteria/](http://www.greencommunitiesonline.org/tools/criteria/)

To pursue this designation from Enterprise, a developer would apply on line during the design phase before construction starts.

## Energy Efficiency Requirements

- CHFA may waive compliance with specific criteria if the applicant can demonstrate that the criteria creates a substantial hardship or is inadvisable for a specific project, and that an alternative proposal will meet the intent of the criteria.
- Developer needing a Waiver then will print the Waiver Request found below and return the original completed Waiver to CHFA with the Preliminary Application.
- CHFA will review these documents and will provide a clarification letter if clarification is needed.

## Instructions for Carryover Application

- Developer downloads one of the following appropriate documents from the CHFA website:
- [www.chfainfo.com/multifam/multifamily\\_developers/LIHTC%20allocation/Green\\_Info.icm](http://www.chfainfo.com/multifam/multifamily_developers/LIHTC%20allocation/Green_Info.icm)
- For projects subject to the 2008 Green Communities Criteria (those receiving a reservation in 2010 or in the First Round of 2011):
- Download the “Green Communities Criteria and Compliance Guide 2008”.
- For projects subject to the 2011 Green Communities Criteria (those receiving a reservation in the Second Round of 2011 and in 2012):
- Download the “Green Communities Criteria and Compliance Guide 2011”.

Developer then follows the instructions in the appropriate Guides, “Integrated Design Section”. The purpose is to provide guidance to the Developer, who then is required to conduct one or more integrative design meetings (Charrettes) as appropriate for the project and to submit a Green Development Plan or equivalent documentation that outlines the integrative design approach to be used for the development and shows the involvement of the entire project team throughout the design and development process.

(For more detailed instructions for projects receiving a Reservation in the 2011 Second Competitive Round and thereafter, refer to Section 1.1a of the 2011 Enterprise Green Communities Criteria and Compliance Guide. For projects receiving a Reservation in 2010 and in the 2011 First Competitive Round, refer to Section 1-1 of the Green Communities Criteria and Compliance Guide 2008).

## Instructions for Final Application

- Developer prints the Certification – Final LIHTC Application executes the document, including the City of Denver and/or State of Colorado Division of Housing section if applicable, per the instructions contained and returns the original signed Certification to CHFA with the Final Application.

## Partnership

CHFA, the City of Denver Office of Economic Development, and the State of Colorado Division of Housing have partnered in creating a unified green building standard requirement. The partnership will require affordable housing developers seeking LIHTC or other funding from the City of Denver or the Division of Housing to meet the requirements of the Enterprise Green Communities criteria. The documentation required for meeting the criteria has also been unified. One set of documents can be used for all three funding sources.

## Compliance

Colorado Green Communities is a self-certifying program. Documentation submitted in support of meeting specific criteria must include a statement by a licensed architect or building engineer certifying that all criteria has been met, unless a waiver was approved by CHFA, and incorporated into the project. CHFA may waive compliance with specific criteria if the applicant can demonstrate that the criteria creates a substantial hardship or is inadvisable for a specific project, and that an alternative proposal will meet the intent of the criteria.

## Colorado Green Communities Criteria Certification Form

The Enterprise Green Communities Criteria and Certification form can be found on the CHFA housing tax credits page at the following link:

[www.chfainfo.com/multifam/multifamily\\_developers/LIHTC%20allocation/LIHTC%20allocation.icm](http://www.chfainfo.com/multifam/multifamily_developers/LIHTC%20allocation/LIHTC%20allocation.icm).

## Additional Resources

### **ENERGY STAR Website**

[www.energystar.gov/index.cfm?fuseaction=find\\_a\\_product](http://www.energystar.gov/index.cfm?fuseaction=find_a_product).

### **Enterprise Grants**

### **Green Communities General Information and Funding Sources**

[www.greencommunitiesonline.org](http://www.greencommunitiesonline.org)

### **Green Charrette Grant**

Up to \$5,000.00 to assist housing developers integrate green building systems into their projects and engage in a serious discussion of green design possibilities.

### **For more information use the website link below**

[www.greencommunitiesonline.org/tools/funding/grants/charrette.asp](http://www.greencommunitiesonline.org/tools/funding/grants/charrette.asp)

## section 9

### Use of a Home or NAHASDA Funds

The federal statute governing the HUD Investment Partnership Program (HOME) permits participating jurisdictions to use HOME funds to assist in the development of eligible housing. The Native American Housing Assistance and Self Determination Act of 1996 (NAHASDA) also provides funds to assist in the development of eligible affordable housing.

The use of a federal HOME grant or NAHASDA funds in the form of a bona fide loan that is repayable and has a certain repayment date are no longer considered a “federal subsidy” that would reduce basis or the APR, even if the interest rate is below the Applicable Federal Rate. In addition, the prohibition on the 30 percent basis boost for HOME-assisted properties in a qualified census tract (QCT) or Difficult Development Area (DDA) has been eliminated.



## section 10

### Qualified Contract Process

Section 42(h)(6)(E)(II) of the Code allows the extended use period for any building that is a part of a qualified low income housing project to terminate if the housing credit agency (CHFA) is unable to present a qualified contract ("QC") for the acquisition of the low income portion of the building by any person who will continue to operate such portion as a qualified low income building. CHFA has a one-year period ("1YP") to respond to a formal request ("Request") from the owner and submission by the owner of all requirements outlined below. The process for the owner to make a formal request to CHFA for a qualified contract is detailed below. Please note that this process is available to very few projects in Colorado as most owners waived their rights to pursue this option under their Land Use Restriction Agreement.

- a. CHFA will require advance notice, in the form of a Letter of Intent, before an owner may submit a Request to produce a QC under the Code Section 42(h)(6)(E)(i)(II). This notice will not bind owners to submit a Request and does not start the 1YP. The 1YP will not begin until CHFA determines that the owner has met all of the submission requirements.
- b. CHFA will assess owners a nonrefundable fee of \$2,500 for processing Requests. All necessary third-party costs will be passed on to owners. CHFA may require an owner to fund a deposit of up to \$30,000 to cover such costs.
- c. In determining when a project is eligible, CHFA will only consider the latest date for projects with multiple credit periods or allocations. Owners may not submit a Request until after the fourteenth year of:
  - a) the last credit period for projects with buildings that were placed-in-service different years, or
  - b) the most recent of multiple allocations to the same project.

For example, if five buildings in the project began their credit periods in 1990 and one started in 1991, the fifteenth year for the purposes of a Request would be 2006. If the project received its first allocation of \$500,000 in 1990 and a subsequent award of \$25,000 in 1992, the fifteenth year for the purposes of a Request would be 2007.
- d. CHFA will not consider a Request until the owner secures a complete, unconditional waiver of all purchase options, including a nonprofit general partner's right of first refusal.
- e. Projects that do not meet the basic physical compliance standards that are (or would be) necessary to claim credits are ineligible for consideration. Owners must correct all such violations prior to submitting a Request.

- f. Once an owner has submitted a request and CHFA has produced a qualified contract, no further requests are permitted.
  
- g. CHFA will not consider a Request until after receipt of all supporting documentation. Owners will need to submit the following items along with the Request:
  - 1. First year 8609s
  - 2. Annual partnership tax returns for all years of operation since the start of the credit period (“all years”)
  - 3. Annual project financial statements for all years
  - 4. Loan documents for all secured debt during the credit period
  - 5. Partnership agreement (original, current, and all interim amendments)
  - 6. Physical needs assessment for the entire project
  - 7. Appraisal for the entire project
  - 8. Market study for the entire project
  - 9. Title report,
  - 10. Phase I Environmental (Phase II if necessary)
  - 11. A completed Calculation of Qualified Contract Price including Worksheets A-E (in Appendix C of the Plan)
  - 12. A thorough narrative description of the property, including all project and unit amenities
  - 13. A detailed set of photographs of the project, including the interior and exterior
  - 14. Audited financials of the most recent 12 months of operating expenses
  - 15. A current rent roll for the entire project
  - 16. Copies of any leases, if any portion of the land or improvements are leased
  - 17. A report prepared by a third-party certified public accountant confirming the calculation of the qualified contract price

- h. Once CHFA presents a contract for the QC price, the project is bound to the Extended Use Agreement. There is no requirement in the Code that the prospective buyer must actually purchase the property. Whether or not the seller actually executes the contract and closes the transaction is a separate, legally unrelated question. Under the Code Section 42(h)(6)(E)(i)(II), CHFA's only obligation is to "present" a contract for the QC price. Once this occurs the owner may not terminate the extended use period.
  
- i. CHFA will create a standard form contract that includes basic real estate transaction terms (i.e., costs, due diligence period). This form simply establishes what the buyer needs to accept in order for CHFA to meet its statutory obligation of presenting a contract. Once a buyer agrees to the standard terms and QC price, the owner cannot terminate the extended use period. The parties would be free to negotiate different terms prior to closing.
  
- j. Every case of doubt or interpretation in determining value will be resolved in favor of a lower QC price. Any time spent by the owner questioning or challenging CHFA's calculation of the QC price or of CHFA questioning or challenging documentation presented by the owner will not count against the 1YP.



## section 11

### Other Conditions

In making reservations or allocations, CHFA relies on information provided by or on behalf of the sponsor. CHFA's review of documents submitted in connection with the tax credit allocation process is for its own purposes. In making reservations or allocations, CHFA makes no representations to the sponsor or anyone else as to compliance of the project with the Code, Treasury regulations, or any other laws or regulations governing federal tax credits or with the state housing tax credits.

No member, director, officer, agent, or employee of CHFA shall be personally liable on account of any matters arising out of, or in relation to, the allocation of Low Income Housing Tax Credits.

**Misrepresentations of any kind will be grounds for denial or loss of the tax credits and may affect future participation in the tax credit program in Colorado.**



## section 12

### Section 42 Compliance Monitoring Process

The State Tax Credit Act sunset on December 31, 2002, and state tax credits are no longer available for applications submitted after that date. Any references to state tax credits in the QAP apply only to projects that received state credits in 2001 and 2002.

