

# QAP

Qualified Allocation Plan  
*Housing Tax Credits*



State of Mississippi | 2021



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## INTRODUCTION

### MHC's Responsibility

The Mississippi Home Corporation (the "Corporation" or "MHC") is charged with the responsibility of administering the Housing Tax Credit Program (the "Tax Credits", "Housing Credit" or the "Tax Credit Program"), which was created by Congress in the Tax Reform Act of 1986, and which has been further amended by acts of Congress and amendments to Section 42, as amended, of the Internal Revenue Code.

MHC is required by Section 42 to develop a qualified allocation plan

- i. which shall set forth the selection criteria to be used to determine housing priorities of the State of Mississippi that are appropriate to local conditions;
- ii. which also gives preference in allocating housing credit dollar amounts among selected developments that (a) serve the lowest income tenants, and (b) obligate to serve qualified tenants for the longest time period; and (c) are located in qualified census tracts and the development of which contributes to a concerted community revitalization plan;
- iii. which provide a procedure that MHC (or an agent or other private contractor of MHC) will follow in monitoring for noncompliance and in notifying the Internal Revenue Service of such noncompliance.

The selection criteria set forth in a qualified allocation plan must include: (i) development location, (ii) housing needs characteristics, (iii) development characteristics, (iv) sponsor characteristics, (v) tenant populations with special housing needs, (vi) public housing waiting lists, (vii) tenant populations of individuals with children, (viii) developments intended for eventual tenant ownership, (ix) the energy efficiency of the development, and (x) the historic nature of the development. The Code also requires that the qualified allocation plan be subject to public review in accordance with rules similar to those in Section 147(f) (2) of the Code.

The delegation of authority to the states to administer the Tax Credit Program, a tax incentive program, is unique and unprecedented. However, the delegation is limited. While recognizing the value of decentralized decision making, Congress also imposed a uniform set of procedures each state must follow in administering the Tax Credit Program. These procedures are designed to ensure that the low-income renters, whom the program is intended to benefit, are those actually served. These procedures are also designed to make certain that the Tax Credit is rationed in the amount necessary to make each development feasible and viable, taking into account all sources of funding.

In December 1997, the National Council of State Housing Agencies ("NCSHA") established a Task Force of Housing Finance Agency Executive Directors to develop Best Practice Standards for LIHTC administration in response to suggestions by the General Accounting Office (GAO) and the House Ways and Means Oversight Subcommittee, as well as other interested parties.

### Best Practice Standards

The Best Practice Standards include the following:

- Assessment of adequately addressing state of housing needs;
- The need for property market studies that support need;
- Appropriate use of state agency discretion in allocating Credits;
- The need for independent, third party cost certifications;
- Debt service ratios that support development financial feasibility;
- Operating and replacement reserves maintenance during the compliance period;
- Operating expenses within acceptable limits;

- Quality of developer experience;
- Quality of management experience; and
- Adequacy of compliance safeguards to preserve the LIHTC housing.

State legislation requires MHC to develop an annual housing plan detailing the housing needs of the State. Based upon any such housing needs study and other available information and data, the Qualified Allocation Plan has been designed to address the most pressing housing needs of the State. To assess Mississippi's overall housing needs, MHC has relied on the work of the Mississippi Housing Task Force (the "Task Force"), data compiled for the Target Area Designation Statistical Analysis and Report, the State of Mississippi Consolidated Plan, and available census data.

On November 4, 2020, MHC, acting pursuant to statutory requirements, held a public hearing at Mississippi Home Corporation, 735 Riverside Drive, Jackson, MS 39202 for the purpose of receiving comments on a draft of Mississippi's 2021 Qualified Allocation Plan (QAP). In addition to oral comments received at the hearing, MHC requested written comments from interested members of the public concerning the draft QAP. Both the oral and written comments received were considered and fully evaluated prior to MHC's adoption of the 2021 Qualified Allocation Plan. The 2021 Qualified Allocation Plan was presented to the Governor of the State of Mississippi, who formally approved its terms by Resolution received by MHC on December 14, 2020.

MHC anticipates reserving, beginning with those developments scoring highest under the Selection Criteria and meeting all threshold requirements, tax credits up to the amount permitted by Section 42, as amended, of the Internal Revenue Code and necessary for the financial feasibility of the development and its viability as a qualified affordable housing development throughout the compliance period for each set-aside identified.

However, regardless of strict numerical ranking, the Selection Criteria does not operate to vest in an applicant or development any right to a reservation or allocation of tax credits in any amount. Further, notwithstanding the point ranking system set forth above, MHC reserves the right and shall have the power to allocate tax credits to a development irrespective of its point ranking, if such intended allocation is:

1. In compliance with Section 42, as amended, of the Internal Revenue Code.
2. In furtherance of the housing goals stated herein
3. Determined by MHC to be in the interests of the citizens of the State of Mississippi.

However, MHC will make available to the public a written explanation for any tax credit allocation, which is not made in accordance with established priorities and selection criteria of the agency. If there is a tie in the scoring among proposed developments, MHC reserves the right to utilize a tie-breaking system identified herein to break the tie.

MHC will in all instances reserve and allocate tax credits consistent with sound and reasonable judgment, prudent business practices, and the exercise of its inherent discretion, reserving to itself such ultimate discretion permitted by applicable law.

## Limitations

The Tax Reform Act of 1986 charges MHC to allocate only that amount of tax credits to a development as required making the development economically feasible. MHC's determination is made solely at its discretion and in no way constitutes a representation or warranty, expressed or implied, to any sponsor, lender, investor, or third party as to the feasibility of a given development. By allocating tax credits to a development, MHC makes no representation or warranty, expressed or implied, to the development owner, investors, lender, or third party that its allocation constitutes a determination that the development adheres to requirements of the Internal Revenue Code, relevant Treasury regulations, or any other laws or requirements governing the tax credit program.

MHC may amend, from time to time, the Qualified Allocation Plan and its Housing Tax Credit Program as required by the promulgation or amendment of the Regulations and to meet the public purpose policies of MHC. Such amendment is expressly permitted by the Qualified Allocation Plan, and the making of such amendment will not require further public hearings.

MHC will develop a Compliance Monitoring Plan in accordance with the Qualified Allocation Plan for compliance and monitoring of developments having received an allocation of Housing Tax Credits.

No Corporation member, employee, or agent shall be personally liable with respect to any matter or matters arising out of, or in relation to, the Tax Credit Program as set forth in the Tax Reform Act of 1986 and the associated Qualified Allocation Plan.

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## SECTION 1: GENERAL POLICIES AND GUIDELINES

### 1.1 Section 42 Requirements

To be eligible for Housing Tax Credits (“HTC”), a development must qualify under the federal rules contained in the Internal Revenue Code Section 42 (“IRC §42”) or (“the Code”).

1. **Minimum Set-Aside Election.** IRC §42(g)(1) requires the development owner to make an election for the development to meet one of the following:
  - a. 20/50 test: 20% of the total residential units be rent restricted and occupied by tenants whose income is 50% or below the area median income (AMI), *or*
  - b. 40/60 test: 40% of the total residential units be rent restricted and occupied by tenants whose income is 60% or below the area median income (AMI)

This election is irrevocable. The development owner cannot change the minimum set-aside election once the application has been received by MHC. The minimum set-aside election must be consistent throughout the application and the application package.

2. **Affordability Period.** IRC §42(h)(6) requires the development owner to enter into an “extended low-income housing commitment” that adds an additional 15-year low-income occupancy requirement to the initial 15-year compliance period. The development owner must commit to keeping the HTC residential units at the elected restricted rents for a minimum affordability period of thirty (30) years after the units are placed in service. A Land Use Restrictive Agreement (LURA) will be required to be executed and recorded prior to the issuance of form(s) 8609. The LURA sets forth, as covenants running with the land for a minimum of 30 years (or additional years if the development owner has committed to a longer use period), the low income unit set-asides, the percentages of median income to be served, the special housing needs units committed to (if any), and such other requirements as MHC may apply based on the Qualified Allocation Plan (QAP).
3. **Rent Restrictions.** IRC §42(g)(2) requires rents on qualified tax credit units to be restricted (*i.e., the rent cannot exceed 30% of the income limit applicable to the building location*). The maximum allowable rent is based on the number of bedrooms and area median income as established annually by HUD (See Addendum G). If a household pays for utilities, the maximum rent must be adjusted by the applicable utility allowance.

### 1.2 Eligibility

1. **Housing Type.** The development owner may build new housing or rehabilitate existing buildings. The housing can be apartments or single-family homes (attached or detached) and must be residential rental property. Non-residential (*e.g. hotels, hospitals, nursing homes*) and transitional housing are not allowed under the Housing Tax Credit Program.
2. **Development Size.** Developments applying for Housing Tax Credits must contain no fewer than twenty-four (24) units. Applicants may submit a waiver request for fewer than twenty-four (24) units but not less than sixteen (16) units. The waiver request must include a letter from the Syndicator/Investor acknowledging the number of units and indicating their interest in syndicating/investing in the deal. Request for waivers must be submitted by the deadline date as outlined in Section 2 of the QAP. Also see Section 6.1.

3. **Legally Formed Entities.** Applicants which are business entities must be legally formed and must have authorization to do business in Mississippi. The application must include the following documents:
- Formation documents for the owner and general partner entities (*see Chart 1 below*) which bear the committal stamp of the Mississippi Secretary of State. For entities that are not formed in Mississippi, the formation documents and a Certificate to do Business in the State of Mississippi must be submitted. (*Formation documents are required to be submitted with the application. Operation documents are required to be submitted prior to issuance of IRS Forms 8609.*)

**Chart 1: Required Organizational Documents**

ENTITY TYPE	FORMATION DOCUMENTS	OPERATION DOCUMENTS
Corporation	Articles of Incorporation	Bylaws
Limited Partnership	Certificate of Partnership	Partnership Agreement
Limited Liability Company	Certificate of Formation	Operating Agreement

- Certificate of Good Standing (dated within 30 days of the application date) for the owner and general partner entities.
  - A detailed Organizational Chart which illustrates the business structure of the principal members of the ownership entity. The chart must detail each principal member down to natural persons for every entity listed and it must reflect the ownership percentage of each entity and natural person. (*See Attachment 11*)
4. **Development Team.** All members of the development team must be in good standing with all MHC programs in order to apply for housing tax credits. The Development Team is defined as the: (i) Applicant entity, (ii) proposed owner, (iii) principal(s) of the owner or Applicant, (iv) developer, (v) general contractor, (vi) property management company, (vii) any third party development consultant, (viii) any related party(ies) or entity(ies) in the seller of any land or property. For this purpose, a related party or entity is considered to be related if one party or entity directly or indirectly has the ability to control the other party or exercise significant influence over the other party in making financial and operating decisions.
5. **Multiphase Developments.** Multiphase new construction developments will not be allowed to apply within the same application cycle. Developments will be considered multiphase if they are located on the same or contiguous tract of land, shares the same ownership entity and/or shares the same financing. MHC reserves the right to determine whether or not an application is a part of a multiphase development.

### 1.3 Compliance Eligibility

1. **Major Noncompliance.** Applications that are submitted by an entity with existing major noncompliance findings (that occurred prior to January 1st of the current cycle year) for the owner, developer, general partner, management entity or consultant that has previously served as owner, developer, or general partner of any development in which they are associated will be disqualified from consideration.

Applicants with a major noncompliance issue that occurred prior to January 1st of the current cycle year that is resolved by December 31st of the preceeding year are eligible to apply without penalties.

Applicants with a major noncompliance issue that occurred prior to January 1st of the current cycle year that is not resolved by December 31st of the preceeding but is resolved prior to the submission of the application are eligible to apply. However, points will be deducted from the application. See Addendum A for point deductions.

#### *Examples of Major Non Compliance*

- Rents charged to residents that exceed maximum limit;



- Failure to follow the next available unit rule (AUR);
  - Numerous instances of administrative noncompliance (failing to execute the procedures and policies stated in the Mississippi Compliance Monitoring Manual and loan guidelines under the Mississippi Affordable Housing Development Fund);
  - Severe health and safety violations generally affecting more than one (1) unit (structural problems, severe water damage, fire hazards, etc.);
  - Down units (not suitable for occupancy for extended period of times generally more than ninety (90) days);
  - Improper disposition/sale of HTC property;
  - Delinquent on loan payments to the Mississippi Affordable Housing Development Fund;
  - Households whose member(s) total gross annual income exceed maximum limit at initial move-in date
2. **Verification of Compliance Status.** Prior to submission of the tax credit application, the Applicant (and its associated entities) **must** verify their compliance status with any and all programs offered or administered by MHC. A written request for compliance status must be received by MHC's Compliance Department by the deadline date outlined in Section 2, Chart 2. Failure to submit the request by the deadline date will result in a late fee as per Section 2.3. Please note that Applicants with outstanding fees are not eligible to apply.

Applicants will not be charged for any research that takes less than three (3) hours. However, a charge of \$110.00 per hour will be assessed to cover the cost of researching and processing an Applicant's compliance status request that requires more than three (3) hours of research time. Applicants must include the Compliance Verification Letter with the application.

3. **Disclosure.** Applications will be disqualified that are proposed by principals (including consultants that have previously been a principal) who have participated with one or more of MHC's programs or any other state's tax credit program that has a current major noncompliance issue and/or is in foreclosure or has been foreclosed. Applicants are required to disclose any and all members of the development team who receive fees for their services. Applicants are required to submit a list of all tax credit developments (either with MHC or any other Housing Finance Agency) they have participated in as a principal in the three (3) years preceding the application. All parties are subject to be listed on MHC's website. MHC will have the sole and absolute discretion to determine those parties ineligible for the tax credit program due to non-compliance or disqualification status.

## 1.4 Ineligible Applicants

1. **Outstanding Fees.** Applications will not be accepted that are submitted by an Applicant (and its Development Team) that have outstanding tax credit fees (Allocation Fees, Compliance Fees, Physical Inspection Fees). The applicant may submit a request to MHC inquiring if there is a balance of outstanding fees owed.
2. **Transfer of Tax Credits.** All transfers of tax credits are subject to approval by MHC (such approval shall not be unreasonably withheld). Any recipient, including an owner, developer, and/or general partner, of tax credits that transfer said credits to a third party prior to the issuance of Forms 8609 shall be ineligible to receive future tax credit awards for a three (3) year period from the date of such transfer.
3. **Debarment/Suspension.** Any person (individual, corporation, partnership, association) or principal that is under debarment, proposed debarment, or suspension by MHC, a federal agency, a state agency, or other state housing finance agencies shall be ineligible to participate in the application review process for an application pursuant to this Qualified Allocation Plan. Such applications will be disqualified from consideration. Each Applicant must include a statement concerning any criminal convictions, indictments, and pending criminal investigations of all owners, developers and/or general partners in the application

package. Also, Applicants must provide dates and details of each circumstance, unless otherwise prohibited by court order, statute or regulation.

4. **Recaptured Credits.** Owners who have had credits recaptured will be ineligible to apply for the HTC program for a period of three (3) years from the date of recapture.
5. **Development Changes.** All changes to the development as presented in the application must be disclosed to MHC no more than thirty (30) days after they have been identified during construction/rehabilitation. (See Section 7.6 “Development Requests”.) Principal members of the Ownership Entity will be subject to disqualification from future participation for a minimum of one (1) year or a loss of housing tax credits if all changes are not approved by MHC prior to development completion.
6. **Failure to Meet a Scored Item Requirement.** All members of the Development Team (as defined in Section 1.2(4)) will have a one (1) year suspension from future program participation during the subsequent year for any scoring item that is not satisfied anytime during the initial fifteen (15) year compliance period.

## 1.5 Development Requirements

1. **Minimum Financing Requirements.** Developments must have a minimum of ten percent (10%) of the total development costs in permanent financing. Exceptions may be given to developments in which Public Housing Authorities (PHAs) are furnishing financing (through HUD’s RAD Program or otherwise) or Public Housing Units upon request for prior approval. Request for waivers must be submitted by the deadline date as outlined in Section 2 of the QAP. Also see Section 6.1.
2. **Community Services Requirements.** All developments must commit to provide a minimum of two (2) community services in at least two (2) unrelated areas not otherwise typically present in low-income rental housing (*see examples below*). Applicants must select services that will meet the needs of its tenants. In addition, the types of services must be kept current as to changing tenant needs, economic conditions, and social change. It is mandatory that the location of all community services to be provided is listed on the application at the time of submission.

All services must be provided for a minimum of ten years beyond the later of the placed in service date or the date of the first service/class. A minimum of one service must be provided quarterly and each service must be offered at least once per year.

Applicants must list all services that will be provided by the development in the application. Upon receipt of a reservation of credits, Applicants must provide supporting documentation for each service (as outlined in Section 7.1(6)). Additionally, development owners will be responsible for making sure that property managers maintain evidence that the services are being provided (e.g. sign-in sheets, letters/memos to tenants advertising the event/service, service log book and/or activity reports). Requests for changes from prior approved tenant community services must be made in accordance with MHC’s Development Requests provisions as outlined in Section 7.6. Prior to issuance of form(s) 8609, Development Owners/Property Managers must provide evidence that all Community Services requirements have been met.

Examples of Acceptable Community Services:

PERSONAL DEVELOPMENT	CHILD DEVELOPMENT
Computer Classes	After School Program
GED Training	Child Care Services
Job Training	Parenting Classes
Health/Nutrition Classes	
COUNSELING PROGRAMS	COMMUNITY AWARENESS EVENTS/ACTIVITIES
Credit Counseling	Health Fair

Personal Budget	Fire Safety
Homebuyer Education	Crime Watch
Drug and Alcohol Prevention	Mental Health Programs

3. **Public Housing Waiting List Requirements.** Developments receiving tax credits must commit to providing housing (i) for persons on public housing waiting lists, or in those jurisdictions where there is no housing authority, (ii) for persons on waiting lists for other affordable housing developments. The application package must include a signed written statement from the Applicant stating it will inform the local public housing authority (PHA) of vacancies and to give priority to households on PHA waiting lists who apply for occupancy. A copy of the written statement and evidence of the use of the waiting list must be kept on file at the development's office and available for compliance inspection and review at all times.
4. **New Construction Requirements.** New Construction developments must meet MHC's Minimum Design Quality Standards (Addendum B). During construction, any reasonable and necessary deviation must be approved by MHC as outlined in Section 1.4(5).
5. **Acquisition/Rehabilitation Requirements.** Acquisition/Rehabilitation developments must meet the Minimum Design Quality Standards (Addendum B). In addition, Acquisition/Rehabilitation developments must meet the requirements listed below as applicable.

- a. **Previously Awarded Credits**

A development that has previously received tax credits and has exhausted all of its allowable credits (i.e. "allowable" means there are no credits still available to the taxpayer at the accelerated or 2/3 rate at the time of the request) will be eligible for a new tax credit allocation provided the development exited the housing tax credit program in good standing, if the required compliance period has expired. This guideline is not applicable to tax-exempt bond developments.

In order to qualify, developments must have rehabilitation expenditures of a minimum of ten thousand dollars (\$10,000) in hard costs per unit.

- b. **Rehabilitation Expenditures**

The acquisition of affordable housing or the rehabilitation of existing units, as described in Section 42, as amended of the Internal Revenue Code (the "Code"), must have rehabilitation expenditures of ten thousand dollars (\$10,000) per housing unit or twenty percent (20%) of the original basis, whichever is greater, in order to qualify under the tax credit program.

The acquisition of affordable housing from a government entity may have rehabilitation expenditures of six thousand dollars (\$6,000) per housing unit if there is a waiver from the Internal Revenue Service from the ten (10) year previous ownership requirement for the acquisition credit on the grounds that the owner otherwise is likely to pay off the existing mortgage and end low income occupancy.

- c. **Evidence of Ownership**

Applicants which are requesting acquisition housing tax credits must provide evidence of title ownership over the previous ten (10) years.

Acquisition/rehabilitation developments that are not ten (10) years old or have changed ownership within the last ten (10) years must provide an attorney opinion confirming eligibility for a lesser term or an approved waiver must be obtained from the U.S. Department of the Treasury. This opinion and/or waiver must accompany the application.

Applicants may be exempt from the ten year rule if the development is substantially assisted by HUD or Rural Development pursuant to the Housing and Economic Recovery Act of 2008 (HERA). Applications must include an Attorney's Opinion Letter.

- d. **Relocation Plan**  
All acquisition/rehabilitation developments that involve the displacement of persons must submit a Relocation Plan subject to the requirements of the Uniform Relocation Assistance and Real Property Acquisitions Policies Act of 1970.
  - e. **Physical Needs Assessment**  
A physical needs assessment for each building and each unit certified by a licensed architect or engineer must accompany the application (*See Attachment 4: Physical Needs Assessment*). Applicants are encouraged to meet the standards outlined in the NAHB Rehabilitation Guide (<http://www.huduser.org/portal/publications/destech/rehabqds.html>). Rehabilitation developments that are demolished and rebuilt must meet MHC's Minimum Design Quality Standards.
  - f. **Adaptive Reuse**  
Any proposed development that requires a conversion from its intended/initial use must meet new construction standards, to the extent possible, for the proposed rehabilitation.
  - g. **Acquisition Price**  
The acquisition price on which tax credits are allocated will be limited to the lesser of the sales price or the appraised "as-is" value of the property.
6. **Non-Profit Organization Requirements.** Qualified non-profit organizations may be funded through the Non-Profit Set-Aside (Section 3.1). To be considered a qualified non-profit entity, the entity must be a 501(c) 3 or 501(c) 4 organizations with an exempt purpose of fostering low income housing. The non-profit organization cannot be formed by one or more individuals of for-profit entities for the principal purpose of being included in the Non-Profit Set-Aside. In addition, the non-profit entity must not have any staff member or member of the nonprofit's board of directors materially participate in the proposed development as a for-profit entity in any capacity as staff, executive, or board member.

The non-profit must also meet the following requirements: (a) own directly at least 51% of the general partnership throughout the compliance period; (b) not be affiliated with or be controlled by a for-profit organization; and (c) must materially participate (as defined under IRC § 469(h)) in the development and operations of the development throughout the fifteen year compliance period.

The following must be provided for all non-profit entities in order to qualify for credits under the Non-Profit Set-Aside:

- a. IRS documentation of IRC § 501(c)3 or 501(c)4 status;
- b. A copy of the Non-Profit Entity's Articles of Incorporation and Bylaws, and all relative amendments, one of which must contain a description of the Non-Profit Organization and its activities that include the fostering of low-income housing in its Articles of Incorporation or Bylaws, as may be amended;
- c. Evidence that it or its officers or members have experience in developing or operating low-income housing;
- d. The names of board members of the non-profit;
- e. Legal opinion from an attorney verifying nonprofit status and that there is no affiliation with or ownership by a for-profit entity and certification of percentage of nonprofit ownership of the general partnership.

7. **Scattered Sites Development Requirements.** Scattered site developments are comprised of units/buildings that are noncontiguous. All scattered site developments must meet the following requirements:
- All units must be rent restricted in accordance with Section 42
  - All single family units included in the development must be within 1 ½ miles radius of all other units included within the development.
  - All buildings in the development must be under the ownership of one entity.
  - Each site within the proposed development must meet all applicable Scoring and Threshold criteria.
  - Signage must be placed at each individual site; however, one sign may serve contiguous parcels.

Single-family scattered site developments will require prior approval by MHC. Applicants must submit a request for approval by the deadline date outlined in Section 2 of the QAP. The request must include the following information:

- Ownership Entity Name
- Ownership Contact Information
- Proposed Development Name
- Development Construction Type (new construction, acq/rehab)
- Structure Type (multifamily, single-family)
- Number of Sites
- Number of Units/Bldgs on each site (to be built/rehab)
- Current use of each site
- Distance between each site
- City/County of each site
- Site Location Maps
- Photos of each site
- Any other pertinent information that may be unique to the development.

8. **Tax-Exempt Bond Developments.** Developments financed with certain tax-exempt bonds are eligible for tax credits without receiving a state allocation. Tax-exempt bond developments include developments financed with exempt facility bonds that are used for qualified residential developments.

**a. Issuance of Bonds**

MHC can act as a conduit issuer of tax-exempt bonds; however, the bonds do not constitute an indebtedness of MHC or the State of Mississippi. For all developments utilizing the Housing Tax Credit Program, MHC must act as a conduit issuer of the tax-exempt bonds.

The following documents are required for Bond Resolution:

**b. Inducement Resolution Required Documentation:**

- Investment Grade Rating (independent or enhanced)/OR Privately placed with an investment letter to be approved by MHC.
- Project narrative to include: General Description, Project location, Number of units, Financing Sources, Initial Pro-Forma, and Type/Amount of Bond Issue
- References
- List of Developments

**c. Timeline:**

- Development Stage

2. Lease-up

d. **Developer Responsibilities:**

1. Select professionals
2. Responsible for paying all costs of issuance (including MHC's Issuer Counsel and Financial Advisor)

e. **Fees:**

1. \$3,500 inducement fee (non-refundable, per application) submitted at the time of the Inducement Resolution.
2. If the principal balance is less than \$15 million, MHC shall be paid twenty basis points but not less than \$10,000. If the principal balance is greater than \$15 million, MHC shall be paid fifteen basis points or \$30,000, whichever is higher.

For additional information regarding bond inducement, contact Debbie Purvis at [debbie.purvis@mshc.com](mailto:debbie.purvis@mshc.com) or (601) 718-4607.

c. **Housing Tax Credits Requirements**

If fifty percent (50%) or more of a development's basis (total development cost including land) is financed with tax-exempt bonds, one hundred percent (100%) of the development qualifies for the tax credit without a decrease in the state's allocation. Although bond-financed developments are not required to receive tax credit allocations from the state, the development must satisfy the requirements for an allocation of tax credits under this qualified allocation plan. The development must also commit to a thirty (30) year extended low-income use on the portion supported by tax credits. Bond-financed developments will be reviewed for feasibility and threshold requirements under this allocation plan. In addition, all bond-financed developments that include 4% tax credits must score a **minimum of 70 points** under the selection criteria requirements outlined in Addendum A. However, the development does not have to meet the ten percent (10%) requirements for a carryover allocation (Section 7.4(4)) of tax credits.

An opinion letter from a Certified Public Accountant must accompany the application to certify that fifty percent (50%) or greater of aggregate basis will be financed by tax-exempt bonds. Tax-exempt bond applications should be submitted at least sixty (60) days prior to the scheduled closing on the bonds.

Applicants are required to submit a complete application package in accordance with the QAP. Applicants will have eighteen (18) months from the time of Bond Inducement to submit the Tax Credit application package. Failure to submit with tax credit application within 18 months will result in the applicant paying a second \$3,500 application fee. Tax-Exempt Bond applications may be submitted during a 9% tax credit cycle, but the application(s) will not be reviewed during that period. Application reviews will take place before and after the tax credit cycle. Incomplete application packages submitted to MHC will be returned to the applicant.

