MONTANA BOARD OF HOUSING

LOW INCOME HOUSING TAX CREDIT PROGRAM

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SUMMARY OF THE LOW INCOME HOUSING TAX CREDIT PROVISIONS CONTAINED IN SECTION 42 OF THE INTERNAL REVENUE CODE

1. Introduction. The low income housing tax credit is available under Section 42 of the Internal Revenue Code of 1986. The credit is a federal income tax credit for owners of qualifying rental housing which meets certain low income occupancy and rent limitation requirements.

a. Except for certain buildings substantially financed with tax-exempt bonds, an owner must first obtain a credit allocation from the appropriate state agency before claiming the tax credit. The Montana Board of Housing (MBOH) is the state agency that allocates the tax credits for housing located in Montana. The per state resident amount of tax credit allocated annually for housing is limited to $1.90, with a minimum cap as allocated by IRS, whichever is larger. The current allocation of Tax Credits plus any inflation factor the IRS may calculate is posted to the MBOH web page, normally in August or September each year. Montana receives the minimum cap because of our population.

b. The following is a brief summary of some elements of the low income housing tax credit and is provided for informational purposes only. There are numerous technical rules governing a building's qualification for the tax credit, the amount of the tax credit, and an owner's ability to use the credit to offset federal income taxes. **Anyone considering applying for tax credits should refer to Section 42 of the United States Internal Revenue Code (26 U.S.C. § 42).** THE MBOH DOES NOT AND WILL NOT MAKE ANY REPRESENTATION CONCERNING THE APPLICABILITY OF THE TAX CREDIT TO A PARTICULAR BUILDING OR OWNER. DEVELOPERS OR OWNERS INTERESTED IN APPLYING FOR A CREDIT ALLOCATION SHOULD CONSULT THEIR OWN TAX ACCOUNTANT OR ATTORNEY IN PLANNING A SPECIFIC TRANSACTION.

2. Overview of Low Income Housing Tax Credits.

a. Low Income Housing Tax Credits (LIHTC) are allocated by the State of Montana through the Montana Board of Housing to applicants based on the information submitted within applications, market studies, other information obtained by MBOH staff, and justification with support documentation supplied by the applicants. At or before the allocation is made, the applicant must solicit an investor who will purchase the tax credits, if awarded

b. The tax credits are awarded each year for a ten-year period. Hypothetically, a project awarded $100,000 in tax credits is essentially awarded $1,000,000 ($100,000 X 10 years) for the ten-year period. When an investor purchases the credits, the money from the purchase is infused into the financing for the building of the project. The investor purchases the tax credits, for example, $ .75 on the dollar ($100,000 X $.75 X 10 years) equating to $750,000. Typically, the investor pays at a range of $ .70 to $.90 on the dollar. This money directly reduces the amount of dollars financed in a project, thereby the amount each tenant must pay (Low Income) as well as assuring that the project cash flows.

c. There is a requirement that the investor, through a limited liability partnership (LLP) or a limited partnership (LP) be a 99.99% owner of the project for fifteen years during which the investor declares $100,000 each year for ten years as credit on the investor's income tax. Generally, once fifteen years have passed, the project is sold back to the applicant (the .01% partner) for a negotiated amount and the ownership is transferred.

d. Throughout the tax credit life (a minimum of 15 years, which may be extended to 31 years or more) the project must comply with the requirements of tax credit administration and receives periodic file audits and inspection of units by the staff of the Montana Board of Housing.

3. MBOH Policy on Non-Discrimination. The Montana Board of Housing is an Equal Opportunity concern. All employees, who work for or with this Agency, agree not to discriminate against any client or co-worker based on race, color, religion, sex, handicap, familial status, national origin and any other classes protected in Montana. The failure of any employee to take the Agency policy seriously and to in fact discriminate will lead to immediate termination of employment.

4. Eligible Types of Buildings and Rental Units. The tax credit is available for residential rental buildings which are part of a qualifying low income project. The rental units must be available to the general public. Residential properties which are ineligible for the credit generally include transient housing, housing initially leased for less than six (6) months, buildings of four (4) units or less which are occupied by the owner or a relative of the owner, nursing homes, life care facilities, retirement homes providing significant services other than housing, dormitories, and trailer parks.

5. Credit Amounts.

a. The tax credit can be used in conjunction with the acquisition and substantial rehabilitation, substantial rehabilitation or construction of qualifying residential rental housing. Depending upon the type of building and its financing, the annual tax credit for buildings is approximately nine (9) percent or approximately four (4) percent, and is based on either a present value of 70% or 30% of the qualified basis of the building. As long as the building continues to qualify for the credit, the owner may claim the credit each year during the 10-year credit period. Except for certain buildings substantially financed with tax-exempt bonds, the credit is limited to the amount of credit allocated to the building by the appropriate state agency.

b. New Construction or Substantial Rehabilitation. For a new building placed in service which is not federally subsidized, the annual tax credit is approximately nine (9) percent of the building's qualified basis. The annual credit percentage for a new building placed in service which is not federally subsidized will be set in such a manner that the credit's present value over the 10-year credit period will equal 70 percent of the building's qualified basis. If an owner substantially rehabilitates a building (basically by incurring rehabilitation expenditures the greater of either $**10,000** hard costs per rental unit or an amount which is not less than 10% of the adjusted basis of the building during a 24-month or shorter period), the rehabilitation expenditure is treated as a separate new building for purposes of the tax credit. The "per unit" calculation is the total amount of the project divided by the number of units within the project.

c. Federally Subsidized Buildings.

1. For new a building receiving a federal subsidy, the annual tax credit is approximately four (4) percent of qualified basis. The annual credit for a federally subsidized new building placed in service will be set in such a manner that the credit's present value over the 10-year credit period will equal 30 percent of qualified basis. This credit percentage also applies to a federally subsidized, substantial rehabilitation treated as a new building.

2. A federal subsidy is a loan of federal funds provided directly by a federal agency or indirectly by a local or state governmental entity where the interest rate on the loan is less than the applicable federal rate (which is based on prevailing interest rates on federal obligations). Financing provided by state or local governments, the interest on which is exempt from federal income tax under Section 103 of the Internal Revenue Code, is also considered a federal subsidy. A Farmers Home Administration Section 515 loan is an example of a federal subsidy. Section 8 rental "certificate" or "voucher" subsidy is not considered to be a federal subsidy.

d. Acquisition and Substantial Rehabilitation. For an existing building which is acquired and substantially rehabilitated, the tax credit will be approximately four (4) percent for qualified acquisition costs and approximately nine (9) percent for the qualified substantial rehabilitation costs, provided that the rehabilitation is not federally subsidized. The credit will be at a level providing a present value of 30 percent or 70 percent, respectively.

6. Project Requirements.

a. Qualifying Buildings. In order to qualify for the tax credit, an eligible building must be part of a qualifying low income project.

b. Targeting. A project is a qualifying low income project only if it meets one of the following two requirements:

1. At least 20% of its units are rent-restricted and rented to households with income at 50% or less of area median gross income, adjusted for family size (the "20-50 test")(Maximum rent is calculated at 30% of 50% Area Median Income); or

2. At least 40% of its units are rent-restricted and rented to households with income at 60% or less of area median income, adjusted for family size (the "40-60 test")(Maximum rent is calculated 30% of 60% Area Median Income).

c. Election. The owner must make an irrevocable election between the 20-50 test and the 40-60 test. Regardless of the election made, the credit is only allowed for the portion of the building dedicated to low income use (for example, if the owner elects the 40/60 test and only

40% of the units are low income, the owner would qualify for tax credits on 40% of the eligible basis as defined in this summary).

<u>d. Rent Limitation</u>. Gross rent for each low income unit may not exceed 30% of the applicable income ceiling (30% of 50% of median or 60% of median, as applicable, calculated based on the number of bedrooms in the unit). Gross rent includes the rent paid by the tenant, including utility costs, but excludes Section 8 or other federal rent subsidies. If the tenant pays utilities directly, the maximum rent must be reduced by a utility allowance.

7. <u>Compliance Period.</u>

a. An Owner must continue to meet the credit requirements for a 15-year period, five years beyond the 10-year credit period. Failure to comply, reducing the number of the low income units, or reducing floor space for which the credit is based during the 15-year compliance period, will result in a recapture, including non-deductible interest, of at least a portion of the credits taken previously by the owner.

b. To be eligible for Section 42 credits, a building must be subject to an extended low income housing commitment between the owner and the state agency, executing a 30 year extended use agreement with an option to sell the project at year fifteen (15). The owner must meet compliance criteria for the full extended use agreement.

c. Any application indicating an Extended Use period beyond the 15-year compliance period extends the time an owner may request sale of a Tax Credit project to that time identified on the restrictive covenants. An example would be a selection of 16 years extended use beyond the initial 15 years, totaling 31 years, forfeits the right to request that the Board locate a non-profit buyer to maintain LIHTC units until the 32nd year.

8. <u>Qualified Basis.</u>

<u>a. Credit Calculations</u>. To calculate the credit each year, the taxpayer applies the applicable credit percentage to the qualified basis of a qualifying building. The "qualified basis" is that portion of the "eligible basis" attributable to low income units in the building.

<u>b. Eligible Basis</u>. Eligible basis of a qualifying building is generally the same as its adjusted basis for tax purposes, determined at the time the building is placed in service. Generally, eligible basis consists of:

1. The cost of new construction or substantial rehabilitation; or

2. The cost of purchasing an existing building and the cost of substantial rehabilitation.

3. Eligible basis includes costs of common areas and comparable amenities provided to all residential rental units in the building. However, eligible basis must be reduced to reflect any rehabilitation or historic preservation credit claimed with respect to the building. Eligible basis

excludes land cost, costs attributable to any portion of the building which is not residential rental property (except common areas), and costs attributable to non-low income units which are above the average quality of the low income units in the project. Cost certifications must list all items in basis (parking lot, paving, community areas, covers for parking, etc.)

c. Qualified Basis. To determine the qualified basis of a qualifying building, the taxpayer multiplies the eligible basis of the building by the lesser of the "unit percentage" or the "floor space percentage". The "unit percentage" is the number of low income units in the building expressed as a percentage of the number of all residential rental units in the building. The "floor space percentage" is the total floor space of the low units in the building expressed as a percentage of the total floor space of all residential rental units in the building. Low income units are eligible units which are occupied by low income tenants (with income at or below 50% or 60% of area median gross income, depending on the owner's election of the 20-50 or 40-60 test) and which comply with the gross rent limitation (30% of the applicable 50% or 60% income limit). The credit is only allowed for the portion of the building dedicated to low income use.

d. Limits on Utilizing the Tax Credit. A building qualifying for the tax credit can be syndicated. Individual investors in the building are subject to the passive loss, passive credit, and at-risk rules in the Internal Revenue Code. Certain for-profit corporations not subject to the passive credit and at-risk rules may be able to use the project's tax credit more easily than individual investors. The low income housing credit is a part of the general business credit and therefore is also subject to the limits on such credit.

9. Allocation of Credit.

a. Need for Allocation. Except for certain projects substantially financed with tax-exempt bonds, an owner must first obtain a credit allocation from the MBOH before claiming the tax credit. Where tax-exempt bond financing is used to finance a project, the issuer of bonds must determine the amount of allocation using the same criteria as the MBOH's Qualified Allocation Plan. The MBOH makes an allocation on IRS Form 8609.

b. Allocation Applies Throughout Credit Period. An owner needs to obtain a credit allocation only once with respect to a building for which the credit will be claimed. The credit allocation then applies each year during the 10-year credit period. Regardless of the maximum credit otherwise available (based on applying the applicable credit percentage to the qualified basis), the credit claimed each year for a building may not exceed the credit allocation for that building.

c. Time for Obtaining Allocation. The owner must obtain a credit allocation for a building by the close of the calendar year in which the building is placed in service.

OR

d. Carryover Provision. A carryover of tax credit allocation for a period of two (2) years may be permitted if the owner/developer can certify that more than ten percent (10%) of the project's costs have been expended prior to the end of the calendar year in which the allocation is made and the taxpayer has title to the property.

e. Ten Percent for Non-profits. Ten percent of each state's credit allocation must be set aside for buildings which are part of projects involving "qualified nonprofit organizations". To qualify as such, an organization must be exempt from federal income tax under Section 501(c)(3) or (4) of the Internal Revenue Code and must have as one of its exempt purposes, the fostering of low income housing, must own an interest in the project, and must materially participate in the development and operation of the project throughout the compliance period. Such nonprofit organizations may not be affiliated with or controlled by a for-profit organization.

