

2009
LIHTC & HOME APPLICATION
EXHIBIT EXAMPLES

EXHIBIT 3

NON-PROFIT INFORMATION

If the development is to be considered for the non-profit LIHTC set-aside, the following information must be submitted:

- (i) A copy of the non-profit's IRS determination letter.
- (ii) A list of all names, addresses and phone numbers of the board members for the non-profit.
- (ii) Describe the non-profit's participation in the construction / rehabilitation of the development and the daily operations of the development.
- (iii) Describe the non-profit's ownership in the development entity (including the non-profit's ownership percentage in the development).
- (v) State whether the non-profit's ownership rights with respect to the development are expected to remain the same throughout the compliance period.
- (vi) Identify all paid full-time staff and the sources of funds for the non-profit, for its annual operating expenses and current programs.
- (vii) Copy of the non-profit's by-laws

EXHIBIT 9
CONSTRUCTION COST BREAKDOWN

Complete the Construction Cost Breakdown form by opening the spreadsheet below.

Click on the icon below to access the required format for Exhibit 9.

Complete all yellow-shaded areas.



Exhibit 9

EXHIBIT 10

INITIAL NO OBJECTION LETTER

(Tax-Exempt Bond Developments Only)

_____[DATE]

Nebraska Investment Finance Authority
Suite 200
Commerce Court
1230 O Street
Lincoln, NE 68508

Re: _____[DEVELOPMENT NAME]
_____ [ADDRESS]

Dear NIFA:

The City of _____ (the “City”) has no objections, at this time, to the application of [DEVELOPER] (the “Developer”) for tax-exempt financing for the above-referenced development.

Need and Demand

The _____[DEVELOPMENT] (the “Proposed Development”) involves the construction / rehabilitation of _____ residential units. The Developer has represented that at least _____% of the units will be occupied by low- and moderate-income individuals or families. Completion of the Proposed Development would assist in addressing the housing needs identified _____[by this Department] _____[by the City].

Zoning

The parcel of land on which the Proposed Development will be located is zoned _____. This zoning designation permits (or will permit) multifamily residential use such as the Proposed Development.

Satisfaction of Conditions

As a prerequisite to delivery of this letter, the Developer may have made certain commitments and agreed to certain conditions required by the City. The Developer’s obligations have been identified by the City and agreed to by the Developer and are not conditions or standards established by NIFA.

As evidenced by the Developer’s acknowledgment below, the undersigned has advised the Developer, and the Developer understands, that:

(i) Delivery of this letter to NIFA is required by NIFA (in addition to such other requirements that may have been identified by NIFA to the Developer under separate cover) as a condition to receiving a NIFA Board of Directors’ approved Intent Resolution;

(ii) Neither this letter nor adoption of the Intent Resolution by the NIFA Board constitutes a commitment by the City or NIFA to proceed with the proposed financing of the Proposed Development;

(iii) Prior to the allocation of volume cap by NIFA to the Developer with respect to the Proposed Development, a second “no objection” letter from the City will be required restating its acknowledgment of the Proposed Development; and

(iv) Delivery of that second letter by the City is conditioned on the Developer’s performance of the obligations and agreements to take additional action, if any, requested by the City, to the satisfaction of the City.

Your favorable consideration in the context of an Intent Resolution with respect to the Proposed Development is appreciated.

Sincerely,

Planning Director

Acknowledged by:

[DEVELOPER]

Date: _____

EXHIBIT 11

FINAL NO OBJECTION LETTER

(Tax-Exempt Bond Developments Only)

_____[DATE]

Nebraska Investment Finance Authority
Suite 200
Commerce Court
1230 O Street
Lincoln, NE 68508

Re: Allocation of Nebraska Investment Finance Authority (“NIFA”) Volume Cap
_____[DEVELOPMENT NAME]
_____[ADDRESS]

Dear NIFA:

The City of _____ (the “City”) previously delivered to you its “no objection” letter with respect to the application of [DEVELOPER] (the “Developer”) for tax-exempt financing for the above-referenced development. A copy of that letter is attached.

Need and Demand

The [DEVELOPMENT] (the “Proposed Development”) involves the construction / rehabilitation of _____ residential units. The Developer has represented that _____% of the units will be available to be occupied by low- and moderate-income individuals or families. It is the conclusion of the undersigned that completion of the Proposed Development would assist in addressing the housing needs identified [by this Department] [by the City].

Zoning

The parcel of land on which the Proposed Development will be located is zoned _____. This zoning designation permits multifamily residential use such as the Proposed Development.

Satisfaction of Conditions

All conditions imposed on this Development by the City have been met to date. It is understood that these conditions are between the City and the Developer and are not conditions or standards established by NIFA.

As evidenced by the Developer’s acknowledgment below, the undersigned has represented, and the Developer understands, that:

- (i) delivery of this letter to NIFA is required by NIFA (in addition to such other requirements that may have been identified by NIFA to the Developer under separate cover) as a condition to allocation of volume cap to the financing of the Development; and

(ii) in the event of changed circumstances or facts, neither this letter nor allocation of volume cap to the financing of the Proposed Development constitutes an irrevocable commitment by the City or NIFA to proceed with the proposed financing of the Proposed Development.

Your favorable consideration of allocation of volume cap to the financing of the Development is appreciated.

Sincerely,

Planning Director

Acknowledged by:

[DEVELOPER]

Date: _____

EXHIBIT 12

HOME ENVIRONMENTAL REVIEW RECORD AND PROCESS

All HOME projects are subject to the provisions of the National Environmental Policy Act of 1969 (NEPA), which establishes national policy and procedures for protecting, restoring and enhancing environmental quality. HOME is also subject to other statutes, Executive Orders and regulations dealing with a number of specific concerns, such as historic preservation, floodplain management, wetland protection, noise control, manmade hazards and others. The applicant must complete the environmental review and receive a Notice of Release of Funds from the Department, before starting any project activities, and obligating or expending any HUD or non-HUD funds (24 CFR 58.22).

The environmental review process should be initiated as soon as possible in the planning process to avoid delays, and allow actions to minimize adverse effects on the environment. Depending on the level of review, recipients should allow from 45 to 120 days to complete the review process.

The Environmental Review must be conducted by a person who has attended an Environmental Review Training with the Nebraska Department of Economic Development. If you are unable to attend an Environmental Review Training, please contact Paula Rhian at 402-471-3760 or paula.rhian@ded.ne.gov .

When completing the attached Forms, start by reviewing the HUD environmental regulation at 24 CFR 58 and the information contained in Chapter 7 of the HOME Administration Manual. found at http://crd.neded.org/housing/home_manual.htm. The information in Chapter 7 is in the process of being updated and includes a summary of a number of state and federal statutes and regulations solely intended to give an overview of the obligations in the environmental review process. The required forms for the environmental review are available on the NIFA website. Additional environmental subjects, rules and regulations can be found at www.hud.gov/offices/cpd/energyenviron/environment/index.cfm

The following items must be completed and included in the application:

1. Determination of Level of Review
2. Environmental Assessment
3. Letters sent to appropriate authorities allowing a 30 day response time – a list of potential state and federal agencies to be contacted is included in Chapter 7.
4. Supporting Documentation – Supporting documentation must include a FIRM flood plain map, the response letters from the appropriate authorities, and source data to document compliance with applicable laws and authorities. An Environmental Phase I is not required at the time of application, but if one has been completed, please include it with your supporting documentation.