9. **Third Party Accessibility Review.** All developments must submit, at 8609 request, an independent third party accessibility certification. The certification must state that the reviewer has reviewed the development's plans/specifications and that the development meets all Federal, State, and local accessibility standards.

10. **Developments with Multiple Buildings.**

A development may include multiple buildings if is located on the same or contiguous tracts of land, is owned by the same federal taxpayer and is financed pursuant to a common plan of financing. A development with multiple buildings that is proposing a mixed income structure must have low-income units in each building of the development. Scattered site buildings on noncontiguous tracts of land may

also qualify if the development meets all of the other requirements described above and in Section 1.5(7) and the development is 100% rent and income restricted.

## 1.6 Maximum Credit Award

1. **Annual Credit Authority (ACA).** The annual tax credit amount is determined by the per capita rate (which changes annually) multiplied by the state's population.. MHC is also permitted by the Code to carry forward any unused credits from the prior year ("carry forward credits") and any credits recovered from developments that received allocations in previous years but are unable to utilize any or all of the credits ("returned credits"). In addition, MHC may allocate any credits received from the national pool.
2. **Maximum Development Award.** The maximum tax credit award for a development awarded credits from the ACA under this QAP is \$750,000.
3. **Maximum Developer/Owner Award.** MHC shall limit the eligibility of the award of housing tax credits for any owner, developer, general partner, affiliate, guarantor, principal or any other related party receiving an economic interest from the development, the owner and/or the developer to a maximum of 25% of the total credits reserved or allocated. The application must include a certification from each party certifying to the compliance of this requirement. Failure to comply will subject the development team to penalties outlined in GPAG Section 1.8(2). In the event that MHC deviates from its 25% limitation, it will provide a written explanation to the public at the time the awards are made.

MHC reserves the right to waive the limitation for the following reasons:

- a. Credits undersubscribed
- b. Eligible properties are concentrated in an area
- c. Need for eligible properties in an un-concentrated area
- d. Any other reason that MHC deems in the best interest of the citizens of the State of Mississippi

There is no limit to the number of applications on which a party or entity may act as Consultant or General Contractor, but if that party or entity has an Identity of Interest as defined in Section 1.7 with another Owner/Applicant or Developer, then the awards to that party or entity as well as the awards to the Owner/Applicant will be combined to calculate maximum award limitations.

## 1.7 Identity of Interest

MHC requires that all parties in each tax credit application identify the existence of an Identity of Interest with other parties in its Tax Credit application and in any other Tax Credit application in the same tax credit funding round. MHC will take such Identity of Interest into consideration in determining maximum fees, maximum developer fees and other items.

- a. **Definition.** MHC defines an Identity of Interest to exist when there is a financial, familial or business relationship that permits less than arm's length transactions. MHC will determine such a relationship exists in the following non-exclusive circumstances:
  - When one or more of the officers, directors, stockholders, members or partners of the applicant's Development Team (as defined in GP&G #1.2.4) is also an officer, director, stockholder, member or partner of any other applicant's Development Team.
  - When any officer, director, stockholder, member or partner of an applicant's Development Team has any financial interest whatsoever in another application or applicant's Development Team.
  - When a Development Team member is a business partner of an officer, director, board member, or authorized agent of any other Development Team member.

- When any member of the Development Team advances funds to the Owner.
  - When any member of the Development team takes stock or interest in the Owner entity as part of consideration to be paid to him or her.
  - Any person who is a signatory or guarantor of construction financing documents, permanent financing documents, and/or equity syndication documents.
  - Has been a member of another applicant's Development Team in the last five (5) years.
  - This limit will also apply to any person or entity that is related to any person or entity specified above.
  - Any person who is a signatory or guarantor of construction financing documents, permanent financing documents, and/or equity syndication documents.
  - This limit will also apply to any person or entity that is related to any person or entity specified above.
  - Addresses for all Developer and Ownership entities listed in all applications must be clear and consistent both within applications and across all applications of related parties in the same Tax Credit Cycle. Applicants must use only addresses which are accepted by the United States Postal Service, and addresses must be clearly written and clearly match other uses of a given address both within a given application and within other applications by related parties.
  - Any attempt by an Applicant or Party to use variations of the same address in order to obfuscate or disguise related parties may result in immediate disqualification of all applications involving that Applicant or Party
  - All members of the development/ownership entities must be listed on the Mississippi Secretary of State's website. Future Developer Experience credit will not be given for Development and/or Management Experience if the members are not listed.
- b. **Identity of Interest Disclosure and Certification Form Required.** Identity of Interest must be disclosed by the completion of an Identity of Interest Disclosure and Certification Form.
- c. **Non-Exclusive Examples.** Common Identities of Interest include Identities of Interest between the Buyer and Seller of Property, and between the Owner/Applicant, Developer, and General Contractor. Where there is an Identity of Interest between the Buyer and Seller of Property, the sale must be an arms-length transaction with acquisition costs supported by a certified appraisal. Where there is an identity of interest between the Developer and General Contractor, total profit cannot exceed the maximum Developer Profit and General Contractor Profit combined. Where there is an Identity of Interest between the Owner/Applicant and any other party, the combined tax credit allocation to those parties linked by the Identity of Interest cannot exceed the maximum Tax Credit Award per Developer or Related Party. The sum of the combined awards to the parties which have an Identity of Interest will be used to calculate limitations. The previous examples are provided solely as examples. Identities of Interest may occur in a variety of ways, and it is the responsibility of all parties to fully disclose Identities of Interest.
- d. **Penalties.** Parties who fail to fully and accurately disclose all Identities of Interest are subject to disqualification of all submitted applications in the current year and suspension from future participation in MHC's Housing Tax Credit Program for a minimum of one year in addition to applicable state and federal criminal charges.



- e. MHC reserves the right to request additional documentation regarding Identity of Interest. All decisions regarding Identity of Interest are in the sole discretion of MHC.

## 1.8 Administrative Guidelines

1. **IRS and State Regulation/Compliance.** Owners of tax credit developments are subject to regulations required by the Internal Revenue Service (IRS), as well as Mississippi Home Corporation's Qualified Allocation Plan and Compliance Monitoring Plan.
2. **False Filing.** Any applicant who knowingly includes false information in their application (including, but not limited to, all exhibits, addendums and attachments thereto and including any materials filed at a later time with MHC in connection with any application) to MHC for an award of tax credits shall be subject to Mississippi Code§ 97-7-10 which reads in relevant part:

*Whoever, with intent to defraud the state or any ... subdivision of state ... government, knowingly and willfully falsifies, conceals or covers up by trick, scheme or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall, upon conviction, be punished by a fine of not more than Ten Thousand Dollars (\$10,000.00) or by imprisonment for not more than five (5) years, or by both such fine and imprisonment.*

Any such act may also result in the barring of the Applicant and Development Team members (as defined in Section 1.2(4)) from future awards of tax credits from MHC.

3. **Revised Allocations.** MHC reserves the right to make and revise allocations in its inherent discretion and in accordance with published federal regulations and the QAP.
4. **Verification of Information.** MHC reserves the right to verify all information submitted in the tax credit application package.
5. **Interpretation.** MHC's staff interpretation of the documentation submitted with the application is final. MHC may request clarification with or without it having an impact on the application scoring or eligibility for an award of credits.
6. **QAP Amendments.** MHC reserves the right to amend the QAP from time to time or to implement new features or provisions of Section 42. Such amendment(s) are expressly permitted and the making of such amendment(s) will require MHC notification.
7. **Public Records Requests** - All applications are subject to disclosure under the Mississippi Public Records Act of 1983 (Miss. Code Ann Section 25-61-1 et seq.) and the MHC Public Records Policy. As part of the application submission, applicants acknowledge that the applications are subject to disclosure upon request. Applicants seeking to claim a statutory exemption to such disclosure must note on each application page deemed confidential that the page is "CONFIDENTIAL."

Upon receiving a Public Records Request requesting any or all of an application, MHC will notify the applicant of the request. MHC will release all parts of the application requested that are not marked "CONFIDENTIAL" in accordance with this Section and its Public Records Policy. Applicants will be given the opportunity to obtain a Protective Order from the appropriate court for that information marked

CONFIDENTIAL. If Applicant does not request a Protective Order within Seven (7) days of receiving notice of the request, the information will be released. The burden is solely on the applicant to take such actions as it deems necessary and appropriate to obtain a Protective Order. Further, by submitting an application, the applicant is agreeing to indemnify MHC for any claims arising or related to MHC's disclosure or non-disclosure of materials submitted to MHC related to an application.

8. **Revocation of Eligibility.** MHC may (at its sole discretion) deny or revoke a notice of eligibility for reservation/carryover allocation for tax credits if any of the following occurs:
- Information submitted in the application to MHC is determined to be fraudulent.
  - Failure to pay fees, including late fees, described in Section 2.
  - Failure by an Applicant or Owner to promptly notify MHC of any material or adverse changes from the original application.
  - Material changes without written approval of MHC.
  - Change in the unit design, square footage, unit mix, number of units, and number of buildings described in an application without the written approval of MHC.
  - Failure to comply with federal or state Fair Housing laws.
  - Failure to meet, or falsification of ability to meet, timelines established by MHC for the cycle in which credits were awarded or as noticed by MHC to recipients through MHC's normal notification procedures.
  - Other cause demonstrating the failure of the Applicant or the Development to be qualified or meet the requirements of federal or state law or the requirements of the applicable Housing Tax Credit program.

## SECTION 2: IMPORTANT DATES & FEES

Chart 2: Important Dates

EVENT	DEADLINE DATE
Technical Assistance Period Opens	January 4, 2021
Request for Compliance Verification Deadline (Mandatory)	January 5, 2021
Waiver Requests / Prior Approval Deadline	February 5, 2021
MHC's Written Response to Waiver Requests	February 19, 2021
Evidence of Compliance with Community Notification due to MHC	March 12, 2021
Technical Assistance Period Closes	March 18, 2021
Application Cycle Opens	March 22, 2021
Application Cycle Closes	March 26, 2021

### 2.1 Application Period

- Applicants may apply for the competitive 9% Tax Credit Cycle only during the application cycle dates established in Chart 2 above. Tax Exempt Bond (4%) financed developments may only submit applications prior to and after the 9% Tax Credit Cycle.

- NOTE: Waiver requests for 4% applications must be submitted at least thirty (30) days prior to submitting the application online. Evidence of Community Notification to MHC must be submitted ten (10) business days prior to submitting the application online.

A complete application package must be submitted to MHC no later than 4:00 p.m. Central Standard Time by the last day of the application period to be considered for an allocation. Late applications will not be accepted.

## 2.2 Technical Assistance Period

MHC's Technical Assistance period will open and close on the specified dates listed in Chart 2 above. During this time, Applicants may contact the Allocation Staff regarding the QAP application and/or its process. **All inquiries must be submitted in writing and emailed to [taxcredits@mshc.com](mailto:taxcredits@mshc.com).** Applicants may not submit questions to staff's individual email address. Upon the end of the Technical Assistance period, MHC will then implement its "Quiet Period." During the Quiet Period, Applicants or their representatives shall not contact: Allocation Staff, MHC Senior Management, MHC Board Members, any Local, State or Federal elected or appointed official, any agent of MHC (including MHC General Counsel) or any MHC staff person regarding any active application or appeal. The Quiet Period will end upon the issuance of the tax credit reservations. A violation of the Quiet Period shall result in the disqualification of each of the Applicant's pending applications and may result in the Applicant's suspension for a period to be determined by the MHC Board of Directors.

## 2.3 Fees

All fees must be in the form of a certified check payable to the Mississippi Home Corporation. Forms 8609 will not be issued to any development controlled by an applicant that has any outstanding tax credit fees.

**Chart 3: Fees**

TYPE OF FEE		AMOUNT OF FEE
Application Fee		\$1,500 (9% competitive round) \$3,500 (Tax Exempt Bond; Due at Bond Inducement)
Servicing Fees	Reservation	50% of Servicing Fee
	Commitment	50% of Servicing Fee
	Sec 42(m) Determination Letter	100% of Servicing Fee (for 4% Tax-Exempt Bond projects)
Late/Non-Response Fees		\$100 per day for the first five (5) days \$250 per day for days six (6) thru fifteen (15) \$500 per day for days sixteen (16) thru thirty (30)
50% Completion Penalty Fee		1.25% of the first 5 years credit allocation
Signage Penalty Fee		\$50.00 per day for each day that proper signage is not in place (see Section 7.5)
Subsequent Site Visit Fee		\$250 per visit will be assessed for each subsequent visit after an unsatisfactory initial inspection
8609 Reprocessing Fee		Minimum \$25 fee for up to ten (10) Forms 8609 and \$1.50 for each additional form if owners fail to report any discrepancies within seven (7) business days.
HUD Subsidy Layering Review		\$1,250 per development

- Application Fee.** The application fee under the competitive 9% cycle is \$1,500 and is due at the time of the application submission. The application fee (certified check payable to MHC) must be delivered to MHC no later than the close of the application cycle date established in Chart 2 above. Failure to submit the application fee by the deadline will disqualify the application. Regardless of the funding decision, all application fees are non-refundable.

The application fee for Tax-Exempt Bond financed developments is \$3,500 and is due at the time of Bond Inducement. Please note that incomplete Tax-Exempt Bond applications will be returned to the applicant and the appropriate application fee must be repaid to resubmit application.

2. **Servicing Fee.** A Servicing Fee of 2.75% of the total credit over the ten (10) year period will be assessed to each development that receives a reservation of tax credits (also applies to 4% Tax-Exempt Bond projects). The Servicing Fee consists of Allocation Fees (2%) and Compliance Monitoring Fees (.75%). Fifty percent (50%) of the Servicing Fee will be due at the time of Reservation and the other fifty percent (50%) will be due at the time of Commitment. For 4% Tax-Exempt Bond projects, one hundred percent (100%) of the Servicing Fee is due at the time of Section 42(m) Determination Letter.
3. **Refunding of Servicing Fee.** Refunds are limited to 75% of the total servicing fee and will only be allowed if the tax credits are returned to MHC within six (6) months of the reservation date.
4. **Late/Non-Response Fees.** MHC will assess a late fee as outlined in Chart 3 above for missed deadline dates (e.g. quarterly status reports, reservation deadlines, commitment deadlines, carryover deadlines, etc.) and for not responding to requests made by MHC. All late fees are non-refundable.
5. **15-Month (50% Certification) Late Fee.** Developments that fail to meet the 50% Certification deadline will be assessed a late fee of 1.25% of the first five years' allocation of credit. See Section 7.7(3).

## SECTION 3: SET-ASIDES

MHC will allocate Tax Credits first to the highest-scoring Applications meeting all eligibility, threshold, and underwriting requirements in the order of the Set-Aside categories listed below. Applicants may apply in only one Set-Aside. Applicants not selected in a Set-Aside category will be evaluated with other applications for the remaining available Tax Credits.

Applications for large rehabilitation developments with a minimum of sixty (60) units in the Non-Profit or Rehabilitation Set-Asides will be limited to one million, five hundred thousand dollars (\$1,500,000) in first year credits.

### 3.1 Non-Profit Set-Aside

IRC §42(h)(5) requires that a minimum of ten percent (10%) of the annual credit ceiling be set-aside for qualified non-profit entities. MHC will award credits under this set-aside to developments according to prevailing score. However, if these awards do not satisfy the minimum 10% non-profit requirement, then other eligible non-profit developments that could not be funded under this set-aside will receive priority on the general pool ranking to ensure the minimum 10% funding requirement is met. To be eligible, Non-Profits must meet the requirements outlined in Section 1.5(6). Nonprofit entities are not required to submit applications in the Non-profit Set-Aside.

NOTE: Rehabilitation applications applying in this Set-Aside which propose fewer than sixty units will be limited to \$750,000 in first year credits, but applications which propose sixty (60) or more units will be limited to \$1,500,000 in first year credits.

### 3.2 Smaller Credit Amount Set-Aside

MHC will set aside 25% of its Annual Credit Authority (ACA) for smaller developments. Each development filing under this set-aside will be limited to two hundred seventy-five thousand dollars (\$275,000) in first year credits.

All new construction developments must meet the minimum 24-unit requirement. Request for waivers as outlined in Section 1.2(2) will not be allowed for new construction developments competing under this set-aside. Multiphase developments are not eligible to compete in this set-aside.

### 3.3 Rehabilitation Set-Aside

MHC will set aside 65% of the remaining Annual Credit Authority (ACA) after satisfying the Non-Profit and Smaller Credit Set-Asides to fund rehabilitation developments. Each development filing under this set-aside will be limited to seven hundred fifty thousand dollars (\$750,000) in first year credits.

NOTE: Rehabilitation applications applying in this Set-Aside which propose fewer than sixty units will be limited to \$750,000 in first year credits, but applications which propose sixty (60) or more units will be limited to \$1,500,000 in first year credits.

### 3.4 New Construction Set-Aside

MHC will set aside 35% of the remaining Annual Credit Authority (ACA) after satisfying the Non-Profit and Smaller Credit Set-Asides to fund new construction developments. Each development filing under this set-aside will be limited to seven hundred fifty thousand dollars (\$750,000) in first year credits.

The remainder of the ACA credits, after the other set-asides above, will be utilized for developments in the Rehabilitation and New Construction Set-Asides. MHC reserves the right to fund no more than 65% of a specific development-type (single family or multi-family). In the event an eligible tax credit award causes a specific development category to exceed the 65% threshold, MHC may fund the development so long as no more than 50% of the award exceeds the 65% threshold for the particular development type.

Example: 65% of the credit amount is \$1,000,000. MHC has funded multi-family development in the amount of \$900,000. The next eligible award requires \$300,000. 50% of that award would be \$150,000. This exceeds the 65% threshold by \$50,000 so the development would not be funded. In this example only an eligible development of \$200,000 or less could be funded.

## SECTION 4: THRESHOLD FACTORS

Each development must meet all of the Threshold Factors listed below in order to be eligible for consideration of a tax credit award. MHC will issue notification letters for any deficiencies or clarifications that need to be cleared in order to satisfy the threshold requirements. Two points will be deducted from an applicant's score for each deficient threshold item. No points will be deducted for items requiring clarifications only. Applicants that fail to satisfy all of the requirements within the timeframe of the notification letter will be disqualified (*see Section 6.3(6) and (7)*).

### 4.1 Community Notification

All applicants must notify the public in the community in which they are planning to develop or rehabilitate a housing tax credit development. Written notification must be provided to the local government and proper signage must be posted at the proposed site. A written compilation of any comments received from the public notification that includes the developer's response must be submitted with the application. In addition, the developer must provide a statement as to how the concern(s), if any, will be addressed if tax credits are awarded to the development.

#### 1. Notice to Local Government

The applicant is required to notify the Chief Executive Officer (Mayor or President of the Board of Supervisors) and Elected Representative (councilperson, alderman and/or local supervisor) for the district

in which the proposed development will be located, of its intent to apply for housing tax credits. The applicant must provide a properly executed Local Government Notification Form (Form TR-1).

In the event that an executed form cannot be obtained, the applicant must provide evidence of the notification by documentation of certified mailing receipts. The certified mailing receipt must be postmarked at least ten business days prior to the application cycle opening date. Failure to meet the postmarked deadline will result in a two-point deduction in the application score. If an Applicant does not provide any evidence of notification to the local government, then the application will be disqualified.

## **2. Notice to the Community**

**Newspaper Notification Requirements.** Applicants must publish notice of its intent to submit a housing tax credit application to MHC. The notice must be published at least ten (10) business days prior to the application cycle opening date.

In addition, the notice must:

- be published in the legal section of the local or regional newspaper having general circulation in the development area
- include the name of the proposed development;
- include the type of development (new construction or acquisition/rehabilitation);
- specifically state that the Applicant will be applying to the Mississippi Home Corporation for housing tax credits in its current year Application Cycle;
- include contact information (proposed owner's name, contact person, phone number, and email address) for the public to submit questions/comments

**Signage Requirements.** Applicants must post signage at the proposed site giving notice that a tax credit application will be submitted to MHC. The signage must be posted at least ten business days prior to the application cycle opening date and shall remain in place until the development is placed in service, if awarded.

In addition, the signage must:

- include the name of the proposed development;
- include the type of development (new construction or acquisition/rehabilitation);
- specifically state that the Applicant will be applying to the Mississippi Home Corporation for housing tax credits in its 2019 (or 2020, as applicable) Application Cycle;
- provide contact information (proposed owner's name, contact person, phone number, and email address) for the public to submit questions/comments;
- be of professional quality;
- be a minimum size of 36" x 36";
- be fully legible from the street;
- be posted near the property entrance or the property line facing the main thoroughfare.

MHC may, at its discretion and without notification to the Applicant, conduct a site inspection to verify that the signage is in place.

## **3. MHC Notification**

All applicants must submit evidence of compliance of the Community Notification requirements to MHC via email to [taxcredits@mshc.com](mailto:taxcredits@mshc.com) no later than ten (10) business days prior to the application cycle opening date. Late submissions of Community Notification will be considered a Threshold Deficiency resulting in a two (2) point deduction.

The notification to MHC must include the following:

- a. Local Government Notification Form (TR-1);
- b. Proof of Publication of the Notice of Intent to Apply for Housing Tax Credits
- c. A copy of the notice published in the legal section of the local newspaper
- d. Affidavit of Compliance with Community Notification (TR-2);
- e. Two photos of the signage: one close up shot clearly showing all the information on the sign and the other from a distance showing the location of the sign in reference to the property

## 4.2 Site Control

Applicants must provide evidence that it has, and will maintain from the start of the application review process until the land is acquired, direct site control. The entity having control of the proposed site must be the same entity listed as the applicant in the application. The seller/lessor/optionee must be identifiable in the purchase, lease or option agreement and must be listed in the application. Also, site control documentation must clearly identify the physical location of the property (i.e. property address, full legal description or plat map identifying street names) and be consistent with the physical location identified on the application form. Any addendum/exhibit referenced on a contract must be included in the application or points will be deducted. Acceptable documentation may be any of the following:

1. **Fee Simple Ownership.** Fee simple ownership of the proposed development site evidenced by the warranty deed. The owner of the property must be in the application.
2. **Lease.** Lease of the proposed site development for a term meeting or exceeding the 30-year compliance period or for such longer period as the applicant represents in the application that the development will be held for occupancy by low income persons and families. MHC shall approve all lease hold documents and the fundamental structure thereof. The developer must, at a minimum, make monthly, quarterly, bi-annual or annual payments under the lease.
3. **Option/Contract.** Right to acquire or lease the proposed site development by a valid and binding option or contract and the fee simple owner of the site, provided that such option or contract shall have no conditions within the discretion or control of the owner of the site. The option must be good for a total of one hundred eighty (180) days from the last day of the application cycle.
4. **Transfer of Physical Assets.** For acquisition and rehabilitation properties that are federally assisted and require a Transfer of Physical Assets (TPA) approval, documentation showing that a transfer request has been submitted must accompany the application in order to have a valid option/purchase contract. Applicant must provide a letter evidencing pending TPA approval from Rural Development (RD) or the local Housing and Urban Development's (HUD) state field office. The only allowable condition to obtaining such transfer approval will be that of obtaining housing tax credits.
5. **RD Transfers.** For RD transfer properties, loan transfers/assumptions shall be evidenced by approval on Form RD 3560-1 (Rev. 02/05), "Application for Partial Release, Subordination or Consent" executed by the State Director or the Multi-Family Housing Program Director or their designee as evidence of final approval.

## 4.3 Local Zoning and Development Conditions

The proposed development must be properly zoned for its intended use. Documentation must be provided from the local governing authority where the proposed development will be located. The documentation must be dated within one (1) year of the application submission date and must include the development's name, physical location (i.e. street address or nearest intersection), intended use, zoning code and description of what the zoning allows. All information must be consistent with the development information provided on the application form.

In the event that zoning and permitting requirements are not applicable to the proposed site, then the Applicant must provide (a) a letter from the local authority stating that zoning is not required and (b) a letter from the utility

providers verifying the availability of all requisite public utilities for the proposed development.

#### 4.4 Market Study

All applications must contain an independent third party market study. The market study must be current (no more than one year old from the date of the application). The Market Study must support the number of units identified in the application and provide consideration as to the total number of units the market will absorb should other developments be awarded tax credits in the same market area. All applications must also contain a statement of acceptance from the participating syndicator (*See Attachment 8*). In the event a development's syndicator changes from the initial application, then a new statement of acceptance will be required from the subsequent syndicator.

The market study must include the following items:

- Location of the development (must include GPS coordinates and/or parcel numbers that identifies it as the site in the site control documentation)
- Problem Definition
- Market Area Definition
- Physical/Location Analysis
- Economic Analysis
- Demographic Analysis
- Supply Analysis
- Demand Analysis
- Reconciliation of Supply and Demand
- Identify all housing tax credit developments approved within the previous five years of the study available on MHC's website at [www.mshomecorp.com](http://www.mshomecorp.com) and those currently under construction in the market area, and describe those developments' rent levels and lease up experiences.
- Include information in the HTC Forecast section which identifies the need for particular specialized housing (elderly, disabled, and veterans). The market study must define the unmet demand count for these targeted populations.

Please refer to the Market Study Guide (Addendum F) for an explanation of the above-referenced items and the checklist that will be used to determine if the minimum standards have been met.

The Market Studies will be analyzed by third party market analysts to determine market area need for units, both existing and proposed. MHC will make allocations within the market area limited to the determined market need. Additionally, MHC will fund only one (1) development in each primary market area, as defined by the Market Study, if at least one development has been funded within the previous two (2) years.

Additionally, Applicants are encouraged to visit the Resource sections of the National Council of Affordable Housing Market Analysts' (NCAHMA's) website <https://www.housingonline.com/resources/> for additional information on their Model Content Standards for Market Studies, Dictionary of Market Study Terminology, and Market Study Index.

#### 4.5 Development Financing

The Applicant must demonstrate sufficient funding sources for the completion of the proposed development. Documentation must be provided for all sources listed in the application. All financing documentation must identify the Proposed Ownership Entity and the Proposed Development Address. If the permanent financing will not be provided by a federally regulated financial institution, supporting documentation verifying that the entity has sufficient funds must be included with the application package. In addition, the application must include copies of the proposed budgets and cash flow statements acknowledged by the permanent lender and syndicator/investor.



