

**South Carolina State Housing Finance and Development Authority  
Low-Income Housing Tax Credit Program**

**2002 Qualified Allocation Plan**

**I. INTRODUCTION**

The Low-Income Housing Tax Credit (“LIHTC”) Program was created by Congress in 1986 to promote the development of affordable housing for low-income individuals and families. The LIHTC Program replaced earlier federal tax incentives for the production of affordable rental housing. Rather than a direct federally appropriated subsidy, Low-Income Housing Tax Credits encourage investment of private capital by providing a tax credit to offset an investor’s federal income tax liability. These federal income tax credits provide the private housing development community the incentives to develop affordable housing by offsetting development acquisition, new construction, or substantial rehabilitation costs. The amount of tax credit received is based on the costs of the development and the number of qualified low-income units, and can be subtracted on a dollar-for-dollar basis from the federal tax liability. The tax credit is received each year for ten years--the period the taxpayer claims the tax credit on its federal income tax return. Since 1987, the South Carolina State Housing Finance and Development Authority (the “Authority”) has administered the Low-Income Housing Tax Credit Program to facilitate the development of over 16,000 low-income rental housing units in South Carolina.

As the Housing Credit Agency responsible for allocating the LIHTC in the State of South Carolina, the Authority must adopt a Qualified Allocation Plan (the “QAP”). The purpose of the QAP is to set forth the criteria that the Authority may consider in evaluating and monitoring developments applying to receive allocations of the LIHTC. The Governor must approve the QAP after the public has had the opportunity to comment through a public hearing.

The Internal Revenue Service (IRS) regulations for the Low-Income Housing Tax Credit Program can be found under Section 42 of the Internal Revenue Code (IRC). Although this QAP has been prepared to comply with Section 42(m)(1)(B) of the Internal Revenue Code of 1986, as amended, (the “Code”), its provisions are not necessarily limited to those contained in the Code. Additional procedures and policies used in the administration of the LIHTC are described in the QAP as well as in the Authority’s User Manual.

The Authority reserves the right to resolve all conflicts, inconsistencies or ambiguities which may arise in administering, operating or managing the reservation and allocation of credits for South Carolina’s Low-Income Housing Tax Credit Program. The Authority, in its sole discretion, reserves the right to allocate housing tax credits in a manner not in accordance with this QAP. At such time, or either a reasonable time thereafter, the Authority shall, as required by Section 42(m)(1)(A)(iv) of the Code, provide a written explanation to the general public of its reasons for making such allocation.

For the 2002 program year, the Authority will utilize a Two Tier Application process. Each Applicant will be required to submit a Tier One Application dealing primarily with site and market criteria prior to submitting a Tier Two Application. The Authority reserves the right to hire third party independent consultants at the Applicant’s expense to ensure the validity of the site and market criteria. Tier One Applicants will be required to meet threshold criteria, and if

successful, will be allowed to compete in the Tier Two competitive process. No substitution of sites will be allowed. Tier Two Applications will be required to meet threshold criteria, and if successful, will be competitively point scored. Typically, housing credits will be awarded to the highest scoring Applicants in accordance with the guidelines and procedures contained within the QAP and the Authority's User Manual.

### **LIHTC Program Disqualification**

Any person who provides false or misleading information to the Authority with regard to a project seeking LIHTCs will be disqualified from further participation in the Authority's programs, in any capacity whatsoever, for a period of not less than five (5) years. Any reservation or allocation obtained on the basis of such false or misleading information shall be void. Prior to disqualification, each person shall be given written notice by the Program Director stating the reason for which the sanction of disqualification will be based.

All projects that receive carryover allocations under the 2002 program are expected to meet their 10% expenditure test and to place-in-service in a timely manner. Failure of a project to achieve either of these goals will disqualify the Principals of said project from participation in the LIHTC program for a period of two (2) years. Every person shall be given the opportunity to be represented by counsel and to present evidence as to why the sanction of disqualification should not be imposed.

### **Definitions**

- Applicant - any person and any affiliate of such person, corporation, partnership, joint venture, association, or other entity that submits an application requesting an allocation of Tax Credits pursuant to this QAP. As used in the context of this QAP, "Applicant" includes each person, corporation, partnership, joint venture, association, or other entity that has an ownership interest in the entity that is the owner of the project for which the application is submitted.
- Developer - any individual or entity responsible for initiating and controlling the development process and ensuring that a material portion of the development process is accomplished.
- Material Participation - the regular, continuous and substantial involvement in the operation of the project throughout the compliance period, as defined by the Code.
- Participants - the Applicant, owner, Developer, property management entity, consultants, or syndicators proposed to be involved with the project for which an application is submitted.
- Principal – With the exclusion of syndicators, consultants, property management entities, unrelated general contractors, architects, and market analysts; any Applicant, owner, Developer, or any other person, corporation, partnership, joint venture, association, or other entity, including any affiliate thereof, that either directly or indirectly receives a portion of the development fee (whether or not deferred) for development services with respect to a project and/or receives any compensation with respect to such project.
- Related Parties - Notwithstanding anything to the contrary contained herein, the Authority will not reserve 2002 credits in an amount in excess of \$1.2 million to any general partner(s) or principal(s) of such general partner(s), directly or indirectly. Applicants will be deemed to be related if any Principal in an Applicant or Principal is a Principal in any other Applicant or Applicants. The Authority's determination of "related parties" could impose limitations including the number of applications to be submitted and/or awarded. For the purpose of

determining whether any person or entity is related to the Applicant or Principal, persons or entities shall be deemed to be related if the Authority determines that any substantial relationship existed, either directly between them or indirectly through a series of one or more substantial relationships (e.g., if party A has a substantial relationship with party B and if party B has a substantial relationship with party C, then A has a substantial relationship with both party B and party C), at any time within five years of the filing of the application for Credits. In determining in any credit year whether or not an Applicant has a substantial relationship with another Applicant with respect to any application for which Credits were awarded in any prior year, the Authority shall determine whether or not the Applicants were related as of the date of the filing of such prior year's application or within five years prior thereto and shall not consider any changes in relationships subsequent to such date.

**The following is a *partial* list of relationships that are deemed to be substantial:**

- a) the persons are members of the same immediate family (including without limitation, a spouse, children, parents, grandparents, grandchildren, siblings, uncles, aunts, nieces and nephews);
- b) the entities have one or more common general partners or members (including related persons and entities), or the entities have one or more common owners;
- c) the entities are under the common control (e.g., the same person or persons and any related persons serve as a majority of the voting members or the boards of such entities or as chief executive officers of such entities) of one or more persons or entities (including related persons and entities);
- d) the person is a general partner or member in the other entity or is an owner (by himself or together with any other related persons and entities) of a five (5%) percent or greater ownership interest in the entity);
- e) the entity is a general partner or member in the other entity or is an owner (by himself or together with any other related persons and entities) of a five (5%) percent or greater ownership interest in the entity); or
- f) the person or entity is otherwise controlled in whole or in part, by the other person or entity.

A limited partner or other similar investor shall not be determined to be a Principal and shall be excluded from the determination of related persons or entities unless it is determined that such limited partner or investor will, directly or indirectly, exercise control over the Applicant or participate in matters relating to the ownership of the project substantially beyond the degree of control or participation which is usual and customary for limited partners or other similar investor with respect to the project for which an application is submitted. **It is not intended that the above represents an all-inclusive listing of those relationships that may be determined to be substantial. Upon written request, the Authority will make determination as to whether or not a particular relationship is deemed to be substantial. The determination made by the Authority in response to such request shall be final.**

Each Applicant and Principal therein shall make such certifications, shall disclose such facts and shall submit such documents to the Authority as shall be required to determine compliance with the above provisions.

## **II. ALLOCATION PROCESS**

### **A. General Program Guidelines**

#### **1. 2002 Program Schedule**

The 2002 LIHTC Program will be operated according to the following Schedule:

#### **November 19, 2001**

A public hearing will be held at the Sheraton Hotel and Conference Center in Columbia, S.C. from 3:45 p.m. until 5:15 p.m.(EST).

#### **No later than February 1, 2002**

The 2002 Tier One and Tier Two application packages will be posted on the Authority's web site at: [www.sha.state.sc.us](http://www.sha.state.sc.us)

#### **No later than February 7, 2002**

The 2002 Tier One and Tier Two printed application packages will be available at no charge. A separate application package must be submitted for each development. The Authority will be offering fill-in applications on diskette. These fill-in applications do not require any special system requirements or programs to operate correctly on a PC running Windows 95, Windows 98, Windows 2000, or Windows NT.

#### **February 7, 2002**

A one-day workshop will be held in Irmo, S.C. from 9:00 a.m. until 4:00 p.m., (EST). Authority staff will review the current year's tax credit program and application including the QAP. Changes from the previous program year will be highlighted. Although attendance is not mandatory, it is strongly recommended. After the workshop, specific questions regarding the tax credit program and/or application should be faxed to Authority staff at (803) 253-6882. Depending upon the complexity of the explanation, the Authority, in its sole discretion, may choose to respond in writing or by telephone.

Additionally, the Authority may, from time to time, post bulletins to its website dealing with questions and requested clarifications submitted regarding the tax credit program and/or application.

#### **March 5, 2002**

Tier One Applications are due to the Authority no later than 5:00 p.m., (EST).

#### **April 29, 2002 through May 3, 2002**

Applicants may submit a Tier Two Application for Authority staff to perform a completeness review. Only applications for the same site from Applicants that met Authority requirements in the Tier One Application cycle will be allowed to submit a Tier Two Application. Applicants can call the Authority at (803) 734-2165 to schedule a 30-minute appointment per application completeness review. The completeness review will consist of Authority staff reviewing (a) the organization of the application and (b) the "check-off" of all documents listed on the Authority's

application checklist. Applications will not be reviewed for point ranking. The Applicant will keep the application, make the application complete if necessary, and return the completed application with the application fee no later than the application cycle deadline. No points will be deducted for missing and/or incomplete documents found during the April 29th - May 3rd completeness review, if, and only if, the missing and/or incomplete documents are corrected and submitted by the application submission deadline of 5:00 p.m. (EST) on May 13, 2002.

### **May 6, 2002 through May 13, 2002**

The Authority will begin accepting Tier Two Applications from 9:00 a.m. (EST), May 6, 2002, until 5:00 p.m. (EST), May 13, 2002. No tax credit application will be accepted, under any circumstance, after 5:00 p.m. (EST), on May 13, 2002.

### **Carryover Application**

2002 Carryover Applications will be due on the date specified in the 2002 Reservation Certificate.

Carryover Applications **will be allowed an extension**, up to seven (7) calendar days, upon payment of a \$1,000 per day penalty, due by cashier's check when the application is submitted.

### **2002 Verification of 10% Expenditure Information**

2002 Verifications of 10% Expenditure Information will be due on the date specified in the Carryover Allocation document. This date will be three (3) weeks after the date upon which the project is required by the provisions of Section 42 to have met the 10% expenditure test. In the event that the three (3) week period does not end on a business day, the delivery period will be extended until 5:00 p.m. local (S.C.) time on the next business day. The Verification of 10% Expenditure Information must be complete and correct as of the date on which it is submitted. The submission of Verification of the 10% Expenditure Information that is either incomplete or inaccurate will result in the loss of the Carryover Allocation. Failure to submit the Verification of the 10% Allocation Expenditure Information in a timely manner will result in the loss of the Carryover Allocation. 10% Expenditure Information will be reviewed for completeness after submission. The completeness review will consist of Authority staff reviewing the application against the Authority's application checklist (**Exhibit A**). If any of the required documents are found to be missing or incomplete, the following will apply:

1. Prior to the application deadline – the documents may be submitted without penalty.
2. After the application deadline – the documents may be submitted upon payment of a non-refundable \$2,000 penalty fee by cashier's check for each calendar day after the deadline until the documents are submitted.

If the missing or incomplete documents are not received by the Authority within 10 business days following the application deadline, the development will lose its allocation of tax credits. Costs incurred in meeting the 10% expenditure test must be certified to by an independent (unrelated third party) certified public accountant no later than the date upon which the Carryover Allocation document requires the Verification of the 10% Expenditure Information to be delivered to the Authority.

**Section 42 requires that the 10% Expenditure test must be met no later than six (6) months after the date of the Carryover Allocation document. NO EXTENSION OF THIS DATE CAN OR WILL BE GIVEN.**

### **Placed-In-Service Application**

For any year, Tax Credit Placed-In-Service Applications are due on or before the second Monday in December. Applications must be in the Authority's office not later than 5:00 p.m. (EST).

**Placed-In-Service Applications not received on the due date stated above, may be submitted until 4:00 p.m., (EST) on December 31, upon payment of a non-refundable penalty fee equal to \$2,000.00 per calendar day for each calendar day after the second Monday in December. Such penalty fee must be paid to the Authority at the time the late application is submitted and must be in the form of a cashier's check made payable to the South Carolina State Housing Finance and Development Authority.**

Placed-In-Service Applications will be reviewed for completeness after submission. The completeness review will consist of Authority staff reviewing the application against the Authority's application checklist (**Exhibit A**). If any of the required documents are found to be missing or incomplete, the following will apply:

1. Prior to the second Monday in December 2002 – the documents may be submitted without penalty.
2. After the second Monday in December 2002 – the documents may be submitted upon payment of a non-refundable \$2,000 penalty fee by cashier's check for each calendar day after the deadline until the documents are submitted.

If the missing or incomplete documents are not received by the Authority within 10 business days following December 31, 2002, the development will lose its allocation of tax credits.