Please review the Chapter 7 of the HOME Manual found at http://crd.neded.org/housing/home_manual.htm to help you discern the appropriate authorities for your project. Once you have determined the appropriate authorities, refer to the list of agency contacts in Chapter 7, to assist in your contact efforts. The provided agency list is not a comprehensive list.

If you believe your project does not trigger an Environmental Assessment, please contact Paula Rhian at 402-471-3760 or paula.rhian@ded.ne.gov .

ENVIRONMENTAL REVIEW RECORD:

DETERMINATION OF LEVEL OF REVIEW

ERR FILE #

(optional)

Project Name: _____

Project Number (IDIS): _____ HUD Program: _____ Program Year: _____

Project Location: _____

Project Description (*Attach additional descriptive information, as appropriate to the project, including narrative, maps, photographs, site plans, budgets and other information.*):

The subject project has been reviewed pursuant to HUD regulations 24 CFR Part 58, "Environmental Review Procedures for Entities Assuming HUD Environmental Responsibilities," and the following determination with respect to the project is made:

- Exempt** from NEPA review requirements per 24 CFR 58.34(a)(____)
- Categorically Excluded NOT Subject** to §58.5 authorities per 24 CFR 58.35(b)(____)
- Categorically Excluded SUBJECT** to §58.5 authorities per 24 CFR 58.35(a)(____)
(A Statutory Checklist for the §58.5 authorities is attached.)
- An **Environmental Assessment** (EA) is required to be performed. (An _____ Environmental Assessment performed in accordance with subpart E of 24 CFR Part 58 is attached.)
- An **Environmental Impact Statement** (EIS) is required to be performed.

The ERR (see §58.38) must contain all the environmental review documents, public notices and written determinations or environmental findings required by Part 58 as evidence of review, decision making and actions pertaining to a particular project. Include additional information including checklists, studies, analyses and documentation as appropriate.

| | |
|---------------------|------------------|
| Prepared by: | |
| _____ | _____ |
| Print Name | Signature |
| _____ | _____ |
| Title | Date |



**U.S. Department of Housing
And Urban Development**
Great Plains Office – Region VII
400 State Avenue
Kansas City, Kansas 66101-2406

Environmental Assessment for HUD-funded Projects

[HUD recommended format per 24 CFR 58.40]

Project Name: _____

Responsible Entity: _____
[24 CFR 58.2(a)(7)]

Certifying Officer Name & Title: _____
[24 CFR 58.2(a)(2)]

Environmental Review Record (ERR) File # _____

Environmental Assessment

Project Location: _____

Estimated Total Project Cost (all sources): _____

Amount of HUD Assistance: _____ **HUD Grant Program:** _____

Grant Recipient (if different from Responsible Entity):

[24 CFR 58.2(a)(5)]

Recipient Address & Phone: _____

RE Project Contact Name & Phone: _____

Conditions for Approval: (List all mitigation and project modification measures adopted by the responsible entity to eliminate or minimize adverse environmental impacts. These conditions must be included in project contracts and other relevant documents as requirements.) [24 CFR 58.40(d), 40 CFR 1505.2(c)]

FINDING: [58.40(g)]

Finding of No Significant Impact (FONSI)

(The project will not result in a significant impact on the quality of the human environment.)

Finding of Significant Impact

(The project may significantly affect the quality of the human environment.)

PREPARER SIGNATURE: _____ **DATE:** _____

PREPARER NAME & TITLE: _____

PREPARER'S AGENCY (If Different from RE): _____

RE APPROVING OFFICIAL SIGNATURE: _____ **DATE:** _____

RE APPROVING OFFICIAL NAME & TITLE: _____

Purpose of the Project: ["Statement of Purpose and Need for the Proposal" - 40 CFR 1508.9(b)]

Description of the Project: Include all contemplated actions that are logically either geographically or functionally a composite part of the project, regardless of the source of funding. [24 CFR 58.32, 40 CFR 1508.25] As appropriate, attach maps, site plans, renderings, photographs, budgets and other descriptive information.

Existing Conditions and Trends: Describe the existing conditions of the project area and its surroundings, and the trends likely to continue in the absence of the project. [24 CFR 58.40(a)]

Part I: Statutory Checklist [24CFR §58.5]

DIRECTIONS – For each authority, check one of the appropriate boxes under “Status.”

“**A box**” The project is in compliance, either because: (1) the nature of the project does not implicate the authority under consideration, or (2) supporting information documents that project compliance has been achieved. In either case, information must be provided as to **WHY the authority is not implicated, or HOW compliance is met:** OR

“**B box**” The project requires an additional compliance step or action, including but not limited to consultation with or approval from an oversight agency, performance of a study or analysis, completion of remediation or mitigation measure, or obtaining of license or permit.

IMPORTANT: Compliance documentation consists of verifiable source documents and/or relevant base data. Appropriate documentation must be provided for each law or authority. Documents may be incorporated by reference into the ERR provided that each source document is identified and available for inspection by interested parties. Proprietary material and studies that are not otherwise generally available for public review shall be included in the ERR. Refer to HUD guidance for more information.

(i) Statute, Authority, Executive Order

| Regulation or Policy cited at 24 CFR §58.5 | STATUS | | Compliance Documentation |
|--|-------------------------------------|--------------------------|--|
| | A | B | |
| 1. Air Quality [Clean Air Act sections 176(c) & (d), and 40 CFR 6, 51, 93] | <input type="checkbox"/> | <input type="checkbox"/> | |
| 2. Airport Hazards (Clear Zones and Accident Potential Zones) [24 CFR 51D] | <input type="checkbox"/> | <input type="checkbox"/> | |
| 3. Coastal Zone Management [Coastal Zone Management Act sections 307(c) & (d)] | <input checked="" type="checkbox"/> | <input type="checkbox"/> | No coastal zone management programs are in the states of HUD Region VII, per Nat'l Oceanic & Atmospheric Administration, Office of Ocean and Coastal Resource Management. http://www.ocrm.nos.noaa.gov/czm/czmsitelist.html |
| 4. Contamination and Toxic Substances [24 CFR 58.5(i)(2)] | <input type="checkbox"/> | <input type="checkbox"/> | |
| 5. Endangered Species [50 CFR 402] | <input type="checkbox"/> | <input type="checkbox"/> | |
| 6. Environmental Justice [Executive Order 12898] | <input type="checkbox"/> | <input type="checkbox"/> | |
| 7. Explosive and Flammable Operations [24 CFR 51C] | <input type="checkbox"/> | <input type="checkbox"/> | |
| 8. Farmland Protection [7 CFR 658] | <input type="checkbox"/> | <input type="checkbox"/> | |

| | | | |
|---|--------------------------|--------------------------|--|
| 9. Floodplain Management [24 CFR 55, Executive Order 11988] | <input type="checkbox"/> | <input type="checkbox"/> | |
| 10. Historic Preservation [36 CFR 800] | <input type="checkbox"/> | <input type="checkbox"/> | |
| 11. Noise Control [24 CFR 51B] | <input type="checkbox"/> | <input type="checkbox"/> | |
| 12. Water Quality (Sole Source Aquifers) [40 CFR 149] | <input type="checkbox"/> | <input type="checkbox"/> | |
| 13. Wetland Protection [24 CFR 55, Executive Order 11990] | <input type="checkbox"/> | <input type="checkbox"/> | |
| 14. Wild and Scenic Rivers [36 CFR 297] | <input type="checkbox"/> | <input type="checkbox"/> | |