1. **Banks and other Lending Institutions.** A Letter of Interest or Intent from the financial institution providing the Permanent Financing loan must be provided in the application. The letter must include a term sheet for each loan type (including but not limited to permanent loans, construction loans, bridge loans, etc.) that identifies the loan amount, interest rate, amortization period, term of the loan, loan to value factor, minimum debt service coverage allowable, loans and commitment and origination fees. If the permanent financing will not be provided by a federally regulated financial institution, supporting documentation verifying that the entity has sufficient funds must be included with the application package. A firm Commitment Letter will be required to be submitted with the Reservation Package. See Section 7.1(5).
2. **Rural Development**
  - a. **New Construction:** A copy of the loan commitment for interim financing. The application must include the Obligation of Funds Analysis Form along with a cover letter from the Multifamily Program Director which confirms the amount of the loan and states that the funds are currently available and defines the term of the loan. This letter must be submitted with the application package and dated within the current calendar year.
  - b. **Transfers/Assumptions:** RD loan transfers/assumptions, permanent financing shall be evidenced by approval on Form RD 3560-1 (Rev. 02/05), "Application for Partial Release, Subordination or Consent" executed by the State Director or Multi-Family Housing Program Director or their designee as evidence of final approval. Additionally, a cover letter from the Multifamily Program Director which confirms the amount of the loan and that the funds are currently available must be submitted and dated within the current calendar year.
3. **HUD Financed Developments.** For HUD financed properties involving a Transfer of Physical Assets (TPA), the application must contain written correspondence from the local agency's state field office which confirms that a transfer package has been submitted and pending approval. The only allowable condition to obtaining such transfer approval will be obtaining housing tax credits. Additionally, MHC will require a HUD Lender approval letter evidencing timely completion of property transfer.
4. **Public Housing Authority Financing.** Developments that utilize a Public Housing Authority for any portion of their development financing (construction or permanent) shall include a detailed description of the source of funds and its relation to the Applicant. Additionally, the Applicant shall include an amortization schedule documenting actual (annual/semiannual) interest (and/or) principal payments. The amortization schedule must be acknowledged and approved by the syndicator/investor.
5. **Historic Tax Credits.** A letter from Mississippi Department of Archives and History (MDAH) which confirms their preliminary eligibility for historic tax credits. If the development receives an award of housing tax credits, the owner must submit copies of Parts 1 and 2 of the Historic Preservation Certification Application to MHC within ninety (90) days of the reservation letter date.
6. **Syndicator Proceeds.** A Letter of Interest or Intent from the Tax Credit syndicator proposing the terms and pricing of purchase of tax credits allocated to the development must be included in the application. (See *Attachment 10: Sample Letter of Intent to Provide Equity*). The letter must disclose the anticipated tax credit sales price as listed by the applicant on the tax credit application form. Applicants are not prohibited from changing syndicators; however, a new letter of intent from the subsequent syndicator must be provided to MHC in the event of a change from the initial application.
7. **Owner Equity/Loans and Deferred Developer Fee.** All applicants representing that they shall be contributing equity beyond that generated by the tax credit shall disclose the amount, the source and all terms. Applicants "coming out-of-pocket" to fill a funding gap shall provide supporting documentation (i.e. bank statements) and a letter from an independent CPA that certifies that the applicant has the amount of cash that is needed to fill the funding gap. If the developer fee is deferred, applicants must specify the

amount and repayment requirements. In addition, applicants must meet the requirements of deferred developer fees as outlined in Section 5.8(1).

8. **Other Sources of Financing.** Applicants that anticipate receiving an award of other funding sources, such as HOME or Federal Home Loan Bank funds, must provide evidence that they have applied for such funding, including acknowledgement from the funding entity that the application has been received and of the amount requested. All federal grants will be reduced from eligible basis.

Evidence of the award of any of these Additional Sources of Funding must be provided to MHC no later than the due date set out in the reservation package.

## SECTION 5: UNDERWRITING CRITERIA

### 5.1 Financial Evaluation Analysis

The Internal Revenue Code (the "Code") precludes state allocating agencies from allocating credits to a development in any amount beyond that required for the financial feasibility of the development and its viability as a qualified affordable housing development throughout the compliance period.

To determine the level of allocable credits, MHC will perform a financial analysis on each application, utilizing the following factors:

- Development costs, including developer fees;
- Sources and uses of funds;
- Development income and expenses; and
- Development syndication proceeds.

The Code further requires priority be given to developments for which the highest percentage of housing credit dollar amount is to be used for development costs other than the cost of intermediaries, unless granting such priority would impede the development of developments in "hard-to-develop" areas which have been designated by the United States Department of Housing and Urban Development ("HUD").

Intermediary costs include, but are not limited to; developer fees, syndication fees, attorney fees, design professional fees, consultant fees, and organizational costs. The Act requires the allocating agency to evaluate intermediary costs at the time of evaluation. MHC will satisfy this statutory requirement by implementing a forty percent (40%) ceiling on the total percentage of intermediary costs as they relate to the total development cost of the development. If the total percentage of intermediary costs exceeds forty percent (40%), MHC will reduce the credit amount proportionally.

Based on its financial analysis, MHC will estimate the amount of tax credits it will reserve for each application. Should the development be approved for an allocation, the MHC will advise the applicant in writing of the reservation and identify whatever additional criteria the development must satisfy in order to receive an allocation of tax credits.

In accordance with the Code, MHC gives preference in allocating the amount of tax credits among eligible developments to those developments (i) serving the lowest income tenants and (ii) obligated to serve qualified tenants for the longest period. MHC will conduct its financial analysis in accordance with these statutory requirements.

The Code requires a second financial analysis to be conducted at the time credits are allocated to each development and a third financial analysis at the time the development is placed in service.

## 5.2 Determining Tax Credit Amount

1. **Calculation of Credits.** MHC will estimate the credit amount needed by using two calculation methods. The amount of credits reserved will be based on the smallest of the amounts resulting from these calculations. This determination is made solely at MHC's discretion and is not a representation of the feasibility or viability of the development. MHC reserves the right to award less than the amount produced by the two calculation methods.

- a. Gap Calculation

- Total uses of funds minus total sources (excluding equity from the sale of tax credits) of funds equals the Gap (equity needed from tax credits)
- Gap divided by the anticipated tax credit sales price divided by ten (10) years divided by the Investor Percentage equals the annual credit amount

- b. Qualified Basis Calculation

- Eligible basis multiplied by the applicable fraction (*the lesser of percentage of floor space allocable to the low income units or the percentage of the low income units out of total rental units in the development*) equals the Qualified Basis
- Qualified basis multiplied by applicable percentage rate equals the annual credit amount

2. **Factors**

- a. Applicable Percentage Rate (APR)

MHC will use a 9% (*new construction and rehabilitation*) and 4% (*acquisition and tax exempt bonds*) Applicable Percentage Rate (APR) when underwriting the initial application. Pursuant to IRC §42(b) (1) (ii), the APR may be locked in the month in which the building(s) are placed in service or the month in which the commitment is issued. To find the current APR, please visit the following web page: [http://www.novoco.com/low\\_income\\_housing/facts\\_figures/index.php](http://www.novoco.com/low_income_housing/facts_figures/index.php)

- b. Eligible Basis

The following will automatically be excluded from eligible basis: Land Costs, Syndication Costs, Tax Credit fees, Reserves, Appraisal fees, Tenant Relocation Fees and Permanent Financing Fees.

- c. **Anticipated Tax Credit Sales Price**  
MHC will conduct its initial financial feasibility review utilizing the anticipated tax credit sales price as disclosed in the letter of intent provided by the syndicator.
- d. **Native American Housing Assistance and Self-Determination Act (NAHASDA)**  
The Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA) assistance is not taken into account in determining whether a building is federally subsidized for purposes of tax credits. Such buildings may qualify for up to nine percent (9%) credits provided that deeper targeting rules consistent with special targeting for HOME financed developments are followed.

### 5.3 Basis Boost Determination

IRC §42(d) (5) (B) allows for a thirty percent (30%) basis boost for developments located in a qualified census tract or difficult development area. The basis boost will apply to the eligible basis of new buildings and the rehabilitation expenditures of existing buildings. The determination of eligibility of QCT/DDA is made at the time of application. Subsequent changes in federal regulations of QCTs/DDAs after the application is approved will not affect the development.

1. **Qualified Census Tracts (QCT).** QCTs are areas designated by HUD where fifty percent (50%) or more of the households have an income of less than sixty percent (60%) of the area median income (*see Addendum D*). Developments located in a QCT will automatically qualify for the basis boost.
2. **Difficult Development Areas (DDA).** DDAs are counties designated by HUD as areas experiencing high construction, land, and utility costs relative to the area median gross income (*see Addendum D*). DDAs are subject to change annually. Developments located in a HUD Designated DDA will automatically qualify for the basis boost.
3. **State's Discretionary Basis Boost.** Under the Housing and Economic Recovery Act of 2008 (HERA), state housing agencies were given the authority to award the 30% boost to developments outside of a HUD designated QCT/DDA, if the state determines that the boost is necessary in order to make the development financially feasible. Pursuant to HERA, Tax Exempt Bond financed developments are excluded from this provision.

Developments are not automatically qualified for the State's Discretionary Basis Boost. For consideration, Applicants must submit a written request for prior approval to MHC by the deadline date specified in Section 2 of the QAP.

MHC has adopted the following criteria in which it will designate the discretionary basis boost:

- a. **Special Needs**  
MHC will designate a development as eligible for a State Discretionary Basis Boost designation if it targets special needs populations. Special Needs developments are limited to developments that target: Elderly (*as defined in Addendum A, item #12*),
- b. **Homeless (*as defined by HUD 42 U.S.Code §11302*),**  
Housing for Disabled Persons Targeted by Mississippi Affirmative Olmstead Initiative (*must meet the requirements outlined in Addendum A, item #12*), and
- c. **Veterans (*as defined in Addendum A, item #12*).**  
Developments must set aside a minimum of ten percent (10%) of its units for one of the special needs category. In addition, Applicants must provide written certification specifying which of

these designations they will serve and a marketing plan that identifies how the development will market to the targeted population.

- d. **Historic Preservation**  
MHC will designate a development that receives Historic Tax Credits as eligible for a State Discretionary Basis Boost. Evidence of the award must be submitted with the application.
- e. **Qualified Zip Code**  
Developments that meet the requirements of the Qualified Zip Code (scoring item #2) are eligible to receive the State's Discretionary Basis Boost.
- f. **High Opportunity Areas**  
Developments located in areas identified as High Opportunity Areas are eligible for the State Discretionary Basis Boost.

## 5.4 Minimum Reserve Requirements

1. **Replacement Reserves.** Replacement reserves are required for all tax credit applications. Contributions must be made to a reserve account. Reserves must be funded for the term of the loan of the senior lender. Additionally, the owner (at the end of the first year of the credit period and annually thereafter), must show evidence that Operating and Replacement reserve accounts have been established and funded in accordance with the guidelines of this Plan and of the Compliance Monitoring Plan. The following minimum reserves are required for all HTC units in the development, including staff units:

Rehabilitation (\$300 per unit)

New Construction-Elderly (\$250 per unit)

New Construction-Family (\$300 per unit)

Replacement reserves should be used only for capital improvements and system replacements and not used for general maintenance expenses. Capital improvements means improvements to the real estate, such as re-roofing, structural repairs, or major costs to replace or upgrade existing furnishings, but not including replacement of individual appliances or minor repairs. The cost of these capital improvements and system replacements should exceed \$5,000 for developments with 24 units or less and exceed \$10,000 for developments above 24 units. Replacement reserves must be shown on the pro forma and increase at a rate of four percent (4%) per year.

A development will not be considered financially feasible if the minimum replacement reserves are not satisfied.

2. **Operating Reserves.** Operating reserves must be six months of the development's first year's operating expenses. Calculations of operating reserves include replacement reserves. Operating reserves must be listed as a cost item on the application form. Additionally, the operating reserves must be listed as a line item on the cost certification submitted with the 8609 Request package.

Reserves must be maintained (at a minimum) until the 3<sup>rd</sup> year of the tax credit period following issuance of Forms 8609. After the third year, the developer may draw down that account and replace it with a Letter of Credit, approved and agreed to by the syndicator and MHC in writing. The Letter of Credit must be maintained in the full amount of required reserves and kept valid throughout the remainder of the initial 15 year compliance period. In the event operating reserves are utilized for the development within the first three years of operation, with approval of the syndicator and MHC, a letter of credit should be put in place to satisfy the required reserve amount throughout the term.

A development will not be considered financially feasible if the minimum operating reserves are not satisfied.

## 5.5 15-Year Development Pro Forma

1. **Assumptions.** In its financial analysis, MHC will assume a seven percent (7%) vacancy rate, three percent (3%) income, and four percent (4%) expense increases per year.
2. **Cash Flow.** Developments are not financially feasible if there is negative cash flow shown on the Pro Forma for years 1-15.
3. **Debt Service.** A development whose fifteen (15) year average net cash flow exceeds the debt service beyond the acceptable range of 1:1.15 to 1:1.30 must, at the time of reservation, either:
  - a. Obtain a higher permanent mortgage supported by a debt service coverage within the acceptable range, or
  - b. Reduce the rents that would be charged to the tenants.

A development is not considered feasible for tax credits if the average debt service coverage ratio does not fall within the acceptable range. The minimum debt service ratio will be enforced.

*See Attachment FF-5: Debt Service Underwriting Criteria*

## 5.6 Per Unit Costs

In designing the Tax Credit program, Congress granted states the flexibility to respond to their unique and varied affordable housing needs and the responsibility to maximize the credit's use in producing significant number of affordable housing units. To that end, Congress carefully limited the portion of a development, which can be financed by Tax Credits. Congress recognized; however, that the cost of providing low income housing:

- Is frequently highest in areas of greatest need, such as inner city areas; where development is frequently most expensive and difficult;
- May involve construction of facilities to support special services to low-income tenants;
- May sometimes require higher wage rates for such construction than other developments due to state or federal law;
- In developments, which include Tax Credit units, might also include market rate units not financed by the credit.

Congress did not limit either the total amount of Tax Credits which can be allocated to a single development or the total cost of any development, including costs which are ineligible to be financed by the Tax Credit and are financed by other sources. However, Congress does require states administering the Tax Credit Program to give priority to developments which serve the lowest income tenants and which serve tenants for the longest period of time, without regard to the higher amounts of Tax Credits which might be required to finance developments meeting those needs. The cost of producing low income housing, particularly special needs housing and housing located in difficult-to-develop areas, requires states to balance financing the maximum possible number of units which might be produced, if high cost areas and developments were avoided, and targeting Tax Credits to areas and tenants of greatest need, as Congress has required.

In addition to carefully rationing the amount of Tax Credits allocated to eligible developments, as federal law requires, MHC has developed a per unit cost standard and expenses per unit standard based on total development

costs, including those costs which may be substantial, that are part of the development but not eligible for Tax Credit financing and annual operating expenses. These standards and their justification requirements follow.

1. **Determining Maximum Construction Cost (MCC) Per Unit.** In developing the maximum cost per unit standard, MHC has examined building construction and land costs in the state, including variations in such costs within the state. MHC has also examined statistical cost data on completed tax credit developments. MCC per unit limits has been established based on data obtained in previous tax credit applications and the actual construction cost reported for recent tax credit deals. MHC will measure the MCC per unit by these standards. Developments whose construction costs fall below or exceed these limits will be subject to scoring adjustments as follows:

Less than MCC limit per unit	5 points
More than 10% over MCC limit per unit	-5 points

2. **Exceeding MCC Limits.** If the development's estimated hard costs per unit exceed the established limits, then all factors that contributed to the excess per unit cost (e.g. exceptionally high land costs, material costs, and special wage rates) are required to be disclosed and fully explained. Justification for the excess cost must be certified by the development's architect. Excessive land development costs must be certified by an engineer.

- a. Exceeding the MCC Limits by 10% or Less

If the development's hard cost per unit exceeds the MCC limits by ten percent (10%) **or less**, then the Applicant must include justification for the increase within the application package. Prior approval is not required; however, if adequate justification is not submitted with the application, then MHC will underwrite the application using the calculated MCC limits.

- b. Exceeding the MCC Limits by More Than 10%

Applicants are required to obtain prior approval from MHC if the development's hard cost per unit exceeds the MCC limits by **more than** ten percent (10%). The deadline date for submitting prior approval requests is outlined in Section 2 of the QAP. Failure to receive prior approval will disqualify the application from consideration of the increased costs. The request must include the following:

- Detailed supporting documentation from the development's engineer and/or architect.
  - a. Detailed breakdown of specific cost factors which exceed the maximum cost per unit limit
  - b. Information detailing the cost per unit of each contributing factor and the percentage of total increased cost.
  - c. Form FF-2: Maximum Construction Costs (MCC)

Approval will be granted to developments only if the review reveals that the additional costs (i) are justifiable and reasonable under the circumstances, (ii) can be attributed to unique development characteristics (such as being located in a difficult-to-develop area, limited commercial space or tenant services or common areas essential to the character of the development) which are consistent with the housing needs and priorities identified herein, and (iii) are either attributable to costs which Congress has permitted the Tax Credit to finance or, if not, are financed by other means.

MHC will also consider on a "case by case" basis the costs of developments having (i) significant amenities, (ii) significant rehabilitation or construction costs, (iii) significant acquisition and rehabilitation of a historical property, and (iv) having tangibly increased material and/or labor costs.

*See Feasibility Form FF-2: Maximum Construction Costs (MCC) Per Unit Certification*

## 5.7 Administrative Expenses

In developing the maximum administrative expense per unit standard, MHC examined statistical cost data on completed Tax Credit developments to determine the applicable administrative management fees to be charged to a development. This information was used to develop a formula for calculating the maximum administrative expenses per unit.

If an application has administrative expenses in excess of the established limits for an area, all factors that contributed to the excess (e.g., exceptionally high insurance costs, maintenance reserves, replacement reserves, significant amenities and/or services, requirement of security, high real estate taxes and/or insurance, etc.) are required to be disclosed and fully explained within the application by a certified CPA. Acceptance of the excessive expenses will be allowed only if MHC determines that the additional expenses are justifiable and reasonable under the circumstances and can be attributed to unique development requirements which are consistent with the housing needs and priorities identified herein. MHC will consider developments meeting this criterion on a "case by case" basis. MHC shall have the sole authority in determining review of "case by case" developments.

In addition to a maximum expense per unit, MHC will require a minimum expense per unit of \$2,700. If a development fails to meet the minimum expense per unit, the development will not be considered financially feasible for an allocation of tax credits. The minimum expense per unit must be maintained throughout the compliance period.

*See Feasibility Form FF-3: Maximum Administrative Expenses (MAE) Per Unit Certification*

## 5.8 Limits on Fees

1. **Developer Fees.** MHC will allow a base fee of fifteen percent (15%) of the development's construction costs, including builder's profit, for developer's fees which includes developer's overhead and consultant fees. This base fee may be increased dependent upon a development meeting the criteria below. For developments which qualify for acquisition credits, MHC will permit a flat developer fee of ten percent (10%) on the development's allowable acquisition cost.
  - Development size - The smaller the development size, the higher the fee would be as a percentage of development costs.
  - Development characteristics - Certain developments may be allowed higher developer fees as an incentive to produce hard-to-develop or socially desirable developments, such as homeless housing, single room occupancy housing, and scattered site developments.
  - Development location - Higher developer fees may be allowed for developments developed in difficult-to-develop areas.

The developer's fee is intended to compensate for staff time, entrepreneurial effort and risk involved in the development; including any and all payments or fees paid to the developer, overhead expense, and profit. In reviewing applications for financial feasibility, MHC does not anticipate allowing developer fees to exceed that percentage and must, in any event, give priority to those developments minimizing costs.

A developer may defer a portion of their developer's fee in an effort to satisfy an additional equity requirement. If a developer elects to defer any portion of the developer's fee, a Developer's Note outlining the terms and conditions of the deferred portion must accompany the application. Prior to receiving Forms 8609, MHC must receive a revised Developer's Note, along with a statement of authorization from the participating syndicator indicating that the deferred portion is acceptable and allowable in eligible basis.



*See Attachment FF-4: Maximum Developer Profit Percentage (MDPP) Certification*

2. **Consultant Fees.** MHC has determined that there is no uniform definition or treatment of “consultant fee” among the State Allocating Agencies. Additionally, there is evidence that the total amount of consultant fees is particularly high in developments with nonprofit sponsors and developers, leading to higher per unit costs for those developments.

MHC has determined that for allocation purposes the definition of consultant fees include the following:

- Those professional fees (such as for architects and engineers), which would be reimbursable through the Tax Credit.
- Excludes costs properly allocated to and payable by the syndicator (such as SEC registration and sales commissions), and
- Any other consultant fees are permitted only within the limits of the developer fee.

MHC makes no distinctions between for-profit and nonprofit developers for the purposes of determining the appropriate level of consultant fees.

3. **General Contractor Fees.** MHC determines the allowable limits on builder or general contractor charges for tax credit developments. These limits are outlined as follows:

1. Builder's profit - six percent (6%) of construction costs;
2. Builder's overhead - two percent (2%) of construction costs; and,
3. General requirements - six percent (6%) of construction costs.

Amounts in excess of the subject limits will be considered excessive. The developer and contractor are limited to one fee earned for builder overhead (2%), general contractor (6%), and builder profit (6%) if no more than twenty-five percent (25%) of construction is sub-contracted to a related party, directly or indirectly.

The Applicant must submit a notarized statement of intent to comply with this requirement and commitment to provide appropriate supporting data with the application.

Prior to issuance of Form(s) 8609, a notarized statement of compliance with the requirement which certifies that adequate test has been performed of the parties to construction to attest to compliance. This certification must include the following IRC Penalties of Perjury statement, “I declare that I have examined this document(s) and accompanying schedules and statements, and to the best of my knowledge and belief, they are true, correct, and complete.”

4. **Other Fees.**

- General Requirements (line item 46 on application page A15) cannot exceed six percent (6%) of the total construction cost.
- Construction Contingency (line item 11 on application page A15) cannot exceed five percent (5%) of new construction costs and ten percent (10%) of rehabilitation costs.
- All "Other Costs" (line item 15 on application page A17) line items must be identified and listed and may not exceed two percent (2%) of the total construction cost.
- Architect fees should be limited to no more than \$1,850 per unit for designing/planning. Additionally, architects performing contract administration fee should be limited to no more than \$500 per unit.

## **SECTION 6: APPLICATION PROCESS**

### **6.1 Request for Waivers**

Applicants requesting a waiver of any QAP provision must submit their request in writing by the deadline date outlined in Section 2 of the QAP. Any waiver request not submitted by the deadline will not be considered. Waivers will need to be requested on an annual basis. Previously approved waivers are not guaranteed in subsequent cycles. In addition, MHC will not accept or consider waiver requests for selection criteria items. MHC will provide responses to all waiver requests at least two weeks prior to the Application Cycle closing date.

Applicants shall submit requests for waivers prior to the application cycle for any of the following:

4. Request to waive the maximum construction costs limits (Section 5.6(2));
5. Request for consideration of the State Designated Discretionary Basis Boost (Section 5.3(3));
6. Request to deviate from the Minimum Design Quality Standards (Addendum B) (Acq/rehab only);
7. Request to waive GPAG 1.2(2) Development Size;

8. Request to waive GPAG 1.5(1) Minimum Financing Requirements (*PHA participants only*);
9. Request for prior approval for Scattered Sites developments (Section 1.5(7));
10. Request for prior approval for developments applying for Blight points.

## 6.2 Application Package

1. **Deadline Date.** Applications for the 9% competitive tax credit cycle are accepted during the application cycle(s) as stated in Section 2.. Applications will only be accepted during the designated dates and time. There will not be any exceptions for late applications. Applications for 4% Tax-Exempt Bond financed developments will be accepted prior to and after the Tax Credit Cycle
2. **Application Submission.** . All applications are considered final at the time they are received. Additional information cannot be submitted unless specifically requested by MHC.
  - a. The online application must be submitted via the web only. All required documents in the Table of Contents (Attachment 1) must be uploaded with the online application. Applicants will not be required to print and submit a hard copy of the online application.
3. **Table of Contents.** All applications must include a Table of Contents (*Attachment 1*).
4. **Application and Supporting Documentation.** The application and supporting documentation (attachments, MHC forms, and Required Documents) must be included in the application package. All documentation must be current year information dated within six (6) months of the cycle close date, unless otherwise noted in the QAP or if the Applicant received prior approval from MHC. Documentation must be clear, concise and to the point as it relates to the QAP item that the documentation is supporting.

All MHC forms and attachments must be submitted in its original format and include original signatures. All documentation submitted with the application must be properly executed. Properly executed means fully completed, signed, dated, and notarized (if applicable) by all required parties. Failure to properly execute the application and required forms/documentation will disqualify the application.

## 6.3 MHC Review Process

All competitive applications will be reviewed for Site Location, Threshold Factors, Selection Criteria, Required Documents and Financial Feasibility, respectively. Tax Exempt Bond financed developments will be reviewed and must score a **minimum of 70 points**. Any application that does not meet the requirements of each component will be disqualified.

1. **Site Location.** Site visits will be conducted for each application submitted. Boundary corners of proposed new construction sites that front on public streets must be clearly marked and remain marked until MHC has made its announcements of funded developments. MHC reserves the right to deny an application due to site location. MHC also has the right to require a buffer for sites that are deemed unacceptable (ex. adjacent to railroad tracks or graveyards). Site acceptability is determined by the MHC.
2. **Threshold Factors.** An application must meet all threshold requirements outlined in Section 4 of the QAP in order to be eligible for a tax credits award. Documentation satisfying the five threshold requirements must be included in the application according to the Table of Contents. MHC will notify Applicants of any deficient item

or any item requiring clarification. Points will be deducted for each deficient item in a competitive application; however, points will not be deducted for items requiring only clarification. See Addendum A for point deductions. Any competitive application that does not meet all the threshold requirements within the timeframe of the notification letter will be disqualified.