**For both new construction and rehabilitation projects, the Authority requires that all units in all buildings must be 100% complete and available for immediate occupancy. This must be supported by certificates of occupancy or the equivalent provided by the local government entity. Failure to meet this criterion will result in cancellation of the LIHTC allocation.**

After a development has placed-in-service and prior to issuance of 8609's, the Authority will review the placed-in-service application and inspect the development to ensure that the project that has been constructed is the project described in the application and scored by the Authority. As part of its determination, the Authority will inspect to ensure the **Exhibit G** has been adhered to. If these requirements are not met, the development will lose its tax credit allocation of tax credits.

**Should the Authority be required to amend Form 8609's due to errors in the application submitted, the Applicant must submit a non-refundable penalty fee of \$2,000 for each corrected 8609. This penalty must be paid by cashier's check prior to the issuance of the corrected 8609's.**

## **Development Progress Requirements**

### Six Months after the Allocation Date

Final project plans and specifications for approved LIHTC projects are due to the Authority no later than six months after the tax credit allocation date. Project plans and specifications must incorporate all design and amenity items for which points have been awarded. Additionally, the project architect must include a letter certifying that all design and amenity items for which points have been awarded are incorporated into the plans and specifications. Additionally, the land must be purchased by the ownership entity, and the deed recorded as evidenced by a copy of the recorded document. **Failure to meet this requirement will result in the cancellation of the LIHTC allocation.**

### Eight Months after the Allocation Date

Certified copies of the executed recorded construction mortgage document and copies of the executed binding commitment for syndication for 2002 LIHTC projects are due on or before 5:00 p.m. (EST), no later than eight months after the allocation date. The construction mortgage document must have the recorder's clock mark date stamp showing the date, book and page number of recording. **Failure to meet this threshold will result in the cancellation of the LIHTC allocation.**

### Ten Months after the Allocation Date

All 2002 tax credit developments must be under construction. New construction developments must have all footings in place, no later than ten months after the allocation date, as evidenced by photographs submitted with a progress report that is certified by the project architect. Rehabilitation developments must have begun actual rehabilitation of the units, no later than ten months after the allocation date, as evidenced by photographs submitted with a progress report that is certified by the project architect. Rehabilitation and new construction must be continuous and progressive from this date forward, to completion. If it is determined that the Applicant started the construction or rehabilitation only to technically meet this requirement, then the Authority will determine that these criteria have not been met. **Failure to meet these criteria will result in cancellation of the LIHTC allocation.**

## **Progress Reports**

The progress reports will be due to the Authority no later than the 7<sup>th</sup> day of the month following the end of each calendar quarter. The first progress report will be due on April 7, 2003, and every quarter thereafter until the development reaches a stabilized occupancy of at least 93%. "Stabilized occupancy" is defined as maintenance of at least 93% occupancy for six consecutive months. A fine of \$1,000 dollars payable within 10 days by cashier's check will be assessed against any project whose progress reports are not received on the date they are due. **Failure to pay this fine within this time period will result in the debarment of the project's Principals from further participation in the tax credit program for a period of two (2) years.**

Progress reports must accurately describe the status of the development to date. The Authority will use these reports to track the progress of the development. All projects are subject to inspection by Authority staff at any time. Providing false or misleading information on the

reports will result in the debarment of the development's **Principals** from further participation in the LIHTC program for a period of not less than five years as defined in the LIHTC Program Disqualification section of this QAP.

## **2. Application Submission Fees**

Application submission fees for developments submitted in the Tier One Application cycle are **\$1,000.00** per application. This fee is non-refundable. The fee must be in the form of a cashier's check made payable to the South Carolina State Housing Finance and Development Authority.

Tier Two Application submission fees for all developments are **\$1,500.00** per application. This fee is non-refundable. The fee must be in the form of a cashier's check made payable to the South Carolina State Housing Finance and Development Authority.

## **3. Application Submission Procedures**

### Tier One Application Submission Procedures:

One original hard copy of the Tier One Application and all applicable attachments, exhibits, certifications, opinions, fees, etc. must be submitted for each development. There will be no completeness review for the Tier One Application cycle.

### Tier Two Application Submission Procedures:

One original hard copy of the Tier Two Application and all applicable attachments, exhibits, certifications, opinions, fees, etc., must be submitted for each development. If State HOME funds are being applied for in conjunction with the tax credit application cycle, an additional copy of the application and all applicable attachments, exhibits, certification, opinions, fees, etc., must be provided. Only applications for the same site from Applicants that met Authority requirements in the Tier One Application cycle will be allowed to submit a Tier Two Application.

Once the Tier Two Application cycle closes, applications will be reviewed for completeness. Any application with a missing and/or incomplete document will lose one (1) point for each missing and/or incomplete document. A list of missing and/or incomplete documents will be provided to the Applicant. The Applicant will have seven (7) business days from the date of mailing to provide the missing and/or incomplete document to the Authority. The Applicant may not regain the missing points. **Any application, which after the seven (7) business days remains incomplete, will be rejected.**

Additionally, as part of the Tier Two Application submittal, the Applicant will self-score the Tier Two Application using **Exhibit B** provided in the application package. During the evaluation process, Authority staff will independently rank the Tier Two Application and then compare the ranking the Authority determined the development earned to the self-scoring the Applicant submitted. The Applicant will be advised of any discrepancy and will be allowed to come in and discuss the Authority's ranking of the Tier Two Application before a final ranking is determined for the application. In the event that an Applicant disagrees with the score earned by its application, it may make that fact known along with those facts that are the basis of its



disagreement. During this meeting the Applicant may be represented by counsel. Once this process is concluded with all Applicants, a final point ranking for all applications submitted in the Tier Two Application cycle will be released.

#### **4. Subdivision of Existing Developments**

The division or subdivision of existing developments into two or more developments is prohibited. Applications relating to such divided or subdivided developments will be rejected and all individuals and entities responsible for the submission of any such applications will be debarred from participation in all Authority programs for a period of not less than five years.

#### **5. Set-asides and General Pool (for competitive cycle only)**

The Authority reserves the right, in its sole discretion, regardless of whether within a set-aside or the general pool, to determine whether submitted applications received, during either the Tier One or Tier Two process, reflect a single development or multiple developments for purposes of applying the maximum tax credit dollar amount per development limitation and/or any other limitations or purposes stated or intended by the Authority. Such other purposes include, but are not limited to, not allowing the dividing of a single development into two or more developments in order to maximize competitive points based on Authority # of unit criteria located under Development Characteristics #1 of this QAP.

The following requirements/limitations are applicable to the 2002 program year:

- Within each set-aside or the general pool, the Authority will award no more than one development that serves the same tenant population within a specific QCT. In such instances, only the Applicant that receives the highest point score will be awarded. The tiebreaker provisions will be utilized, if necessary. **Note:** A development submitted in the non-profit set-aside that rolls into the General Pool for funding consideration will still be considered in the non-profit set-aside as it relates to this number of awards in a QCT limitation.
- Within each set-aside or the general pool, the Authority will award only one development of any two or more developments within 1 mile by public paved road of each other for the same tenant population in the same year. In such instances, only the Applicant that receives the highest point score will be awarded. The tiebreaker provisions will be utilized, if necessary. **Note:** A development submitted in the non-profit set-aside that rolls into the General Pool for funding consideration will still be considered in the non-profit set-aside as it relates to this number of awards within one mile of each other limitation.
- Regardless of whether within a set-aside or the general pool, the Authority will not award any new construction developments consisting of greater than 40 tax credit units in areas defined as rural by the Rural Housing Service.
- Regardless of whether within a set-aside or the general pool, the construction of new residential units on acquisition/rehabilitation developments is prohibited.
- The Authority requires that all proposed developments provide adequate parking spaces available to all tenants without additional charges to the tenants. If tenants are to pay for parking, these charges must be included in the rental fees and are subject to the LIHTC

allowable rent limitations. The Authority requires a minimum of parking spaces as follows:

- For each unit that consists of 3 or more bedrooms – a minimum of 2 parking spaces per unit is required.
- For each unit that consists of 2 or less bedrooms – a minimum of 1 parking space per unit is required.

Any partnership formation and/or Developer agreement, whether written or otherwise, that attempts to circumvent Authority requirements will result in the recapture of the credits and debarment of all parties involved from participation in South Carolina's Tax Credit Program for a period of up to five years, regardless of when discovered.

With the exception of Principal(s) competing solely within the RHS set-aside, no Principal may be associated with or submit more than four (4) developments, for a credit amount of no more than \$1,200,000. Provided, however, that one additional application for a credit amount not exceeding \$500,000 may be submitted in the general pool by an experienced Developer in partnership with a South Carolina-based non-profit organization that has previous experience participating in either the Authority-administered HOME, Housing Trust Fund, or Tax Credit Program. For the purpose of this provision, "experienced Developer" means a Developer (whether for-profit or non-profit) that has been a general partner in a limited partnership or has occupied an equivalent position in a LLC **and** has placed-in-service at least three (3) 9% tax credit projects that have successfully competed for LIHTCs prior to the calendar year beginning January 1, 2001. The nonprofit organization that participates with an experienced Developer on a supplemental application may do so on only one supplemental application as will be disclosed in the application. Anyone serving as a consultant within the non-profit set-aside will not be allowed to be a Principal, experienced Developer participating with a non-profit seeking a supplemental project.

In the event any Principal exceeds the imposed tax credit dollar limitation, the tax credit award to that Principal will be reduced so that the imposed tax credit dollar limitation is not exceeded. The reduction will be applied to the development with the lowest point score that would be awarded if the imposed tax credit dollar limitation were not exceeded. This development may still be awarded, but only if the tax credits for that development, as calculated by the Authority, are at least 90% of the unreduced amount that the development would have otherwise received. If this development does not reach 90% funding as a result of the reduction to meet the imposed tax credit dollar limitation, it will not be awarded. Regardless of the percentage of participation a Principal has in the development, one hundred percent (100%) of the project's tax credit allocation will count toward the imposed tax credit dollar limitation per Principal.

- **\$300,000.00** of the State Ceiling is reserved for Community Development projects funded by HUD Community Development Block Grant (CDBG) funds in non-entitlement localities. Only one (1) project per locality will be awarded in this set-aside. Developments must be adaptive reuse and/or infill new construction. Developments submitted within this set-aside must evidence the governing body's full support, and must receive the non-entitlement CDBG financial support prior to the award date for tax credits. Local financial support must be a permanent source of funding, comprise at least 15% of the total development costs, and a "commitment resolution" from the governing body that outlines the permanent financial support the governing body is providing is required.

Should this amount exceed demand, the Authority will use the excess to fund developments in the General Pool.

- **\$500,000.00** of the State Ceiling is reserved for the exclusive use of developments financed through the Rural Housing Service (RHS). In order to compete within this set-aside, the proposed development must have been selected for RHS funding in fiscal year 2000 or 2001 or 2002 as evidenced by a letter from the RHS State Multifamily Housing Director. Developments proposing to utilize the RHS 538 Loan Guarantee Program are not eligible to compete in this set-aside. Only two (2) projects per county will be awarded in the RHS set-aside.

Should this amount exceed demand, the Authority will use the excess to fund developments in the General Pool.

\$1.2 million in State HOME funds of the \$4 million available in State HOME funds for the 2002 competition will be made available to Applicants awarded a reservation of tax credits and applying for State HOME funds under the RHS 515 Set-aside. Should this amount of HOME funds exceed demand, the Authority will use the excess to fund developments in other pools. Additionally, should the amount of HOME funds available (i.e. \$2.8 million) for the other pools exceed demand, the Authority may use the excess HOME funds to fund additional developments within the RHS set-aside, if needed.

- **\$600,000.00** of the State Ceiling is reserved for the exclusive use by recipients of a HOPE VI Award in Richland, Greenville, Spartanburg, and Charleston Counties. Only two (2) projects per county will be awarded in the HOPE VI set-aside. No individual HOPE VI project may receive more than \$500,000.00, regardless of the number of years during which funding is applied for. Applicants competing in this set-aside are ineligible to apply for State HOME funds.

Should this amount exceed demand, the Authority will use the excess to fund developments in the General Pool.

- **\$1,200,000.00** of the State Ceiling is reserved for the exclusive use by eligible nonprofit organizations. The Authority will not allocate more than \$300,000.00 in annual credits to any one development within this set-aside. Only two (2) projects per county will be awarded in the nonprofit set-aside.

Should this amount exceed demand, The Authority will use the excess above 10% to fund developments in the General Pool.

