

NEBRASKA INVESTMENT FINANCE AUTHORITY
LOW INCOME HOUSING TAX CREDIT PROGRAM
2021 LIHTC/AHTC ALLOCATION PLAN
FOR
4% LIHTCS and NEBRASKA AHTCS



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2021 LIHTC Allocation Plan For 4% LIHTCS and AHTCS

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NEBRASKA INVESTMENT FINANCE AUTHORITY
2021 LIHTC ALLOCATION PLAN
FOR
4% LIHTCS & AHTCS

1. INTRODUCTION.

The 2021 Allocation Plan (“4% LIHTC/AHTC Allocation Plan”) for the federal 4% Low Income Housing Tax Credit (“LIHTC”) and the Nebraska Affordable Housing Tax Credit (“AHTC”), as incorporated into and made a part of the 2020/2021 Amended and Restated Qualified Allocation Plan (“2020/2021 QAP”) described below, provides (i) in accordance with Section 146 of the Internal Revenue Code of 1986 (“the Code”) for the allocation of federal private activity volume cap (“Private Activity Bond Cap”) required for the issuance of bonds (“Bonds”) for qualified residential rental projects (“developments”) (pursuant to Section 142 of the Code) and (ii) as set forth in this 4% LIHTC/AHTC Allocation Plan, the allocation of federal 4% LIHTCs and Nebraska AHTCs. [NOTE: The allocation of the 9% federal low income housing tax credit is governed by a separate 2020/2021 Amended and Restated LIHTC Allocation Plan for 9% LIHTCs adopted by NIFA.]

1.1 AVAILABLE PRIVATE ACTIVITY BOND CAP, 4% LIHTCS AND AHTCS.

An owner/developer desiring to request from NIFA an allocation of Private Activity Bond Cap for a development and the allocation of 4% LIHTCs and AHTCs must follow the process outlined and subject to the limitations set forth in this 4% LIHTC/AHTC Allocation Plan. NOTE: As set forth below, a limited amount of Private Activity Bond Cap will be made available in 2021 for the issuance of Bonds to finance developments for which the owner/developer requests an allocation of Nebraska AHTCs.

Allocations of Private Activity Bond Cap in 2021

• Requests for Private Activity Bond Cap for Both 4% LIHTCs and AHTCs

NIFA will make available approximately \$20 million of Private Activity Bond Cap in accordance with the procedures further set forth in this 4% LIHTC/AHTC Allocation Plan pursuant to a competitive process in connection with requests for the allocation of 4% LIHTCs and accompanying AHTCs for developments as further set forth in this 4% LIHTC/AHTC Allocation Plan. A request for Private Activity Bond Cap for a development accessing both 4% LIHTCs and AHTCs shall not exceed \$18 million per development.

• Requests for Private Activity Bond Cap for 4% LIHTCs Only

NIFA will consider requests for Private Activity Bond Cap in accordance with the procedures further set forth in this 4% LIHTC/AHTC Allocation Plan for the allocation of 4% LIHTC only. Private Activity Bond Cap for Bonds to finance developments which will not request or receive an allocation of Nebraska AHTCs will be allocated subject to availability of Private Activity Bond Cap as announced by NIFA. A request for Private Activity Bond Cap for a development

which is not eligible to be awarded AHTCs shall not exceed \$18 million per development.