Section 42(m)(1)(B)(iii) of the Code mandates that state housing credit agencies monitor all placed-in-service tax credit projects for compliance with the provisions of Section 42. The Code also mandates that the IRS be notified by the state housing credit agencies of any instance of noncompliance. The State Tax Credit Act also requires that CHFA monitor compliance with the Act. CHFA will also monitor for compliance with LURA provisions that contain any additional owner commitments made to secure points in the project selection process, e.g., additional low income units or an extended low income use period. CHFA has assembled and will make available to project owners a Compliance Manual (available on the CHFA website) explaining the LIHTC monitoring process in detail. All owner representatives and their management agent representatives will be required to successfully complete a compliance training session conducted or approved by CHFA prior to the release of IRS Form 8609 for federal tax credits or the Allocation Certificate for state tax credits.

In general, CHFA will monitor the following for compliance, all of which are also applicable to projects receiving state tax credits:

#### 12.A

#### Record Keeping, Record Retention, and Inspection Provisions

1. The owner of a low income housing project is required to keep records for each qualified low income building in the project showing:
  - a. The total number of residential rental units in the building (including the number of bedrooms and the size in square feet of each residential rental unit)
  - b. The percentage of residential rental units in the building that are low income units
  - c. The rent charged on each residential rental unit in the building (including any utility allowances)
  - d. The number of occupants in each low income unit
  - e. The low income unit vacancies in the building and information that shows when, and to whom, the next available units were rented

- f. The annual income certification of each low income tenant per unit
  - g. Documentation to support each low income tenant's income certification
  - h. The eligible basis and qualified basis of the building at the end of the first year of the credit period
  - i. The character and use of the nonresidential portion of the building included in the building's eligible basis under Section 42(d) of the Code (e.g., tenant facilities that are available on a comparable basis to all tenants and for which no separate fee is charged for use of the facilities, or facilities reasonably required by the project)
  - j. Copies of all correspondence with the IRS or with the Colorado Department of Revenue
2. The Owner is required to retain the records described in paragraph A.1 of this section for each building in the project for at least six years after the due date (with extensions) for filing the federal or state income tax return for that year. The records for the first year of the credit period must be retained for at least six years beyond the due date (with extensions) for filing the federal or state income tax return for the last year of the compliance period of the building.
3. The Owner is required to retain any original health, safety, or building code violation reports or notices that were issued by the state or local government unit for CHFA's inspection under section 12.C. Retention of such original reports or notices is not required once CHFA reviews them and completes an inspection, unless the violation remains uncorrected.

## 12.B Certification Provisions

1. In accordance with Section 42(1)(1) of the Code, following the close of the first taxable year in the credit period with respect to any qualified low income building with federal tax credits, the owner must certify to the Secretary of the Treasury (i) the taxable year and calendar year in which such building was placed in service, (ii) the adjusted basis and eligible basis of such building as of the close of the first year of the credit period, (iii) the maximum applicable percentage and qualified basis of such building, (iv) the election made for the low income targeting threshold as defined in Section 42(g)(1) of the Code, and (v) such other information as the Secretary may require. This certification is accomplished by completing Part II of the 8609s. A copy of the completed 8609s must also be submitted to CHFA.
2. Following the close of the first taxable year in the credit period with respect to any qualified low income project with state tax credits, the owner must certify to CHFA, (i) the taxable year and calendar year in which such project was placed-in-service, (ii) the adjusted basis and eligible basis of such project as of the close of the first year of the credit period, (iii) the maximum applicable percentage and qualified basis of such project, (iv) the election made for the low income targeting threshold as defined in Section 42(g)(1) of the Code, and (v) such other information as CHFA may require. This certification is accomplished by completing the Allocation Certificate and submitting it to CHFA.
3. The owner of a low income housing project with federal or state tax credits is required to certify annually, by January 15th of each year, in a form to be provided by CHFA, that for the preceding 12-month period:
  - a. The project met the requirements of the 20-50 or 40-60 test as defined in Section 42(g)(1) of the Code, whichever minimum set-aside is applicable to the project, and, if applicable to the project, the 15-40 test under Section 42(g)(4) for "deep rent skewed" projects;
  - b. There was no change in the applicable fraction [as defined in Section 42(c)(1)(B)] of any building in the project, or that there was a change and a description of the change;
  - c. The owner has received an annual income certification from each low income tenant and documentation to support that certification;
  - d. Each low income unit in the project was rent-restricted under Section 42(g)(2);

- e. All units in the project were for use by the general public and no finding of discrimination under the Fair Housing Act, 42 U.S.C 3601-3619, has occurred for the project. [A finding of discrimination includes an adverse final decision by the Secretary of HUD, 24 CFR 180.680, an adverse final decision by a substantially equivalent state or local fair housing agency, 42 U.S.C 3616a(a)(1), or an adverse judgment from a federal court];
- f. Each building and low income unit in the project were suitable for occupancy, taking into account local health, safety, and building codes (or other habitability standards), and the state or local government unit responsible for making local health, safety, or building code inspections did not issue a report of a violation for any building or low income unit in the project. [If the governmental unit issued a violation report or notice, the Owner must attach to the certification a statement summarizing the violation report or notice or a copy of the violation report or notice. In addition, the Owner must state whether the violation has been corrected];
- g. There was no change in the eligible basis [as defined in Section 42(d)] of any building in the project, or that there was a change, and the nature of the change;
- h. All tenant facilities included in the eligible basis under Section 42(d) of any building in the project, such as swimming pool, other recreational facilities, and parking areas, were provided on a comparable basis without charge to all tenants in the building;
- i. If a low income unit in the project became vacant during the year, reasonable attempts were, or are being, made to rent that unit or the next available unit of comparable or smaller size to tenants having a qualifying income before any units in the project were, or will be, rented to tenants not having a qualifying income;
- j. If the income of tenants of a low income unit in the project increased above the applicable income limit allowed in Section 42(g)(2)(D)(ii), the next available unit of comparable or smaller size in the project was, or will be, rented to tenants having a qualifying income;
- k. An extended low income housing commitment, as described in Section 42(h)(6), was in effect, including the requirement under Section 42(h)(6)(B)(iv) that an owner cannot refuse to lease a unit in the project to an applicant because the applicant holds a voucher or certificate of eligibility under Section 8 of the United States Housing Act of 1937, 42 U.S.C. 1437s and the Owner has not refused to lease a unit to an applicant based solely on their status as a holder of a Section 8 voucher or certificate;
- l. All low income units in the project were used on a nontransient basis [except for transitional housing for the homeless provided under Section 42(i)(3)(B)(iii) or single room occupancy units rented on a month-by-month basis under Section 42(i)(3)(B)(iv)];

- m. The project meets the additional Owner agreements contained in Section 6 of the LURA;
  - n. There was no change in the Owner entity (for example, transfer of general partnership interest);
  - o. If the Owner received its credit allocation from the portion of the State's ceiling set-aside for projects involving "qualified nonprofit organizations" under Section 42(h)(5) of the Code, the nonprofit organization has materially participated in the operation of the project [within the meaning of Sec. 469(h) of the Code].
- 4. The federal tax credit certifications referenced in paragraphs B.1 and B.3 of this section are required to be made at least annually through the end of the 15-year compliance period under Section 42(i)(1) of the Code and the certifications are to be made under penalty of perjury.
  - 5. The state tax credit certifications referenced in paragraphs B.2 and B.3 of this section are required to be made at least annually through the end of the 15-year compliance period.
  - 6. The owner is required to provide to CHFA a copy of the Completed 8609s and Schedule As that are submitted to the IRS for federal tax credits or a copy of the Allocation Certificate that is submitted to the Colorado Department of Revenue for state tax credits.
  - 7. The owner is required to provide to CHFA, as it occurs, copies of all correspondence with the IRS or Colorado Department of Revenue.

## 12.C

### Inspection and Review Provisions

1. CHFA will review the owner certifications submitted pursuant to paragraph B.3 of this section for compliance with the requirements of Section 42 of the Code.
2. Between the time a building is placed-in-service and applies for a final allocation of credit, and prior to the issuance of an 8609 or Allocation Certificate, CHFA will physically inspect the property. Within two years after placement-in-service, CHFA will conduct onsite inspections of all buildings in the project and, for at least 20 percent of the project's low income units, inspect the unit and review the tenant income certification, supporting documentation, and rent records.
3. At least once every three years, CHFA will conduct onsite inspections of all buildings in the project and, for at least 20 percent of the project's low income units, inspect the unit and review the tenant income certification, supporting documentation, and rent records.
4. CHFA will randomly select which low income units and tenant records are to be inspected and reviewed by CHFA.
5. For the building and unit inspections referred to in paragraphs C.2 and C.3 of this section, CHFA will review any local health, safety, or building code violation reports or notices retained by the Owner and will determine whether the buildings and units are suitable for occupancy, taking into account local health, safety, and building codes (or other habitability standards) or whether the buildings and units satisfy the uniform physical condition standards for public housing established by HUD (24CFR 5.703). The HUD physical condition standards do not supersede or preempt local health, safety, and building codes. The project must continue to satisfy these codes and, if CHFA becomes aware of any violation of these codes, CHFA must report the violation to the IRS.
6. CHFA has the right to perform an audit of any low income housing project during the term of the LURA. An audit includes a physical inspection of any building in the project, as well as a review of the records described in section 12.A. The auditing provision of this paragraph C.6 is in addition to any inspection of low income certifications and documentation under paragraphs C.1 through C.5 of this section.

## 12.D

### Notification of Noncompliance Provisions

1. CHFA will provide prompt written notice to the owner of a low income housing project if CHFA does not receive the certifications described in section 12.B or does not receive, or is not permitted to inspect, the tenant income certification, supporting documentation, and rent records described in section 12.C; or discovers on audit, inspection, or review, or in some other manner, that the project is not in compliance with the provisions of the LURA. The owner shall have a period of time designated by CHFA (30 to 90 days) from the date of such notice (the "Cure Period") to supply any missing certifications and bring the project into compliance with the LURA. CHFA may extend, in its sole discretion, the Cure Period for up to six months for good cause.
2. CHFA must file Form 8823 (Low income Housing Tax Credit Agency's Report of Noncompliance) with the IRS or State Noncompliance Form to the Colorado Department of Revenue no later than 45 days after the end of the Cure period whether or not the noncompliance or failure to certify is corrected. CHFA will explain on Form 8823 or State Noncompliance Form the nature of the noncompliance or failure to certify and indicate whether the owner has corrected the noncompliance or failure to certify. Any change in either the applicable fraction or eligible basis that results in a decrease in the qualified basis of the project as defined in Section 42(c)(1)(A) is an event of noncompliance that must be reported under this paragraph.
3. If the noncompliance or failure to certify is corrected within three years after the end of the correction period, CHFA will file Form 8823 to the IRS or State Noncompliance Form to the Colorado Department of Revenue reporting the correction of the noncompliance.