ADMINISTRATIVE PROCESS, ELIGIBLE COMPETITIONS, AND FEE SCHEDULE

1. Administrative Process.

a. Read this packet of material.

b. Determine the degree that your building(s) and development correspond to the MBOH's Development Selection Criteria, contained in the enclosed Allocation Plan.

c. Consult your tax attorney or accountant concerning: (a) each building's eligibility for the tax credit; (b) the amount of the credit, if any, for which your building(s) may be eligible; and (c) your ability and/or your investor's ability to use the tax credit.

d. Send the application for Reservation of Low Income Housing Tax Credit, and the applicable fee (based on the fee schedule below) to the MBOH. A separate application is required for each project. A single application should be made for all buildings within a single project.

e. At submission of each application for tax credits, submit certificates that verify that the General Partner and the Management Company personnel each have successfully completed and passed a certified Low Income Housing Tax Credit course offered through a Nationally recognized compliance trainer.

f. Applications received by the submission deadline of the application cycle will first be reviewed for completeness and soundness of the development. Applications must include evidence of site control, documentation of proper zoning, and a site plan. The application must include a preliminary financing letter from a lender indicating the proposed terms and conditions of the loan. The financing letter must be a formal expression of interest in financing the project, sufficient to support the terms and conditions represented in the application. Applications must also demonstrate that they are financially sound. This includes reasonable financing terms, costs, expenses, and sufficient cash flow to support the operations of the project. This includes documentation (market study) that a market exists to support the project and that the project meets the needs of the community. A market study that does not provide a synopsis with reference to page location specifically identifying items listed at page 16 of the QAP guidance may be considered insufficient and returned without consideration. Incomplete applications will be returned for potential submission in the next round. The remaining applications will be reviewed according to the allocation plan, and its selection criteria. Applications not meeting the minimum criteria will be denied. Applications meeting the criteria are evaluated for the amount of credit allocation needed for feasibility and long-term viability. The Board will determine whether or not to make a tax credit reservation for a development. Once the Board approves an application for future reservation of tax credits, the applicant has 90 days in which to provide evidence the project is progressing (i.e., purchase of land, conditional financing commitment). If the applicant cannot show significant evidence toward meeting the reservation requirements (detailed in #6), the Board may withdraw conditional approval of the application.

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g. If the Board approves an application for a reservation of credit, the following will be required from the partnership, prior to entering into a Reservation Agreement:

- Demonstrated financial ability to proceed (conditional financing commitment)
- Completed purchase of site
- Final zoning approval
- Multi-year revenue and expense pro forma schedule
- Certain other updated application material

Upon receipt of the above, the MBOH will mail a Reservation Agreement to the partnership. The partnership should review, sign, and return this Agreement with the balance of the reservation fee (based on the fee schedule below). Upon receipt, the MBOH will sign the Agreement, and return a copy to the partnership.

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h. Once the partnership enters into a Reservation Agreement with the MBOH, the partnership must then meet the conditions described in the Reservation Agreement and provide the required documentation before they receive an allocation of tax credit**s**. Once an allocation, or carry forward allocation is made, the MBOH will send the partnership a certificate of allocation.

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i. If a Carryover Allocation of tax credits is requested, prior to issuance of the Carryover, the MBOH will require a firm commitment from a lender outlining the terms and conditions of financing, or a letter evidencing acceptance of an approved loan by the lender.

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2. Eligible Competitions. Applications must be complete when submitted to the MBOH. Minor corrections to applications may be allowed. Applications requiring substantial revision or which are substantially incomplete will be deferred to the next application round to allow for appropriate revision or completion. Developments need to meet the 10% carry forward requirements, including an accountant's cost certification, filed restricted covenants and other documents, by the second Friday of November of the year of the allocation.

3. Fee Schedule (Subject To Change).

a. The total reservation fee, including the application fee, equals 4.5% of the amount of the credit actually reserved. The application fee equals 1.5% of the amount of credit reservation requested in your application, payable with your application. The MBOH will not consider applications submitted without an application fee.

b. The balance of the total reservation fee (less the application fee) is due at the time the partnership enters a Reservation Agreement with the MBOH. Once the partnership enters a Reservation Agreement and pays the total reservation fee, the fee is non-refundable. If the partnership fails to meet the conditions described in the Reservation Agreement, and therefore, does not receive a credit allocation, the reservation fee will be forfeited to the MBOH.

c. Developments will incur a reasonable compliance monitoring fee to offset the costs MBOH compliance monitoring. The compliance monitoring fee of $25.00 per low income unit (subject to change), is payable at the time of the Owner's Submission of the Owner's Certificate of Continuing Program Compliance.

4. Information Request And Release Policy.

a. General Program Information. All general program information will be provided as requested either by mail, facsimile or on the MBOH website. General information may include, but is not limited to, program terms and guidelines, income and mortgage limits, funds availability, project lists etc.

b. Request Procedure. If requesting information from an application and/or compliance file, a written request must be submitted and must include a description of the specific information or documents being requested. Depending upon the size of each request the Board may provide copies of the documents being requested free of charge as a courtesy. However the Board reserves the right to require the party making the request to have the copying done themselves at the Board's office and pay for the expense of making the copies.

c. Policy on Confidentiality and Disclosure of Information.

1. Information submitted to the Board is subject to the public's right to know guaranteed by the Montana Constitution except where the demands of individual privacy clearly exceeds the merits of public disclosure.

2. Information contained in an application or compliance file is subject to disclosure as described in the Board's administrative rule, ARM 8.111.203, which follows:

8.111.203 CONFIDENTIALITY AND DISCLOSURE OF INFORMATION

(1) Information submitted to the board by private parties is generally open to public review and disclosure. Therefore, applications, financial information and other information submitted to the board under any of its programs are subject to inspection and copying by interested members of the public except as provided in this rule. Some information may be protected from public disclosure. Information that is constitutionally protected from disclosure is information in which there is an individual privacy interest that clearly exceeds the merits of public disclosure.

(2) If a person or entity submitting information to the board considers any of that information confidential and wishes the information documents to be withheld from public disclosure, the submitting party must identify which part of the information is considered confidential upon their submission and the basis upon which the party believes the information should be withheld from public disclosure.

(3) The type of information which may be withheld from the public disclosure is very limited. If individual documents are not specified and a basis not identified, the board will deem all the information submitted to the board as subject to public disclosure. A submitting party should consult with legal counsel to determine what information may be protected and for what reason.

A statement that all information submitted by a submitting party is confidential will be considered ineffective.
(4) The board will take reasonable steps to protect information designated as confidential from public disclosure and for which a reasonable basis is stated for the confidentiality. If information has been designated as confidential and a basis for confidentiality stated, upon receiving a request to review any such information board staff will notify the submitting party of the request in writing by United States mail at an address provided by the submitting party. The notice will identify the party making the request, and the stated purpose for the request.
(5) It is the responsibility of the submitting party upon receipt of the notice to take such action as is necessary to protect the information from disclosure, including obtaining a court order protecting the documents from disclosure if necessary. If the board does not receive an order from a court of competent jurisdiction ordering the board to maintain confidentiality of the requested information or the board is not notified of other arrangements made between the requesting and submitting parties within 10 days from the date of the notice of the request, the information will be disclosed to the requesting party. The board will not assert the right of confidentiality for a submitting party in a court of law.
(6) Any information not designated as confidential with a specified basis for confidentiality will be subject to public disclosure without notification to the submitting party.
(7) Tenant certifications, income information and information in individual loan files are confidential and will not be disclosed to the public. (8) If a requesting party wants copies of information maintained by the board, and depending on the number of copies to be made, the board may require the requesting party to provide for their own copying, either by making the copies with a copier and paper provided by the requesting party or by paying the expense of a copy service to make the copies.

Information in compliance files and application information submitted to the Board prior to the effective date of the rule (June 8, 2001) will not be disclosed until the person who submitted the information is given notice of the request and the opportunity obtain an order protecting the information from disclosure as provided in ARM 8.111.203.

d. Ex Parte Communication Policy.

"In instances where the Board of Housing acts as a quasi-judicial body, its members should refrain from ex parte contact with parties who will be appearing before it or their representatives.

Additionally, any ex parte communication made where a quorum of the Board is present, outside of a hearing scheduled for the purpose of entertaining the issue before it, would violate Montana's open meeting requirements and the right of public participation under Article II, section 8 of the Montana Constitution and § 2-3-203, MCA. A quorum of the Board is defined as a majority of the membership § 2-15-124(8), MCA.

The policy when the Board is sitting as a quasi-judicial body is:

- **Not to receive any evidence, individually, or collectively, except as a part of the public record at a publicly noticed hearing scheduled for that purpose;**
- **If a member is not able to avoid receipt of information or contact with parties**

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outside of a public hearing the remedial action in that instance is for the Board member to disclose at the public hearing the full content of the information received.

- **Avoidance of ex parte communications is preferred over relying on the public disclosure remedy because an incomplete or inaccurate conveyance of the ex parte contact, even if inadvertent, may bias the outcome and subject the Board action to challenge.**

All information an applicant wants distributed to board members should be provided to staff who will disburse consistently to all members. Board Approved July 9, 2007."

e. Compliance File Policy.

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1. If the information or documents being requested are from an application, the project owner will be notified of the request by telephone or facsimile, the project owner will be told the identity of the party making the request. If the project owner believes that its application contains trade secrets, confidential or proprietary information, it is the project owner's responsibility to obtain a court order protecting their documents from release. If the Board does not receive a court order within 7 working days from the day the request is received by the Board, the documents will be released to the person requesting them.

2. Tenant Certifications and Income Information will be considered confidential and will not be released.

e. Individual Loan Files. Personal financial information will be considered confidential and will not be released.

QUALIFIED ALLOCATION PLAN
FOR THE LOW INCOME HOUSING TAX CREDIT

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1. Introduction.

a. Congress established the Low Income Tax Credit program by enactment the Tax Reform Act of 1986. The Montana Board of Housing (MBOH) implemented and began administering the Low Income Housing Tax Credit program in 1987 in the State of Montana. Since then, it has assisted in providing for the retention, rehabilitation, and construction of rental housing for low income individuals and families for over 4,144 units throughout Montana.

b. The Omnibus Budget Reconciliation Act of 1989 required the appropriate administering agencies (in this case, the MBOH) to develop a Qualified Allocation Plan (QAP) defining the process to distribute Low Income Housing Tax Credits to low income rental housing developments in Montana. The Omnibus Budget Reconciliation Act of 1993 provided a permanent extension for the Low Income Housing Tax Credit.

c. This QAP is intended to ensure the selection of those developments which address the most pressing housing needs of the state in accordance with the guidelines and requirements established by the federal government.

d. The final Qualified Allocation Plan (QAP) for administration and distribution of the Low Income Housing Tax Credit was reviewed by the MBOH Board on **July 9, 2007**, was distributed for public comment in Helena, MT, then approved by the MBOH Board on August 6, 2007**.** The Governor of Montana, Brian Schweitzer, approved the final plan on **August 15, 2007**.

e. **The** MBOH **annually** makes available its authorized volume cap of credit authority **(go to http://housing.mt.gov/Hous_BOH_MF.asp)**. The MBOH evaluates, decides, and allocates credits to the selected developments. Federal legislation requires that the administering agency allocate only the amount of credit it determines necessary to the financial feasibility of the development.

f. Tax credits not allocated during a given round or any unused credits from earlier allocations may be carried forward for the next round of allocation.

g. The MBOH does not forward allocate tax credits from future years to projects included in the applications for current year tax credit allocation.