1.2 DEVELOPMENT OF QUALIFIED ALLOCATION PLAN AND 4% LIHTC/AHTC ALLOCATION PLAN.

The 2020/2021 QAP was adopted by NIFA with public participation and comment pursuant to a public process established by NIFA and with the approval of the Governor of the State of Nebraska in accordance with Section 42 of the Code. This 4% LIHTC/AHTC Allocation Plan, pursuant to a public process as described below, has been incorporated and made a part of the 2020/2021 QAP. The 2020/2021 QAP consists of the following:

- a. the 2020/2021 Amended and Restated LIHTC Allocation Plan for 9% LIHTCs and AHTCs
- b. this 2021 4% LIHTC/AHTC Allocation Plan
- c. the 2020 4% LIHTC Allocation Plan
- d. the 2021 4% LIHTC/AHTC/Bonds Pre-Application
- e. the 2020/2021 LIHTC, AHTC, HOME, CDBG-DR and National Housing Trust Funds Application
- f. the 2020/2021 LIHTC, AHTC, HOME, CDBG-DR and National Housing Trust Funds Exhibit Examples
- g. the 2020/2021 LIHTC Forms and Documents
- h. the 2020 CRANE Guidelines and Application
- i. the 2020 Carryover Allocation Procedures Manual
- j. the 2020 10% Test Certification
- k. the 2020 Cost Certification Procedures Manual
- l. the 2020/2021 Land Use Restriction Agreement (LURA)
- m. the 2020/2021 LIHTC CROWN Land Use Restriction Agreement (CROWN LURA)
- n. the 2021 CRANE Guidelines and Application
- o. the 2021 Carryover Allocation Procedures Manual
- p. the 2021 10% Test Certification
- q. the 2021 Cost Certification Procedures Manual

A public hearing on the proposed incorporation of this 4% LIHTC/AHTC Allocation Plan into the 2020/2021 QAP was held by video and telephone conference from Lincoln, Nebraska. All comments received by NIFA were taken into consideration in developing and drafting the 4% LIHTC/AHTC Allocation Plan.

This 4% LIHTC/AHTC Allocation Plan and the incorporation thereof into the 2020/2021 QAP was approved by the NIFA Board of Directors and forwarded to the Governor of the State of Nebraska for approval in accordance with the Section 42 of the Code.

The 2020/2021 QAP is designed to provide for the selection of developments that address the most pressing housing needs of Nebraska, within the guidelines and requirements of Section 42 of the Code. NIFA, in its sole discretion, reserves the right to modify or waive any conditions, which are otherwise not mandated by the Code, contained in the 2020/2021 QAP. Modifications

by NIFA may include, but are not limited to, changes which provide for better coordination with other state and federal programs and/or funding sources.

The QAP may be amended from time to time as new guidelines and regulations are issued under Section 42 of the Code or as NIFA deems necessary to meet the LIHTC and AHTC Program goals and objectives.

1.3 APPLICATION PROCESS.

Persons interested in applying for an allocation of Private Activity Bond Cap, together with 4% LIHTCs and AHTCs in connection with the financing of a development shall submit the documents set forth below at the times specified in this 4% LIHTC/AHTC Allocation Plan. For a development to be eligible for review during an allocation cycle (“Allocation Cycle”), a complete 2021 4% LIHTC/AHTC/Bonds Pre-Application (the “Pre-Application”) and a complete 2020/2021 LIHTC, AHTC, HOME, CDBG-DR, and National Housing Trust Funds Application (the “LIHTC/AHTC Application”), together with all required supporting information must be submitted to NIFA via the online funding application system by the respective deadlines for that particular Allocation Cycle. Submissions for an allocation of Private Activity Bond Cap and 4% LIHTCs/AHTCs that do not include a fully completed Pre-Application or LIHTC/AHTC Application, with correctly attached Exhibits and specified application fee, will not be reviewed or scored by NIFA. The Pre-Application and LIHTC/AHTC Application are available on NIFA’s web site at www.NIFA.org.

