

## **MHDC Requirements for Carryover Allocation**

A development receiving a 2008 Reservation must complete the development and place the building(s) in service (as defined by Internal Revenue Service Notice 88-116) by December 31, 2008 **OR** satisfy the requirements for a Carryover Allocation (as defined by IRC Section 1.42-6). To receive a Carryover Allocation, all of the following conditions must be met **prior to September 1, 2008**:

1. Receive a Firm Commitment from MHDC.
2. Purchased the property legally described in the Firm Commitment or requested and obtained a waiver to extend the deadline for this requirement, following the waiver request procedure outlined in the Conditional Reservation Agreement dated January 14, 2008.
3. Submit the Carryover Submission Package to MHDC.

Because September 1 occurs on a holiday in 2008, MHDC shall accept Carryover Submission Packages until 4:30 p.m. on Tuesday, September 2, 2008.

## **Carryover Submission Package**

### **1. Tax Credit Allocation Fee**

A check for the tax credit allocation fee equal to 4% of the annual federal credit amount must be included. Please include the development name or the MHDC development number on the check.

### **2. An Executed MHDC Form FIN-100**

An updated FIN-100 with original signatures must be included. Please send either a CD-ROM with the Microsoft Excel workbook or e-mail the workbook to Gary Meyer at [gmeyer@mhdc.com](mailto:gmeyer@mhdc.com).

### **3. Warranty Deed/Lease**

Please provide a recorded vesting deed or lease that shows that the property is owned by the ownership entity receiving the allocation of tax credits. If the owner does not have a fee simple or leasehold ownership interest in the property and has properly obtained a waiver, please provide proof of site control in the form of a valid contract, option, or lease option.

### **4. Limited Partnership Agreement/Operating Agreement**

A copy of the amended and restated partnership agreement or operating agreement must be submitted. The partnership agreement must specify the amount of Federal Low Income Housing Tax Credits and the total federal equity, the amount of State Low Income Housing Tax Credits and the total state equity, and if applicable, the amount of Federal Historic Tax Credits and the total federal historic equity, and the amount of State Historic Tax Credits and the total state historic equity, and AHAP Tax Credits and the contribution amount, with ownership percentages.

### **5. Acquisition Credit Opinion Letter**

If credits for building acquisition are to be allocated, an independent attorney's opinion of IRC Section 42 eligibility must be submitted. This opinion must state that they have reviewed the circumstances of the property over the ten-year period before acquisition by the taxpayer, and give specific reasons why, in their opinion, the property would qualify for tax credits for acquisition based on the requirements of Section 42 of the tax code.

### **6. MHDC Form 3341: Development Financing Certification**

You must provide an executed original of form 3341 completed by the owner of the development. Please make sure the information on the 3341 is as accurate and descriptive as possible.

### **7. MHDC Form 3342: Carryover Allocation Owner Certificate**

You must provide an executed original of form 3342 completed by the owner of the development.

**8. MHDC Form 3345: Plan Review Worksheet**

You must provide an updated and executed form 3345. You must also include either a CD-ROM with the Microsoft Excel workbook or e-mail the workbook to Gary Meyer at [gmeyer@mhdc.com](mailto:gmeyer@mhdc.com).

**9. Title Commitment**

You must provide a copy of the Owners Title Commitment accompanied by a copy of all exception documents. All title commitments must be signed by a representative of the title company.

**10. Additional Information**

MHDC reserves the right to request additional information and will contact you if additional information is needed.

**All MHDC forms that require a signature must be signed in blue ink.**

**10% Test**

The 10% Test can be submitted with Carryover Submission Package, but is not required at the time of Carryover. IRC Section 42(h)(1)(E)(ii) allows an extension of up to 6 months (180 days) after the date the Carryover Allocation is issued by MHDC for the requirement of the expenditure of more than 10% of the reasonably expected basis to be met ("10% Test"). If the Carryover Allocation is dated before July 1, 2008, the 10% Test must be met by the close of the calendar year. If the Carryover Allocation is dated *after* June 30, 2008, the 10% Test must be met by the date that is 6 months (180 days) after the date the allocation was made (IRS Regulation 1.42-6). MHDC defines 6 months for this purpose as 180 days. For instance, an allocation made 08/15/08 has a deadline of 2/11/09 for the submission of the 10% Test.

**Submit the following for the 10% Test:**

1. **MHDC Form 3342 Exhibit B**
2. **MHDC Form 3343: Carryover Allocation Fiduciary Certificate**

**All MHDC forms that require a signature must be signed in blue ink.**

**Additional Information**

IRC Section 42(b)(A) requires the developer to choose when the Applicable Percentage will be established. The choices are (1) the month of allocation (Carryover); or (2) the month the building is placed in service. A section is provided in the Carryover application form 3342 for the developer to indicate the preference.