Part II: Environmental Assessment Checklist

[Environmental Review Guide HUD CPD-782, 24 CFR 58.40; 40 CFR 1508.8 & 1508.27]

For each impact category, evaluate the significance of the effects of the proposal on the character, features and resources of the project area. Enter relevant base data and credible, verifiable source documentation to support the finding. Note names, dates of contact, telephone numbers and page references. Then enter the appropriate determination of impact: None Anticipated, Potentially Adverse or Potentially Beneficial. Attach additional material as appropriate. Note conditions or mitigation measures required.

| | | |
|--------------------------|--|---|
| Impact Categories | Anticipated or Potential Impact | Source Documentation |
| | <ul style="list-style-type: none"> • Adverse • Beneficial • No Impact | and Mitigation or Modification Required |

Land Development

| | | |
|---|--|--|
| Conformance with Comprehensive and Neighborhood Plans | | |
| Land Use Compatibility and Conformance with Zoning | | |
| Urban Design - Visual Quality and Scale | | |

| | | |
|--|--|--|
| Slope | | |
| Erosion | | |
| Soil Suitability | | |
| Hazards and Nuisances, including Site Safety | | |
| Noise - Effects of Ambient Noise on Project & Contribution to Community Noise Levels | | |
| Air Quality - Effects of Ambient Air Quality on Project & Contribution to Community Pollution Levels | | |
| Energy Conservation | | |

Socioeconomic Factors

| | | |
|--------------------------------|--|--|
| Demographic Character Changes | | |
| Displacement | | |
| Employment and Income Patterns | | |

Community Facilities and Services

| | | |
|------------------------|--|--|
| Educational Facilities | | |
| Commercial Facilities | | |
| Health Care | | |
| Social Services | | |

| | | |
|--|--|--|
| Solid Waste | | |
| Waste Water | | |
| Storm Water | | |
| Water Supply | | |
| Public Safety <ul style="list-style-type: none"> • Police | | |
| <ul style="list-style-type: none"> • Fire | | |
| <ul style="list-style-type: none"> • Emergency Medical | | |
| Open Space and Recreation <ul style="list-style-type: none"> • Open Space | | |
| <ul style="list-style-type: none"> • Recreation | | |
| <ul style="list-style-type: none"> • Cultural Facilities | | |
| Transportation | | |

Natural Features

| | | |
|--|--|--|
| Water Resources | | |
| Surface Water | | |
| Unique Natural Features and Agricultural Lands | | |
| Vegetation and Wildlife | | |

Part III: Other Requirements [24 CFR §58.6]

Complete the following table or attach a separate §58.6 Checklist.

| §58.6 Requirements | Compliance Status (Y/N) | Source Documentation |
|---|--------------------------------|--|
| Flood Disaster Protection Act [Flood Insurance] [§58.6(a)] | | |
| Coastal Barrier Resources Act/Coastal Barrier Improvement Act [§58.6(c)] | YES | No Coastal Barrier Resource Areas in MO/KS/NE/IA. http://www.fema.gov/nfip/cobra.shtm |
| Airport Runway Clear Zone Disclosure & Notification [§58.6(d)] | | |

(1)

(2) Summary of Findings and Conclusions

Project Alternatives Considered [24 CFR 58.40(e), Ref. 40 CFR 1508.9] (As appropriate, identify other reasonable courses of action that were considered and not selected, such as other sites, design modifications, or other uses of the subject site. Describe the benefits and adverse impacts to the human environment of each alternative and the reasons for rejecting it. Include consideration of the No Action Alternative, that is, not implementing the preferred alternative).

Mitigation and Project Modification Measures Recommended

[24 CFR 58.40(d), 40 CFR 1508.20]

(Recommend feasible ways in which the proposal or its external factors should be modified in order to minimize adverse environmental impacts and restore or enhance environmental quality.)

Additional Studies Performed

(List the reports, studies or analyses performed for this assessment, and attach studies or summaries.)

List of Agencies and Persons Consulted [40 CFR 1508.9(b)]

(List agencies and persons consulted for this assessment.)

EXHIBIT 13

NOTICE OF REQUIRED PUBLIC HEARING OR PUBLIC MEETING ON APPLICATION (Required Format)

NOTICE IS HEREBY GIVEN that on _____(date) in the _____(Place) the _____(Local Government Unit, Non-Profit, *etc.*) will hold a public hearing or meeting as applicable concerning an application to the Department of Economic Development for a Nebraska Affordable Housing Program Grant. This grant is available for local affordable housing activities.

The _____(Name of the Local Government Unit, Non-Profit) is requesting _____(exact amount of funds) for _____(Detailed project description which must include: the number of units; all project activities to be undertaken; the requested amount of funds for each activity; the estimate of the total amount of requested NAHP funds which will benefit low and moderate income people; the amount and source of local matching funds, if any; and the plans for minimizing displacement of people as a result of NAHP and/or activities and for assisting person actually displaced.)

The grant application will available for public inspection at _____(place). All interested parties are invited to attend this public hearing at which time you will have an opportunity to be heard regarding the grant application. Written testimony will also be accepted at the public hearing scheduled for _____(time), _____(date), _____(address, room number) Written comments addressed to _____(contact person) at _____(address) will be accepted if received on or before _____(date).

Individuals requiring physical or sensory accommodations including interpreter service, Braille, large print, or recorded materials, please contact _____ (contact person) at _____(address, phone number) no later than _____(date).

This language must be used for the official public hearings and must be submitted with either Proof of Publication or Certificate of Posting, and a summary of citizens' comments.

EXHIBIT 14

AUTHORIZING RESOLUTION FOR LOCAL GOVERNMENTS
(Required Format)

Whereas, the _____(Local Government), Nebraska, is an eligible unit of a general local government authorized to file an application under the Housing and Community Development Act of 1974 as Amended for Small Cities Community Development Block Grant Program, and, Cranston-Gonzalez National Affordable Housing Act of 1990 (HOME Program) funds distributed by the Department of Economic Development through the Nebraska Affordable Housing Program.

Whereas, the _____(Local Government), Nebraska, has obtained its citizens' comments on community development and housing needs; and has conducted public hearing(s) upon the proposed application and received favorable public comment respecting the application which for an amount of _____(Amount of Money) for _____(Description of the project); and,

NOW, THEREFORE, BE IT RESOLVED BY

_____(Controlling Governmental Body) of _____(Local Government), that the _____(Title of Chief Elected Official) be authorized and directed to proceed with the formulation of any and all contracts, documents or other memoranda between _____(Local Government) and the Nebraska Department of Economic Development so as to effect acceptance of the grant application.

Signed by Chief Elected Official

Title: _____

Date: _____

EXHIBIT 15

STATEMENT OF ASSURANCES AND CERTIFICATIONS FOR LOCAL GOVERNMENTS (Required Format)

The _____ (Local Government Unit or Applicant) hereby assures and certifies to the Nebraska Department of Economic Development (the Department) regarding an application for Community Development Block Grant (CDBG), HOME and Trust funds, the following:

LOCAL GOVERNMENT CERTIFICATIONS – Please contact a Department representative if items 1-6 have not been previously adopted.