3. **Selection Criteria.** MHC will use the Selection Criteria stated in Addendum A to rank developments during the competitive application cycle. These applications must meet the minimum score of eighty-five (85) points to be considered for a reservation of tax credits. Tax Exempt Bonds must meet the minimum score of 70 points to be considered. Points will be awarded or deducted based solely on the information submitted in the application. The application package must include sufficient documentation and required forms to support the points claimed. Applicants will not be allowed to cure a deficient scoring item. Applicants are encouraged to utilize MHC's Technical Assistance for clarification of any scoring item prior to submission of the application. MHC will not consider waiver requests with respect to any scoring item.
4. **Required Documents.** All required documentation listed in Addendum C must be submitted with the application package, as applicable. Points will be deducted for any missing item in a competitive application. See Addendum A for point deductions.
5. **Financial Feasibility.** Each application that successfully meets the Selection Criteria (if applicable) and Threshold Factors requirements will be underwritten using the Underwriting Criteria outlined in Section 5 of the QAP to determine the amount of credits needed to financially stabilize the development.
6. **Clarification Letter.** Upon review of an Application, MHC may, but is under no obligation to, request a clarification of an item containing a discrepancy or incongruity that requires MHC to draw a conclusion as to the response. Any applicant receiving a notice for clarification shall respond with the requested information within the time frame allotted. Failure to respond in such time will result in the item declared a deficiency with the appropriate point deduction. The determination of what constitutes a clarification shall be in the sole discretion of MHC.
7. **Deficiency Letter.** MHC will notify an applicant of any deficiency in Threshold Factors, Required Documents, and/or Financial Feasibility. Applicants will have the opportunity to correct and return a deficient item to MHC within the time frame specified in the notice of deficiency. Points will be deducted from the Applicant's score for each deficient item in a competitive application.
8. **Cure Period.** Applicants receiving a Clarification Letter or Deficiency Letter may supply missing or incomplete items and/or may clarify any inconsistencies related to the specific items during a cure period which shall begin on the date of the Cure Notice and shall end at 2:00 pm Central Standard Time on the date specified in the Cure Notice. The Cure Notice shall specify the means and methods by which identified issues may be remedied.
9. **Selection Process.** Competitive applications that have met all of the requirements of this plan shall be funded under the selected Set-Aside in the following order: Nonprofit Set-Aside, Smaller Credit Amount Set-Aside, Statewide Set-Aside, Waiting List (general pool rankings for any remaining credit authority). Credits will be awarded according to prevailing score. However, if the IRS 10% requirement for the Nonprofit Set Aside is not met by using this method, then other eligible nonprofit developments that could not be funded under this set-aside will receive priority on the general pool ranking to ensure the minimum 10% funding requirement is met. In addition, MHC reserves the right to fund no more than 65% of a specific development-type (single family or multi-family). See Section 3.3.
10. **Funding Announcements.** Upon the completion of the application review process in a competitive cycle, MHC Staff will make reservation recommendations to its Board of Directors (the Board) at its next regularly scheduled board meeting immediately following one hundred twenty (120) days after the close of the cycle. Once the Board approves the recommendations, a Recipient List will be posted to MHC's website at [www.mshomecorp.com](http://www.mshomecorp.com).

## 6.4 Appeals Process

Any applicant wishing to appeal a decision of MHC may do so in writing delivered to the attention of MHC's Executive Director no later than 5:00 pm local time on the fifteenth (15th) day following the date of the scoring or threshold review notice. Appeal requests must be specific as to the decision being appealed. An applicant may only appeal its own application; thus, no applicant can appeal any determinations of another applicant's application. An Appeal Fee of \$2,500 is required and is due at the time of your scheduled appeal meeting with MHC.

The following decisions are the only appealable decisions:

Determinations regarding the applicant's satisfaction of:

- Eligibility requirements
- Underwriting criteria
- Scoring under the Selection Criteria

The appeal shall be limited to the content of the initial application and no additional documentation will be accepted by MHC. If MHC is required to request supplemental information to clarify the appealed item, the applicant will only receive half of the scoring item's point value if the points are reinstated, regardless of scoring, threshold, or compliance issue.

Any written appeal shall specifically identify the grounds for appeal. The appeal shall be limited to the content of the initial application and no additional documentation will be accepted by MHC.

MHC will provide applicants confirmation via email acknowledging receipt of the appeal request within two (2) business days. The Executive Director will schedule an informal appeal meeting with the applicant and MHC's Tax Credit Appeals Committee within five (5) business days of receiving the appeal. The Tax Credit Appeals Committee shall consist of the Executive Director, Corporation tax credit staff, and legal counsel to MHC.

Following the informal appeal before MHC's Tax Credit Appeals Committee, the Committee will review the appeal and provide a response to the applicant within ten (10) business days. If not satisfied with the decision of the Tax Credit Appeals Committee, the applicant may appeal to MHC's Board of Directors at its next regularly scheduled Board Meeting. The applicant will be placed on the Board's Agenda and be given an opportunity to present its appeal to the Board.

A decision of the Board of Directors shall be rendered as soon as possible. The decision of the Board of Directors shall be deemed the final decision of MHC.

In any appeal, the burden is on the applicant to demonstrate any errors in the review and allocation process.

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## **SECTION 7: FUNDED DEVELOPMENTS**

### **7.1 Reservation Packages**

MHC will make reservation recommendations to its Board of Directors at its next regularly scheduled board meeting immediately following one hundred twenty (120) days after the close of the competitive application cycle. MHC will issue Reservation Letters within five (5) business days after receiving Board approval. Tax Exempt Bond financed developments will receive a Determination Letter in lieu of a Reservation Letter immediately following MHC's review of the application package.

Applicants must confirm acceptance of the reservation of credits by executing the Reservation/Determination Letter and returning the original letter to MHC by the deadline date specified in the letter. Any development owner that fails to return the Reservation Package (with all required documentation) by the deadline date will not be issued a Commitment Letter.

The following documentation is required for all Reservation Packages:

1. **Reservation Fee.** The Reservation/Determination Letter will state the amount due to reserve the credits. The fee will be calculated as outlined in Section 2.3(2) of the QAP.
2. **Land Use Restrictive Agreement (LURA).** A Land Use Restrictive Agreement (LURA) will be required to be executed by the development owner (see Section 1.1(2)). MHC will provide the LURA to the development owner with the Reservation Letter. Any deviations from MHC's LURA must be approved by MHC in writing. The development owner must execute the LURA and submit a copy in the Reservation Package. The original LURA must be retained by the development owner. Prior to the issuance of Form 8609(s), the Owner of the development must record the original LURA with the county recorder where the development is located.
3. **Executed Agreement to Enforce Representations.** The Agreement to Enforce Representations document must be executed and notarized by a principal member of the ownership entity. This document is not recorded.
4. **Form 8821.** As a condition for an allocation of Housing Tax Credits, MHC will require the tax credit recipients to complete Form 8821, Tax Information Authorization (Rev. 10-11) naming MHC as the appointee to receive tax information. The subject form will be included in and submitted with the tax credit recipient's reservation letter. On line 3 of subject form, in addition to the type of tax, tax form number, and year of period, the following statement must be included in column (d): *"Any related federal tax information pertaining to housing tax credits, including audit findings and assessments."* All applicable items of the form must be completed by the owner. MHC will forward the completed and signed Form 8821 (Rev. 10-11) to the IRS at the address listed on the form. The subject form must be received by the IRS within sixty (60) days of the date it was signed or it becomes invalid. MHC will ensure that information provided by the IRS is used solely for the purpose of Housing Tax Credit awards and will be safeguarded by MHC to prevent improper disclosure.
5. **Permanent Financing Commitments.** The Permanent Loan Lender's Firm Commitment Letter must allow for the time required to complete construction and extend for a term of not less than fifteen (15) years from the development's Placed-In-Service date.

To be considered a firm commitment the document must contain the verbiage: *"This is a firm commitment for permanent financing of the referenced development."*

b. The Commitment Letter must contain the following items:

- a. Loan amount;
- b. Interest rate;
- c. Loan term;
- d. Loan amortization term;
- e. Closing and funding conditions;
- f. Loan security requirements
- g. Repayment provisions, to include permissible pre-payment options.
- h. Execution by the lender AND Dated Acceptance by the borrower, the ownership entity listed in the MHC Tax Credit application form.

- The Commitment Letter must not contain any material condition(s), with the exception of the following:
  1. There being no adverse material change in the credit or financial condition of the borrower from the date of issuance of the letter and the time of funding the firm commitment;
  2. Obtaining 221(d)(4) guarantees;
  3. An as completed appraisal of not less than \$XXX.XX;
  4. Environmental review.

All other conditions must be approved by MHC.

6. **Community Service Certification.** All developments must commit to provide a minimum of two (2) community services (see Section 1.5(2)). Evidence of the community services to be offered must be submitted with the Reservation package and must include the following:
  - a. An original copy of the formal contractual agreement between the ownership entity and the service provider on the service provider's letterhead. The contract must be executed by the owner applicant and service provider. The contract agreement must state the services to be provided and the frequency of the service.
  - b. A completed Community Service Certification form (Attachment 9) for each service.
7. **Additional Required Information.** MHC may require additional information/documentation to be submitted with the Reservation Package. Such items will be relative to the type of development (new construction, acquisition/rehabilitation) and/or pursuant to the GPAG.

## 7.2 Commitment Letters

MHC will issue Commitment Letters within thirty (30) days of issuing the Reservation Letter to all development owners that met the Reservation requirements. The Commitment Letter outlines the conditions that must be met prior to the final allocation of credits (Form 8609). It also allows the Owner to make its Credit Percentage Election. Owners must select one of the following options for locking in the credit percentage:

- the month in which the building is placed in service
- the month in which the commitment is issued

Owners must return the executed Commitment Letter along with the Commitment Fee and final site plans (flash drive or CD format) to MHC by the timeframe indicated in the letter. Failure to meet the deadline will result in an assessment of late fees as outlined in Section 2 of the QAP. All final plans including a complete site layout certified by the development's licensed architect/engineer must be submitted in PDF format.. If there have been material changes to the final plans from those submitted with the application, then approval must be obtained from MHC. Material changes include, but are not limited to, total number of buildings, unit mix, total development square footage, and overall site layout.

## 7.3 Deadlines

All deadlines outlined in the Reservation and Commitment letters will be enforced. Requests for extensions of these deadlines will be considered only if requested in writing at least ten (10) days prior to the deadline date and only for good cause shown. Such extensions will not exceed thirty (30) days. At the end of the thirty (30) day extension, credits will be recaptured by MHC, except for good cause shown. If in the event an extension is granted, MHC will assess late fees as outlined in Section 2 (Chart 3).



## 7.4 Carryover Allocation Agreement

All developments that receive a commitment of tax credits and are unable to place in service by the end of the year that the credits were committed will receive a Carryover Allocation Agreement (Carryover). The Carryover allows the development to place in service up to two years after the year the credits were awarded, provided that all requirements of the Carryover are met in a timely manner.

MHC will provide Owners with a Carryover Allocation Agreement based on the information provided in the application. Owners are required to review the document for accuracy and must notify MHC within ten (10) days of any errors. Failure to report any discrepancies within the timeframe indicated will result in a monetary penalty for corrections as outlined in the Late/Non-response Fees (Section 2) in the QAP.

The Carryover Package from MHC will include the following:

1. **Carryover Allocation Agreement**

Upon review of the Carryover, the owner must complete the *Owner's reasonably expected basis*; execute the *10% Test Certification Time Limit*; and execute and notarize the signature page of the Carryover Allocation Agreement. In addition, the Owner must provide a copy of IRS Form SS-4 (*Application for Employer Identification Number*) for the Ownership Entity. The Carryover must be returned to MHC by the deadline indicated.

2. **Building Identification Numbers (Exhibit A)**

The Building Identification Number (BIN) is a nine digit, alpha numeric designation assigned to a low-income building. It is essential to the monitoring process for IRC Section 42. Once assigned, the BIN is a permanent identification number for purposes of filing any forms with the IRS. For 4% Tax-Exempt Bond projects, BINs are assigned at the time of IRS Form 8609 issuance.

3. **Gross Rent Floor Election (Exhibit B)**

Pursuant to Revenue Procedures 94-57, for the purpose of calculating the Gross Rent Floor under Section 42(g)(2)(A) of the Code, the IRS will treat the Gross Rent Floor for a building as taking effect the date MHC initially allocates tax credits to the building unless the Owner makes an effective election to use the Placed-in-Service date of the building. To make an effective election, the Owner must execute the Gross Rent Floor Election form and deliver to MHC prior to the placed-in-service date of the building.

4. **10% Test (Exhibits C – C2)**

Pursuant to Section 42(h)(1)(E)(ii) of the Code and in 26 CFR Section 1.42-6, the development's Owner must incur in excess of 10% of the reasonably expected basis of the development within one year of the Carryover date. Evidence of meeting the 10% Test must include a certification from the Owner (*Exhibit C*), certification from a certified public accountant (*Exhibit C-1*) and Owner Certification of Cost Incurred (*Exhibit C-2*). All required documents must be completed in its entirety and must include original signatures. The original documentation is due to MHC by the deadline date stated within the Carryover letter. Failure to submit the required documents by the deadline date will result in a late fee as outlined in Section 2.3(4) of the QAP. Failure to meet the 10% Test by the deadline date will result in the loss of credits.

## 7.5 Signage

All developments that receive an award of tax credits must post signage at the development's construction site listing the Mississippi Home Corporation (MHC) as a financing source. Information on the signage specifications is available on MHC's website at [www.mshomecorp.com](http://www.mshomecorp.com). Failure to post signage by the start of construction through completion of construction subjects the development to a non-compliance fee of \$50.00 per day from the date first observed by the MHC inspector until the signage is properly placed and MHC is notified by email to [taxcredits@mshc.com](mailto:taxcredits@mshc.com) with a photo of the signage. Owners will be notified of this deficiency by email.

## 7.6 Development Requests

Development owners must receive prior written approval from MHC for any changes from the representations of the original tax credit application. Owners of HTC developments which are not built as approved by MHC are subject to suspension from future participation in MHC's Housing Tax Credit Program for a minimum of one (1) year and/or loss of housing tax credits for the development. (See GPAG 1.4(5)) Approval will not be granted for any requests that would affect the initial scoring of the application.

1. **Standard Requests.** Standard Requests may be submitted using MHC's Development Request Form. This form may be downloaded from MHC's website [www.mshomecorp.com](http://www.mshomecorp.com) under HTC Forms. All Standard Requests must be emailed to (taxcredits@mshc.com).

*Acceptable standard requests include the following:*

- General Partner Entity name change
  - Management Company change
  - Syndicator/Investor change
  - Architect change
  - Contractor change
  - Change of staff units
  - Change of unit mix or buildings configuration
  - Development name change
  - Rental assistance units designations
  - Community Services (Allowable substitutions only; Owners must also provide a new Community Services Certification Form)
  - Any changes of the Owner's physical/mailling address, fax or phone number, and email address.
2. **Other Requests.** All other requests aside from the standard request listed above must be submitted in writing to the Vice President of Tax Credits. A complete explanation and supportive documentation must be included with the request.
  3. **Site Change Request.** If the owner submits a request to change the development site location from the initial site represented in the tax credit application, the owner is required to notify the community as outlined in Section 4.1. Additionally, the owner must provide documentation evidencing site control and proper zoning of the new site location and a new market study may be required. If a site change request is approved, the owner must provide MHC with a copy of the recorded warranty deed within thirty (30) days of approval. Requests to change the development site location must substantiate the reason for the site change request and include supplemental documentation to support the need for a site change (i.e. requested by local jurisdiction, etc.). Site Change requests are not automatically approved. A denial of the request could result in the credit award being returned to MHC. Failure to obtain prior approval of a site change will result in a one year suspension from the tax credit program for all members of the development team. Requests for approval of site Change must be submitted in writing to the Vice President of Tax Credits.
  4. **Additional Credits Request.** Requests for additional housing tax credits will be considered on a first come, first served basis subject to the extent that credits are available. MHC will not review requests for additional housing credits until after its annual tax credit cycle has been completed. Additionally, owners must provide detailed current cost information from the contractor or CPA and documentation of all funding sources with such requests. MHC will not consider requests for additional credits submitted after the year in which the buildings are Placed-in-Service (PIS). Applicants are encouraged to inquire of credit availability prior to submitting a request.

5. **Requests made after Forms 8609 have been issued.** Owners must contact the Compliance Monitoring Division for all Development Requests after Forms 8609 have been issued.
6. **HUD Subsidy Layering Reviews.** As part of a Memorandum of Understanding (MOU) between HUD and MHC (see Addendum K), developments combining LIHTC with HUD housing assistance may be subject to a subsidy layering review. The MOU requires that HUD and MHC share information on the developer's disclosure of sources and uses of funds and on development costs for all developments financed with a combination of federal tax credits and HUD housing assistance. This review is designed to ensure that such developments do not receive excessive assistance. Under the subsidy layering review, developer fees and contractor overhead, profit, and general requirements are limited to those percentages listed in Section 5.8(3). In cases where the results of MHC's analysis indicate that there will be excess assistance, MHC will reduce the amount of housing tax credits to eliminate the excess as required by Section 42 of the IRS Code.

Requests for Subsidy Layering Reviews should be submitted to MHC's Construction Lending Division along with the development's Sources and Uses documentation and the \$1,250 review fee.

## 7.7 Development Status Reports

MHC will consistently monitor the status of all funded developments. The Allocations Division and Compliance Monitoring Division will separately require the development's Owner to submit various reports. All reports must be submitted within the appointed time frames. A penalty fee will be imposed for all late reports. Owners must refer to the Compliance Monitoring Manual for compliance monitoring reports and deadlines.

The chart below outlines the reports due to the Allocations Division during the development phase. Failure to meet these reporting deadlines will result in the development being assessed late fees as outlined in Section 2 of the QAP.

**Chart 4: Reports Deadline Dates**

REPORT TYPE	DEADLINE DATE
1. Initial Status Report	90 days after Reservation Letter date
2. Quarterly Construction Status Report	March 31, June 30, September 30, December 31
3. 15-Month (50% Completion) Certification	15-months after Reservation Letter date

1. **Initial Status Report.** The Initial Status Report is required for all developments that receive a reservation letter for an award of Housing Tax Credits. It must be submitted to MHC within 90-days of receiving the award.
2. **Quarterly Construction Status Report (QCSR).** The Quarterly Construction Status Report must be submitted on a quarterly basis until the Owner reports that the development has been placed in service and copies of the Certificate of Occupancy (CO) or Certificate of Substantial Completion for all buildings have been submitted to MHC's Allocation Department. The owner must submit the reports by the deadline date as outlined in Chart 4.
3. **15-Month (50% Completion) Certification.** Owners are required to meet at least 50% development completion within fifteen months of receiving the reservation of credits. Certification must be provided by the development's architect/engineer and submitted to MHC by the deadline date. The certification must state that at least 50% of the total development construction has been completed within fifteen (15) months of the tax credit reservation date. MHC's Inspection Department will perform an on-site inspection upon receipt of the certification. The inspection should clearly evidence that at least fifty percent (50%) of construction of the total development receiving tax credits has been completed to include, but not limited to: site work, foundation, framing, roofing, etc.

If unable to meet the deadline, the development's Owner must notify MHC in writing prior to the deadline date to explain the reason for the delay and to request an extension of the deadline. A revised construction schedule must be submitted with the request. A late fee of 1.25% of the first five years' allocation of credits will be assessed for all late certifications.

If the 15-month deadline was missed and/or approval for an extension was granted by MHC in writing, the developer must still submit the certification from the architect/engineer once the 50% completion requirement has been met.

## 7.8 Notification to MHC of Special Events

All Owners of funded developments are required to notify MHC's Marketing Department of all upcoming events pertaining to the development (*e.g. Ribbon Cutting Ceremonies, Groundbreaking Ceremonies, and any other public events initiated by the Owner*) prior to setting the date of the event. The Marketing Department, at the Owner's discretion, may assist with the planning of the special event. All notifications must be submitted to MHC's Marketing Department at: [marketing.news@mshc.com](mailto:marketing.news@mshc.com).

## 7.9 IRS Form 8609 Requirements

To request the issuance of Forms 8609, the development's owner must submit a *Request for IRS Form 8609* to MHC's Allocations Department. The 8609 Package Request forms can be downloaded from MHC's website ([www.mshomecorp.com](http://www.mshomecorp.com)) under HTC Forms. Requests must be received by MHC within one hundred eighty (180) days of the placed in service date. In addition, requests must be received at least thirty (30) business days prior to the date that the owner/investor needs the form for tax filing purposes.

Prior to the issuance of Forms 8609, MHC will verify that the following requirements have been met:

1. **Development Completion.** All items listed in the application must be in place upon completion of the development regardless of whether or not points were awarded (ex: amenities, community services, total number of units, etc.). The development will not receive forms 8609 until everything represented in the application is in place.
2. **Site Inspection.** MHC will conduct a site visit to ensure that all requirements outlined in the subject application have been met. In the event that an initial visit warrants subsequent visits, MHC will charge a fee of \$250.00 per subsequent visit as outlined in Section 2.
3. **Outstanding Fees.** Forms 8609 will not be issued to any development controlled by an applicant that has outstanding fees owed to the Tax Credit Allocation Division on any development.
4. **Feasibility Analysis.** MHC will conduct its final feasibility analysis prior to the issuance of form(s) 8609. During its underwriting, MHC may request additional information that it deems necessary to complete its analysis.
5. **Verification of Expenditures.** MHC has established a process for requiring and analyzing cost certifications for all developments as part of the final feasibility evaluation, prior to issuing an IRS Form 8609. As part of the analysis, MHC will ascertain the reasonableness of the cost components. For all developments, MHC will require owners to submit for the agency's review an independent third-party CPA cost certification to be included with the 8609 request package as a part of the final feasibility evaluation. Developments receiving tax credits pursuant to this QAP will be required to provide cost certifications after development completion. A cost certification must include all cost categories listed under "Cost Breakdown" in the

applicable tax credit application and conform to the requirements of MHC outlined within the Form 8609 Request Documents. It is the owner's responsibility to review the cost certification in its entirety prior to its submittal to MHC. Once submitted, the cost certification cannot be amended or supplemented except as may be required by MHC.

6. **Minimum Design Quality Standards.** Developers must provide certification from the architect/engineer that the development has been completed in accordance with MHC's Minimum Design Standards. Documentation must be provided at the time in which Forms 8609 are requested.
7. **Third Party Accessibility Review.** All developments must submit, at 8609 request, an independent third party accessibility certification. The certification must state that the reviewer has reviewed the development's plans/specifications and that the development meets all Federal, State, and local accessibility standards.

## SECTION 8: COMPLIANCE MONITORING PLAN SUMMARY

### 8.1 General

The Income Tax regulations (26 CFR part 1) under Section 42, as amended of the Internal Revenue Code of 1986 which was amended and renumbered by the Revenue Reconciliation Act of 1990, is effective on January 1, 1992, which was amended, effective January 1, 2001, and applies to all buildings placed in service for which the low-income housing credit determined under Section 42, as amended is, or has been, allowable at any time.

Section 42, as amended provides for a housing tax credit that may be claimed as part of the general business credit under Section 38. The credit determined under Section 42, as amended is allowable only to the extent the owner of a qualified low-income building receives a housing credit allocation from a State or local housing credit agency ("Agency"), unless the building is exempt from the allocation requirement by reason of Section 42 (h)(4)(B), as amended. Under Section 42, as amended, the housing credit dollar amount for any building is zero unless the amount was allocated pursuant to a qualified allocation plan of the Agency. Similarly, under Section 42, as amended, the housing credit dollar amount for any development qualifying under Section 42 (h)(4), as amended is zero unless the development satisfies the requirements for allocation of a housing credit dollar amount under the qualified allocation plan of the Agency. Under Section 42, as amended, an allocation plan is not qualified unless it contains a procedure that the Agency (or an agent of, or private contractor hired by, the Agency) will follow in monitoring compliance with the provisions of Section 42, as amended and notifying the Internal Revenue Service of any noncompliance of which the Agency becomes aware.

### 8.2 Monitoring Procedures

#### Record-keeping and Record Retention

The Owner of a Housing Tax Credit (HTC) development is required to keep records for each building in the development showing:

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 unit),
2. The percentage of residential rental units in the building that are low-income units, the rent charged on each residential rental unit in the building (including any utility allowance),
3. The number of occupants in each low-income unit,
4. The low-income vacancies in the building and information that shows when, and to whom, the next available units were rented,
5. The annual income certification and recertification of each low-income tenant per unit,
6. Written documentation to support each low-income tenant's income certification,
7. The applicable fraction, eligible basis and qualified basis of the building at the end of the first year of the credit period , and for each year thereafter of the development's compliance period,
8. The character and use of the nonresidential portion of the building included in the building's eligible basis under Section 42(d), as amended (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 development).

Federal law requires the owner of a Housing Tax Credit (HTC) development to keep written records documenting compliance with the above noted requirements for at least six (6) years after the due date (with extensions) for filing the federal income tax return for that year. The records for the first year of the credit period, however, 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. In addition to the above noted federal requirements, MHC requires an owner to maintain written records of current residents for the duration of the resident's tenancy, plus an additional twelve (12) months.

### 8.3 Certification and Review

The owner of a Housing Tax Credit (HTC) development is required to certify annually to MHC that, for the preceding 12-month period the development meets either (a) the 20-50 test under Section 42 (g)(1)(A), as amended, OR (b) the 40-60 test under Section 42(g)(1)(B), as amended, or (c) the 25-60 test under Section 42(g)(4) of the Code, whichever minimum set a side test is applicable to the development. Owners of "deep rent skewed developments" must also demonstrate that the development satisfies the minimum requirements of the 15-40 test under Sections 42(g)(4) and 142(d)(4)(8) of the Code.

In addition, the owner is required to certify that:

- There was no change in the applicable fraction (as defined in Section 42 (c) (1) (B), as amended of any building in the development, or that there was a change, and a description of the change.
- The owner has received an annual income certification from each low-income tenant, and documentation to support that certification.
- Each low-income unit in the development was rent-restricted under Section 42 (g)(2), as amended, 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 provided under Section 42 (i) (3) (B) (iii), as amended.
- Each building in the development was suitable for occupancy, taking into account local health, safety, and building codes.
- There was no change in the eligible basis (as defined in Section 42 (d) of any building in the development, or if there was a change, the nature of the change.
- All tenant facilities included in the eligible basis under Section 42 (d), as amended of any building in the development, such as swimming pools, other recreational facilities, and parking areas, were provided on a comparable basis without charge to all tenants in the building.
- If a low-income unit in the development became vacant during the year, that 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 in the development were or will be rented to tenants not having a qualifying income.
- 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), as amended, the next available unit of comparable or smaller size in the development was or will be rented to tenants having a qualifying income, and an extended low-income housing commitment as described in Section 42 (h)(6), as amended was in effect (for buildings subject to section 7108(c)(1) of the Revenue Reconciliation Act of 1989).

- For the preceding 12-month period the state or local government unit responsible for making building code inspections did not issue a report of a violation for the property. If the governmental unit issued a report of a violation, the owner is required to attach a copy of the report of the violation to the annual certification submitted to MHC. The owner must state on the certification whether the violation has been corrected. Retention of the original violation report is not required once MHC reviews the violation and completes its inspection, unless the violation remains uncorrected.
- Has not refused to lease a unit in the development to a Section 8 applicant solely because the applicant holds a Section 8 Housing Choice voucher.
- No finding of discrimination under the Fair Housing Act has occurred for the development (a finding of discrimination includes adverse final decision by HUD, an adverse final decision by a substantially equivalent state or local fair housing agency, or an adverse judgment from a Federal court).