A development receiving a Carryover Allocation in 2008 is required by IRC Section 42(h)(1)(E)(i) to complete the development and place it in service no later than December 31, 2010. **Requests for issuance of IRS Form 8609 should be submitted no later than six months from substantial completion if there is no MHDC financing.**

Timely progress toward completion of the development, so as to permit placement in service by December 31, 2010 is a continuing condition of the Carryover Allocation. MHDC will require the submission of written monthly progress reports to your underwriter in the form provided.

If a development does not submit a Carryover submission in 2008, the deadline to request a final allocation and submit the required Cost Certification is December 15, 2008. If this deadline may be difficult to meet, it is strongly recommended to submit the Carryover request by the September deadline, even if the development may be completed (placed in service and cost certified) by the second Wednesday in December.

LOW-INCOME HOUSING TAX CREDIT DEVELOPMENT FINANCING CERTIFICATION

Development Name:
Ownership Name:
Municipality of Development:
MHDC/LIHTC No.:
Federal Tax ID No.:

This form is to be completed by the owner, notarized and submitted to MHDC at Carryover and at Final Cost Certification.

The undersigned party hereby certifies as the legal owner of the development which has been granted a Low-Income Housing Tax Credit reservation/bond allocation under the above-referenced LIHTC application number. The sources of financing with respect to the buildings in this development are as follows:

DEVELOPMENT FINANCING

CONSTRUCTION LOAN(S): ATTACH A COPY OF THE NOTE

Lender:
Contact Person:
Phone:
Take-out Financing:
Loan Type:
If other, describe:
Payment Type:
Source:
Loan Amount:
Interest Rate:
Term (months):

Interest-only
Deferred
Yes
No

PERMANENT LOAN(S): ATTACH A COPY OF THE NOTE AND DEED OF TRUST FOR EACH LOAN.

1st Lender:
Contact Person:
Phone:
Comments:
Loan Type:
If other, describe:
Payment Type:
Source:
Loan Amount:
Interest Rate:
Term (months):
Amortization Per:
Annual Payment:

Conventional
Tax-Exempt Bond
Taxable Bond
MHDC Fund Balance
HOME
CDBG
Rural Housing
Other
Hard
Soft

TAX EXEMPT BONDS ONLY:

The percentage of the aggregate basis of each building in the Project and the land on which the building is located that is financed with the proceed of tax-exempts bonds is:

GRANTS

Grant Provider:
Contact Person:
Phone Number:
Grant Type:
Grant Amount:

DEVELOPMENT EQUITY

Provide information concerning syndication and estimated proceeds from sale of tax credits as evidenced in the partnership agreement or operating agreement.

Date of amended and restated agreement of limited partnership or operating agreement:

Table with 6 columns: Anticipated Allocation, Credit Pricing, Ownership Percentage, Anticipated Proceeds, Reference Pages in LPA/OA. Rows include Federal LIHTC, State LIHTC, Federal Historic Credit, State Historic Credit.

When are these proceeds being paid?

Federal LIHTC Syndicator:
Address:
Telephone:
State LIHTC Syndicator:
Address:
Telephone:
Federal Historic Tax Credit Syndicator:
Address:
Telephone:
State Historic Tax Credit Syndicator:
Address:
Telephone:

\* Provide a copy of HTC-E Form provided to Missouri Department of Economic Development Historic Preservation Tax Credit Program when filing this form at cost certification.

Amount of General Partner Equity:
Describe the source and terms of the general partner equity:
Bridge Loan Lender:
Contact Person:
Phone:
Loan Amount:
Interest Rate:
Scheduled Payment Period
Payment Amount:

AHAP Tax Credit Information (not applicable for AHAP allocations for the donation of property)
Non-profit Applicant:
Donor:
Donation Proceeds Funded to Development:
Funding Mechanism:
(if Loan or Grant, please list in Permanent Loan or Grant sections above)

Loan to Development
Capital Contribution
Grant to Development

SUMMARY OF TOTAL FUNDING (ALL PERMANENT LOANS / ALL EQUITY)

NEGATIVE SOURCES ARE NOT ALLOWED.

Table with 2 columns: Source, Amount. Lists various funding sources like Deferred Developer Fee, Limited Partner Equity-Federal LIHTC, etc.

All amounts of equity received or to be received are being reported in this cost certification, and must agree with the final amended and restated partnership agreement or operating agreement and the firm equity commitments. Any differences between the amounts in the firm equity commitments and the partnership agreement or operating agreement must be disclosed to MHDC. All equity amounts received or to be received are required to directly finance the development.

The undersigned is responsible for ensuring that the development consists (or will consist) of a qualified low-income building or buildings as defined in the Internal Revenue Code, Section 42, and will satisfy all applicable requirements of the federal tax law in the acquisition, rehabilitation or construction and operation of the development to receive the low-income housing tax credit.

