



**MICHIGAN STATE HOUSING DEVELOPMENT AUTHORITY**

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*Investing in People. Investing in Places.*

Low Income Housing Tax Credit Program

2015 - 2016 Qualified Allocation Plan

[www.michigan.gov/mshda](http://www.michigan.gov/mshda)

2015-2016 QUALIFIED ALLOCATION PLAN

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## 2015-2016 QUALIFIED ALLOCATION PLAN

### STATE OF MICHIGAN LOW INCOME HOUSING TAX CREDIT PROGRAM

#### I. INTRODUCTION

The Low Income Housing Tax Credit (LIHTC) program offers a financial incentive to construct, rehabilitate, and operate rental housing for low-income tenants. Under federal law, LIHTC is required to be allocated according to a Qualified Allocation Plan (QAP). The QAP is required to set forth selection criteria to be used to determine housing priorities appropriate to local conditions in Michigan.

#### II. TAX-EXEMPT FINANCED PROJECTS NOT SUBJECT TO HOUSING CREDIT CEILING

In accordance with Section 42 of the Internal Revenue Code (IRC), tax-exempt bond financed projects are required to satisfy certain basic requirements for allocation of LIHTC and are subject to the QAP. These projects are not, however, subject to the LIHTC allocation limits, other QAP requirements from which they are expressly excepted, or as determined by MSHDA (see [Tab W – Policy Bulletin #6](#)).

#### III. APPROVAL AND MODIFICATION OF THE QUALIFIED ALLOCATION PLAN

##### A. QAP APPROVAL

Pursuant to federal and state law, the QAP (including the LIHTC Scoring Criteria) shall be prepared by MSHDA, submitted to the legislature and approved by the Governor after notice to the public and public hearing. Notice of the public hearing will be published on MSHDA's website and in newspapers of general circulation throughout the state at least fourteen (14) days prior to the public hearing. MSHDA will hold one informational hearing prior to publication of proposed changes to the QAP. After proposed changes have been published, MSHDA will conduct at least three public hearings, held at such time and place as determined by MSHDA; however, MSHDA shall give priority to locations that provide the greatest opportunity for public comment. Comments received shall be taken into consideration and a written summary of such comments shall be provided to the Governor together with the request for approval of the Plan. The QAP, once approved, is valid until it is changed by MSHDA.

##### B. QAP MODIFICATION

To the extent necessary to facilitate the award of LIHTCs that would not otherwise be awarded, the QAP may be modified by MSHDA from time to time pursuant to State law. This modification process will follow the approval process delineated above.

#### IV. AUTHORITY DISCLAIMER AND ANTI-DISCRIMINATION OBLIGATION

MSHDA shall administer the QAP and the allocation of LIHTC in a manner consistent with both federal housing policy governing non-discrimination and MSHDA's statutory non-discrimination requirements. The allocation of LIHTCs is made at the sole discretion of MSHDA. MSHDA and its directors, employees, and agents shall not be liable for any matters arising out of or in relation to the allocation or administration of LIHTC.

MSHDA may waive any requirements and/or conditions that are not mandated by Section 42 of the IRC on a case-by-case basis, including project-specific deadlines, as deemed necessary to facilitate the administration of the LIHTC Program, to address unforeseen circumstances, and that it determines are in the best interest of the State of Michigan. In the event a waiver is granted under any of these or other circumstances, a fee may be charged. Additionally, MSHDA may make adjustments to standard policies/procedures if needed, to resolve any administrative errors made in the evaluation of an application brought to MSHDA's attention following conclusion of a funding round. Potential remedies may include, but are not limited to making an allocation of credit from a future funding round to a project that would have otherwise received an award of credit. To the extent that anything contained in this QAP does not meet the minimum requirements of federal law or regulation, or state law or regulation, such law or regulation shall take precedence over the QAP.

#### V. FUNDING ROUND AND PRIORITIES

##### A. FUNDING ROUNDS

The Authority intends to hold two competitive funding rounds for both 2015 LIHTC and for 2016 LIHTC, which will be publicized on the Authority's website ([www.michigan.gov/mshda](http://www.michigan.gov/mshda)). The following table outlines the anticipated schedule for the 2015-2016 funding rounds:

STAGE OF PROCESS	APPLICATION DUE DATE	EXPECTED NOTIFICATION DATE
2015 Credit – First Funding Round	Wednesday, October 1, 2014	January 2015
2015 Credit – Second Funding Round	Wednesday, April 1, 2015	July 2015
2016 Credit – First Funding Round	Thursday, October 1, 2015	January 2016
2016 Credit – Second Funding Round	Friday, April 1, 2016	July 2016

Applications must be received in either MSHDA's Lansing office or MSHDA's Detroit office no later than 5:00 pm on the applicable application due date shown above. Applications may be sent via delivery service (e.g., post, overnight, and courier) or personal hand-delivered service. Applications received after the due date and time will not be processed. No waiver of the delivery time will be granted.

**B. FUNDING PRIORITIES**

MSHDA will award LIHTCs to different Categories of housing, as well as to meet Statutory Set-Asides (as further defined below) of the state's total credit ceiling.

Funding Priorities	Percentage
Categories	
Preservation Category	25%
Permanent Supportive Housing (PSH) Category	25%
Open Category	25%
Strategic Investment Category	10%
Undesignated	15%

**1. PRESERVATION CATEGORY**

Allocated to Preservation projects meeting the requirements found in [Section VII.B.](#), [Exhibit II](#) attached hereto, and that follow the process outlined below:

For a preservation project to be eligible to apply for 9% LIHTC, it must first be submitted to MSHDA in order to evaluate whether the project is likely to be competitive under the MSHDA Gap Financing Program. The Gap Financing Program makes available a certain amount of gap financing to be used in combination with MSHDA tax-exempt bond financing. To perform its evaluation, MSHDA will consider the following:

1. The financial viability of a project based on the pro-forma analysis, site, and preliminary market analysis;
2. The overall capacity and experience of the development team; and

3. The likelihood that the project will be competitive and be able to proceed with the funds available in the Gap Financing Program. To determine how a competitive a project is likely to be, MSHDA will primarily evaluate a project's soft to hard debt ratio, which is used to rank the proposals in the Gap Financing Program, to determine if the project appears to be competitive as compared to the current or most recent Gap Financing Program funding round.

Following the analysis above, if, based on MSHDA's determination, a project appears to be a strong candidate for the Gap Financing Program, the project will need to be completed using the Gap Financing Program and will be ineligible for 9% LIHTC. However, if, based on MSHDA's determination, a preservation project is unlikely to be competitive in the Gap Financing Program; the project will be eligible to submit for consideration as part of a 9% funding round under the Preservation Category. Additionally, following an evaluation based on the process outlined above, preservation projects that do compete under the Gap Financing Program, but that cannot move forward using gap financing with a MSHDA tax-exempt loan (as determined by MSHDA as part of the Gap Financing Program) will be able to submit an application for credit as part of Preservation Category for 9% LIHTC in a future round. An applicant will not be able to submit a preservation project for 9% credit unless the project has been submitted to MSHDA, reviewed based on the criteria above, and MSHDA has determined that the project is unlikely to be competitive using the available gap funding paired with a tax-exempt bond loan.

The Preservation Category will be made available in both the October and April 9% LIHTC funding rounds of each year. Because of this timeline, an applicant may be evaluated by MSHDA at any time as long as the submission of the required documentation takes place at least 45 days in advance of the 9% funding round in which the applicant intends to apply. In order to complete the review outlined above, the sponsor must submit the LIHTC Application and the documents listed under the Preliminary Project Assessment portion of MSHDA's [Addendum IV Exhibit Checklist](#). MSHDA's determination of the project as it relates to this assessment and the project's eligibility for 9% LIHTC will be good for a period of one year, at which time another assessment would need to be made by MSHDA to determine a project's eligibility for future 9% LIHTC funding rounds.

