

**FEDERAL (LIHTC) HOUSING CREDIT &  
VERMONT STATE HOUSING CREDIT**

**PROGRAM OVERVIEW**

A. **Introduction**

The Federal Housing Credit (“HC”) is a "tax vehicle" designed by Congress to assist in the creation and preservation of affordable rental housing for low-income households. It provides a direct cost-based reduction in federal tax liability over a 10-year period for owners of qualifying rental housing who agree to conform to certain operating restrictions for at least a 15-year period. The Tax Reform Act of 1986 (and succeeding revisions of that law) set a maximum Housing Credit allocation for each state based on population. Vermont's 2009 credit authority is \$2,375,000 (est.).

The Vermont Affordable Housing Tax Credit, or State Credit, was established in 2000. It is utilized with the Federal Housing Credit and is taken over a five-year period. The annual amount of State Credit is \$400,000. The Allocation Plan governs the allocation of State Credits as well as federal Housing Credits. This application is used to apply for both types of credit.

B. **Caveats**

The HC program has become increasingly complex. While VHFA has been given certain programmatic authority and responsibility by Congress and the Governor’s Office, **knowledge of and compliance with the HC program is ultimately the responsibility of the applicant/taxpayer. Primary enforcement responsibilities lie with the Internal Revenue Service.** The IRS also requires that VHFA implement fairly rigorous compliance monitoring procedures. **Applicants are strongly encouraged to seek competent legal and/or accounting assistance in fulfilling their responsibilities under this program.**

VHFA is charged with allocating Housing Credits, in compliance with an adopted Allocation Plan, to eligible projects in only those amounts necessary to make the selected developments economically feasible. These decisions shall be made solely at the discretion of VHFA, but VHFA in no way represents or warrants to any sponsor, investor, lender, or others that the project is in fact eligible, feasible, viable, or in compliance either before or after the final allocation decision. **VHFA makes no representations to the owner or anyone else as to compliance with the Internal Revenue Code, Treasury regulations, or any other laws or regulations governing the HC program.**

VHFA's review of documents submitted in connection with this allocation is for its own purposes. However, applicants should understand that **any information submitted to VHFA as part of an HC application is public information under Vermont law.**

No member, officer, agent, or employee of VHFA shall be personally liable concerning any matters arising out of, or in relation to, the allocation of the Housing Credits.

C. **Program Requirements**

Regulations require VHFA to have a compliance monitoring process for all Housing Credit projects for at least 15 years. Additional information about VHFA's compliance monitoring procedures is included in Appendix K.

The Federal Department of Housing and Urban Development (HUD) also issued Subsidy Layering Review rules in 1991 which affect HC applications in cases where HUD is being asked to contribute project-based Section 8 certificates, HUD mortgage insurance, or some other direct HUD based subsidy. Congress has now given state credit agencies authority to administer these rules.

Other aspects of the Code include:

1. Developments in "Qualified Census Tracts" ("QCTs") and "Difficult Development Areas" ("DDAs") can increase their Housing Credit eligible basis by up to 130% of that otherwise possible. (See maps of QCTs and DDAs in Appendices A & B.)
2. In addition to the existing 15-year compliance period for the rent-restricted units, owners must sign a recordable extended use covenant that extends the restrictions in perpetuity. Also, the owner must provide a Right of First Refusal to a qualified non-profit or VHFA (or its assignee) that can be exercised at year 15 of the compliance period. This Right of First Refusal must be for a price described in the Allocation Plan that will help assure long-term affordability for low-income tenants.
3. VHFA must adopt a formal statewide Allocation Plan, after a public hearing process. The Allocation Plan states the priorities and other evaluation criteria to be used by VHFA in judging applications. VHFA must make a good faith effort to ensure that the amount of any HC allocation does not exceed that necessary for the financial feasibility of the development and must consider the reasonableness of development costs and operating expenses in determining the amount of Housing Credits to issue. The result is that comprehensive financial and sponsor information must be submitted and evaluated by VHFA as part of the allocation process.
4. CDBG funds can be included in the eligible basis when using the 9% credit. HOME funds, however, are eligible for either the 4% credit or the 9% credit. An owner can receive the 9% credit for a project receiving HOME funds if the owner elects to restrict 40% of the units to occupancy by households earning 50% of area median income or less. If, however, a property is located in a Difficult Development Area and an owner elects to take the 9% credit, the project is not eligible for the 130% adjustment factor for Difficult Development Areas. However, if the HOME funds are lent to the project at the Applicable Federal Rate (AFR) or higher, the 130% adjustment may be taken.
5. If more than 50 percent of the development financing is tax-exempt, then the HC allocation may come from "outside the cap." This means that VHFA does not make the allocation (the owner files the relevant tax forms directly with the IRS) and the "out-of-cap" allocation does not reduce Vermont's allotted allocation authority. However, these projects must still satisfy the requirements of the Allocation Plan and must be reviewed by the Allocating Agency. These projects are required only to have a 15-year extended use period (a 30-year tax credit compliance period overall).

D. **Housing Credit Options**

There are two levels of Federal Housing Credits - generically known as the 9% credit and the 4% credit.<sup>1</sup> Selection of the applicable Housing Credit percentage (either 4% or 9%) depends on whether a project is newly constructed or an existing building, the extent of rehabilitation involved, and whether the project is federally subsidized or not. An example of a federal subsidy is VHFA's tax-exempt bond financing.<sup>2</sup> In addition, there is the Vermont Affordable Housing Tax Credit.

The various Housing Credit options for 2009 are:

1. New Construction or Substantial Rehabilitation (minimum of \$3,000 per unit average as per C. 2. above) with no federal subsidy. [9% credit]
2. New Construction or Substantial Rehabilitation (minimum \$3,000 per unit average with below market rate or tax-exempt federal subsidies)<sup>3</sup> [4% credit]
3. Acquisition Costs of Existing Housing (minimum rehabilitation cost of at least \$3,000 per unit average must be undertaken to qualify for the acquisition credit). [4% credit]
4. State Credit: the lesser of 25% of the qualified basis of a project or \$150,000. (The State Credit is used in combination with the 9% credit or the 4% credit described above).

E. **Calculating the Housing Credit**

The calculation of the dollar amount of credit available is determined in three steps:

1. Determine the eligible basis of a building or project. Eligible basis is generally any cost that is a depreciable or capital budget item for all other IRS purposes. Land and working capital are two common project costs that are generally excluded from the eligible basis.
2. Determine if the development is in a Difficult Development Area (see map in Appendix A). If so, multiply the eligible basis by up to 130%.
3. Determine the qualified basis of a project. The "qualified basis" of a rental building is that portion of the "eligible basis" of a building that will be rented to low-income households for the initial 15-year period. The minimum number of units in a building or project that must be rented to low-income households are described in Section I. The percentage used must be the lesser of: 1) The number of low-income units/total units; or 2) The floor space square footage of low-income units/total floor space.

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<sup>1</sup> Note that the 4% and 9% Housing Credit figures are approximate. The U.S. Treasury Department is responsible for revising the Housing Credit figures monthly based on present value calculations using current interest rates. The rates are set to give the investor a credit yield equal to either 30% or 70% (depending on the type of credit requested) of the value of the qualified basis of the building, for a ten-year period. From an investor's perspective, the net effect of the monthly changes in the Housing Credit rate should be fairly minimal. As of March 2004, the two actual rates were 3.41% and 7.95%. Current rates are posted on VHFA's website under "Development".

<sup>2</sup> Note that federal rental subsidies to individual renters through Section 8 certificates (or vouchers) do not affect the Housing Credit eligibility of those units. Thus, rental income from Section 8 units can exceed the HC rent limits, but the units are still considered HC rent restricted units. In these cases, the tenant contribution towards the contract rent cannot exceed the HC rent limits.

<sup>3</sup> As an alternative, an owner may subtract a federal subsidy loan (or grant) from basis (i.e. the cost of building) and take the higher 9% credit on the remaining qualified basis.

4. Multiply the appropriate Housing Credit percentage (e.g. 4% or 9%) times the "qualified basis" of a rental building.

F. **Eligible Project Types**

Most residential rental properties are eligible for the HC Program, with the exception of owner-occupied properties containing 4 or fewer units, nursing homes, hospitals, sanitariums, life care facilities, retirement homes, and mobile home parks. An owner-occupant in a four-unit (or smaller) building may be eligible if he/she acquires or rehabilitates the building in accordance with a state or local government or qualified non-profit organization sponsored development plan of action. Transient housing (i.e. leases less than 6 months) is not permitted unless the facility is an SRO (Single Room Occupancy) or a homeless shelter.

For projects consisting of more than one property, all sites must be contiguous, except that a scattered site project is permitted if 100% of the units are rent restricted (i.e. in compliance with the Housing Credit maximum incomes and rents)<sup>4</sup>. Buildings used in part for rental purposes and in part for other purposes may qualify for the Housing Credit, but only for that portion of the building which constitutes the qualifying rental housing.

A building is generally not eligible for the acquisition credits under the HC Program if it has been acquired or substantially improved by any party in a 10-year period prior to the HC application. However, the building may still be eligible for rehabilitation credits.

G. **Example of Housing Credit Calculation**

The example below illustrates the value of the credit to a housing sponsor who acquires a 15-unit building for \$120,000, expends \$200,000 on substantial rehabilitation, and subsequently rents 6 of the units (i.e. 40%) to low-income households.

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<sup>4</sup>

A developer may choose to submit a scattered site proposal as one application with the understanding that, for purposes of the Housing Credit Program, each building or group of contiguous buildings will receive separate allocations and will not, in that regard, be treated as separate projects. The loss of any building, however, will mean that the entire reservation/allocation will be returned. Alternatively, a developer may submit a separate application for each building/group of adjacent buildings. Under this situation, the loss of a building would require only that building's reservation/allocation be returned and the developer could proceed with the remaining buildings.