The undersigned agrees that the Missouri Housing Development Commission will not be held responsible or liable for any representations made to the undersigned or its investors relating to the Low-Income Housing Tax Credit Program; therefore, the undersigned assumes the risk of all damages, losses, costs, and expenses related thereto and agrees to indemnify and save harmless the Missouri Housing Development Commission against any and all claims, suits, losses, damages, costs and expenses of any kind and of any nature that the Missouri Housing Development Commission may hereinafter suffer, incur, or pay arising out of the use of the information concerning the Low-Income Housing Tax Credit Program on the above-referenced development.

IN WITNESS WHEREOF, the owner has caused this document to be duly executed in its name on this day of

Name of Legal Owner
By:
Name of General Partner or Managing Member
Signature of Authorized Representative
Printed Name / Title

STATE OF
COUNTY OF
)
) SS:
)

Signed and sworn to before me, the undersigned authority on this day of

My commission expires:

Notary Signature
Printed Name

Page 1

Page 2

Page 3

**INDEPENDENT AUDITORS' REPORT  
10 PERCENT LETTER  
MHDC FORM 3343**

Date: Month day, year

To: Missouri Housing Development Commission  
LIHTC Department  
3435 Broadway  
Kansas City, MO 64111

and

**Ownership name** (the "Owner")  
**Street Address**  
**City, State, Zip**

Re: MHDC # **LIHTC Number**

We have audited the accompanying Certification of Costs Incurred Form 3342 Exhibit B LOW-INCOME HOUSING TAX CREDIT CARRYOVER ALLOCATION OWNER CERTIFICATION 10% REQUIREMENT of Reasonably Expected Basis and Costs Incurred ("3342 Exhibit B") of the Owner for **Development name** (the "Development") as of **Date**. 3342 Exhibit B is the responsibility of the Owner and Owner's management. Our responsibility is to express an opinion on 3342 Exhibit B based on our audit.

We conducted our audit in accordance with generally accepted auditing standards. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the 3342 Exhibit B is free of material misstatement. An audit includes examining on a test basis, evidence supporting the amounts and disclosures in 3342 Exhibit B. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall presentation of 3342 Exhibit B. We believe that our audit provides a reasonable basis for our opinion.

The accompanying 3342 Exhibit B was prepared in conformity with accounting practices prescribed by the Internal Revenue Service under the accrual method of accounting and by Missouri Housing Development Commission, which is a comprehensive basis of accounting other than generally accepted accounting principles.

In our opinion, the 3342 Exhibit B referred to above presents fairly, in all material respects, costs incurred for the Development as of **Date** on the basis of accounting as described above.

In addition to auditing 3342 Exhibit B, we have, at your request, performed certain agreed-upon procedures, as enumerated below, with respect to the Development. These procedures, which were agreed to by the Owner and Missouri Housing Development Commission, were performed to assist you in determining whether the Development has met the 10% test in accordance with Internal Revenue Code Section 42(h)(1)(E) and Treasury Regulation Section 1.42-6. These agreed-upon procedures were performed in accordance with standards established by the American Institute of Certified Public Accountants. The sufficiency of these procedures is solely the responsibility of the specified users of the report. Consequently, we make no representations regarding the sufficiency of the procedures below either for the purpose for which this report has been requested or for any other purpose.

We performed the following procedures:

- We recalculated, based on estimates of total development costs provided by the Owner, the Development's total reasonably expected basis, as defined in Treasury Regulation Section 1.42-6, to be \$            as of **Date**.
- We recalculated the reasonably expected basis incurred by the Owner as of **Date** to be \$            .
- We recalculated the percentage of development fee incurred by the Owner as of **Date** to be **Percent**% of the total development fee.
- We compared the reasonably expected basis incurred as of **Date** to the total reasonably expected basis of the Development, and recalculated that **Percent**% had been incurred as of **Date**.
- We determined that the Owner uses the accrual method of accounting, and has not included any construction costs in carryover allocation basis that have not been properly accrued.
- Based on the amount of total reasonably expected basis listed above, for the owner to meet the 10% test in accordance with Internal Revenue Code Section 42(h)(1)(E) and Treasury Regulation Section 1.42-6, we calculated that the Development needed to incur at least \$            of costs prior to **Date**. As of **Date**, costs of at least \$            had been incurred, which is approximately **Percent**% of the total reasonably expected basis of the Development.

We were not engaged to, and did not, perform an audit of the Owner's financial statements or of the Development's total reasonably expected basis. Accordingly, we do not express such an opinion. Had we performed additional procedures, other matters might have come to our attention that would have been reported to you. However, we do certify that to the best of our knowledge and in accordance with all guidance issued from the Internal Revenue Service including but not limited to any rule changes, Private Letter Rulings, Technical Assistance memoranda, considerations, IRS guidance, etc., that the reasonably expected basis as reported herein is consistent with such guidance.

This report is intended solely for the information and use of the Owner and the Owner's management and for filing with Missouri Housing Development Commission and should not be used by those who have not agreed to the procedures and taken responsibility for the sufficiency of the procedures for their purposes.

**City, State**

**Date**