## 12.E

### CHFA Record Retention Provisions

CHFA will retain records of noncompliance for six years beyond CHFA's filing of the respective Form 8823 or State Noncompliance Form. In all other cases, CHFA will retain the certifications and records for three years from the end of the calendar year CHFA receives the certification and records.

## 12.F

### Monitoring Fee

A monitoring fee will be assessed to cover the costs of the compliance-monitoring program. A compliance-monitoring fee will be assessed to cover the initial 15 years of the compliance period in a lump sum, at the time of final allocation. This fee (which will be determined in the year the project receives a final allocation of credit) will be based on the number of low income units, any designated manager and/or maintenance units, and the compliance time period, and then present valued. The payment of this fee will be required prior to the issuance of the 8609s or Allocation Certificate. The amount of the compliance-monitoring fee for the remainder of the contractual extended use period will be determined in year 15.

# appendix a

## Market Study Guide

### Market Study Requirements

Along with the Preliminary Application, the applicant must provide a market study (one hard copy and an emailed Adobe PDF file) prepared by an experienced market analyst, approved by CHFA, who is totally unaffiliated with the developer and/or owner of the proposed project and has no financial interest in the project. A letter of engagement with an approved market analyst must be submitted at the time of the submission of the Letter of Intent. A completed market study that meets the requirements of the Market Study Guide completed by an approved market analyst must be submitted at the time of the submission of the application. The market analyst must contact CHFA's appraiser, Kim Dillinger, at [kdillinger@chfainfo.com](mailto:kdillinger@chfainfo.com) or 303.297.7361 prior to commencement of the study. The list of CHFA-approved market analysts can be found on CHFA's website at [www.chfainfo.com/documents/2011ApprovedMarketAnalystList.pdf](http://www.chfainfo.com/documents/2011ApprovedMarketAnalystList.pdf).

Once the analyst has contacted Kim, they must then download the "Comparison Chart" and a "Unit and Project Amenities" chart located on CHFA's website at [www.chfainfo.com/multifam/multifamily\\_developers/LIHTC%20allocation/market\\_study.icm](http://www.chfainfo.com/multifam/multifamily_developers/LIHTC%20allocation/market_study.icm). These charts are in Word format. These charts are to be completed separately from the market study (this does not eliminate any market study guide requirements) and submitted back via the secure file delivery site (which will be provided to the applicant after the Letter of Intent is received) at the time of application submission.

The study must identify whether there is a need for the number, size, and type of rental housing proposed. The market analyst must follow the Market Study Guide of this Plan or the market study and the application will be rejected. In order to avoid the rejection of any study, the market analyst must contact Kim Dillinger prior to the Letter of Intent.

A favorable statement of conclusions about the strength of the market for the proposed project does not operate to vest in an applicant or project any right to a reservation or allocation of tax credits in any amount. CHFA reserves the right not to reserve or allocate tax credits to any applicant or project, regardless of that applicant's total points. CHFA will in all instances reserve and allocate tax credits consistent with its sound and reasonable judgment, prudent business practices, the exercise of its discretion, and in accordance with this Plan.

CHFA will accept a previously written study if that study has been written by an analyst that is on the list of approved market analysts; the study is amended to contain all of the elements of the market study guide, including formatting; and data older than six months are updated to present time and match the application. If any of the above items are not addressed in the market study, the study will not be accepted and the preliminary application will be rejected.

For the acquisition/rehabilitation of 100 percent project-based Section 8 projects, Public Housing with 100 percent rental assistance, and RD 515 projects with 100 percent rental assistance, CHFA will accept the market study information that is provided in a complete appraisal from a Colorado-certified general appraiser that separates the value of the land from the building(s), along with a current rent roll, and, if part of an OAP restructuring, the Rent Comparability Study.

## Analyst Qualifications and Responsibilities

The minimum requirements for analysts are as follows:

1. Five years of experience completing market studies for multifamily rental projects;
2. Submittal of a resume of the market analyst firm, as well as the firm's individual analysts, detailing affiliations, designations, credentials, certifications, and licenses;
3. Attend the market analysts meeting at CHFA to discuss the requirements in the CHFA Market Study Guide and expectations for retaining analysts on the Approved Market Analyst List in Appendix A of this Plan.

CHFA may remove a market analyst from the approved list if an analyst's market study is rejected as a result of not meeting the requirements of this guide.

The market analyst must:

- Not advocate for the proposed project. The market analyst must act as a disinterested third party whose duty is to provide unbiased data while outlining the strengths and weaknesses of the proposed project.
- Visit the site of the proposed project and all existing projects examined in the Comparability Analysis section.
- Provide demographic data on the market area that is updated to the current year.. Demographic and other relevant data must be referenced in the report with the information sources clearly identified.
- Provide demand and capture rates that are calculated based on current data. Information on existing and planned projects must not be older than six months from the time that the preliminary LIHTC application is submitted. Market studies written previously or prepared for other agencies (i.e., HUD) must be prepared by a CHFA-approved analyst and amended to meet all of the elements of this Market Study Guide, including format.

- Sign a certification that the report was prepared according to CHFA's Market Study Guide, that the information included is accurate, and that the report can be relied upon by CHFA to present a comprehensive assessment of the market for the proposed project. The certification must include the market study completion date, and must also indicate that the document is assignable to lenders and/or syndicators that are parties to the project's financial structure. The market analyst must also certify that the market study may be shared with HUD as part of HUD's assistance to CHFA in the analysis of the market study.
- Prepare an update to the study in the form of an amendment letter, for instances in which the applicant makes changes to the project that differ from the details presented in the market study. This amendment must detail the changes and indicate how the changes impact captures rates and marketability.

## Organization of the Report

The market study must adequately address, and the table of contents must clearly identify, the items one through nine below in the order in which they are listed:

1. Market Study Synopsis
2. Project Description
3. Location Analysis
4. Identification of Market Boundaries
5. Overview of Market Conditions
6. Comparability Analysis
7. Demographic Data
8. Demand Analysis
9. Recommendations and Conclusions

# 1. Market Study Synopsis

Project Name:

Project Description:

A description of the project that includes the number of units, unit type and size, unit rent and income targeting, project and unit amenities, project design, location, parcel size, age of project (if acq/rehab).

## Unit Number, Mix, Size, and Type

	30% AMI	40% AMI	50% AMI	60% AMI	mkt	total units	% of total	size*	type (flat, th, sf)
1 BR									
2 BR / 1 BA									
2 BR / 2 BA									
3 BR									
4 BR									
total									
% of total							100%	n/a	n/a

\* Provide the range and the weighted average.

Rent Comparison

per unit	30% AMI	40% AMI	50% AMI	60% AMI	market
1 BR					
2 BR / 1 BA					
2 BR / 2 BA					
3 BR					
4 BR					
total					
comp. rents*	30% AMI	40% AMI	50% AMI	60% AMI	market
1 BR					
2 BR / 1 BA					
2 BR / 2 BA					
3 BR					
4 BR					
total					

\* Provide the range and the weighted average.

## Comparability Analysis

Rate the proposed project relative to the comparables. Use the symbols -, =, + to indicate if the comparables projects are – lower/inferior, = equal to, or + higher/superior to the proposed project.

(note: replace “Comp 1”, “Comp 2”, etc with the name of the apartment complex that is listed in this section.)

	comp 1	comp 2	comp 3	comp 4	comp 5	comp 6
rents						
unit size						
unit mix						
quality						
amenities						
location						

Demand and Capture Rates

	30%	40%	50%	60%	total
income qualifying households in market area					
in-migration of households (if any)					
total qualifying households/demand					
existing units					
capture rate – existing					
under construction/planned units					
total existing & planned units					
capture rate – required					

Recommendations and Conclusions

On a scale of 1 to 5 where 1 = not strong/good and 5 = very strong/good, rate the following:

market demand	1	2	3	4	5
project location	1	2	3	4	5
proposed unit mix	1	2	3	4	5
proposed unit sizes	1	2	3	4	5
proposed rents	1	2	3	4	5
overall marketability – as proposed	1	2	3	4	5
marketability with recommended changes	1	2	3	4	5

succinctly summarize key recommendations

Recommendations should be targeted towards the developer and not towards CHFA. Additionally, the market analyst should include any developer responses to the analyst's recommendations.

Examples:

1. Reduce rent on two-bedroom units by an average of \$50.00.
2. Move playground from site near one-bedroom units to site near three-bedroom units.
3. Shift AMI targeting to serve more households at 40 percent AMI.

## 2. Project Description

A description and analysis of the proposed project that covers:

- Project design  
(number of floors, way by which units are accessed, quality of interior finishes)
- Site plan;
- Number of units by unit type and size;
- Contract rent per unit and per square foot;
- Income targeting by AMI and income range to be served by the proposed project based on the maximum incomes allowed and the minimum incomes needed to afford the proposed rents assuming that 40 percent of income goes toward the maximum allowed tax credit rent;
- Project and unit amenities;
- Parking; (note minimum zoning requirements for number of parking spaces per unit);
- Utilities (what is included in rent versus the responsibility of residents) and type of heat.

- Project or acquisition/rehabilitation schedule and anticipated date for delivery of units.

For acquisition/rehabilitation projects, the study must provide answers to the following questions:

- What is the estimate of the numbers of existing residents that will be displaced due to income or student restrictions?
- What will be the impact to occupancy levels as a result of the displacement of nonqualifying households?
- What will be the impact to occupancy levels as a result of the rehabilitation work?
- What, if any, actions will the owner take to sustain current occupancy levels?