NOTE: Each of the above noted certifications is required for all developments receiving an allocation of tax credits at least through the end of the building's fifteen (15) year compliance period. Additional certifications may be required of developments during their Extended Use Periods.

In addition to reviewing these certifications, MHC will conduct on-site inspections of all buildings in each affordable housing development and, at a minimum, review the tenant income certification, the documentation supporting such certification, and the rent record for these units at least once every three (3) years for a minimum of the lesser of 1) twenty percent (20%) of the project's low income units or the minimum unit sample size in the Minimum Unit Sample Size Reference Chart. In addition, MHC will conduct an inspection of all buildings placed in service in a development after January 1, 2001 by the end of the second calendar year following the year the last building in the property is placed in service. At its sole option, MHC may give an owner reasonable notice that an inspection will occur so that the owner may assemble the appropriate records.

During lease-up, an owner of a development/building(s) receiving an allocation of HTCs will be required to submit to MHC for review a Quarterly Status report detailing lease-up activity of a development. This report documents project activity during the lease-up period and commences on the 15<sup>th</sup> day of the month after the quarter in which the first building places in service. An owner is required to submit the Quarterly Status Report until the fifteenth day of the month immediately following the quarter in which the development met its initial targeted applicable fraction (provided the development is in compliance and has resolved all compliance matters during this period). Upon meeting these requirements, MHC will convert the development to reporting on an annual basis. See Chapter 7 of the Compliance Monitoring Plan for more details.

## 8.4 Inspection

MHC has the right to perform an on-site inspection of all housing developments for which an allocation of housing tax credit is/was awarded at least through the end of the compliance period, including any extended use period. This inspection provision as stated herein is in addition to any review of low-income certifications, supporting documents, and rent records.

At a minimum, the inspection will grant MHC the ability to determine if a housing tax credit unit is suitable for occupancy. Inspection standards to be used are intended to ensure that the housing is decent, safe, sanitary, and in good repair. Irrespective of the physical inspection standards selected by MHC, an affordable housing development under Section 42 must continue to satisfy local health, safety, and building codes.

A building will be considered exempt from the physical inspection requirement if it is part of a development that is/was financed by Rural Housing Services (RHS) under the Section 515 program, is inspected by RHS (under 7 CFR Part 1930(c)), and MHC has entered into a memorandum of understanding, or other similar agreement, under which



RD agrees to notify MHC of the inspection results. MHC will only accept an RD Inspection during the Extended Use Period. MHC reserves the right to perform physical inspections in lieu of accepting RD inspections results.

## 8.5 Notification

MHC will notify the owner of a housing tax credit development in writing as soon as possible, generally within 45 days of the deadline date, if MHC does not receive the required certification, or if MHC discovers on inspection, or review, or in some other manner, that the development is not in compliance with the provisions of Section 42, as amended, of the Code.

The owner will have an opportunity to supply a missing certification or to correct noncompliance within the correction period as defined by MHC, beginning on the date of MHC's notice. MHC may grant extensions of up to six (6) months, if the extension is based on a determination by MHC that there is good cause for granting the extension.

MHC will notify the Internal Revenue Service of an owner's noncompliance or failure to certify no later than forty-five (45) days after the end of the time allotted for correction, whether or not the noncompliance or failure to certify is corrected. MHC will notify the Internal Revenue Service by filing Form 8823, Housing Credit Agencies Report of Noncompliance. MHC will explain on Form 8823 the nature of the noncompliance or failure to certify and state whether the owner has corrected the noncompliance or failure to certify.

In the event MHC reports on Form 8823 that a building is entirely out of compliance and will not be in compliance at any time in the future, MHC will not file Form 8823 in subsequent years to report that building's noncompliance because the original citation notes the development is no longer in compliance nor participating in the Section 42 program.

## 8.6 Post Year 15 Compliance Monitoring Plan

Developments entering into an extended low-income use period after the completion of the initial fifteen (15) year compliance period will be monitored in accordance with the post year fifteen (15) monitoring procedures as outlined herein and in the Compliance Monitoring Plan. A development's extended use period will be evidenced by an executed Declaration of Land Use Restrictive Covenant agreement between MHC and the owner.

Additionally, the Compliance Monitoring division of MHC will assess an annual servicing/monitoring fee of twenty (\$20.00) dollars per low-income unit to cover staff costs to monitor tax credit developments during the extended use period. For RHS financed developments, the annual servicing/monitoring fee will be ten (\$10.00) Dollars per low-income unit. This fee is applicable only for developments that have executed a Declaration of Land Use Restrictive Covenant with MHC. On an annual basis, the servicing fee will be due to MHC on the same date as the Annual Owner Certification (AOC) report, as prescribed by the Compliance Monitoring division.

## 8.7 Corporation Delegation of Monitoring Functions

MHC may retain an agent or other private contractor to perform compliance monitoring. In this event, the agent or other private contractor may be delegated the functions of MHC to monitor compliance, except for the responsibility of filing Form 8823.

## 8.8 Monitoring Fees

Under current monitoring regulations and guidance, MHC will charge monitoring fees to all developments at the award of an allocation of housing tax credits. MHC may require additional monitoring charges if subsequent guidance or regulations warrant changes to MHC's monitoring procedures. Beginning with the first year of the Extended Use Period, an owner of a tax credit development operating solely under his Land Use Restriction Agreement will be assessed monitoring fees on an annual basis to cover staff monitoring costs. Monitoring fees are non-refundable and must be provided to MHC in the form of certified funds or a cashier's check.

The owner of a development in noncompliance will be responsible for reimbursing MHC for all expenses incurred. Expenses for conducting additional on-site inspections will include but are not limited to:

- a. The standard mileage rate in effect at the time of the re-inspection,
- b. Any overnight expenses,
- c. A meal allowance of \$35.00 per day, and
- d. A charge of \$110.00 per hour to review tenant files and a charge of \$110 per hour to perform a re-inspection of the development's physical condition.
- e. MHC will also charge one hundred and ten dollars (\$110.00) per hour with a one hundred and ten dollar (\$110.00) minimum to review documents forwarded to MHC to correct noncompliance. Any additional expenses incurred by MHC as it relates to an owner's noncompliance shall be the responsibility of the owner.
- f. MHC will also assess a late fee of \$100.00 per day per development for every day an owner's report (i.e. Annual Owner Certification or Development Financial Analysis Report) is past due beyond the deadline date prescribed by the Compliance Monitoring division.

## 8.9 Mandatory Tax Credit Compliance Training

Fundamental Compliance Monitoring training is mandatory for on-site managing agents of "NEW" tax credit developments within forty-five (45) days of the placed in service date of the first building or no later than the date of the next scheduled MHC compliance monitoring training. The training may be administered by MHC or by an approved organization in order to receive the IRS form 8609s.

Additionally, every three years after, owners and on-site managers must show documentation of tax credit training conducted by an approved organization or MHC. In the event of a change in on-site management/managing partner, the individual must acquire training within 120 days of the initial change.

## 8.10 Liability

Compliance with the requirements of Section 42, as amended, of the Code is the responsibility of the owner of the building for which the credit is allowable. MHC's obligation to monitor for compliance with the requirements of Section 42, as amended, of the Code does not make MHC liable for an owner's noncompliance.

## 8.11 Effective Date

The requirement of Section 42(m) (1) (B)(iii) mandating that allocation plans contain a procedure for monitoring for non-compliance effective on January 1, 1992, applies to buildings for which a low-income housing credit is, or has been allowable at any time. (MHC is required to notify the IRS of ALL instances of noncompliance, including noncompliance that commenced on or before the January 1, 1992 effective date of compliance monitoring requirements.)

## 8.12 Qualified Contract Provisions

Development owners who want to terminate low-income use after 15 years (and before expiration of the extended use agreement), and convert the development to market rate housing or other uses can only do so after first making the development available for purchase by parties who want to maintain low-income use at a price determined by a formula set forth in section 42(h) (6) (E) (i) (II).

Development owners must first provide MHC with a one year period to find a buyer willing to purchase the development for continued low-income use at a specified formula price. A preliminary application can be submitted any time after the end of the 14<sup>th</sup> year of the compliance period unless the owner agreed to extend the rental restrictions as specified in the development's extended use agreement.

For low-income residents who continue to reside in the tax credit development, the low-income use period is extended an additional three (3) years even if the owner is able to avoid the extended use period because there is no buyer willing to purchase the development at the formula price. An owner is prohibited from evicting residents for other than good cause, and from raising their rents beyond the tax credit maximum rents. This three-year period begins after the end of the one-year period when the housing credit agency seeks buyers to maintain the extended low-income use of the development. Those developments who terminate their land use restriction covenants due to foreclosure or qualified contract process must continue to comply with annual compliance reports and administrative fees during this three-year period.

These provisions apply to developments receiving an allocation of credits after 1989 or automatically receiving credits as a result of tax exempt financing issued after 1989.

For more information, please refer to Chapter 9 of MHC's Housing Tax Credit Compliance Monitoring Plan.

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## **SECTION 9: FAIR HOUSING ACCESSIBILITY REQUIREMENTS**

### **9.1 Purpose**

In 1988, Congress passed the Fair Housing Amendments Act as a supplement to Title VIII of the Civil Rights Act of 1968, commonly known as the Fair Housing Act. The Amendments expand coverage of Title VIII to prohibit discriminatory housing practices based on disability and familial status. The Fair Housing Act establishes design and construction requirements for multifamily housing built for first occupancy after March 13, 1991. The law provides that failure to design and construct certain multifamily dwellings to include certain features of accessible design will be regarded as unlawful discrimination.

The design and construction requirements of the Fair Housing Act apply to all new multifamily housing consisting of four or more dwelling units. Such buildings must meet specific design requirements so public and common use spaces and facilities are accessible to people with disabilities. In addition, the interior of dwelling units covered by the Fair Housing Act must be designed so they too meet certain accessibility requirements.

The Fair Housing Act's purpose is to place modest accessibility requirements on covered multifamily dwellings incorporated into the design of new buildings, resulting in features, which do not look unusual and will not add significant additional costs. Housing designed in accordance with the Fair Housing Act will have accessible entrances, wider doors and provisions to allow for easy installation of grab bars around toilets and bathtubs.

### **9.2 Enforcement Agency**

The U.S. Department of Housing and Urban Development (HUD) is the federal enforcement agency for compliance with the Fair Housing Act. Designers and builders were guided by the requirements of the ANSI A117.1-1986 American National Standard for Buildings and Facilities - Providing Accessibility and Usability for Physically Handicapped People until March 6, 1991. The Fair Housing Accessibility Guidelines were published on this date (56 Federal Register 9472-9515, 24 CFR Chapter I, Subchapter A, Appendix II and III). The Guidelines provide technical guidance on designing dwelling units as required by the Fair Housing Act. These Guidelines are not mandatory, but are intended to provide a safe harbor for compliance with the accessibility requirements of the Fair Housing Act.

The Guidelines published on March 6, 1991, remain unchanged. However, on June 28, 1994, HUD published a supplemental notice to the Guidelines, "Supplement to Notice of Fair Housing Accessibility Guidelines: Questions and Answers about the Guidelines." This supplemental notice reproduces questions that have been most frequently asked by members of the public, and HUD's answers to those questions.

Under the Fair Housing Act, HUD is not required to review builders' plans or issue a certification of compliance with the Fair Housing Act. The burden of compliance rests with the persons or persons who design and construct covered multifamily dwellings. HUD or an individual who thinks he or she may have been discriminated against may file a complaint against the building owner, the architect, the contractor, and any other persons involved in the design and construction of the building.

### **9.3 Laws and Codes That Mandate Accessibility**

Over the past two and a half decades, several statutes have been enacted at various levels of government that ensure nondiscrimination against people with disabilities, both in the design of the built environment and in the manner that programs are conducted. Certain dwellings as well as certain public and common use areas may be covered by several of the laws listed below. A brief synopsis of the landmark legislation follows to show where the Fair Housing Act fits into the overall history of accessibility legislation.

#### *The Architectural Barriers Act (1968)*

This Act stipulates that all buildings, other than privately owned residential facilities, constructed by or on behalf of, or leased by the United States must be physically accessible for people with disabilities. The Uniform Federal Accessibility Standards (UFAS) is the applicable standard.

#### *Section 504 of the Rehabilitation Act (1973)*

Under Section 504 of the Rehabilitation Act of 1973 as amended, no otherwise qualified individual with a disability may be discriminated against in any program or activity receiving federal financial assistance. The purpose of Section 504 is to eliminate discriminatory behavior toward people with disabilities and to provide physical accessibility, thus ensuring that people with disabilities will have the same opportunities in federally funded programs as do people without disabilities.

Program accessibility may be achieved by modifying an existing facility or by moving the program to an accessible location, or by making other accommodations, including construction of new buildings. HUD's final regulation for Section 504 may be found at 24 CFR Part 8. Generally, the UFAS is the design standard for providing physical accessibility, although other standards which provide equivalent or greater accessibility may be used.

#### *The Fair Housing Act of 1968, as Amended*

The Fair Housing Act provides equal opportunities for people in the housing market regardless of disability, race, color, sex, religion, familial status or national origin, regardless of whether the housing is publicly funded or not. This includes the sale, rental, and financing of housing, as well as the physical design of newly constructed multifamily housing.

#### *The Americans with Disabilities Act (1990)*

The Americans with Disabilities Act (ADA) is a broad civil rights law guaranteeing equal opportunity for individuals with disabilities in employment, public accommodations, transportation, state and local government services, and telecommunications. Title II of the ADA applies to all programs, services, and activities provided or made available by public entities. With respect to housing, this includes, for example, public housing and housing provided for state colleges and universities.

#### *State and Local Codes*

All states and many cities and counties have developed their own building codes for accessibility, usually based in whole or in part on the specifications contained in the major national standards such as ANSI and UFAS. Many states also have nondiscrimination and fair housing laws similar to the Fair Housing Act and the Americans with Disabilities Act.

When local codes differ from the national standard, either in scope or technical specification, the general rule is that the more stringent requirement should be followed. Many states also have provisions that a certain percentage (often 5%) of new multifamily housing must meet more stringent physical accessibility requirements than required under the Fair Housing Act. In such cases, both the state mandated percentage of accessible units must be provided and all dwellings covered by the Fair Housing Act must meet the Guidelines.

## 9.4 General Provisions of the Fair Housing Act

The Fair Housing Act covers most types of housing. In some circumstances it exempts owner-occupied buildings with no more than four units, single-family housing sold or rented without the use of a broker, and housing operated by organizations and private clubs that limit occupancy to members.

The broad objective of the Fair Housing Act is to prohibit discrimination in housing because of a person's race, color, national origin, religion, sex, familial status, or disability. The Fair Housing Act includes two important provisions:

one, a provision making it unlawful to refuse to make reasonable accommodations in rules, policies, practices, and services when necessary to allow the resident with a disability equal opportunity to use the property and its amenities; and two, a provision making it unlawful to refuse to permit residents with disabilities to make reasonable modifications to either their dwelling unit or to the public and common use areas, at the residents' cost.

#### *Reasonable Accommodations*

In buildings with a "no pets" rule, those rules must be waived for a person with a visual impairment who uses a service dog, or for other persons who use a service dog, or for other persons who use service animals. In buildings that provide parking spaces for residents on a "first come, first served" basis, reserved parking spaces must be provided if requested by a resident with a disability who may need them.

#### *Reasonable Modifications*

When a resident wishes to modify a dwelling unit under the reasonable modification provisions of the Fair Housing Act, the resident may do so. The landlord/manager may require that the modifications be completed in a professional manner under the applicable building codes, and may also require that the resident agree to restore the interior of the dwelling to the condition that existed before the modification, reasonable wear and tear excepted.

Landlords may not require that modifications be restored that would be unreasonable, i.e., modifications that no way affect the next resident's enjoyment of the premises. For example, if a resident who uses a wheelchair finds that the bathroom door in the dwelling unit is too narrow to allow his or her wheelchair to pass, the landlord must give permission for the door to be widened, at the resident's expense. The landlord may not require the doorway be narrowed at the end of the resident's tenancy because the wider doorway will not interfere with the next resident's use of the dwelling.

Residents also may make modifications to the public and common use spaces. For instance, in an existing development it would be considered reasonable for a resident who uses a wheelchair to have a ramp built to gain access to an on-site laundry facility. If a resident cannot afford such a modification, the resident may ask a friend to do his or her laundry in the laundry room, and the landlord must waive any rule that prohibits nonresidents from gaining access to the laundry room.

### **9.5 The Scope of the Design and Construction Requirements of the Fair Housing Act**

The accessibility requirements of the Fair Housing Act are intended to provide usable housing for persons with disabilities without necessarily being significantly different from conventional housing. The Fair Housing Act specifies certain features of accessible design and certain features of adaptable design.

#### *Adaptable Dwelling Units*

Covered dwelling units that meet the design requirements of the Guidelines are sometimes referred to as "adaptable dwelling units" or units that meet "certain features of accessible design." The Guidelines incorporate accessibility features that are both accessible and adaptable. Accessible elements and spaces are those whose design allows them to be used by the greatest numbers of users without being modified. For example, the requirement within the covered dwelling unit for "usable" doors, with a nominal clear opening of 32 inches, ensures that dwelling unit doors are not too narrow or impassable for any resident.

Adaptable/adjustable elements and spaces are those with a design which allows them to be adapted or adjusted to accommodate the needs of different people. The Fair Housing Act incorporates the adaptable/adjustable concept in bathroom walls by requiring that they contain reinforced areas to allow for later installation of grab bars without the need for major structural work on the walls.

#### *Dwellings Covered by the Design Requirements*

The design requirements apply to buildings built for first occupancy after March 13, 1991, which fall under the definition of “covered multifamily dwellings.” Covered multifamily dwellings are:

1. All dwelling units in buildings containing four or more dwelling units if such buildings have one or more elevators, and
2. All ground floor dwelling units in other buildings containing four or more units.

To be a covered unit, all of the finished living space must be on the same floor that is being a single-story unit, such as single-story townhouses, villas, or patio apartments. Multistory dwelling units are not covered by the Guidelines except when they are located in buildings which have one or more elevators, in which case, the primary entry level is covered.

SOURCE: Fair Housing Act Design Manual, designed and developed by Barrier Free Environments, Inc., Raleigh, North Carolina for The U.S. Department of Housing and Urban Development Office of Fair Housing and Equal Opportunity and the Office of Housing, August 1996

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## SECTION 10: DEFINITIONS

The following definitions shall apply for the purposes of this Plan.

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**4% Credits-** Bond Financed Projects available for existing housing or for federally subsidized new construction or rehabilitation and meet the requirements of this plan.

**9% Credits-** Federal credit percentage available for new construction or rehabilitation allocated on a “competitive” basis under the provisions of this plan.

**Acquisition Cost-** The cost of acquiring an existing building.

**Applicable Fraction-** The percentage of a building that is treated as low-income use and generally eligible for the LIHTC; the applicable fraction is the lesser of the unit fraction or the floor space fraction.

**Application-** The complete and entire set of required and requested documents, in paper and electronic form, submitted by an Applicant to MHC under this Plan.

**Application Cycle-** The date and time, as stipulated in the QAP, by which the Application must be submitted to MHC in order to be eligible for funding.

**Area Median Income (AMI) -** The gross income level that half the families in an area are below.

**Bond Issuer-** The governmental or non-profit entity responsible for issuing bonds.

**Code-** Internal Revenue Code, primarily Section 42.

**Competitive Scoring-** The process described in this plan by which MHC ranks the applications received.

**Compliance Period-** The 15 year period over which a project must continue to satisfy the various LIHTC requirements in order to avoid tax credit recaptures. The compliance period begins with the first taxable year of the credit period.

**Consultant-** A third party entity that provides consulting services to Project Participants. An entity acting in the capacity of Owner, Developer or General Contractor or which provides technical assistance to the Owner, Developer or General Contractor is considered a Consultant. Consultants include, but are not limited to, construction management consultants, interior design consultants, relocation specialists, tax credit application consultants, tenant certification consultants, HOPE VI consultants, etc. All consulting fees are considered part of the calculation of the maximum allowable Developer fee for each project.

**Credits-** The low-income housing tax credits (LIHTC) as described in §42 of the IRC.

**Credit Period-** The credit period is the 10-year period over which the LIHTC is claimed. This period generally begins on the date a property is placed in service, but a taxpayer may elect to start the credit period as of the beginning of the year following the year the LIHTC property is placed in service.

**Deep Rent Skewing Set-Aside-** A special set-aside test that applies for purposes of determining if existing tenants qualify as low-income tenants. This special test is elective and must be met *in addition to* the general set-aside test (i.e. 20-50, 40-60 and 25-60).

**Developer-** The legal entity designated as the Developer in the Application as well as all persons, affiliates of such persons, corporations, partnerships, joint ventures, associations, or other entities that have a direct or indirect ownership interest in the Developer entity. Any entity or individual that receives all or part of the Developer Fee must be designated as a developer. Material Participation is required for all developers and for all entities that receive any portion of the Developer Fee.



**Difficult to Development Area (DDA)** - Any area designated by the U.S. Department of Housing & Urban Development, which has high construction, land or utility costs relative to area median gross income.

**Elderly Housing-** A development will be considered an Elderly Development if 100% of its units will be occupied by persons 62 years of age or older or if at least 80% of its units will be occupied by persons 55 years of age or older. The application package must include a statement from the development owner specifying which age group the development will target.

**Eligible Basis-** A component of the qualified basis of an LIHTC project. It is generally equal to the adjusted basis of the building, excluding land but including amenities and common areas.

**Existing Building-** A building that has been previously placed in service.

**Extended Use Period-** The period beginning on the first day after the compliance period and ending on the date specified by the agency or 15 years.

**Federally Subsidized-** A term used to describe a building that is financed with a below-market federal loan or with a loan for which the interest income earned by the holder of the loan is exempt from tax under Internal Revenue Code Section 13.

**Floor Space Fraction-** The floor space fraction is obtained by dividing the total floor space of the low-income units in the building by the total floor space of all residential units in the building (whether or not occupied).

**General Partner-** The Partner or collective of partners, which has general liability for the partnership during construction, lease up, and operation of the project. In addition, unless the context shall clearly indicate to the contrary, if the entity in question is a limited liability company, the term "General Partner" shall also mean the managing member or other party with management responsibility for the limited liability company.

**Grant-** Funds received from a private foundation or charitable group, federal, state, or local government that do not have to be repaid.

**Gross Income-** All income from whatever source derived, including the value of property or services as well as cash.

**Gross Rent-** Excludes any amounts received from a rental assistance program, utility allowance or fee paid to the owner of the unit or by any governmental assistance program.

**HUD-** The U.S. Department of Housing and Urban Development.

**IRC-** The Internal Revenue Code of 1986, as amended, and the rules, regulations, notices and other official pronouncements promulgated thereunder.

**IRS-** The Internal Revenue Service, a division of the U.S. Department of Treasury.

**Local Government-** The controlling elected governing body of the local jurisdiction (as defined in its Charter) in which the property is located at the time of Application (e.g., city council if within the city limits, or county commission if in an unincorporated area).

**Low-Income Unit-** Housing that is (1) rent restricted and (2) has individuals occupying it who meet the income limitation applicable under the elected minimum set-aside test.

**LURA-** The Land Use Restriction Agreement is a binding recorded agreement, between MHC and the Owner.

**MHC-** Mississippi Home Corporation, a quasi-state and federal government agency in the State of Mississippi, which administers the programs of the Mississippi Housing Finance Authority.

**Minimum Set-Aside Test-** Generally used to determine if a building is a qualified low-income housing project. There are three different minimum set-aside tests with varying applicability. The tests are 20-50 test, the 40-60 test, and the 25-60 test.

**Municipality-** Any incorporated city or town in the state.

**Operating Cost-** The costs associated with operating a multifamily development once the project is placed in service.

**Non-Profit-** A non-profit organization, which is described in Section 501 (C) (3) or (4), is exempt from tax under Section 501(a). Its exempt purpose is to foster low-income housing, among other purposes.

**Owner-** The single purpose legal entity holding title to the project as well as all persons, affiliates of such persons, corporations, partnerships, joint ventures, associations, or other entities that have a direct or indirect ownership interest in the ownership entity. The Owner is also the Applicant.

**Placed-In-Service Date** - Generally marks the beginning of the credit period. It is defined as the date the property is ready for occupancy.

**PHA-** Public Housing Authority.

**Qualified Allocation Plan (QAP)** - The Qualified Allocation Plan, or QAP, details the selection criteria and application requirements for housing tax credits and tax-exempt bonds. It lists all deadlines, application fees, restrictions, standards, and requirements. Each year, MHC drafts a new QAP and holds a public forum to solicit comments about the proposed plan before adopting a final version.

**Qualified Census Tract (QCT)** - Any census tract in which 50 percent or more of the households have an income which is less than 60 percent of area median gross income.

**Related Parties-** A relative (including but not limited to grandfather, grandmother, father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, father-in-law, mother-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half-brother, or half-sister) of any principal or any entity that shares common principals, executive directors, board members or officers.

**Revitalization Area/Plan-** Any area/plan for which the local jurisdiction in which the development is to be located certifies as follows: (i) either (1) the area is blighted, deteriorated, deteriorating or, if not rehabilitated, likely to deteriorate by reason that the buildings, improvements or other facilities in such area are subject to one or more of the following conditions- dilapidation, obsolescence, overcrowding, inadequate ventilation, light or sanitation, excessive land coverage, deleterious land use, or faulty otherwise inadequate design, quality or condition, or (2) the industrial, commercial or other economic development of such area will benefit the city or county but such area lacks the housing needed to induce manufacturing, industrial, commercial, governmental, educational, entertainment, community development, healthcare or nonprofit enterprises or undertakings to locate or remain in such area; and (ii) private enterprise and investment are not reasonably expected, without assistance, to produce the construction or rehabilitation of decent, safe and sanitary housing and supporting facilities that will meet the needs of low and moderate income persons and families in such area and will induce other persons and families to live within such area and thereby create a desirable economic mix of residents in such area. The area within a redevelopment project, conservation project, or rehabilitation district established by the city or county pursuant to Chapter 1 (§36-1 et seq.) of Title 36 shall be deemed a revitalization area without any such certification. A comprehensive plan does not qualify as certification of a revitalization area.

**Scattered Site Project-** A qualified low-income housing development located on multiple sites.

**Scoring Criteria-** The criteria detailed in Addendum A, by which points are assigned for the purpose of competitive scoring.