Projects that are ultimately eligible to be submitted in the 9% Preservation Category portion of the funding round will be evaluated and awarded based on the scoring criteria, requirements, and process outlined in this Qualified Allocation Plan.

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## 2. PERMANENT SUPPORTIVE HOUSING (PSH) CATEGORY

Allocated to projects setting aside at least 25% of the units in the development for new tenants that are PSH-eligible or that are preserving an existing PSH project for which the project will remain a PSH project; and that also meet the requirements of [Addendum III](#). A project that has more than 75 PSH units is not eligible to be submitted unless a waiver is granted by MSHDA. Projects meeting the definition of a PSH project, according to the Addendum III, must be submitted in this category.

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### 3. OPEN CATEGORY

Allocated to projects not meeting the requirements for either the Preservation Category or the PSH Category.

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### 4. STRATEGIC INVESTMENT CATEGORY

Projects applying in any of the three Categories above can also apply in this Strategic Investment Category by submitting the documentation necessary to satisfy the requirements outlined in [Exhibit III](#) attached hereto. Projects funded under this Strategic Investment Category will not be subject to the standard Scoring Criteria and will be evaluated solely based on the sufficiency of the proposal based on [Exhibit III](#) attached hereto and the usual threshold requirements. If MSHDA determines that not all of the credit under this Strategic Investment Category will be used, the credit will be moved to the “Undesignated Credit” below for the funding rounds in which the Undesignated Category is applicable. It is anticipated that very few, if any, projects will meet the requirements to be funded under this Category.

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### 5. UNDESIGNATED CREDIT

The Undesignated Credit in any funding round will be awarded in the following order:

- a. MSHDA will use its discretion to place projects awarded from the Categories (including the Strategic Investment Category) into the [Statutory Set-Asides](#), with the only goal being to fill the Statutory Set-Asides from the projects already awarded. If any Statutory Set-Asides remain unmet, Undesignated Credit will be used to fill the remaining Statutory Set-Asides. Following the conclusion of each funding round, MSHDA will post a list of awards, which will include an indication regarding which Statutory Set-Aside each project was awarded from.
- b. After all Statutory Set-Asides have been met, any remaining Undesignated Credit will be allocated to the highest scoring unfunded projects in the round.

In performing its analysis of credit to be awarded in the Undesignated Category, MSHDA will not take into consideration any points for Permanent Supportive Housing awarded in Section F of the LIHTC Scoring Criteria. All other criteria outlined in the LIHTC Scoring Criteria will apply.

## C. STATUTORY SET-ASIDES

- **Nonprofits, 10%** - Qualified nonprofit organizations as required by Section 42 of the IRC and that meet [Threshold Requirement XV](#), found in [Exhibit I](#) attached hereto.
- **Rural Housing, 10%** - Proposed or existing housing projects that fall into one or more of the following categories: a) financed by a loan guaranteed by Rural Housing Services or a successor agency; b) funded by a federal program for the development of rural housing; or c) is located in an area other than a metropolitan area. A list of eligible rural communities can be found on MSHDA’s website: [Rural Communities List](#)

- **Elderly, 10%** - Projects in which 100% of the units serve tenants that conform to the federal agency(s) definition of elderly or the MSHDA definition of elderly under the MSHDA Act.
- **Eligible Distressed Areas, 30%** - Housing projects in eligible distressed areas, which include proposed or existing housing projects in distressed areas pursuant to MCL 125.1411(u). A list of Eligible Distressed Areas can be found on MSHDA’s website at [Eligible Distressed Areas List](#)

*With the exception of the nonprofit set-aside, if the LIHTC allocated falls below the set-aside threshold by October 1 of the year in which that credit amount is authorized, MSHDA may reapportion unallocated LIHTC amounts thereafter.*

#### D. LIHTC ALLOCATION LIMITS

- |   |             |
|---|-------------|
| 1. Maximum award per project:                           | \$1,500,000 |
| 2. Maximum award per Principal (annual credit ceiling): | \$3,000,000 |

*Co-developers will be allocated tax credits against the per-Principal limit based upon the percentage of interest in the cash-paid (non-deferred) portion of the development fee, including any costs or other fees that would typically be included in and paid from the developer fee as described in [Section X](#) below. For example, if co-developers retain a fifty percent (50%) interest each in the cash-paid (non-deferred) portion of the developer fee, fifty percent (50%) of the tax credits will be counted against each of the developer's per-Principal caps. Parties that have an identity of interest may be treated as a single developer (or Principal) for purposes of the cap if MSHDA concludes, based on the relevant facts and circumstances, that the submission of an application by one or more of the applicants is intended, in whole or in part, as a means of circumventing the annual credit ceiling per-Principal cap. If a Principal has not exceeded its annual cap, and there is enough credit under the per Principal cap limits to fund 80% of the proposed project, then MSHDA, in its discretion, may consider 1) fully funding that project; 2) awarding an amount less than the amount requested, but that still makes the project feasible; or 3) awarding only the remaining 80% if it is enough credit to make the project financially viable.*

*For this purpose, a Principal is defined as any person or entity receiving a portion of the development fee, which shall also be reflected in the Development Team Information portion of the Low Income Housing Tax Credit Program Application.*

3. If the credit remaining in a Category is sufficient to fund 80% of the credit amount approved for the next highest scoring project in the corresponding Category, MSHDA may 1) consider fully funding that project by taking the remaining credit from the 15% Undesignated Credit described above; 2) awarding an amount less than the amount requested, but that still makes the project feasible; or 3) award only the remaining amount of credit to a project if it is shown to be financially viable. Otherwise, MSHDA will either skip the project to fund the next highest scoring project that is financially viable with lesser credit or move the balance of the credit to the Undesignated Credit or the following funding round as applicable, at its sole discretion.

#### E. WAIVER REQUESTS

Applicants requesting a waiver of any QAP provisions as part of an application for a competitive funding round must submit their request in writing at least 30 days in advance of the October 1, 2014 funding round deadline, and at least 60 days in advance of all subsequent competitive funding rounds. Any waiver request not submitted within these timeframes will not be considered. While it is not

anticipated that many requests will be granted, MSHDA will provide responses to all waiver requests 1) well in advance of the October 1, 2014 funding round and 2) no later than 30 days in advance of all subsequent funding rounds. **NOTE:** This waiver request process does not apply to projects seeking the use of alternative underwriting standards other than those published by MSHDA. Requests for the use of alternative underwriting standards may be made as part of a funding round submission.

## VI. LIHTC FUNDING ROUND PROCESS

MSHDA will hold two funding rounds for both 2015 credit and 2016 credit as outlined below. In each of the funding rounds, allocations will be made to the highest scoring projects in each of the Categories; regardless of which Statutory Set-Aside(s) a project otherwise qualifies for. Any credit that is not utilized in any of the Categories from the October Funding Round will be moved to the April Funding Round for each respective year. Amounts below are based on an estimated annual credit ceiling of \$22 million.

### A. FUNDING ROUND #1: OCTOBER 2014 & 2015 (APPRX 45% OF ANNUAL CREDIT CEILING)

- Preservation Category - \$3,300,000 (approx. 15%)
- Permanent Supportive Housing Category – \$3,300,000 (approx. 15%)
- Open Category – \$3,300,000 (approx. 15%)

### B. FUNDING ROUND #2: APRIL 2015 & 2016 (APPRX 45% OF ANNUAL CREDIT CEILING)

- Preservation Category – \$2,200,000 (approx. 10%)
- Permanent Supportive Housing Category – \$2,200,000 (approx. 10%)
- Open Category – \$2,200,000 (approx. 10%)
- Undesignated – \$3,300,000 (approx. 15%)

### C. STRATEGIC INVESTMENT CATEGORY - (APPROX. 10% OF ANNUAL CREDIT CEILING)

The Strategic Investment Category may be used to fund qualifying developments from any competitive funding round at any time at MSHDA's discretion. If MSHDA determines that not all of the credit under this Strategic Investment Category will be used, the credit will be moved to the "Undesignated Credit" in the April Funding Round of the corresponding year.