Requests for Private Activity Bond Cap with 4% LIHTCs and AHTCs – Allocation Cycle

2021 Allocation Cycle	<u>PRE-APPLICATION</u> 2021 4% LIHTC/AHTC/Bonds Pre-Application Deadline (no later than 5:00 p.m. CST)	<u>FINAL APPLICATION</u> 2020/2021 LIHTC, AHTC, HOME, CDBG-DR and National Housing Trust Funds Application Deadline (no later than 5:00 p.m. CST)	Private Activity Bond Cap to be Reserved
<p>Cycle 1</p>	<p>February 12, 2021</p>	<p>March 19, 2021</p>	<p>Approximately \$20 Million</p>

Requests for Private Activity Bond Cap for 4% LIHTCs Only – Allocation Cycles*

2021	<u>PRE-APPLICATION</u> 2021 4% LIHTC/Bonds Pre-Application Deadline (no later than 5:00 p.m. CST)	<u>FINAL APPLICATION</u> 2020/2021 LIHTC, AHTC, HOME, CDBG-DR and National Housing Trust Funds Application Deadline (no later than 5:00 p.m. CST)	Approximate Private Activity Bond Cap to be Available*
Cycle 1 Cycle 2 Cycle 3	March 26, 2021 May 21, 2021 July 23, 2021	April 30, 2021 June 25, 2021 August 27, 2021	\$30 Million

*NIFA reserves the right to hold additional Allocation Cycles or make changes to the above Allocation Cycles as it deems necessary to meet 2021 LIHTC/AHTC Program goals and objectives.

1.4 INELIGIBLE APPLICANTS.

Neither a Pre-Application nor a final LIHTC/AHTC Application will be reviewed, scored or considered by NIFA at any time if:

- i. the developer general partner/managing member or any affiliate thereof is delinquent on LIHTC fees, AHTC fees or Tax-Exempt Bond fees due and payable in connection with any other LIHTC developments located in Nebraska; or
- ii. the general partner/managing member or any affiliate thereof currently has or has had items of noncompliance or violations of a Land Use Restriction Agreement/Tax-Exempt Bond Regulatory Agreement that have not been corrected within the applicable correction period on any other LIHTC development located in Nebraska; or
- iii. the developer, general partner/managing member or any affiliate thereof is delinquent on any documentation or payments that are due and payable to NIFA, including but not limited to the following:
 - (a) Conditional Reservation Documentation/42(m) Letter
 - (b) Carryover Documentation
 - (c) 10% Test Documentation
 - (d) Cost Certification Documentation
 - (e) Asset Management Documentation
 - (f) TCAP Loan Repayment Amounts
 - (g) Any other documentation requested by NIFA

2. BOND, 4% LIHTC AND AHTC FEE SCHEDULE.

NIFA reserves the right to revise the fee schedule from time to time.

The following sets forth the various fees to be paid by the owner/developer of the development in connection with the allocation of Private Activity Bond Cap, 4% LIHTC to include the issuance of bonds (whether the bonds are issued by NIFA or another issuer) and AHTCs.

2.1 BOND APPLICATION/NIFA ISSUANCE FEE.

If NIFA will be requested to consider issuing the Bonds, a non-refundable fee of 1/16th of 1% of the Bond amount (both tax-exempt and taxable, if appropriate) requested (\$1,000 minimum) is due upon submission of the Pre-Application. This fee will be applied to the “Bond Issuance Fee” if the Bond issue closes.

2.2 PRIVATE ACTIVITY BOND CAP ALLOCATION FEE (VOLUME CAP) AND RESERVATION DEPOSIT.

Private Activity Bond Cap Allocation Fee: A non-refundable fee of \$150 is due to NIFA at such time as NIFA has reviewed the LIHTC/AHTC Application and notified the owner/developer that the owner/developer may submit a request for an allocation of Private Activity Bond Cap.