2. Administrative Requirements.

a. Any public relations actions by a recipient of tax credits that require notification to the public involving MBOH funds or tax credits must specifically state that a portion of the funding is from MBOH. This will be included in radio, television, and printed advertisements (excluding rental ads), public notices, and on signs at construction sites**, e.g., "Low Income Housing Tax Credits allocated by the Montana Board of Housing, Montana Department of Commerce."**

b. MBOH, or its staff, may query an applicant or other persons regarding any concerns related to tax credit application, the management, construction, or operation. Questionable or illegal housing practices or management, insufficient or inadequate response by the applicant, general partners, or management company as a whole or in part may be grounds for non-consideration.

c. Applicants with a tax credit project in Montana for the first time will not receive an approval of a second Tax Credit project until the first project has been placed in service and successfully managed for at least one full year.

d. Due to the increasing need to maintain low income rental housing in Montana, the MBOH **will consider** established rehabilitation of existing housing stock, acquisition rehabilitation, new multifamily rental units, and eventual home ownership, **in that order, as the priorities of the tax credit program**.

e. A General Partner must notify the MBOH of any desired changes to be made during application/construction/rent-up by first requesting authorization to change accompanied by the proposed change(s) and justification.

f. Rehabilitation Tax Credit applications must include a detailed list of rehabilitation activities to be accomplished in each unit. Once rehabilitation is completed, the applicant must provide an itemized status for each unit. Work not completed as identified, or changed without prior approval may result in the loss or reduction of tax credits.

g. Deadline for submission of required 10% information falls on the 2^{nd} Friday of November of the year of the allocation. Deadline for submission of required information for 8609s is six months after the placed-in-service document is issued to the project for each building. The Board may extend the deadline when other governmental processes beyond the owner's control impede the process.

h. Approved developments that miss deadlines for issuance of 10% letters or for issuance of Low-Income Housing Credit Allocation Certificates, Form 8609, must pay a $1,000 penalty. The Board may waive this penalty when other governmental processes beyond the owner's control impede the process.

i. Subsequent changes submitted to application criteria requiring MBOH action may incur additional fees. Changes to tax credit sites, construction of building(s), architectural, engineering, or any on-site review by staff or any member of the MBOH will incur additional charges in addition to the annual compliance fees. This action is not meant to discourage communication between the applicant and the MBOH, but rather to fund un-programmed travel and expenses for review of changes. Fees will be determined based upon the cost of travel for that purpose.

j. Eventual Home Ownership. The opportunity for Eventual Home Ownership allows for projects to, with sufficient justification, make units available after 15 years of successful performance as an affordable rental property to be purchased by the current tenants. In the application, the consultant, in conjunction with the developer/owner, must provide several supplemental requirements to make this portion of LIHTC viable. The application must address how the owner actuates the transfer ownership to a qualified homebuyer at the end of the 15-year compliance period. Secondly, the application must identify the price at the time of the title transfer or a reasonable process to determine the price. The third element for obtaining points for this area includes documentation in the plan for the potential owner to complete a homebuyers counseling program. The applicant must identify how Reserve for Replacement funds will be used at the time of sale of the properties. At the time of sale, the LIHTC owner must provide a copy of the title transfer together with a certificate verifying that the new homeowner completed a homebuyers program within five years prior to the transfer of title. Enforceable covenants must maintain the home as affordable and prevent sale or re-sale to a realtor, financial institution, or a family with an income over 80% AMI, or more than 80% of FHA appraised value. Families who exceed income levels of 80% of AMI at the time of the sale must have qualified at the appropriate AMI contained in the recorded restrictive covenants for the project evidenced by the Tenant Income Certification at the initial rent-up for the family. Units not sold under the Eventual Home Ownership Program must remain in compliance with Section 42 until such time as it is sold to a qualified buyer.

3. Application Process.

a. The MBOH will allocate tax credits on IRS Form 8609 when a qualified building is placed in service (available for occupancy). In order to facilitate planning by owners and developers of potential tax credit developments, MBOH will provide credits through a two-step process (reservation and allocation).

b. Applicants may apply for reservation of tax credits for a particular development during the following Eligible Competition periods.

4. Eligible Competitions.

a. Applications must be to the MBOH's office by 5:00 pm Mountain Time on the application submission date.

Submission	Application Presented to Board
Third Friday in January	April **or May** Board Meeting
First Friday in May	July **or August** Board Meeting

b. Submit complete applications to the MBOH. MBOH may allow minor corrections to applications, but will return applications requiring substantial revision or those that are substantially incomplete.

c. Between the submission deadline and the Board meeting, as required by federal law, MBOH notifies the chief executive officer of the local jurisdiction of each proposed development to solicit comments on the development. The MBOH notifies community housing providers, low income housing advocates, and local community legislatures, to solicit comments on the proposed development.

d. If all of the authorized credits are reserved after a particular cycle, MBOH may place qualifying applications which did not receive an allocation of tax credits on a waiting list for potential allocation of tax credits in the event credits become available at a later date.

e. MBOH will review applications received by the submission date for completeness and soundness of the development. Tax credit recipients must demonstrate effective compliance as prescribed by the projects restrictive covenants during the initial rent-up. This must be considered prior to consideration for subsequent tax credit projects. MBOH staff will review applications that have another tax credit project currently being completed to determine if the applicant has sufficient resources to complete two or more projects at one time. In this review, criteria that may be used includes, but is not limited to, the percentage of completeness of current project(s) and/or past project work performance. If staff or the Board determines that a new project does not seem to be viable or reasonable, together with an existing project, the new application may be turned down without scoring.

f. Applicants with current project(s) that have outstanding substantial IRS Form 8823's may be turned down without the application being scored.

g. Applicants must provide evidence of site ownership (or a valid option on the property), documentation of proper zoning, a site plan, and architects preliminary floor plan and elevations for the project.

h. A preliminary financing letter from a lender indicating the proposed terms and conditions of the loan must be included. The financing letter must formally express interest in financing the project in sufficiency to support the terms and conditions represented in the project financing section of the application.

i. Applications must demonstrate financial soundness, including reasonable financing terms, costs, expenses, and sufficient cash flow to support the operations of the project. The application must include:

- Project/unit amenities
- Profit or non-profit status
- Total years of commitment to project
- Selection of target audience (20-50)(40-60)
- If targeted for ownership, number of years
- Letters of community support
- Proof of ownership or a signed commitment to purchase
- Elderly stipulation of 55 or 62 and over if the project is for elderly.
- The application must include a market study documenting that a market exists to support the project and that the project meets the needs of the community, be

verified that analysis was conducted at "arms length", and be signed and notarized with date.

j. The market study must clearly identify the following on a summary sheet:

- Average (comparable) market unit rents in immediate area

0 Bedroom $_______
1 Bedroom $_______
2 Bedroom $_______
3 Bedroom $_______
4 Bedroom $ _______ Reference page ______

- Vacancy Rate ______% Reference page ______
- Capture Rate ______% Reference page ______
  (projected income eligible tenants who will move in next year / proposed units)
- Units needed in market area _______ Reference page ______
- Absorption Rate ______% Reference page ______

(proposed units / existing LIH, market area units required)

- Penetration Rate ______% Reference page ______

(existing LIH units/total eligible households)

- Number of LI households that can afford rent of proposed project _____
  Reference page ______

k. If a not-for-profit owner proposes a property tax exemption, documentation of intent to conduct a public hearing must be submitted with the application and conducted by the owner. Without documentation of intent, the project will be underwritten as if no exemption was received. Documentation of public hearing(s) must be submitted prior to the time the 10% documents are issued.

l. A Tax Credit Applicant must place an advertisement in the local newspaper of the intent to apply, and by doing so, encourage public comment to be submitted to the MBOH. Such notice must include Name of Project, Number of Units, Location of Project, For-profit or Non-profit status, and, if applicable, Intent to Request Tax-exempt Status for the project. The notice will be placed as a box advertisement in the newspaper within 30 days prior to or not more than 5 working days after the due-date of the application and will allow for not less than 30 days for response. The advertisement must be published twice within a seven-day period. A copy of the notice, annotated with dates published, must be included in the application.

Example of Public Notice

(Name of Developer, address, telephone number), a (for-profit/non-profit) organization, hereby notifies all interested persons of (city, town, community name) that we are planning to develop, (Name of project) an affordable multi-family rental housing complex on the site at (street location). This complex will consist of (number) (one bedroom, two bedroom, three bedroom) units for (elderly persons/families). This project (will/will not) be exempt from property taxes.

An application (will be/has been) submitted to the Montana Board of Housing for federal tax credits financing.

You are encouraged to submit comments regarding the need for affordable multi-family rental housing in your area to the Montana Board of Housing, PO Box 200528, Helena, MT 59620-0528 or FAX (406) 841-2841. Comments will be accepted through February 28 (for the first round), and May 30 (for the second round).

m. MBOH will return incomplete or unsound applications. These applications may be resubmitted for consideration during the next round once completed or fully justified. An application submitted by an entity with a demonstrated poor track record in completed development or management of low income housing, whether located in Montana or another state, will also be returned. The remaining applications will be reviewed according to the criteria in the QAP. Applications not meeting the minimum criteria will be denied.

n. Application Threshold Criteria – To meet the threshold for scoring an application packet must:

1. Be complete;
2. Include the application fee;
3. Be received by the deadline date;
4. Contain proof of ability to successfully conduct compliance;
5. Contain proof of ability or capacity to construct two or more LIHTC projects simultaneously; and
6. Include a cash flow analysis.
7. Market Study
8. Site control through ownership or a legal form of option to purchase

n. As part of its review of applications, the MBOH will contact community officials of the project location to discuss relevant selection criteria information pertaining to the application and the proposed project. The MBOH may also confirm specific information in the application or seek clarification regarding information represented in the application. This will include checking developer team references and all other sources as appropriate (i.e. credit reports and direct contact with the project developer). <u>Failure to respond to written MBOH request by the application within 10 working days may result in reductions in application scoring results.</u>

o. Eligible developments meeting QAP criteria in the application cycle will be evaluated for the amount of allocation needed for feasibility and long term viability. Three underwriting evaluations will be conducted prior to awarding credit (a.) at application, b.) when a reservation or binding commitment is made, and c.) prior to issuance of Form 8609). Tax credits will be limited to the amount that the MBOH, in its sole discretion, deems necessary to make the development feasible. <u>However, the evaluation is not a warranty that the owner or developer should undertake the development, or that no risk is involved for the investor</u>.

p. Projects intending to use Project Based Section 8 vouchers targeting rents less than 40% AMI must provide a written guarantee from the local housing authority issuing vouchers (subject to congressional appropriation and HUD income layering approval). Without a written guarantee, the Board will underwrite the project at the application rent rate.

q. Accessibility. All new construction and major rehabilitation that replaces interior walls and doors will incorporate the following:

- **36 inch doors for all living areas (except pantry, storage, and closets).**
- **Levered handles for exterior and interior doors (except exterior swing doors)**
- **Outlets mounted not less than 15 inches above floor covering.**
- **Light switches, control boxes and/or thermostats mounted no more than 48 inches above floor covering.**
- **Walls adjacent to toilets, bath tubs and shower stalls require reinforcement for later installation of grab bars.**
- **Lever style faucets for laundry hook-up, lavatory and kitchen sink.**

r. Energy and Green Building initiatives and goals for Montana.

1. Integrated Design Process and Community Connectivity. Project development and design includes a holistic approach. Processes include neighborhood and community involvement to ensure project acceptance and enhancement. Integrated design processes ensure higher quality finish project. Existing neighborhood edges, characteristics, fabric are considered in the project design. Some consideration may include but are not limited to a community design charrette, incorporating project into neighborhood fabric, energy modeling, commissioning, blower door testing, etc.

2. Sustainable Site, Location and Design. The building(s) and project site, including the surrounding area, provide opportunities for education, alternative transportation, services and community facilities. This is evidenced by projects using existing infrastructure, reusing a building or existing housing, redeveloping a greyfield/brownfield, and developing in an existing neighborhood. Design elements use the site's characteristics and reduce impact on the site allowing for open space and other amenities including infill project, rehabilitating existing building, rehabilitating existing housing, carpooling opportunities, using well water for landscaping, parking reductions, etc.

3. Energy and Water Conservation. Design features, product selection and renewable energy options directly reduce use of resources and result in cost savings. Design and product selection exceeds applicable energy codes in performance. Examples include but are not limited to Energy Star appliances, drip irrigation, low flow fixtures, dual flush or composting toilets, ground source heat, duct sealing, rain water collection, and low water consumption plants.

4. Material and Resource Efficiency. Material selections are better quality, designed for durability and long term performance with reduced maintenance. Products used are available locally and/or contain recycled content. Construction waste is reduced in the project through

efficient installation or recycling waste during construction. Considerations include but are not limited to construction waste management specification, recycled content products, local materials, reuse existing building materials, certified lumber, and sustainable harvest lumber.

5. Healthy Living Environments (Indoor Environmental Quality). Materials and design contribute to a healthy and comfortable living environment. Mechanical system design, construction methods and materials preserve indoor air quality during construction as well as the long term performance such as fresh air circulation and exhaust fans, bathroom and kitchen fans exhausting air and moisture, material selection with low toxicity and low VOC (volatile organic compounds) paints, sealants and adhesives.

5. <u>Set-Asides.</u>

a. Ten percent [10%] of the available credit available is required to be set-aside for the entire year for projects involving qualified non-profit organizations. A qualified non-profit must: a) be a 501 (c)(3) or 501 (c)(4) organization which has as an exempt purpose of fostering low income housing; b) own an interest in the project; and c) materially participate in the development and operation of the project throughout the compliance period. Such non-profit organizations may not be affiliated with or controlled by a for-profit organization. This is a requirement of federal law.

b. Twenty percent [20%] of the available credit amount is set-aside for small developments of **$200,000** or less in credits. If there are insufficient small developments meeting the criteria within the first round of the application year to exhaust the small development set-aside, the credits will be available for general allocation. If, within the first round, there is a large project application that was not fully funded with tax credits, but scored well enough to be considered, it may be funded by the board during the first round when applications for small projects have been fully funded and the board deems that remaining funds should be applied toward the partially funded large project.

c. Twenty percent [20%] of the available credit is set-aside for developments for the preservation of existing low income housing, acquisition and/or rehabilitation of housing stock to be converted into LIHTC projects, or vacant buildings to be configured into LIHTC units. If, within the first round there are no requests, or this set-aside is not fully utilized, the amount remaining will be applied toward unfunded large projects.