## VII. ELIGIBILITY REQUIREMENTS

Certain threshold requirements must be met for all projects, unless otherwise stated in any Addenda or Policy Bulletins, or waived. Proposals not meeting threshold requirements will not be processed further.

## A. GENERAL THRESHOLD REQUIREMENTS

The following Threshold requirements, described in greater detail in [Exhibit I](#) attached hereto, will apply to all projects:

1. [Application Completeness](#)
2. [Project Narrative](#)
3. [Site Control](#)
4. [Zoning](#)
5. [Utilities](#)
6. [Market Study](#)
7. [Environmental](#)
8. [Title Insurance Commitment](#)
9. [Financing](#)
10. [Acquisition Transfer](#)
11. [Equity Investor Letter](#)
12. [Green Policy](#)
13. [Development Team Capacity](#)
14. [Affirmative Fair Housing Marketing Plan](#)
15. [Nonprofit Certification](#)
16. [Ownership Formation](#)
17. [Waiver of Qualified Contract](#)
18. [Vouchers and Public Housing](#)
19. [MSHDA Financing Signage](#)
20. [Minimum Hard Construction Costs](#)
21. [Michigan Products](#)
22. [Reserving Units for Families with Children](#)

## B. THRESHOLD REQUIREMENTS – PRESERVATION PROJECTS

'Preservation' applies to the acquisition and renovation of existing affordable properties, which are currently subject to a low income use restriction. For these purposes, adaptive reuse projects, entirely vacant residential buildings, and projects requiring demolition will be considered new construction, regardless of whether or not project-based rental subsidies are being preserved. Only Preservation projects that meet this definition and the threshold requirements outlined in [Exhibit II](#) attached hereto, in addition to the General Threshold Requirements may receive points for Preservation and apply under the Preservation Category.

## VIII. SELECTION CRITERIA

MSHDA will evaluate applications for LIHTC in accordance with the requirements of federal and state law and the QAP (including any related Policy Bulletins and Addenda) based on the Scoring Criteria. The Scoring Criteria is incorporated herein as though it were a part of the body of this QAP. The

general areas where projects can receive points in the Scoring Criteria include, but are not limited to: project location, project financing, project characteristics, and development team characteristics. For further information on the scoring criteria and specific point values, please refer to the [Scoring Criteria](#). Under no circumstances will any application subject to a competitive scoring process give rise to an entitlement or legal right to an allocation of LIHTCs. The allocation of LIHTCs shall be entirely at the discretion of MSHDA.

#### A. TIEBREAKERS

If, after evaluating projects based on the Scoring Criteria, two projects have identical scores, MSHDA will select between them according to this order of priority: lowest actual amount of credit per unit; highest actual Walkscore.

#### B. RE-EVALUATION PROCESS

Following completion of a competitive funding round, if an applicant believes there was an error made during the review process or that an application was not evaluated correctly, an applicant may contact MSHDA to have a specific portion of the application that was submitted re-evaluated. Any such request must be made to MSHDA in writing within 7 days following conclusion of a funding round. For purposes of this re-evaluation, MSHDA will not consider any additional documentation that was not provided with the application, but may consider information provided by an applicant intended to clarify portions of the application. MSHDA, in its sole discretion, will determine whether or not the re-evaluation of an application submission should warrant an award of LIHTC.

### IX. UNDERWRITING STANDARDS & STATE-DESIGNATED 30% BASIS BOOST

In making its determination of the LIHTC dollar amount necessary for the financial feasibility of a project and its viability as a qualified low income housing project throughout the initial credit period, MSHDA will consider the sources and uses of funds and the total financing planned for the project, and any proceeds or receipts expected to be generated by reason of tax benefits. HOWEVER, SUCH A DETERMINATION OF FEASIBILITY BY MSHDA SHALL NOT BE CONSTRUED TO BE A REPRESENTATION OR WARRANTY AS TO THE FEASIBILITY OR VIABILITY OF THE PROJECT. Please see [Exhibit IV](#) attached hereto for further information on the underwriting process and standards to be used.

#### A. STATE-DESIGNATED DIFFICULT DEVELOPMENT AREAS

The Housing and Economic Recovery Act of 2008 (HERA) provides that state housing credit agencies may award up to a 30 percent “basis boost” to buildings that states determine need the boost to be economically feasible, effective for buildings placed in service after July 30, 2008. This additional increase is not available to buildings located in a Qualified Census Tract, HUD-designated Difficult Development Areas, or tax-exempt bond financed projects.

The basis boost may be awarded by the Authority to a project placed in service after July 30, 2008 and prior to the issuance of the 8609, and subject to tax credit ceiling being available. Properties meeting any of the criteria found in [Exhibit V](#) attached hereto are eligible for a basis boost up to the percentages listed therein, although they are still subject to the usual evaluation of minimum credits needed to achieve feasibility.

## X. FEE LIMITS

### A. DEVELOPMENT FEES

The total amount of any (i) developer fees, (ii) developer guaranty fees, and (iii) consulting fees (excluding fees to a third party, non-related construction manager included and paid from the construction contract), will be no more than the maximum development fee allowed to a project as outlined below.

#### 1. DEVELOPMENT FEE - TAX-EXEMPT BOND FINANCED PROJECTS

For projects financed with tax-exempt bonds eligible for 4% credit, the maximum development fee shall be calculated as follows:

- a. For projects of 49 units or fewer, the development fee will be the lesser of \$2,100,000 or the sum of the following:
  - i. 7.5% of acquisition costs
  - ii. 7.5% of project reserves
  - iii. 20% of all other development costs, excluding developer fee, developer overhead, and developer consulting fee.
- b. For projects of 50 units or more, the development fee will be the lesser of \$2,100,000 or the sum of the following:
  - i. 7.5% of acquisition costs
  - ii. 7.5% of project reserves
  - iii. 15% of all other development costs, excluding developer fee, developer overhead, and developer consulting fee.

#### 2. DEVELOPMENT FEE – 9% LIHTC PROJECTS

For all projects eligible for 9% LIHTC, the maximum development fee shall be the lesser of \$1,500,000 or the sum of the following:

- a. 7.5% of acquisition costs
- b. 7.5% of project reserves

- c. 15% of all other development costs, excluding developer fee, developer overhead, and developer consulting fee.

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### 3. DEVELOPMENT FEE – OTHER CONSIDERATIONS

In addition to the fee limits outlined above, the following considerations must also be given with regard to the developer fee:

- If an existing project, building, or physical structure is split into two or more phases, the aggregate developer fee for all phases shall not exceed the limitations stated above.
- For projects involving acquisition and rehabilitation, an amount equal to at least 5% of the acquisition cost of the land and building(s) must be allocated to the acquisition of the property (and the acquisition eligible basis, if applicable) for purposes of attribution to the developer fee.
- Up to 50% of the total developer fee can be deferred to cover a gap in funding sources as long as the entire amount will be paid within fifteen (15) years. If the proforma in the application indicates that cash flow is insufficient to repay the deferred developer fee within 15 years, the Applicant must provide an explanation in the narrative as to how the deferred developer fee will be repaid.

#### B. CONSTRUCTION CONTRACT ITEMS

- General Requirements - 6% of construction costs, exclusive of builder profit, builder overhead and general requirements.
- Builder Overhead - 2% of construction costs, exclusive of builder profit and builder overhead.
- Builder Profit - 6% of construction costs, exclusive of builder profit.

Projects of 49 units or fewer may aggregate general requirements, builder overhead, and builder profit to a maximum of 20% of the construction costs, using a calculation similar to the approach outlined above.

#### C. CONSTRUCTION MANAGEMENT

If a construction manager is not included in the construction contract, then any construction management consulting fee must be included in and paid from the developer's fee. If a construction management fee (paid to a related or unrelated third party) is included in the construction contract, it must be included in and subject to the above fee limits relating to General Requirements, Builder Overhead, and Builder Profit. Excess fees will be deducted from total development costs when performing the gap calculation.