### 3. Location Analysis

A description and analysis of the proposed site and its location that covers:

- **Location**  
Provide the street address (if assigned to the site), the name of the closest street boundaries including the side of the street or corner on which the project is located, the approximate size of the parcel, and a physical description of the site (flat or sloped, undeveloped or in use, vegetated or barren, views, etc.).
- **Maps and Photos**  
Include clean legible maps of both the local neighborhood and citywide showing the proposed project location, photos of the site, and photos of the adjacent parcels in all four directions. Maps and photos may be included in an appendix.
- **Location Amenities**  
Describe the proximity in blocks or miles from the proposed site services and facilities including neighborhood shopping, drug stores, schools, public transit, hospitals, highways or other major traffic arteries, churches, cultural attractions, and recreational facilities.

- Surrounding Land Use**  
 Describe the type of project located on all sides of the proposed property and in the nearby vicinity of the site (e.g., vacant land, commercial/business, industrial, housing). Indicate distance to the proposed site, present condition, zoning, and likely changes in use. Also indicate any impacts such as noise, odor, unsightliness, etc., from adjacent uses that might detract from the site’s suitability for residential project.
- Infrastructure**  
 Indicate if there are any road or infrastructure improvements planned or under construction near the proposed project that might impact its marketability.
- Marketability**  
 Evaluate how the site and its location will enhance or detract from project marketability. Be specific (i.e., three-acre park across the street, electric utility substation on the corner).
- Walk Score & Transit Score**  
 Walk Score is the first large-scale, public access walkability index and can be calculated at [www.walkscore.com](http://www.walkscore.com). The website ranks site locations and communities nationwide based on a site’s proximity to job centers, services, parks, medical facilities, schools and other common destinations. The score will be between 0-100.

Transit Score is a measure of how well a location is served by public transit and can also calculated at [www.walkscore.com](http://www.walkscore.com). Transit Score is based on data released in a standard format by public transit agencies. This score is calculated based on a sites proximity to nearby transit routes based on the frequency, type of route (rail, bus, etc.), and distance to the nearest stop on the route. The score will be between 0-100.

Walk Score	
Range	Description
90-100	Walker’s Paradise – Daily errands do not require a car.
70-89	Very Walkable-Most errands can be accomplished on foot.
50-69	Somewhat Walkable-Some services within walking distance.
25-49	Car-Dependent-A few services within walking distance

Walk Score	
0-24	Car-Dependent-Almost all errands require a car.

Transit Score	
Range	Description
90-100	Rider’s Paradise – World-class public transportation.
70-89	Excellent Transit-Transit is convenient for most trips.
50-69	Good Transit-Many nearby public transit options.
25-49	Some Transit-A few nearby public transit options.
0-24	Minimal Transit-Car-dependent.

Please report the Walk Score and Transit Score (if available) for the proposed site. This is obtained from the website [www.walkscore.com](http://www.walkscore.com). The website will provide instructions on how to get the Walk Score, which will also automatically generate the Transit Score when it is available. Also, report the average Walk Score for city where the proposed site is located (or for the city nearest the proposed site). This is usually reported by this website when the proposed site’s Walk Score is calculated.

These values should be reported in the market study using the following table:

Proximity to Services Comparison:

Project	Walk Score (out of 100)	Transit Score (out of 100)	Avg.
(project name)	65	60	62.50
(city average)	68.00	NA	68.00

If the walk score or transit score for the project location is not available from the website referenced above or if the market analyst has additional information about the project’s walkability or proximity to transit, please provide this information as an attachment.

## 4. Identification of Market Boundaries

Provide a reasonable rationale for delineation of the primary market area from which the proposed project is expected to draw the majority of its residents. Radius boundaries are not allowed. The market boundary must include entire census tracts. The designation should instead take into account such things as:

- Municipal, county, and census tract boundaries;
- Natural boundaries;
- Other physical barriers, like interstate highways;
- Socio-economic characteristics; and
- School district boundaries.

The market analyst should be prepared to discuss the market area designation with CHFA when contacting CHFA, as required, prior to commencing work on the study.

Provide a legible map outlining the primary market area which shows the site of the proposed project and if applicable, the secondary market area.

Provide a table showing the census tracts that make up the primary market area.

## 5. Market Conditions and Comparability Analysis

### Market Rate Conditions and Analysis

This section of the study must provide detailed information on current rent and vacancy rates by unit type and at least two years of historical information on average rents and the overall vacancy rate. The presented data should only be relevant to the proposed subject project. All data sources must be cited.

## Tax Credit Conditions and Analysis

The analyst must prepare a table showing all applicable existing tax credit projects within the primary market area. The table should show the AMI mix at each existing project. If a project has units at the 45 percent AMI level, they should be included in the 40 percent AMI column. If a project has units at the 55 percent AMI level, they should be included in the 50 percent AMI column. Both competitive 9 percent and noncompetitive 4 percent projects should be shown. This information can be obtained from [www.chfainfo.com/multifam/multifamily\\_developers/LIHTC Allocation/Developments\\_by\\_county.icm](http://www.chfainfo.com/multifam/multifamily_developers/LIHTC_Allocation/Developments_by_county.icm).

The market analyst should retrieve that information from the website rather than through a request to CHFA staff.

When calculating capture rates, the inventory shown in the foregoing table should be the same. The inventory should include other income-restricted projects that serve the same income levels as targeted by the proposed project. Units in project-based Section 8 projects should be subtracted. Units occupied by Section 8 voucher holders should not be subtracted. Only comparable LIHTC units should be used in the analysis (e.g., family developments should only be compared to existing family LIHTC units and senior developments should only be compared to existing senior LIHTC units). If there are no income-restricted projects in the market area, state so.

## Selection of Comparables

The analyst must select projects from the inventory that are most similar to the proposed project for an in-depth analysis. The selection should be based on project size, unit mix, income restrictions, design, rents, and location. If there are numerous projects in the market area, at least six should be selected. Unless market rates are significantly higher than the proposed rents as evidenced by information provided in the Market Overview section, at least two projects should also be included that offer market rate units. In rural areas where few multifamily projects exist, provide information on mobile homes and single-family homes that are rented on a long term basis to assess the competition. Include a legible map showing the location of all comparable properties and color photos of all properties.

## Comparative Analysis

The market study must present information in the same format as the tables provided. Rows can be deleted for unit types not offered or AMI levels not targeted by the proposed project. If you have unit types not specified in the sample tables, like a three-bedroom unit with one and a half bathrooms, add them. Narrative analysis of the information is required.

**General Description**

*(note: replace "Comp 1", "Comp 2", etc., with the name of the apartment complex that is being analyzed in this section.)*

proposed project	comp 1	comp 2	comp 3	comp 4	comp 5	comp 6
distance from subject						
name of project						
address						
property type						
unit type						
year built						
total units						
# inc. restricted						
# free market						
general condition						

*Amenities*

proposed project	comp 1	comp 2	comp 3	comp 4	comp 5	comp 6
<b>utilities</b>						
AC						
water						
sewer						
heat type						
<b>unit amenities</b>						
balcony/patio						
dishwashers						
exterior storage						
microwave						
washer/dryer hookups						
washers/dryers in unit						
other _____						
other _____						
<b>project amenities</b>						
central laundry						
basketball court						
clubhouse						
elevators						
exercise equipment						
garage (\$ extra)						
hot tub						
swimming pool						
playground						
onsite management						
security systems						
other _____						
other _____						

### Unit Size

Provide a row for each unit type by size. If there are more than two unit sizes for any unit type, for example, five different floor plans for two-bedroom apartments, provide the range and the weighted average.

	proposed project	comp 1	comp 2	comp 3	comp 4	comp 5	comp 6
1 BR							
2 BR / 1 BA							
2 BR / 2 BA							
3 BR / 2 BA							
4 BR / 2 BA							

### Unit Mix

	proposed project	comp 1	comp 2	comp 3	comp 4	comp 5	comp 6
1 BR							
inc. restricted							
market							
2 BR / 1 BA							
inc. restricted							
market							
2 BR / 2 BA							
inc. restricted							
market							
3 BR / 2 BA							
inc. restricted							
market							

*Rent Comparison*

The rents shown should reflect the rates that would be charged to new residents moving into vacant units, not the discount rents for renewing leases. If rent reductions or concessions are offered, state the net rent. Rent concessions and other types of incentives such as waivers of security deposits should be described and analyzed.

proposed project	comp 1	comp 2	comp 3	comp 4	comp 5	comp 6
rent per unit						
1 BR						
30%						
40%						
50%						
60%						
market						
2 BR / 1 BA						
30%						
40%						
50%						
60%						
market						
2 BR / 2 BA						
30%						
40%						
50%						
60%						
market						
3 BR / 2 BA						
30%						
40%						
50%						
60%						
market						

proposed project	comp 1	comp 2	comp 3	comp 4	comp 5	comp 6
rent per sq. ft.						
1 BR						
30%						
40%						
50%						
60%						
market						
2 BR / 1 BA						
30%						
40%						
50%						
60%						
market						
2 BR / 2 BA						
30%						
40%						
50%						
60%						
market						
3 BR / 2 BA						
30%						
40%						
50%						
60%						
market						

### *Vacancies and Wait Lists*

	comp 1	comp 2	comp 3	comp 4	comp 5	comp 6	total/ overall
distance from subject							
total units							
vacant units							
percent vacant							
vacancies by unit type							
1 BR							
2 BR / 1 BA							
2 BR / 2 BA							
3 BR / 2 BA							
4 BR / 2 BA							
# on wait list							

### *Absorption*

Information on the performance of comparables that is insightful about the rate at which the proposed units will be absorbed should be included. Consider the lease-up experience of projects completed in the last year or two, the rate by which comparable properties are able to fill vacated units and evidence of pent-up demand.

### *Upcoming Competition*

In order to determine what new projects will likely compete with the proposed project, a careful examination of upcoming competition is necessary. In addition to checking with local governments and other public or private agencies, analysts should also check with CHFA for information on tax exempt bond-financed and new tax credit projects that are currently under consideration. The market study should include information on the availability and proximity of land in the proposed market area that is zoned, or could be zoned, for multifamily use.

Information on upcoming competition should include the following, if available:

- Name of project
- Address/location
- Distance from subject
- Name of developer/owner
- Property type
- Proposed number of units, unit type (flat, TH, etc.), bedroom mix, unit size, and amenities
- Income restrictions and rental rates
- Estimated unit delivery date
- For projects that are in lease-up, number of units occupied by unit type and AMI, and rate at which units were leased.