Deleted: d. Twenty-five percent [25%] of the total annual credit allowance adjusted upward to reflect current allocation will be the maximum credit allocated to any one development or developer. ¶
¶
e. MBOH reserves the right to determine in which set aside a project will be reviewed (subject to eligibility thereof), regardless of eligibility for any other set-aside outlined above. If a project is submitted as a small project in order to utilize the small project set-aside when it is clearly part of a larger project, the project will be placed in the proper category as determined by MBOH staff. ¶
¶
f. A provision will be included in the Restrictive Covenants (Exhibit A-2) indicating the number of units at the appropriate elected rent levels, e.g., 30%, 40%, 50%, 60% AMI, as determined by the application. Owners will be required to maintain those rent levels through the extended use period of the project. ¶
¶
g. The ranking provides guidance to MBOH in its approval of tax credit applications but does not control. MBOH retains the discretion to approve the applications that it believes best meets the needs of low income people within the State of Montana regardless of the ranking of the applications. ¶

6. <u>Development Selection Criteria.</u>

a. The MBOH staff will review all applications received in the application cycle for completeness, soundness, and eligibility based on federal requirements. The MBOH staff will provide to the MBOH only those applications meeting the minimum threshold (as established below). Analysis of applications and points awarded to these applications are both subjective and objective. Subjective scoring will be the result of the feasibility of each project and its justification in sufficient detail to establish conformance with the QAP criteria. Applications are scored against other applications in the same round. Criteria listed below are the minimal required but subject to change should an applicant provide better or more pertinent information. The MBOH considers the applications that meet the minimum threshold according to the Development Selection Criteria and subsequently allocates tax credits to those projects that it determines best meet the needs of low income people in the state of Montana.

b. Twenty-five percent [25%] of the total annual credit allowance adjusted upward to reflect current allocation will be the maximum credit allocated to any one development or developer.

c. MBOH reserves the right to determine in which set aside a project will be reviewed (subject to eligibility thereof), regardless of eligibility for any other set-aside outlined above. If a project is submitted as a small project in order to utilize the small project set-aside when it is clearly part of a larger project, the project will be placed in the proper category as determined by MBOH staff.

d. **Provisions included in the Restrictive Covenants will include Exhibit A-1 (Legal Description of Project Land); Exhibit A-2 (Conditions of Tax Credit Allocation) indicating the number of units at the appropriate elected rent levels, e.g., 30%, 40%, 50%, 60% AMI as determined by the application. Owners will be required to maintain those rent levels through the extended use period of the project; Exhibit A-3 (Energy and Green Building) indicating the architect's letter provided in the application outlining those energy and green building initiatives.**

e. The ranking provides guidance to MBOH in its approval of tax credit applications but does not control. MBOH retains the discretion to approve the applications that it believes best meets the needs of low income people within the State of Montana regardless of the ranking of the applications.

f. Each application must include a narrative addressing the thirteen development criteria and how the application meets each criterion, the market study as well as all other documentation requested in the application.

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1. Extended Low Income Use* (0-10 points): Federal law requires a 30-year extended use agreement with an option to sell the project at year 15. A development which maintains units for low income occupancy beyond the fifteen year minimum compliance period will receive special preference. Developments bound by the terms committed to in the application process through the use of a Land Use Restriction Agreement will receive points listed herein for extended beyond the initial compliance period.

15 years	0 points (30 total years)
16 – 20 years	4 points (31 – 35 years)
21 – 25 years	6 points (36 – 40 years)
26 – 30 years	8 points (41 – 45 years)

Over 30 years	10 points(46 years +)
Eventual Home Ownership	**10 points***

***Development targets projects intended for eventual low-income tenant ownership. Applicant must provide at time of application, a) a feasible plan that transfers property in whole at the end of year 15, b) the future selling price at the end of year 15, c) a method for the completion of homebuyers counseling by the tenant, and d) any other information requested by the MBOH. Information will be reviewed for conformance with Section 429H)(6) and IRS Ruling 95.49.**

2. <u>Lowest Income Tenants* (0-22 points)</u>: Federal law requires that to be eligible for tax credits, developments must choose as a threshold, either a minimum occupancy of 20% of total units by tenants at 50% of area median income, or a minimum of 40% of total units affordable at 60% of area median income. A proposal will receive special preference, and points indicated below, for the percentage of eligible units at the following area median income levels. A development will receive points in both the 50% category and the 60% category, if the development targets both income levels. Developments will be bound by the terms committed to in the application process through the use of a Land Use Restriction Agreement.

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Area Median Income Level	Percentage of Eligible Units	Points
40% or below	10% (or greater)	2**
50% or below	15-20%	6
50% or below	21-40%	8
50% or below	41-60%	15
50% or below	61-100%	20
60% or below	40%	0
60% or below	41-60%	2
60% or below	61-100%	4

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** Rents @ 40% allowed to income qualify to 49% AMI

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3. <u>Project Location (0-7 points):</u>

a. Developments located in a community identified as distressed or hard-to-develop areas. Please note this is not the same as IRS or HUD identified areas. To receive credit for this, the city, county, or local PHA must have identified within its "housing plan" that a specific area has been deemed a "distressed" or "hard-to-develop" area <u>(0-2 points)</u>.

b. Developments located in an area with a high concentration of substandard units as identified by local organized housing entities <u>(0-2 points)</u>.

c. Developments located in a given area in regard to services to tenant. (schools, medical services, shopping, transportation) <u>(0-3 points)</u>.

4. <u>Housing Needs Considerations (0-10 points):</u> Meets area housing needs and priorities as evidenced by area housing providers. Addresses area market concerns, such as vacancy rate and type of housing required. Evidence provided in the application indicates that the community supports the project through neighborhood meetings with attendance rosters, minutes, and/or local charrettes with supporting documents, concept drawings, and input from community, etc. (0-10 points).

5. Project Characteristics (0-23 points):

a. Proposes the preservation of existing federally assisted housing stock or increases the affordable housing stock through the use of either the Rural Development 515 program, HOME program, the Community Development Block Grant program or the FHLB Affordable Housing Program (AHP**)** (0-2 points).

b. Appropriateness for area housing market. (rehab. versus new construction, or addressing vacant buildings). Comparisons will be made with the Market Study to determine how it addresses the considerations for rehabilitation or preservation of existing housing versus need for new construction (0-4 points).

c. Appropriateness of size of development for community (0-3 points).

d. Developments that include higher quality and amenities provided by the facility in comparison with other applications in the same round of competition. Items which may be considered would be higher quality cabinets, floor and wall finishes, dishwashers, carports, central computer or recreation rooms, emergency buttons in each unit, on site managers, air conditioning (especially if medically warranted) and playgrounds. Items deemed luxury would be similar to swimming pools or tennis courts. These items are meant only to be examples and are not to be considered complete lists. In each round all projects will be compared with the other applications. The amenities and qualities itemized will be analyzed and awarded points accordingly. Projects submitted having the same blueprint appearance as other projects completed in, or out of state, may not receive as great a consideration as those, for example, that use cutting-edge design; maximize energy efficiency; use existing terrain and landscaping that matches the surrounding area to enhance the grounds; use of innovative accessibility. The added costs attributed to the project because of efficiency, higher quality and amenities will be considered on a project by project basis for a cost to benefit assessment.
(0-4 points).

e. Applicant's justification for green building and energy conservation includes but not limited to Energy Star building and appliance initiatives, water saving devises, green construction and materials, heating and insulation applications. Criteria for each application will be compared to other applications. The applicant's architect must provide a letter confirming the initiatives incorporated into the project. ***The registered architect will explain how, and by what amount, threshold items will exceed the IECC 2006 standards.*** NOTE: The applicant's architect must provide certification upon completion of the project confirming that the initiatives were incorporated (0-10 points).

NOTE: Standards prescribed by ResCHECK will NOT be accepted.

Energy	Scoring Items	New	Rehab
*Threshold	Insulation, Windows – Exceeds IECC 2006 standards, Add Air Lock Doors (Single Bldg hi-rise Rehab) (2 points)	☐	☐
*Threshold	Furnace/Boiler – Exceeds IECC 2006 standards, Electric heating – **Energy Star** (1 point)	☐	☐
*Threshold	Energy Star Appliances (1 point)	☐	☐
**Discretionary	Water Flow Saving Devises	☐	☐
**Discretionary	Florescent Lights	☐	☐
**Discretionary	Photovoltaic Panels	☐	☐
**Discretionary	Ceiling Fans – LR & Bdrm	☐	☐
**Discretionary	Hydromatic heating/Ground Source	☐	☐
**Discretionary	Light Colored Roofing/Metal Roofing	☐	☐
**Discretionary	Whole Unit Circulating Fan	☐	☐
**Discretionary	Permeable Paving	☐	☐
**Discretionary	Programmable Thermostats	☐	☐
**Discretionary	Hot Water Pipe Insulation	☐	
**Discretionary	Minimize Glass on East/West Exposure	☐	
**Discretionary	Building Orientation	☐	
**Discretionary	Commissioning Conducted	☐	☐
**Discretionary	Window Overhang	☐	☐
**Discretionary	Other (List)______________________________	☐	☐
		________	_________

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*Threshold items – 2 points for insulation/windows, 1 point each for remaining scoring item
**Discretionary items for new construction– 1 point for 4 to 7 of 15 items, 2 points for 8 to 15 of 15 items
**Discretionary items for rehab construction– 1 point for 3 to 5 of 12 items, 2 points for 6 to 12 of 12 items

Green Building	Scoring Items	New	Rehab
*Threshold	Low/No VOC paint/adhesive (1 point)	☐	☐
*Threshold	Use of Montana products (1 point)	☐	☐
**Discretionary	Engineered Lumber (GluLam, etc.)	☐	☐
**Discretionary	Flyash Concrete Greater than 30%	☐	☐
**Discretionary	Recycled Insulation	☐	☐
**Discretionary	Recycled Sheetrock	☐	☐
**Discretionary	Water Efficient Landscaping	☐	☐
**Discretionary	Formaldehyde Free/Full Sealed Counter-Top and Cabinets	☐	☐
**Discretionary	Dimmable Lights (Common Areas)	☐	☐
**Discretionary	Task Lighting (Shine Down)	☐	☐
**Discretionary	Motion Sensor Light Switches	☐	☐
**Discretionary	On-site Recycle of Construction Material	☐	☐
**Discretionary	Vented Range/Bathroom Fans	☐	☐
**Discretionary	Recycled material Carpet/Flooring	☐	☐
**Discretionary	Other (List) ____________________________	☐	☐
**Discretionary	Other (List) ____________________________	☐	☐
**Discretionary	Other (List) ____________________________	☐	☐
		_______	_______

*Threshold items – 1 point for each scoring item
**Discretionary items – 1 point for 3 to 5 of 15 items, 2 points for 6 to 10 of 15 items

TOTAL (up to 10 points) ______ ______

6. Sponsor Characteristics (0-10 points):

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a. Participation by an entity with a demonstrated track record of quality experience in completed development or management of low income housing. The Board will consider all members of the development team and whether housing projects have been developed and operated with the highest quality either in Montana or another state. Special attention will be paid to existing projects, amount of active local community participation used to develop projects and a management entity with a good compliance track record and specialized training. If an entity has a poor demonstrated track record with respect to developments in Montana or in another state, the Board reserves the right to allocate up to ten (10) negative points. The MBOH reserves the right to contact community officials, developer team references, credit bureaus, other state tax credit administering agencies and all other sources as appropriate (0-5 points or as much as minus (-) 10 points for failure to respond within 10 working days of MBOH letter of inquiry).

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b. Demonstration of a Montana presence. In order to assist in providing a better quality product consistent with the purposes of the MBOH and federal law, a development will qualify for points if a member of its development team is Montana based. One (1) point will be awarded for each of the following (0-4 points maximum):

- Developer or Project Manager
- Contractor or Construction Manager
- Either the Consultant, Syndicator, Attorney, Accountant, Architect or Engineers
- If a developer has existing project(s) in Montana with a demonstrated quality product. A developer must demonstrate an active local community participation used to develop projects.

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c. Project involves existing housing as part of a community revitalization plan. Written confirmation must be submitted from a qualified public official stating that the project involves the use of existing housing as part of a community revitalization plan (1 point).

7. Readiness of the Development to Proceed (0-6 points): A development may qualify for some or all of the points in this category.

a. Commitment for Financing. The financing letter must clearly state that there has been a complete underwriting of the project including cash flow and market considerations (0-3 points).

b. Proper zoning in place including but not limited to intended use, Planned Unit Development (PUD) approval, conditional use approval, etc., (0-3 points).