<b>Description</b>	<b>Rehabilitation Expenses</b>	<b>Acquisition Expenses</b>	<b>Total</b>
Development Costs	\$200,000	\$120,000	
Less Land	- 0	- 20,000	
Eligible Basis	\$200,000	\$100,000	
Difficult Development Area? If yes, multiply eligible basis by up to 130%	No	No	
Percent of Low-Income Units	x 40%	x 40%	
Qualified Basis	\$ 80,000	\$ 40,000	
Annual Credit Percentage	x 9%	x 4%	
<b>TOTAL ANNUAL CREDIT</b>	<b>\$ 7,200</b>	<b>\$ 1,600</b>	<b>\$ 8,800</b>
Period of Credit (years)	x 10	x 10	x 10
Value of Credit	\$ 72,000	\$ 16,000	\$ 88,000

#### H. **Placed in Service**

The term "Placed in Service" means that a building is completed and ready to be occupied. The Placed in Service date is typically when a municipality issues a certificate of occupancy. A building must generally be Placed in Service in the same year for which the HC is approved, unless a Carryover Allocation is granted by VHFA (See Section O - Carryover Allocations). Owners must receive an allocation of credits (either a Carryover Allocation or a Final Allocation - IRS Form 8609) for a project in the calendar year in which the last building in the project is Placed in Service. Prior to being able to claim the credit, owners must receive the final allocation of credits (IRS Form 8609). The credit may be claimed either in the year the project is Placed in Service or in the subsequent year.

#### I. **Tenant Income and Rental Restrictions**

In order to qualify for the program, owners must agree to certain tenant income and rental restrictions, which must be continuously maintained for a 30-year compliance period. Tables showing the current income and gross rent limits for each county are located in the Appendix of this application packet. Income limits (and, thus, gross rent limits) are typically adjusted on an annual basis by HUD.

1. Income Restrictions: The owner must irrevocably elect to reserve a minimum of either:
  - a. 20% of the building units for occupancy by households at or below 50% of the Area Median Income; or

b. 40% of the units for occupancy by households at or below 60% of the Area Median Income;  
or

c. Deep Skewing - 15% of the building units for occupancy by households below 40% of Area Median Income. In addition, the market rents cannot exceed the deep skewing rents by more than 300%.

2. Rent Restrictions: The gross rent (including an allowance for utilities) paid by residents in the qualifying units cannot exceed 30% of the maximum qualifying income for a family of an assumed size given the number of bedrooms in the unit. Congress has mandated that there shall be an assumed 1.5 persons per bedroom for this purpose.

The rent limitation applies only to payments made directly by tenants and not to rental assistance payments (e.g. Section 8 certificate) paid on a tenant's behalf.

An increase in a tenant's income may result in a unit ceasing to qualify as occupied by a low-income household. A tenant who initially qualifies will continue to qualify so long as the tenant's income does not increase to more than 140% of the maximum qualifying income, adjusted for family size. If the tenant's income increases to over 140% of the maximum qualifying income, or the family size decreases so that a lower maximum family income applies, that unit is not in compliance as part of the "qualifying basis." However, no penalty is assessed as long as the next unit of comparable or smaller size that becomes vacant is occupied by qualifying tenants.

A household totally comprised of full-time students does not qualify as an eligible low-income household regardless of income level. However, there are exceptions for married students, TANF recipients, students involved in federal job training programs, and single parent households.

## J. Utility Allowances

As indicated in the previous Section, utility allowances (shown in Appendix F) are subtracted from the maximum rents (shown Appendix E) that can be paid by residents in qualifying units.<sup>5</sup>

The IRS rules regarding utility allowances can be summarized as follows:

1. Owners of HUD regulated buildings must use HUD utility allowances.
2. If the building or any tenant is receiving U.S.D.A. Rural Development (RD) assistance, RD utility allowances must be used.
3. All other owners must use the utility allowances calculated by the Vermont State Housing Authority, unless the local Public Housing Authority has published its own utility allowances. However, any interested party (e.g. owner, tenant, local housing authority) can request a utility cost estimate from a local utility company and this estimate must be used, whether higher or

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<sup>5</sup> Subtract utility allowances for those utility costs paid by the tenant. If the landlord pays a particular cost, no utility allowance needs to be deducted.

lower. The estimate of the local utility will govern, except for individual units receiving assistance under the HUD Section 8 Certificate or Voucher Program. Units receiving such assistance shall use the utility allowances prepared by the local or state housing authority.

For information about the utility allowances for HUD regulated buildings, contact the HUD Office of Housing, Office of the Deputy Assistant Secretary for Multifamily Housing Programs at (202) 708-2495.

The Vermont State Housing Authority (VSHA) revises their utility allowances once per year, in November. A copy of the most current VSHA utility allowance figures is attached in Appendix F. For additional information, contact Holly Fancher at (802) 828-3020.

The Burlington Housing Authorities is the only local Public Housing Authority known to VHFA which publish their own utility allowance figures. The Burlington Housing Authority publishes their utility allowances once a year in June. A copy of the most current Burlington Electric Department utility allowances is attached in Appendix F. For additional information about Burlington utility allowances, contact Claudia Donovan at (802) 864-4650 extension 207.

RD utility allowances are set on a project-by-project basis. Additional information can be secured from Sandra Mercier of Rural Development (RD) at (802) 828-6028.

K. **IRS Reporting Requirements**

The taxpayer must file certifications to the Secretary of the Treasury no later than the 90th day following the close of the first taxable year in the credit period. IRS Forms 8586 "Low-Income Housing Credit" and 8609 "Low-Income Housing Credit Allocation Certification" (including Schedule A) are the forms to be used for reporting purposes. VHFA will send a completed copy of Form 8609 to the taxpayer after the building is Placed in Service, all eligible costs have been certified by the owner (see Section Q), and a HC Housing Subsidy Covenant has been signed. The original signed Form 8609 is sent directly by VHFA to the IRS. It is the taxpayer's responsibility to obtain and file all the relevant IRS Forms and to seek appropriate accounting and tax advice for reporting and programmatic compliance.

L. **Compliance Monitoring**

VHFA is now required by law to perform program compliance monitoring on all developments that have received the benefit of Housing Credits. IRS regulations mandate that compliance monitoring procedures be set forth in the State Allocation Plan, which is attached. These procedures are found in Appendix K. VHFA charges additional fees to perform the monitoring. VHFA's monitoring fee will be \$4 per restricted unit per month, charged annually throughout the compliance period. A compliance monitoring fee should be incorporated into the operating budget.

M. **Application Process and Fees**

The Allocation Plan includes a description of the Application Process. Before an application for ceiling credit is submitted, a pre-application meeting between VHFA staff and the developer is held. The purpose of the meeting is to discuss: the project concept; how

compatible the project is with the evaluation criteria in the Plan; assumptions about other funding sources; the compatibility of the use with the proposed site.

Once the initial meeting has taken place, site control has been obtained, and the developer has met with other funding agency staff, the Application can be submitted. The following must be submitted with the application:

- Purchase & Sales Agreement, Option, Deed or other form of Site Control;
- Elevation drawings or computer-generated image of buildings on site, and Site Plan (if project includes new construction) and photographs of building (for rehabs);
- Evidence of meeting with town zoning administrator (for new construction, adaptive re-use, and rehab projects which add units);
- Market Study;
- Capital Needs Assessment (for any rehab project that is not a gut-rehab. For new construction projects and gut-rehab projects, the CNA can be submitted at completion);
- Other documentation (See Submission Timing Chart for detail);
- Application Fee (see detail below).

An Application for Reservation of the Housing Credits is made to VHFA, using the Project and Sponsor Information, the attached HC Submittal Letter along with completed HC Worksheet.

Each HC application must include a non-refundable application fee of \$250 (due upon submission of the completed application). An additional reservation fee of 4% of the annual credit will be due upon issuance of the Reservation Certificate. The reservation fee will be refundable until the project receives either a Carryover Allocation or Final Allocation, whichever is earliest. These amounts do not include the fees discussed under Section L - Compliance Monitoring.

N. **Vermont Policy Priorities**

See the attached Allocation Plan for a listing of Vermont's Policy Priorities.

O. **Carryover Allocations**

If a project will not be completed (i.e. Placed in Service) before December 31, 2008, VHFA has the authority to grant a Carryover Allocation. The applicant must have spent at least 10% of the owner's ultimate "reasonably expected basis" (depreciable real basis plus land) in the project by the end of 2008 and have a real ownership interest in the land and/or buildings. If a project receives a carryover allocation based on an award of credits that occurred in the second half of the calendar year (i.e. after July 1, 2008), the Sponsor has 6 months from the date of the carryover allocation to incur the 10% costs and document this to VHFA. A VHFA-approved cost certification will be required prior to the issuance of a Carryover Allocation. The project must be Placed in Service by December 31, 2010 at the latest.

P. **Binding Rate Election**

Federal regulations permit the applicant to elect the credit percentage rate in effect any time the Agency and the owner enter into a binding agreement pursuant to IRS Regulation 1.42-8. If no election to bind the Housing Credit percentage rate is made, the credit percentage that is applied is that rate in effect at the time the project is Placed in Service.