## 7. Demographic Data

The purpose of this section of the market study is to identify the potential population that will be served by the proposed project. The market analyst should only include information that is relevant to the proposed project. For example, a family development is open to all income-eligible households within the primary market area, while a senior development is only open to income-eligible senior households. Similarly, if the development is targeting a special needs population (e.g., homeless, veteran, farmworker, HIV, assisted living, etc.), then only the information relevant to that particular population should be presented in this section of the report. The market analyst should discuss and cite all sources of data used to identify the “studied” population.

Typically, the studied population is from a defined primary market area as described in the Identification of Market Boundaries section of the report. If this is true, then the tabular summary of the census tracts should be reiterated in this section of the report. If the population being studied is “special needs” and the market area is regional, then a summary of the census tracts is not necessary.

The market analyst should provide the reader a sense of the population trend within the primary market area. This information can be obtained from any reliable source such as the US Census/American Community Survey, Ribbon Demographics, ESRI, Nielsen/Claritas, MDHI Point-In-Time Survey, USDA, and/or others. The data presented, however, should only be relevant to the proposed project. Depending on the data source, the trend can be shown over a period of decades or just a few years. For example, an established area may have reliable data dating back for years, while data for a special needs population may only date back a few years. Summary tabular presentation is encouraged, but the market analyst must include sufficient information to allow the reader to follow their reasoning.

The following tables are only examples.

PMA Renter Households		
2000	2010	Current Year

Next, the market analyst should show the breakdown of the “studied” households within the studied area. In tabulation form, the market analyst should show the makeup of the potential households that will be available to the proposed project. For a family or senior project, this would include income levels and number of persons in each household. For a special needs population, the relevant information regarding the makeup of that population should be described. An example of an acceptable table includes the following.

PMA Renter Households						
Current Year						
	1-Person Household	2-Person Household	3-Person Household	4-Person Household	5+-Person Household	Total
\$0-10,000						
\$10,000-20,000						
\$20,000-30,000						
\$30,000-40,000						
\$40,000-50,000						
\$50,000-60,000						
\$60,000+						
Total						

## 8. Demand Analysis

Demand and capture rates should be estimated for each AMI category that the proposed project will target, since, in many cases, demand may be strong for one income category while the market might be saturated for another. Data derived in the Demographic Data and Comparability Analysis sections will be required to complete necessary calculations.

### Multifamily

#### New Construction and Acquisition/Rehab

Demand estimates and capture rate calculations must be based on the following:

- The number of estimated renter households that will be residing within the primary market area as of the current date
- The assumption that tenants are paying no more than 40 percent of their income for the maximum allowed tax credit rent (i.e., gross rent including utilities)
- One-bedroom units have no more than two occupants, two-bedroom units have no more than three occupants, three-bedroom units have no more than five occupants
- Inclusion of all existing LIHTC units within the primary market area except those units subject to project-based Section 8 vouchers. Units occupied by Section 8 voucher holders (tenant vouchers) should not be excluded. Only comparable LIHTC units should be used in the analysis (e.g., family developments should only be compared to existing family LIHTC units). The number of LIHTC units should match the number of LIHTC units reported in the Market Conditions and Comparability Analysis section of the report.
- In addition, be sure to exclude households that the proposed project will not serve based on size. For example, if no one-bedroom units are to be offered, one-person households should be subtracted from the demand estimate.

### In-migration

In-migration can be used when it is demonstrated from other comparable projects. If in-migration is used in the demand calculation, then supporting information is required in this section of the market study. An allowance based on anecdotal evidence is not permitted.

### Income Eligibility Calculations

Based on data calculated in the Demographic Data section of the report, the market analyst should calculate the income-eligibility of each group of households. These calculations should be shown in a table similar to the one included. The market analyst should only include the households and AMI levels that are relevant to the proposed project (e.g., one, two, and three-person households at the 50 and 60 percent AMI levels).

	PMA Renter Households	30% AMI	40% AMI	50% AMI	60% AMI	Total Eligible
1-person						
\$10,000 - 19,999	0	0	0	0	0	0
\$20,000 - 29,999	0	0	0	0	0	0
Subtotal	0	0	0	0	0	0
2-person						
\$10,000 - 19,999	0	0	0	0	0	0
\$20,000 - 29,999	0	0	0	0	0	0
Subtotal	0	0	0	0	0	0
3-person						
\$10,000 - 19,999	0	0	0	0	0	0
\$20,000 - 29,999	0	0	0	0	0	0
\$30,000 - 39,999	0	0	0	0	0	0
Subtotal	0	0	0	0	0	0
4-person						
\$10,000 - 19,999	0	0	0	0	0	0
\$20,000 - 29,999	0	0	0	0	0	0
\$30,000 - 39,999	0	0	0	0	0	0
Subtotal	0	0	0	0	0	0
5-person						
\$10,000 - 19,999	0	0	0	0	0	0
\$20,000 - 29,999	0	0	0	0	0	0
\$30,000 - 39,999	0	0	0	0	0	0
Subtotal	0	0	0	0	0	0
<b>Total</b>	0	0	0	0	0	

Based on the calculations derived in the foregoing analysis, the demand and capture rate calculations should be determined as follows.

## Demand and Capture Rate Calculation

Include only those AMI levels that will be applicable to the proposed subject project.

	30%	40%	50%	60%	total
total renter households in market area					
+ in-migration of households (if any)					
= total qualifying households/demand					
existing LIHTC units					
capture rate – existing (existing units/qualifying households)					
under construction/planned units					
+ proposed projects					
total existing & under construction/ planned units					
capture rate – required (total units/qualifying households)					

## Senior Independent Living New Construction and Acquisition/Rehab

Demand estimates and capture rate calculations must be based on the following:

- The number of estimated renter households that will be residing within the primary market area at the current time with a householder age of 62 (55 when applicable) or older.
- The assumption that tenants are paying no more than 40 percent of their income for the maximum allowed tax credit rent.
- One-bedroom units have one occupant and two-bedroom units have no more than two occupants.
- Inclusion of all existing age-restricted LIHTC units except those units subject to project-based Section 8 vouchers. Units occupied by Section 8 voucher (sticky vouchers) holders should not be excluded.
- Only comparable LIHTC units should be used in the analysis (e.g., senior developments should only be compared to existing senior LIHTC units. Assisted living LIHTC units, however, should be excluded unless that is the population the proposed subject project is targeting).

## In-migration

In-migration can be used when it is demonstrated from other comparable projects. If in-migration is used in the demand calculation, then supporting information is required in this section of the market study. An allowance based on anecdotal evidence is not permitted.

## Income Eligibility Calculations

Based on data calculated in the Demographic Data section of the report, the market analyst should calculate the income-eligibility of each group of households. These calculations should be shown in a table similar to the one that follows. The market analyst should only include the households and AMI levels that are relevant to the proposed project (e.g., one- and two- person households at the 50 and 60 percent AMI levels).

	PMA Renter Households	30% AMI	40% AMI	50% AMI	60% AMI	Total Eligible
1-person		Applicable Income Band	Applicable Income Band	Applicable Income Band	Applicable Income Band	
\$10,000 - 19,999	0	0	0	0	0	0
\$20,000 - 29,999	0	0	0	0	0	0
Subtotal	0	0	0	0	0	0
2-person		Applicable Income Band	Applicable Income Band	Applicable Income Band	Applicable Income Band	
\$10,000 - 19,999	0	0	0	0	0	0
\$20,000 - 29,999	0	0	0	0	0	0
Subtotal	0	0	0	0	0	0
<b>Total</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

Based on the calculations derived in the foregoing analysis, the demand and capture rate calculations should be determined as follows.

Demand and Capture Rate Calculation  
 Senior Independent Living Projects

Include only those AMI levels that will be applicable to the proposed subject project.

	30%	40%	50%	60%	total
one- & two-person senior households – total					
+ in-migration adjustment factor (if any)					
= total qualifying households					
existing senior LIHTC units					
capture rate – existing (existing senior units/qualifying households)					
under construction/planned units					
+ proposed projects					
total existing & under construction/ planned units					
capture rate required – all units (total units/qualifying households)					

## 9. Strength and Weaknesses

Please list the subject's strengths and weaknesses separately.

## 10. Recommendations and Conclusions

In this section, explicitly state your opinion regarding the marketability of the proposed project and whether or not development of the project as proposed is warranted. This should include your evaluation of overall market conditions as well as the specific project that is being proposed. All conclusions must be supported by data contained in the market study. If potential demand is sufficiently strong to justify additional units but the proposed project does not appear to be responsive to the demand, provide recommendations on how marketability could be improved.

At a minimum, the market study for all projects must:

- Assess the demand for the proposed project. Address the achievability of the required capture rate. If the increase between existing capture rates and the rates required to absorb planned units is significant, justify how this is or is not acceptable. Please note any unusual circumstances or conditions that should be considered, particularly the timing for the construction/delivery of competing units and the impact that it might have on absorption of the proposed project.
- Evaluate the competitiveness of the proposed project relative to comparable projects. Address the age or condition of properties in the area that might make the proposed project more or less competitive. Address whether the proposed project, in light of vacancy and absorption rates for the local market area, is likely to result in a higher vacancy rate for comparable, tax credit units within the market area.
- Provide a review of the proposed unit mix, unit sizes, unit type(s) and make a recommendation regarding unit mix and sizes. Include a rationale for these recommendations.
- Evaluate rents on a per-unit and per-square-foot basis in relationship to comparable properties, the free market, and LIHTC maximums. Make recommendations if adjustments are needed to increase competitiveness or the size of the market from which the project can draw residents. The recommendation should also state whether or not utilities should be included in the rent.

- Evaluate the location of the proposed project including access to the site, amenities in the area, and surrounding land use and state how these will enhance or detract from marketability.
- Address absorption of the project under current conditions.
- Evaluate the proposed amenities, including those that are being considered at an additional cost, and make recommendations about amenities that would enhance lease-up or are not needed when compared to other units in the market area.
- Note any unusual conditions or opportunities that need to be considered. For example, the project may be located in an area that has significant job growth and may need to focus marketing to new employees.
- For acquisition/rehabilitation projects, also assess the historical occupancy level of the property, plans for displacement of current residents, the impact that displacement of ineligible households on vacancy rates, and the impact that rehabilitation will have on occupancies.