8. Participation of Local Tax-Exempt Organization (0-2 points). A proposal involving significant participation by a local tax-exempt organization (local government, public housing authority, private non-profit housing providers), must be evidenced by a signed agreement to participate. Examples of significant participation would be non-profit organizations providing on-site services, screening and referring tenants through a formal agreement, donation of land or sale at a reduced price to enhance affordability, use of grant money to develop infrastructure, or significant fee waivers on city fees. Note: Information submitted during each round of applications will be compared to other applications within the same round. Only new agreements, land donations, and/or grants requested or negotiated for the current round will be considered for awarding points.

9. Tenant Populations With Special Housing Needs* (0-10 points). The rating received for this category will be based on identified community and state housing needs, and whether the proposed project addresses those needs. A project will receive one (1) point for each 10% of the units targeting the following identified needs:

a. Units targeted specifically for individuals with children (Family units 2 bedrooms).

b. Large Family (3 and 4 bedroom).

c. Handicapped Units Exceeding Minimum Fair Housing Requirements.

d. Units Targeted specifically for elderly and/or persons of disability (must include written agreement with service provider or advocate for the target group).

10. Preservation of Affordable Housing Projects (0-2 points). Existing housing stock or projects applying for rehabilitation tax credits that have completed their initial 15-year compliance period (0-2 points).

11. Community Support (0-10 points). Developments with demonstrated community support will receive preference under the plan. This support must be project specific and address how the project meets the needs of the community. New letters of support (as well as new letters of non-support) must be submitted for each application for each round of competition. Generic support for affordable housing will receive no preference. The development must also document (market statistics or market study) that a market exists to support the project and that the project meets the needs of the community. Developments with the highest priority concerning market need in comparison with other applications in the same round of competition as well as overall level of need will receive a preference.

12. Intermediary Costs (0-10 points). Developments with the lowest percentage of intermediary costs are compared with other applications in the same round of competition. (Development fees, attorneys, consultants, architects, etc.) For projects with identities of interest, developer overhead and construction overhead, fees may also be considered intermediary costs. Soft costs will also be considered in this analysis.

13. <u>Developer Knowledge and Responsiveness (Up to minus (-) 20 points).</u>

a. Applicants with weak management track records, i.e., failure to train personnel to monitor or maintain the project, receive one or more IRS Forms 8823, or failure to retrain management every four years may impact on the points for developer knowledge. MBOH desires that each person involved in such management training receive certification from a qualified management-training course (Minus (-) 10 points).

b. The MBOH may levy an additional negative 10 points against the application if MBOH generated letters requesting clarification or explanation are not responded to and received by ten (10) working days following date of postage from the MBOH and/or there are omissions of threshold or pertinent items required for the application Minus (-) 10 points.

* Indicates federally mandated preference

Total Points Achievable = 122. Developments must score a minimum threshold of 90 points for further consideration.

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The awarding of points to projects pursuant to the QAP is for the purpose of determining that the projects meet the requirements of the QAP and to provide guidance to the Board, but do not control the allocation of tax credits. The Board will allocate tax credits to the projects that it determines best meet the needs of low income people within the state of Montana regardless of the score awarded to each of the several projects or staff recommendations. The Board may consider the following factors in allocating tax credits to qualifying projects:

(a) The geographical distribution of tax credit projects;
(b) The rural or urban location of the qualifying projects;
(c) The overall income levels targeted by the projects;
(d) Rehabilitation of existing low income housing stock;
(e) Sustainable energy savings initiatives;
(f) Financial and operational ability of the applicant to fund, complete and maintain the project through the extended use period;
(g) Past performance of an applicant in initiating and completing tax credit projects; and
(h) Cost of construction, land and utilities.

7. <u>Fee Schedule (subject to change).</u>

a. The total Reservation Fee, including the Application Fee, is 4.5% of the amount of the credit actually reserved. An Application Fee equal to 1.5% of the amount of credit reservation requested in your application is payable with your application and is non-refundable. An application will not be considered received by the MBOH unless the MBOH receives the Application Fee.

b. The balance of the total Reservation Fee (remaining 3% of the reserved credit after payment of the Application Fee) is due at the time a Reservation Agreement is entered into with the MBOH. Once the partnership enters a Reservation Agreement and pays the total Reservation Fee, the fee is non-refundable. If the partnership fails to meet the conditions described in the Reservation Agreement, and therefore, do not receive a credit allocation, the MBOH nevertheless retains the total Reservation Fee.

c. Developments will be charged a reasonable compliance monitoring fee, to offset the costs incurred by the MBOH for required compliance monitoring. The compliance monitoring fee will be $25.00 per low income unit (and will continue to be subject to change), payable at the time of the Owner's submission of each Owner's Certificate of Continuing Program Compliance.

8. <u>Determination Of Credit Amount.</u>

a. Federal law mandates that, although a proposed development may be technically eligible for a certain credit amount, the MBOH may not allocate more credit than is necessary for the financial feasibility of the development and its viability as a qualified low income housing project throughout the compliance period. With the passage of the Omnibus Budget Reconciliation Act of 1993, federal law now requires the MBOH to consider:

1. The sources and uses of funds and total financing planned for the project.

2. Any proceeds or receipts expected to be generated by the tax credits.

3. The percentage of costs used for project costs other than the cost of intermediaries.

4. The reasonableness of the developmental and operational costs of the project.

b. Based on its evaluation, MBOH will estimate the amount of credit it will reserve for each application. This determination is made solely at MBOH's discretion, and **is not** intended to be a representation to anyone as to the feasibility of the development. Rather, it will serve as the basis for making a reservation of credits. A similar analysis will be done at the time of allocation and placement in service, when development costs are finalized.

c. Federal law permits MBOH to reserve a greater amount of credits than otherwise available for projects in a <u>Qualified</u> <u>Census</u> <u>Tract</u> or in HUD designated <u>Difficult</u> <u>Development</u> <u>Areas</u>. The increased credit amount is not automatic, and will only be approved on projects when the MBOH determines the credit is needed for financial feasibility.

9. <u>Development Cost Limitations.</u> In an attempt to balance housing needs in Montana with appropriate use of the state's allocation of tax credit authority, the MBOH has adopted the following cost limitations for the purpose of calculating the tax credit.

a. Per unit costs/cost per square foot. The MBOH will evaluate per unit costs and cost per square foot for all projects for reasonableness, taking into account the type of housing, other development costs as detailed below, unit sizes, and the intended target group of the housing. The MBOH will also consider the area of the state and the community where the project will be located in this review.

b. Builder's overhead. Builder's overhead will be limited to a maximum of 2% of construction costs and improvements (i.e., site work, demolition, construction, construction contingencies, and other construction related costs including general requirements) in accordance with NCSHA standards.

c. General requirements. General requirements will be limited to 6% of total construction costs as defined above, excluding general requirements, in accordance with NCSHA standards.

d. Builder's profit and developer fees. The following fee limitations are in accordance with NCSHA standards:

1. Builder profit will be limited to 6% of construction costs as defined under the Builders Overhead Section above.

2. Developer fees will be limited to a maximum of 15% of total project costs (excluding the developer and builder fees, land costs, and costs of acquisition if a rehabilitation project). Consultant fees will be included as part of the developer fee. Architectural, engineering, and legal fees are considered to be professional services, not consultant fees. Fees for professional services will be examined for reasonableness.

3. Developer fees will be limited to a maximum of 8% of costs of acquisition (excluding land costs) if a rehabilitation project.

4. Disclosure of developer/consultant fees commingled within the project and/or profit as a result of brokered activities will require a statement of total profit. If the developer/consultant receives a commission on the sale of the homes or structures to the multifamily project and also receives the contractor profit, at a minimum, the cost of the homes and the contractor profit and overhead must be subtracted from the total development cost before calculating the 15% maximum. Failure to fully disclose such activity may result in the project's disapproval. (See identities of Interest, below)

e. Identities of Interest. Identities of interest are defined as a financial, familial, or business relationship that permits less than arms length transactions. This includes, but is not limited to, existence of a reimbursement program or exchange, common financial interests, common officers, directors, or stockholders, or family relationships between officers, directors, or stockholders. The MBOH reserves the right to negotiate lower Developer and Builder fees on projects when an identity of interest exists between parties.

f. Operating Expenses. The MBOH will evaluate operating expenses and vacancy rate projections for all projects for reasonableness, taking into account the type of housing, unit sizes, and the intended target group of the housing. The MBOH will also consider the location of the project within the area of the state and the community.

g. Operating Reserves. Minimum operating reserves must equal four months of projected operating expenses, debt service payments, and annual replacement reserve payments. Using an acceptable third party source, this requirement can be met by either cash, letter of credit from a financial institution, or a developer guarantee that a syndicator has accepted the responsibility for a reserve.

h. Replacement Reserves. Minimum replacement reserves must equal $250 per unit annually for new construction developments for seniors and $300 for new construction and rehabilitation developments. The goal for replacement reserve is $1,000 per unit. Upon allocation of tax credits, the project has five years to attain then maintain replacement reserves at that level. Exceptions may be made for certain special needs or supportive housing developments. Exceptions will need to be documented and will be reviewed on a case by case basis. In projecting replacement reserves (15 year pro-forma), developments should take into account a realistic rate of inflation foreseeable at the time of application. The applicant will require continuous compliance with the development cost limitations established in this Qualified Allocation Plan. The applicant will provide the MBOH with a disclosure of fees as part of the Accountant's Certification discussed in this document.

i. Utility Rates. The HUD Section 8 Utility Rates are the only acceptable rates allowed for applications unless provided by USDA (Rural Development) or an approved local public housing authority. Utility rates provided by utility providers will not be considered.

10. Market Study. Developments submitting an application must submit a complete comprehensive Market Study prepared by a disinterested third party. Only Market Studies are acceptable. A Market Analysis or Feasibility Analysis is not an acceptable substitute. Application received without a Market Study will be returned un-scored. Application fees will not be returned. Please refer to the instructions for the Tax Credit Supplement of the Uniform Application for complete requirements**.** Market Studies must be completed within six (6) months prior to the submission date of the application.

11. Capital Needs Assessment. Developments that consist of the rehabilitation of an existing structure must submit a Capital Needs Assessment conducted by a competent party. Each application for rehabilitation/preservation must provide a line-by-line Needs Assessment for each unit and the building as a whole within 60 days following the Boards decision to award Tax Credits. Please refer to the instructions for the Tax Credit Supplement of the Uniform Application for complete requirements.

12. State Law Requirements. The applicant and development team must certify and agree to comply with Montana State law requirements (e.g., certificate of contractor registration, workers

compensation, unemployment compensation and payroll taxes). The MBOH will include this certification in the execution of all Reservation and Carryover Allocation documents.

13. Reservation.

a. Once MBOH has determined the allocation of tax credits, MBOH will ask each successful applicant to sign a letter of reservation. A reservation is a commitment conditioned on evidence of timely progress toward completion of the development acceptable to MBOH, and compliance with federal tax credit requirements.

b. The applicant will have 90 days from the date of the reservation in which to provide evidence to MBOH that the project is progressing (i.e., purchase of land, conditional financing commitment). If the applicant cannot show significant evidence toward meeting reservation requirements, the MBOH may withdraw approval of the application.

14. Status Reporting.

a. All applicants receiving reservations of credits must provide written status reports every 90 days, beginning 90 days after the reservation date. The documentation regarding the progress must be development specific, and include such items as planning approval and building permits, firm debt and/or equity financing commitments, and construction progress. Owners must provide a copy of the Certificate of Occupancy for each building with the status report covering the period during which it was issued

b. The applicant must immediately notify the MBOH in writing if changes occur in the project with respect to the Applicant, the Developer, or any other principle participant in the project. The Board must review and approve any proposed major changes to the project including but not limited to quality of construction, unit composition, target group, location and changes in areas where the project has been scored based on the scoring outlined in this Allocation Plan. The review and approval must happen prior to the change taking effect or being completed. Changes, which are completed without Board approval, can result in the loss of some or all credits.

15. Recapture of Reservations. The MBOH will recapture an approved Tax Credit reservation when a project fails to make successful progress toward completion. Submitting status reports demonstrating satisfactory evidence of the project's completion is the responsibility of the applicant. A site visit by the staff may be conducted prior to the issue of the IRS Form 8609.

16. Accountant And Owner Certification. Prior to issuance of a Carryover Allocation or IRS Form 8609, the MBOH requires an independent third party CPA cost certification, including a statement of eligible and qualified basis for the project. The Accountant Certification must include a breakdown of costs similar to the project costs and uses of the application, including development cost limitation categories as discussed in this allocation plan. The owner must provide a certification, under penalty of perjury, providing the owners name and address, the

placed in service date, taxpayer identification number, the project name and address, the total eligible and qualified basis, and the percentage of the project financed by tax-exempt bonds.