#### D. IDENTITY OF INTEREST FEES

If an identity of interest exists between the Applicant and the General Contractor, incentive fees may only be paid to the extent that they are included in the above mentioned fee limitations. A general contractor may act as a subcontractor and may be entitled to additional overhead and profit otherwise payable to an independent subcontractor as long as the overhead and profit is determined to be within industry standards at the sole discretion of MSHDA. However, the general contractor's overhead, profit, and general requirements that may be included as allowable project costs are limited to the percentages noted above.

#### XI. FIRST EVALUATION AND AWARD OF RESERVATIONS

Project applications that include all required information and documentation in a form and manner acceptable to MSHDA, and that meet or exceed the QAP's threshold requirements and underwriting standards will be eligible to be evaluated for receipt of a Reservation and Carryover Allocation of LIHTC.

Following the award of credit, projects are expected to move forward with closing on financing sources and commencement of construction in a timely manner. While a project will not need to demonstrate closing and commencement of construction until the 10% Certification deadline shown below, to allow MSHDA to monitor the progression of projects, owners will be required to submit progress reports to MSHDA regularly during this period of time. Failure to submit accurate progress reports on a timely basis may result in negative points on future projects or a loss of credit to the project.

#### XII. SECOND EVALUATION

All projects receiving an allocation of 9% LIHTC must provide evidence, acceptable to MSHDA and in accordance with any applicable federal regulations, from a Certified Public Accountant that more than 10% of the taxpayer's reasonably anticipated basis in the project (as of the close of the second calendar year following the calendar year of the allocation) is incurred within 12 months of the allocation date. Additionally, a second financial review of the project based on updated project sources and uses as well as updated project income and expenses will be conducted at the time this certification is submitted in accordance with the procedures described in [Exhibit IV](#) attached hereto.

In conjunction with the submission of the above items to satisfy the federal 10% Certification requirements, all Applicants, including those with projects with only 4% credits, must submit to MSHDA acceptable evidence of the following items which can be found in the [10% Certification Exhibit Checklist](#) on MSHDA's website. Failure to provide such documentation may result in the allocation being rescinded. The items required to be submitted are:

- a Partnership Agreement or Operating Agreement.
- Documentation of the equity price to be paid to the owner, if not identified in the Partnership Agreement or Operating Agreement.

- For all projects that are relying on tax abatement for financial feasibility, a copy of the project-specific resolution, if not provided at the time of application.
- Record of the disbursement of the equity or construction loan.
- Recorded notice of commencement (or evidence that the notice has been received for recording) unless on tribal land.
- Recorded deed to the property (or evidence that the deed has been received for recording) or long-term lease on tribal land.
- All building permits necessary to begin construction, or a letter from the municipality stating that the permits will be issued upon payment of fees.
- Appraisal for all rehabilitation projects and for new construction projects with an identity of interest prepared consistent with [Policy Bulletin #8](#) to ensure the most effective and efficient use of LIHTC.
- Capital Needs Assessment dated within 1 year of the 10% Test application due date, if not submitted at the time of initial application (if applicable). All Capital Needs Assessments must be completed in accordance with [Exhibit II](#) attached hereto, and [Tab Z](#) of MSHDA's Combined Application.
- Updated project schedule, pro-forma financial information, and sources and uses statement.
- Fully executed copy of the [MSHDA Green Policy Certification](#) and, if required by MSHDA Green Policy, proof of project registration with either Enterprise Green Community Partners or U.S Green Building Council.

### XIII. FINAL EVALUATIONS

MSHDA will further evaluate the project following the date all of the buildings in a project are placed in service, including a site visit if deemed necessary by MSHDA, to ensure that all program requirements have been met and to review the project prior to issuance of IRS Form 8609. To begin this process, a request for a LIHTC Regulatory Agreement must be submitted to MSHDA no later than November 1st of the year a project places in service.

In addition to the issuance of the LIHTC Regulatory Agreement, when the project/building is placed in service and prior to the issuance of a Form 8609, the owner must submit to MSHDA acceptable evidence of the items listed below. The placed in service application must be submitted to MSHDA on or before February 1st of the year after the project is placed in service. Applicants are also encouraged to refer to the [LIHTC Placed in Service Exhibit Checklist](#), which can be found on MSHDA's website for further detail regarding these requirements. The documentation required is as follows:

1. Copy of executed and recorded deed to property showing partnership as owner (or long-term lease showing partnership as lessee if on tribal land), including correct property description.
2. Copy of updated ownership entity formation records approved by the Department of Licensing and Regulatory Affairs Bureau of Commercial Services
3. [First Year Credit Statement](#)
4. Updated [application](#).
5. Independent, third party final owner's and contractor's cost certifications for all projects.
6. Certificates of occupancy (or their equivalent for rehabilitation work). Additionally, owners must also submit a copy of the same to MSHDA Compliance for each building in the development within five (5) business days after each certificate becomes available.
7. Final executed limited partnership agreement or operating agreement and all attachments.
8. Copy of executed and recorded permanent mortgage and other permanent financing sources.
9. Color photograph of project.
10. [Form 8821](#), Tax Information Authorization naming MSHDA as the appointee to receive tax information.
11. A check for Compliance Monitoring Fees.
12. Assignment or transfer agreement of the rental subsidy that has been approved by the appropriate agency, if applicable.
13. A copy of the project's latest financial audit (if available).
14. Fully executed copy of the [MSHDA Green Policy Certification](#) and, if required by MSHDA Green Policy, proof of project Certification with either Enterprise Green Community Partners or U.S Green Building Council.
15. Updated Environmental and/or Marketing documentation, if applicable.
16. Fully executed Michigan Based Product certification.
17. Subsidy Layering Review application and HUD 2880 form (if applicable).

#### XIV. HOUSING CHOICE VOUCHERS

This QAP awards LIHTC through a competitive process that can also serve as a form of competitive selection for purposes of applications for project-based vouchers and other forms of assistance. In particular, MSHDA will continue to make project-based vouchers available on a case-by-case basis to projects that agree to set-aside at least five units for Permanent Supportive Housing.

## **XV. PROJECT OR DEVELOPMENT TEAM CHANGES**

Owners will not be allowed to make changes to a project that would result in a change to any of the specific items for which points were awarded, unless extraordinary and well-documented circumstances would warrant it. Any such changes to a project that require a re-scoring or re-evaluation which causes the project's position to fall below its original position may cause the allocation of LIHTC to be rescinded or an assessment of negative points on future applications.

Additionally, Reservations, and/or Carryover Allocations are non-transferable either to another entity or within the same entity where there is a change in control or general partner interests, except with the express written consent of MSHDA, it being the explicit intention of the QAP to prevent one party from obtaining such a Reservation and/or Carryover Allocation in order to sell or broker its interest in the proposal (except for syndication purposes). Because all representations made with respect to the owner, applicant, developer or related party or entity, or any member of the development team, their experience and previous participation are material to the evaluation made by MSHDA, it is not expected that MSHDA's consent will be granted for such transfers unless a new application is submitted and scores no less than the original application, and the transfer is a benefit for the project.

## **XVI. EXCHANGE OF CREDIT**

In certain unusual circumstances, delays may occur which will prevent the project from being placed in service at the end of the second calendar year after the date of the Carryover Allocation. In extremely unusual circumstances that are beyond the control of the developer, MSHDA may allow the credit to be returned and may issue a Carryover Allocation in the year in which the credit is returned without the necessity of competing for funding provided certain conditions are met. Such a request will be evaluated as a facts and circumstances test. Requests for an exchange of credit may not be applied for prior to October 1<sup>st</sup> of the year in which the project was required to place in service, unless the Authority determines that extenuating circumstances warrant an earlier exchange of credit.

At no time will any project be allowed more than three calendar years from the date of initial allocation to project completion unless approved by MSHDA.

## **XVII. FEES**

All applications must be accompanied by a check or money order in an amount equal to \$45 for each proposed low-income unit, with a \$2,500 maximum limit. This fee is non-refundable and must be paid in each funding round in which a project is seeking to be scored and/or evaluated. A fee of \$100 will be assessed each time a check is returned to MSHDA for non-sufficient funds.