1. It has previously adopted, on _____, _____, an Excessive Force Policy that remains in effect.
2. It has previously adopted, on _____, _____, a Code of Conduct that remains in effect.
3. It has previously adopted, on _____, _____, Procurement Procedures that remain in effect. The procurement procedures were submitted to NDED on _____, _____.
4. It has previously adopted, on _____, _____, a Residential Antidisplacement and Relocation Assistance Plan, which remains in effect.
5. It has previously adopted, on _____, _____, a Citizen Participation Plan that remains in effect. The adopted Citizen Participation Plan contains substantially similar language as the sample plan in these guidelines.
6. It has previously furnished to the department a Financial Management Certification dated _____, _____, which remains accurate.
7. There are no significant unresolved audit findings relating to any prior grant award from the federal and/or state government, which would adversely affect the administration of this grant.
8. No legal actions are underway or being contemplated that would significantly impact the Applicant's capacity to effectively administer the program, and to fulfill the CDBG, HOME and NAHTF program; and
9. No project costs have been incurred which the Department has not approved in writing.

FEDERAL COMPLIANCE CERTIFICATIONS

1. It will adopt and follow a residential anti-displacement and relocation assistance plan, which will minimize displacement as a result of activities assisted with CDBG, HOME and NAHTF funds.
2. It will conduct and administer its programs in conformance with:
 - a. Title VI of the Civil Rights Act of 1964 (Pub. L. 88-352), and the regulations issued pursuant thereto (24 CFR Part 1).
 - b. Title VIII of the Civil Rights Act of 1968 (Pub. L. 90-284), as amended, administering all programs and activities relating to housing and community development in a manner to affirmatively further fair housing, and will take action to affirmatively further fair housing in the sale or rental of housing, the financing of housing and the provision of brokerage services.
 - c. The Fair Housing Act of 1988 (42 USC 3601-20) and will affirmatively further fair housing.

3. It will not attempt to recover any capital costs of public improvements assisted in whole or part by assessing any amount against properties owned and occupied by persons of low- and moderate-income, including any fee charged or assessment made as a condition of obtaining access to such public improvements, unless (1) grant funds are used to pay the proportion of such fee or assessment that relates to the capital costs of such public improvements that are financed from revenue sources other than grant funds, or (2) for purposes of assessing any amount against properties owned and occupied by persons of LMI who are not persons of very-low income, the recipient certifies to the State that it lacks sufficient grant funds to comply with the requirements of clause (1).
4. It will comply with all provisions of Title I of the Housing and Community Development Act of 1974, as amended, which have not been cited previously as well as with other applicable laws.

SPECIAL REQUIREMENTS AND ASSURANCES.

1. The Applicant will comply with the Administrative Requirements of the program, those applicable items in the current Consolidated Plan, Title I of the Housing and Community Development Act of 1974, Public Law 93-383, as amended, and 24 CFR Part 570 including parts not specifically cited below and the laws, regulations and requirements, both federal and state, as they pertain to the design, implementation and administration of the local project, including but not limited to the following:

CIVIL RIGHTS AND EQUAL OPPORTUNITY PROVISIONS.

- Public Law 88-352, Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000(d), et. seq.) (24 CFR Part 1)
- Section 109 of the Housing and Community Development Act of 1974, As Amended
- Age-Discrimination Act of 1975, As Amended (42 U.S.C. 6101, et. seq.)
- Section 504 of the Rehabilitation Act of 1973, As Amended (29 U.S.C. 794) and the Americans with Disability Act
- Executive Order 11246, As Amended
- Executive Order 11063, As Amended by Executive Order 12259 (24 CFR Part 107)

ENVIRONMENTAL STANDARDS AND PROVISIONS.

- Section 104(f) of the Housing and Community Development Act of 1974, As Amended
- Title IV of the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4831) and the Implementing Regulations found at 24 CFR Part 35
- The National Environmental Policy Act of 1969 (42 U.S.C. Section 4321, et. seq., and 24 CFR Part 58)
- The Clean Air Act, As Amended (42 U.S.C. 7401, et. seq.)
- Farmland Protection Policy Act of 1981, (U.S.C. 4201, et. seq.)
- The Endangered Species Act of 1973, As Amended (16 U.S.C. 1531, et. seq.)
- The Reservoir Salvage Act of 1960 (16 U.S.C. 469, et. seq.), Section 3 (16 U.S.C. 469 a-1), As Amended by the Archaeological and Historic Preservation Act of 1974
- The Safe Drinking Water Act of 1974 [42 U.S.C. Section 201, 300(f), et. seq., and U.S.C. Section 349 as Amended, particularly Section 1424(e) (42 U.S.C. Section 300H-303(e)]
- The Federal Water Pollution Control Act of 1972, As Amended, including the Clean Water Act of 1977, Public Law 92-212 (33 U.S.C. Section 1251, et. seq.)
- The Solid Waste Disposal Act, As Amended by the Resource Conservation and Recovery Act of 1976 (42 U.S.C. Section 6901, et. seq.)
- The Fish and Wildlife Coordination Act of 1958, As Amended, (16 U.S.C. Section 661, et. seq.)
- EPA List of Violating Facilities
- HUD Environmental Standards (24 CFR, Part 51, Environmental Criteria and Standards and 44 F.R. 40860-40866, July 12, 1979)
- The Wild and Scenic Rivers Act of 1968, As Amended (16 U.S.C. 1271, et. seq.)
- Flood Insurance
- Executive Order 11988, May 24, 1978: Floodplain Management (42 F.R. 26951, et. seq.)
- Executive Order 11990, May 24, 1977: Protection of Wetlands (42 F.R. 26961, et. seq.)

- Environmental Protection Act, NEB. REV. STAT. 81-1501 to 81-1532 (R.R.S. 1943)
- Historic Preservation

LABOR STANDARDS AND PROVISIONS.

- Section 110 of the Housing and Community Development Act of 1974, As Amended
- Fair Labor Standards Act of 1938, As Amended, (29 U.S.C. 102, et. seq.)
- Davis-Bacon Act, As Amended (40 U.S.C. 276-a - 276a-5); and Section 2; of the June 13, 1934 Act. As Amended (48 Stat. 948.40 U.S.C. 276(c), Popularly Known as The Copeland Act
- Contract Work Hours and Safety Standards Act (40 U.S.C. 327, et. seq.)
- Section 3 of the Housing and Urban Development Act of 1968 [12 U.S.C. 1701(u)]

FAIR HOUSING STANDARDS AND PROVISIONS.

- Section 104(a)(2) of the Housing and Community Development Act of 1974, As Amended
- Public Law 90-284, Title VIII of the Civil Rights Act of 1968 (42 U.S.C. 3601, et. seq.). As Amended by the Fair Housing Amendments Act of 1988
- Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, As Amended (42 U.S.C. 4630) and the Implementing Regulations Found at 49 CFR Part 24
- Relocation Assistance Act, NEB. REV. STAT. 76-1214 to 76-1242 (R.S. Supp. 1989)
- Nebraska Civil Rights Act of 1969 20-105 to 20-125, 48-1102 and 48-1116
- Uniform Procedures for Acquiring Private Property for Public Use, NEB. REV. STAT. 25-2501 to 25-2506 (R.R.S. 1943)

ADMINISTRATIVE AND FINANCIAL PROVISIONS.

- U.S. Office of Management and Budget Circular A-87 "Cost Principles for State and Local Governments"
- U.S. Office of Management and Budget Circular A-102 "Uniform Administrative Requirements for Grants-in-Aid to State and Local Governments"
- 24 CFR 570.503 - Grant Administration Requirements for Use of Escrow Accounts for Property Rehabilitation Loans and Grants
- 24 CFR 570.488 to 570.499a - States Program: State Administration of CDBG Nonentitlement Funds
- Community Development Law, NEB. REV. STAT. 18-2101 to 18-2144 (R.S. Supp. 1982)
- Public Meetings Law, NEB. REV. STAT. 18-1401 to 18-1407 (R.R.S. 1943)

MISCELLANEOUS.