In order to compete within the Nonprofit Set-aside, the nonprofit organization(s) must be a South Carolina based tax-exempt organization(s) under Section 501(c)(3) or 501(c)(4) of the Code, have been in existence in South Carolina for at least two years and must have among its exempt purposes the fostering of low-income housing. A South Carolina based tax exempt organization is defined as an entity that has and has had a base of operations in South Carolina for at least two years, including offices and full-time staff whose responsibilities include the development of housing in South Carolina. Entities that are merely registered with the South Carolina Secretary of State as a nonprofit, but whose staff works and lives in

another state, do not meet the definition of a South Carolina based tax-exempt organization. The Nonprofit Applicant must meet all qualifications contained in Section 42 of the Internal Revenue Code of 1986, as amended, and must also meet the requirements for Material Participation contained in Section 469 of the Code. Each nonprofit must submit a narrative statement, certified by a resolution of the nonprofit's Board of Directors, describing the nonprofit's plan for Material Participation during the development of the project and compliance period. The Authority will review the narrative statement to determine whether or not the participation of the nonprofit in the ongoing operation of the development will be deemed material. Such determination shall be made in the sole discretion of the Authority. Participation found to be material must be continuous and ongoing throughout the compliance period. In the event that the requirement for continuous and ongoing material participation is breached, such breach will be reported to the Internal Revenue Service as non compliance, and the nonprofit and all of its officers and directors shall be debarred from participation in all programs of the Authority for a minimum of three (3) years. If the ownership entity of the development is a limited partnership, the ownership interest of the nonprofit general partner(s), either itself or through its single-asset entity subsidiary, must be 100%. If the ownership entity of the development is a limited liability company, the managing member(s) (having similar powers to a general partner in a limited partnership) must be comprised of nonprofits. The nonprofit general partners of the limited partnership or its equivalent in a limited liability company may be an association or alliance of two or more eligible nonprofit organizations, but may not contain any for-profit members or Principals. The qualified non-profit organization(s) must retain 100% of the developer's fees, exclusive of a maximum \$35,000 consultant fee. Fees paid by the non-profit to third party development consultants, evidenced by the cost certification, must not exceed \$35,000. The consultant fee is for legitimate, needed consulting services and must not be used to have contract developers run, control or carryout non-profit responsibilities as described within this set-aside.

At least one of the nonprofit general partners, or its equivalent in a limited liability company, must be based in the county in which the proposed development will be located, or if not based in the county, must be based in a directly adjacent county, or, it must have, as general partner(s) or its equivalent in a limited liability company, placed-in-service and materially participated in at least two tax credit developments located in South Carolina. The qualified nonprofit organization(s) must not be affiliated with or controlled by a for-profit organization and no staff member, officer or member of the board of directors of such qualified nonprofit organization(s) will materially participate, directly or individually in the proposed development as a for-profit entity. **Joint ventures between a for-profit entity and a nonprofit entity are not eligible within the Nonprofit Set-aside.** Only the nonprofit organization(s) that is (are) the general partner(s), or their functional equivalent in a LLC, shall be permitted to exercise substantial and ongoing continuous control over the application submission process and over the subsequently-produced development. All functions and responsibilities normally performed or undertaken by a general partner shall be performed only by the nonprofit general partner(s). No limited partner or other investor shall be permitted to exercise control, either directly or indirectly over the nonprofit general partner(s) or to participate in matters relating to the ownership or operation of the development beyond the degree of participation that is usual and customary for limited partners.

In the event that the requirement for continuous and ongoing control over the development is breached, such breach will be reported to the Internal Revenue Service as non compliance, and the nonprofit and all of its officers and directors shall be debarred from participation in all programs of the Authority for a minimum of three (3) years.

Developments that submit within and meet all criteria for competing in the nonprofit set-aside, but do not achieve a point score high enough to receive consideration for an allocation of credits, receive a point score high enough for consideration but will not receive consideration due to the per county limitation, **or** receive a point score high enough for consideration but will not receive consideration because the remaining credits within the nonprofit set-aside make it impossible for the development to achieve its required 90% of funding, will roll into the general pool for consideration of an allocation of credits. The exact point score achieved for the development within the nonprofit set-aside will be the point score carried to the general pool for consideration. All general pool criteria and limitations will apply unless otherwise noted within this QAP.

- **A minimum of \$3,500,000.00** of the State Ceiling is reserved for appropriate developments. In order to qualify to compete in the General Pool, the Applicant must be qualified to do business in the State of South Carolina and must have previous experience in the development of LIHTC developments or other successful multifamily rental developments of at least 40 units. “Experience in the development of Low-Income Housing Tax Credit developments or other successful multifamily rental developments of at least 40 units,” means coordinating the development team in planning, financing and constructing a development through its receipt of a Certificate of Occupancy and reaching stabilized occupancy.

The Authority will not allocate more than \$500,000.00 in annual credits to any single development within the General Pool. The division or subdivision of existing developments into two or more developments is prohibited. Applications relating to such divided or subdivided developments will be rejected and all individuals and entities responsible for the submission of any such applications will be debarred from participation in all Authority programs for a period of not less than five years.

The Authority reserves the right, in its sole discretion, to determine whether submitted applications received, during either the Tier One or Tier Two process, reflect a single development or multiple developments for purposes of applying the maximum tax credit dollar amount per development limitation and/or any other limitations or purposes stated or intended by the Authority. Such other purposes include, but are not limited to, not allowing the dividing of a single development into two or more developments in order to maximize competitive points based on Authority # of unit criteria located in Development Characteristics #1 of this QAP. Only three (3) projects per county will be awarded in the General Pool.

## **6. Return of Credits and Returned Credit Allocation Procedures**

Allocations of credit may only be returned in accordance with applicable U.S. Treasury Regulations on a date agreed upon by the Authority and the Applicant(s).

Amounts that are not accepted or are returned will be made available as follows:

- Amounts awarded in the 2002 competition and returned prior to December 14, 2002, will be offered to qualified projects submitted in the current 2002 tax credit funding cycle that are capable of meeting carryover qualifications. Projects scored in the 2002 tax credit funding cycle that did not receive a reservation of credits will be placed on a waiting list in highest point score order. Reservations of returned amounts will be offered to projects in the order in which they appear on the waiting list if the amount offered is at least 90% of the credit amount for which the project is qualified. If no project can be funded to at least 90% of its qualified amount, such amounts shall be carried forward to the following tax credit year. Tax credit projects receiving a reservation of 2002 credits at a later date in 2002 will be required to meet all carryover qualifications by December 31, 2002.
- Any amounts returned after December 14, 2002, will be carried forward into the 2003 Tax Credit year.

## 7. Development Ranking

The Authority staff will evaluate all LIHTC Applications to determine if the proposed developments meet the priorities established in this Plan. All development applications will be financially evaluated and ranked prior to consideration for a reservation of tax credits. Specific priorities and preferences will be used in development ranking as defined in **Section C**.

All LIHTC Applications will be considered in their ranked order to determine the least credit amount required for the financial feasibility of the development throughout the credit period, as required by Section 42 (m)(2)(A). Those developments determined not to be financially feasible or determined not to need the tax credit will be eliminated.

The fact that an application is accepted for processing or that a development may receive a reservation or allocation of Tax Credit dollars shall not be construed to be a representation or warranty by the Authority as to the feasibility, viability, or lack thereof, of any development.

In order to receive an allocation, a development must be underwritten to determine the least amount of credit necessary to be financially feasible at the following times:

- When the initial application is made;
- When the allocation of the tax credit is requested; and
- When the last building is placed-in-service.

**Note:** Section 42(m)(2)(A) of the Code provides that “The housing credit dollar amount allocated to a project shall not exceed the amount the housing credit agency determines is necessary for the financial feasibility of the project and its viability as a qualified low-income housing project and its viability as a qualified low-income housing project throughout the compliance period.” Unless otherwise provided within this QAP, **in determining financial feasibility, the Authority will disregard all personal or other guarantees that are relied on to supply deficiencies in income required to pay debt service and operating expenses of the development. Developments that are not financially feasible without such guarantees will not be offered a LIHTC reservation.**

## 8. Combination with Authority Administered HOME Program

LIHTCs can be combined with funding from the Authority's HOME program only during the Combined Rental Housing Application competition. State HOME funds in the amount of \$4,000,000.00 dollars will be available for allocation in the 2002 LIHTC funding cycle. In order to receive a reservation of 2002 tax credits, each of the following provisions are applicable:

- Only one State HOME award will be allocated per development; and
- The maximum State HOME award per development is \$ 400,000.00; and
- Proposed developments located within QCT's or DDA's, and receiving an increased eligible basis under Section 42(d)(5)(c)(i) of the Code, are eligible to receive either tax credits or State HOME funds, but will not receive both; and
- No tax credits will be awarded to developments that apply for State HOME funds if the proposed development will necessitate permanent relocation; and
- No tax credits will be awarded to developments that apply for State HOME funds if the proposed development is located within the boundaries of a local Participating Jurisdiction (PJ). It is the Applicant's responsibility to determine whether or not the development is located within these boundaries. HOME Local Participating Jurisdictions are as follows: City of Columbia, City of Charleston, County of Charleston, City of Greenville, County of Greenville, City of Spartanburg, and Santee-Lynches Consortium; and
- In order to be eligible for tax credits and in order to qualify for State HOME funds in the Combined Rental Housing Application, HOME Applicants with previous State HOME awards must provide, by the Tier Two Application submittal date, written confirmation from the State HOME Division that they are in compliance with the following eligibility requirements, as applicable:
  - All 1998 State HOME and earlier awards must be officially closed out; and
  - All 1999 State HOME awards must have a minimum of 75% of the funds drawn down/project completed; and
  - All 2000 State HOME awards must have a minimum of 50% of the funds drawn down/project completed.
- Projects that apply to receive funding from the Authority's HOME program after the conclusion of the combined Rental Housing Application competition will lose any tax credits allocated to them, regardless of whether or not they receive HOME funding.

Applicants that are awarded a reservation of tax credits but are not awarded State HOME funds **must** provide a narrative detailing how the funding gap will be filled if not awarded State HOME funds **in the Tier Two Application**. **Additionally**, a revised page 6 (rental income section only), 7, 8, 9, and 13 (rental income section only) of the tax credit application **must** be attached to the narrative. **The only changes allowed are changes in funding sources and rental income. Changes not allowed, include but are not limited to, operating expenses,**

**total development costs, total number of units, and unit mix.** This information will be required under **Tab 6** at submittal of the Tier Two Application.

## **9. Material Changes Prohibited**

If, upon the submission of the Carryover Application or the Verification of 10% Expenditure Information or the Placed-in-Service Application, it is determined that the development is not substantially the same as the development described in the Initial Application, the development will not receive an allocation of Low-Income Housing Tax Credits. Changes in the total number of tax credit units, number of bedrooms per unit mix, special needs targeting, tenant mix (low-income/market rate), and site are deemed to be material, and are not permitted. Changes in the number of buildings and units contained in each building will be allowed only if changes are required by local regulatory codes. It is expected that the developments to which Low-Income Housing Tax Credits are allocated will be the same as those developments that were originally scored against this **QAP**.

## **10. Transfers**

Neither Reservations nor Allocations (whether Carryover or Placed-in-Service) are transferable without the prior written consent of the Authority. Examples of situations in which such consent may be given include, but are not limited to, the bankruptcy, receivership, or cessation of business operations of a general partner. No change in the makeup or identity of general or managing partners in partnership or its equivalent in a limited liability company are permitted without the prior written consent of the Authority. Without limitation, this prohibition includes indirect transfers through the admission of “special limited partners” under a scheme that leads to the eventual exit of a general or managing partner or its equivalent in a limited liability company. Any person or entity, including syndicators, that attempts to circumvent this provision will be subject to debarment from further participation in all programs of the Authority for a period of not less than five (5) years. LIHTCs allocated to developments whose ownership is altered in violation of this provision shall be subject to revocation by the Authority.

## **11. Fractional Rounding**

Fractional units must be increased to the next whole unit.

## **12. ADA Requirements and Certification**

The Authority will not allocate any tax credits to a development unless the Applicant submits, with its Tier Two Application, a certification signed by an architect or professional engineer licensed to practice in the state of South Carolina, which states that the architect or engineer will review the plans and specifications of the proposed development to ensure that such plans and specifications will comply with the accessibility and other requirements of Section 504 of the Rehabilitation Act, the Fair Housing Amendments to the Civil Rights Act of 1968, the American With Disabilities Act, and any other applicable State or Federal legislation. As part of its Placed-in-Service Application, a certification must be included which is signed by an architect or



professional engineer licensed to practice in South Carolina which contains an unqualified statement that the development has been constructed in accordance with the accessibility and other requirements of Section 504 of the Rehabilitation Act, The Fair Housing Amendments to the Civil Rights Act of 1968, the American With Disabilities Act, and any other applicable State or Federal legislation, and that the development, as built, complies with Standard A117.1 - 1986 of the American National Standard Institutes, Inc. (ANSI), or such other standard or standards as may be specifically referred to as have been accepted by the appropriate State or Federal agency as meeting the requirements of the statutes referred to in this paragraph, as they then exist. Failure to provide the above statements will disqualify a development from ever receiving any tax credits. A false or inaccurate statement that a development meets the above standards when, in fact, it does not, will result in the debarment of the Developer, the general contractor, and the architect for a minimum period of five (5) years and the filing of a complaint against the architect with the S.C. Department of Labor, Licensing and Regulation.

### **13. Document Timeliness**

All supporting documentation required for the 2002 Tier One Application and Tier Two Application must be dated not sooner than November 6, 2001.

### **14. Underwriting Criteria**

- **Operating Reserves**

Developments are required to establish and maintain minimum operating reserves equal to six (6) months of projected operating expenses. These reserves should be established at the time the development places-in-service.

The Authority will allow owners to apply for a release of three (3) months of these reserves. This application may be submitted after the end of the fifth calendar year following the year in which the development places-in-service.

The Authority will exercise sole discretion, based on a review of the application and the property, in determining whether any operating reserves may be released.

- **Replacement Reserves**

Developments are required to establish and maintain minimum replacement reserves of **\$200.00** per unit annually for new construction and **\$300.00** per unit annually for rehabilitation. Replacement reserve requirements for elderly rehabilitation developments are **\$200.00** per unit annually.

- **Developer Fees**

Development costs are evaluated for reasonableness. Cost standards are a significant factor in evaluating the reasonableness of certain fees and overhead items represented for tax credit basis purposes.