A list of approved market analysts may be found on the CHFA website at:  
[www.chfainfo.com/documents/2011ApprovedMarketAnalystList.pdf](http://www.chfainfo.com/documents/2011ApprovedMarketAnalystList.pdf)



## appendix b

### Capital Needs Assessment Requirements

Projects applying for a preliminary reservation of tax credits for rehabilitation must submit a Capital Needs Assessment (CNA) that is no older than six months, conducted by a third-party architect or engineer with CNA experience (provide a resume). The assessment should include a site visit and physical inspection of the interior and exterior of units and structures, building material deficiencies, and material building code violations as well as an interview with available onsite property management and maintenance personnel to inquire about past repairs/improvements, pending repairs, and existing or chronic physical deficiencies. The assessment should also consider the presence of hazardous materials on the site.

The assessment should include an opinion as to the proposed budget for recommended improvements and should identify critical building systems or components that have reached or exceeded their expected useful lives. The assessment should also include a projection of recurring probable expenditures for significant systems and components impacting use and tenancy, which are not considered operation or maintenance expenses, to determine the appropriate replacement reserve deposits on a per-unit, per-year basis. The following components should be examined and analyzed for a Capital Needs Assessment:

- site, including topography, drainage, pavement, curbing, sidewalks, parking, landscaping, amenities, water, sewer, storm drainage, gas and electric utilities and lines;
- structural systems, both substructure and superstructure, including exterior walls and balconies, exterior doors and windows, roofing system, and drainage;
- interiors, including unit and common area finishes (carpeting, vinyl tile, plaster walls, paint condition, etc.), unit kitchen finishes, cabinets and appliances, unit bathroom finishes and fixture, and common area lobbies and corridors; and
- mechanical systems, including plumbing and domestic hot water, HVAC, electrical, lighting fixtures, fire protection, and elevators (mechanical systems must be inspected by a qualified engineer) any noncompliant component or issue relative to the applicable accessibility guidelines of ADA, Section 504, and/or Fair Housing Guidelines
- detailed description of the scope of work and budget for the scope of work
- photographs of typical building characteristics and deficiencies

Issues identified by the Capital Needs Assessment should be addressed during the rehabilitation process and considered in establishing replacement reserve accounts.



## appendix c

### Instructions for Calculation of Qualified Contract Price

Before CHFA will commence marketing your project, you must complete the Calculation of Qualified Contract Price form attached to these instructions (the "Calculation Form"). This calculation will establish the price at which CHFA will market your project and present an offer for its purchase.

To complete the Calculation Form, you must complete Exhibits A through D and, if the project has market rate units, Exhibit E. The results of Exhibits A through E are transferred to the Calculation Form to determine the Qualified Contract Price for the project.

The Calculation Form is derived from a statutory formula set forth in Section 42(h)(6)(F) of the Code. The statutory formula divides the purchase price between the low income portion of the project and the market rate portion of the project, if any. The Qualified Contract Price for the low income portion of the project is equal to the sum of project indebtedness (Worksheet A), investor equity (Worksheet B), and other capital contributions (Worksheet C) reduced by the total cash that has been distributed, or is available for distribution, from the project (Worksheet D). If the project has any market rate units, the Qualified Contract Price is increased by the fair market value of those units (Worksheet E).

Please remember that the 12-month period for finding a buyer will not commence until the Calculation Form, and Exhibits A through E, are completed and returned to CHFA with the notification letter and other required materials. The Calculation Form must be prepared, approved, or reviewed by the accountant for the project owner. An opinion report from a third party certified public accountant must also be provided confirming the qualified contract price.

Once CHFA presents a contract for the QC price, the project is bound to the Extended Use Agreement. There is no requirement in the Code that the prospective buyer actually purchase the property. Whether or not the seller actually executes the contract and closes the transaction is a separate, legally unrelated question. Under the Code Section 42(h)(9)(E)(i)(II), CHFA's only obligation is to "present" a contract for the QC price. Once this occurs the owner may not terminate the extended use period.

## Calculation of Qualified Contract Price

Pursuant to Section 42(h)(6)(F) of the Internal Revenue Code

As of \_\_\_\_\_, 2005

A. Calculation of Low Income Portion of Payment		
(i) Outstanding Indebtedness secured by, or with respect to the Buildings (from Worksheet A)	\$ _____	
(ii) Adjusted Investor Equity (from Worksheet B)	\$ _____	
(iii) Other Capital Contributions not reflected in (i) or (ii) (from Worksheet C)	\$ _____	
(iv) Total of (i), (ii), and (iii)	\$ _____	
(v) Cash Distributions from or available from, the Project (from Worksheet D)	\$ _____	
(vi) Line (iv) reduced by Line (v)	\$ _____	
(vii) Applicable fraction (as set forth in the Tax Credit Regulatory Agreement)	\$ _____	
(viii) Low income Portion of Qualified Contract Price [Line (vi) multiplied by Line (vii)]	_____ %	
B. Fair Market Value of Non-Low Income Portion of Building(s) (from Worksheet E)		\$ _____
Qualified Contract Price [Sum of Line A(viii) and Line B]		\$ _____

## Worksheet A

### Outstanding Indebtedness With Respect to Low Income Building(s) Code Section 42(h)(6)(F)(i)(I)

#### Instructions

The Qualified Contract Price includes the unpaid balance of all secured and unsecured indebtedness with respect to the low income buildings. Worksheet A requires you to set forth certain information with respect to each mortgage loan and other project indebtedness: The name of the lender, the unpaid principal balance, the accrued interest, the maturity date, and other relevant information.

In the section marked "Other Information" [subsection (v) with respect to each loan], please set forth any information with respect to the loan that may be relevant to CHFA's efforts to market the project. Examples of relevant information include whether the loan has a "due-on-sale" clause or if any portion of the loan is payable from net cash flow (i.e., is "soft" debt). Please also attach to the worksheet an amortization schedule for each loan, if available.

In addition to mortgage indebtedness, you should also list any unsecured, long term debt the proceeds of which were used directly in the construction, rehabilitation, or operations of the project.

The unpaid principal balance and accrued interest for each loan set forth on this worksheet should be totaled and that total should be transferred to section A(i) of the Calculation Form.

Worksheet

<b>1. First Mortgage Loan</b>		
(i) Lender: _____		
(ii) Principal Balance	\$ _____	
(iii) Accrued Interest	\$ _____	
(iv) Maturity Date: _____		
(v) Other Information: _____ _____ _____ (attach amortization schedule, if available)		
	subtotal	\$ _____
<b>2. Second Mortgage Loan</b>		
(i) Lender: _____		
(ii) Principal Balance	\$ _____	
(iii) Accrued Interest	\$ _____	
(iv) Maturity Date: _____		
(v) Other Information: _____ _____ _____ (attach amortization schedule, if available)		
	subtotal	\$ _____
<b>3. Third Mortgage Loan</b>		
(i) Lender: _____		
(ii) Principal Balance	\$ _____	
(iii) Accrued Interest	\$ _____	
(iv) Maturity Date: _____		
(v) Other Information: _____ _____ _____ (attach amortization schedule, if available)		
	subtotal	\$ _____

<b>4. Fourth Mortgage Loan</b>		
(i) Lender: _____		
(ii) Principal Balance	\$ _____	
(iii) Accrued Interest	\$ _____	
(iv) Maturity Date: _____		
(v) Other Information: _____ _____ _____ (attach amortization schedule, if available)		
	subtotal	\$ _____
<b>5. Other Indebtedness with Respect to Low Income Building(s)</b>		
(i) Lender: _____		
(ii) Principal Balance	\$ _____	
(iii) Accrued Interest	\$ _____	
(iv) Maturity Date: _____		
(v) Other Information: _____ _____ _____ (attach amortization schedule, if available)		
	subtotal	\$ _____
Total Indebtedness with respect to Low Income Portion of the Building(s) (Sum of 1-5 subtotals above)		\$ _____

## Worksheet B

### Calculation of Adjusted Investor Equity In the Low Income Building(s) Code Section 42(h)(6)(F)(i)(II)

#### Instructions

The Qualified Contract Price includes the sum of the Adjusted Investor Equity with respect to the project. "Adjusted Investor Equity" means, with respect to each calendar year, the aggregate amount of cash that taxpayers invested with respect to the low income buildings, increased by the applicable cost-of-living adjustment, if any.

Not all capital contributions with respect to the project qualify as Adjusted Investor Equity. Specifically, cash invested in the project should be included in this Worksheet B only if **each of the following is true:**

- (i) the cash is contributed as a capital contribution and not as a loan or advance;
- (ii) the amount is reflected in the adjusted basis of the project (until there is further guidance from the IRS, CHFA will interpret this to mean cash contributions used to directly fund adjusted basis and cash contributions used to pay off a construction or bridge loan, the proceeds of which directly funded adjusted basis); and
- (iii) there was an obligation to invest the amount as of the beginning of the credit period (until there is further guidance from the IRS, CHFA will interpret this to include cash actually invested before the beginning of the credit period and cash invested after the beginning of the credit period for which there was an obligation to invest at the beginning of the credit period).

With respect to Worksheet B, subsection (i) for each calendar year requires you to set forth the identity of the investor. Typically, this will be the tax credit investor (i.e., the investor limited partner); however, it may include a general partner if the cash investment by a general partner otherwise satisfies the requirements set forth above.

Subsection (ii) requires you to set forth the amount of qualifying cash equity that was invested in the project for that calendar year. This amount should include only cash that was actually contributed to the project that year; it should not include amounts for which there was a mere obligation to invest.

Subsection (iii) sets forth the cost-of-living adjustment for each calendar year. Investment amounts qualifying as investor equity are entitled to a cost-of-living adjustment. The applicable cost-of-living adjustment for each year is based on the Consumer Price Index – All Urban Consumers available through the U.S. Department of Labor, Bureau of Labor Statistics.

For each calendar year, the amount of “Adjusted Investor Equity” is the sum of the qualifying investment amount and the cost-of-living adjustment. After calculating the investment amount and cost-of-living adjustment, if any, for each year, these amounts must be totaled and set forth in column 15 of the worksheet. This total is then transferred to section A(ii) of the Calculation Form.