17. Tax Credit Proceeds. In order to adequately evaluate sources and uses for Low Income Housing Tax Credit projects, the sponsor/developer is required to provide information to the MBOH regarding the proceeds or receipts generated from the tax credit. At application, expected proceeds must be estimated by the sponsor/developer. When equity sources are committed, the sponsor/developer must provide the MBOH with a copy of the commitment or agreement. Prior to issuance of IRS Form 8609, the MBOH will require the accountant's certification to include gross syndication proceeds and costs of syndication, even though the costs are not allowed for eligible basis.

18. Rural Development Projects. The MBOH requires a copy of the final Rural Development cost certification, as well as the Accountant Certification of tax credit eligible and qualified basis, and the owner's certification. While a Rural Development project may be technically eligible for an amount of credit, such project frequently will receive an award less than the maximum amount of credit, because less credit is required to fill the financing gap. The MBOH will award only the amount of credit determined necessary to make the project feasible.

19. Tax Exempt Bond Financed Projects.

a. Projects with tax-exempt financing under the volume limitation on private activity bonds are eligible to receive tax credits outside the state's tax credit allocation volume cap. With the exception of not having eligible competition periods or submission deadlines, each project is required to submit the same information and meet the same requirements included in the current QAP as a project submitting an application under the State's tax credit allocation volume cap. If the minimum criteria are not met, the project will not receive an allocation of tax credits.

b. Projects with tax exempt financing must submit a certification from the bond financing agency indicating that the project meets the public purpose requirements of the bonds and that the project is consistent with the needs of the community.

20. Carryover Allocations.

a. Federal law requires that more than 10% of the expected basis in a project, including land, must be expended by the latter of:

1. The end of the year in which the allocation was made, or
2. Six months following the date of the allocation and that the owner has title to the property and a lender's firm commitment or firm letter of acceptance in order for a project to qualify for a carryover commitment.

In accordance with the law, MBOH will permit sponsors of tax credit projects that receive allocations "in the second half of the calendar year" to qualify under the ten percent test

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within six months of receiving the reservations, regardless of whether the 10% test is met "by the end of the calendar year." (Please note that developers who receive reservations during the first half of a calendar year must meet their ten percent deadline by the end of the calendar year, or by an earlier deadline established by MBOH.) MBOH requires that developers provide a certified accountant's opinion relative to the ten percent test. The accountant's opinion must be in the format established by MBOH.

b. The developer must provide evidence that the Land Use Restriction Agreement (Declaration of Restrictive Covenants for Low-Income Housing Credits) has been executed and recorded.

c. Once a Carryover Allocation is provided, the developer must provide written status reports to the MBOH outlining progress toward completion every 90 days, beginning 90 days from the Carryover Allocation date. The documentation regarding the progress must be development specific, and include such items as planning approval and building permits, firm debt and/or equity financing commitments, and construction progress.

21. Placed In Service/Issuance of 8609. The MBOH will not issue an IRS Form 8609 until a building is placed in service, the MBOH has completed the final credit award evaluation, and the developer has provided an Accountant's Certification, a recorded executed original of the Restrictive Covenant agreement including the date, deed book and page numbers of record, and an Owner's Certification that the building has been placed in service. A building is placed in service when the building is certified or officially declared as available for occupancy. Once the 8609(s) is issued and delivered to the owner(s) he/they should sign the document(s) and send a copy of each back to MBOH. A Project should request 8609(s) not later than six months from the date the project is placed in service. An applicant who requests an 8609 after the six month period has elapsed may have points deducted from a future application submitted to the MBOH for an allocation of tax credits.

22. Compliance Monitoring. For complete LIHTC compliance guidance, refer to the MBOH Program Compliance Manual. Federal law requires state allocating agencies (MBOH) to monitor compliance with provisions of Section 42 of the Internal Revenue Code (26 U.S.C. § 42). Federal law requires allocating agencies to provide a procedure the agency will follow in monitoring for non-compliance and inform tax credit recipients (owners) of procedures and requirements. Included in the requirements are procedures for notifying the Internal Revenue Service (IRS) of any non-compliance of which the allocating agency becomes aware.

23. MBOH Policy on Civil Rights Compliance. The owner, developer, borrowers and any of their employees, agents, or sub-contractors in doing business with the Montana Board of Housing understand and agree that it is the total responsibility of the owner(s) to adhere to and comply with all Federal Civil Rights legislation inclusive of the Fair Housing Laws, Americans With Disabilities Act as well an any State and local Civil Rights legislation along with any required related codes and Laws. Should requirements, such as design, not be specified by MBOH, it is none the less the owner(s) responsibility to be aware of and comply with all non-discrimination provisions related to race, color, religion, sec, handicap, familial status, national

Deleted: Federal law provides that the state housing credit agency may give a Carryover Allocation to certain qualified buildings which are placed in service not later than the close of 2007.

Deleted: Federal law requires that more than 10% of the expected basis in the project (including land) must be expended by the later of: a) the end of the year in which the allocation was made, or b) six months following the date of the allocation and that the owner must have title to the property in order for a project to qualify for a carryover commitment. In addition, the developer must have a loan commitment from a lender outlining the terms and conditions of financing, or a letter evidencing acceptance of an approved loan by the lender prior to receiving a Carryover Allocation. The developer must provide evidence that the Land Use Restriction Agreement (Declaration of Restrictive Covenants for Low-Income Housing Credits) has been executed and recorded.

Deleted: Montana requires that the 10% test be met by the end of the year in which the reservation of the tax credit has been made.

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origin an any other classes protected in Montana, including design requirements for construction or rehabilitation, Equal Opportunity in regard to marketing and tenant selection and reasonable accommodation and modification for those tenants covered under the Laws.

24. Accessibility. The Fair Housing Act including design and accessibility applies to LIHTC properties.

25. Compliance Monitoring Requirements. The following procedure describes MBOH plans for monitoring compliance on tax credit projects. Federal income tax regulations related to Procedures for Monitoring Compliance with Low-Income Housing Credit Requirements are published in 26 CFR Part 1 and 602.

26. Submission Deadlines.

a**.** Owners must submit Owner Certifications (a separate certification must be submitted for each project having an allocation of tax credits) and Tenant Income Certifications on the prescribed forms prior to January 25th of each year. At the owners request to MBOH an earlier certification date may be set. However, once the certification date is set, certifications will be due at the same time each year. Federal regulations stipulate there must be no more than 12 months between certifications.

b. At the time of submission, the owner(s) will provide bank statement(s) for Reserve for Replacement (R4R) balance as of December 31 each year listing all draws, purpose, and deposits for the year. Draws taken from the R4R not directly invested into the project will be cause to replace those funds by the owner(s).

27. Fees.

a. An annual fee of $25 per low income unit (subject to change) will be payable to the MBOH when the owner submits annual certifications. The fee is for the purpose of offsetting the costs of tax credit monitoring procedures.

b. An Officer or owner of the entity which owns the property must sign the Owner's Certification. Managers or management companies of projects who are not owners may not sign this document.

28. Ownership/Management Changes. Notification of changes to ownership, property management companies, managers, site managers, or changes to points of contact must be made to the MBOH prior to or immediately upon implementation of the change.

29. Compliance Term. The owner must comply with the unit set aside percentage represented by the owner in the Declaration of Restrictive Covenants for Low Income Housing Tax Credits. Owners must continue the applicable set aside for the entire fifteen-year compliance period. Owners who received credits after 1989 must continue the set aside for the fifteen year

compliance period, plus the 15 year extended use period. The owner must maintain the set aside for any additional period covered by the Declaration of Restrictive Covenants.

30. Partnership Documentation. Once the limited partnership documentation has been completed, a copy of the agreement must be forwarded to the MBOH compliance office.

31. Owner Annual Certification (26 CFR 1.42(c)(1)). The MBOH will require a signed statement of Owner Certification from the owner on an annual basis. This statement must be filed with the MBOH every year during the compliance period, and if applicable, during the extended use agreement. Certifications are contained in Exhibit B of the Restrictive Covenants for any projects with Executed and filed Restrictive Covenants. The Final Regulations published in September 1992, added several items to the certification requirements. Owners must file annual certifications on the form provided by MBOH. This form may not be substituted. Projects that fail to provide an annual certification report on the date established by the MBOH will be subject to issue of an IRS Form 8823 for Late Owner's Certification.

32. Project Manager Education. Persons responsible for qualifying tenants and verifying compliance (involved in tenant qualification and compliance) must be certified in LIHTC compliance by one of the nationally recognized training companies. Project managers and property management company personnel must complete a nationally recognized certification course, passing the test. For MBOH purposes, to maintain certification, training with a nationally recognized compliance trainer will be repeated at least once every four years. For each of the other three years, all project mangers and property management company personnel are strongly encouraged to attend annual MBOH compliance training. Many nationally recognized training companies recognize MBOH training as qualifying training in lieu of their training. The **on site** manager **or person accepting applications** for a new LIHTC property must be trained and certified before the project is placed in service. New managers hired for existing LIHTC projects must be certified within their first year of employment. On a case-by-case basis, MBOH may approve our compliance training as adequate training until such time as the next nationally recognized training program is offered within Montana.

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33. Tenant Income Certifications (26 CFR 1.42 (c)(2)). An annual Tenant Income Certification must be completed and signed by the owner/manager and tenant, and filed with the MBOH, in addition to the Owners Annual Certification. Projects eligible for an exemption from annual certification under IRS Revenue Procedure 94-64, (which applies to projects which are 100% low income where every unit is occupied by a qualified tenant and credit is claimed on 100% of the units) must provide certifications for all tenants the first year or each year until the project reaches 100% low income occupancy. Any exemptions from annual certification granted do not exempt the owner from obtaining and providing to the MBOH certifications for all new tenants each year.

a. **The MBOH will NO LONGER accept Form FmHA 1944-8-Tenant Certification For Rural Development projects.**

Deleted: For Rural Development projects, the MBOH will accept Form FmHA 1944-8-Tenant Certification. Tax credit income is based on the Annual Income (section 17.f.) rather than Adjusted Income portion of the form. MBOH will not require owners to send in documentation supporting the numbers represented on the form with the Tenant Certifications. MBOH will review supporting documentation as part of the On-Site Review process.

b. For all other projects, the owners must complete the MBOH Certification of Tenant Eligibility and Income Verification and file it with the MBOH on an annual basis for each tenant. MBOH will not require owners to send in documentation supporting the numbers represented on the form with the Tenant Certifications. MBOH will review supporting documentation as part of the On-Site Review process. With MBOH approval, an owner's form may be substituted, if it contains all the required information. Please note the tenant must certify income "under penalty of perjury".

c. A tax credit unit must fall under the provisions of maximum monthly rent restrictions to meet compliance requirements. Restrictions to the maximum monthly rents by unit size are available on the "Maximum Income and Rent Table" provided by the MBOH. Maximum monthly rents, including the utility allowance, cannot be exceeded.

34. Annual Operating Expense Information. All project owners must submit operating income and cost information for the projects latest fiscal period. This information will be used to maintain a database of all tax credit projects in the state.

35. 1ST Year 8609. All project owners must submit to the MBOH a signed copy of each of the project's first year 8609's that was or will be filed with the IRS.

36. On-Site Review Process (26 CFR 1.42 (c)(2)).

a. The MBOH will perform an on-site review and inspection of each project at least once every three years. MBOH will notify the owner/manager in advance prior to the review. During this review MBOH staff will:

1. Tour and inspect the project and inspect a minimum of 20% of the units in each building. MBOH, at its discretion, may request to view additional units based on the initial inspection. The MBOH will not notify the Owner/Manager which units are to be sampled in advance.

2. Inspect supporting documentation for numbers represented on the Certification of Tenant Eligibility and Income Verification or the FmHA Tenant Certification for a sample of tenants. The MBOH will not notify the Owner/Manager of which tenant records are to be sampled in advance.

3. Inspect rent records for a sample of units.

b. If applicable, review completed IRS Forms 8609 and Schedule A of Form 8609 for the project for the last tax filing.

c. Complete copies of tenant official tax credit rental files from original lease-up forward must remain within the State of Montana at the location of the rental property or the regional in-state office.

d. If MBOH determines it is necessary, projects may be inspected more than once every three years. The cost of any additional inspections will be billed to the respective project.

e. Under the inspection provision (26 CFR 1.42 (d)), the MBOH has the authority to perform an on-site inspection of any low-income housing project at least through the end of the compliance period of the buildings in the project. As discussed under "Compliance Term" above, on-site reviews may continue through the extended use period for applicable projects.

f. If concerns over occupancy restrictions under Section 42 of the Code or the implementing regulations require the MBOH to undertake additional monitoring (or the MBOH elects to undertake additional monitoring), the MBOH will require the owner to substantiate compliance. The Owner will take any and all actions reasonably necessary to comply. The Owner will pay a reasonable fee to the MBOH for such monitoring activities performed by the MBOH.