Limits on Developer Fees, Developer Overhead, and Consulting Fees are as follows:

- **New Construction** – The sum of Developer Fees, Developer Overhead, and Consulting Fees may not exceed **15 %** of Adjusted Development Costs\*
- **Rehabilitation without a change in ownership** – The sum of Developer Fees, Developer Overhead, and Consulting Fees may not exceed **15%** of Adjusted Development Costs\*
- **Acquisition/Rehabilitation**
  - a) **Acquisition** – For acquisition/rehabilitation developments, the sum of Developer Fees, Developer Overhead, and Consulting Fees may not exceed **5%** on the acquisition cost portion of Adjusted Development Costs\*
  - b) **Rehabilitation** – The sum of Developer Fees, Developer Overhead, and Consulting Fees on rehabilitation costs may not exceed **15%** of Adjusted Development Costs\*

\*Adjusted Development Costs = Total Development Costs (Line 51)

Less	Land (Line 1)
Less	Consulting Fees (Line 20)
Less	Developer Fees (Line 45)
Less	Developer Overhead (Line 46)
Less	Other Developer Costs (Line 47)

- **Contractor Cost Limits**

The combined total of Contractor Profit, Overhead, and General Requirements (hereinafter “Contractor Fees”) shall be limited to **fourteen percent (14%)** of Hard Construction Costs. The structure of these fees will be limited to the following:

- Contractor Profit and Overhead: may not exceed **8%** of Hard Construction Costs
- General Requirements: may not exceed **6%** of Hard Construction Costs
- Total Contractor Fees: may not exceed **14%** of Hard Construction Costs

If there is an identity of interest between the Developer and contractor as defined in the Tax Credit Manual, then the Authority may, at its sole discretion, require a cost certification on construction costs performed by an independent certified public accountant. The CPA will be hired by the Authority and the associated accounting fees will be charged to the Developer.

- **Operating Costs**

Applicants must provide a detailed explanation of the methodology used in determining operating costs. Annual operating costs are expected to range from a minimum of **\$2,000.00** to a maximum of **\$3,200.00** per unit. Annual operating costs per unit are to be calculated excluding reserves.

- **Debt Coverage Ratio**

LIHTC dollars will not be reserved or allocated to developments that are not made financially feasible by the credit or which are financially feasible without the credit. Therefore it follows that the development's Debt Coverage Ratio must fall within the range of **1.10 to 1.30**.

Applicants receiving "soft loans" (e.g. HOME, deferred Developer fees, AHP, etc.) must adequately explain in their applications the repayment schedule of these loans.

- **Annual Rent, Expense Trends and Vacancy Rates**

Development rents will trend at a **3%** annual increase, while operating expenses will trend at a **4%** annual increase. For the vacancy rate, the Authority will utilize the **greater of 7%** or the vacancy rate used in the market study. The pro-forma financial statements must substantiate that the development will maintain a positive cash flow for the full fifteen (15) year period.

- **Minimum Hard Cost Requirement**

The Authority requires minimum hard costs of no less than **65%** of total development costs.

- **Minimum Rehabilitation Requirements**

The Authority requires a minimum rehabilitation expenditure of **\$7,500** in hard construction costs per unit for an acquisition and/or rehabilitation development.

The following documents are required for all acquisition and/or rehabilitation developments submitted at the Tier Two Application cycle:

- a) A unit-by-unit Physical Needs Assessment prepared by a 3<sup>rd</sup> party independent licensed engineer or architect is required. The assessment must include, in detail, a list of the immediate needed repairs as well as the costs of the immediate needed repairs. All repairs listed in the assessment must be needed and necessary repairs. Additionally, the remaining "useful life" of major systems including the HVAC and roofing must be estimated. Replacement of major systems that have been replaced within the past seven (7) years are not allowable rehabilitation expenditure items for meeting the \$7,500 in hard construction costs per unit requirement or for obtaining points under the Development Characteristics #2 criteria. The overall structural integrity of each existing building must also be addressed. **Those developments that do not reflect at least \$7,500 per unit hard construction costs will be rejected from consideration of LIHTC funding. If the Physical Needs Assessment represents needed repairs in excess of \$7,500 per unit, then the rehabilitation costs must reflect the higher amount required by the Physical Needs Assessment.** Note: Projects applying in the RHS set-aside may submit the rehabilitation assessment utilized by RHS. Adaptive re-use projects are not required to submit a Physical Needs Assessment; and
- b) Preliminary plans showing all proposed changes to existing buildings, parking, utilities, etc.; and
- c) A termite inspection report for each building.

**Note:** The Authority reserves the right to require appraisals on all rehabilitation developments. If an appraisal is requested, the land value and building value must be appraised “as is” and reported separately.

## **15. Developments Financed With Private Activity Bonds**

Developments financed by private activity bonds **may** be eligible to receive a 4% tax credit without being required to participate in the regular competitive allocation process. In order to be considered for a non-competitive allocation, a development must satisfy the requirements of Sections 42(h)(4), 42(m)(1)(D) and 42(m)(2)(D) of the Code and must also comply with the requirements and provisions of this section of the QAP.

In order to receive a non-competitive allocation, developments financed with the proceeds of an issue of private activity bonds must be eligible to receive a LIHTC allocation either under the QAP for the year in which the bonds used to finance the development received an allocation of the State’s Private Activity Bond Ceiling pursuant to §146 of the Code or under the QAP for the year in which the development is placed-in-service. At the time an allocation of Private Activity Bond Ceiling is received for a development, evidence of the receipt of said allocation, together with information sufficient to make a preliminary determination as to whether or not the development might qualify for funding under the then-current QAP may be submitted to the Authority. Following the submission and review of the above-described information, the Authority will provide a preliminary, non-binding statement as to whether the development, if completed as described to the Authority, could be capable of receiving funding under the then-current QAP. The preliminary opinion provided by the Authority shall state: (i) that it is based upon information provided to the Authority regarding the development, the accuracy of which has not been verified; (ii) that it assumes that the development as placed-in-service will exactly match the project described to the Authority; and (iii) that the opinion is preliminary, non-binding, and may not be relied upon by any party.

Applications for non-competitive tax credits will be accepted only in the year in which the development is placed-in-service. At the time of application the Applicant must submit evidence that the issuer of the bonds used to finance the development (a) was aware at the time of financing that an application for non-competitive tax credits would be submitted to the Authority, and (b) has made a calculation (taking into account the sources and uses of all funds available to be utilized by the development, including all sums which might reasonably be expected to be available from syndication of the tax credit) to determine the smallest tax credit dollar amount that could be allocated to the development without impairing its financial viability. If the development is financially viable without tax credits, the amount certified by the issuer of the bonds must be \$0. The above-described calculation must be attached to the application, together with a certification from the chief financial officer of the governmental unit that issued the private activity bonds, stating that the calculation was made by the issuer, was not supplied by the Applicant or any person or entity affiliated with the development, and certifying as to the reasonableness of the assumptions upon which the calculation was based. The certification must identify the issuer of the private activity bonds; the name, date, and amount of the bond issue; and the percentage of the aggregate basis of the development financed with bond proceeds. The Authority reserves the right to undertake its own underwriting review of all applications. In the event that the Authority determines that fewer, or no tax credits are required for the financial viability of a development, the value of tax credits allocated to that development

will be reduced accordingly. Before such a reduction is made, the Applicant shall be notified and given an opportunity to submit additional information in support of the issuer's tax credit calculation. If the Authority was the issuer of the private activity bonds used to finance the development, the Applicant must have given the Authority written notice of its intent to utilize a non-competitive tax credit allocation. Such notice must have been attached to the application for bond financing filed with the Authority.

Applications for non-competitive allocations of tax credits may be submitted at any time prior to the placed-in-service application deadline specified in the QAP for the year in which the private activity bonds used to finance the development received a portion of the State's Private Activity Bond Ceiling.

## **B. Threshold Requirements**

### **Tier One Application Threshold Requirements:**

The following threshold submittals must be included in the Tier One Application package submitted to the Authority:

- Completed Tier One Application; and
- Tier One Application Fee; and
- Developer Certification for Project Rejection form; and
- Development Narrative; and
- Site Control Documents; and
- Developer Environmental Certification Form; and
- Developer Relocation Certification and Tenant Profile Form; and
- Site Suitability Determination and General Site Information; and
- Professional Market Study.

#### 1. Completed Tier One Application:

All pages of the Tier One Application must be completed and the application certification page executed. The Authority reserves the right to determine whether any omission on a page of the Tier One Application is material or non-material for purposes of the satisfaction of the threshold criteria.

#### 2. Tier One Application Fee:

A **\$1,000** Tier One Application fee is due at the time of application submission. This fee is non-refundable. The fee must be in the form of a cashier's check made payable to the South Carolina State Housing Finance and Development Authority.

#### 3. Developer Certification for Project Rejection Form:

The Developer consents to the Authority's review of its application to determine whether or not it meets threshold requirements, and agrees that a determination made that an application fails to meet threshold requirements is final and is not subject to further review. (Form 1)

#### 4. Development Narrative:

The Authority requires a narrative description of (a) the current use of the subject property, (b) all adjacent property land uses, (c) the surrounding neighborhood, and (d) identification

and proximity of services available to the proposed property, including transportation services.

5. Site Control Documents:

At the time of the Tier One Application submittal, the Applicant must have site control. The buyer must show evidence of site control by having executed documents. The following represent proper evidence of site control:

- a) The Applicant holds title to the property on which the development will be constructed by a properly executed and recorded Deed; or
- b) The Applicant has an executed purchase option with date certain performance; or
- c) The Applicant has an executed purchase contract with date certain performance; or
- d) The Applicant has an executed 99-year land lease or option on a long-term lease.

**Note:** With the exception of a) above, the Applicant must also submit the current deed recorded for the property in order to verify the seller.

6. Developer Environmental Certification Form:

The Developer will be required to sign an Environmental Certification Form (Form 2) that provides the Authority with information regarding floodplains, wetlands, etc. that may be located on, adjacent, or near the development site. A USGS topographical map for the development site must be attached to the Environmental Certification form. Note: The Developer Environmental Certification form is for the tax credit program only and is not meant to replace any environmental certifications or requirements that may be required by the State HOME program.

7. Developer Relocation Certification and Tenant Profile Form:

Projects must minimize the displacement of low-income households. No more than 50% of the existing tenants may be displaced temporarily. No more than 10% of the existing tenants should be displaced permanently. Should permanent or temporary displacement occur, a relocation plan must be furnished with the application describing how the tenants will be relocated and the costs and source of relocation expenses (Form 3). Projects involving permanent relocation of tenants are discouraged and will only be funded with an adequate relocation plan for the ten percent (10%) allowed.

8. Site Suitability Determination and General Site Information:

**Note: It is the objective of this Plan to select the best available sites for projects awarded under the plan. The Authority's determination of negative site characteristics should not be construed as a finding that a site is not a buildable site under any circumstances.**

The Authority requires the following:

- a) Labeled photographs (or color copies) of the proposed development site and all adjacent properties and a map clearly identifying the exact location of the development site; and
- b) A map with directions to the development site from 919 Bluff Road, Columbia, S.C.; and
- c) Schematic site plans that include the location of any streams, ravines, or other construction deterrents, as well as, all utility locations such as water, sewer, gas, electric, and phone lines. If these services are not currently located at the site then the plan must reflect the distances from the required services; and

- d) Preliminary site plans must be included indicating the placement of buildings on site, parking areas, sidewalks, planned landscaping, amenities, etc.

Authority staff will conduct site evaluations on each proposed site. If any Authority determined detrimental site characteristics exist on, adjacent to, or within unallowable distances from the site, **the Authority will reject the application.**

Sites should be relatively flat, integrated into a residential community, and should not be isolated in areas with large amounts of undeveloped land. Surrounding uses should be compatible with the proposed project, and the proposed design compatible with existing architecture in the area. The following bulleted items represent some, but not all, Authority determined detrimental site characteristics. These Authority determined detrimental site characteristics represent threshold criteria. The Authority will also make determinations and award competitive points to sites that are within acceptable and measurable parameters as found in the competitive Tier Two point section. As noted, these Authority determined detrimental site characteristics are not all inclusive. The Authority may reject the site based on the analysis of information submitted or information obtained from other sources that, in the Authority's determination, render the site unsuitable for development. The Applicant consents to the Authority's making this determination and agrees that it is not subject to further review. Any Applicant that does not disclose known detrimental site characteristics or other known site information that may render the site unsuitable will be debarred from participation in South Carolina's Tax Credit program for a period of up to five years, regardless of when discovered.

- Sites located within ½ mile of pipelines (excluding low pressure natural gas distribution lines, water and sewer lines) or storage areas for hazardous or noxious materials, or sewage treatment plant or other solid waste facilities; or
- Sites where any portion or boundary of proposed site is located on or touching any portion or boundary of an easement containing an electric or communications substation. In addition, no portion or boundary of proposed site can be within 300 feet of any actual substation, regardless if it is active or inactive; or
- Sites where any portion or boundary of the proposed site is located within the engineering fall distance of any pole, tower or support structure of a high voltage transmission power line, communications transmission tower, microwave relay dish or tower, or commercial satellite dish (radio, TV cable, etc.). For field analysis, the Authority will use tower height as the fall distance. For the purpose of this QAP, a high voltage electric transmission line is a power line that carries high voltage at any given moment greater than 60KV (kilovolts); or
- Sites where any portion or boundary of the proposed site contains any easements for overhead electric power lines, regardless of voltage, and/or such electric power lines run through areas of the proposed site other than the outside perimeter of the site to distribute power to locations not located within any portion or boundary of proposed site; or
- Sites where any portion or boundary of proposed site is within 1000 feet of an operating industrial plant that may pose a safety risk, hazard, nuisance or other negative impact; or
- Sites where there are problems with sources of noise, odor, and/or other nuisance pollution; or

- Sites where the Authority determines the slope/terrain is not suitable for development, or
- Sites where there are problems with existing wetlands, drainage and/or waterways on the site; or
- Sites where there are problems with streams, ravines, or other construction deterrents; or
- Sites where a nearby active railroad may cause excessive noise and vibration. An Applicant submitting a proposed development near active, in use railroads may be required, at the Authority's discretion, to submit, from a qualified professional, an objective third party study that addresses the impact of the nearby railroad on the proposed development. The study must support the placement of the development on the proposed site. The Authority, in its sole discretion, will approve or reject sites and may reject the site regardless of conclusions reported in the study as other site criteria will be considered; or
- Sites where any portion or boundary of the proposed site is within 500 feet of a junkyard, trash heap, and/or dump pile; or
- Sites where there are obvious physical barriers to the development; or
- Sites located within ½ mile of an active sanitary landfill.