Worksheet (change the dates below as appropriate)

<b>1. 1990 Adjusted Investor Equity</b>		
(i) Investor: _____		
(ii) Investment Amount	\$ _____	
(iii) Cost-of-Living Adjustment	\$ _____	
subtotal (ii) plus (iii)		\$ _____
<b>2. 1991 Adjusted Investor Equity</b>		
(i) Investor: _____		
(ii) Investment Amount	\$ _____	
(iii) Cost-of-Living Adjustment	\$ _____	
subtotal (ii) plus (iii)		\$ _____
<b>3. 1992 Adjusted Investor Equity</b>		
(i) Investor: _____		
(ii) Investment Amount	\$ _____	
(iii) Cost-of-Living Adjustment	\$ _____	
subtotal (ii) plus (iii)		\$ _____
<b>4. 1993 Adjusted Investor Equity</b>		
(i) Investor: _____		
(ii) Investment Amount	\$ _____	
(iii) Cost-of-Living Adjustment	\$ _____	
subtotal (ii) plus (iii)		\$ _____
<b>5. 1994 Adjusted Investor Equity</b>		
(i) Investor: _____		
(ii) Investment Amount	\$ _____	
(iii) Cost-of-Living Adjustment	\$ _____	
subtotal (ii) plus (iii)		\$ _____

<b>6. 1995 Adjusted Investor Equity</b>		
(i) Investor: _____		
(ii) Investment Amount	\$ _____	
(iii) Cost-of-Living Adjustment	\$ _____	
subtotal (ii) plus (iii)		\$ _____
<b>7. 1996 Adjusted Investor Equity</b>		
(i) Investor: _____		
(ii) Investment Amount	\$ _____	
(iii) Cost-of-Living Adjustment	\$ _____	
subtotal (ii) plus (iii)		\$ _____
<b>8. 1997 Adjusted Investor Equity</b>		
(i) Investor: _____		
(ii) Investment Amount	\$ _____	
(iii) Cost-of-Living Adjustment	\$ _____	
subtotal (ii) plus (iii)		\$ _____
<b>9. 1998 Adjusted Investor Equity</b>		
(i) Investor: _____		
(ii) Investment Amount	\$ _____	
(iii) Cost-of-Living Adjustment	\$ _____	
subtotal (ii) plus (iii)		\$ _____
<b>10. 1999 Adjusted Investor Equity</b>		
(i) Investor: _____		
(ii) Investment Amount	\$ _____	
(iii) Cost-of-Living Adjustment	\$ _____	
subtotal (ii) plus (iii)		\$ _____

<b>11. 2000 Adjusted Investor Equity</b>		
(i) Investor: _____		
(ii) Investment Amount	\$ _____	
(iii) Cost-of-Living Adjustment	\$ _____	
subtotal (ii) plus (iii)		\$ _____
<b>12. 2001 Adjusted Investor Equity</b>		
(i) Investor: _____		
(ii) Investment Amount	\$ _____	
(iii) Cost-of-Living Adjustment	\$ _____	
subtotal (ii) plus (iii)		\$ _____
<b>13. 2002 Adjusted Investor Equity</b>		
(i) Investor: _____		
(ii) Investment Amount	\$ _____	
(iii) Cost-of-Living Adjustment	\$ _____	
subtotal (ii) plus (iii)		\$ _____
<b>14. 2003 Adjusted Investor Equity</b>		
(i) Investor: _____		
(ii) Investment Amount	\$ _____	
(iii) Cost-of-Living Adjustment	\$ _____	
subtotal (ii) plus (iii)		\$ _____
<b>total adjusted investor equity (Sum of 1-14 subtotals above)</b>		\$ _____

## Worksheet C

### Other Capital Contributions Code Section 42(h)(6)(F)(i)(III)

#### Instructions

The Qualified Contract Price includes the amount of other capital contributions made with respect to the project. For this purpose, "other capital contributions" are not limited to cash (at least until there is contrary guidance from the IRS) and, therefore, include "in-kind" contributions such as land. However, if you include any noncash contributions in this worksheet, please describe in detail the type of contribution, the value you have assigned to the contribution, and your justification for assigning that value. As with adjusted investor equity, what is counted is the amount of contributions that are received by the project, not the amount made by an investor to an "upper tier" investment partnership.

Do not include in this Worksheet C any amounts included in Worksheets A or B. Further, all amounts included in this worksheet must constitute contributed capital and not be a debt or advance.

After setting forth the required information with respect to each contribution, please total the contribution amounts and then transfer the total to section A(iii) of the Calculation Form.

Worksheet

1. Investment Amount	\$ _____	
(i) Name of Investor: _____		
(ii) Date of Investment: _____		
(iii) Use of Contributions/Proceeds: _____ _____		
(iv) Other Information: _____ _____		
2. Investment Amount		
(i) Name of Investor: _____		
(ii) Date of Investment: _____		
(iii) Use of Contributions/Proceeds: _____ _____		
(iv) Other Information: _____ _____		
3. [Add as needed]		
total of other contributions (1 - _____)		\$ _____

## Worksheet D

### Cash Distributions From, or Available From the Project Code Section 42 (h)(6)(F)(ii)

#### Instructions

The Qualified Contract Price is reduced by the total of all cash distributions from, or available from, the project. To assist you in this calculation, we have divided Worksheet D into three sections.

In section A, set forth all cash distributions with respect to the project for the appropriate calendar years. Generally, this will include all cash payments and distributions from net operating income (i.e., “below the line” distributions and payments after the payment of operating expenses, debt service, and reserve). Distributions set forth in section A of the worksheet will include, but not be limited to, (i) amounts paid to partners or affiliates as fees (including investor fees, partnership management fees, incentive management fees, and guaranty fees) and (ii) amounts distributed to partners as a return of capital or otherwise. Until guidance is provided by the IRS, CHFA will not reduce the Qualified Contract Price by payments of deferred developer fee to the extent the amount of fee was within CHFA’s guidelines. We require, however, that you list all payments and distributions from net cash flow. If you believe any portion of a payment or distribution should be excluded from the calculation (such as deferred developer fee), please identify such payments or distributions and provide an explanation of why it should be excluded.

Section A of the worksheet provides for up to five types of distributions of net operating income for each year [items (i)-(v)]. If there were more in any calendar year, you will need to attach an addendum to the worksheet setting forth the recipient, characterization, and amount of such distribution.

The Qualified Contract Price is reduced not only by cash distributions made with respect to the project but also all cash that is available for distribution. In section B you are required to set forth amounts held in reserve and other project accounts and the amounts thereof that are available for distribution. Until such time as guidance is provided by the IRS, CHFA will interpret “available for distribution” to mean all cash held in project accounts the distribution of which is not prohibited by mortgage restrictions, regulatory agreements, or similar third-party contractual prohibitions. An amount currently held in a project account that will become unrestricted and available for distribution on or before the expiration of the one-year qualified contract period should be listed as available for distribution in section B.

Finally, section C requires you to set forth and describe all noncash distributions that have been made with respect to the project. Absent unusual circumstances, the amount of noncash distributions will not be applied to reduce the Qualified Contract Price (until contrary guidance from the IRS).

To complete Worksheet D, please total the qualifying cash distributed for all calendar years under section A and the cash available (or that will be available) for distribution in section B. The total of sections A and B should be transferred to section A(v) of the Calculation Form.

Worksheet

<b>A. Cash Distributed (Change the dates below as appropriate)</b>		
<b>1. 1990 Distributions</b>		
(i) Recipient & characterization: _____	amount	\$ _____
(ii) Recipient & characterization: _____	amount	\$ _____
(iii) Recipient & characterization: _____	amount	\$ _____
(iv) Recipient & characterization: _____	amount	\$ _____
(v) Recipient & characterization: _____	amount	\$ _____
<b>total distributions</b>		\$ _____
<b>2. 1991 Adjusted Investor Equity</b>		
(i) Recipient & characterization: _____	amount	\$ _____
(ii) Recipient & characterization: _____	amount	\$ _____
(iii) Recipient & characterization: _____	amount	\$ _____
(iv) Recipient & characterization: _____	amount	\$ _____
(v) Recipient & characterization: _____	amount	\$ _____
<b>total distributions</b>		\$ _____
<b>3. 1992 Distributions</b>		
(i) Recipient & characterization: _____	amount	\$ _____
(ii) Recipient & characterization: _____	amount	\$ _____
(iii) Recipient & characterization: _____	amount	\$ _____
(iv) Recipient & characterization: _____	amount	\$ _____
(v) Recipient & characterization: _____	amount	\$ _____
<b>total distributions</b>		\$ _____

<b>4. 1993 Distributions</b>		
(i) Recipient & characterization: _____ _____	amount	\$ _____
(ii) Recipient & characterization: _____ _____	amount	\$ _____
(iii) Recipient & characterization: _____ _____	amount	\$ _____
(iv) Recipient & characterization: _____ _____	amount	\$ _____
(v) Recipient & characterization: _____ _____	amount	\$ _____
<b>total distributions</b>		\$ _____
<b>5. 1994 Distributions</b>		
(i) Recipient & characterization: _____ _____	amount	\$ _____
(ii) Recipient & characterization: _____ _____	amount	\$ _____
(iii) Recipient & characterization: _____ _____	amount	\$ _____
(iv) Recipient & characterization: _____ _____	amount	\$ _____
(v) Recipient & characterization: _____ _____	amount	\$ _____
<b>total distributions</b>		\$ _____
<b>6. 1995 Distributions</b>		
(i) Recipient & characterization: _____ _____	amount	\$ _____
(ii) Recipient & characterization: _____ _____	amount	\$ _____
(iii) Recipient & characterization: _____ _____	amount	\$ _____
(iv) Recipient & characterization: _____ _____	amount	\$ _____
(v) Recipient & characterization: _____ _____	amount	\$ _____
<b>total distributions</b>		\$ _____