**Subsidy Layering Review-** The MHC evaluation of developments using MHC program funds in combination with other governmental assistance to ensure that no more than the necessary amount of MHC program funds is invested in any one development to provide affordable housing. For tax credit properties, the subsidy layering review is conducted at application, carryover and before issuance of 8609s.

**Tax Exempt Bonds (TEB)** - Are affordable housing developments financed with tax-exempt bonds and therefore eligible for 4% Federal Credit. Non-Competitive.

**Total Development Cost-** The sum of all anticipated or actual allowable development costs that are necessary to complete the proposed development.

**Utility Allowance-** The amount determined to be the average cost of tenant utilities and is updated annually.

*Note: If the UA has not changed, documentation from the provider must be submitted to show no change.*

**Veteran-** “Veteran” for purposes of Title 38 benefits (the Title of the United States Code that governs veterans benefits) is a person who “served in the active military, naval, or air service, and who was discharged or released therefrom under conditions other than dishonorable.”

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## ADDENDUM A: SELECTION CRITERIA

MHC will use the Selection Criteria in this Addendum to rank developments during the Application Cycle. Competitive Applications must score a minimum of eighty-five (85) points to be considered for a reservation of housing tax credits. Tax Exempt Bond Applications must score a minimum of seventy (70) points to be considered for housing tax credits.

### SITE LOCATION

Developments may receive up to ten points if the site is located in up to two of the four categories listed in Chart 5 below. For scattered site developments, all sites must be fully located in the scoring item selected.

**CHART 5: SITE LOCATION POINTS**

(1) Contributes to a Concerted Revitalization Plan	5 pts
(2) Zip Code Concentration (for Rehabilitation)	5 pts
(3) High Opportunity Area	10 pts
<b>Maximum Points:</b>	<b>10 pts</b>

#### **1. CONTRIBUTES TO A CONCERTED REVITALIZATION PLAN** **5 PTS**

Five points may be awarded to developments located in a community that has a concerted revitalization plan. A letter from the city/county, signed by the subject area's verifiable authority must be provided in the application. The letter must include a statement stating that the proposed development is a part of the community revitalization plan and provides a detailed description of the contribution to the Revitalization Plan. In addition, the Applicant must submit a copy of the relevant information from the area's plan regarding its housing goals/objectives OR the locality's letter must reference the title, adopted date, and information on how a complete copy of the plan may be accessed.

#### **2. QUALIFIED ZIP CODES** **5 PTS**

Five points may be awarded to developments that are fully located in a zip code which has **not** had any tax credit developments funded or placed in service for the previous five (5) years of the current year Tax Credit Cycle. (See *Addendum E*). The application package must include a map detailing the location of the proposed development within a qualified zip code. The map must be obtained from MHC by contacting Dr. Ben Mokry at [ben.mokry@mshc.com](mailto:ben.mokry@mshc.com). Developments that qualify for this point item will automatically be eligible for the discretionary 130% basis boost.

#### **3. HIGH OPPORTUNITY AREA** **10 PTS**

Ten points may be awarded to developments located in a High Opportunity Area. High Opportunity Areas are defined as areas where there is availability of sustainable employment, a low poverty rate, and/or high-performing schools. Developments located in a high opportunity area will be eligible for the discretionary 130% basis boost.

## SELECTION CRITERIA

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### Addendum A

MHC has identified several opportunity tracts as being qualified as a High Opportunity Area (see map). To make this determination, MHC considered the following:

**For Rehabilitation - Census Tract** that met the following conditions:

1. Median HHI  $\geq$  \$22,311 (50% of MS 2020 Statewide Median HHI estimate ESRI July 2020 estimate)
2. Projected 2021 Population Growth  $\geq$  -0.25% (ESRI July 2020 estimate)
3. Projected 2020-2025 Median Household Income Growth  $\geq$  0.01% (ESRI July 2020 estimate)
4. 2020 Unemployment Rate  $<$  10.6% (ESRI July 2020 estimate)
5. Located in County that had  $\geq$  500 new hires per quarter in 2017Q3 - 2018Q2 (as reported by MDES)

**(OR)**

**A-B Rated School District** as determined by the Mississippi Department of Education 2019 Accountability data. Undated, retrieved using “All Data” option on September 25, 2020 at: <https://msrc.mdek12.org/>.

**For New Construction - Census Tract** that met the following conditions

1. Median HHI  $\geq$  \$31,235 (70% of MS 2020 Statewide Median HHI estimate ESRI July 2020 estimate)
2. Projected 2021 Population Growth  $\geq$  0.01% (ESRI July 2020 estimate)
3. Projected 2020-2025 Median Household Income Growth  $\geq$  0.01% (ESRI July 2020 estimate)
4. 2020 Unemployment Rate  $<$  10.1% (ESRI July 2020 estimate)
5. Located in County that had  $\geq$  500 new hires per quarter in 2017Q3 - 2018Q2 (as reported by MDES)

Applicants may utilize the interactive map provided on MHC’s website to determine if the proposed development is located in an area of high opportunity or Opportunity Zone. Applicants must contact Dr. Ben Mokry for a map which identifies the proposed development location within the high opportunity area.

## SELECTION CRITERIA

### Addendum A

#### DEVELOPMENT CHARACTERISTICS

#### 4. NATIONAL GREEN BUILDING STANDARDS

**7 PTS**

Seven (7) points will be awarded to developments that build/rehabilitate the development to meet the standards of either ICC 700 National Green Building Standard (Silver Level) or Enterprise Green Communities (EGC)

The application package must include (1) a signed letter of intent from the Applicant that states its intention to become certified for the program and must specify the proposed level, (2) a letter certified by the development's architect/engineer stating that the development will be built according to the NGBS or EGC and (3) a written proposal from a Verifier of the NGBS or EGC Program that specifies the proposed level. Prior to issuance of 8609 forms, final certification from the Verifier must be submitted to MHC. Failure to provide the final certification from a certified NGBS or EGC Verifier will subject the development team to penalties as outlined in Section 1.4(6) of the QAP. For more information on the NGBS and EGC certification, please refer to [www.homeinnovation.com/green](http://www.homeinnovation.com/green) or [www.greencommunitiesonline.org](http://www.greencommunitiesonline.org).

#### 5. DEVELOPMENT AMENITIES

**UP TO 10 PTS**

Developments will be awarded points (as stated below) per development amenity up to a maximum of ten points. Amenities must be appropriate to the proposed tenant population. All proposed amenities must be selected on the application and notated and highlighted on the Plans/Drawings or Physical Needs Assessment. Applicants must adhere to all amenities selected on the application, regardless of whether or not points are awarded.

◆ Service Coordinator

Developments that contract with a third-party Service Coordinator to provide programs and services to its tenants may receive up to six (6) points. The application must include a Memorandum of Understanding between the Owner and the Service Provider that includes the scope of services to be provided, the length of the contract and the annual cost to the development. The development must be able to demonstrate financial feasibility with the cost of the Service Coordinator as a line item on the Development 15-Year Pro Forma. All services to be provided must meet MHC's requirements as outlined in Section 1.5(2) of the Qualified Allocation Plan. MHC must be notified in writing of any changes to the Service Provider.

- Full-time (minimum 40 hours a week) Service Coordinator .....6 pts
- Part-time (minimum 20 hours a week) Service Coordinator.....3 pts

◆ Advanced Community Services/Classes

Developments that offer at least one advanced services/classes beyond the required services notated in Section 1.5(2) of this QAP will receive two points. All services/classes must meet the requirements outlined in Section 1.5(2) of this QAP. Acceptable advance services/classes are as follow:

- Mentoring Program for At-Risk Boys and Girls
- Reading Programs for adults that have difficulty reading or do not know how to read

The required services must be conducted by a third party service provider. Classes/Services conducted by employees of the management entity or unqualified individuals will not be considered acceptable.

## SELECTION CRITERIA

### Addendum A

◆ Experienced Service Provider

Developments that enter into a contract with organizations with a proven track record of providing services to families in Mississippi (Mentoring, Literacy, Workforce Development, Parenting, Nutrition, Food Banks, etc.) may be eligible for six (6) points. Examples of experienced service providers include: Families First, Extra Table, Springboard, etc.

Applicants must enter into a contract with a service provider(s) for a minimum of ten (10) years. The application must include a Memorandum of Understanding between the Owner and the Service Provider that includes the scope of services to be provided, the length of the contract and the cost to the development. The development must be able to demonstrate financial feasibility with the cost of the Service Provider as a line item on the Development 15-Year Pro Forma.

Applicants must submit a pre-approval package by the Waiver Requests/Prior Approval deadline date detailing the intended service provider to be used. Send the package to [taxcredits@mshc.com](mailto:taxcredits@mshc.com) with the following information:

MHC will evaluate the selected providers and the services proposed for the property. At a minimum, service providers must respond to the following questions.

1. Background on the Provider. The provider must document its experience providing services like those to be provided to the property. Descriptions of services must include evidence-based information when available that demonstrate benefit to participants.
2. Needs of families in the property.
  - a. Considering expected mix of residents in this property and market area of the property, what common challenges do they face that threaten family and financial stability? Briefly describe the challenges proposed services will be designed to address considering the age and household composition, or other significant characteristics of residents expected to live in the property?
  - b. What services are proposed to address these challenges? Provide evidence-based documentation supporting the selection of the proposed services for the mix of tenants to be served by the property.
3. Delivery of services
  - a. How will the service provider evaluate services needed and resident participation? How will the provider implement and adjust delivery methods, learning formats, times, or other factors to achieve resident engagement and provide value to residents over time?
  - b. Contracted providers may not offer services the range of need experienced by households in the property. Discuss how the provider engages with other community resources so that residents may find the assistance they need.
4. Evaluating the provider
  - a. How will the property evaluate performance and determine the provider is providing value to residents?
  - b. Will providers be required to submit a report on participation and measures of resident benefit?

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### Addendum A

- c. Will renewals of provider contracts depend on meeting service goals? Describe the evaluation criteria to be used.

◆ Neighborhood Services

Points may be awarded to a proposed development that has at least two of the following services located within one half (1/2) mile of the proposed site:

- Grocery Store
- Pharmacy
- Bank or Credit Union
- Hospital or Medical Clinic

Distance will be measured by odometer from the automobile entrance of the proposed development site to the closest automobile entrance to the parking lot of the applicable service. At the time of application submission, applicants must provide photos of the businesses/services selected for this point category along with a map evidencing the distance from the proposed development.

◆ Furnished Clubhouse or Community Building

The Clubhouse/Community Building must have a designated room for tenant activities and meetings. Also, it must meet the requirements of MHC's Minimum Design Quality Standards. Multi-phase developments may share the Clubhouse/Community Building provided that it will accommodate the development size.

◆ On-site Business/Education Center

Must have its own dedicated room and equipment (including desktop computers with Internet access, scanner, fax machine, and copier/printer) separate and apart from the equipment used by the development manager's office staff. The on-site business center must contain a minimum of one (1) computer for every ten (10) units. Detailed drawings of the community building to include business center and its equipment must be shown.

◆ Full perimeter fencing with controlled access gate

The fencing and gate must be either wrought iron or wood. Chain-link fencing is unacceptable.

◆ Exterior Security

The security system must consist of a camera system, motion detector sensors and lighting that will provide adequate monitoring and coverage of the property.

◆ Fitness Center

The Fitness Center must have a minimum of five pieces of equipment. The equipment must be of commercial grade and consist of strength training machines and cardiovascular machines. A photo and specifications of the equipment must be included in the application.

◆ On-site Laundry Facility

The laundry facility must contain a minimum of one (1) washer and one (1) dryer for every eight (8) residential units. For elderly developments, a minimum of one (1) washer and one (1) dryer for every ten (10) residential units will be required.

◆ Walking, Jogging, or Biking Trail

The trail must be an asphalt or concrete paved surface measuring at least five (5) feet in width and a minimum of ¼ mile in distance. The trail must be separate from the required sidewalks.

◆ Basketball, Volleyball, or Tennis Court

◆ Landscaped area including a gazebo with sitting area

The landscaped area must include a site built and permanently affixed gazebo with sitting area. The gazebo must be a minimum of 400 sq ft under roof.



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- ◆ Playground  
The playground equipment must be of commercial grade with a minimum of four separate play activities. Multi-functional single structures are acceptable provided that it has at least four separate play activities. A photo and specifications of the equipment must be included in the application. Multi-phase developments must each have its own playground.
- ◆ Development Wi-Fi  
Provide tenants access to the internet via a development deployed wi-fi network. Coverage must be available throughout the units as well as all areas of the development outdoors.
- ◆ Multi-Purpose Bus Stop Structure  
Bus stop structure must be covered to protect waiting passengers from the elements. The structure must provide seating and a trash container. A drawing of the proposed structure must be submitted with the application.

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## 6. UNIT AMENITIES

**UP TO 10 PTS**

Developments will be awarded up to a maximum of ten points for providing a combination of any of the unit amenities listed below. Amenities must be appropriate to the proposed tenant population. All amenities must be selected on the application and notated and highlighted on the Plans/Drawings or Physical Needs Assessment. Applicants must adhere to all amenities selected on the application regardless of whether or not points are awarded.

### One-point Amenities:

- ◆ Ceiling fans in living room/great room and all bedrooms
- ◆ Patios (minimum size of 6' x 8')
- ◆ Outside storage lockers (minimum size of 3' x 5')
- ◆ Smart Thermostat installed in each unit

### Two-point Amenities:

- ◆ A washer and dryer provided in each unit. Stackable units are acceptable for elderly and rehabilitation developments.
- ◆ Tankless gas water heaters

### Three-point Amenities:

- ◆ Security System with an alarm on all entry doors and windows
- ◆ Storm Doors
- ◆ Storm Shelter
- ◆ Smoke Free Developments

The Owner/Management Entity must establish and implement a written policy prohibiting smoking in all units and common areas of the Development. A non-smoking clause must be included in the lease agreement that specifies the no smoking policy and states the penalties for violating the policy. Signage must be posted throughout the development indicating that smoking will not be allowed in the units or common areas. Also, any designated smoking area(s) must be identified in the written policy and lease agreement. The Owner/Management Entity must make educational materials on tobacco treatment programs, including the phone number for the statewide Mississippi Tobacco Quitline, available to all tenants. A copy of the written policy as well as a sample copy of the lease agreement that specifies the no smoking policy and penalties for violating the policy must be included in the application.

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#### 7. DEVELOPMENT TYPE

UP TO 25 PTS

Up to twenty points may be awarded to developments that apply as New Construction or Acquisition/Rehabilitation based on the development's type and features. See *Chart 6* for New Construction developments and *Chart 7* for Acquisition/Rehabilitation developments. Applicants cannot receive points for both New Construction and Acquisition/Rehabilitation.

##### A. New Construction Points

Applicants applying as a new construction development must meet MHC's Minimum Design Quality Standards (Addendum B). Points may be awarded to a new construction development based on the features listed in Chart 6 below.

**Chart 6: New Construction Points**

New Construction	10 pts
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##### Lease Purchase Option for Tenants (Optional)

Lease Purchase developments are Single Family Homes that will convert to tenant ownership at the end of the fifteen year compliance period. The application must include a sample lease-purchase agreement. The agreement must advise tenants of the available purchase option at the end of the fifteen (15) year lease period. In addition, the agreement must include items #17 and #18 from the HTC Homeownership Policy Guide (Addendum J).

Lease purchase developments must meet all of the following requirements:

- The development must consist of single family homes only. For Single Family Attached Homes (duplexes, townhomes, and quadplexes), a sample condominium document must be included with the application. The condominium document should explain, at a minimum, the common areas are owned by the owners of the units as tenants in common, in equal shares, one for each unit. Additionally, the document shall include a description of the nonexclusive easement for ingress, egress and support thorough the common areas as appurtenant to each unit, and the common areas are also subject to such easement.

This document shall be signed by the tenants upon the initial lease and shall specifically state that it continues in effect upon the exercise of the purchase option at the end of the 15 year period.

- The development must be designed for eventual homeownership and must meet the subdivision and building code requirements.
- The development must be constructed separate and apart from any other tax credit development that are exclusively multifamily rental complexes.
- The development must be fee simple with a homeowner's association for any common areas.
- The development must front on a publicly dedicated street at the time of fee simple transfer.
- The development must meet the requirements of the SFLP Home Ownership Policy Guide (Addendum J) as well as the "Single Family Leased Purchase" section of the Compliance Manual (*available on MHC's website*).

##### B. Acquisition/Rehabilitation Points

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Applicants applying as an acquisition/rehabilitation development must meet the requirements in Section 1.5(5) of the QAP. Points may be awarded to an acquisition/rehabilitation development based on the features listed in Chart 7.

**Chart 7: Acquisition/Rehabilitation Points**

(a) Rehabilitation	up to 15 pts
(b) Historic Developments	10 pts
(c) Preservation	5 pts
<b>Maximum Points:</b>	<b>25 pts</b>

(a) Rehabilitation (up to 15 pts.)

Points will be awarded to developments based on the amount of substantial rehabilitation needed as follow:

- ◆ Developments with rehabilitation hard costs of thirty five thousand dollars (\$35,000) per unit will receive 15 points.
- ◆ Developments with rehabilitation hard costs of twenty five thousand dollars (\$25,000) per unit will receive 10 points.
- ◆ Developments with rehabilitation hard costs of fifteen thousand dollars (\$15,000) per unit will receive 5 points.

The development must be rehabilitated so that the major building components and systems will not require further substantial rehabilitation for a period of at least fifteen years from the placed in service date. Major building components and systems are roof structures, wall structures, floor structures, foundations, plumbing systems, central heating and air conditioning systems, electrical systems, doors and windows, parking lots, elevators, and fire/safety systems.

A Physical Needs Assessment (PNA) must be provided that includes the rehabilitation improvements and the amount of rehabilitation costs. The PNA must be prepared by a qualified professional, architect or engineer, who has no financial interest in the development and no identity of interest with the developer. The application must also include photos of the existing building(s).

(b) Historic Developments (10 pts.)

A development will be considered a Historic Development if it meets one of the following requirements listed below. Preservation of Aged LIHTC Developments will not be eligible for these points.

- Be listed individually in the National Register of Historic places, or
- Be located in a National Register historic district and be certified by the Mississippi Department of Archives and History (MDAH) as contributing to the significance of the district, or
- Be designated as a Mississippi Landmark by MDAH

The application must include a letter from MDAH which confirms their preliminary eligibility for historic tax credits in the application package. If the development receives an award of housing tax credits, the owner must submit copies of Parts 1 and 2 of the Historic Preservation Certification Application to MHC within ninety (90) days of the reservation letter date.

(c) Preservation (5 pts.)

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Five points will be awarded to developments that preserve existing federal affordable housing programs that meet one of the following:

**Previous LIHTC Development.** Developments that have previously received an award of housing tax credits may be eligible if it meets all of the following: (1) the extended use period has expired; (2) the development has been in service at least 20 years; (3) the development requires substantial rehabilitation; and (4) the development exited the program in good standing. Developments that have a history of neglect and poor ownership will not be considered if proposed by a related party to the owners who did not properly maintain the property. Applicants must complete the "Previous Award of Tax Credits" section of the application. In addition, the application must include a copy of the original LURA and the first year's IRS Forms 8609 for all buildings showing Part II completed.

**Loss of Rental Assistance.** Affordable Housing Developments that are federally subsidized and are at risk of being converted to market rate housing through the loss of rental assistance. The property must have a contract with HUD or Rural Development for development-based rental assistance. The application must include a copy of the expiring contract, a copy of the land use restrictions (not applicable to Rural Development projects), and a letter from HUD/RD that states that the property is at risk of being converted to market rate housing.

Historic Developments and SFLP Developments are not eligible for these points.

## HOUSING NEEDS CHARACTERISTICS

### 8. DEEPER TARGETING

5 PTS

Five points will be awarded to developments that set aside at least fifteen percent (15%) of the total units for persons whose income does not exceed thirty percent (30%) of the area median gross income. The 30% of area median gross income will be the straight-line calculation of the 50% AMI and not the 30% AMI published in the MTSP limits by HUD. A Land Use Restrictive Agreement (LURA) committing to serve tenants at this income level for a period of forty (40) years or longer must be executed and recorded prior to issuance of Forms 8609. Applicants must indicate this election on the application form. In addition, a statement, executed by a principal member of the Ownership Entity, electing to set aside 15% or more of the total units for persons at or below 30% of the area median gross income must be included in the application package. Single Family Lease Purchase developments are not eligible for these points.

### 9. SPECIAL NEEDS HOUSING

UP TO 13 PTS

Points will be awarded to developments that target one of the Special Needs categories listed below. All Owners and Management Entities of Special Needs Housing Developments are required to demonstrate continuous marketing efforts to serve the targeted special need population elected. The minimum required special needs unit obligation must be met by the end of the initial lease-up period. The application package

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### Addendum A

must include (a) a market study that addresses the housing priority for the specialized need; (b) a marketing plan that identifies how the development will market to the targeted population; and (c) a comprehensive service plan that identifies each supportive service to be provided, the location of the services, the anticipated service provider for each service and their experience in providing service to the targeted population.

- **Elderly (10 pts)**

A development will be considered an Elderly Development if 100% of its units will be occupied by persons 62 years of age or older or if at least 80% of its units will be occupied by persons 55 years of age or older. The application package must include a statement from the development owner specifying which age group the development will target. The development will be required to provide its tenants with a secure living environment and emergency pull cords/call button in each unit. In addition, the development must include such services as preventive health care programs, information and counseling, social activity programs, and transportation to facilitate access to social services. Developments that receive points for Large Family, Housing for Disabled Persons Targeted by Mississippi Affirmative Olmstead Initiative or Veterans are not eligible for these points.

- **Housing for Disabled Persons Targeted by Mississippi Affirmative Olmstead Initiative (13 pts)**

Thirteen (13) points will be awarded to developments that set aside a minimum of 7% but no more than 20% of the total development units for persons targeted by the Mississippi Affirmative Olmstead Initiative. To qualify for this incentive, the owner must agree to accept referrals from the MAOI referral network partner serving the property's location, Mississippi United to End Homelessness (MUTEH) or Open Doors Homeless Coalition (ODHC) and execute a memorandum of understanding between the owner, property manager, and the MAOI referral network partner for the period of the targeting agreement. The tenant selection plan must describe how it will handle requests for reasonable accommodation(s) as defined in the Fair Housing Act.

Owners and Management Entities must demonstrate continuous marketing efforts by adhering to its marketing plan by utilizing the above referenced agencies for referrals. If after exhausting all of these efforts, the Owner/Management Entity is still unable to find a qualified tenant that meet the requirements of the Mississippi Affirmative Olmstead Initiative, the unit may be rented to other qualified tenants. However, the Owner/Management Entity must put forth the same marketing efforts towards the next available unit. Documentation of the marketing efforts must be kept on file with the site manager.

Developments that receive points for Elderly or Veterans are not eligible for these points.

- **Housing for Veterans (10 pts)**

Housing for Veterans is defined as a household that includes one or more persons that is eligible for Veteran benefits as documented by the United States Department of Veterans Affairs. A minimum of 10% of the units must be set aside for Veterans. Letters of support and collaboration from the nearest Veterans Administration Hospital or community-based outreach clinic are required to demonstrate coordination of veteran-specific resources and services. Developments that receive points for Elderly or Housing for Disabled Persons Targeted by Mississippi Affirmative Olmstead Initiative are not eligible for these points.

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#### DEVELOPMENT TEAM CHARACTERISTICS

#### 10. DEVELOPMENT EXPERIENCE

UP TO 13 PTS

Up to thirteen points will be awarded to an applicant that has at least one qualified principal member. Points will be based on the number of developments placed in service between 2009 and 2018. An additional three points will be awarded to applicants that have at least one qualified development in Mississippi. Applicants must complete the Development Experience Form (Attachment 6) for each qualified principal member.

- **Qualified Principal Member**

A qualified principal member is a person who has previous experience (as a developer or general partner) in the Low Income Housing Tax Credit Program or other affordable housing programs (i.e., Rural Development, HUD). A qualified principal member must have a minimum of 51% ownership interest in the general partnership to be eligible. In cases where the principal of the general partner is an entity, the qualifying principal member must own a minimum of 51% ownership of the entity. Additionally, all members of the general partner must be in good standing with all MHC programs. Development experience points will not be awarded if a principal of the general partner entity has any outstanding major noncompliance issues which occurred prior to January 1, 2019. In cases where a development has non-profit involvement, the qualified principal member must have 49% ownership.

- A qualified principal member that meets the requirements herein due to being a member of another applicant's Development Team in the previous five (5) years or tax credit cycles will only be eligible for a maximum of half of the Developer Experience points

- **Experience (any state)**

Qualified Principal Members that have developments that Placed in Service (in any state) between 2009 and 2018 will be awarded points as stated in Chart 8.

**Chart 8: Development Experience Points (any state)**

No. of Developments Placed in Service between 2009 - 2018	Eligible Points
One Development	2 points
Two Developments	4 points
Three Developments	6 points
Four Developments	8 points
Five (or more) Developments	10 points

- **Experience (in the state of Mississippi)**

An additional three points will be awarded if at least one development from Chart 8 is located in the state of Mississippi.

Development Experience points will not be applied to any Mississippi LIHTC development(s) that involve any of the violations listed below:

- Foreclosure or Deed in Lieu of Foreclosure of any MS LIHTC property beginning in 2011
- Any Developer or Developer Entity forcibly removed from any Limited Partnership (including a General Partner) or Limited Liability Company relating to a MS LIHTC development beginning in 2019. Failure of an applicant to report such removal to MHC may result in disqualification or program suspension.
- Failure to pay Vendors and Contractors during the construction of any MS LIHTC development. Any lien associated with an LIHTC development must be reported to MHC. Failure of an applicant to report may result in disqualification or program suspension.

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### Addendum A

- Significant changes to an application after award will disqualify that development from Development Experience points.

#### 11. MANAGEMENT EXPERIENCE

UP TO 20 PTS

Ten points will be awarded to applicants that have a contract with a property management company that has at least three (3) years previous experience in managing low income housing tax credit developments. The application package must include an agreement or letter of intent from the management company. Additional points may be awarded if at least one of the developments is located in Mississippi and/or if the contact person of the management entity has an HTC Certification. The application package must include a complete Management Performance Form (*Attachment 7*). Points will not be awarded if this form is not accurately completed. MHC will consider requests for Joint Ventures (experienced management entities partnering with inexperienced management entities) after the management entity has completed a minimum of three successful years in operation from the development's placed in service date.

Five points will be deducted from an applicant's score if the Management Entity has any major noncompliance issues that occurred prior to January 1, 2019 that is not corrected by December 31, 2018.