MSHDA will charge a fee equal to 6% of the annual LIHTC dollar amount reserved for a project. A sum equal to 3% of the annual LIHTC dollar amount shall be submitted to MSHDA at the time of Reservation. The remaining 3% shall be paid at the time of the 10% Certification, which is one year following the issuance of the Reservation.

In addition to the fees listed above, MSHDA may establish such other fees as may be necessary to effectively administer the program. Such fees may include, but are not limited to, charges to process waiver requests, changes in ownership, and site visits. MSHDA shall publish a schedule of such fees 60 days prior to implementation (see [Fee Schedule Policy Bulletin](#)).

Compliance monitoring fees will be charged for the credit period as follows:

- All units for which an allocation of credit was received on or after January 1, 2012 must pay the sum of \$475 per low income unit, which amount will cover the initial 15 year compliance monitoring period and is payable prior to issuance of Form 8609. Also, a fee of \$25 per LIHTC unit will be charged annually during the extended use period.
- All units for which an allocation of credit was received on or after January 1, 2011, but before January 1, 2012 must pay the sum of \$450 per low income unit, which amount will cover the initial 15 year compliance monitoring period and is payable prior to issuance of Form 8609. Also, a fee of \$20 per LIHTC unit will be charged annually during the extended use period.
- All units for which an allocation of credit was received on or after January 2008, but before January 1, 2011 must pay the sum of \$450 per low income unit, which amount will cover the entire 15 year compliance monitoring period and the extended use period and is payable prior to issuance of Form 8609.
- All units for which an allocation of credit was received on or after January 1, 2001 but before January 1, 2008 must pay the sum of \$300 per low income unit, which amount will cover the entire monitoring period and is payable prior to issuance of Form 8609.
- All units that received an allocation of credit prior to January 1, 1993, and all projects financed by MSHDA that received an allocation of credit before January 1, 1997, may elect to submit a sum equal to \$15 per low income unit on an annual basis for the remainder of the compliance period, or may opt to make one payment similar to that described above.
- With the exception of projects financed by Rural Development, all projects that received an allocation of credit prior to January 1, 2001 must pay an additional inspection fee of \$30 for each unit to be inspected once every three years. Projects financed by Rural Development must pay an additional fee of \$20 per each unit to be inspected once every three years. This fee shall be paid at the time of submission of the annual owner certifications.

#### Noncompliance Fees

- MSHDA will assess a fee of \$100 if an owner fails to have a representative present for a scheduled tenant file audit and/or physical inspection which results in the inability to conduct the file audit and/or physical inspection.
- MSHDA will assess a fee of \$50 per unit for significant and repeated noncompliance issues.

Failure to submit any compliance or inspection fee will be considered non-compliance.

Compliance monitoring fees are subject to change based on changes in costs associated with administration of the compliance monitoring function by MSHDA and other changes in MSHDA and/or IRS mandated monitoring requirements.

#### **XVIII. COMPLIANCE MONITORING**

Owners receiving an allocation of LIHTC shall be required to meet minimum compliance requirements and to follow the requirements outlined in MSHDA's [LIHTC Compliance Manual](#), which is available on MSHDA's website. Please see [Exhibit VI](#) attached hereto for further compliance monitoring requirements.

#### **XIX. COMBINED APPLICATION, POLICY BULLETINS AND ADDENDA**

Additional program requirements are set forth in the Policy Bulletins, MSHDA's Combined Application, and the applicable Addenda. MSHDA reserves the right to modify the Combined Application, Policy Bulletins, and Addenda at its discretion following notice to the public.

## EXHIBIT I – GENERAL THRESHOLD REQUIREMENTS

### I. APPLICATION COMPLETENESS

Submission of a complete and consistent application. This includes, but is not limited to, a fully completed LIHTC Excel Application prepared in accordance with application instructions, submission of the required application fee, and submission of all applicable exhibits. MSHDA will reject applications with multiple material errors in documentation, incomplete information, and/or general inconsistencies found within the entire application submission. Decisions for rejection under this threshold requirement are intentionally made on a subjective basis and are entirely under MSHDA's discretion.

### II. PROJECT NARRATIVE

A detailed and complete narrative description of the project which includes, at a minimum, the type of project; location; prior LIHTC status, if any; type of financing; tenants served; bedroom mix; local, federal or state subsidies, if any; number of jobs created, including an explanation/analysis for how this number was determined; and any other relevant descriptive information. Applicants are encouraged to provide as much additional detail and background information about the proposed project as possible; particularly for describing areas in the application involving unusual or complex elements.

### III. SITE CONTROL

Evidence of site control by the Applicant, as evidenced by an option to purchase, letter of intent or term sheet, land contract, offer to purchase, purchase agreement, long-term lease or other appropriate documentation, and ability to keep same for 120 days from the date of application due date, with the ability to provide additional extensions as necessary to accommodate application processing timelines. If site control is vested in an entity other than the anticipated owner, the control must be unilaterally assignable to the proposed owner. Site control documents must clearly identify the physical location of the property (i.e. property address, full legal description or plat map identifying street names) and be consistent with the rest of the development information provided in the application including the title insurance commitment. If the site control documentation does not clearly identify a detailed breakdown of the components of the purchase price to be paid to the seller, a written narrative from the applicant providing additional detail may be submitted to accompany the site control documentation.

### IV. ZONING

Evidence from the municipality of the property's current zoning designation and what, if any, steps are in process to obtain proper zoning for the proposed development, if it is not already properly zoned.

## V. UTILITIES

Evidence from the municipality and/or utility companies regarding the availability of all utilities and confirming they will have the capacity to serve the property – electricity, gas, water and sewer.

## VI. MARKET STUDY

A market study completed in accordance with MSHDA's guidelines (see [Tab C](#) of MSHDA's Combined Application) that indicates the housing needs of low-income individuals in the area to be served. A completed market study must be submitted with the application and dated within six months of the application deadline. It is anticipated that it will take approximately 5 weeks from the time the market study is ordered through MSHDA's process to receive a completed the study. Potential applicants should be aware of this timing when planning to submit an application as part of a competitive funding round.

## VII. ENVIRONMENTAL

Submission of an environmental review in accordance with the current MSHDA Environmental Review Standards (see [Tab D](#) of MSHDA's Combined Application) together with a remediation plan, if necessary, with estimated costs outlined in detail and accounted for in the Sources and Uses Statement. Projects may be rejected if the environmental review and/or supporting documentation do not meet MSHDA's standards or if MSHDA determines additional testing or modifications to a remediation plan are necessary. Environmental studies must be dated within six months of the application deadline.

## VIII. TITLE INSURANCE COMMITMENT

All projects will be required to submit a title insurance commitment, dated within six months of the application due date, at the time the application is submitted. For projects located on federally recognized American Indian reservations, MSHDA may accept, in lieu of the title insurance commitment, an attorney's opinion letter describing chain of title and land control.

Applicants must assure that the name of the entity that owns the property matches with the site control documents, that the entity to be insured is correct, and that all parcels of property under land control exactly match up, are properly identified, and agree with the application that was submitted. The title insurance commitment must contain an original signature of the authorized title insurance company agent or employee, must indicate the availability of a title insurance underwriter, and must otherwise be complete and without defect.

NOTE: For proposed projects that contain multiple sites, Applicants must submit the Property Identification form found in the [LIHTC Application](#) to accompany the title insurance documentation. The title insurance documentation submitted must be organized in the same order as shown on this form.

## IX. FINANCING

Evidence of submission of application(s) to a mortgage lender(s) stating the amount of the loan, terms, and interest rate for all sources of financing. In the case of a Rural Housing Service (RHS) project, an original letter signed by an official of RHS; in the case of conventional financing, original documentation from the lender(s) stating that a formal application for construction and permanent financing has been submitted and is under serious consideration; in the case of Federal Historic tax credit, MEDC Community Revitalization Program financing, documentation indicating that Part I of the required application has been made; and in the case of an Authority financed project, evidence that the project has passed initial determination.