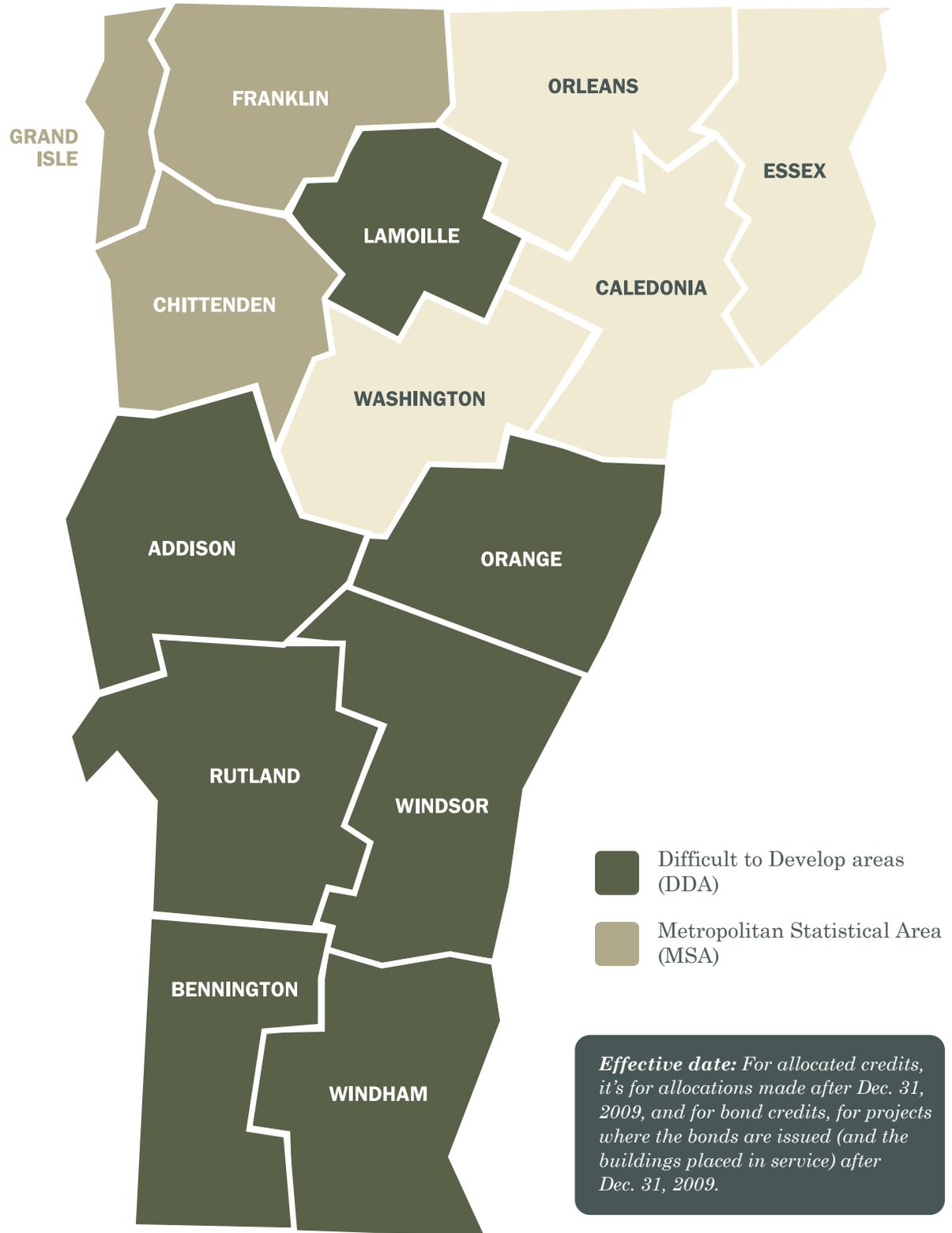
Q. **IRS Final Form 8609 and Final Cost Certification**

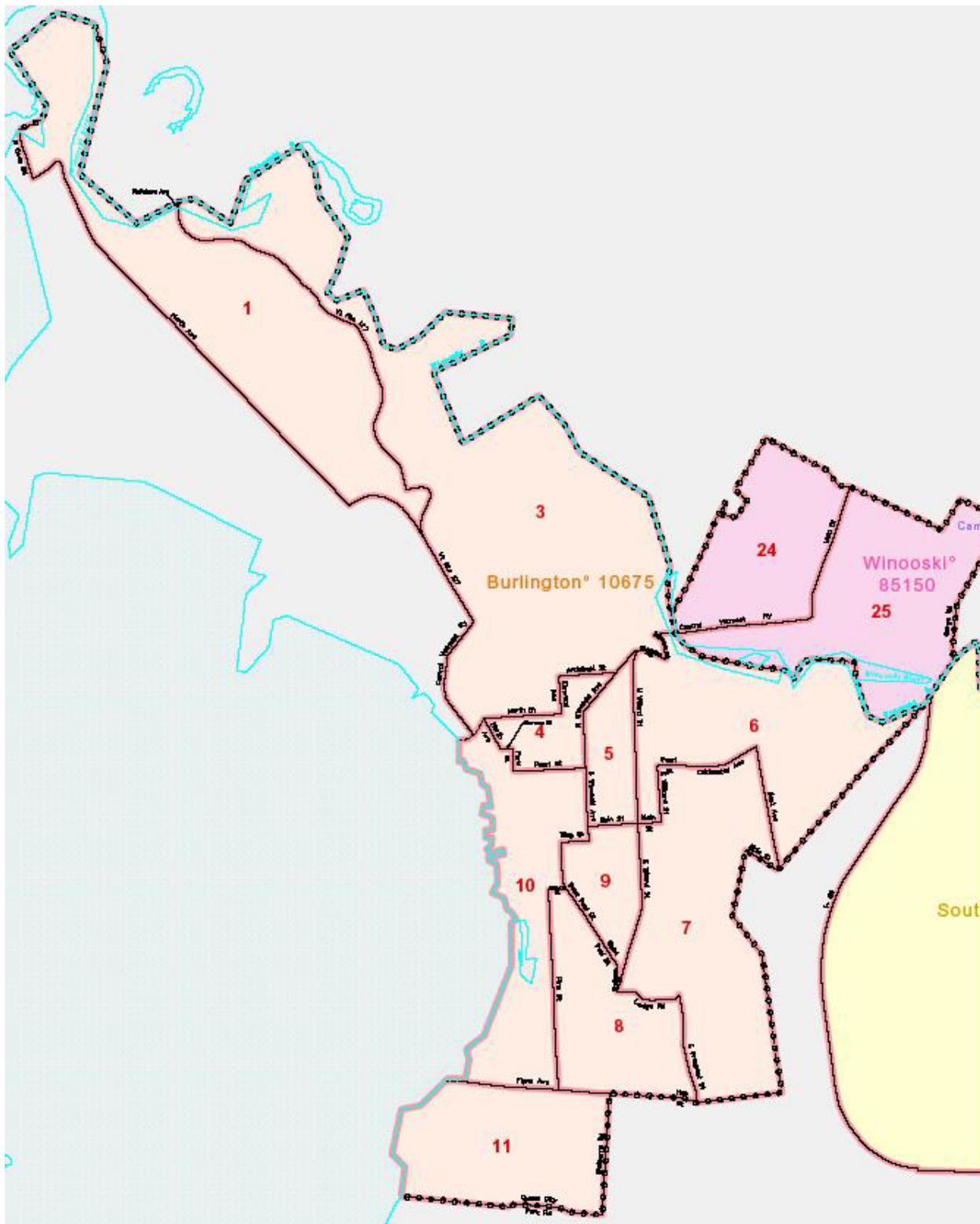
VHFA requires final cost certifications for all projects prior to issuance of IRS Form(s) 8609 which should be prepared based on the following guidelines:

For projects of fewer than 10 units, final cost certifications prepared by the owner will be accepted.

For projects of 10 units or more, an independent CPA must prepare the final cost certification. If this is not possible prior to the end of the calendar year in which the last building is Placed in Service, VHFA will issue the IRS Form 8609 on the basis of an owner's final cost certification and supporting documentation, but requires the CPA cost certification to be submitted as soon thereafter as possible.

# Difficult to Develop Areas (DDA), 2009





2008 QCT—Areas 3, 4, 5, 6 and 10



2008—2009 Housing Credit Allocation Plan  
Submission Timing

	Pre-Application Meeting with VHFA and Sponsor	Full Application	Board Approval & Letter of Intent to Provide Credits	Reservation Certificate or Binding Agreement to Allocate Credits	Carryover Allocation	8609
Site Control	-	Purchase or Sales (P&S) Agreement or other option or long-term land lease or deed			Deed or long-term land lease; Owner may be developer or affiliate or the taxpayer	Deed or long-term land lease; Owner must be the taxpayer, or lessee must be developer or affiliate or the taxpayer
Plans & Specifications	Site location map	For New Construction or Mixed New Construction/Rehab: Elevation drawings or computer-generated image of buildings on the site and site plan For Rehabilitations: Photographs of building, and site plan		Plans & specifications in a form sufficient to generate reliable cost estimates	Plans & specs in final construction form	
Permits		For New Construction or Mixed New Construction/Rehab: Evidence of meeting with town zoning administrator; Letter from municipality finding the proposal's density conforms with current zoning. For Rehabilitation with no change in housing density: None		All local approvals required for construction have been issued and are past appeal period; Act 250 process has been started.	All permits to build issued.	Final certificate (s) of occupancy issued.
Financing Commitments	If VHCB or VCDP administered funds are an anticipated source, sponsor must have met with appropriate agency staff to discuss funding availability, and also funding compatibility with the proposed development. The sponsor will need to demonstrate the project's capacity for amortizing debt if any.			Conditional commitments from all sources \$100,000 or greater	All permanent sources in or committed. Except for equity, no sources can pay in other than permanent closing.	All permanent sources in but equity holdback.
Market Study	-	Required				
Other Documentation:*	-	Required				
Cost Certification	-	-	-	-	10% Cost Certification	Final Cost Certification
Housing Credit Program Fees	-	\$250	4% of annual credit amount due upon receipt of Letter of Intent	Any increase in credits greater than 5%; \$5,000 Any increase less than 5%; 10% of the increment		Compliance monitoring fees throughout the extended period

\* Includes documentation of growth center, designated downtown, serving special needs populations, eventual tenant ownership, and serving Section 8 waiting list tenants.