##### Chart 9: Management Experience Points

Scoring Criteria	Eligible Points
Qualified Development(s)	10 pts
Mississippi Developments	5 pts
HTC Certification	5 pts
Major Non-Compliance not corrected by 12/31/18	-5 pts

##### Qualified Development(s) (10 pts.)

The proposed management entity must have experience in managing at least one qualified development. A development will be considered qualified for Management Experience points if it is an LIHTC development that placed in service prior to January 1, 2014. The proposed management entity must have begun managing the development no later than January 1, 2014 and must be currently managing the development.

##### Mississippi Developments (5 pts.)

Five additional points will be awarded if at least one development meet all of the requirements as a "Qualified Development" (as stated above) and is located in the state of Mississippi. Applicants should note that any Mississippi development that has uncorrected 8823s that have been outstanding for longer than six months will not qualify for these points.

##### HTC Certification (5 pts.)

Five points will be awarded to a development if the contact person listed on the application form (under "Management Entity") has at least one of the following HTC Certifications: *Housing Credit Certified Professional (HCCP)*, *Certified Credit Compliance Professional (C3P)*, and/or *Specialist in Housing Credit Management (SHCM)*. The experience must be documented on the Management Performance Form (*Attachment 7*).

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#### POINT ADJUSTMENTS

#### 1. OVER CONCENTRATION

-5 PTS

Five (5) points will be deducted if an applicant proposes a new construction development in a primary market area that has received three (3) or more tax credit awards during the previous two (2) years. The following chart indicates the areas which are subject to this point deduction:

Zip Code(s) with 3+ Developments Allocated HTC in Previous Two Years of current tax creciit cycle			
COUNTY	ZIP	2017	2018
Forrest	39401	2	1

The Market Studies will be analyzed by third party market analysts to determine market area need for units, both existing and proposed. MHC will make allocations within the market area limited to the determined market need. Additionally, MHC will fund only one (1) development in each primary market area, as defined by the Market Study, if at least one development has been funded within the previous two (2) years.

#### 2. MAXIMUM CONSTRUCTION COSTS (MCC) LIMITS ASSESSMENT

+ /- 5 PTS

Developments whose construction costs fall below or exceed those limits as per *Attachment FF-1: Maximum Construction Cost (MCC) Per Unit Certification* will be subject to the following scoring adjustments:

Hard Cost per unit is	Points
Less than MCC limit	+5 points
Equal to or More than MCC limit by less than 10%	0 points
More than MCC limit by more than 10%	-5 points

#### 3. THRESHOLD DEFICIENCIES

-2 PTS EACH

Two points will be deducted for each deficient Threshold item outlined in Section 4. No points will be deducted for threshold items that require a clarification only.

#### 4. OTHER POINT DEDUCTIONS

Points will be deducted for each of the following:

- Amenities not highlighted on plans/drawings (-1 pt.)
- Documentation provided under "Other Attachments" not labeled/identified on the TOC (-1 pt.)
- Failure to include any addendums or exhibits to site control documents (See Section 4.2) (-1 pt.)
- Missing/Incomplete item(s) for required documents (-1 pt. each)
- Failure to include required copies of documents in the TOC. (-1 pt.)
- The development has a major noncompliance issue that occurred prior to January 1, 2021 that was corrected after December 31, 2020. (-5 pts.)
- Online application submitted late. (-5 pts)
- Online application incomplete (-5 pts)



## SELECTION CRITERIA

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### Addendum A

- i. Documents uploaded to incorrect sections. Documents uploaded to incorrect sections. If a requested document is not applicable to the section, the applicant must upload a placeholder document stating it is not applicable *(-1 pt each)*

### TIEBREAKERS

In the event of a tie in the scores, the Tiebreaking System will be used in the following order:

1. Priority funding will be given to the development with the lowest soft cost percentage. The soft cost percentage calculation will appear on Financial Feasibility Form FF-1.
2. Developments that have the lowest cost per unit (CPU).
3. Applications will be ranked according to tax credits per unit favoring the development that requires the fewest tax credits per unit.
4. A development to be located in a qualified census tract shall take precedence over one that is not.

## ADDENDUM B: MINIMUM DESIGN QUALITY STANDARDS

### B Minimum Design Quality Standards

The purpose of the Mississippi Home Corp Architectural Review is to determine if a development meets the Agency's recommended architectural standards. The design standards for 4% (noncompetitive) tax credits will remain consistent with the design standards for the 9% (competitive) tax credits. When the final plans and specifications are submitted, the Architect shall include a statement that the development has met the minimum criteria. Plans must be submitted as ¾ scale. At the completion of construction, the Architect shall certify that the development has complied with all the minimum requirements. FAILURE TO COMPLY WITH THE MINIMUM STANDARDS WILL RESULT IN A LOSS OF CREDITS.

#### SINGLE FAMILY HOMES

The following is required for all new construction of single family homes:

1. The minimum heated/cooled area for a single family detached two bedroom/two bath home will be 1,100 square feet (2 bedroom 2 bath units are limited to no more than 25% of the total unit mix). The minimum heated/cooled area for a single family detached three bedroom/two bath home will be 1,300 square feet. The minimum heated/cooled area for a single family detached four bedroom/two bath home will be 1,700 square feet. (One (1) bedroom single family units are prohibited.)
2. Average lot sizes of no less than 7,500 square feet (single family detached).
3. At least eighty percent (80%) of the home's exterior being brick or equivalent surface, i.e. Hardiboard or similar cement composite board.
4. Master bedrooms should be at least 12'x14' (13'x15' is preferred)
5. Secondary bedrooms should be at least 10'x10' (11'x12' is preferred).
6. All single family type construction (single family detached houses, town homes, duplexes, and 4-plex units) must have, at a minimum, a two car garage for each unit. The minimum dimensions for two cars should be 20'x21' (inside face of stud to face of stud). A minimum of 50 sq. ft. of enclosed storage is required.
7. Owner shall provide a maintenance schedule of items to be replaced prior to the purchase of the units by the Tenant.
8. Paved driveways.
9. Entrance Appeal. Provide adequate entrance signage with landscaping clearly illustrated in the plans.
10. Side by side washer and dryer connections.
11. Landscape Plan and Maintenance (Applicants shall maintain lawns and landscaping throughout the required compliance period.)
12. Architectural Shingles or Solar Reflectance Index (SRI) metal roofing (if appropriate to the area and development).
13. Development note: provide curb & gutter with sidewalks (4' min width) and underground utilities in new communities. Scattered lot developments should conform to existing standards of surrounding development.
14. Along with the primary "street" or front elevation, provide (2) additional elevations for each plan as well as mirror image of each. These elevations should be spread throughout the development to create variation in the street scene as well as future value.
15. SFLP developments must have a minimum of two (2) elevations per plan with no more than fifteen percent (15%) of the total units having the same elevations. The elevations cannot be located side by side and there must be at least three (3) different elevations between them. The different elevations must be staggered throughout the development to create variation in the street scene.
16. Washer and dryer connections in individual units. The connections must have capability to service side-by-side units, opposite wall units, or stackable units.
17. Wiring or wireless connections for cable television and internet access must be confirmed by letter from the architect/engineer.
18. All SFLP developments, including townhome developments must build the required ADA minimum number of handicapped accessible units. If the development is a planned traditional townhome unit with all bedrooms being on the second floor, the developer will be required to construct the appropriate number of accessible units with the accommodating bedroom(s) on the first floor.

## MINIMUM DESIGN QUALITY STANDARDS

### ADDENDUM B

19. Furnished Clubhouse or Community Building for all new construction. (see page 63)

#### SINGLE FAMILY HOMES AND MULTIFAMILY APARTMENTS

The following is required for all new construction and rehabilitation developments:

#### NATIONAL GREEN BUILDING STANDARD (NGBS)

All developments are required to meet the minimum requirement of Bronze Level, ICC 700 NGBS.

#### UNIT LIVABILITY

The long-term marketability of apartment units is affected not only by their sizes but also by the livability of the units. One important functional component of livability is the ability of the space to accommodate the potential number of occupants and the basic pieces of common furniture necessary for daily activities. A well thought-out furniture plan may resolve conflicts in the unit layout, providing improved functionality and livability.

#### KITCHEN

Kitchen cabinets and appliance space required at 16 lineal feet for 2 & 3 bedroom units with the addition of a pantry for larger units (\*\*). Utilize 16" clear counter space on one side of each appliance and fixture and a minimum of 9" on the opposite side of a range (\*\*). Each kitchen must contain an Energy Star Rated Refrigerator/Freezer and Dishwasher.

#### CLOSETS

1. Minimum of 12 lineal feet of closet rod in master bedroom and 5 lineal feet in other bedrooms.
2. Entry coat closet and linen closet in multiple bedroom units, if possible.

#### CEILINGS & HALLWAYS

1. Hallways must be a minimum of 3'4" in width (measured from face of stud to face of stud). This will accommodate a 2'8" door and allow for wheelchair access as well as moving furniture without damage to walls.
2. 9' Ceiling heights.

#### BEDROOMS

Bedrooms size should be a minimum of 96 sq. ft. plus the required closet space (\*\*).

#### BATHROOMS

Secondary baths must have at least one door that is 2'8" (\*\*). This allows for wheel chair access (Fair Housing standard).

#### SMOKE DETECTORS

Each unit must include at least two hard wired smoke detectors, in proper working condition, on each level of the unit.

#### CARBON MONOXIDE DETECTOR

Each unit must include at least one hard wired carbon monoxide detector, in proper working condition, on each level near bedrooms in properties which contain a combustible appliance.

#### COMMON AREAS

1. Community/Recreation facility will be a minimum of 1,200 square feet or 20 sq. ft. per unit for family; whichever is greater (\*\*). The facility will include a community kitchen, sink, refrigerator and range or microwave (\*\*). Management office will be no less than 100 sq ft (\*\*).
2. Maintenance workshop and storage room that provides a workbench, sink and shelving area (\*\*).
3. Common area laundry room when washers/dryers are not provided in the units. The common laundry

## MINIMUM DESIGN QUALITY STANDARDS

### ADDENDUM B

room must provide 1 washer/dryer per 12 family units (\*\*).

4. Elevators are required in developments that provide for senior housing and special needs (\*\*).
5. Exterior trash enclosures should have enclosure protection and a nearby hose bib; for Multi-Family developments or for those developments located in areas where services are not provided by local municipalities (\*\*).
6. Playgrounds, Community Centers and Mail Kiosks should have sufficient separation as to provide safety for the children and minimize traffic congestion for the various functions (\*\*).

#### EXTERIOR

1. Structures of two or more stories must be a minimum of sixty percent (60%) brick or cementitious product (\*\*).
2. Where vinyl siding is used, if on the allowed 40% and for soffit and fascia, it must be certified through VSI's Program and be installed by a certified installer. Additional information can be obtained at <http://www.vinylsiding.org/certifiedinstaller>.
3. A color variation throughout the development is encouraged.
4. Housing components delivered to the site must meet MHC's "Site Delivered Housing Component Requirements" available on MHC's website [www.mshomecorp.com](http://www.mshomecorp.com).

(\*\*) Includes requirement for Acquisition/Rehabilitation developments. Historic Developments may request a waiver.

#### PARKING

All multifamily developments must have a minimum of two (2) parking spaces per unit or 1.5 spaces per unit for elderly properties. MHC will allow a waiver of these parking requirements subject to the local jurisdiction's parking requirements.

#### CENTRAL AIR/HEAT

Any development receiving tax credits must have central air and heat by the placed in service date. A certified letter from the development's architect or engineer must verify that the central heat and air system has the capacity to properly accommodate all of the units.

#### ENERGY EFFICIENCY / GREEN (SUSTAINABLE) DESIGN

1. Use of all Energy Star rated appliances.
2. Use of low or zero V.O.C. (Volatile Organic Compounds) interior paints.
3. Use of Formaldehyde-free insulation
4. Use of at least of one (1) high efficiency toilet or dual flush per unit.
5. Use of double glazed, insulated energy efficient windows, with Low-E glazing and a minimum: U factor of .55, Heat Gain Coefficient of .29 and Visibility Transfer of .52
6. Use of alternate, high efficient H.V.A.C. sources and delivery systems (14 SEER).
7. Use of water efficient landscape plants
8. Use of efficient, compact site design (when local codes allow).
9. Use of Gutters and downspouts at eaves less than 12" on 1 story and less than 24" on 2<sup>nd</sup> level. Downspouts to underground drain system or concrete splash blocks or hard surface required.
10. Use of PEX plumbing systems for domestic water.
11. Use of Day-lighting. Day-lighting includes strategies for increasing the percentage of illumination provided by natural light by optimizing building orientation and room layout.

#### SITE ACCESSIBILITY

1. Accessible path to the primary entry of all ground floor units
2. Identify all common area facilities on an accessible path (show walkways slope and landing dimensions at ramps, accessible parking spaces, van stall location, and trash enclosures)

### ADDENDUM B

Note: The development must be designed to meet ADA and HUD standards for all applicable handicapped accessibility requirements. See Section 9 of the QAP.

#### STANDARDS DEFINITIONS

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##### **Overall Impact**

Avoid letting garages, driveways dominate the streetscape – more specifically in Traditional Neighborhoods or Compact Sites. Consider placing them at the rear or side of the site to allow a majority of dwelling units to "front on" the street. A mix of both front loaded and rear garages provides "character" in the development. Consider planting trees and shrubs to soften the overall impact and provide shade and noise reduction.

##### **Vehicle/Pedestrian Interaction**

Design to minimize conflicts between vehicles and pedestrians. Consider separating bicycle and pedestrian paths from vehicular traffic. Consider linking open spaces so that they form an uninterrupted network of vehicle-free areas. Consider traffic calming strategies to slow down cars within the development.

##### **Adequate Size**

Ensure that private open space is large enough so that it can actually be used. Avoid spaces, particularly balconies, decks and porches that are too narrow to accommodate furniture.

##### **Nighttime Lighting**

Consider a lighting plan for shared open spaces that provides light from a variety of sources. Match lighting intensity and quality to the use for which it is intended; i.e. the lighting required for a pedestrian path is substantially different from that required to illuminate streets. Avoid lighting which shines directly into dwelling units or is overly intense and bright. Consider light fixtures which minimize overall light "pollution;" i.e. fixtures with shields which prevent lighting the nighttime sky. Consider energy efficient lighting whenever possible.

##### **Landscaping is not a Secondary Consideration**

Good landscaping is critical to the quality of any development. Consider how landscaping and planting will be handled from the very beginning of the design process. Avoid considering landscaping as an "extra" that can be added in at the end of the development or, worse, eliminated in the name of cost control.

##### **Building Scale and Massing**

Relate the size and bulk of the new structure to the prevalent scale in other buildings in the immediate neighborhood.

##### **Building Form**

Consider utilizing a variety of building forms and roof shapes rather than box-like forms with large, unvaried roofs. Consider how the building can be efficiently manipulated to create clusters of units, including variations in height, setback and roof shape. Make sure various forms and shapes work together to create a coherent whole.

##### **Image**

Avoid creating a building that looks strange or out of place in its neighborhood. Consider a building image that fits in with the image of good quality market rate housing in the community where the development is located.

##### **Visual Complexity**

Consider providing as much visual and architectural complexity as possible to the building's appearance while maintaining a hierarchy of scale and a unified overall form. Consider breaking a large building into smaller units or clusters. Consider variations in height, color, setback, materials, texture, trim, and roof shape. Consider variations in the shape and placement of windows and other façade elements. Consider using landscape elements to add variety and differentiate homes from each other; more specifically in Traditional Neighborhoods.

#### **Facade**

Relate the character of the new building façade to the façades of similar, good quality homes in the surrounding neighborhood or region. The minimum roof pitch will not be less than 6/12 (7/12 or greater is preferred). Horizontal buildings can be made to relate to more vertical adjacent structures by breaking the façade into smaller components that individually appear more vertical.

#### **Trim and Details**

Trim and details can provide warmth and character to a building's appearance, particularly on street facades. In general, the complexity, depth and proportion of trim should relate to that used in good quality middle-income housing in surrounding neighborhoods. Carefully consider the design of porch and stair railings, fascia boards, corners, and areas where vertical and horizontal surfaces meet - for example where a wall meets the roof. Generally put trim around windows. Consider adding simple pieces of trim to the top and bottom of porch columns. Vary the dimension from an eave (18' minimum) and a rake (4' minimum) detail.

#### **Materials and Color**

Creative use of materials and color can add variety and visual interest to any façade. In general, consider materials and colors - for the façade (including foundation walls) and for the roof - that are compatible with those in similar, good quality buildings in the surrounding neighborhood or region. Avoid introducing drastically different colors and materials than those of the surrounding area. Consider using materials and construction details that do not require repeated or expensive maintenance. Favor materials that residents can easily maintain themselves after the homes complete the compliance period. Consider using materials with high levels of recycled content or "Green" where possible.

#### **Room Relationships**

Unit layout and room organization will be partly determined by the homes, orientation and location on the site and user profile. Consider activities and behaviors in each space to allow adequate room and durable materials for these activities. Create a clear separation of the private sleeping areas from the less private living areas. Avoid excessive circulation space.

#### **Room Design**

Consider how individual rooms will be used. Test furniture arrangements, outlet, telephone, cable jack, and light fixture locations to ensure that all rooms can be reasonably furnished. Consider partly enclosing kitchen to allow flexibility in dining/living room use. At a minimum, the master bedroom should have a private bath in homes with three or more bedrooms; other bedrooms will share bathrooms. Consider how rooms can be arranged to accommodate working at home.

#### **Daylight and Ventilation**

Access to natural light in all bedrooms and the living room is essential and cross ventilation throughout the unit is encouraged. Consider layouts that allow natural light to the kitchen and allow the natural ventilation and lighting of bathrooms.

#### **Storage Space**

Provide as much interior storage space as possible (this includes access to attic storage as well). At a minimum provide an amount of bulk storage commensurate with the size of the home and the number and ages of residents it is expected to accommodate, including: coat closets in the entry area, large closets in the bedrooms, linen closets, pantry spaces in or near the kitchen, and exterior storage rooms (see #6 under Room Design). Assume two occupants per bedroom for storage purposes.

#### **Materials**

### ADDENDUM B

Avoid materials that require frequent maintenance, especially by specialists. Consider materials that residents can maintain themselves. Provide floor coverings appropriate to use in room - generally use resilient flooring in kitchens, bathroom, laundries, dining rooms and entries. Consider "healthy" building materials for interior finishes and materials, and when selecting carpet, resilient flooring, paint, glues, cabinets, etc... Evaluate selection of materials in terms of lifecycle and environmental cost.

#### **Build it to Last**

Inexpensive, low quality, materials can make any development look "cheap." Quality materials and finishes, on the other hand, contribute to the longevity of a development and to its ability to appreciate - not depreciate in value. They also make a development easier to maintain, potentially reducing operating costs.

"Building in" energy and environmental efficiency - through better windows, insulation and equipment - reduces operating costs over the life of the building.

While recommending doing everything possible to include high quality materials and finishes, we also recognize that affordable housing developments usually face severe cost constraints. Not every product or system can be top of the line. In these circumstances, consider favoring exterior materials and finishes over interior ones when making tradeoffs. Likewise, consider favoring products and systems which are permanent and hard to replace over those that the occupant can replace.

Ultimately, the over-riding goal is to construct the dwelling units with methods and materials in order to provide a minimum service life of 50, preferably 75 years.

## ADDENDUM C: REQUIRED DOCUMENTS

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The following documents must be submitted in the application package. One point will be deducted from an Applicant's score for each missing item.

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**1. Development Narrative**

A written narrative describing the proposed development including the type of homes to be constructed/rehabilitated, prior LIHTC status (if applicable), the proposed targeted population, and the financing to be utilized. Applicants are encouraged to provide as much additional detail and background information about the proposed development as possible; particularly for describing areas in the application involving unusual or complex elements. The narrative must also provide a breakdown listing the specific roles and responsibilities of the developer(s), general partner(s), and consultant.

**2. Development Plan of Action**

A detailed development timeline that lists expected dates of all phases of the construction and development (including but not limited to funding source closing dates, construction start and end dates, lease-up dates, etc.)

**3. Initial Site Assessment Form (*Attachment 2*)**

**4. Organizational Documents**

The application must include the formation documents, Certificate of Good Standing, and a detailed Organization Chart as outlined in Section 1.2(3).

**5. Construction Documents**

- a. A Construction Financing Letter showing the construction loan amount and terms.
- b. A properly executed and dated Construction Contract
- c. Construction Certification Form (*Attachment 3*) properly executed by the development's owner, architect/engineer and general contractor.

**6. Letter of Conformance**

The Letter of Conformance is a letter from the State or the local jurisdiction that the proposed site is located in stating that the development meets the needs of its current consolidated plan. If the proposed development is located in a city/county that does not have a consolidated plan, then it must comply with the State of Mississippi's Consolidated Plan. A letter from MHC may be obtained by contacting Dr. Ben Mokry at [ben.mokry@mshc.com](mailto:ben.mokry@mshc.com).

**7. Identity of Interest (*Attachment 12*)**

The Applicant must disclose any and all relationships (generally based on financial interests or family ties) with others involved in the property. This disclosure requires the names and addresses of all parties, including corporate officials, if applicable. See Section 1.7.

**8. Maximum Credit Award Certification (*Attachment 13*)**

**9. Utility Allowance**

Provide the applicable annual utility allowance from Rural Development, HUD, the local PHA or the local utility company. **Note:** If the utility allowance has not changed, documentation from the provider must be submitted to show that there has been no change.

**10. Location Maps**

Development map(s) identifying the development location and the general county boundaries.

**11. Architect/Engineer Confirmation**



## REQUIRED DOCUMENTS

### ADDENDUM C

Wiring or wireless connections for cable television and internet access must be confirmed by letter from the architect/engineer.

#### **12. Public Housing Waiting List Certification**

Signed written statement from the Applicant stating it will inform the public housing authority (PHA) of vacancies and to give priority to households on PHA waiting lists (see Section 1.5(3)).

#### **13. Nonprofit Entities**

The application must include the required documents outlined in Section 1.5(6) of the QAP.

#### **14. Acquisition/Rehabilitation Developments**

- (a) Physical Needs Assessment (Attachment 4) for the rehabilitation work to be completed;
- (b) Appraisal of land value and improvements. The land cost reflected in the appraisal must be the minimum land cost shown on the application form. The appraisal must be dated within six month of the application date and provided by a certified appraiser:
- (c) Site Photos.
- (d) Applicants requesting acquisition tax credits must provide evidence of title ownership over the previous ten (10) years. Acquisition/rehabilitation developments that are not ten (10) years old or have changed ownership within the last ten (10) years must provide an attorney opinion confirming eligibility for a lesser term or an approved waiver must be obtained from the U.S. Department of the Treasury. The waiver must accompany the application.
- (e) Relocation Plan (if applicable)

#### **15. New Construction Developments**

- a. Description of Materials (Attachment 5);
- b. Appraisal of land value.
- c. Plans and drawings submitted in 11 x 17 formats, that includes the following:
- d. site plan showing the site topography, general development of the site, streets bordering the site, the building and parking location.
- e. building elevations (front, side, and rear); building floor plans showing total dimensions, total square footage, and other specifics required to ensure the final product meets the Corporation's design requirements;
- f. all significant proposed amenities (must be highlighted)
- g. The building layout and net floor area for developments proposing a Clubhouse/Community Building with the location for the separate on-site business & education office/room.
- h. All applications must include site drawings depicting the front, side and rear elevation(s) for each building design.

#### **16. Tax Exempt Bond Financed Developments** An opinion letter from a Certified Public Accountant certifying that fifty percent (50%) or greater of aggregate basis will be financed by tax-exempt bonds.

## ADDENDUM D: HUD DESIGNATED QCTs/DDAs

For current QCT/DDA data, refer to the 2021 HTC Point Layer mapping tool on [mshomecorp.com](https://mshomecorp.com).

## ADDENDUM E:

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For current Qualified Zip Code data, refer to the 2021 HTC Point Layer mapping tool on [mshomecorp.com](https://mshomecorp.com).

### I. DATA SOURCES

#### 1. Acceptable data sources include:

- a. The 2010 Census
- b. Data from state or local planning bodies
- c. Data purchased commercially from organizations such as CACI or National Planning Data Service

### II. MINIMUM STANDARDS

The market study must be organized in the order of this guide and the market study checklist and must include all the following items.

#### 1. Problem Definition:

Define the problem the market study seeks to answer, specifically addressing the population to be served. The problem definition and market study must specifically address the population being served. In almost all cases, the problem will be whether sufficient potential demand exists for the development as proposed. Potential demand is the pool of households that are income qualified (household income does not exceed applicable program limits) and can afford the proposed development's rents.

For example, if the proposed development will serve 100% frail elderly it is inappropriate for the study to address the entire elderly population. The study must target the analysis to the frail elderly population, the potential pool of residents. The study must also segment the frail elderly pool into those households that are income-qualified and can afford the proposed rents.

#### 2. Market Area Definition:

The market area is defined as the area in which similar properties compete with the subject property for tenants. A factual basis for defining the boundaries of the market area must be established. Primary and secondary market areas may be delineated as subsets of the entire market area but a valid basis must be demonstrated for the decision to include a secondary market and for the geographical areas selected as primary and secondary.

If a secondary market is included in the study, appropriate adjustments must be made in the reconciliation of supply and demand to reflect the development's decreased likelihood of attracting households from the secondary market area. Provide a map that identifies the development site and both the primary and secondary market area for the proposed development.

#### 3. Physical/Location Analysis:

Include a description of the development site, development improvements, development amenities, units, unit amenities, parcel numbers and GPS coordinates. The description may be based upon a review of the development, the developer's description, or taken from the blueprints. The study should describe those attributes and amenities that set the development apart from its competitors and that will enhance or detract from the development's marketability.