- Hatch Act of 1938, As Amended (5 U.S.C. 1501, et. seq.)

The Applicant hereby certifies that it will comply with the above stated assurances.

Signed by Chief Elected Official

Title: _____

Date: _____

EXHIBIT 16

**RESIDENTIAL ANTI-DISPLACEMENT & RELOCATION ASSISTANCE PLAN
FOR NON-PROFITS AND HOUSING AUTHORITIES
(Required Format)**

The _____(name of applicant) will replace all occupied and vacant occupiable low/moderate-income dwelling units demolished or converted to a use other than as low/moderate-income housing as a direct result of activities assisted with Community Development Block Grant (CDBG) funds provided under the Housing and Community Development Act of 1974, as amended and the Cranston-Gonzalez Affordable Housing Act of 1990 (HOME Program) and Nebraska Affordable Housing Trust Fund.

All replacement housing will be provided within the federally specified period of the commencement of the demolition or rehabilitation relating to conversion. Before obligating or expending funds that will directly result in such demolition or conversion, the _____(name of applicant) will make public and submit to NDED the following information in writing:

1. A description of the proposed assisted activity;
2. The general location on a map and approximate number of dwelling units by size (number of bedrooms) that will be demolished or converted to a use other than as low/moderate-income dwelling units as a direct result of the assisted activity;
3. A time schedule for the commencement and completion of the demolition or conversion;
4. The general location on a map and approximate number of dwelling units by size (number of bedrooms) that will be provided as replacement dwelling units;
5. The source of funding and a time schedule for the provision of replacement dwelling units; and
6. The basis for concluding that each replacement dwelling unit will remain a low/moderate-income dwelling unit for at least 5 years from the date of initial occupancy.

The _____(name of applicant) will provide relocation assistance, according to both the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (49 CFR Part 24) or 24 CFR 570.488 & 24 CFR 570.606 to each low/moderate-income family displaced by the demolition of housing or by the conversion of a low/moderate-income dwelling to another use as a direct result of assisted activities.

Consistent with the goals and objectives of activities assisted under the CDBG, HOME and NAHTF programs, the _____(name of applicant) will take the following steps to minimize the displacement of persons from their homes:

1. Maintain current data on the occupancy of houses in areas targeted for Nebraska Affordable Housing Program assistance.
2. Review all activities prior to implementation to determine the effect, if any, on occupied residential properties.
3. Include consideration of alternate solutions when it appears an assisted project will cause displacement, if implemented.
4. Require private individuals and businesses to consider other alternatives to displacement causing activities, if they are requesting Nebraska Affordable Housing Program assistance.

Signed by Chairperson, President or Authorized Person of Organization

Title _____

Date: _____

EXHIBIT 17

**APPLICANT CERTIFICATION FORM FOR NON-PROFITS AND HOUSING AUTHORITIES
(Required Format)**

WHEREAS, _____ (the “Applicant”) is applying to the State of Nebraska for assistance from the Nebraska Affordable Housing Program; and

WHEREAS, APPLICANT understands it is necessary that certain conditions be met as part of the application requirements;

THEREFORE, APPLICANT certifies as follows:

1. APPLICANT is eligible for award under state statutes and program guidelines and agrees to comply with all applicable federal, state and local regulations in the event that this application is selected for funding.
2. APPLICANT will minimize displacement as a result of activities assisted with Nebraska Affordable Housing Program resources and assist persons displaced as a result of such activities as specified by the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 49 CFR part 24. The more limited requirements of Section 104(d) of Housing and Community Development Act of 1974 are more detailed as to policy, definitions and requirements listed in 24 CFR 570.606.
3. APPLICANT has previously adopted, on _____, _____, Procurement Procedures that remain in effect. The procurement procedures were submitted to NDED on _____, _____.
4. APPLICANT will actively market in an on-going manner all housing units and services funded through the Nebraska Affordable Housing Program.
5. APPLICANT is prepared and has the authority within its charter or by-laws or through statutory regulations to enter into a contractual agreement with the Nebraska Department of Economic Development for acceptance and use of Nebraska Affordable Housing Program moneys, and makes this application and these certifications with the full cognizance (and approval) of its governing body.
6. There are no significant unresolved audit findings relating to any prior grant award from the federal and/or state government, which would adversely affect the administration of this grant.
7. No legal actions are underway or being contemplated that would significantly impact the Applicant’s capacity to effectively administer the program, and to fulfill the NAHP program; and
8. No project costs have been incurred which the Department has not approved in writing.

Signed by Chairperson, President or Authorized Person of Organization

Title _____

Date: _____

EXHIBIT 18

**AUTHORIZING RESOLUTION FOR NON-PROFITS AND HOUSING AUTHORITIES
(Required Format)**

RESOLUTION NO. _____

A resolution of the (AUTHORIZING BOARD) of (NAME OF ORGANIZATION) authorizing the submission of an application(s) for 20__ Nebraska Affordable Housing Program Funds, certifying that said application(s) meets the community's housing and community development needs and the requirements of the Nebraska Housing Trust Fund program, and authorizing all actions necessary to implement and complete the activities outlined in said application.

WHEREAS, the (AUTHORIZING BOARD) of (NAME OF ORGANIZATION) is desirous of undertaking affordable housing development activities; and

WHEREAS, the State of Nebraska is administering the Nebraska Affordable Housing Program; and

WHEREAS, the Nebraska Affordable Housing Program requires that funds benefit low-income households; and

WHEREAS, the activity in the application addresses the proposed project area's low-income population housing needs; and

WHEREAS, a recipient of Nebraska Affordable Housing Program is required to comply with the program guidelines and State regulations.

NOW, THEREFORE BE IT RESOLVED THAT the (AUTHORIZATION BOARD) of (ORGANIZATION OR AGENCY) authorize application to be made to the State of Nebraska, Department of Economic Development for 20__ Nebraska Affordable Housing Program, and authorize (NAME AND POSITION OF INDIVIDUAL) to sign application and contract or grant documents for receipt and use of these funds, and authorize the (NAME AND POSITION OF INDIVIDUAL) to take all actions necessary to implement and complete the activities submitted in said application(s); and

THAT, the (AUTHORIZATION BOARD) of (ORGANIZATION OR AGENCY) will comply with all State regulations and Nebraska Affordable Housing Program policies.

Passed and adopted by the (AUTHORIZATION BOARD) of (ORGANIZATION OR AGENCY) this _____ day of _____, 20__.

Signed by Chairperson, President or Authorized Person of Organization

Title _____

Date: _____

EXHIBIT 19

**CERTIFICATION OF RENTAL PROJECT FEDERAL ASSISTANCE FORM
(Required Format)**

WHEREAS, _____ (the “Applicant”) is applying to the State of Nebraska for assistance from the Nebraska Affordable Housing Program to finance a portion of the project costs for _____ (the “Project”); and

WHEREAS, APPLICANT understands it is necessary that certain conditions be met as part of the project requirements;

THEREFORE, APPLICANT certifies as follows:

1. PROJECT is eligible for award under state statutes and Nebraska Affordable Housing Program application guidelines.
2. PROJECT will receive additional financing at the time of application or in the future from the following governmental assistance _____. (if none, please indicate)
3. APPLICANT will notify the Nebraska Department of Economic Development within 30 days of the applicant’s knowledge of actual or potential changes in governmental assistance. Amended financing and budget forms submitted with the application affected by the change in other governmental assistance and the type and amount of assistance will be provided. In addition, applicant understands that any such changes may result in the non-selection of the application, termination or amendment of a contractual agreement with the department, significant delay in the NDED approval of the project to proceed, and/or significant delay of pending Requests for NDED Funds.
4. APPLICANT is prepared and has the authority within its charter or by-laws or through statutory regulations to enter into a contractual agreement with the Nebraska Department of Economic Development for acceptance and use of Nebraska Affordable Housing Program moneys, and makes this application and these certifications with the full cognizance (and approval) of its governing body.