18 Months to turn Letter into Reservation Certificate or Carryover Allocation; six month lockout from re-applying for credits if not. Two years of per capita credit ceiling available for Letters of Intent (4,7 million for 2008-2009)

**APPENDIX D**

**VERMONT HOUSING FINANCE AGENCY  
20\_\_ LIHTC RESERVATION CERTIFICATE**

The Vermont Housing Finance Agency (VHFA) hereby grants a Reservation of housing credit dollars in the amount of \$ \_\_\_ from Vermont's 20\_\_ authority to \_\_\_\_\_ (Owner) for (#) Building(s) of the \_\_\_\_\_ project, a residential rental housing development located in the City/Town of \_\_\_\_\_, \_\_\_\_\_ County, Vermont.

1. This Reservation is based on the following information:
  - a. Credit Type(s): \_\_\_4% and/or \_\_\_9%
  - b. Building Type: \_\_\_ New Construction  
\_\_\_ Substantial Rehabilitation  
\_\_\_ Existing
  - c. Anticipated Eligible Basis \$
  - d. High Cost Area Yes \_\_\_ No  
If Yes, Adjusted Eligible Basis \$
  - e. Anticipated Applicable Fraction \_\_\_%
  - f. Anticipated Qualified Basis \$
  - g. Anticipated Placed In Service Date
  - h. Anticipated year in which the credit is first claimed

Pursuant to Section 42(b)(2)(A)(ii)(I), the Owner and VHFA may enter into an agreement as to the housing credit amount allocated to such Project.

- If this box is checked, the Owner hereby irrevocably elects, pursuant to Section 42(b)(2)(A)(ii)(I) of the Code, to fix the applicable credit percentage(s) for each building in the Project as the percentage(s) prescribed by the Secretary of the Treasury for the month of \_\_\_\_\_, 20\_\_, which is the month of this Reservation Certificate. VHFA and the Owner acknowledge that this Reservation Certificate constitutes an agreement binding upon VHFA, the Owner, and all successors in interest to the Owner as owners of the Project, as to the allocation of 20\_\_ Tax Credit authority to the building(s) in the Project, subject to compliance by the Owner with the requirements of Section 42 of the Code and the additional requirements, if any, of VHFA.
- If this box is checked, the Owner has irrevocably elected, pursuant to Section 42(b)(2)(A)(ii)(I) of the Code, in a separate binding agreement executed on \_\_\_\_\_, to fix the applicable credit percentage(s) for each building in the Project as the percentage(s) prescribed by the Secretary for the month of \_\_\_\_\_, 20\_\_\_\_\_.
- If this box is checked, the Owner has at this time made no election pursuant to Section 42(b)(2)(A)(i) of the Code, and accordingly, the applicable percentage for a building shall be set at the applicable percentage for the month in which the particular building is placed in service.

2. Pursuant to IRS regulations, an Owner of a LIHTC project may declare the date that the gross rent floor takes effect prior to the date the building is placed in service. The owner can elect this date

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to be either the placed in service date or the date VHFA initially allocates tax credits to the building (the earlier of either a Carryover Allocation or a Final Allocation - IRS form 8609). Once the placed in service date has passed, the Owner no longer has a choice in deciding between the two dates the gross rent floor takes effect and, pursuant to IRS Revenue Ruling 94-57, the gross rent floor date will be the date VHFA initially allocates tax credits.

- If this box is checked, the Owner hereby irrevocably elects, pursuant to IRS Revenue Ruling 94-57, to fix the applicable gross rent floor defined in Section 42(g)(2)(A) of the code at the date of the building's placed in service date.
  
- If this box is checked, the Owner has made no election pursuant to IRS Revenue Ruling 94-57. If no declaration is made by the owner prior to the placed in service date, then pursuant to Revenue Ruling 94-57, the applicable gross rent floor for a building shall be set at the date VHFA initially allocates a housing credit dollar amount, which shall be the earlier of: 1) the date the project receives a Carryover Allocation, or 2) the date the project receives a Final Allocation (IRS form 8609).

3. This Reservation is conditioned on the following:

a. The Owner must receive either a Carryover Allocation or a Final Allocation of credits no later than December 31, 20\_\_\_. If the project is a "carry-over" into 2009, VHFA will require a formal Carryover Allocation by \_\_\_\_\_, 20\_\_\_, and the Owner must provide detailed documentation to VHFA that at least 10% of reasonably expected basis (as defined in 26 CFR 1.42-6) has been spent by \_\_\_\_\_, 20\_\_\_.

b. VHFA will specifically review actual, documentable costs at the time of completion to ensure that the proposed allocation does not exceed the amount necessary for the project's feasibility, and that the VHFA-approved qualified basis is at least as much as is necessary to substantiate the credit authority given as part of this Reservation Certificate. No additional development or consulting fees (beyond those set forth in the approved development budget of \_\_\_\_\_, 20\_\_\_, attached) will be permitted as additions to qualified basis. A project must meet all of these tests, or the final tax credit allocation amount will be adjusted accordingly.

c. The sponsor will erect a highly visible sign on the site that shall acknowledge the "Housing Credit program, administered by Vermont Housing Finance Agency (VHFA)", as a source of financing for the development.

d. VHFA makes this reservation contingent upon the timely completion of the actions listed below, and upon agreement by owner, achieved by countersigning this Reservation Certificate, acknowledging that all the terms, conditions, obligations and deadlines set forth herein constitute conditions precedent to this reservation, and that the owner's failure to comply with all such terms and conditions will entitle VHFA, in its discretion, to deem this reservation to be canceled. After any such cancellation, Owner acknowledges that neither it nor the Project will have any right to claim credits pursuant to this reservation. VHFA reserves the right, in its sole discretion, to modify and/or waive any such failed condition precedent.

CONDITIONS:

1. Sponsor must demonstrate that requisite financing has been committed according to the following schedule:

<u>Source</u>	<u>Date</u>
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"Requisite financing" means the amount and terms of each of the sources of funding represented on the tax credit application or their equivalent.

2. Sponsor must demonstrate that it has incurred at least 10% of the project's "reasonably expected eligible basis" costs by no later than \_\_\_\_\_ and that the sponsor (or a partnership formed by the sponsor) has basis in the property for tax purposes.

3. ...

e. The sponsor must agree to a perpetual Housing Subsidy Covenant. In addition, the sponsor may, at their option, enter into a Right of First Refusal with a non-profit organization as described in the state's Allocation Plan. This Right of First Refusal would allow the non-profit to purchase the development at a price specified by formula in the plan, and would be executed no later than at issuance of the Carryover Allocation.

f. If the project undergoes a significant change after the issuance of this Reservation Certificate, VHFA may revoke the Reservation Certificate at its sole discretion. A "significant change" will mean any reduction in the bedroom size or square footage of units, decrease in number of total units, increase in rents (other than because of the annual increase in the published tax credit rents), increase in overall density, or any change that, had it been in the original proposal, might have resulted in the project receiving a different ranking.

g. VHFA reserves the right to change the amounts and terms of this Reservation Certificate in order to comply with Section 42 of the Internal Revenue Code, VHFA rules, U.S. Treasury and other associated regulations, as the same may be amended from time to time.

This Reservation Certificate can be revoked by VHFA, at any time, if in the sole judgment of VHFA these conditions will not or cannot be met.

In issuing this Reservation Certificate, VHFA has relied upon information provided and representations made by the Owner or the Owner's designee in connection with this allocation request, and this reservation does not in any way constitute a representation, warranty, guaranty, advice or suggestion by VHFA as to the qualification of the Project for the Tax Credits, or the feasibility or viability of the Project, and may not be relied on as such by any owner, developer,

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investor, tenant, lender, or other person, for any reason. The owner and any investors are advised to consult an accountant or attorney regarding possible consequences concerning the Housing Credit Program.

Vermont Housing Finance Agency

By: \_\_\_\_\_  
Its Duly Authorized Agent

Date: \_\_\_\_\_

STATE OF VERMONT  
CHITTENDEN COUNTY, SS:

At Burlington in said County and State this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, personally appeared David S. Adams, duly authorized agent of Vermont Housing Finance Agency, and he acknowledged the foregoing document to be his free act and deed and the free act and deed of the Vermont Housing Finance Agency.

Before me,

\_\_\_\_\_  
Notary Public  
Commission expires 2/10/2011

Owner:

By: \_\_\_\_\_  
Its Duly Authorized Agent

Date: \_\_\_\_\_

STATE OF VERMONT  
\_\_\_\_\_ COUNTY, SS:

At \_\_\_\_\_ in said County and State this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, personally appeared \_\_\_\_\_, duly authorized agent of \_\_\_\_\_, general partner of \_\_\_\_\_, and he/she acknowledged the foregoing document to be his/her free act and deed and the free act and deed of the \_\_\_\_\_.