It is particularly important to compare the development to competing developments and market preferences. For example, it is not enough to know that the development has one-bedroom units with a given set of amenities. The study must indicate whether those amenities are above standard, standard or substandard in the market. Compare the proposed development's positive or negative attributes to competing developments already built or in the pipeline, specifically addressing:

ADDENDUM F

- a. Site
  - Site amenities (view, topography)
  - Contiguous uses
  - Nuisances
- b. Improvements
  - Development size (gross square feet, stories)
  - Development description (exterior appearance, finish)
  - Construction type (methods, materials)
  - Development age (where applicable)
- c. Development Amenities
  - Common area
  - Parking
  - Storage
  - Laundry
  - Elevator
  - Green space
  - Recreational area/equipment
- d. Units
  - Mix of units (i.e., number of 1, 2, and 3-bedrooms and baths)
  - Unit sizes (in square feet)
  - Rent set asides
- e. Unit Amenities
  - Appliances
  - Floor covering
  - Air conditioning
  - Window treatments
  - Cable TV hookups
  - Utilities

The market study must also describe public services, infrastructure and linkages available to the development. Linkages are the location and relationship of the services, institutions, and businesses which are likely to be important to the development's residents

- f. Public Services
  - Public and private transportation (modes, availability)
  - Fire/police protection
- g. Linkages (Distances from Subject)
  - Schools
  - Shopping
  - Employment
  - Recreation
  - Transportation
  - Medical
  - Services for special-needs populations (where applicable)

4. **Economic Analysis:**

### ADDENDUM F

The market study must provide an overview of the market area's economic base. The economic analysis, at a minimum, must provide the:

- a. Number of persons employed in the market area (defined in Item II above) currently and as of the last census with employment broken out by the following categories:
  - Agriculture
  - Construction
  - Manufacturing
  - Transportation, communication & public utilities
  - Wholesale trade
  - Retail trade
  - Finance, insurance and real estate
  - Services (Business, repairs, personal services, entertainment, recreation, health, education, public administration, etc.)
- b. Unemployment rate currently and as of the last census
- c. Projected future employment in the market area

The above information may not be available for the geographical area delineated as the market area. If the required information is not available for the market area it should be provided for the smallest available geographical area which also encompasses the market area. For example, if the market area has been delineated as a five mile radius around Bentonina and economic data is not available for that area, data for Yazoo County may be used.

However, the study must then desegregate the data based on historical trends and/or shifts in the employment base. Include a map which shows both the area for which the information was available and the market area.

The study must also include a survey of major employers in the area and contain the following information:

- A list of major employers in the area, including type of industry, number of employees, and proximity to the proposed development's location.
- Expectations for employment changes over the next three to five years.

The major employers described above need not be located in the primary market area if those employers draw their employees from the market area. However, indicate the location of the proposed development in relation to major employment locations (i.e., the employment site is four miles east of the proposed site).

#### 5. **Demographic Summary**

A demographic summary must be included. Unless otherwise noted, the following information must be provided for three points in time: the most recent census, the current year, and a calendar year between three and five years in the future. Describe the following specific population characteristics:

- a. Population
  - Total population
  - Total population by age cohorts broken down in ranges of five years or less
- b. Household
  - Average household size
  - Total households
- c. Income:

ADDENDUM F

- Household income by tenure, household size broken down in income cohorts of no more than \$5,000. (Households with income over \$50,000 can be grouped into a single category)
- d. Tenure
  - Tenure by persons in unit (Households with six or more persons can be grouped into a single category of 6 or more persons) -- Most recent census only.
  - Units in structure by tenure (i.e., number of properties with 5 to 9 units that are owner occupied, renter occupied, or vacant--Most recent census only)

**6. Supply Analysis**

The market study must analyze the supply, both current and potential, of competing developments within the market area. Address existing multifamily developments, planned multifamily developments, and land zoned for multifamily uses in close proximity to proposed project site.

- a. Housing conditions of existing developments. For both existing and planned developments describe, in aggregate, the:
  - Number of units
  - Unit mix (i.e., number of 1, 2, and 3-bedrooms and baths)
  - Average rents by number of bedrooms and baths
  - Vacancy by number of bedrooms (existing developments only)
  - Federal assistance and subsidies available by type (i.e., section 8)
- b. Describe the land zoned multifamily within a one mile radius of the proposed project site. Specifically address the:
  - Amount of land zoned for multifamily density restrictions on land zoned multifamily
  - Number of units which could be developed given zoning restrictions Estimated date of availability of utilities
- c. The market study must also describe the competition on a development by development basis, including the:
  - Name and address of competing developments
  - Unit mix (i.e., number of 1, 2, and 3-bedrooms and baths)
  - Unit sizes
  - Rents by number of bedrooms and baths
  - Concessions offered
  - Vacancy
  - Development's age
  - Waiting list (Length of list, frequency of updating)
  - Vouchers/certificates in the development
  - Development amenities relative to the subject property
  - Unit amenities relative to the subject property
  - Name and phone number of on-site manager
  - Map showing development-by-development location of competition relative to the subject development
- d. Summary of Supply Analysis

**7. Demand Analysis**

ADDENDUM F

- a. Articulate anticipated demand for the development and for competing housing in the market area. In some instances, this will overlap with information required in the demographic summary. The analyst must estimate the:
  - Potential pool of households within the market area
  - Number of age, income, and rent qualified households that will create the effective demand and expected change in that number over the next five to ten years
  - Average size of the potential renter households and the expected change in that number over the next five to ten years.
- b. Vouchers and certificates  
The study must document the number of rental vouchers and/or certificates that are available and used in the community. If waiting lists for developments with vouchers and/or certificates are available, indicate the number of persons on the list(s) along with the frequency with which the waiting lists are updated.
- c. Special-needs populations  
For developments serving a special-needs population (*elderly, disabled, veterans*), the demand analysis must address the specific-needs population. For example, if the development's tax credit or loan application is based on the fact that a portion of the population is expected to be frail elderly, then the study must demonstrate demand for those frail elderly units through:
  - Secondary data
  - Data maintained by local governmental agencies establishing the market area's number of percentage of frail elderly or special-needs households
  - Developer's demonstrated experience with special needs populations
- d. Summary of Demand Analysis

**8. Reconciliation of Supply and Demand**

- a. Each market study must specifically articulate:
  - An overall vacancy rate for competitive housing in the market area;
  - A vacancy rate, by number of bedrooms, for competitive multifamily housing in the area;
  - The expected demand for units;
  - An estimated absorption rate (units rented per month/year) for the development overall and by number of bedrooms; and
  - The penetration rate (development units divided by qualified households) for the development overall.

In every instance, all data sources and calculations used in arriving at the above results must be shown in their entirety in the market study. Any assumptions used to derive any of the above rates must be explained within the study and supported by verifiable data.
- b. Summary of Conclusions for reconciliation of supply and demand

**9. Tax Credit Housing Forecast**

The analyst should provide a detailed summary that addresses each of the items listed below:

- Identify HTC developments and units approved with the previous five (5) years of the study available on the Corporation's website at [www.mshomecorp.com](http://www.mshomecorp.com), and those currently under construction in the market area
- Identify tax credit developments' rent levels and lease-up experience.



### ADDENDUM F

- Analyst should define the market area and defend the definition.
- Identify the need for specialized housing (elderly, disabled, veterans)
- Calculate achievable rents (most important)
- Identify number of people and households in the income band included in the application.
- Comment on the possibility of tax credit market saturation (i.e. what is the total number of units the market will support as of the date of the market study).

#### III. RECOMMENDATION

The analyst must state, in his or her professional opinion, whether the proposed development is feasible from a market perspective and whether a market exists for the development as proposed in the application for tax credits. If the analyst does not believe that the development, as proposed, is feasible, the analyst must indicate what modifications would be needed to make the development feasible (i.e., phased construction, fewer units, different mix of units, different market niche). If the analyst does not believe that the proposed development, even with modifications, is feasible, the analyst should indicate that in the study and should state why.

#### IV. STANDARDS OF REVIEW

In reviewing the market studies, MHC will first determine whether the market study meets the minimum standards set forth in this document. If the minimum standards are not met, applicants will be advised of the deficiencies and given an opportunity to correct those deficiencies (in the next tax credit cycle).

If the minimum standards are met, MHC will then determine whether the study establishes, in a logical, reasonable and supportable manner, that a market probably exists for the proposed development. If it is not clear from reviewing the study, that such a market probably exists, the reviewer will make reasonable efforts to look at the data contained within the market study and determine whether such a market probably exists. If it is not evident from a reasonable review and interpretation of the data that a market exists, the study and application will be rejected.

#### V. CONCLUSION

This document establishes minimum standards. It is not meant to limit the scope of the market study. If the required data is unavailable, document all steps taken to obtain the data and include that documentation as an appendix to the study.

The **MARKET STANDARDS CHECKLIST** may be found on MHC's website at [www.mshc.com](http://www.mshc.com) or by clicking the following link:

<https://archivemhc.com/htc/2016/Forms/Market%20Standards%20Checklist.pdf>

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This guide details rules that must be adhered to when converting Housing Tax Credit (HTC) rental properties into Single Family Homeownership properties at the end of the 15 year HTC initial Compliance Period. Additional restrictions may apply depending upon what other type of financing is involved with the property. Owners of HTC single-family rental developments who wish to convert the properties into homeownership opportunities for the residents must establish a plan for the timing and terms of sales to residents and qualified low-income households at the end of the Initial Compliance Period (“Homeownership Plan”).

Each and every Homeownership Plan will differ. MHC realizes that there are many options for determining the sales prices besides the suggested options in this guide and encourages creativity. The components of the Homeownership Plan must ensure the opportunity for homeownership at an affordable price for low income households.

The following requirements apply to all HTC single family rental/homeownership developments.

1. Any HTC application submitted and reviewed by MHC as a single family homeownership development is prohibited from requesting a qualified contract at the end of the initial compliance period. In short, the owner will not be allowed to “opt-out” of the development at the end of initial compliance period. The period is assigned on a building-by-building basis and begins with the first year that tax credits are claimed. The HTC compliance period ends on December 31st of the 15<sup>th</sup> year of the period for each building.
2. The owner cannot offer a Right of First Refusal (“RFR”) to any resident before the HTC initial compliance period has been fully completed on all units in the development.
3. Owners must ensure that the purchase price of each home complies with the minimum purchase price required in Section 42(i) (7) (B) of the IRC (“Minimum Price”) and defined as an amount equal to the sum of the principal amount of outstanding indebtedness secured by the building (other than indebtedness incurred within the 5-year period ending on the date of the sale to the residents) and all federal, state and local taxes attributable to such sale.
4. To preserve affordability, MHC is setting the maximum sales price to be an amount such that the monthly housing payment of principal, interest, property taxes, and property and mortgage insurance (“PITI”) plus resident paid utilities does not exceed the maximum HTC rent based upon bedroom size less a 1% discount for each year the resident has leased the unit (“Maximum Price”).
5. The sales price may be determined by a number of methods, but it must be devised with the intention of being affordable to low-income households at the time of conversion. A discount off the sales price for years of residency is highly encouraged. The chosen method must be established in the Homeownership Plan and must result in a sales price which is not less than the Minimum Price and not more than the Maximum Price. Several examples for setting the sales price are described below.
6. The owner will offer the RFR within 12 months of the end of their HTC initial compliance period. This will be the set date and will not be able to be changed because of market conditions, high interest rates or other factors which affect the salability of the houses. MHC will call this date the “Conversion Date”.
7. A HTC lease addendum along with a copy of the Homeownership Plan should be included with the regular lease agreement. The Conversion Date must be referenced in this addendum to the lease. The Homeownership Plan should also define the term “Right of First Refusal”. Because homes will only be offered to residents in good standing, the Homeownership Plan should also define the

### ADDENDUM J

term “good standing”. The owner does not have to outline specific discounts that will be offered to the resident as related to the sales prices of the homes. However, the pricing of the homes should be indicated in general terms. The addendum should also state that the homes cannot be sold at a price lower than the minimum sales price as set forth in Section 42(i) (7) (B) of the Code.

8. The owner will provide information about homeownership training to the resident by way of a notice or a brochure. The owner will begin providing referral information about homeownership training to residents 5 years before the Conversion Date. This information must be provided to the resident in an addendum to the lease for all properties leased 5 years prior to the Conversion Date.
9. The owner should address how potential homeowners will be educated concerning home maintenance. A couple of suggestions are: have the property maintenance person work with residents while doing routine maintenance and minor repairs to homes and; enlist the help of non-profit organizations which promote homeownership opportunities to conduct maintenance training seminars.
10. The owner must distribute to all residents, 1 year before the offering of the RFR, information detailing the dates, timeline and information that is contained within the Homeownership Plan.
11. Each resident will be given up to 6 months after the Conversion Date to decide whether or not to accept the RFR offer from the owner. Any resident who is in “good standing” at the time of the offering of the RFR shall have the right to exercise the RFR. The resident will exercise their RFR by tendering an offer to buy the property. Within this offer there shall be a date set for closing.
12. After this 6 month period mentioned in #11 above, the owner has several options in reference to any unsold units:
  - a. The owner can choose to sell the remaining units of the project to a non-profit partner or another entity that will continue to operate the units as affordable housing in accordance with the Land Use Restriction Agreement (LURA). The sale must include 100% of the remaining rental units, not a portion thereof.
  - b. The owner can choose to maintain the remaining units of the project as rental units, adhering to all MHC Extended Use Period guidelines. The remaining units after this initial 6 month selling period may at any time be offered for sale to the current or subsequent qualified residents.
  - c. The owner can offer vacant units for sale to a buyer whose household income does not exceed 80% of the area median income. A potential purchaser who qualifies under this income restriction is not required to lease the unit before they purchase it.
13. At the sale of each home, MHC will execute a partial release of the HTC LURA for that property.
14. Each house that is to be sold to a resident under the RFR must pass a Uniform Physical Condition Standards (UPCS) inspection. It must also undergo a physical needs assessment performed by an MHC approved inspector following MHC prescribed standards. Any deficiencies described in the physical needs assessment must be addressed by the owner before the Conversion Date. The UPCS inspection and/or physical needs assessment cannot be used in place of subsequent inspections.
15. The owner should address the issue of replacement reserves in the Homeownership Plan. MHC intends that any excess reserves after repairs and replacements, as determined on a pro rata

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portion for the unit(s) at the time of sale, will benefit the development and the new homeowner. Several suggestions include:

- a. Put the unused pro rata portion of the reserves into an account to be used by the neighborhood homeowner's association;
  - b. Use the unused pro rata portion of the reserves for additional down payment assistance to the homeowner;
  - c. Discount the sales price by an amount equal to the unused pro rata portion of the reserve amount; or
  - d. Establish a reserve account for the new homeowner from the pro rata portion of the reserve amount.
16. The buyer must agree to occupy the home as their principal residence.
17. If the current resident refuses to buy the property or is unable to buy the property, they cannot be asked at any time to vacate the property except for reasons specified in their lease.
18. A resident in good standing may not be relocated or evicted to expedite the sale of a unit. When renting a unit, a potential resident may not be discriminated against because they do not wish to purchase the unit they are renting.
19. If a household has an increase in income since moving into the property, this will not disqualify them from buying the property. They will not be considered over income. If a household qualifies to move into the unit as a resident, they are income qualified as a potential buyer (an exception to this occurs if HOME funds are involved – see statements below).
20. In order to assure that all parties are prepared to begin selling the homes as outlined in the Homeownership Plan, the owner will meet with staff at MHC in the 14<sup>th</sup> year of the compliance period to discuss the above items along with any other topics deemed necessary at the time. The owner must contact MHC's Compliance Monitoring Division to begin this process.
21. The ownership entity may offer the right of first refusal to a non-profit partner, if applicable, at the end of the initial compliance period, with the non-profit commencing sales of the units to the residents and qualified buyers thereafter if the following requirements have been met:
- a. The limited partnership agreement or operating agreement governing the ownership entity has granted a first right of refusal to the non-profit partner or member;
  - b. The non-profit entity is a qualified for purposes of the HTC program, that is, it is a tax-exempt organization formed with the express purpose of fostering affordable housing, is not controlled by a for-profit entity or subsidiary, and has been materially involved in the operations of the development;
  - c. The non-profit has filed a Homeownership Plan that has been approved by MHC, recorded with the LURA, and attached to resident leases; and
  - d. The non-profit transacts the sales of the homes under the terms of the MHC-approved Homeownership Plan and follows all MHC rules and guidelines applicable to homeownership conversion when the right of first refusal is offered to the residents.

#### **Determining Sales Price**

In order to extend the opportunity for homeownership to existing tax credit residents, the homes must be affordable for people who are at or below 60% of median income for the area.

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Residents who buy the houses should be able to replace their rent payment with a mortgage payment which is comparable to what they were paying in rent. This is considered the **“Equivalency Principle”**. To achieve maximum affordability, the monthly mortgage payment including principal, interest, property taxes, property and mortgage insurance (PITI) should not significantly exceed the monthly rents in Year 15. As stated previously, the sales price of the homes to existing residents or qualified buyers must fall between the Minimum Price and Maximum Price defined above.

Listed below are three possible options for determining the sales price of the property as of the Conversion Date.

Existing Obligation plus Profit

Section 42(i)(7)(B) of the Code defines the minimum purchase price for a HTC property at the end of the HTC initial compliance period to be the sum of (i) the principal amount of outstanding indebtedness secured by the building and (ii) all Federal, State and local taxes attributable to such sale. The property will need to have repairs done before it is sold and the owner will desire a profit from each sale.

The sample assumption below is based on the above information:

15-home development  
 Remaining mortgage of \$200,000  
 Exit taxes estimated by limited partner at \$150,000  
 Repairs necessary = \$180,000 (in addition to replacement reserves)  
 Profit requested by owner = \$20,000 per house  
 Resident discount = 1% per year of tenancy

A resident who has rented the home for 7 years would pay a purchase price of \$51,460 or  $((200,000 + 150,000 + 180,000)/15) + 20,000 \times 93\%$ .

Equivalency Principle Approach

The following procedure will occur on the Conversion Date and will be used to decide the sales price for the homes. This price will be used as the sales price for all the homes until all the homes are sold regardless of the income level of the buyer. The sales price will be determined using the following guidelines based on a monthly housing payment equal to the current rent being charged for the units assuming a 95% mortgage, 30 year amortization and an interest rate equal to that used by the MHC Mortgage Revenue Bond Program (MRB). Existing residents are offered a 1% discount for each year of residency.

1. Current monthly rent = \$550
2. Insurance and taxes = \$150
3. Mortgage payment = \$400
4. Interest rate = 6.3%
5. Mortgage amount = \$64,623
6. Sales price (95% LTV) = \$68,024
7. Residency period = 4 years
8. Final sales price = \$65,303

Maximum Price Approach

This approach is based on the maximum HTC rent in affect at the time the home is sold regardless of the income level of the buyer. The sales price will be determined using an amount such that the monthly PITI



### ADDENDUM J

payment plus resident-paid utilities does not exceed the maximum HTC rent based upon bedroom size [assuming a 95% mortgage, 30 year amortization, interest rate equivalent to MHC's MRB program and typical insurance premium available to low-income households] less a 1% discount for each year the resident has leased the unit.

An example would be:

1. Current maximum HTC rent for a 3-bedroom house = \$801
2. Insurance and taxes = \$150.00; resident-paid utilities = \$125 per month
3. This allows for a total of \$526 P&I for a house payment with a 30 year term
4. MHC MRB rate is 6.3%.
5. The maximum loan amount would then be \$84,980
6. Assuming a 95% mortgage, the sales price would be \$89,452.
7. If the buyer happens to be a resident who has lived in the development for 4 years, they would receive a 4% discount off the \$89,452 amount for a sales price of \$85,874.

#### **Other Resale Restrictions**

The aforementioned lease purchase procedures pertain only to the HTC program. The owner must be careful to pass on other funder restrictions to the lease purchase buyer. These restrictions, if any, must be defined in the Homeownership Plan.

For example, if HOME funds were used for new construction rental housing, HOME program restrictions apply for 20 years but allow for rental units to be sold after the initial 15 year HTC compliance period. For the term of the affordability period, some type of deed restriction will need to be recorded against the property to help assure that the new homeowner adheres to HOME rules throughout the affordability period. This will be put in place by the original owner. This document will expire on the expiration date of the original HOME compliance period. This deed restriction should address resale provisions associated with the unit.

Although the resident purchaser must adhere to these deed restrictions, the original owner is ultimately responsible for compliance with the HOME rules and regulations. The deed restrictions should outline repayment terms by the resident purchaser if the home is sold to someone who does not income qualify under HOME rules (household income must be at or below 80% of AMI). Violations of the affordability restrictions may result in recapture of a pro rata portion of the funds by HUD at which time the seller's repayment and the original owner will be responsible for providing the amount of recapture requested.

**MEMORANDUM OF UNDERSTANDING**  
**Between**  
**The Department of Housing and Urban Development**  
**&**  
**The Mississippi Home Corporation**

**INTRODUCTION**

WHEREAS, the U.S. Department of Housing and Urban Development hereinafter referred to as “HUD” acting by and through the Federal Housing Administration hereinafter referred to as “FHA” and the Mississippi Home Corporation (MHC) hereinafter referred to as “The Agency,” wish to enter into the Memorandum of Understanding (MOU) regarding the Subsidy Layering Review of the sources and uses of funds in developments receiving housing tax credits and HUD Housing Assistance. (HUD Housing Assistance refers to those programs administered by FHA or the Office of Housing.)

WHEREAS, Section 102(d) of the Housing and Community Development Reform Act of 1989 requires the Secretary of HUD to limit assistance granted to a project to:

*“...not be more than is necessary to provide affordable housing after taking account ... [Other Government Assistance]”.* (A copy of section 102 of the Housing and Community Development Reform Act of 1989 is attached as Exhibit A.)

WHEREAS, Section 911 of the Housing and Community Development Act of 1992 provide that:

*The requirements of section 102(d) of the Department of Housing and Urban Development Reform Act of 1989 may be satisfied in connection with a project receiving assistance under a program that is within the jurisdiction of the Department of Housing and Urban Development and under section 42 of the Internal Revenue Code of 1986 by a certification by a housing credit agency to the Secretary, submitted in accordance with guidelines established by the Secretary, that the combination of assistance within the jurisdiction of the Secretary and other government assistance provided in connection with a property for which assistance is to be provided within the jurisdiction of the Department of Housing and Urban Development and under*

## MEMORANDUM OF UNDERSTANDING

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*section 42 of the Internal Revenue Code of 1986 shall not be any greater than is necessary to provide affordable housing.* (A copy of section 911 of the Housing and Community Development Act of 1992 is attached as Exhibit B).

WHEREAS, section 42 of the Internal Revenue Code authorizes allocations of Housing Tax Credits (HTC) to be administered by State or local housing credit agencies to encourage the development of housing for low to moderate income tenants.

WHEREAS, section 42 of the Internal Revenue Code requires The Agency to ensure 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 throughout the credit period.”*

WHEREAS, The Agency allocates housing credits pursuant to a qualified allocation plan which may be revised from time-to-time in accordance with the priorities of the State.

THEREFORE, HUD and The Agency, in acknowledgement of their complementary goals, agrees to cooperate in their efforts to assure that only the assistance necessary to provide affordable housing is provided to a development receiving Housing Tax Credits and HUD Housing assistance.

#### **BOTH PARTIES THEREFORE AGREE AS FOLLOWS:**

- (1) Subsidy layering analyses will be performed whenever applicant disclosure is required by Section 102(b) and (c) of the Reform Act and prior to issuance of form IRS-8609, indicating the amount of tax credits to be awarded.
- (2) HUD and The Agency will share information on development costs for all developments financed with a combination of housing tax credits and HUD Housing assistance.
- (3) HUD and The Agency will use the following fee norms which HUD and The Agency have established for subsidy layering analysis purposes:
  - i. Builder’s Profit: Six percent (6%) of Construction Costs
  - ii. General Overhead: Two percent (2%) of the Construction Costs Amount

## MEMORANDUM OF UNDERSTANDING

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- iii. General Requirements: Six percent (6%) of the Construction Costs
  - iv. Developer's Fee: A base fee of fifteen percent (15%) of the Construction Costs plus builder's profit
- (4) The above fee norms will be used in the Agency's analysis of the amount of assistance that is necessary for a development. As allowed by Section 911, fees may exceed the norms when justified by special circumstances. The percentage allowances above for Builder's Profit, General Overhead and General Requirements should not exceed 14% of the construction contract unless otherwise provided for in the State's Qualified Allocation Plan pertaining to the year in which the tax credits will be allocated.
- (5) HUD and The Agency agree to the definitions and formulas for the determination of profits, costs and amounts of assistance in the qualified allocation plan for the State, which current year qualified allocation plan is attached to this MOU as Exhibit C.
- (6) In cases where the results of The Agency analysis indicate that there will be excess assistance, The Agency will reduce the amount of housing tax credits to eliminate the excess as required by Section 42 of the IRS Code.
- (7) The Agency and HUD understand that neither The Agency nor HUD certifies the accuracy of the tax credit applicant's eligibility or certifies to the applicant's compliance with Section 42 of the Internal Revenue Code. The Agency understands that the owner certifies the information to HUD and to The Agency as being true and correct representations.
- (8) The Agency and HUD understand that, unless required by law, the general information shared under this MOU is for internal analysis and will not be disclosed to other than the appropriate HUD and The Agency employees. Further, The Agency and HUD understand that, specific information on a proposal may be shared with the applicant and other providers of funds on the respective proposals as appropriate.
- (9) Any modifications to the conditions of this agreement must be reviewed and accepted by both HUD and The Agency. Any revision to this agreement will be added as an amendment.

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- (10) As provided for by Section 911(c) of the Housing and Community Development Act of 1992, if HUD determines that a housing credit agency has failed to comply with the guidelines for subsidy layering review, the authority to perform the subsidy layering analysis may be withdrawn.
- (11) If The Agency determines that HUD has failed to comply with the guidelines for subsidy layering review, in a timely manner, so as to delay the issuance by The Agency of IRS Form 8609 The Agency may withdraw the authority to perform subsidy layering analysis.

#### HUD AGREES:

To provide to The Agency information on tax credit developments considered for HUD assistance as follows:

- (1) a copy of any notification of insurance commitment or subsidy contract issued to applicants;
- (2) a copy of any Cost Certification and/or cost analysis provided to, or prepared by HUD.
- (3) The results of any analyses on necessary assistance prepared by HUD to the applicant and The Agency.

#### AGENCY AGREES:

- (a) To inform any applicants seeking a combination of both Tax Credits and HUD Housing assistance that the MOU will be applied to the underwriting of the Tax Credit application. A copy of the MOU may be provided to applicants for their information in The Agency Qualified Allocation Plan.
  - (b) To maintain the following information:
    - (1) The list of tax credit requests received from applicants that indicate they are seeking a combination of Tax Credits and HUD Housing Assistance.
    - (2) For each request a copy of the Tax Credit Application with the development cost breakdown used to estimate the amount of tax credits for which the developer would be eligible;
  - (c) To provide to HUD the following information for developments receiving both Tax Credits and HUD Housing Assistance:
    1. A copy of the applicant's final disclosure(s) of sources and uses of funds as provided to The Agency;
    2. Notification that the development is complete.
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MEMORANDUM OF UNDERSTANDING

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ADDENDUM K

**ACCEPTANCE AND SIGNATURE OF EACH APPROVING PARTY**

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

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

Name: \_\_\_\_\_

Title: HUD/Program Center Director

HOUSING FINANCE AGENCY

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

Name: \_\_\_\_\_

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

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**\*\*PLEASE NOTE:** The executed Memorandum of Understanding may be found on our website at [www.mshomecorp.com](http://www.mshomecorp.com).