Signed by Chairperson, President or Authorized Person of Applicant

Title _____

Date: _____

EXHIBIT 104

**RENTAL HOUSING SITE REVIEW (REQUIRED ONLY IF APPLYING FOR HOME FUNDS)
- To Be Completed By NDED Staff -**

1. Name of Project: _____
2. Location of Site: _____
3. Date of Visit: _____ Visited By: _____
4. Type of Housing:
 - a. Elderly: _____
 - b. Family _____
 - c. Number of Units: _____
 - d. Special Needs: _____
5. Is the site in a suitable neighborhood or location? (consider noise, traffic, view, air pollution, etc.)
 - a. Yes _____ No _____
 - b. Are mitigating measures needed? _____
6. Does the property meet HUD Site and Neighborhood Standards? (Avoid locations with high concentrations of low-income housing.)
 - a. Yes _____ No _____
7. Is the site in a flood plain?
 - a. Yes _____ No _____
 - b. If yes, what mitigating measures should/will be used? _____
8. Are there unusual drainage problems?
 - a. Yes _____ No _____
 - b. If yes, what mitigating measures should/will be used? _____
9. Shape of Site
 - a. Square: _____
 - b. Rectangular: _____
 - c. Other: _____ (Long narrow sites should be avoided.)

10. Slope of Site:

- a. No slope _____
- b. Slight slope _____
- c. Medium slope _____
- d. Steep slope _____

11. Street Access:

- a. Paved? Yes _____; No _____
- b. Curbs and gutters? Yes _____; No _____.
- c. If no, will development include paving? Yes _____; No _____.

12. Adjacent Properties:

- a. North: _____
- b. South: _____
- c. East: _____
- d. West: _____

13. In the site compatible with surrounding land uses?

- a. Yes _____ No _____
- b. If no, state the reasons. _____

14. Distance to:

- a. Grocery store: _____
- b. Shopping: _____
- c. Churches: _____
- d. Hospital: _____
- e. Schools: _____
- f. Day care: _____
- g. Parks: _____

Conclusion:

The site is:

- _____ Approved because site is acceptable
- _____ Approved with the following mitigation measures; _____
- _____ Not approved because site is unacceptable based on _____
- _____ Not approved because the site is subject to re-inspection
- _____ Not approved until mitigating measures can be agreed upon; _____

Site Review Conducted and Prepared By:

Signature Date

EXHIBIT 105

VERIFICATION OF ZONING

(Applicable Local Jurisdiction Letterhead)

Nebraska Investment Finance Authority
Suite 200
1230 O Street
Lincoln, NE 68508-1402

Development Name:
Development Address/Site:

Development City:
Proposed Number of Units:
Housing Type:

The site for the above-described low-income housing tax credit development is zoned _____. The zone allows for residential development of (multifamily)/(single-family) housing. This zoning designation allows _____ units per acre.

The proposed low-income tax credit development does/does not require a Conditional Use Permit/Variance/Density Bonus to be in compliance with local code.

If City Council or Board of Supervisors approvals are required prior to issuance of building permits, in addition to those listed above, please describe. Denote if the approvals are technical or discretionary in nature.

Zoning Ordinance No. _____ allows the development of the affordable housing developments as described above. Attach a copy of the Ordinance to this letter.

Dated: _____

STATEMENT COMPLETED BY:

By _____
Printed Name _____
Title _____

EXHIBIT 109

CERTIFICATION OF CONSTRUCTION FINANCING COMMITMENT

[LENDER LETTERHEAD]

[DATE]

Nebraska Investment Finance Authority
Suite 200
1230 O Street
Lincoln, NE 68508-1402

Lender has approved a construction loan to _____ for
Borrower

_____ located _____.
Development Name Address

Lender agrees to lend as follows:

1. Loan Amount;
2. Interest Rate;
3. Loan Term;
4. Debt Service Coverage Ratio (permanent lender);
5. Loan Amortization Period (permanent lender);
6. Borrower;
7. Loan Fees;
8. Collateral; and
9. Conditions precedent to funding.¹

This commitment to fund will expire on _____.

Signed by Lender

¹ Examples of conditions that NIFA deems to be "Under the control of the developer" include, but are not limited to the following:

1. Approval of appraisal
2. Approval of final plans and specifications;
3. Ability to meet financial requirement for closing the Loan;
4. Receipt of LIHTC.

EXHIBIT 110

CERTIFICATION OF PERMANENT FINANCING COMMITMENT

[LENDER LETTERHEAD]

[DATE]

Nebraska Investment Finance Authority
Suite 200
1230 O Street
Lincoln, NE 68508-1402

Lender has approved a permanent loan to _____ for
Borrower

_____ located _____.
Development Name Address

Lender agrees to lend as follows:

10. Loan Amount;
11. Interest Rate;
12. Loan Term;
13. Debt Service Coverage Ratio (permanent lender);
14. Loan Amortization Period (permanent lender);
15. Borrower;
16. Loan Fees;
17. Collateral; and
18. Conditions precedent to funding.²

This commitment to fund will expire on _____.

Signed by Lender

² Examples of conditions that NIFA deems to be "Under the control of the developer" include, but are not limited to the following:

1. Approval of appraisal
2. Approval of final plans and specifications;
3. Ability to meet financial requirement for closing the Loan;
4. Receipt of LIHTC.

EXHIBIT 111

DEVELOPMENT WORKSHEETS

Complete the Development Worksheets, including the following tabs by opening the file below:

- ★ Unit Information
- ★ Operating Expenses
- ★ Development Cost Schedule
- ★ Equity Gap
- ★ Number of HOME Units
- ★ Proforma

Click on the icon below to access the required format for Exhibit 111.

Complete all yellow-shaded areas.



Exhibit 111

EXHIBIT 115

INFORMATION REQUIRED TO BE INCLUDED IN THE MARKET STUDY

The market study must be conducted by an independent, third-party market evaluation professional whose credentials are acceptable to NIFA. The market study must be conducted at the Owner's expense. The market study must be current (dated no earlier than one year prior to submission of the Application). The market study shall include the following:

1. The credentials of the person(s) preparing the market study.
2. Signature of preparer(s) and date the study was completed.
3. Description of the proposed site.
4. Demographic analysis of the number of eligible households in the market area that can afford the proposed rent.
5. Review of the existing housing market (including types of units, rents, vacancies).
6. Review of new housing development to be developed in the community.
7. Review of occupancy levels in existing comparable developments.
8. Review of population characteristics and projected trends.
9. Review of employment and economic development characteristics.
10. Geographic definition and analysis of market area.
11. Analysis of operating expenses of comparable properties in the market area.
12. Expected market absorption of proposed deal—effect on market area.
13. Indicate whether or not the proposed development meets the identified housing needs of the community's overall housing plan.
14. A written narrative on the assumptions and methods used in the market study, including data sources.