### **Market Criteria**

- The Authority will not award any new construction developments consisting of greater than 40 low-income units in areas defined as rural by RHS. Additionally, as previously stated within this QAP, the construction of new residential units on acquisition/rehabilitation developments is prohibited.
- Within each set-aside or general pool, the Authority will award no more than one development for the same tenant population in a specific QCT. In such instances, only the Applicant that receives the highest point score will be awarded. The tiebreaker provisions will be utilized, if necessary. **Note:** A development submitted in the non-profit set-aside that rolls into the General Pool for funding consideration will still be considered in the non-profit set-aside as it relates to this number of awards in a QCT limitation.
- Within each set-aside or general pool, the Authority will award only one development of any two or more developments in the 2002 tax credit competition that are within one mile by public paved road of each other and are to serve the same tenant population. In such instances the Applicant that receives the highest point score will be awarded. The tiebreaker provisions will be utilized, if necessary. **Note:** A development submitted in the non-profit set-aside that rolls into the General Pool for funding consideration will still be considered in the non-profit set-aside as it relates to this number of awards within one mile of each other limitation.
- The Authority will not approve or consider Tier One Applications for proposed developments in the same market for the same tenant population as previously funded tax credit



developments that have not reached stabilized occupancy. The Authority defines “same tenant population” as elderly or SRO or family. “Family” will not be differentiated based on bedroom size for making this determination. As such, a one and two bedroom development is the same tenant population as a three and four bedroom development if you are targeting families. The Authority will make exceptions to the above threshold requirement if the Authority determines, in its sole discretion, that the reason for the existing development not reaching stabilized occupancy is not an issue of an “existing market” for the tenant population, but other characteristics that may or may not be resolvable (e.g. location, physical appearance, etc.). Additionally, the Authority will not approve or consider applications for proposed developments within a half-mile of existing tax credit developments for the same tenant populations that have a history of vacancy rates greater than ten percent (10%). The Authority will make exceptions to the above threshold requirement if the Authority determines, in its sole discretion, that the reasoning for the existing development having a history of vacancy rates greater than 10% is not an issue of an “existing market” for the tenant population, but other characteristics that may or may not be resolvable (e.g. location, physical appearance, etc.).

- The Authority has entered into a Memorandum of Understanding with the Rural Housing Service to exchange information to insure the economic viability of developments funded by our agencies’ resources. Except within the Hope VI set-aside, the Authority will not approve or consider Tier One Applications for proposed developments that threaten the economic viability of existing developments funded by either agency. The Authority will have sole discretion in making this determination.
- The division or subdivision of existing developments into two or more developments is prohibited. Applications relating to such divided or subdivided developments will be rejected and all individuals and entities responsible for the submission of any such applications will be debarred from participation in all Authority programs for a period of not less than five years.
- Except within the Hope VI set-aside, the Authority will not approve or consider subsequent phased developments in which the previous phase has not been completed, placed-in-service, and reached stabilized occupancy or in which the previous phase has had a history of vacancy rates greater than ten percent (10%). The occupancy of the previously funded development must be verified through a certified rent roll prepared by the project’s Management Company. Additionally, in order for an allowed subsequent phase development to be considered, the quality, financial health, and market of the previous phase of a subsequent phase application will be considered.

## 9. Professional Market Study:

### **General Information:**

All developments requesting LIHTCs must have a market study submitted with the Tier One Application or the application will be rejected. An experienced market analyst, approved by the Authority, who is totally unaffiliated with the Developer and/or owner of the proposed development, must prepare the study. An analyst will be considered “approved” if the market study that is submitted meets the requirements of the **Market Study Outline Requirements** as listed below. Additionally, each market analysis/appraisal/research company may not prepare more than 20 separate market studies to be turned in with 20 separate Tier One applications.

The requirements listed below establish the minimum information and analysis that must be provided to enable the Authority to review the study. However, meeting these standards does not guarantee acceptance of the study. The Authority, in determining whether a market exists for a proposed development, will consider market and marketability factors other than the market study and reserves the right to reject the application based on those factors.

If a market study contains inconsistencies (statements that contradict one another or are not true), the Authority, in its sole discretion, may reject the market study. If the market study is rejected, the application will not meet threshold requirements and will be rejected.

The market study must be prepared and presented exactly as outlined below, in the order listed, or it will be rejected. If the market study is rejected, the Tier One application will not meet threshold requirements and the application will be rejected.

### **Market Study Outline Requirements:**

**Note:** This section of the market study must be prepared and presented exactly as outlined below, in the order listed, or it will be rejected. If the market study is rejected, the Tier One Application will not meet threshold requirements and the application will be rejected.

**A. Definitions** – To ensure the Authority’s understanding of certain words or phrases within the market study industry is identical to the market analyst’s use of those words/phrases within the market study, explain the meanings of the following terms/phrases.

1. special needs population (please include the special needs population of the proposed development, if applicable)
2. target population (please include the target population of the proposed development)
3. primary market area
4. secondary market area
5. rental housing demand (How is this number calculated?)
6. absorption rate (How is this number calculated?; What is considered acceptable and why?)
7. market vacancy rate (How is this number calculated?; What is considered acceptable and why?)
8. capture rate (How is this number calculated?; What is considered acceptable and why?)
9. substandard conditions
10. subsidy
11. methodology
12. comparable development
13. average stabilized occupancy
14. reasonable marketing and management
15. fair market rent
16. based-on-income (BOI)
17. population trends
18. household trends
19. employment trends
20. rent overburden

### **B. Proposed Development Questions**

**Note:** This section of the market study must be prepared and presented exactly as outlined below, in the order listed, or it will be rejected. If the market study is rejected, the Tier One Application will not meet threshold requirements and the application will be rejected.

1. What is the primary market area (from this point forward, the term “market area” will refer to the primary market area only) for the proposed development?
2. What are the fair market rents in the market area for each bedroom size proposed in the development with utilities? Without utilities?
3. What are the maximum 60% rents and 50% rents with utilities? Without utilities?
4. What are the proposed rents with utilities? Without utilities?
5. What percentage are the proposed rents in relation to the maximum 60% and 50% rents?
6. In your opinion, what affect would there be on the proposed development if the rents are raised so that they are calculated to be above the percentage determined in #5?
7. What level of importance did you place on the proposed rents while performing your market analysis?
8. Has the Developer indicated to you that the proposed rents will increase? If yes, will the Tier Two application reflect those changes?
9. List several (at least three) advantages including rent advantages of the proposed development in relation to comparable developments in the market area.
10. If there are “based-on-income” units in the market area, what kind of role did they play in calculating the numbers in questions #2-9?
11. What is the tax credit eligible income range for this market area?
12. What is the current average rental household size?
13. What is the number of households that can be currently defined as “rent overburdened?”
14. After your review of the market area and based on data analyzed, give your professional opinion as to the housing needs of the market area - independent of the proposed development. (ex. The market area is in need of three bedroom single family detached homes which can be leased and eventually purchased.)
15. What is the number of rental units needed by the proposed special needs/targeted population in the market area?
16. What is the market capture rate for the proposed population?
17. Is the proposed special needs/targeted population the population that is in most need in the market area?
18. How long will it take for the proposed development to lease-up at least 93% of the units?
19. How long will it take for the proposed development to lease-up 100% of the units and stabilize?
20. What is the current market vacancy rate?
21. What is the current average rental household size in the market area?
22. What factors in this market area make you conclude that the market can support the proposed development exactly as planned?
23. If the market area contains developments that are BOI, what reasons and/or incentives are there for potential tenants who are income eligible for both developments to live at the proposed LIHTC development rather than at the BOI development where they will most likely pay little rent, if any?

Please place all supporting information for this section, including assumptions and/or methodology, in the back of the Market Study and mark **Appendix I**.

### **C. Proposed Site Description**

**Note:** This section of the market study must be prepared and presented exactly as outlined below, in the order listed, or it will be rejected. If the market study is rejected, the Tier One Application will not meet threshold requirements and the application will be rejected.

1. Pictures of the site and all adjacent parcels. Include at least one picture taken while standing directly in front of the site which shows the entire length of the site and will give the viewer a good idea of what the site looks like from a head-on angle.
2. Narrative of the site and adjacent parcels. The narrative should include the physical features of the site and adjacent parcels and should be at least one page long single-spaced. Explain how the positive and negative attributes of the site will impact the viability of the proposed development. This discussion should reflect the appeal of the site, surrounding land uses, the site's physical relation to surrounding roads, transportation, amenities, employment, services, and the condition of the physical structures/neighborhoods surrounding the site.
3. Direct distances (not by paved road) from site to the following locations:

- Railroad track
- Most active railroad track
- Landfill
- Sewage Treatment Facility
- Garbage Dump
- Recycling Center
- Industrial Areas

Travel distances (by paved road) from site to the following locations:

- Business Areas
- Other Tax Credit Developments
- Hospital
- Pharmacy
- Emergency Services
- Doctor's Offices
- Public Transportation
- Public Park/Playgrounds
- Public Library/Schools
- Major Food Chains
- Major Shopping Mall
- Restaurants
- Fast Food Establishments
- Convenience Store/Service Stations

4. Assessment of the overall local economy for the past 10 years. Simple lists of employers are not adequate. The analyst should have a sense of whether overall employment is expanding or contracting, and labor force trends and wages. Provide the total workforce and give both number and percentage of unemployed. A narrative analysis of data provided is required.
5. Proposed development description including details regarding the number of buildings and units, units per building, floors per building and unit, bedroom mix, target income group, rents, utility allowances, type of heating and cooling system, etc. Also include the type of framing and exterior to be used in construction.

6. A description of the development's design and location and how the development will be beneficial to the targeted tenants in comparison to the existing rental stock.

#### **D. Market Area**

**Note:** This section of the market study must be prepared and presented exactly as outlined below, in the order listed, or it will be rejected. If the market study is rejected, the Tier One Application will not meet threshold requirements and the application will be rejected.

1. A map clearly identifying the location of the proposed development. The map should also identify the items listed in C3 above that are within two (2) miles of the proposed development and have an identifiable usable scale indicating distances of ¼ mile and one mile increments only. The map should be on 8.5" x 11" paper. If necessary, multiple maps may be used.
2. A separate map with a description of the market area. The market area must be specifically justified, i.e. analyst must describe the methodology and reasoning used to determine the market area in the form of a narrative. This narrative will include a description of the geographical boundaries used to identify the market area. A simple circle drawn around the proposed site will not qualify as a market area. If the effective market area includes areas outside a five-mile radius from the proposed development, provide a detailed explanation for the larger area. The map should have an identifiable usable scale indicating distances of ¼ mile and one mile increments only. The map should be on 8.5" x 11" paper.
3. A separate map with the proposed site clearly identified along with the location of all other apartment complexes within five (5) miles of the proposed development, as well as apartments coming on the market within the next year. Additionally, provide a table (or multiple tables) that include(s) a breakdown by unit size, bedroom count, monthly rent, monthly utilities, development age, amenities, vacancy rates and distance from the proposed development of all existing market rate and subsidized developments. Include in the table the person(s) contacted for each development and the method of contact. In addition, the analyst must indicate the rental developments in the market area which are the most directly comparable to the proposed development and why. The map should have an identifiable usable scale indicating distances of ¼ mile and one mile increments only. The map should be on 8.5" x 11" paper.

**E. Community Demographic Data in Market Area** – The most recent data must be used here.

**Note:** This section of the market study must be prepared and presented exactly as outlined below, in the order listed, or it will be rejected. If the market study is rejected, the Tier One Application will not meet threshold requirements and the application will be rejected.

1. Analysis of population by age cohorts.
2. Provide a narrative analysis on the population trends of the market area. Include the total population count of the proposed development area as well as past and future population growth and/or decline patterns.
3. Analysis of the number of and trends of households by income grouping, household size, and renter versus homeowner. State the basis for the conclusion that such tenants will/will not be drawn to the proposed development.

#### **F. Proposed Development-Specific Supply and Demand**

**Note:** This section of the market study must be prepared and presented exactly as outlined below, in the order listed, or it will be rejected. If the market study is rejected, the Tier One Application will not meet threshold requirements and the application will be rejected.