37. Records Retention (26 CFR 1.42 (5)(b)).

a. Federal regulations require the owner of a low income housing project receiving tax credits to retain the following information for each qualified low income building in the project. The information must show for each year in the compliance period:

1. The total number of residential rental units in a building (including the number of bedrooms and the size in square feet of each residential rental unit).

2. The percentage of residential rental units in the building that are low income units.

3. The rent charged on each residential rental unit in the building (including any utility allowances).

4. The number of occupants in each low-income unit if the rent was determined by the number of occupants in each unit (projects receiving credit before the Revenue Reconciliation Act of 1989).

5. The low income unit vacancies in the building and information that shows when, and to whom, the next available units were rented. If a unit is left vacant, or in a mixed use project is rented to a non-qualifying tenant, the owner must maintain documentation showing a diligent attempt was made to rent the unit to a qualifying tenant.

6. The annual income certification of each low income tenant (by unit), including annual certifications for each continuous tenant.

7. Documentation to support each low income tenant's income certification. This must include a copy of a) verification of income from third parties such as employers or state agencies paying unemployment compensation, b) the tenant's federal income tax return, and c) Forms W-2.

8. The eligible basis and qualified basis of the building at the end of the first year of the credit period.

9. The character and use of any non-residential portion of the building included in the eligible basis of the building, if applicable.

b. Under the record retention provision of the IRS compliance regulations, the owner is required to retain the above mentioned records for at least 6 years after the due date for filing the federal income tax return for that year. Records for the first year of the credit period, however, must be retained for at least 6 years beyond the due date for filing the federal income tax return for the last year of the compliance period. Owner should also retain records relating to the amount of credit claimed for the Low Income Housing Tax Credit, including the Form 8609 and Schedule A of Form 8609.

38. Notice To Owner (26 CFR 1.42 (e)(2)). Under the notification-of-noncompliance provisions, the MBOH must provide prompt written notice to the owner if MBOH does not receive the certification(s) described in this document, or is not permitted to inspect the tenant income supporting documentation, rent records, or the project. In addition, the MBOH must provide prompt written notice to the owner if MBOH discovers by inspection, review, or in some other manner, that the project is not in compliance with the provisions of Section 42.

39. Correction Period (26 CFR 1.42 (e)(4)).

a. The owner will be given a correction period of up to 90 days from the date of notice. During this time, the owner must supply any missing certifications and/or bring the project into compliance with the provisions of Section 42. IRS regulations require MBOH to notify the IRS even if the non-compliance is cured so the IRS may determine whether a penalty is necessary. IRS does not intend to have MBOH determine whether penalties will be assessed.

b. If the project is out of compliance, a penalty may apply to all units in the project. The IRS will determine whether penalties will be assessed for the project. Penalties may include:

1. Recapture of any accelerated portion of the tax credits for prior years.

2. Disallowance of the credit or a portion of the credit for the entire year in which the non-compliance occurs.

3. Assessment of interest for the recapture year and previous years.

40. Notice To IRS (26 CFR 1.42 (e)(3)). MBOH must file IRS Form 8823 "Low-Income Housing Credit Agencies Report of Noncompliance" with the IRS no later than 45 days after the end of the correction period, and no earlier than the end of the correction period. Again, MBOH must file this notice whether or not the noncompliance or failure to certify is corrected.

41. Liability (26 CFR 1.42 (g)).

a. Compliance with the requirements of Section 42 is the responsibility of the owner of the building for which the credit is allowable. MBOH's obligation to monitor for compliance with the requirements of Section 42 does not make the Agency liable for an owner's noncompliance.

b. No member, officer, agent, or employee of MBOH shall be personally liable concerning any matters arising out of, or in relation to, the compliance monitoring of a low-income housing project.

43. Allocation Plan Revisions. This Allocation Plan may be amended at any time after giving public notice, scheduling and holding a public hearing, and with the approval of the MBOH and the Governor.

44. Closing.

a. The MBOH is charged with allocating no more tax credits to any given development than is required to make that development economically feasible. This decision shall be made solely at the discretion of MBOH, but in no way represents or warrants to any sponsor, investor, lender, or others that the development is feasible or viable.

b. MBOH reviews documents submitted in connection with this allocation is for its own purposes. In allocation of the tax credits, MBOH makes no representations to the owner or anyone else regarding adherence to the Internal Revenue Code, Treasury regulations, or any other laws or regulations governing Low Income Housing Tax Credits.

c. No member, officer, agent, or employee of MBOH shall be personally liable concerning any matters arising out of, or in relations to, the allocation of the Low Income Housing Tax Credit.

HIGH COST AREAS
LOW INCOME HOUSING TAX CREDITS

Section 42(d)(5)(C) of the Internal Revenue Code defines a Qualified Census Tract as any census tract or equivalent geographic area in which at least 50% of households have an income less than 60% of the Area Median Gross Income (AMGI). Section 42 defines a Difficult Development Area as any area designated by the Secretary of HUD as an area that has high construction, land and utility costs relative to the AMGI.

When an area, which can be a county or a specific census tract, is designated as either a Qualified Census Tract or a Difficult to Develop Area, a project proposed for a high cost area is eligible for an increase in eligible basis of up to 130%. This means that a greater amount of tax credits than otherwise available may be approved, if it is determined that the greater amount is needed for financial feasibility of given projects.

MONTANA BUREAU OF CENSUS DESIGNATED QUALIFIED CENSUS TRACTS

Specific information referencing current application year is posted to the Housing web-site as soon as it becomes available. Please note specific year for appropriate application.

MONTANA HUD DESIGNATED DIFFICULT TO DEVELOP AREAS

Specific information referencing current application year is posted to the Housing web-site as soon as it becomes available. Please note specific year for appropriate application.

10% and 8609 Letters and Forms

Attached you will find information regarding the submission of 10% documents, 8609 documents.

10% documents must be submitted not later than the 2nd Friday of November of the year the reservation of tax credits. The documents include:

- the independent auditor's report,
- the owner's statement, 10% Carryover

Exhibit A –

- the Itemized Cost and Eligible Basis worksheet,
- Maximum Credits Based on Qualified Basis worksheet,
- Sources and Uses of Funds worksheet,
- Final Credit Calculation worksheet,
- Qualified basis on a Building-by-Building Basis worksheet,
- the Tenant Paid Utility Worksheet, Income and Rent Schedule, and Annual Operating Expenses Worksheet, and
- the Unit-by-Unit Breakdown

8609 information must be submitted to not later than six (6) months after the project has been placed in service. The final documents include:

- the final cost certification, independent auditor's report,
- the owner's statement, final allocation, and
- the Occupancy Certificates for each building

Exhibit A –

- the Itemized Cost and Eligible Basis worksheet,
- Maximum Credits Based on Qualified Basis worksheet,
- Sources and Uses of Funds worksheet,
- Final Credit Calculation worksheet,
- Qualified basis on a Building-by-Building Basis worksheet,
- the Tenant Paid Utility Worksheet, Income and Rent Schedule, and Annual Operating Expenses Worksheet, and
- the Unit-by-Unit Breakdown

10% Cost Certification
Independent Auditors' Report

Date: XXXX XX, 20__

To:
[State Agency]
[Address]
And

[Owner Legal Name] ("the Owner")
[Address]

Re: [Project Name] ("the Project")

We have examined the column entitled Eligible 10% Test Expenditures Incurred, as shown on the accompanying 10% Test: Taxpayer's Basis Schedule related to the [Development] of [the Project] as of [Cut-off Date]. The Project owner is responsible for the 10% Test: Taxpayer's Basis Schedule. Our responsibility is to express an opinion based on our examination.

We have not examined or reviewed the columns Total Development Cost or Reasonably Expected Basis, as shown on the accompanying 10% Test: Taxpayer's Basis Schedule and therefore express no opinion or any other form of assurance on them.

We conducted our examination in accordance with attestation standards established by the American Institute of Certified Public Accountants and, accordingly, included examining on a test basis, evidence supporting the information presented in the column entitled Eligible 10% Test Expenditures Incurred as shown on the 10% Test: Taxpayer's Basis Schedule and performing such other procedures as we considered necessary in the circumstances. We believe that our examination provides a reasonable basis for our opinion.

In our opinion, the column entitled Eligible 10% Test Expenditures Incurred referred to above presents, in all material respects, the Project's Eligible 10% Test Expenditures Incurred as of [Cut-off Date] using the accrual method of accounting, in accordance with Internal Revenue Code (IRC) Section 461 and also the 10% carryover rules in accordance with IRC Section 42(h)(1)(E) and Treasury Regulation Section 1.42-6.

Independent Auditor's Signature

OWNER'S STATEMENT
10% CARRYOVER

This information is provided by ________________________________ (the "Owner") to the Montana Board of Housing in connection with the reservation of ______ low-income housing tax credits for the __ ______________________________________ Project (the "Project").

1) The Owner's basis in the Project as of _______________ , ________ is:

Basis $________________________

The Owner's reasonable expected basis in the Project as of December 31 , 20___ is:

Reasonably Expected Basis $________________________

2) The Owner's basis in the Project as of December 31, 20____ will exceed 10% of the reasonable expected basis in the project as of December 31, 20____ (All within the meaning of Section 42(h)(1)(E)(ii) of the Internal Revenue Code.

3) The Owner will place the building in service no later than December 31, 20__

4) The Owner anticipates that the building will be completed in ____________ of ______. (Such date is, however, subject to unanticipated delays in commencement of, or progress during, development.)

Owner:

Address:

Deleted: To: Tax Credit Allocation Agency¶
Street¶
City, State Zip Code¶
¶
and¶
¶
XXXX (the "Owner")¶
Street¶
City, State Zip Code¶
¶
Re: TCAA # XX-XXX¶
¶
We have audited the accompanying Certification of Costs Incurred ("Exhibit XXX") of the Owner for XXXX (the "Project") as of XXXX, XX, 20__). Exhibit XXX is the responsibility of the Owner's management. Our responsibility is to express an opinion on Exhibit XXX 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 Exhibit XXX is free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in Exhibit XXX. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall presentation of Exhibit XXX. We believe that our audit provides a reasonable basis for our opinion. ¶
¶
The accompanying Exhibit XXX was prepared in conformity with the accounting practices prescribed by the Internal Revenue Service under the accrual method of accounting and by the Tax Credit Allocation Agency ("TCAA"), which is a comprehensive basis of accounting other than generally accepted accounting principles.¶
¶
In our opinion, Exhibit XXX referred to above presents fairly, in all material respects, costs incurred for the Project as of XXXX XX, 20__, on the basis of accounting described above. ¶
¶
In addition to auditing Exhibit XXX we have, at your request, performed certain agreed-upon procedures, as enumerated below, with respect to the Project. These procedures, which were agreed to by the Owner and TCAA, were performed to assist you in determining whether the Project 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 establis ... [1]

Tax I.D. # :

Street Address of Project:

There will be NO tax exempt bond financing or grant financing utilized in the development of the Project.

Under penalties of perjury, I declare that to the best of my knowledge and belief, the information presented herein is true, correct and complete.

BY :

ITS :

DATE :

Final Cost Certification
Independent Auditors' Report

Owner's Name: XXXX

Project Name: XXXX

Project Number: TCAA # XX-XXX

We have audited the costs included in the accompanying Tax Credit Allocation Agency ("TCAA") Final Cost Certification (the "Final Cost Certification") of XXXX (the "Owner") for XXXX ("the Project") as of XXXX XX, 20__. The Final Cost Certification is the responsibility of the Owner's management. Our responsibility is to express an opinion on the Final Cost Certification 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 Final Cost Certification is free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the Final Cost Certification. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall Final Cost Certification presentation. We believe that our audit provides a reasonable basis for our opinion.

The accompanying Final Cost Certification was prepared in conformity with the accounting practices prescribed by the Internal Revenue Service, under the accrual method of accounting, and in conformity with the format and qualified allocation plan rules set by TCAA, which is a comprehensive basis of accounting other than generally accepted accounting principles.

In our opinion the Final Cost Certification presents fairly, in all material respects, the actual costs and eligible basis of the Owner for the Project as of XXXX XX, 20__, on the basis of accounting described above.

This report is intended solely for the information and use of management of the Owner and for filing with TCAA and should not be used for any other purpose.

We have no financial interest in the Project other than in the practice of our profession.

City, State
XXXX XX, 20__

OWNER'S STATEMENT
FINAL ALLOCATION

This information is provided by _________________________________ (the "Owner") to the Montana Board of Housing in connection with the Final Allocation of $____________ of _____ low-income housing tax credits for the ______________________________________ Project (the "Project").

1) The Owner's Eligible and Qualified basis in the project as of ____________, ______ within the meaning of Section 42(h)(1)(E)(ii) of the Internal Revenue Code, is:

Eligible Basis $_________________________
Qualified Basis $_________________________

2) The Owner placed the building(s) in service on __________________, _______.

Owner:

Address:

Tax I.D. # :

Street Address of Project:

There will be NO tax exempt bond financing or grant financing utilized in the development of the Project.