EXHIBIT 114

CAPITAL NEEDS ASSESSMENT (“CNA”) REQUIRED INFORMATION

(rehabilitation developments only)

The CNA must include a statement from the architect or engineer that (a) the CNA meets the requirements of this *Exhibit 114*, (b) the information included is accurate and (c) the CNA can be relied upon by NIFA to present a true assessment of the proposed rehabilitation budget and immediate repairs required at the property. NIFA may determine any CNA to be unsatisfactory and/or may require additional information at the sole expense of the Applicant.

1. The CNA shall examine and analyze the following building components:

All infrastructure including, but not limited to site, topography, drainage, pavement, curbing, sidewalks, parking, landscaping, amenities, water, storm drainage, gas and electric utilities;

Structural systems, both substructure (i.e., footings and foundations) and superstructure, including exterior walls and balconies, exterior doors and windows, roofing system and drainage;

Interiors, including unit and common area finishes (carpeting, vinyl tile, plaster walls, paint condition, etc.), unit kitchen finishes and appliances, unit bathroom finishes and fixtures and common area lobbies and corridors;

Mechanical systems, including plumbing and domestic hot water, HVAC, electrical, and fire protection;

Elevators;

Trash removal systems;

Clubhouse (if applicable);

Storage areas (if applicable); and

Parking structures (if applicable).

2. The CNA shall include the following major parts:

Critical Repair Items. All health and safety deficiencies, or violations of housing quality standards, requiring immediate remediation. If the Development has tenants, these repairs are to be made a first priority.

Two-Year Physical Needs. Repairs, replacements and significant deferred and other maintenance items that need to be addressed within 24 months of the date of the CNA. Include any necessary redesign of the Development and market amenities needed to restore the property to the standard outlined in [CROSS-REFERENCE]. These repairs are to be included in the Development budget and funded by construction-period sources of funds.

Long-Term Physical Needs. Repairs and replacements beyond the first two (2) years that are required to maintain the Development’s physical integrity over the next twenty (20) years, such as major structural systems that will need replacement during the period. These repairs are to be funded from the reserves for replacement account.

Analysis of Reserves for Replacement. An estimate of the initial and monthly deposit to the reserves for replacement account needed to fund long-term physical needs, accounting for inflation, the existing reserves for replacement balance and the expected useful life of major building systems. This analysis should not include the cost of the critical repair items, the two-year physical needs or any work items that would be treated as operating expenses.

3. The professional preparing the CNA must:
 - (a) Be a licensed architect or mechanical/structural engineer.
 - (b) Conduct site inspections of all occupied and vacant units.
 - (c) Identify any physical deficiencies as a result of (i) visual survey, (ii) review of pertinent documentation and (iii) interviews with the property owner, management staff, tenants, community groups and government officials.
 - (d) Identify physical deficiencies, including critical repair items, two-year physical needs and long-term physical needs. These should include repair items that represent an immediate threat to health and safety and all other significant defects, deficiencies, items of deferred maintenance and material building code violations that would limit the expected useful life of major components or systems.
 - (e) Explain how the Development will meet the requirements for accessibility to persons with disabilities. Identify the physical obstacles and describe methods to make the Development more accessible and list needed repair items in the rehabilitation plan.
 - (f) Prepare a rehabilitation plan, addressing separately all two-year and long-term physical needs.
 - (g) Prepare a replacement reserve schedule, including an estimate of the initial and annual deposits, accounting for inflation and based on a 20-year term.
 - (h) Determine the cost/benefit of each significant work item in the rehabilitation plan (items greater than \$5,000) that represents an improvement or upgrade that will result in reduced operating expenses (e.g., individual utility metering, extra insulation, thermo-pane windows, setback thermostats). Compare the cost of the time with the long-term impact on rent and expenses, taking into account the remaining useful life of building systems.

EXHIBIT 115

TEN YEAR RULE
(Form of Legal Opinion)

[DATE]

Nebraska Investment Finance Authority
Suite 200
1230 O Street
Lincoln, NE 68508

Re: [PROJECT NAME]

Dear Ladies and Gentlemen:

We are providing this letter in connection with the application by the [NAME] for low income housing tax credits for the property known as [PROPERTY NAME] (the "Property").³ Specifically, this letter addresses whether the "acquisition credit" under Section 42(b)(2)(B) of the Internal Revenue Code of 1986, as amended (the "Code"), will be available with respect to the purchase of the Property. We understand that the [NAME OF OWNER] (the "Current Owner") acquired the Property on [DATE] from [NAME] (the "Prior Owner") and intends to sell the Property to a newly formed limited partnership (the "Tax Credit Partnership").

Factual Information

In providing this letter, we are relying upon the factual information set forth in the Seller's Certificate, attached as Exhibit B, dated [DATE] from the Current Owner (the "Seller's Certificate").

In preparing this letter, we have reviewed copies of the Recorded Deed dated [DATE] under which the Prior Owner conveyed title to the Property to the Current Owner.

In addition, in providing this letter we have made, and the opinions set forth below are based upon, the following assumptions:

1. Neither the Tax Credit Partnership nor the Investor in the Tax Credit Partnership will be related directly or indirectly to the Current Owner in any fashion.
2. Neither the Tax Credit Partnership, the Investor in the Tax Credit Partnership nor any affiliate of the Current Owner will have ever owned an interest in the Property except as described in this letter.

³ The legal description of the Property is set out on Exhibit A.

Finally, we have reviewed such other documents and materials as we believe appropriate.

Opinion

Section 42(b)(1)(B) of the Code allows a tax credit for the acquisition of an existing building (the “Acquisition Credit”) if the requirements of Code Section 42(d)(2)(B) are satisfied. These requirements are as follows: (i) the building was acquired by “purchase” (as defined in Code Section 179(d)(2)), (ii) there is a period of at least ten (10) years between the date of its acquisition by the taxpayer and the later of the date the building was last placed in service or the date of the most recent nonqualified substantial improvement, (iii) the building was not previously placed in service by the taxpayer or by any person who was a related person to the taxpayer as of the time previously placed in service, and (iv) the taxpayer’s rehabilitation expenditures are sufficient in the amount to qualify for treatment under Section 42(e) of the Code as a separate new building.

Code Section 42(d)(2)(D)(iii) provides that in order for a building to have been “acquired by purchase,” the property must not have been acquired from a seller whose relationship to the buyer of the property will result in the disallowance of losses under Section 267 or 707(b) of the Code. For purposes of applying the provisions of Sections 267 and 707(b), 10% ownership is substituted for 50% ownership in Sections 267(b), 707(b), and 179(b)(7). In addition, the property must not have been acquired by one component member of a controlled group from another component member of the same controlled group and the basis of the property in the hands of the buyer must not be determined by reference to the adjusted basis of the property in the hands of the seller (Code Section 42(d)(2)(D)(iii) and 42(d)(2)(B)(ii)(I)). Furthermore, the property cannot have been acquired from a decedent by a person whose basis in the building is determined by reference to Section 1014(a) of the Code.

In addition to the building purchase requirement, Section 42(d)(ii)(B)(iii) of the Code provides that a building eligible for the Acquisition Credit cannot have been “previously placed in service by the taxpayer or by any person who is a related person with respect to the taxpayer as of the time previously placed in service.” Section 42(d)(2)(D)(iii)(II) of the Code provides that for purposes of applying this test, “a person (hereinafter in this subclause referred to as the “related person”) is related to any person if the related person bears a relationship to such persons specified in Code Section 267(b) or 707(b)(1), or the related person and such person are engaged in trades or businesses under common control (within the meaning of subsections (a) and (b) of Code Section 52). For purposes of the preceding sentence, in applying Code Section 267(b) or 707(b)(1), “10 percent” shall be substituted for “50 percent.”