The Authority understands that due to differing schedules of funding rounds for various government financing sources, including but not limited to AHP or HOME funds, limited documentation or confirmation of funding awards may be available at the time of LIHTC application. Because of the unique timing of these types of sources of funding, the Authority is committed to being as flexible as possible. Accordingly, MSHDA will accept and process LIHTC applications that are proposing to apply for funding sources that are only available as part of a funding round held by another entity as long as the applicant can confirm that the specific funding source has been applied for and that there is a strong likelihood of funding availability prior to receiving an award of LIHTC. If, at the time LIHTC awards are made, it cannot be determined that the specific funding source has been applied for and that there is a strong likelihood of funding availability, the funding source will not be considered, which may result in the disqualification of the application. In this way, applicants are encouraged to take note of this flexibility, but are also cautioned to list only those funding sources in their initial application that they are confident will meet the requirements noted above prior to the LIHTC award.

## X. ACQUISITION TRANSFER

For acquisition/rehabilitation involving properties currently regulated by another government body (including HUD, RHS, or MSHDA), statement from the Applicant of the requirements for such approval and how the Applicant intends to meet them consistent with the LIHTC timetables.

## XI. EQUITY INVESTOR LETTER

At the time of application, the applicant must submit an equity investor letter from the proposed syndicator or investor that includes all of the following:

- The amount, price, and terms of the investment.
- The planned equity pay-in schedule.
- Investment underwriting and financial forecast pages compiled by investor (sources and uses of funds, development budget, draw schedules, rental income and operating expenses, cash flow analysis, lease-up schedule, tax credit analysis, capital account analysis, etc.).

- Certification that investor has conducted financial review of development team.
- Clear statement of any conditions for investment that need to be met.

Failure to provide sufficient and thorough documentation from the equity investor as outlined above may result in disqualification of the application.

## XII. GREEN POLICY

All projects applying for and receiving LIHTC will be required to incorporate one of three available green standards referenced in the Green Policy which can be found in [Tab M](#) of the Combined Application.

## XIII. DEVELOPMENT TEAM CAPACITY

Each Applicant shall submit information regarding its entire Development Team. The Development Team is defined as any of the following (without limitation): (i) the Applicant entity, (ii) the proposed owner, (iii) principal(s) of the owner or Applicant, (iv) the developer, (v) the general contractor, (vi) the property management company, (vii) any third party development consultant, (viii) any related party(ies) or entity(ies) in the seller of any land or property. For this purpose, a related party or entity is considered to be related if one party or entity directly or indirectly has the ability to control the other party or exercise significant influence over the other party in making financial and operating decisions.

The Development Team must demonstrate professional and financial capacity to plan, build, market, and operate the proposed development. The performance record of the Applicant, consultant, architect, management agent and contractor will be measured by the quality and quantity of previous development(s); design, construction and property management efforts; and affirmative action records. Each team member is expected to demonstrate satisfactory prior experience on projects of similar scale and complexity; to have satisfactory professional references; and to devote sufficient staffing and resources, including financial resources, to complete the proposed development. To demonstrate capacity, the Development Team will be evaluated based on the following:

- Applicants will be required to submit a certification regarding their previous experience in the development and ownership of affordable housing, which includes at a minimum: (a) a list of all affordable housing developments the Development Team has participated in during the three (3) years preceding the application, and (b) a statement concerning any felony criminal convictions, indictments, and pending criminal investigations of all Development Team members, and details of each circumstance, unless otherwise prohibited by court order, statute or regulation.
- The Applicant and contractor will be evaluated for creditworthiness and financial capacity. Specifically, financial statements will need to be submitted for the Applicant and contractor that meet the requirements of [MSHDA Policy Bulletin #7](#) and demonstrates adequate professional and financial capacity.

If a Development Team member does not have satisfactory prior experience or adequate financial capacity, a written plan must be submitted for review by MSHDA to outline how these deficiencies in experience and financial capacity will be rectified.

Proposals submitted wherein any member of the Development Team (v) has failed to pay any fee or expense due to the Authority in connection with any Authority-sponsored program (w) has been determined to be in default or in major non-compliance with LIHTC or any other MSHDA program, (x) has been debarred or suspended from any MSHDA, HUD, or Rural Housing programs, (y) is in foreclosure or been foreclosed, or (z) is under felony investigation, indicted or been convicted of a felony, will automatically be disqualified until the event or events of default, debarment, suspension, foreclosure, non-compliance, or other legal action are corrected or resolved. To assist in its evaluation of these criteria, MSHDA may contact other local, state, and/or federal housing agencies to solicit feedback related to a specific development team member.

MSHDA has the sole and absolute discretion to determine those parties ineligible for LIHTC due to lack of capacity, non-compliance, or disqualification status.

#### XIV. AFFIRMATIVE FAIR HOUSING MARKETING PLAN

Submission of an Affirmative Fair Housing Marketing Plan consistent with MSHDA requirements (see [Tab P](#) of MSHDA's Combined Application).

#### XV. NONPROFIT CERTIFICATION

For purposes of qualifying under the nonprofit set aside, at least one nonprofit entity involved in a project (including through a qualified corporation) must:

- (a) be qualified under Section 501(c)(3) or (4) of the IRS Code,
- (b) materially participate, as defined under federal law, in the acquisition, development, ownership, and ongoing operation of the property for the entire compliance period,
- (c) have as one of its exempt purposes the fostering of low-income housing, and
- (d) be a managing member or general partner of the ownership entity.

MSHDA reserves the right to make a determination that the nonprofit owner is not affiliated with or controlled by a for-profit entity (other than a qualified corporation).

#### XVI. OWNERSHIP FORMATION DOCUMENT

Copy of the most recent version of the certificate of limited partnership (or limited liability company) and any amendments on file with the Department of Licensing and Regulatory Affairs, Bureau of Commercial Services, which accurately reflects the entities involved in the project ownership shown in the application. Out-of-state entities must submit a copy of an endorsed application for certificate of

authority to transact business or conduct affairs in Michigan, along with the supporting documentation submitted with the application. The ownership entity must be formed prior to issuance of a tax credit Reservation.

#### XVII. WAIVER OF QUALIFIED CONTRACT

By submitting an application for LIHTCs, all Applicants waive the right to request a qualified contract under Section 42(h)(6)(E)(i) of the Internal Revenue Code. Thus, MSHDA's required extended use commitment shall not terminate at the end of the compliance period, but is instead a minimum of 30 years.

#### XVIII. VOUCHERS AND PUBLIC HOUSING

A written statement signed by the Applicant stating:

- it will give priority to persons whose names are on appropriate Public Housing or Housing Choice Voucher waiting lists maintained by a Public Housing Commission (PHC) or Public Housing Authority (PHA) in the area in which the project is located, and
- it will make ongoing efforts to request that the PHC and/or the PHA make referrals to the project, or place the relevant project information on any listing the PHC or PHA makes available to persons on their waiting lists.

A copy of the written statement and documentation of ongoing efforts as evidenced by a referral agreement or other appropriate memorandum of commitment must be kept on file at the development's office and available for compliance inspection and review at all times.

#### XIX. MSHDA FINANCING SIGNAGE

A statement of certification that if the Applicant is awarded LIHTC it shall post signage at the project construction site listing MSHDA as a financing source.

#### XX. MINIMUM HARD CONSTRUCTION COSTS

All applications for 9% credit must indicate a need for at least \$20,000 per unit in hard rehab or construction costs (including both building and site costs, but excluding allowable amounts for General Requirements, Builder Overhead, Builder Profit, contingencies, etc.) and must include this amount in the construction budget. Projects seeking 4% credit to be used in conjunction with tax-exempt bond financing will only need to meet the minimum requirements found in Section 42 of the Internal Revenue Code.