<b>7. 1996 Distributions</b>		
(i) Recipient & characterization: _____ _____	amount	\$ _____
(ii) Recipient & characterization: _____ _____	amount	\$ _____
(iii) Recipient & characterization: _____ _____	amount	\$ _____
(iv) Recipient & characterization: _____ _____	amount	\$ _____
(v) Recipient & characterization: _____ _____	amount	\$ _____
<b>total distributions</b>		\$ _____
<b>8. 1997 Distributions</b>		
(i) Recipient & characterization: _____ _____	amount	\$ _____
(ii) Recipient & characterization: _____ _____	amount	\$ _____
(iii) Recipient & characterization: _____ _____	amount	\$ _____
(iv) Recipient & characterization: _____ _____	amount	\$ _____
(v) Recipient & characterization: _____ _____	amount	\$ _____
<b>total distributions</b>		\$ _____
<b>9. 1998 Distributions</b>		
(i) Recipient & characterization: _____ _____	amount	\$ _____
(ii) Recipient & characterization: _____ _____	amount	\$ _____
(iii) Recipient & characterization: _____ _____	amount	\$ _____
(iv) Recipient & characterization: _____ _____	amount	\$ _____
(v) Recipient & characterization: _____ _____	amount	\$ _____
<b>total distributions</b>		\$ _____

<b>10. 1999 Distributions</b>		
(i) Recipient & characterization: _____ _____	amount	\$ _____
(ii) Recipient & characterization: _____ _____	amount	\$ _____
(iii) Recipient & characterization: _____ _____	amount	\$ _____
(iv) Recipient & characterization: _____ _____	amount	\$ _____
(v) Recipient & characterization: _____ _____	amount	\$ _____
<b>total distributions</b>		\$ _____
<b>11. 2000 Distributions</b>		
(i) Recipient & characterization: _____ _____	amount	\$ _____
(ii) Recipient & characterization: _____ _____	amount	\$ _____
(iii) Recipient & characterization: _____ _____	amount	\$ _____
(iv) Recipient & characterization: _____ _____	amount	\$ _____
(v) Recipient & characterization: _____ _____	amount	\$ _____
<b>total distributions</b>		\$ _____
<b>12. 2001 Distributions</b>		
(i) Recipient & characterization: _____ _____	amount	\$ _____
(ii) Recipient & characterization: _____ _____	amount	\$ _____
(iii) Recipient & characterization: _____ _____	amount	\$ _____
(iv) Recipient & characterization: _____ _____	amount	\$ _____
(v) Recipient & characterization: _____ _____	amount	\$ _____
<b>total distributions</b>		\$ _____

<b>13. 2002 Distributions</b>		
(i) Recipient & characterization: _____ _____	amount	\$ _____
(ii) Recipient & characterization: _____ _____	amount	\$ _____
(iii) Recipient & characterization: _____ _____	amount	\$ _____
(iv) Recipient & characterization: _____ _____	amount	\$ _____
(v) Recipient & characterization: _____ _____	amount	\$ _____
<b>total distributions</b>		\$ _____
<b>14. 2003 Distributions</b>		
(i) Recipient & characterization: _____ _____	amount	\$ _____
(ii) Recipient & characterization: _____ _____	amount	\$ _____
(iii) Recipient & characterization: _____ _____	amount	\$ _____
(iv) Recipient & characterization: _____ _____	amount	\$ _____
(v) Recipient & characterization: _____ _____	amount	\$ _____
<b>total distributions</b>		\$ _____
<b>total 1990-2003 distributions (Sum of Lines 1(i) – 14(i))</b> (Change dates as appropriate)		\$ _____

<b>B. Cash Available for Distribution</b>	
1. Amounts Held in Replacement Reserve Account(s)	\$ _____
a. Amount Available for Distribution	\$ _____
2. Amount(s) Held in Operating Reserve Account(s)	\$ _____
a. Amount Available for Distribution	\$ _____
3. Amounts Held in Other Reserve Accounts (identify each account, the terms thereof, and amount held therein)	\$ _____
a. Amount Available for Distribution	\$ _____
4. Amounts Held in Partnership Other than Reserves	\$ _____
a. Amount Available for Distribution	\$ _____
<b>total amount available for distribution</b> (Sum of Lines 1a – 4a)	\$ _____

<b>C. List of All Noncash Distributions</b> (identify asset distributed, recipient value, and characterization of distribution)	
1. Asset Distributed: _____	
(i) Recipient: _____	
(ii) Date of Distribution: _____	
(iii) Estimated Value of Asset When Distributed	\$ _____
(iv) Reason For and/or Characterization of Distribution: __ _____ _____	
2. Asset Distributed: _____	
(i) Recipient: _____	
(ii) Date of Distribution: _____	
(iii) Estimated Value of Asset When Distributed	\$ _____
(iv) Reason For and/or Characterization of Distribution: __ _____ _____	
3. 1992 Distributions	
(i) Recipient: _____	
(ii) Date of Distribution: _____	
(iii) Estimated Value of Asset When Distributed	\$ _____
(iv) Reason For and/or Characterization of Distribution: __ _____ _____	

## Worksheet E

### Fair Market Value on Non-Low Income Portion of Building(s)

The fair market value of the non-low income portion of the project buildings is:

\$ \_\_\_\_\_.

Set forth or attach to this worksheet the appraisal, study, methodology proof, or other support for the fair market value of the non-low income portion of the building(s). The fair market value set forth above should be transferred to section B of the Calculation Form.

# CHFA Policy Regarding the Release of the LURA

## Overview of Year 15 Issue

The LIHTC program was created by Congress in the Tax Reform Act of 1986 under Section 42 of the Code. The purpose of the program is to encourage the construction and rehabilitation of low income rental housing by providing a federal income tax credit as an incentive to investors. Both individual and corporate investors may receive 10 years of tax credits in return for investing equity capital into the development of eligible housing projects.

CHFA is the designated state allocating agency for Colorado, and is responsible for designing and implementing the program in Colorado. All projects must comply with the rent and income requirements through a 15-year compliance period and a 15-year extended use period, for a total of 30 years. The requirements are enforced through a LURA that is recorded against the property.

Tax credit projects that were built in the early 1990s are now reaching the end of the initial 15 year compliance period, and developers of those properties are interested in their options going forward. Under the Code and IRS guidance, there are three statutory methods to terminate, or suspend, the 15-year extended use period after the 15-year compliance period: (1) The Right of First Refusal method, (2) the Qualified Contract method, and (3) Foreclosure or by Deed in Lieu of Foreclosure.

### 1. Right of First Refusal

If an owner of a tax credit project is interested in selling the property after the 15-year tax credit compliance period, then the owner can opt to sell the property to a qualified nonprofit organization, a government agency, or certain types of tenant organizations. A low income housing tax credit project will not lose its tax benefits if there is a right of first refusal in favor of such parties to purchase the property for the Code mandated minimum purchase price. The Code defines the minimum purchase price as the sum of the principal amount of outstanding indebtedness secured by the building (other than indebtedness incurred within the five-year period ending on the date of the sale to the tenants), and all federal, state, and local taxes attributable to such sale.

The Right of First Refusal method can be used by an owner that is interested in converting low income rental units to affordable for-sale units. The IRS authority for this approach is limited and subject to change. Although conversion of rental to homeownership units is permissible through the Right of First Refusal option, CHFA's primary goal is to preserve the existing rental housing stock available in the marketplace. If a multifamily Project was financed with LIHTC, CHFA will look to ensure that the property is maintained as an affordable rental property, to the extent practical. However, there may be instances in which converting rental units to homeownership units is a more viable and financially feasible alternative. Requests to convert rental units to homeownership units will be presented by the tax credit staff to the CHFA Tax Credit Committee for consideration on a case-by-case basis. There is a variety of factors that will be considered in reviewing such requests, including:

- Reasons for Conversion
- Impact on Existing Inventory
- Long Term Affordability
- Regulatory Compliance

A more detailed look at each of those factors is discussed below:

### Reasons for Conversion

The request for converting affordable rental units to homeownership units needs to make a compelling case for the conversion. How does the statutory sales price compare to the current for-sale product of similar unit mix and size? Based on the statutory price and an estimate of mortgage interest rates, how does the mortgage payment compare to the current affordable rental rates? Is the project no longer feasible as a rental property? In order to answer this question, CHFA will require a thorough feasibility analysis, including a complete tax credit application with a project budget for the acquisition (if applicable) and rehabilitation of the project and a proposed financing structure.

### Impact on Existing Inventory

CHFA will require a thorough inventory of both the affordable and market rate multifamily rental stock in the primary market area of the project. This information will be used to determine if the conversion of the project will have a negative impact on the availability of affordable and/or market rate rental units in the primary market area. While local government approval is not a prerequisite for CHFA approval, CHFA will require comment from the local government stating their position on the conversion of rental units.

## Long Term Affordability

CHFA will require that subsequent sales of the units remain affordable for future buyers for a minimum of 15 years after the initial sale through deed restrictions on the property.

## Compliance with Section 42 of the Code

The proposal must meet the requirements of Section 42 of the Code, particularly Section 42(i)(7) provisions regarding the statutory minimum purchase price and right of first refusal. Owners should not view conversion to homeownership as a means of escaping low income restrictions, but rather as a way to comply with those restrictions in a modified form.

### 2. Qualified Contracts

Section 42(h)(6)(E)(II) of the Code allows owners the option to offer a tax credit project for sale once the 15-year compliance period has expired. Owners can exercise this option by making a request to CHFA after the fourteenth year of the compliance period. If CHFA is unable to present a qualified contract for the acquisition of the low income portion of the building by any person who will continue to operate such portion as a qualified low income building, the LURA will terminate. During the three-year period following the termination of the LURA, existing tenants of low income units cannot be evicted without cause and rents can only be increased within defined limits.

The process for the owner to make a formal request to CHFA for a qualified contract is detailed in Appendix C. This option may not apply to owners who have waived their rights under Section 42(h)(6)(E)(II).

### 3. Foreclosure

The extended use period can also terminate if the building is acquired by foreclosure or by deed in lieu of foreclosure. As with the Qualified Contract provision, existing tenants of low income units cannot be evicted without cause and rents can only be increased within defined limits for a three-year period following the termination of the extended use period. The low income restrictions will not terminate upon foreclosure if CHFA or the IRS determines that such foreclosure is a part of an arrangement with the Owner to terminate the extended use period.

note: CHFA will also consider release of the LURA if it can be demonstrated that tax credits were never claimed on a specific project. However, such a release could be subject to challenge by tenants or the general public claiming the right to enforce provisions of the LURA. Consequently, CHFA will require owners to release CHFA from any liability and indemnify CHFA from any loss resulting from any parties seeking to enforce the terms of the LURA.