The definition of a related person under Code Section 267(b) includes an individual and a corporation more than 50 percent in value of the outstanding stock of which is owned, directly or indirectly, by or for such individual, and a corporation and a partnership if the same person owns more than 50 percent in value of the outstanding stock of the corporation and more than 50 percent of the capital interest, or the profits interest, in the partnership. In applying these related party rules, Code Section 267(c) provides that in determining the ownership of stock, stock owned directly or indirectly by or for a corporation, partnership, estate, or trust shall be considered as being owned proportionately by or for its shareholders, partners, or beneficiaries and that an individual shall be considered as owning the stock owned, directly or indirectly, by or for his family. Section 707(b) of the Code relates to certain sales or exchanges of property with respect to controlled partnerships and defines the related party relationship as “(A) a partnership and a person owning, directly or indirectly, more than 50 percent of the capital interest, or the profits interest, in such partnership, or (B) two partnerships in which the same persons own, directly or indirectly, more than 50% of the capital

interests or profits interests.” As noted above, for purposes of the acquisition credit, the references to 50% in Sections 267(b) and 707(b) are changed to 10%.

The Project was [**will be**] acquired by the Tax Credit Partnership by purchase on [**DATE**], from the Current Owner, an [**STATE**] [**ENTITY**], for [**\$AMOUNT**] pursuant to a Purchase and Sale Agreement by and between the Current Owner and the Tax Credit Partnership, a [**STATE**] [**ENTITY**], dated as of [**DATE**]. As evidenced by the Partnership Certification dated [**DATE**] (the “**Partnership Certification**”), and the Seller’s Certification as to Ten-Year Ownership dated [**DATE**] (the “**Seller’s Certification**”), the Current Owner and the [**General Partner**] have represented that the Current Owner is not a related party to the [General Partner]. The Current Owner also has represented that during the ten (10)-year period prior to [**DATE**], the Current Owner has owned and held fee simple title to the Project and has not made any “nonqualified substantial improvements” as defined in Section 42(d)(2)(D)(i) of the Code.

Based upon the foregoing, and subject to the limitations and qualifications set forth in this letter, in our opinion the purchase of the Property by the Tax Credit Partnership in the manner described above should satisfy the requirements for the Acquisition Credit with respect to the allocable portion of the purchase price paid for the buildings located on the Property.

This letter is based upon the existing provisions of the Code, applicable Treasury Regulations, and judicial and administrative interpretations of those authorities. Treasury Regulations have not been issued under, and there is little or no other authority interpreting, many of the provisions of the Code governing issues addressed in this opinion. Our opinion represents our legal judgment concerning the application of the pertinent provisions of federal income tax law to the facts relating to the Property, and is not binding on the Internal Revenue Service or the courts. Changes in the facts or the applicable law could cause our conclusions to no longer apply.

We are providing this letter for submission to the Nebraska Investment Financing Authority (“NIFA”) in connection with an application for tax credits for the building(s) on the Property. NIFA may rely on this letter for that purpose, but no other person may rely on this letter for any purpose without our consent.

Sincerely,

EXHIBIT A
LEGAL DESCRIPTION

EXHIBIT 204

HOUSING AUTHORITY REFERRAL ARRANGEMENT

In connection with _____'s (the "Applicant") application for an allocation of low-income housing tax credits, the Applicant hereby agrees upon the conditions that the Applicant receives an allocation of low-income housing tax credits ("LIHTCs") from the Nebraska Investment Finance Authority, and the development is constructed, as follows:

If the Local Housing Authority (the "Authority") in the jurisdiction in which the Applicant's Development is located maintains a public housing waiting list, the Applicant agrees:

1. To notify the Authority when target units, designated in the Applicant's application for LIHTCs, become available for rent. Such notice shall be given by telephone, facsimile or other immediate method and confirmed in writing to the Authority. The notice shall include information describing the location, size, type and rent for the unit.
2. For a period of seven days from the time notice is received by the Authority, the Applicant shall receive and process applications for the unit from persons on the public housing waiting list of the Authority who submit an application to the Applicant and shall not advertise or seek renters from other sources during such period. The Applicant, however, shall be under no obligation to consider a rental application from other than a low-income tenant under the provisions of the LIHTC program and Section 42 of the Internal Revenue Code.
3. It is expressly understood:
 - (a) That the Applicant shall have the final authority to accept tenants into the Development pursuant to the fair housing laws applicable to the Development and the rules and regulations applied to all tenants; and
 - (b) That the Applicant is not required to lease units to unqualified tenants pursuant to the rules applicable to the Development and under the provisions of Section 42 of the Internal Revenue Code.
4. The Applicant acknowledges that this agreement shall be recorded as part of the restrictive covenants and Land Use Restriction Agreement binding the Applicant, and his successors in ownership, to perform under this agreement during the effective period of the restrictive covenants.

For the Applicant: _____ Title: _____

Signature of Applicant: _____

Receipt of Agreement Acknowledged by the Authority on _____, 200____.

By: _____

Title: _____

Name of Authority: _____

Signature of Authority's Representative: _____

EXHIBIT 205

RESIDENTIAL PROVIDER REFERRAL ARRANGEMENT

In connection with _____'s (the "Applicant") application for an allocation of low-income housing tax credits, the Applicant hereby agrees upon the conditions that the Applicant receives an allocation of low-income housing tax credits ("LIHTCs") from the Nebraska Investment Finance Authority, and the development is constructed, as follows:

"Provider" means a local supportive service provider authorized through the Nebraska Health and Human Services System to be a regional network provider, and/or a Medicaid-enrolled provider, which offers service(s) to persons with physical or mental disabilities. The Provider for this referral arrangement _____.

The Applicant agrees:

1. To notify the Provider when target units, designated in the Applicant's application for LIHTCs, become available for rent. Such notice shall be given by telephone, facsimile or other immediate method and confirmed in writing to the Provider. The notice shall include information describing the location, size, type and rent for the unit.
2. For a period of fourteen (14) days from the time notice is received by the Provider, the Applicant shall receive and process applications for the unit from persons who (a) receive services, or are eligible to receive services, from the Provider and (b) submit an application to the Applicant. The Applicant shall not advertise or seek renters from other sources during such period. The Applicant, however, shall be under no obligation to consider a rental application from other than a low-income tenant under the provisions of the LIHTC program and Section 42 of the Internal Revenue Code.
3. It is expressly understood:
 - (a) That the Applicant shall have the final authority to accept tenants into the Development pursuant to the fair housing laws applicable to the Development and the rules and regulations applied to all tenants; and
 - (b) That the Applicant is not required to lease units to unqualified tenants pursuant to the rules applicable to the Development and under the provisions of Section 42 of the Internal Revenue Code.
4. The Applicant acknowledges that this agreement shall be recorded as part of the restrictive covenants and Land Use Restriction Agreement binding the Applicant, and his successors in ownership, to perform under this agreement during the effective period of the restrictive covenants.

For the Applicant: _____ Title: _____

Signature of Applicant: _____

Receipt of Agreement Acknowledged by the Provider on _____, 200____.

By: _____

Title: _____

Name of Provider: _____

Signature of Provider's Representative: _____