1. A narrative addressing the problem of substandard housing in the market area.
2. A narrative addressing how the special needs/targeted population is identified in the market area and the need for the type of housing proposed for that population. If the market study report concludes that there is not adequate demand for the proposed units by the special needs/targeted population, the application will be rejected.
3. Identify whether potential tenants will come from substandard housing, subsidized, market rate developments, or other sources. Identify any additional sources.
4. Include the total number of tax credit eligible households from the market area that would qualify to be tenants in the development.
5. List the current and proposed tax credit developments in the defined market area. Provide an analysis as to the impact the proposed development would have on the existing developments. The market study must conclude that there is not over-development of tax credit properties within the market. If the market study concludes that there is over-development of tax credit properties within the market, the application will be rejected.
6. Provide an analysis as to the impact the proposed development will have on all existing developments (ex. Market rate, subsidized, and tax credit).
7. Provide an analysis of the current and future estimates (over the next three (3) years) of supply and demand of units and compute the new demand for units in the market area.
8. A statement as to how the proposed rents compare with market rate rents in the market area. Include the methodology for the calculation of the market rents.
9. The results of formal or informal interviews with property managers, town planning officials or anyone with relevant information relating to the overall demand for the proposed development should be summarized and placed here.

#### **Market Study Analyst's Qualifications:**

An independent, disinterested, third party, professional market analyst must conduct the market study. This independent, third party market analyst must visit the site personally. His or her compensation must not be contingent on the development being funded. The analyst must not have any financial interest in the development itself. These facts must be contained in a signed statement placed in the appendix of the market study as Appendix II. A copy of the analyst's resume and statement of experience should be placed behind the statement as Appendix III. All assumptions and methods used by the market analyst must be listed as part of the report where applicable or where directed. All data sources used in the report must be identified and verifiable. The market analyst should have, at a minimum, the following qualifications:

1. Be experienced in the areas of market demand and feasibility studies, particularly as it relates to multifamily developments; and
2. At least three (3) years experience in the areas of market demand and feasibility studies, particularly as it relates to multifamily developments; and
3. Conducted market studies on a regular basis for multifamily mortgage lenders, Developers, syndicators and investors.

#### **Market Study Age:**

The market study report must be no more than six (6) months old at the time of the LIHTC Tier One Application submission to the Authority.

**Consequences of Market Study Misrepresentations:**

Misrepresentations such as market area, achievable rents to be charged, etc., in the market study will result in the rejection of the application, as well as debarment of the market analyst from all of the Authority's programs for a period of at least two (2) years.

**Rejection of Applications Based on the Market Study:**

Based on the information and analysis presented in the market study, and based on other information available to the Authority, the Authority may determine that market demand is not sufficient to support the proposed development and may reject the application. The Developer consents to the Authority's making this determination and agrees that it is not subject to further review.

Prior to the time it grants a reservation of LIHTCs, the Authority reserves the right to require an additional market study by an analyst chosen by the Authority. The study, if requested, will be at the expense of the Applicant. If the second study does not support the conclusions made by the first market study, the Authority, in its sole discretion, may reject the application.

Applications that contain market studies with negative conclusions will not be considered for a reservation of tax credits and will be rejected.

**G. Final Recommendation:**

A final recommendation statement must be provided. The recommendation statement should summarize the competitiveness and viability of the proposed development in the market area. The analyst must share any concerns he or she may have with the proposed development and whether or not the development should proceed. If the analyst does not believe that the development, as proposed, is feasible, the analyst must indicate what modifications would be needed to make it feasible. All statements and recommendations must be supported by the facts presented in the market study.

**Standards of Review:**

In reviewing the market studies, the Authority will first determine whether the market study meets the minimum standards set forth. If the minimum standards are not met, the application will be rejected. If the minimum standards are met, the Authority will then determine whether the study establishes, in a logical, reasonable and supportable manner, that a market probably exists for the proposed development. If the Authority determines that the market study does not provide a logical, reasonable and supportable conclusion that a market probably exists for the proposed development, the application will be rejected. If the Authority deems the market study complete and deems the data contained therein as sufficient to determine that a market probably exists for the proposed development, then the application will have met the market study threshold requirement.

**H. Written Acknowledgement:**

A written acknowledgement from the Developer(s) of the proposed development is required enabling the Authority the right to speak directly to the market analyst who conducted and prepared the market study.

### **Tier Two Application Threshold Requirements:**

The following threshold submittals must be included in the Tier Two Application Package submitted to the Authority for the consideration of a reservation/allocation of credits.

- Completed Tier Two Application; and
- Tier Two Application Fee; and
- Site Control (Must be resubmitted); and
- Zoning and Locational Standards Letter; and
- Utility letters; and
- Preliminary Plans; and
- Physical Needs Assessment Report, as applicable; and
- Opinions, Certifications and Exhibits.

1. **Completed Tier Two Application:**

All pages of the Tier Two Application must be completed and the application certification page executed. The Authority reserves the right to determine whether any omission on a page of the Tier Two Application is material or non-material for purposes of the satisfaction of the threshold criteria.

2. **Tier Two Application Fee:**

Tier Two Application submission fees for all developments are **\$1,500** per application. All fees are non-refundable. The fee must be in the form of a cashier's check made payable to the South Carolina State Housing Finance and Development Authority.

3. **Site Control:**

Only applications for the same site from Applicants that met Authority requirements in the Tier One Application cycle will be allowed. The buyer must show evidence of site control by having executed documents. There must be documentation that verifies there have been no changes since the Tier One Application submission.

4. **Zoning and Locational Standards:**

The Applicant must demonstrate that the zoning, land use, or development requirements for each site on which the development will be located allows for the use(s) proposed by the Applicant. A letter from the local jurisdiction must be submitted with the application stating (a) the proposed development meets all zoning, land use, or development requirements and (b) no further actions will be required for the development to be a permitted use on the proposed site under the zoning, land use, or other development ordinance or regulation in effect on the date of the letter. If the proposed development is located in a county or jurisdiction that does not have zoning, land use, or development requirements, a letter from the local jurisdiction must be submitted attesting the fact that no zoning, land use, or development regulations are in effect (see **Exhibit M** for required letter).



**Note:** The ordinance or regulation may be changed at anytime by the jurisdiction's governing body before the building permit is issued. Any such change could outlaw the development.

The Applicant must submit with the application a locational standards letter from the appropriate local official (Chief Planning/Zoning official or higher position such as Administrator, Mayor, or Chairman) certifying that the proposed development will comply with all local standards or ordinances governing the location of assisted housing within the municipality or county (in unincorporated areas) in which the proposed development will be located. In the event that the development is proposed to be located in an area that has not adopted such standards or ordinances a letter from the local official stating such is required (see **Exhibit O** for sample letter).

All zoning and locational standard letters must include:

- a) Development address and Tax Map #, and;
- b) Total number of low-income units and total number of market rate units.

5. Utility Letters:

The Applicant must provide evidence of the availability of utilities (water, sewer and electric/gas) to the proposed site.

6. Preliminary Plans:

The Applicant must provide preliminary development plans. Plans should include the front, rear and side elevations of the buildings as well as detailed unit floor plans for each bedroom size. Plans should be submitted on 8-1/2 x 11 paper. A preliminary site plan must also be included.

7. Physical Needs Assessment Report:

A unit-by-unit Physical Needs Assessment prepared by a 3<sup>rd</sup> party independent licensed engineer or architect is required. The assessment must include, in detail, a list of the immediate needed repairs as well as the costs of the immediate needed repairs. All repairs listed in the assessment must be needed and necessary repairs. Additionally, the remaining "useful life" of major systems including the HVAC and roofing must be estimated. Replacement of major systems that have been replaced within the past seven (7) years are not allowable rehabilitation expenditure items for meeting the \$7,500 in hard construction costs per unit requirement or for obtaining points under the Development Characteristics #2 criteria. The overall structural integrity of each existing building should also be addressed. **Those developments which do not reflect at least \$7,500 per unit hard construction costs will be rejected for LIHTC funding. If the Physical Needs Assessment represents needed repairs in excess of \$7,500 per unit, then the rehabilitation costs must reflect the higher amount required by the Physical Needs Assessment.** Note: Projects applying in the RHS set-aside may submit the rehabilitation assessment utilized by RHS. **Exhibit R** must be submitted along with the Physical Needs Assessment.

**Note: Adaptive re-use projects are not required to submit a physical needs assessment.**

8. Opinions, Certifications and Exhibits:

All opinions, certifications and exhibits submitted by attorneys, the Applicant, or other professionals must be based on an independent investigation into the facts and circumstances surrounding the proposed development. No opinion submitted by an attorney that is not based on an independent investigation of the facts and circumstances surrounding a proposed

development will be accepted. All certifications must be in the form specified by the Authority. **No application will be accepted if a certification has been materially altered, amended, or changed. In the event opinions, certifications, exhibits, etc., have been submitted but not properly executed, the Authority will assess one negative point for each non-properly executed document and impose a \$1,000 fine as well.**

Changes in professionals hired by the development team, i.e. attorneys, architects, and certified public accountants are allowed; however, any new professionals added must adhere to the original certifications made by previous professionals.

Attorneys, architects, and certified public accountants must each be third party independent professionals and be licensed to do business in the State of South Carolina.

### **C. Competitive Review**

The Authority has developed an allocation scoring system based on the identified housing needs for South Carolina as well as federal mandates for the LIHTC program. Points are awarded based on the criteria below:

- a) Site Characteristics;
- b) Location Characteristics;
- c) Development Characteristics;
- d) Sponsor/Applicant Characteristics;
- e) Targeting/Extended Use Characteristics;
- f) Financial Characteristics.

#### **Site Characteristics**

1. Preference will be given to projects located within two (2) miles by public paved road to no less than three (3) services appropriate to its tenant population. Only one service of each type listed below will count towards the points. A map must be included with the Tier One and Tier Two Application identifying the development site and the location of services, as well as written directions from the site to each service. The services must be identified by name on the map and in the written directions. If the services are not identified by name, points will **not** be awarded. All services must exist or, if under construction, must be at least 50% complete by the Tier One Application submittal date.

**Services:** Full Service Grocery Store  
Convenience Store  
Pharmacy  
Restaurant  
Fire Station  
Police Station  
Hospital  
Public Library – No School Libraries  
accepted  
Public Schools

**10 points**

2. Preference will be given to development sites that have at least 80% of its acreage as buildable area, excluding setbacks required by local zoning ordinances. Examples of unbuildable acreage include wetlands, buffers, easements, or any other items that would prohibit the placement of buildings on the site. A boundary survey and/or other verifiable, understandable documentation with the applicable information must be submitted to achieve the points. **10 points**

3. Preference will be given to a development site that is bordered by a paved road on at least one side. Main access to the development must be from the paved road and must consist of at least 50 feet of frontage. **10 points**

4. Preference will be given to development sites based on the utility availability at the site as follows:

a) Developments that have water and sewer capable of serving the site at the time of Tier Two Application submittal. Water and Sewer service must be of adequate size to serve the development, must be within 100 yards of the site boundary, and cannot be contingent on annexation of the property, improvement of infrastructure, or funding to the utility provider from an outside source. The availability and certification of the capacity of public water and sewer adequate to serve the site must be documented by letter(s) from the local public water and sewer authorities and must be submitted as part of the Tier Two Application; and

**10 points**

b) Developments that have required operating utilities (i.e. gas and/or electric service), as applicable, available to the site at the time of the Tier Two Application submittal. The availability and capacity of the operating utilities must be documented by letter(s) from the utility provider(s) and must be submitted as part of the Tier Two Application. The operating utilities cannot be contingent on annexation of the property, improvement of infrastructure or funding to the utility provider from an outside source.

**10 points**

### **Location Characteristics**

1. Preference will be given to developments located in federally designated empowerment zones or enterprise communities. To receive this preference, a letter is required from the local government identifying the site within the designated area or from the federal agency that made the designation. **1 point**

2. Preference will be given for the addition to or upgrade of the State's residential rental housing stock in rural areas designated by the Rural Housing Service (RHS). A letter must be submitted from the RHS State Multifamily Housing Director. **1 point**

3. Excluding counties where HOPE VI tax credit awards are located, preference will be given to developments located in counties where there have not been tax credit awards in the past 2 years (2000, 2001).

**Those counties are:**

Bamberg	Darlington	Kershaw
Barnwell	Dillon	Laurens
Beaufort	Edgefield	Lee
Berkeley	Fairfield	Lexington

Calhoun	Georgetown	McCormick
Chester	Hampton	Richland
Chesterfield	Horry	Saluda
Clarendon	Jasper	Union
Colleton		

**5 points**

4. Preference will be given to developments located in Qualified Census Tracts (QCTs) that contribute to a concerted community revitalization plan. To receive this preference, a letter from the local government must be submitted stating that the development contributes to such along with a copy of the community revitalization plan. **1 point**

5. Excluding towns or city limits where HOPE VI tax credit awards are located, preference will be given to developments **not** located within any town or city limits that received two or more awards in 2001. **10 points**

6. Preference will be given to developments based on local government notification and support. This preference will be as outlined below:

a) Applicant provides a letter from local government stating that the local government has no comment on the proposed development or the Applicant can demonstrate the efforts undertaken to unsuccessfully obtain such letter; or **10 points**

b) Applicant provides a letter from local government stating that the local government has no objection to the proposed development; or **15 points**

c) Applicant provides a letter from the local government stating that the local government supports the proposed development. **20 points**

7. Preference will be given to developments if the local government reduces development costs by providing any of the following either through their existing policies or through a “commitment resolution” adopted by the official governing body, as applicable:

a) The population of the city or county in which the proposed project is legally located is **5,000 or less** and:

1. a waiver of all water and sewer tap fees is given; **3 points**
2. a waiver of all building permits is given; **2 points**
3. at least \$6,000 of local money\* is contributed; **4 points**

**OR**

b) If the population of the city or county in which the proposed project is legally located is **5,001 to 20,000** and:

1. a waiver of all water and sewer tap fees is given; **3 points**
2. a waiver of all building permits is given; **2 points**
3. at least \$12,000 of local money\* is contributed; **4 points**

**OR**

c) If the population of the city or county in which the proposed project is legally located is **above 20,000** and:

1. a waiver of all water and sewer tap fees is given; **3 points**
2. a waiver of all building permits is given; **2 points**
3. at least \$24,000 of local money\* is contributed. **4 points**

\* Local Money does not include any federal or state money or entitlement funds; in-kind services; or third party or Applicant provided money, trade offs, or reimbursements. Local Money must be in the form of a grant.