Before me,

\_\_\_\_\_  
Notary Public  
Commission expires 2/10/2011

**2010 MAXIMUM RENTS BASED ON BEDROOM SIZE**

HUD = For projects placed in service after 12/31/2008

Effective: May 14, 2010

COUNTY	2010 MEDIAN INCOME	% OF MEDIAN INCOME	MAXIMUM INCOME BY NUMBER OF PERSONS IN HOUSEHOLD								MAXIMUM RENT BY BEDROOM SIZE				
			ONE PERSON	TWO PERSON	THREE PERSON	FOUR PERSON	FIVE PERSON	SIX PERSON	SEVEN PERSON	EIGHT PERSON	STUDIO	ONE BDRM	TWO BDRM	THREE BDRM	FOUR BDRM
ADDISON	67,600	HUD 60%	28,440	32,460	36,540	40,560	43,860	47,100	50,340	53,580	711	761	913	1,055	1,177
		HUD 50%	23,700	27,050	30,450	33,800	36,550	39,250	41,950	44,650	592	634	761	879	981
BENNINGTON	62,000	HUD 60%	26,040	29,760	33,480	37,200	40,200	43,200	46,140	49,140	651	697	837	967	1,080
		HUD 50%	21,700	24,800	27,900	31,000	33,500	36,000	38,450	40,950	542	581	697	806	900
BURLINGTON - SO BURL MSA	73,800	HUD 60%	31,020	35,460	39,900	44,280	47,880	51,420	54,960	58,500	775	831	997	1,152	1,285
		HUD 50%	25,850	29,550	33,250	36,900	39,900	42,850	45,800	48,750	646	692	831	960	1,071
CALEDONIA	54,900	HUD 60%	25,680	29,340	33,000	36,660	39,600	42,540	45,480	48,420	642	687	825	953	1,063
		HUD 50%	21,400	24,450	27,500	30,550	33,000	35,450	37,900	40,350	535	573	687	794	886
ESSEX	46,300	HUD 60%	25,680	29,340	33,000	36,660	39,600	42,540	45,480	48,420	642	687	825	953	1,063
		HUD 50%	21,400	24,450	27,500	30,550	33,000	35,450	37,900	40,350	535	573	687	794	886
LAMOILLE	60,100	HUD 60%	25,680	29,340	33,000	36,660	39,600	42,540	45,480	48,420	642	687	825	953	1,063
		HUD 50%	21,400	24,450	27,500	30,550	33,000	35,450	37,900	40,350	535	573	687	794	886
ORANGE	60,800	HUD 60%	25,680	29,340	33,000	36,660	39,600	42,540	45,480	48,420	642	687	825	953	1,063
		HUD 50%	21,400	24,450	27,500	30,550	33,000	35,450	37,900	40,350	535	573	687	794	886
ORLEANS	48,900	HUD 60%	25,680	29,340	33,000	36,660	39,600	42,540	45,480	48,420	642	687	825	953	1,063
		HUD 50%	21,400	24,450	27,500	30,550	33,000	35,450	37,900	40,350	535	573	687	794	886
RUTLAND	59,300	HUD 60%	25,680	29,340	33,000	36,660	39,600	42,540	45,480	48,420	642	687	825	953	1,063
		HUD 50%	21,400	24,450	27,500	30,550	33,000	35,450	37,900	40,350	535	573	687	794	886
WASHINGTON	67,600	HUD 60%	28,440	32,460	36,540	40,560	43,860	47,100	50,340	53,580	711	761	913	1,055	1,177
		HUD 50%	23,700	27,050	30,450	33,800	36,550	39,250	41,950	44,650	592	634	761	879	981
WINDHAM	59,700	HUD 60%	25,680	29,340	33,000	36,660	39,600	42,540	45,480	48,420	642	687	825	953	1,063
		HUD 50%	21,400	24,450	27,500	30,550	33,000	35,450	37,900	40,350	535	573	687	794	886
WINDSOR	63,800	HUD 60%	26,820	30,660	34,500	38,280	41,400	44,460	47,520	50,580	670	718	862	996	1,111
		HUD 50%	22,350	25,550	28,750	31,900	34,500	37,050	39,600	42,150	558	598	718	830	926

Allowances for  
 Tenant-Furnished Utilities  
 and Other Services

See Public Reporting Statement and Instructions on back.

Locality		Unit Type Low-rise					Date (mm/dd/yyyy)
STATE OF VERMONT		MULTI-FAMILY					07/01/2009
Utility or Service		Monthly Dollar Allowances					
		0 BR	1 BR	2 BR	3 BR	4 BR	5 BR
Heating	a. Natural Gas	57	75	94	112	131	131
	b. Bottle Gas	30	69	108	146	185	185
	c. Electric	63	70	77	83	90	90
	d. Oil	77	116	155	195	234	234
Cooking	a. Natural Gas	3	4	4	5	6	6
	b. Bottle Gas	5	6	7	8	9	9
	c. Electric	6	7	8	9	11	11
	d.						
Other Electric		7	22	36	50	65	65
Air Conditioning							
Water Heating	a. Natural Gas	12	20	28	36	44	44
	b. Bottle Gas	18	30	43	55	68	68
	c. Electric	7	22	36	50	65	65
	d. Oil	21	37	53	70	86	86
Water							
Sewer							
Trash Collection		30	30	30	30	30	30
Trash Collection-Drop Off		9	9	18	18	18	18
Refrigerator							
Other -- Specify							

Actual Family Allowances To be used by the family to compute allowance. Complete below for the actual unit rented.		Utility or Service	per month cost
Name of Family	Address of Unit	Heating	\$
		Cooking	
		Other Electric	
		Air Conditioning	
		Water Heating	
		Water	
		Sewer	
		Trash Collection	
		Range/Microwave	
		Refrigerator	
Number of Bedrooms		Other	
		Total	\$

**APPENDIX F**

**Montpelier Housing Authority Utility Allowance Schedule**

MHA no longer publishes an independent Utility Allowance Schedule. They now use the VSHA Schedule.

**APPENDIX F****Burlington Electric Department Utility Allowance Schedule (Effective 6/1/2007)**

For more information, refer to the Section on “Utility Allowances” in Part I of the VHFA HC Program Summary.

UNIT TYPE: MULTIFAMILY

EFFECTIVE DATE: 06/01/2007

	0 BED	1 BED	2 BED	3 BED	4 BED	5 BED
<b>HEATING</b>						
<u>AVERAGE EFFICIENCY</u>						
NATURAL GAS	50	70	91	111	133	153
BOTTLE GAS	76	116	155	192	231	270
OIL	83	100	118	113	151	168
ELECTRIC	30	48	65	83	101	119
KEROSENE	94	114	133	151	170	190
WOOD	36	54	72	90	108	126
<u>HIGH EFFICIENCY</u>						
NATURAL GAS	39	54	67	82	97	111
BOTTLE GAS	53	81	109	134	162	189
OIL	58	70	83	93	105	118
ELECTRIC	21	33	46	58	71	83
KEROSENE	65	80	94	105	119	133
WOOD	36	36	54	72	72	90
<b>COOKING</b>						
NATURAL GAS	4	5	7	8	10	11
ELECTRICITY	3	4	5	6	7	8
BOTTLE GAS	9	12	14	16	18	21
<b>OTHER</b>						
ELECTRICITY	24	33	43	49	56	62
<b>WATER HEATING</b>						
NATURAL GAS	19	23	27	31	35	40
ELECTRICITY	28	33	39	45	51	56
BOTTLE GAS	37	44	51	60	67	74
OIL	28	35	40	45	50	58
WATER/SEWER	15.00 per person					
<b>OTHER</b>						
TRASH	18/32	18/32	18/32	18/32	18/32	18/32
	(drop-off/pick-up)					

**APPENDIX G**

**VERMONT HOUSING FINANCE AGENCY  
HOUSING CREDIT (HC)  
HOUSING SUBSIDY COVENANT**

This HC Housing Subsidy Covenant (the "Covenant"), dated as of this \_\_\_ day of \_\_\_\_\_, 20\_\_\_, is declared, pursuant to 27 V.S.A. § 610, by \_\_\_\_\_ ("Owner"), a \_\_\_\_\_ (type of entity), with its principal place of business at \_\_\_\_\_ (complete mailing address) as a condition of the allocation of Housing Credits by the Vermont Housing Finance Agency, a public instrumentality of the State of Vermont, with its principal offices at 164 St. Paul Street, Burlington, Vermont 05401 ("VHFA" or the "Agency"). Housing Credits are made available pursuant to Section 42 of the Internal Revenue Code of 1986, as amended. The term "Section 42" shall mean Section 42, as the same may be amended, and all applicable rules, rulings, policies, procedures, regulations, or other official statements promulgated or proposed by the Internal Revenue Service heretofore or hereafter enacted or published.

VHFA has been designated by the Governor of the State of Vermont as the State housing credit agency responsible for the issuance of Housing Credits. If VHFA is no longer the State housing credit agency, the term "Agency" will mean any successor to its rights, duties, and obligations.

The Owner holds good and marketable title to property located at \_\_\_\_\_ (street address), in the Town/City of \_\_\_\_\_, County of \_\_\_\_\_, State of Vermont, more particularly described in the attached Schedule A and known as \_\_\_\_\_ (the "Project").

The Owner, in consideration of the receipt of **the allocation of** Housing Credits for the Project, in the approximate amount of \_\_\_\_\_ Dollars (\$\_\_\_\_\_), (which amount is subject to change) in the taxable year ending on December 31, 20\_\_\_, hereby agrees to the following restrictive covenants, which are made in satisfaction of the requirements contained in Section 42(h)(6). This allocation of Housing Credits **is/is not** from the 10% non-profit set-aside.

1. The Owner is and shall continue to be duly organized and qualified under the laws of the State of Vermont as a \_\_\_\_\_ (type of entity), and is qualified to transact business under the laws of this state, has the power and authority to own its properties and assets and to carry on its business as now being conducted, and has the full legal right, power, and authority to execute and deliver this Covenant. If the Owner desires to change its form from that of a \_\_\_\_\_ (type of entity) to some other form of entity, it shall provide the Agency with an opinion of Vermont counsel in a form satisfactory to the Agency, that the change in type of entity will not affect the enforceability of this Housing Subsidy Covenant.

2. The Project is and shall remain a qualified low-income housing project as defined in Section 42 for the term of this Covenant. Rental units in the Project intended to be rent restricted units under Section 42 will be rented or available for rental on a continuous basis to members of the general public who qualify as Low Income Tenants under Section 42.

3. Pursuant to Section 42(h)(6)(D), the Owner shall be in compliance with the restrictions contained in this Housing Subsidy Covenant for an initial period of 15 years from the date the project is placed in

**APPENDIX G**

service (the "Compliance Period"), and an extended use period beginning on the first day of the Compliance Period and **continuing for an additional 15 years from the end of the Compliance Period / extending in perpetuity** (the "Extended Use Period"), unless terminated sooner in accordance with the provisions of Section 42.

4. As a condition and in consideration of the allocation of the Housing Credit, Owner, for itself and all successors in interest to the Project (or the low income portion thereof) shall maintain the applicable fraction for each building of the Project. The term "applicable fraction," as defined in Section 42(c)(1), means the smaller of the unit fraction or the floor space fraction. The applicable fraction shall not be decreased during any taxable year of the Compliance Period or the Extended Use Period except in accordance with the provisions described herein or in Section 42. The applicable fraction for each building of the Project is equal to that shown on Schedule B (also known as Exhibit A from the Carryover Allocation), attached and incorporated into this Covenant by reference.