#### XXI. MICHIGAN PRODUCTS

All projects must demonstrate the use of products and goods that are manufactured by

Michigan-based corporations and incorporate them into the proposed development. (Submit certification from architect; [See Tab HH](#))

## XXII. UNITS FOR FAMILIES WITH CHILDREN

All projects that are designated as family projects (i.e. those that are not 100% elderly) must reserve at least 10% of the two or more bedroom units (including market-rate units, but excluding management units) for households with children.

## EXHIBIT II – PRESERVATION THRESHOLD REQUIREMENTS

### I. ELIGIBLE PRESERVATION PROJECTS

Eligible Preservation projects include those with any of the following elements:

- a. *Government financing* from HUD (including Section 236, Section 8, and Section 202), USDA Rural Development (including 515), or MSHDA;
- b. *Other below-market financing*, defined as a below market federal loan as defined in Section 42 of the IRC;
- c. *Rehabilitation of existing public housing* provided the project will involve rehabilitation of existing units, and not demolition and construction of new units; or
- d. *Year 15 LIHTCs*.

Projects with federal assistance must retain the assistance. Prepayment of a HUD loan and conversion to enhanced vouchers may qualify as retainer of assistance if the applicant demonstrates to MSHDA's satisfaction that such conversion is necessary to enhance the property's long-term affordability and if the property will remain viable even after normal attrition of enhanced vouchers.

### II. MSHDA GAP FINANCING PROGRAM SUBMISSION

As outlined in Section [V.B.1](#) of the QAP, an applicant will not be able to submit a preservation project for 9% credit unless the project has first been submitted to MSHDA in order to evaluate whether the project is likely to be competitive under the MSHDA Gap Financing Program, using the available gap funding paired with a tax-exempt bond loan. Based on MSHDA's determination, if a preservation project is unlikely to be competitive in the Gap Financing Program, the project will be eligible to submit for consideration as part of a 9% competitive funding round under the Preservation Category. Additionally, applications for preservation projects that are ultimately eligible to be submitted for the Preservation Category may not materially differ from the same project application that was submitted as part of the Gap Financing Program; otherwise MSHDA, in its sole discretion, may determine the project to be ineligible for an award of 9% LIHTC.

### III. PROJECT MUST BE 'AT RISK'

Projects must either:

- a. Be within five years of any permitted prepayment or equivalent loss of low income use restrictions; or
- b. Preserve occupied and restricted low income units provided the rehabilitation will repair or replace components that are:

- i. In immediate need of repair or replacement; or
- ii. Either substantially functionally obsolete or being improved to provide modifications or betterments consistent with new building code requirements and MSHDA's Design Requirements.

#### IV. PROPERTIES INELIGIBLE FOR PRESERVATION

Preservation projects are ineligible if they:

- a. Are deteriorated to the point of requiring demolition, or
- b. Have completed a full debt restructuring under the Mark to Market process within the last five (5) years.

## EXHIBIT III – STRATEGIC INVESTMENT CATEGORY REQUIREMENTS

There may be extraordinary circumstances where the evaluation of an application by the standard review process outlined in the Qualified Allocation Plan does not necessarily take into consideration the contribution that a development would make to the state's overall economic and community development strategy. These situations may include, but are not limited to, applications that demonstrate transformative neighborhood revitalization, and/or unique financial funding and leveraging opportunities, and/or the opportunity to promote significant job growth in proximity to such housing. The Strategic Investment Category has been created to attempt to address these circumstances.

As part of its review for projects submitting an application for the Strategic Investment Category, MSHDA will give consideration to the following:

- Level of community impact, including economic and social impact
- Unique financing opportunities
- Job growth
- Coordination with other site amenities to enhance the overall neighborhood
- Coordination with an overall community revitalization effort

In addition to the usual threshold requirements, at a minimum, to qualify for this Category, the application must include:

- Evidence of a Neighborhood Plan adopted by the municipality that delineates target properties (new construction, rehabilitation, demolition, for example) and that explains how housing related amenities such as transportation and community services are or will be incorporated
- Evidence of significant municipal and/or state funding commitment(s) - not including housing tax credits – and any other unique sources of financing.
- Evidence of substantial outside private investment, within the past two years and/or planned and committed in the following two years - not including investment in housing tax credits
- Demonstration of proximity to job growth/new sources of employment

Projects applying in any of the three Categories outlined in the QAP can also apply in this Strategic Investment Category. MSHDA, in its sole discretion, will make the determination of which, if any, applications shall receive an award from this Category. It is anticipated that very few applications will meet the criteria to apply in this Category, and that there may, in fact, be none in a given funding round.

## EXHIBIT IV – UNDERWRITING STANDARDS

### I. PROJECT FEASIBILITY

In determining the feasibility of a project over the compliance period, MSHDA has established minimum standards for operating expenses, vacancy rates, increases in operating costs and expenses, project income, debt service coverage ratio, operating reserves, and replacement reserves. Requests for use of alternative standards other than those established by MSHDA must be supported by written explanation and appropriate documentation. For developments seeking only competitively allocated 9% credits without financing from MSHDA, applicants may request waivers from these standards based on the submission of written documentation indicating that the alternative underwriting standards have been reviewed and approved in advance by both the debt and equity providers for the project. The use of the MSHDA minimum standards or any alternative standards for determining financial feasibility of a project is at the sole discretion of MSHDA. If MSHDA determines that the project is not financially feasible using MSHDA's minimum standards or the alternative standards at the time of initial application review, the project will not be eligible for an allocation of LIHTC.

MSHDA will review a project's feasibility over the 15 year compliance period at three different stages as required by Section 42 of the Internal Revenue Code: 1) prior to making an award of credit, 2) at 10% Certification, and 3) at Placed in Service. The following is a breakdown of how this provision will apply to each of the underwriting stages in the allocation process and what this provision will mean in practice:

- **Initial Application/Prior to LIHTC Award** – In order to receive an initial award of credit, the project must be financially feasible for the 15-year compliance period utilizing the underwriting standards as applied to the proforma.
- **10% Certification** – MSHDA will review the sources and uses of funds and the total financing planned for the project to ensure that the amount of credit being allocated to the project does not exceed the amount necessary for the project to be financially feasible during the entire initial 15-year compliance period. MSHDA will continue to monitor a project's income and expenses during this phase of the allocation process, but will not hold up the issuance of Carryover documentation because of this portion of the review.
- **Placed in Service/Issuance of 8609** – MSHDA will review the sources and uses of funds and the total financing planned for the project to ensure that the amount of credit being allocated to the project does not exceed the amount necessary for the project to be financially feasible for the 15-year compliance period. MSHDA will continue to monitor a project's income and expenses during this phase of the allocation process, but will not hold up the issuance of 8609s to a project because of this portion of the review.

For projects relying upon project-based rental assistance for financial feasibility – If the project-based rental assistance ends due to events outside the owner's control, any rent and income restrictions on

the property, that the owner agreed to for points as part of a competitive funding round, will revert to the 50% or 60% AMI level as selected by the owner.

The amount of credit awarded to a project will be that for which the value is the lesser of 1) the equity gap calculation; 2) the amount of credit calculated based on using a 3.4% credit rate (used for acquisition costs and for tax-exempt bond financing) or a 7.6%<sup>1</sup> credit rate (used for rehabilitation or new construction costs), the credit pricing identified in the Equity Investor Letter, and on its qualified basis; or 3) the amount of LIHTC requested by the Applicant. If MSHDA, in its sole discretion, determines that the equity pricing shown in the application and the Equity Investor Letter is unreasonable based on current market conditions, MSHDA may use an alternative equity pricing that is more indicative of current market conditions.

Applicants should note that the tax credit rates outlined above may not be the exact monthly rate in effect and that the actual tax credit rate may differ from this. The rates shown above are intended to allow for some flexibility due to fluctuating monthly rates, while not allocating more credit to the project than is needed for feasibility. Additionally, applicants should be aware that as of the date of approval of the QAP, there has been no action taken at the federal level that would allow for the 9% credit to be fixed at a true 9% rate. Should an extension of this provision take place, MSHDA will incorporate the appropriate changes into the LIHTC allocation process.