Under penalties of perjury, I declare that to the best of my knowledge and belief, the information presented herein is true, correct and complete.

BY :

ITS :

DATE :

OWNER'S STATEMENT (Acquisition and Rehabilitation)
FINAL ALLOCATION

This information is provided by ________________________________ (the "Owner") to the Montana Board of Housing in connection with the Final Allocation of $____________ of _____ low-income housing tax credits for the ____________________________________ Project (the "Project").

1) The Owner's Eligible and Qualified basis in the project as of ____________, ______ within the meaning of Section 42(h)(1)(E)(ii) of the Internal Revenue Code, is:

Acquisition:
Eligible Basis $________________________
Qualified Basis $________________________

Rehabilitation:
Eligible Basis $________________________
Qualified Basis $________________________

2) The Owner placed the building(s) in service on _________________, _______.

Owner:

Address:

Tax I.D. # :

Street Address of Project:

There will be NO tax exempt bond financing or grant financing utilized in the development of the Project.

Under penalties of perjury, I declare that to the best of my knowledge and belief, the information presented herein is true, correct and complete.

BY :

ITS :

DATE :

___ 10% certification (mark one)
___ 8609 certification

EXHIBIT "A"
Itemized Actual Cost and Eligible Basis

Itemized Cost	Costs Incurred	Reasonably Expected Cost	List and Indicate Eligible Basis by Credit Type: Fed. Subsidies 4% Credit	w/o Fed. Subsidies 9% Credits
Land and Buildings:				
Land				
Existing Structure				
Demolition				
Other				
Site Work:				
Site Work				
Off Site Improvements				
Environmental				
Other				
Rehabilitation and New Const:				
New Building				
Rehabilitation				
Accessory Structures				
General Requirements				
Contractor Overhead				
Contractor Profit				
Construction Contingency				
Other				
Other				
Professional Work and Fees:				
Architect Design				
Architect supervision				
Attorney, Real Estate				
Consultant/Agent				
Engineer/Surveyor				
Other				
Other				
Construction Interim Costs:				
Hazard & Liability Insurance				
Credit Report				
Construction Interest				
Origination Points				
Discount Points				
Inspection Fees				
Title & Recording				
Legal fees				
Taxes				
Other				
Other				
SUBTOTAL THIS PAGE				

___ 10% certification (mark one)
___ 8609 certification

EXHIBIT "A"
Itemized Actual Cost and Eligible Basis

Itemized Cost	Costs Incurred	Reasonably Expected Cost	List and Indicate Eligible Basis by Credit Type: Fed. Subsidies 4% Credit	List and Indicate Eligible Basis by Credit Type: w/o Fed. Subsidies 9% Credits
Financing Fees and Expenses:				
Credit Report	________	________		
Discount Points	________	________		
Origination Fees	________	________		
Title and Recording	________	________		
Legal Fees	________	________		
Prepaid MIP	________	________		
Other	________	________		
Other	________	________		
Soft Cost:				
Feasibility Appraisal	________	________	________	________
Market Study	________	________	________	________
Environmental Study	________	________	________	________
Tax Credit Fees	________	________	________	________
Cost Certification	________	________	________	________
Other	________	________	________	________
Other	________	________	________	________
Syndication Costs:				
Organizational (Partnership)	________	________		
Bridge Loan Fees and Expenses	________	________		
Tax Opinion	________	________		
Other	________	________		
Developer's Fees:				
Developer's Fees–New Construction	________	________	________	________
Developer's Fees-Acquisition	________	________	________	________
Developer's Fees-Rehabilitation	________	________	________	________
Consultant Fees	________	________	________	________
Other	________	________	________	________
Project Reserves:				
Rent-up Reserves	________	________		
Operating Reserves	________	________		
Replacement Reserves	________	________		
Escrows	________	________		
Other	________	________		
Other	________	________		
SUBTOTAL THIS PAGE	________	________	________	________
plus				
SUBTOTAL FROM PAGE 1	________	________	________	________
Totals	________	________	________	________
Less				
Permanent Financing Fees	________	________		
Tax Credit Fees	________	________		
Rent-up Reserves	________	________		
Organizational Costs	________	________		
Totals	________	________		
Percentage		________%		

___ 10% certification (mark one)
___ 8609 certification

EXHIBIT "A"
Maximum Credits Based on Qualified Basis

	List and Indicate Eligible Basis by Credit Type Fed. Subsidies 4% Credit	w/o Fed. Subsidies 9% Credits
Total Eligible Basis (from previous page)	____________	____________
Less portion of grants used to finance qualified development Costs. List Grants:	<____________>	<____________>
Less amount of nonqualified non-recourse financing	<____________>	<____________>
Less Historic Tax Credits (Residential Portion Only	<____________>	<____________>
Less other nonqualified costs	<____________>	<____________>
Total Adjusted Eligible Basis	____________	____________
Is project in QCT* or DDA*? If Yes enter 130%. If No enter 100%.	X ____________ %	X ____________ %
Total Adjusted Eligible Basis (Includes high cost adjustment)	____________	____________
Applicable Fraction (smaller of Unit or Floor Space Fraction)	X ____________ %	X ____________ %
Total Qualified Basis	____________	____________
IRS Applicable Fraction (per reservation agreement)	X ____________ %	X ____________ %
Total Maximum Annual Credit (by type)	$____________	$____________
Total Maximum Annual Credit (Combined)	$________________________	

Maximum Credits per Reservation Agreement

Total Maximum Annual Credit	$________________________

Tax Credit Sales Price

Tax Credit Sales Price per agreement with equity investors. (ie $0.70, $0.75)	$________________________

*QCT = Qualified Census Tract
*DDA = Difficult to Develop Area

___ 10% certification (mark one)
___ 8609 certification

EXHIBIT "A"
Maximum Credits Based on Qualified Basis

Loans:

Name of Lender	Amount		Rate	Loan Term	Amort. Period	Annual Debt Service
____________	$____________		______%	_______	________	$____________
____________	$____________		______%	_______	________	$____________
____________	$____________		______%	_______	________	$____________
____________	$____________		______%	_______	________	$____________
____________	$____________		______%	_______	________	$____________
____________	$____________		______%	_______	________	$____________
Total Loans		$____________				

Grants:

Name of Grantor	Amount	
____________	$____________	
____________	$____________	
Total Grants		$____________

Other Sources:
(i.e. owners equity, deferred developer fees)**

Name	Amount	
____________	$____________	
____________	$____________	
____________	$____________	
Total Other Sources		$____________
TAX CREDIT EQUITY		**$**____________

TOTAL SOURCES:	$____________
TOTAL USES: (from page 2)	**$**____________

Sources must equal Uses

**Rural Development projects must use required owners equity as a source

___ 10% certification (mark one)
___ 8609 certification

EXHIBIT "A"
Final Credit Calculation

Tax Credit Equity (from page 4)	$____________________	
Tax Credit Sales Price (from page 3)	____________________%	
Maximum Annual Credit Calculation:		
Methods		
1. Maximum Credit Based on Tax Credit Equity ((Equity / Sales Price) / 10 years)	$____________________	
2. Maximum Credits Based on Qualified Basis (from page 3)	$____________________	
3. Maximum Credits per Reservation Agreement (from page 3)	$____________________	
Maximum Annual Credit Amount (lesser of the above three methods)		$____________________

Tax Credit Net Proceeds

Gross Proceeds from Sale of Tax Credits		____________________
Intermediary Costs:		
Organizational/Partnership Expenses	____________________	
Tax Opinion	____________________	
Commissions	____________________	
Bridge Loan Fees	____________________	
Bridge Loan Interest	____________________	
Fees to Owner or related party	____________________	
Other	____________________	
Other	____________________	
Total Intermediary Costs		____________________
Net Proceeds from Sales of Tax Credits		____________________
(reduce the gross proceeds form the sale of the tax credits by the costs the project would not have incurred if it had not used tax credits as funding source.)	(this will be analyzed for reasonableness to determine if tax credits proceeds are being used effectively.)	

Notes:

___ 10% certification (mark one)
___ 8609 certification

EXHIBIT "A"
Qualified Basis on a Building-by-Building Basis

Building Address	Eligible Basis by Building	Applicable Fraction	Qualified Basis by Building	% Qualified Basis by Building	Tax Credits by Building	Placed-in-Service Date
1.						
2.						
3.						
4.						
5.						
6.						
7.						
8.						
9.						
10.						
11.						
12.						
13.						
14.						
15.						
16.						
17.						
18.						
19.						
20.						
21.						
22.						
23.						
24.						
25.						
Totals	$______________		$______________		$_____________	

Separate sheet will need to be completed for both acquisition and rehabilitation.

Owners Statement Attachment

Tenant Paid Utility Information

___ 10% certification (mark one)
___ 8609 certification

Utility of Service	Type of Utility (ie. Gas, Elec)	O=Owner Pd T=Tenant Pd	Bedroom Size: 0-bdrm	1-bdrm	2-bdrm	3-bdrm	___-bdrm
Heating							
Air Conditioning							
Cooking							
Electricity							
Hot Water							
Water							
Sewer							
Trash							
Totals			$	$	$	$	$

Income and Rent Schedule

Number of Bedrooms	Number of Units	Contract or Base Rent	Utility Allowance	Gross Rent	Total monthly Contract Rent	Median Income Rent	Average Sq. Ft Per Unit

Vacancy Factor **%** __________
Other Project Income (monthly) __________
Total Monthly Income __________ *12= __________ /yearly

Annual Operating Expenses

1. Administrative:

Advertising __________
Management __________
Legal/Partnership __________
Accounting/Audit __________
Other __________
Total Administrative __________

2. Operating:

Fuel __________
Lighting & Misc Power __________
Water/Sewer __________
Gas __________
Trash Removal __________
Payroll/Payroll Taxes __________
Insurance __________
Other __________
Total Operating __________

3. Maintenance:

Decorating __________
Repairs __________
Exterminating __________
Ground Expense __________
Snow removal __________
Other __________
Total Maintenance __________

4. Taxes:

Real Estate Taxes __________
Other __________
Total Taxes __________

5. Total Operating Expenses __________
6. Total Replacement Reserves __________
7. Total Expenses __________

Owners Statement Attachment

Unit-by-Unit Breakdown

___ 10% certification (mark one)
___ 8609 Certification

Building Address & Bin Number	Unit Number	Unit Type (1,2,3 bdrm)	Tenant Paid Rent	Utility Allowance	Gross Rent	Square Footage	*** Unit Designation	Is the unit currently rented?

A separate line should be used for each unit.

***Unit Designation - Indicate if elderly, handicapped, Manager, etc.

To: Tax Credit Allocation Agency
Street
City, State Zip Code

and

XXXX (the "Owner")
Street
City, State Zip Code

Re: TCAA # XX-XXX

We have audited the accompanying Certification of Costs Incurred ("Exhibit XXX") of the Owner for XXXX (the "Project") as of XXXX, XX, 20__). Exhibit XXX is the responsibility of the Owner's management. Our responsibility is to express an opinion on Exhibit XXX 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 Exhibit XXX is free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in Exhibit XXX. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall presentation of Exhibit XXX. We believe that our audit provides a reasonable basis for our opinion.

The accompanying Exhibit XXX was prepared in conformity with the accounting practices prescribed by the Internal Revenue Service under the accrual method of accounting and by the Tax Credit Allocation Agency ("TCAA"), which is a comprehensive basis of accounting other than generally accepted accounting principles.

In our opinion, Exhibit XXX referred to above presents fairly, in all material respects, costs incurred for the Project as of XXXX XX, 20__, on the basis of accounting described above.

In addition to auditing Exhibit XXX we have, at your request, performed certain agreed-upon procedures, as enumerated below, with respect to the Project. These procedures, which were agreed to by the Owner and TCAA, were performed to assist you in determining whether the Project 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 calculated, based on estimates of total development costs provided by the Owner, the Project's total reasonably expected basis, as defined in Treasury Regulation Section 1.42-6, to be $XXXX as of XXXX XX, 20__.

We calculated the reasonably expected basis incurred by the Owner as of XXXX XX, 20__ to be $XXXX.

We calculated the percentage of the development fee incurred by the Owner as of XXXX to be XX% of the total development fee.

We compared the reasonably expected basis incurred as of XXXX XX, 20__ to the total reasonably expected basis of the Project, and calculated that XX% had been incurred as of XXXX XX, 20__

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 Project needed to incur at least $XXXX of costs prior to December 31, 20__. As of XXXX XX, 20__, costs of at least $XXXXX had been incurred, which is approximately XX.XX% of the total reasonably expected basis of the Project.

We were not engaged to, and did not perform an audit of the Owner's financial statements or of the Project'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.

This report is intended solely for the information and use of the management of the Owner and for filing with TCAA 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
XXXX XX, 20__