5. As provided in Section 42(h)(6)(E)(i), the Extended Use Period shall terminate only (i) on the date the building(s) is (are) acquired by foreclosure (or instrument given in lieu of foreclosure). **[This subparagraph (ii) applies only to Projects with detached single-family units; or (ii) with respect to each low-income building in the Project, pursuant to IRS Revenue Ruling 95-49 and Section 42(i)(7), on the date that the tenant through a right of first refusal acquires a low-income building. To the extent that the Extended Use Period is terminated with respect to one or more low-income building(s) pursuant to subparagraph (ii) of this paragraph 5, Schedule A of the Covenant will be amended to release the real property associated with the purchased low-income building(s)].** During the Compliance Period and the Extended Use Period, no low income tenant may be evicted or his or her tenancy terminated for other than good cause, nor may the gross rent for low income units be increased beyond that permitted under Section 42. Should the Extended Use Period terminate prior to its full term pursuant to **subparagraph (i) or subparagraph (ii) of this Paragraph 5**, for a three year period after such termination, no low income tenant may be evicted or his or her tenancy terminated, for other than good cause, nor may the gross rents for low income units be increased beyond that permitted under Section 42.

6. This Covenant shall run with the land, shall be binding upon all successors of the Owner and all subsequent owners of the Project for the term stated, and shall be enforceable in the courts of the State of Vermont by the Agency or its assignees as described in Paragraphs 13 and 14, below, or by any individual(s), whether a prospective, present, or former occupant of a building in the Project, who meets the income limitation under Section 42(g)(1) that is applicable to the particular building in the Project. Said individual(s) are express beneficiaries of this Covenant.

7. If the Owner becomes aware of any situation, event, or condition that would result in the Project not being in compliance with Section 42, Owner shall immediately provide written notice thereof to the Agency.

8. This Covenant may, from time to time, be amended but only with the prior written consent of the Agency. Owner expressly agrees to enter into such amendments as may be necessary to maintain compliance with the provisions of Section 42.

9. In order to enable monitoring of Owner's compliance with the use and occupancy restrictions included in this Covenant, Owner covenants and agrees to maintain documentation sufficient to evidence compliance with the rent and occupancy restrictions of Section 42, and to allow agents and/or employees of the Agency or its assignee to enter Owner's premises during normal business hours and inspect, copy, and audit all books, records, and accounts pertaining to the Project. Owner also agrees to pay the Agency's fees for compliance monitoring, as established by the Agency.

**APPENDIX G**

10. Owner covenants and agrees to submit to the Agency a report in form and content acceptable to the Agency, annually or more frequently upon request by the Agency, which shall demonstrate ongoing compliance with this Covenant, specifically, that the income levels of tenants are at or below applicable limits and all low-income units are occupied by eligible tenants in accordance with Section 42. Of \_\_\_ households in the development, \_\_\_ shall be at or below \_\_\_% of the Area Median Gross income as adjusted by household size ("AMGI"), and \_\_\_ shall be at or below 60% of the AMGI. The minimum set-aside election for the project under Section 42(g)(I) of the Internal Revenue Code is the "20-50" / "40-60" election.

11. Owner covenants and agrees that, in the event it sells or otherwise transfers ownership of the Project, it will notify in writing and obtain the written agreement of the purchaser or transferee to be bound by this Covenant and to the requirements of Section 42 of the Code and applicable regulations as they may be amended or supplemented. The Owner agrees to notify the Agency in writing of any sale, transfer, or exchange of the Project or any low-income portion thereof, and to supply the written agreement of the purchaser or transferee as required herein. No portion of any building to which this Covenant applies shall be disposed of to any person unless all of such building is disposed of to such person.

12. Owner shall not refuse to lease a dwelling unit in the Project on the basis of race, creed, color, gender, age (unless the Project is exempt as housing for elder persons as provided by the Fair Housing Act), handicap, possession of or application for rental assistance under the Section 8 Existing Certificate program or Housing Voucher program (or any other program), marital status, national origin, family status or religion, in the lease, sale, rental, use or occupancy of the Project or in connection with the employment or application for employment of persons for the operation and management of the Project or in connection with any improvements to be erected thereon or in connection with maintenance of the Project.

13. This Covenant may be enforced in accordance with its terms by VHFA, or upon assignment of the right of enforcement by a written instrument recorded in the land records of \_\_\_\_\_, by any other entity that is an assignee under the recorded assignment and is authorized to enforce the Covenant (the "Enforcing Entity"), or by an express beneficiary of the Covenant as defined in Paragraph 7 of this Covenant, under the provisions of 27 V.S.A. § 610, as the same may be amended, or under any successor statute. At any given time, only one entity, which shall be the most recent assignee of record, in addition to such express beneficiaries, shall be entitled to enforce the provisions of this Covenant.

14. The Owner has executed or will execute a Right of First Refusal in favor of \_\_\_\_\_ (name). Such Right of First Refusal is recorded in the land records of \_\_\_\_\_.

15. Reserved (for Special Needs Conditions of Project, if applicable)/ The Owner shall rent \_\_\_ of the units of housing which are rent restricted under Section 42 to persons with a disability to be referred by \_\_\_\_\_. The Owner shall give priority for \_\_\_ of the units of housing restricted under Section 42 to clients referred by \_\_\_\_\_.

16. The Owner acknowledges that the Project is impressed with a public interest and that money damages to the Enforcing Entity or an express beneficiary in the event of a violation are likely to be difficult or impossible to calculate. Accordingly, but without limitation, this Covenant may be enforced in equity, including a decree of specific performance. No action for enforcement may be brought unless the Enforcing Entity or an express beneficiary has first

**APPENDIX G**

delivered to the Owner a written notice of violation hereunder, and such violation has not been remedied, or a written plan for remedy satisfactory to the Enforcing Entity or such express beneficiary has not been provided by Owner to the Enforcing Entity and such express beneficiary within sixty days after the delivery of such notice.

17. Except for the more stringent termination requirements described in Paragraph 5 of this Covenant, in the event of any conflict between this Covenant and the requirements of Section 42 the Section 42 requirements shall prevail

18. The invalidity of any clause, part, or provision of this Covenant shall not affect the validity of the remaining portions of the Covenant.

19. This Covenant and all matters relating thereto shall be governed by and in accordance with the laws of the State of Vermont and, where applicable, the laws of the United States of America.

_____	By: _____	_____
Witness		Owner Its Duly Authorized Agent

STATE OF VERMONT  
\_\_\_\_\_ COUNTY, SS:

At \_\_\_\_\_ in said County and State this \_\_\_ day of \_\_\_\_\_, 20\_\_\_, personally appeared \_\_\_\_\_, duly authorized agent of \_\_\_\_\_ (owner), and h\_\_ acknowledged the foregoing document to be h\_ free act and deed and the free act and deed of the \_\_\_\_\_ (owner).

Before me,

\_\_\_\_\_  
Notary Public  
Commission expires 2/10/2011

**APPENDIX H**

**HC CARRYOVER ALLOCATION COST CERTIFICATION FORM**

**I. OWNER'S CERTIFICATION**

The information and certifications requested below are used for purposes of establishing that the Housing Credit requested for allocation does not exceed the amount necessary to assure project feasibility, as required by Section 42 of the Internal Revenue Code of 1986, as amended, and to demonstrate that the Owner has basis in the property and, pursuant to 42(h)(1)(E)(ii), that ten percent (10%) of the project's "reasonably expected basis" costs have been incurred. This document must be completed prior to Agency issuance of a Carryover Allocation.

To comply with the certification, please attach the following:

- a full and detailed listing of all known or projected permanent (as opposed to construction period) sources of funds;
- development budget, dated and detailed by line item, and including a breakdown of development costs that constitute the eligible basis for the Housing Credit allocation (this should be the same budget used by the accountant or attorney in reviewing the development);
- a budget which shows an allocation of sources to uses;
- invoices, closing statements, or other documentation that is necessary to document that the ten percent threshold has been met (note: this documentation need not be provided if the CPA/attorney certification has been signed).

If multiple buildings and/or different Housing Credit types are needed, the eligible basis for each building for each credit type should be separately detailed, with sources and uses detailed for each building. If the Owner elects to receive the Carryover Allocation on a project basis pursuant to Section 42(h)(1)(f), separate building by building detail need not be submitted.

PROJECT NAME: \_\_\_\_\_

LOCATION (Town/City): \_\_\_\_\_

NUMBER OF BUILDINGS: \_\_\_\_\_

CREDIT TYPE (4% OR 9%): \_\_\_\_\_

HIGH COST AREA ADJUSTMENT? (Yes or No): \_\_\_\_\_

MINIMUM APPLICABLE FRACTION (20% or 40% Election)?: \_\_\_\_\_

REASONABLY EXPECTED BASIS (Eligible Basis plus Land): \_\_\_\_\_

OWNER'S ACTUAL BASIS (Total costs incurred to date): \_\_\_\_\_

**APPENDIX H**

% OF OWNER'S ACTUAL BASIS / REASONABLY EXPECTED BASIS: \_\_\_\_\_ %

AMOUNT OF CREDIT REQUESTED: \$ \_\_\_\_\_

I, \_\_\_\_\_, authorized agent for \_\_\_\_\_ (Owner), hereby certify, under pain and penalty of perjury, that the attached development costs, detailing eligible basis and applicable fractions by building or by project, constitute the Section 42 (LIHTC) qualified basis, incurred in 200\_\_ to 200\_\_ for the residential portion of the building(s) identified above. These basis numbers, using the credit type shown above, justify the requested annual allocation of \$\_\_\_\_\_ of Vermont's 2004 Housing Credit authority.