### **Development Characteristics**

1. Preference will be given to Applicants with the least number of low-income tax credit units in the development as follows:

- a) Up to seventy-two (72) units **20 points**
- b) Seventy-three (73) units up to one hundred (100) units **10 points**

2. Preference will be given to developments based on the energy efficiency of the units and the utilization of durable construction. To receive this preference, the Architect and/or Professional Engineer Certification (**Exhibit G**) must be submitted with the application.

- a) Developments that insulate attics to R-38. **10 points**
- b) Developments that utilize at least 10 SEER HVAC units. **10 points**
- c) Brick Veneer or Brick Veneer (40%) and remaining exterior siding to be fiber cement; or **30 points**
- d) Brick Veneer (40%) and remaining exterior siding to be vinyl siding with a thickness of at least .044 mils; or **20 points**
- e) Full fiber cement or cedar siding; or **15 points**
- f) Full vinyl siding with thickness of .044 mils. **10 points**
- g) Architectural, dimensional anti-fungal shingles or equivalent. **10 points**
- h) Interior doors that are six paneled colonist or solid core birch or solid core lauan. **4 points**
- i) All interior cabinets to be solid wood or wood/plastic veneer products with dual slide tracks on drawers. **4 points**

3. Preference will be given to developments that provide, at a minimum, three (3) supportive services. Services must be appropriate to the project's targeted tenant population and must be ongoing for at least three (3) years. To receive points, programs must be of a regular, ongoing

nature and provided to tenants free of charge, except for day care services. In order to receive these points, **Exhibit Q** (one for each service) must be properly completed, executed and submitted with the application. **30 points**

**Family Supportive Services/ Tenant Ownership:**

Licensed Day Care Services  
After-School Programs (Name specific activity in **Exhibit Q**)  
Parenting Skills Seminars  
Credit Counseling  
Financial and Budgeting Seminars  
Continuing Education and/or Job Training  
Homebuyer Training & Seminars  
Supervised recreational activities for children (Name specific activity in Exhibit Q)  
Preventive Health Care Programs targeting families  
Computer Lab / Internet hookup and Tutor  
Social & Recreational Programs planned and overseen by the Project Manager (monthly birthday parties/holiday dinner and/or parties/potluck dinners/movie nights/bingo)

**Elderly Supportive Services**

Meal Services  
Wellness Monitoring  
Preventive Home Health Services  
Prescription Management Classes  
Weekly Exercise Class  
Continuing Education  
Grandparent Mentoring Programs  
Reading Service or Library  
Senior Counseling  
Homemaker or Housekeeping Services  
Grocery Pick-up and/or Delivery  
24 hour Security/Neighborhood Watch Programs  
Social & Recreational Programs aimed at elderly tenant interests and planned and overseen by the Project Manager (monthly birthday parties/holiday dinner and/or parties/potluck dinners/movie nights/bingo)  
Weekly “day trips” to shopping centers/specialty shopping  
Transportation to facilitate access to social services/doctors

**Homeless/At Risk Tenant Services**

Specialized Counseling  
Credit Counseling  
Financial & Budgeting Seminars

**Note:** Supportive services on these lists will be accepted towards claiming points. The Authority may allow exceptions in its sole discretion for other supportive services appropriate to tenant population.

4. Preference will be given to developments that establish working relationships with an established Community Development Corporation (CDC) that is a member of the South Carolina Association of CDCs or a Community Housing Development Organization (CHDO) that is State

designated and/or Participating Jurisdiction (PJ) designated. To receive this preference, the Applicant must demonstrate its efforts and willingness to work with such organizations to help in the delivery of needed tenant support services by entering into a supportive services contract of no less than three (3) years beginning when the project is placed-in-service. Exhibit Q will not suffice as a supportive services contract. **10 points**

5. Preference will be given for the following Design Quality Standards:

- a) Sidewalk access to all parking spaces.
- b) Curbing for paved areas throughout the development site including the parking areas. For proposed single family developments a paved driveway.
- c) A development sign at the entrance of the complex.
- d) Exterior lighting at all entry doors and parking area.
- e) Enclosed trash dumpsters and/or compactors.
- f) All units have balconies, patios or sunrooms.
- g) All grass areas within 30 feet of buildings must be sodded.
- h) A minimum 1,200 sq. ft. community building that includes a leasing office.

**4 points each for a maximum of 24 points**

6. Preference will be given for developments that include the following extra amenities:

- a) Window coverings.
- b) Washer/Dryer hookups in all units.
- c) Microwave ovens in all units.
- d) Garbage disposal in all units.
- e) Dishwasher in all units.
- f) Living room ceiling fan in all units.
- g) Playground with commercial play equipment.
- h) Free standing shelters in appropriate locations such as the mail center, recreation areas or transportation stops.
- i) Integration of existing vegetation with new plantings, clearly delineated on the schematic site plan. These areas shall be designed to create spaces such as seating areas or shading for playground and/or other recreation uses.

**4 points each for a maximum of 28 points**

### **Sponsor/Applicant Characteristics**

1. Preference will be given to Applicant(s) who have previous experience **as general partners (or the equivalent in a limited liability company)** in the development and successful implementation of Low-Income Housing Tax Credit developments. Experience points will be based on the demonstrated experience and qualifications of the Principal(s) (for which experience points are sought) of the proposed development. Each Principal(s) (for which experience points are sought) must be a material Participant in the proposed development as well as a material Participant in the developments submitted for point consideration. All developments that count under this category must have received 8609's for all buildings at the time of application. Experience points will be awarded to Applicant(s) in joint ventures on the basis of their combined experience. The Applicant(s) must complete the Previous Participation Certificate (see **Exhibit K**). A copy of the Development Agreement for the proposed development indicating the partnership interest of its Participants in the development and the extent of its participation (including financial) in the development throughout the "compliance

period” must be submitted with the application. Preference will be based on the experience as follows:

1-4 developments:	<b>20 points</b>
5+ developments:	<b>30 points</b>

### **Targeting /Extended Use Characteristics**

1. Preference will be given to those developments designating rental housing for special needs tenant populations. In order to receive this preference, the development as a whole as well as the units must be designed and equipped to serve the special needs of their designated tenant population. Such design and equipment must be in addition to the minimum design requirements necessary to comply with State and Federally mandated accessibility requirements and must be fully described in the application. In addition, a supportive services plan is required to receive this preference. The written plan must include the following: type of services to be provided, commitments of resources (including funds, personnel and/or contracted services) and a sources and uses operating budget. A marketing plan must be submitted describing outreach, marketing, and advertising methods to be used to attract special need populations. Existing occupied family developments cannot be converted into elderly developments and existing occupied elderly developments cannot be converted into family developments.

a) **100%** of the development is designed for families. The project must have 25% of the units at three or more bedrooms and there must be at least one and one half bathrooms in all units with three or more bedrooms; or **20 points**

b) At least **80%** of the units are designed, equipped and occupied by elderly person(s) fifty-five (55) years of age or older. The remaining **20%** of units must be designed, equipped, and occupied by special needs populations. All such new construction developments are limited to one or two bedroom units. All such new construction developments must be one-story structures, or if greater than one story, all additional stories must be accessible by elevators. Acquisition/Rehabilitation developments may also have more than one-story, provided that **existing** elevators service all upper level rental units; or

**Note:** **100%** elderly developments are eligible for these points. **20 points**

c) **100%** single room occupancy units or transitional housing units. Occupancy of these units must be restricted to homeless or at risk individuals or families; and **20 points**

d) Preference will be given to developments that convert to tenant ownership at the end of the initial 15 year compliance period. In order to receive this preference the Applicant must submit a detailed plan outlining the procedure; and **10 points**

e) Projects intended for occupancy by individuals with children as evidenced by a marketing plan. **1 point**

**Note:** Elderly developments are **not** eligible to receive points under this criteria.



2. Preference will be given to Applicants who elect to target, for the entire term of the tax credit compliance period, 25% of their low-income units to households with incomes at 50% or less of area median income. **30 points**

**Note:** Developments utilizing State HOME funds must adhere to the HOME targeting requirements.

3. Preference will be given to proposals seeking, for the entire term of the tax credit compliance period, to target greater percentages of their low-income units to households with incomes at 50% or less of area median income (50% AMI). Points will be awarded to proposals targeting percentages of their low-income units to households at 50% AMI if that percentage is greater than the average percentage of low-income units targeted to households at 50% AMI for all applications submitted.

For the purpose of awarding these points:

$$\text{The percentage of units at 50\% AMI} = \frac{\text{Number of units targeted to households at 50\% AMI or less}}{\text{Total number of low-income units}}$$

The Authority will perform the above calculation for each proposal admitted in the 2002 Tier Two competition and will then determine the average of these calculations. The average of these calculations will hereinafter be referred to as the “average percentage of units at 50% AMI”. Proposals will be measured against this average for the purpose of awarding points.

The average percentage of low-income units targeted to households at 50% or less of area median income will be calculated to include all developments admitted in the Tier Two competition and will not change if proposals are removed from the competition. All calculations related to this point criterion will be rounded to two decimal places.

Points will be awarded if the percentage of units at 50% AMI/total low-income units is:

Greater than 100% and up to 110% of the average percentage of units at 50% AMI	<b>2 pts</b>
Greater than 110% and up to 120% of the average percentage of units at 50% AMI	<b>4 pts</b>
Greater than 120% and up to 130% of the average percentage of units at 50% AMI	<b>6 pts</b>
Greater than 130% and up to 140% of the average percentage of units at 50% AMI	<b>8 pts</b>
Greater than 140% and up to 150% of the average percentage of units at 50% AMI	<b>10pts</b>
Greater than 150% of the average percentage of units at 50% AMI	<b>12pts</b>

**For example:** If the average percentage of units at 50% AMI = 54%, then points would be awarded as follows:

54% x 110% = 59%	greater than 54% and up to 59%	<b>2 pts</b>
54% x 120% = 65%	greater than 59% and up to 65%	<b>4 pts</b>
54% x 130% = 70%	greater than 65% and up to 70%	<b>6 pts</b>
54% x 140% = 76%	greater than 70% and up to 76%	<b>8 pts</b>
54% x 150% = 81%	greater than 76% and up to 81%	<b>10 pts</b>
	greater than 81% and up to 100%	<b>12 pts</b>
		<b>41</b>

Therefore, in this example, a development proposing 64 low-income units of which 48 units are targeted to households at 50% AMI or less would receive 8 points (48/64 = 75% and 75% falls into the “greater than 70% and up to 76%” range).

#### 4. Public Housing Waiting Lists

Preference will be given to Applicant(s) who have elected to serve individuals on waiting lists for public housing. To receive this preference, the Applicant must include in their marketing plan a description of outreach, marketing and advertising methods used to attract individuals on public housing waiting lists. **10 points**

**Note:** Applicants must not use minimum income criteria to reject Section 8 Housing Choice Voucher Participants when their income reflects that they can pay their portion of the rent. The site’s minimum income needed for a household to pay the rent on the unit will be based on the actual amount that the Section 8 Housing Choice Voucher Participants would have to pay after the subsidy rather than the entire rent on the unit.

#### 5. Extended Use Preference

Preference will be given to those developments that voluntarily extend their “compliance period” for an additional term of twenty or more years. **10 points**

**Note:** Applicants receiving points on Targeting/Extended Use Characteristics # 1(d), are not eligible for these points.

### Financial Characteristics

1. While the Authority does not seek to discourage quality construction, the Authority must insure that development costs are held to reasonable levels. As a result, negative points will be assessed when costs are determined to be higher than typically warranted. The Authority will apply costs standards for Eligible Basis per Heated Square Feet (EBHSF). The following points will be deducted for developments where the EBHSF is **above \$70.00 and up to** the following levels:

EBHSF is above <b>\$70.00</b> and up to <b>\$71.00</b>	<b>(-1) points</b>
above <b>\$71.00</b> and up to <b>\$72.00</b>	<b>(-2) points</b>
above <b>\$72.00</b> and up to <b>\$73.00</b>	<b>(-3) points</b>
above <b>\$73.00</b> and up to <b>\$74.00</b>	<b>(-4) points</b>
above <b>\$74.00</b> and up to <b>\$75.00</b>	<b>(-5) points</b>
above <b>\$75.00</b> and up to <b>\$76.00</b>	<b>(-6) points</b>
above <b>\$76.00</b> and up to <b>\$77.00</b>	<b>(-7) points</b>
above <b>\$77.00</b> and up to <b>\$78.00</b>	<b>(-8) points</b>
above <b>\$78.00</b> and up to <b>\$79.00</b>	<b>(-9) points</b>
above <b>\$79.00</b> and up to <b>\$80.00</b>	<b>(-10) points</b>
above <b>\$80.00</b> and up to <b>\$82.00</b>	<b>(-15) points</b>
above <b>\$82.00</b> and up to <b>\$85.00</b>	<b>(-25) points</b>

over **\$85.00**

**(-35) points**

### **DEVELOPMENT TIE BREAKER**

In the event that there are LIHTC Applications that receive the same point score, the Authority will use the following priorities in order, beginning with # 1, until the point score tie is broken:

1. Applicant with highest total score in the Competitive Review Section, Location Characteristics.
2. Applicant with highest total score in the Competitive Review Section, Development Characteristics.
3. Applicant with the highest total score in the Competitive Review Section, Applicant Characteristics.
4. The development that represents the lowest eligible basis per heated square foot.