## II. RENT INCREASES

Rent increases on the tenant-paid portion of rent, for occupied units will be limited to no more than 5% per year for the first three years. This limitation does not apply to occupied units protected by project-based rental assistance or enhanced vouchers.

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<sup>1</sup> MSHDA will use the greater of the credit rates shown or the floating monthly credit rate published as of the time of application submission in its determination of the amount of credit to award.

## EXHIBIT V – STATE-DESIGNATED 30% BASIS BOOST CRITERIA

Pursuant to [Section IX.A](#), MSHDA will use the following criteria in awarding the basis boost of up to 30% to those 9% projects not already eligible for the boost by virtue of their location in a QCT or DDA:

1. Permanent Supportive Housing projects
2. Historic Projects – Projects that are completing a rehabilitation of an existing certified historic property listed, either individually or as part of a district, on the National or State Historic Register; or that the State Historic Preservation Office expects to be listed on the National or State Historic Register.
3. Green Policy – Projects that achieve and certify to a score of 10 points in the Green Policy, which can be found in [Tab M](#) of the Combined Application, may receive a basis boost of up to 15%.
4. Deep income targeting – Projects restricting 10% of the total units to 30% AMI or less.
5. Central Cities projects
6. Rural set-aside projects
7. Strategic Investment Category projects

As of the approval date of the QAP, there had been no extension provided for the fixed 9% credit rate that was made available as part of the Housing and Economic Recovery Act of 2008 (HERA), and pursuant to Section 42(b)(2)(A). If the fixed 9% tax credit rate is not extended and projects must use the monthly fluctuating rate, MSHDA will boost the eligible basis of projects that would not otherwise qualify based on the list above by an amount not to exceed 15% if needed for financial feasibility. Further, should the fixed 9% credit rate not be extended, projects receiving the 15% basis boost above due to the fact that they achieved a score of 10 points in the Green Policy would be eligible for a total basis boost of up to 30%.

## EXHIBIT VI – COMPLIANCE MONITORING & NOTIFICATION OF NONCOMPLIANCE

Owners (Applicants) receiving a LIHTC allocation shall be required to follow the requirements outlined in MSHDA's [LIHTC Compliance Manual](#) (Compliance Manual or Manual) (available on MSHDA's website).

### 1. OWNER RESPONSIBILITIES

Within thirty (30) days of completion of Part II of the Form 8609 and filing of the form with the Internal Revenue Service, a completed copy must be sent to MSHDA for its records. Failure to send a copy of the completed form to MSHDA within the required timeframe shall be deemed as noncompliance.

The records for the first year of the credit period must be kept for six years after the due date (with extensions) for filing the federal income tax return for the last year of the compliance period (a total of 21 years). Owners must keep subsequent records on file for six years after the due date (with extensions) for filing the federal income tax return for that year. These records must include:

- The total number of residential rental units in the building (including the number of bedrooms and the size in square feet of each unit);
- The percentage of residential rental units in the building that are low-income units;
- The rent charged and utility allowance for each residential rental unit in the building;
- The number of occupants in each low-income unit;
- The low-income unit vacancies in the building and information that shows when and to whom the next available units were rented;
- Income certifications of each low-income tenant and the documentation to support the certification;
- The eligible basis and qualified basis of the building at the end of the first year of the credit period;
- The character and use of the nonresidential portion of any building included in the project's eligible basis; and
- Documentation regarding calculation of utility allowances.

Owners must submit to MSHDA Compliance on an annual basis the following:

- An Owner Certification of Continuing Program Compliance (Owner Certification) Form certifying that for the preceding twelve month period the project met conditions outlined in Section 42;
- The original local health, safety or building code violation reports or notices that are issued by the state or local government unit. Copies of these reports or notices must also be kept

on-site at the development for review by MSHDA during the physical inspection. These reports may be destroyed following a MSHDA inspection and the owner's notification to MSHDA that the violations have been corrected. Code violation reports must be retained for uncorrected violations.

Owners must submit to MSHDA electronically, on an on-going basis, data stating the number of qualifying units, number of bedrooms in each unit, information on each low-income tenant household (including income, rent amount, utility allowance, number of occupants, AMI % designation, etc.), and any other information as set forth on the MSHDA website and in the Manual. The tenant income and rent information must be provided in the format required by MSHDA, which includes electronic submission via a web-based reporting system.

Owners must submit to MSHDA in writing, responses to the physical inspections and tenant file audits conducted, unless no inspection or file audit noncompliance findings are identified.

Owners must notify MSHDA in writing (Notice of Change in Management form) within five (5) business days of any changes in the management of the project, including changes in the company managing the project or in the address, telephone number or email address of the management agent company and/or contact person.

Owners must notify MSHDA in writing (Notice of Change in Ownership form) within five (5) business days of any changes in the ownership of the project, including a foreclosure, deed in lieu of foreclosure, or any other sale or disposition of the project or any portion of the project and any changes in the ownership entity, including any changes in the name of the entity, address and telephone number of the entity, percent of ownership changes, and changes in the principals comprising the ownership entity.

Owners must notify MSHDA immediately in writing (Notice of Building Casualty Loss or Damage form) of any unit(s) or building(s) in the project that are anticipated to be unavailable for occupancy either permanently or temporarily for a period of time anticipated to exceed 30 calendar days due to casualty loss, damage, or any other reason.

## 2. MSHDA RESPONSIBILITIES

MSHDA will review the Owner Certification Forms and tenant data and income and rent reporting for compliance with program requirements.

MSHDA, or its authorized agent, will conduct a physical inspection of all buildings, common areas, and at least 20% of the low-income units in a project. MSHDA, or its authorized agent, will conduct tenant file audits consisting of a review of the low-income certification, the documentation the owner has received to support that certification, and the rent record for 20% of the low income units.

Physical inspections and tenant file audits of LIHTC projects will commence no later than the end of the second calendar year following the year the last building in the project is placed in service and will be conducted at least once every 3 years thereafter throughout the initial 15 year compliance period.

MSHDA will continue to conduct physical inspections and file audits throughout the extended use period. MSHDA retains the right to perform an on-site inspection and/or file audit of any low-income building at any time or frequency during the initial compliance period and the remainder of the extended use period.

MSHDA will retain records of noncompliance or failure to certify for a minimum of six years after the filing of a Form 8823. MSHDA will retain all certifications and records for not less than three years from the end of the calendar year in which they are received.

### 3. NOTIFICATION OF NONCOMPLIANCE

If any of the submissions required in Section I, are not submitted in a timely fashion, or should there be omissions, MSHDA shall request such information from the owner. If the owner fails to provide the required documentation within the specified time period, MSHDA shall notify the Internal Revenue Service of the owner's failure to provide the required information.

Should MSHDA discover, as a result of an inspection or audit, or in any other manner, that the project is not in compliance with Section 42, or that credit has been claimed or will be claimed for units that are ineligible, MSHDA will notify the owner. The owner shall have a minimum of 30 days from the date of notification to cure the noncompliance. In extraordinary circumstances, and only if MSHDA determines that there is good cause, an extension of up to six months to complete a cure for noncompliance may be granted.

MSHDA will notify the Internal Revenue Service, utilizing Form 8823, no later than 45 days after the end of the correction period, and no earlier than the end of the correction period, of the nature of the noncompliance and will indicate to the Service whether or not the owner has made appropriate corrections.

While MSHDA will notify the owner of compliance issues, neither a finding of noncompliance nor a determination that noncompliance has been cured is binding on the Internal Revenue Service. Owners who have received a notification from MSHDA that a project is in compliance may still be subject to an IRS audit and the possibility of loss or recapture of Housing Credits. Refer to the Internal Revenue Code for additional information about federal compliance issues.

The absence of a notice of noncompliance should not be relied upon by any owners or their investors as a warranty or representation by MSHDA that the project is in compliance with application requirements.