I also certify, under pain and penalty of perjury, that the attached sources of funds (which must equal the total development costs, including non-depreciable and non-eligible costs) is accurate and that the full extent of all Federal, State, and local subsidies to the development have been disclosed to VHFA in the Housing Credit application or other material attached to this certification.

Name of Owner \_\_\_\_\_

Authorized Agent \_\_\_\_\_

Date \_\_\_\_\_

**APPENDIX I**

**MODEL TEN PERCENT LETTER**

Independent Auditors' Report

Date: XXXX XX, 20\_\_

To: Vermont Housing Finance Agency (VHFA)  
P.O. Box 408  
Burlington, VT 05402-0408

and

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

Re: TCAA # XX-XXX

We have audited the accompanying Certification of Costs Incurred ("Exhibit XXX") of the Owner for XXXX (the "Project") as of XXXX, XX, 20\_\_. Exhibit XXX is the responsibility of the Owner and the Owner's management. Our responsibility is to express an opinion on Exhibit XXX based on our audit.

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

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

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

In addition to auditing Exhibit XXX, we have, at your request, performed certain agreed-upon procedures, as enumerated below, with respect to the Project. These procedures, which were agreed to by the Owner and TCAA, were performed to assist you in determining whether the Project has met the 10% test in accordance with Internal Revenue Code Section 42(h)(1)(E) and Treasury Regulation Section 1.42-6. These agreed-upon procedures were performed in accordance with standards established by the American Institute of Certified Public Accountants. The sufficiency of these

## APPENDIX I

procedures is solely the responsibility of the specified users of the report. Consequently, we make no representations regarding the sufficiency of the procedures below either for the purpose for which this report has been requested or for any other purpose.

We performed the following procedures:

- We calculated, based on estimates of total development costs provided by the Owner, the Project's total reasonably expected basis, as defined in Treasury Regulation Section 1.42-6, to be \$XXXX as of XXXX XX, 20\_\_.
- We calculated the reasonably expected basis incurred by the Owner as of XXXX XX, 20\_\_ to be \$XXXX.
- We calculated the percentage of the development fee incurred by the Owner based on the Owner's representation as of XXXX (date) to be XX% of the total development fee.
- We compared the reasonably expected basis of \$XXXXXX incurred as of XXXX XX, 20\_\_ to the total reasonably expected basis of the Project, and calculated that XX% had been incurred as of XXXX XX, 20\_\_.
- We determined that the Owner uses the accrual method of accounting, and has not included any construction costs in carryover allocation basis that have not been properly accrued.
- Based on the amount of total reasonably expected basis listed above, for the Owner to meet the 10% test in accordance with Internal Revenue Code Section 42(h)(1)(E) and Treasury Regulation Section 1.42-6, we calculated that the Project needed to incur at least \$XXXX of costs prior to December 31, 20\_\_.

We were not engaged to, and did not, perform an audit of the Owner's financial statements or of the Project's total reasonably expected basis. Accordingly, we do not express such an opinion. Had we performed additional procedures, other matters might have come to our attention that would have been reported to you.

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

City, State  
XXXX XX, 20\_\_

**APPENDIX J**

**MODEL FINAL COST CERTIFICATION LETTER**

Independent Auditors' Report

Owner's Name: XXXX

Project Name: XXXX

Project Number: TCAA # XX-XXX

We have audited the costs included in the accompanying Tax Credit Allocation Agency ("TCAA") Final Cost Certification (the "Final Cost Certification") of XXXX (the "Owner") for XXXX ("the Project") as of XXXX XX, 20\_\_\_. The Final Cost Certification is the responsibility of the Owner and the Owner's management. Our responsibility is to express an opinion on the Final Cost Certification based on our audit.

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

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

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

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

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

City, State  
XXXX XX, 20\_\_\_

## APPENDIX K

### Compliance Monitoring Procedures

The Budget Reconciliation Act of 1990 adopted by Congress amended Section 42 of the IRS Code to require that state tax credit agencies provide a procedure for monitoring developments for compliance with the requirements of the law and for notifying the IRS of any non-compliance discovered.

In order to implement this responsibility, all HC recipients will be required to execute and record a HC Housing Subsidy Covenant (the Covenant). The Covenant must be approved by VHFA. The Covenant must be signed by the Owner and returned to VHFA for recording prior to VHFA issuing a Carryover Allocation or IRS Form 8609. The Covenant will, at a minimum, require conditions wherein the developer and the development must continuously comply with Section 42 and other applicable Sections of the Internal Revenue Code of 1986, as amended, and the Treasury regulations issued thereunder and will bind any successors' interest for the specified time period. In the event that a project's funding source requires its own Housing Subsidy Covenant, the provisions of the HC Housing Subsidy Covenant may be incorporated into such Covenant and the requirement of a separate HC Housing Subsidy Covenant may be waived by VHFA. In addition, owners are required to provide VHFA with a copy of the IRS Form 8609, with Part II, and IRS Form 8586 completed by the Owner, for the first year of the credit period. Finally, a copy of VHFA's LIHTC Compliance Manual is available from VHFA's website at [www.vhfa.org](http://www.vhfa.org).

- a. VHFA is required to monitor compliance with the provisions of Section 42 and to notify the Internal Revenue Service of non-compliance and will charge fees to cover costs related to this monitoring. The fee structure is four dollars (\$4.00) per housing credit unit per month.

Housing Credit developments are very management-intensive and require a thorough understanding of the Section 42 regulations. The owner and/or management agent is required to attend compliance training or document that they have received training prior to lease up.

- b. Record Keeping and Record Retention

The owner of a Housing Credit-eligible development must keep records for each qualified tax credit-eligible building in the project showing:

- i. The total number of residential rental units in the building, including square footage;
- ii. The percentage of residential rental units in the building that are Housing Credit-eligible units (square footage fraction vs. unit fraction);
- iii. The rent charged on each residential rental unit in the building, including utility allowance;
- iv. The Housing Credit eligible unit vacancies in the building and the occupancy of the next available units;
- v. The income certification of each Housing Credit eligible tenant;

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- vi. Documentation to support each Housing Credit eligible tenant's income certification (for example, a copy of the tenant's federal income tax return, W-2 Forms, or verifications of income from third parties such as employers or state agencies paying unemployment compensation; owners should retain the right in their leases to obtain this documentation at any time, even after tenants have moved into the unit); and
- vii. The character and use of the nonresidential portion of the building included in the building's eligible basis under Section 42(d) (*e.g.* 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 facilities reasonably required by the project).

The owner of a Housing Credit eligible development must retain the records specified in this Section b (Record Keeping and Record Retention) for each building in the project for a period of at least 6 years beyond the end of the compliance period for each building.

Annually, the owner must provide a project status report that summarizes the activity of the development. The format for this report is included in this application in Appendix L.

### c. Certification and Review Procedures

The Agency will utilize a certification procedure as set forth by the IRS under their monitoring regulations.

#### i. Certification Procedure

Under the certification procedures, the owner of a Housing Credit eligible development is required to certify to the Agency, under penalty of perjury, at least annually, that:

- (a). The project meets the requirements of the 20-50 test under Section 42(g)(1)(A) or the 40-60 test under Section 42(g)(1)(B), according to the election made by the sponsor at the time of the allocation;
- (b). There has been no change in the applicable fraction of any building in the project or, when there has been a change, a description of the change; and
- (c). The owner has received an annual income certification from each Housing Credit eligible tenant and documentation to support that certification or, in the case of a tenant receiving Section 8 housing assistance payments, a statement from the appropriate public housing authority declaring that the tenant's income does not exceed the applicable income limit under Section 42(g);
- (d). Each Housing Credit eligible unit in the project is rent-restricted under Section 42(g)(2);
- (e). All units in the project are for use by the general public and are used on a non-transient basis;

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- (f). No finding of discrimination under the Fair Housing Act, 42 U.S.C 3601-3619 has occurred for this project. A finding of discrimination includes an adverse final decision by the Secretary of Housing and Urban Development (HUD), 24 CFR 180.680, an adverse final decision by a substantially equivalent state or local fair housing agency, 42 U.S.C 3616a(a)(1), or an adverse judgment from a federal court;
- (g). Each building in the project is suitable for occupancy, taking into account local health, safety, and building codes (or habitability standards), 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;
- (h). There has been no change in the eligible basis (as defined in Section 42(d)) of any building in the project or, when there has been a change, a description regarding the nature of the change;
- (i). All tenant facilities included in the eligible basis under Section 42(d) of any building in the project (such as swimming pools, other recreational facilities, and parking areas) are provided on a comparable basis without charge to all tenants in the building;
- (j). If a Housing Credit eligible unit in the project became vacant during the year, reasonable attempts were or are being made to rent that unit or another available unit of comparable or smaller size to tenants having a qualifying income before any units in the project were or will be rented to tenants not having a qualifying income.
- (k). If the income of tenants of a Housing Credit eligible unit in the project increases above the limit allowed in Section 42(g)(2)(D)(ii), the next available unit of comparable or smaller size in the project will be rented to tenants having a qualifying income.
- (l). An extended Low-Income Housing Tax Credit (Subsidy Covenant) commitment was in effect, including the requirement under section 42(h)(6)(B)(iv) that an owner cannot refuse to lease a unit in the project 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 1437s. Owner has not refused to lease a unit to an applicant based solely on their status as a holder of a Section 8 voucher and the project otherwise meets the provisions, including any special provisions, as outlined in the Subsidy Covenant. (This requirement is not applicable to buildings with credits from years 1987-1989.)
- (m). The owner received its credit allocation from the portion of the state ceiling set-aside for a project involving “qualified non-profit organizations’ under Section 42(h)(5) of the code and its non-profit entity materially participated in

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the operation of the development within the meaning of Section 469(h) of the Code.