### **III. COMPLIANCE**

**COMPLIANCE MONITORING PROCEDURES** (Applicable to all buildings including those receiving Low-Income Housing Tax Credits by virtue of tax-exempt bond financing). Section 1.42-5 (a) of U.S. Treasury Regulations (the "Regulations") requires that each QAP include a procedure that the housing credit agency will follow in monitoring for noncompliance with the provisions of Section 42 and in notifying the Internal Revenue Service (the "Service") of any noncompliance of which the agency becomes aware. The procedure for monitoring contained in the QAP must contain procedures consistent with the Regulations that address the following areas: record keeping and record retention; certification and review; on-site inspection; and notification as to noncompliance. This section is included in the QAP in order to comply with the mandate of the Regulations. The Authority reserves the right to make such alteration or amendment to its monitoring procedures as may be required. Such alteration or amendment is expressly permitted without further public hearings. Specific procedures that Owners must follow to remain in compliance with Program requirements are outlined in the Low-Income Housing Tax Credit Program Compliance Monitoring Manual. Changes and updates to the manual can be found on the Authority's web site. The web site address is [www.sha.state.sc.us](http://www.sha.state.sc.us).

#### **A. Record Keeping**

In the manner prescribed by the Authority, the owner of a low-income housing development must keep records for each building in the development to which an allocation of the Low-Income Housing Tax Credit has been made that show for each year of the compliance period:

1. The total number of residential rental units in the building (including the number of bedrooms and the size, in square feet, of each residential rental unit);
2. The percentage of residential rental units in the building which are low-income units;
3. The rent charged on each residential rental unit in the building (including utility allowances);
4. The number of occupants in each low-income unit;
5. The low-income vacancies in the building and information that shows when, and to whom, the next available units were rented;

6. The annual income certification of each low-income tenant per unit. The Household Income Certification (HIC-1) or other Authority approved income certification must be signed and dated by each adult member of the household and executed on or before the date of initial move-in. Thereafter, gross annual household income must be recertified every twelve (12) months unless the building Owner has applied for and received the Waiver of Annual Income Recertification as described in IRS Revenue Procedure 94-64.
7. Documentation to support each low-income tenant's income certification consisting of verifications of income from third parties such as employers or state agencies paying unemployment compensation. Such third party verifications may be supported by copies of the tenant's federal income tax returns or W-2 forms. All income verification documentation must be received before the HIC-1 may be executed. Income verifications are valid for ninety (90) days from the date of the verifying party's signature or printout. If the information is orally updated by the source, owners may use these verifications for an additional 30 days. Owners may not rely on verifications that are more than 120 days old to support an annual income certification. Tenant income must be calculated in a manner consistent with the determination of income under Section 8 and not in accordance with the determination of gross income for federal income tax liability. In the case of a tenant receiving housing assistance payments under the Section 8 program, the documentation requirement of this paragraph is satisfied if the public housing authority administering the Section 8 program provides the building owner with a statement that the tenants' income does not exceed the applicable income limit under Section 42(g);
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 the nonresidential portion of the building included in eligible basis under Section 42(d) (for example, (i) tenant facilities that are available on a comparable basis to all tenants and for which no separate fee is charged for use of the facilities, or (ii) facilities reasonably required by the development);
10. Copies of executed IRS Forms 8609, Schedules A, Forms 8586, or other applicable documentation filed with the IRS for the purposes of claiming the LIHTC. Notwithstanding Section III, paragraph B below, these documents must be retained and available for inspection for the entire "Compliance Period."

## **B. Record Retention**

Other than the records for the first year of the credit period, the owner of a low-income development must retain the records for at least six (6) years after the due date (with extensions) for filing the federal income tax returns for that year. **The records for the first year of the credit period must be retained for at least six (6) years beyond the due date (with extensions) for filing the federal income tax return for the last year of the "compliance period" of the building.**

## **C. Certification**

The Owner of a low-income housing development must provide to the Authority on or before the first day of February of each year after such development has been placed-in-service, an annual Owner's Certification for the preceding calendar year which certifies:

1. The development met the requirements of the 20-50 test under Section 42(g)(1)(A), or the 40-60 test under Section 42(g)(1)(B), whichever set-aside test was applicable to the development;
2. If applicable to the development, the 15-40 test under Sections 42(g)(4) and 142(d)(4)(B) for "deep rent skewed" developments;
3. If the owner elected additional set-asides to earn ranking points according to the QAP, the development met those set-asides.
4. There was no change in the applicable fraction (as defined in Section 42(c)(1)(B)) of any building in the development, or that there was a change and a description of the changes;
5. The Owner has received an annual income certification from each low-income tenant, and documentation which supports the accuracy of that certification, or, in the case of tenants receiving Section 8 housing assistance payments, the statement from the public housing authority described in Section III, paragraph A(7) above, or the owner has a recertification waiver letter from the IRS in good standing that waives the requirement to obtain third party verification at recertification and has received an annual income certification from each low-income household and documentation to support the certification at their initial occupancy;
6. Each low-income unit in the development was rent-restricted under Section 42(g)(2);
7. All units in the development were for use by the general public and used on a non transient basis (except for transitional housing for the homeless under Section 42(i)(3)(B)(iii));
8. No finding of discrimination under the Fair Housing Act, 42 USC 3601-3619, has occurred for this project. A finding of discrimination included an adverse final decision by the Secretary of Housing and Urban Development, an adverse final decision by a substantially equivalent state or local fair housing agency, or an adverse judgment from a federal court;
9. Each building in the development was suitable for occupancy, taking into account local health, safety, and building codes, and the state or local government unit responsible for making building code inspections did not issue a report of a violation for any building or low-income unit in the project;
10. There was no change in the eligible basis (as defined in Section 43(d)) of any building in the development, or if there was a change, the nature of the change (for example, a common area has become commercial space, or a fee is charged for a tenant facility formerly provided without charge);
11. All tenant facilities included in the eligible basis under Section 42(d) of any building in the development, such as swimming pools, other recreational facilities, and parking areas, washer/dryer hookups, and appliances were provided on a comparable basis without charge to all tenants in the building;
12. If a low-income unit in the building became vacant during the year, that reasonable attempts were or are being made to rent that unit or the available unit of comparable or smaller size to

tenants having a qualified income before any units in the development were or will be rented to tenants not having a qualifying income;

13. If the income of tenants of a low-income unit in the development increased above the limit allowed in Section 42(g)(2)(D)(ii), the next available unit of comparable or smaller size in the development was or will be rented to tenants having a qualifying income;
14. An extended low-income housing commitment as described in Section 42(h)(6) was in effect (for buildings subject to Section 7108(c)(1) of the Revenue Reconciliation Act of 1989), including the requirement that an owner cannot refuse to lease a unit in the development to an Applicant because the Applicant holds a voucher or certificate of eligibility under Section 8 of the United States Housing Act of 1937, 42 U.S.C. 1437f, and the Owner has not refused to lease a unit to an Applicant based solely on their status as a holder of a Section 8 voucher or certificate of eligibility under Section 8 of the United States Housing Act of 1937, 42 U.S.C.1437f;
15. The development meets the provisions, including any special provisions as outlined in extended low-income housing commitment;
16. The owner received its credit allocation from the portion of the state ceiling set-aside for a project involving “qualified nonprofit organizations” under Section 42(h)(5) of the Code and its nonprofit entity materially participated in the operation of the development within the meaning of Section 469(h) of the Code;
17. There has been no change in the ownership or management of the project, or provide details of changes in ownership or management of the project.

#### **D. Review**

The Authority will review the certifications submitted under Section III, paragraph C to determine whether or not the requirements of Section 42 have been complied with by the Owner.

Annually the Authority will inspect at least thirty three percent (33%) of affordable developments to which it has made an allocation under Section 42. In each development selected for review, the Authority will review the low-income certifications, the documentation the Owner has received to support that certification, and the rent record for no fewer than twenty percent (20%) of the low-income units located in each such development. Records relating tenant income, supporting documentation and rent records will be selected at random by the Authority's monitoring officer at the time the review is held. In addition, the Authority's monitoring officer will conduct a physical inspection of each low-income unit that receives a record review. The purpose of the physical inspection will be to determine whether or not the units meet Uniform Physical Condition Standards as defined by Housing and Urban Development. The Owner will be notified prior to the arrival of the Authority’s compliance staff conducting the management review.

As necessary, the Authority will review documentation to support the nonprofits continued participation in the development throughout the compliance period as described in the development agreement.

#### **E. Frequency and Form of Certification**

Certifications are required annually covering each year of the credit period under oath and shall be subject to the penalties of perjury provided by law.

The Authority reserves the right to require the submission of the certifications required by Section III, paragraph C and the review required by Section III, paragraph D more frequently than on a twelve (12)-month basis, provided that all months within each twelve (12)-month period are subject to certification.

#### **F. Inspection**

In addition to and separate from the review required by Section III, paragraph D, the Authority reserves the right to perform an on-site inspection from time-to-time of any affordable housing development. The Authority's right to perform such inspection shall be ongoing and shall continue at least through the end of the compliance period and any extended use period.

#### **G. Notification of Noncompliance**

The Authority will provide prompt written notice to the Owner of a affordable housing development if the Authority does not receive the certifications required by Section III, paragraph D or if it is not permitted to review tenant income certifications, supporting documentation and rent records, or if it discovers by inspection, review, or in some other manner, that the development is not in compliance with the provisions of Section 42.

The Authority will file Form 8823, "Low-Income Housing Credit Agencies Report of Noncompliance" with the Internal Revenue Service no later than forty-five (45) days after the end of the correction period described in Section III, paragraph I, below (including any permitted extensions), and no earlier than the end of the correction period, **whether or not the noncompliance or failure to certify has been corrected**. The Authority shall explain on Form 8823 the nature of the noncompliance or failure to certify and shall indicate whether or not the Owner has corrected the noncompliance or failure to certify. Any change in either the applicable fraction or the eligible basis that results in a decrease in the qualified basis of the development under Section 42(c)(1)(A) is noncompliance and must be reported to the Service. Should the Authority report on Form 8823 that a building is entirely out of compliance and will not be in compliance at any time in the future, the Authority need not file Form 8823 in subsequent years to report that buildings' noncompliance.

#### **H. Authority Retention of Records**

The Authority will retain records of noncompliance or failure to certify for a period of six (6) years beyond the Authority's filing of the respective Form 8823. In all other cases the Authority shall retain certifications, inspection reports and other records for a period of three (3) years from the end of the calendar year in which the Authority has received or generated the certifications or reports.

#### **I. Cure Period**

The Owner will be given the opportunity to supply any missing documentation or correct physical deficiencies to bring the development into compliance with Section 42 and Program requirements. The Cure Period will not exceed ninety (90) days and will begin on the date of the

written notice given by the Authority pursuant to Section III, paragraph G. The Cure Period for violations that threaten the health and/or safety of tenants will not exceed forty-eight (48) hours. The Authority will grant an extension of the ninety (90) day cure period for an additional period not to exceed six (6) months only in the event of judicially caused delays in the eviction of tenants.

#### **J. Compliance Monitoring Fees**

The Owner of each building to which an allocation of the LIHTC has been made by the Authority shall pay to the Authority an annual compliance monitoring fee of **\$25.00** for each low-income unit contained in each such building. **All compliance monitoring fees must be paid to the Authority within thirty (30) days of the date on which the building is placed-in-service and on or before the first day of February of each succeeding year throughout the remainder of the fifteen (15) year compliance period and any extended use period.** Checks should be made payable to the South Carolina State Housing Finance and Development Authority. The Authority will assess a 10% late fee of the total outstanding balance for payments received after 30 days from the date due. The minimum late fee will be **\$50.00**. Interest accrues daily at a rate of 20% (to include the original amount due and the 10% late fee) for fees received in excess of 60 days from the date the fees were due. A **\$20.00** fee will be assessed for any checks that are returned to the Authority due to insufficient funds. **The Applicant must be in compliance with all Authority-administered programs or any other federal programs.** The Authority reserves the right to make adjustments in the amount of the annual compliance monitoring fee from time-to-time to defray the cost of compliance monitoring. The making of such an adjustment by the Authority shall not be treated as an amendment of the **QAP**.

#### **K. Liability**

Pursuant to the provisions of Section 1.42-5(g) of the Regulations, compliance with the provisions of Section 42 is the responsibility of the Owner of the buildings to which an allocation of LIHTC has been made. The obligation of the Authority to monitor the Owner's compliance with the provisions of Section 42 does not make the Authority liable for noncompliance on the part of the Owner.

### **APPROVAL BY THE GOVERNOR**

I, James H. Hodges, Governor of the State of South Carolina, do hereby signify my approval of this LIHTC Qualified Allocation Plan for the distribution of Federal Low-Income Housing Tax Credits in this State, in conformance with Section 42 of the Internal Revenue Code, as amended.

To the extent it deems necessary, authorization is expressly granted to the Authority to amend this QAP, without the necessity of further approval, for the purpose of clarification or ensuring compliance with federal law and regulations governing the allocation and use of LIHTCs, as the same may from time to time be amended or promulgated.



Signed:           *A. Hodgson*            
Date:           1-8-02