(n). There has been no change in the ownership or management of the project.

ii. Review Procedure

Under the review procedure, the Agency will review at least twenty percent (20%) of tax credit files at least once every three years.

iii. Exception for Certain Buildings

The review procedure outlined above may not apply to the following types of Housing Credit eligible buildings, which are subject to other monitoring programs:

(a). Buildings financed by the Rural Development (RD) under its Section 515 program; and

(b). Buildings in which 50 percent or more of the aggregate basis (taking into account the building and the land) is financed with the proceeds of obligations the interest on which is exempt from tax under Section 103 of the Internal Revenue Code.

iv. The certifications required under paragraph i. of this Section c. (Certifications and Review Procedures) must be made at least annually through the end of the 15-year compliance period under Section 42(i)(1) and be under penalty of perjury. Annually, the owner must provide an Owner's Certificate of Continuing Program Compliance. This form is included in this application as Appendix M.

d. Auditing Procedure

The Agency has the right to perform an audit of any eligible Housing Credit development at least through the end of the compliance period of the buildings in the project. An audit includes a physical inspection of any building or buildings in the project, as well as a review of the records described in Section b. The audit may be performed in addition to any inspection of income certifications and documentation under the review procedure. The regulations require the Agency to conduct an initial physical inspection by the end of the second calendar year following the year the last building in the project is placed in service. The physical inspection is performed every three years.

e. Notification of Non-compliance

i. If the Agency does not receive the certification described in paragraph i. of Section c. or discovers upon audit, inspection, review, or in some other manner that the project is not in compliance with the provisions of Section 42, the Agency will provide prompt written notice to the owner of the project.

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- ii. The Agency will file Form 8823, Low-Income Housing Credit Agencies Report of Non-compliance, with the Internal Revenue Service no later than 45 days after the end of the correction period described in paragraph c. of this Section, whether or not the non-compliance or failure to certify is corrected. The Agency must explain on Form 8823 the nature of the non-compliance or failure to certify and indicate whether the owner has corrected the non-compliance or failure to certify.
- iii. The correction period shall be up to 90 days from the date of the notice to the owner under paragraph a. of this Section and, during that period, the owner must supply any missing certifications and bring the project into compliance with the requirements of Section 42. For good cause shown, the Agency may extend the correction period for up to six months.

f. Delegation of Authority

The Agency may retain an agent or other private contractor to perform compliance monitoring. VHFA will retain the responsibility to notify the Internal Revenue Service under paragraph ii. of Section e. (above).

g. Liability

Compliance with the requirements of Section 42 is the responsibility of the owner of the building for which the credit is allocated. The Agency's obligation to monitor for compliance does not make the Agency liable for an owner's non-compliance.



**APPENDIX M**

**OWNER'S CERTIFICATE OF CONTINUING PROGRAM COMPLIANCE**

To: Vermont Housing Finance Agency P.O. Box 408 Burlington, VT 05402-0408

<b>Certification Dates:</b>	<b>From:</b> January 1, 20_____	<b>To:</b> December 31, 20_____
<b>Project Name:</b>	<b>Project No:</b>	
<b>Project Address:</b>	<b>City:</b>	<b>Zip:</b>
<b>Tax ID # of Ownership Entity:</b>		

<input type="checkbox"/> No buildings have been Placed in Service <input type="checkbox"/> At least one building has been placed in Service but owner elects to begin credit period in the following year. If either of the above applies, please check the appropriate box, and proceed to page 2 to sign and date this form.
--

The undersigned \_\_\_\_\_ on behalf of \_\_\_\_\_ ("the Owner"), hereby certifies that:

- The project meets the minimum requirements of: (check one)
  - 20-50 test under Section 42(g)(1)(A) of the Code
  - 40-60 test under Section 42(g)(1)(B) of the Code
  - 15-40 test for "deep rent-skewed" projects under Section 42(g)(4) and 142(d)(4)(B) of the Code
- There has been **no change in the applicable fraction** (as defined in Section 42(c)(1)(B) of the Code) for any building in the project:
  - NO CHANGE**                       **CHANGE**
  - If "**Change**," list the applicable fraction to be reported to the IRS for each building in the project for the certification year on p. 3:
- The owner has received annual Tenant Income Certification from each low-income resident and documentation to support that certification.
  - YES**                                       **NO**
- Each low-income unit in the project has been rent-restricted under Section 42(g)(2) of the Code:
  - YES**                                       **NO**
- All low-income units in the project are and have been for use by the general public and used on a non-transient basis (except for transitional housing for the homeless provided under Section 42(i)(3)(B)(iii) of the Code):
  - YES**                                       **NO**                                       **HOMELESS**
- No finding of discrimination under the Fair Housing Act, 42 U.S.C 3601-3619, has occurred for this project. A finding of discrimination includes an adverse final decision by the Secretary of Housing and Urban Development (HUD), 24 CFR 180.680, an adverse final decision by a substantially equivalent state or local fair housing agency, 42 U.S.C 3616a(a)(1), or an adverse judgment from a federal court:
  - NO FINDING**                               **FINDING**
- Each building in the project is and has been suitable for occupancy, taking into account local health, safety, and building codes (or other habitability standards), 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:
  - YES**                                       **NO**
  - If "**No**," state nature of violation on page 3 and attach a copy of the violation report as required by 26 CFR 1.42-5 and any documentation of correction.

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8. There has been **no change in the eligible basis** (as defined in Section 42(d) of the Code) of any building in the project since last certification submission:

**NO CHANGE**                       **CHANGE**

If "**Change**," state nature of change (e.g. a common area has become commercial space, a fee is now charged for a tenant facility formerly provided without charge, or the project owner has received federal subsidies with respect to the project which had not been disclosed to the allocating authority in writing) on page 3:

9. All tenant facilities included in the eligible basis under Section 42(d) of the Code of any building in the project, such as swimming pools, other recreational facilities, parking areas, washer/dryer hookups, and appliances were provided on a comparable basis without charge to all tenants in the buildings:

**YES**                                       **NO**

10. If a low-income unit in the project has been vacant during the year, reasonable attempts were or are being made to rent that unit or the next available unit of comparable or smaller size to tenants having a qualifying income before any units were or will be rented to tenants not having a qualifying income:

**YES**                                       **NO**

11. If the income of tenants of a low-income unit in any building increased above the limit allowed in Section 42(g)(2)(D)(ii) of the Code, the next available unit of comparable or smaller size in that building was or will be rented to residents having a qualifying income:

**YES**                                       **NO**

12. An extended low-income commitment as described in section 42(h)(6) was in effect, including the requirement under section 42(h)(6)(B)(iv) that an owner cannot refuse to lease a unit in the project 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. 1437s. Owner has not refused to lease a unit to an applicant based solely on their status as a holder of a Section 8 voucher and the project otherwise meets the provisions, including any special provisions, as outlined in the extended low-income housing commitment (not applicable to buildings with tax credits from years 1987-1989):

**YES**                                       **NO**                                       **N/A**

13. The owner received its credit allocation from the portion of the state ceiling set-aside for a project involving "qualified non-profit organizations" under Section 42(h)(5) of the code and its non-profit entity materially participated in the operation of the development within the meaning of Section 469(h) of the Code.

**YES**                                       **NO**                                       **N/A**

14. There has been no change in the ownership or management of the project:

**NO CHANGE**                       **CHANGE**

If "**Change**," complete page 3 detailing the changes in ownership or management of the project.

**Note: Failure to complete this form in its entirety will result in non-compliance with program requirements. In addition, any individual other than an owner or general partner of the project is not permitted to sign this form, unless permitted by the state agency.**

The project is otherwise in compliance with the Code, including any Treasury Regulations, the applicable State Allocation Plan, and all other applicable laws, rules and regulations. This Certification and any attachments are made UNDER PENALTY OF PERJURY.

\_\_\_\_\_  
**(Ownership Entity)**

**By:** \_\_\_\_\_

**Title:** \_\_\_\_\_

**Date:** \_\_\_\_\_



## **APPENDIX M**

### **ACT 200 PLAN**

Act 200, the Growth Management Act of 1988, requires all state agencies having programs or taking actions affecting land use to adopt a plan consistent with the Act's 12 Vermont Planning Goals. In addition, compatibility must be sought with plans of other state agencies and with approved plans of regional planning commissions and municipalities. As part of VHFA's continual planning process, this Plan has been developed in accordance with Act 200 requirements.

#### **The Planning Goals:**

- (1) To plan development so as to maintain the historic settlement pattern of compact village and urban centers separated by rural countryside.
- (2) To provide a strong and diverse economy that provides satisfying and rewarding job opportunities and that maintains high environmental standards, and to expand economic opportunities in areas with high unemployment or low per capita incomes.
- (3) To broaden access to educational and vocational training opportunities sufficient to ensure the full realization of abilities of all Vermonters.
- (4) To provide for safe, convenient, economic and energy efficient transportation systems that respect the integrity of the natural environment, including public transit options and paths for pedestrians and bicyclists.
- (5) To identify, protect and preserve important natural and historic features of the Vermont landscape.
- (6) To maintain and improve the quality of air, water, wildlife and land resources.
- (7) To encourage the efficient use of energy and the development of renewable energy resources.
- (8) To maintain and enhance recreational opportunities for Vermont residents and visitors.
- (9) To encourage and strengthen agricultural and forest industries.
- (10) To provide for the wise and efficient use of Vermont's natural resources and to facilitate the appropriate extraction of earth resources and the proper preservation of the aesthetic qualities of the area.
- (11) To ensure the affordability of safe and affordable housing for all Vermonters.
- (12) To plan for, finance, and provide an efficient system of public facilities and services to meet future needs.

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### The Process Goals:

- (1) To establish a coordinated, comprehensive planning process and policy framework to guide decisions by municipalities, regional planning commissions and state agencies.
- (2) To encourage citizen participation at all levels of the planning process, and to assure that decisions shall be made at the most local level possible commensurate with their impact.
- (3) To consider the use of resources and the consequences of growth and development for the region and the state, as well as the community in which it takes place.
- (4) To encourage and assist municipalities to work creatively together to develop and implement plans.