Reservation Deposit: A reservation deposit is equal to the lesser of \$10,000 or 1% of the amount of the Private Activity Bond Cap allocation requested (minimum Deposit of \$1,000) is also due to NIFA at such time as NIFA has reviewed the LIHTC/AHTC Application and notified the owner/developer that the owner/developer may submit a request for an allocation Private Activity Bond Cap. In the event an allocation of Private Activity Bond Cap granted to the developer/owner by NIFA is not used prior to the expiration date of the Private Activity Bond Cap allocation (or the amount of such allocation used by the developer/owner is less than the amount of the allocation granted by NIFA), the Reservation Deposit (or if the allocation used is less than the allocation amount granted, a proportionate amount of the Reservation Deposit) will be forfeited by the developer/owner and retained by NIFA. **In any event, the Reservation Deposit is refundable only to the extent and in the proportion that the allocation of Private Activity Bond Cap is used prior to the expiration date of the allocation and upon receipt by NIFA from the developer/owner of the IRS Form 8038 as filed with the IRS.** (Unpaid expenses incurred may be offset by NIFA against any refundable portion of the Reservation Deposit.)

2.3 BOND ISSUANCE FEE (PAYABLE AT BOND CLOSING).

If NIFA is the issuer of the Bonds, a one-time fee of 1/8th of 1% of the Bond (aggregate of tax-exempt and taxable) amount (\$1,000 minimum) is due upon issuance of the Bonds, less credit for the amount paid as a Bond Application Fee (Section 2.1). The development owner/developer is responsible for paying all costs related to the issuance of the Bonds.

2.4 BOND ANNUAL ISSUER COMPLIANCE FEE.

If NIFA is the issuer of the Bonds, an annual fee of 1/8 of 1% of the original principal amount of the Bonds (aggregate of tax-exempt and taxable), payable until the expiration of the “qualified project period” for the Bonds.

2.5 BOND LOAN DOCUMENT/REGULATORY AGREEMENT/ASSUMPTION/ TRANSFER FEE.

If NIFA is the issuer of the Bonds, a fee of 1/8th of 1% of the original principal amount of the Bonds (aggregate of tax-exempt and taxable; \$1,000 minimum). The development owner/developer is responsible for paying all other costs.

2.6 BOND MODIFICATION FEE.

If NIFA is the issuer of the Bonds, a fee of 1/8th of 1% of the original principal amount of the Bonds (aggregate of tax-exempt and taxable; \$1,000 minimum).

2.7 BOND REFUNDING FEE.

If NIFA is the issuer of the Bonds, a fee of 1/8th of 1% of the original principal amount of the Bonds (aggregate of tax-exempt and taxable; \$1,000 minimum).

2.8 4% LIHTC/AHTC APPLICATION FEES.

4% LIHTC: A non-refundable fee equal to the greater of 1% of the annual amount of 4% LIHTCs requested or \$500 is due to NIFA at the time of submission of the Pre-Application.

AHTC: A non-refundable fee equal to \$500 is due to NIFA upon the submission of the Pre-Application.

NOTE: Applications for which allocations of LIHTCs/AHTCs/Private Activity Bond Cap are not awarded and which applications are resubmitted in a subsequent calendar year must pay the full amount of the LIHTC/AHTC Fees set forth in the Section 2.8.

2.9 LIHTC SECTION 42(m) LETTER FEE.

A non-refundable fee equal to the greater of 2% of the annual 4% LIHTC stated in the Section 42(m) Letter or \$500 is due to NIFA no later than the date specified for the submission of the Section 42(m) Letter Documentation.

2.10 4% LIHTC/AHTC LATE FEE – SECTION 42(m) LETTER DOCUMENTATION.

A late fee of 1% of the amount of the 4% LIHTCs set forth in the Section 42(m) Letter will be assessed and collected from developers/owners of developments for which the Section 42(m) Letter Documentation as set forth below in Section 4 of this 4% LIHTC/AHTC Allocation Plan is not received in NIFA’s office by the required deadline.

2.11 4% LIHTC/AHTC ALLOCATION/COST CERTIFICATION FEE.

4% LIHTC: A non-refundable fee equal to 2% of the annual amount of the 4% LIHTC allocated to a development is due and payable to NIFA by the developer/owner at the time of submission of the Final Cost Certification Documentation as set forth in the Final Cost Certification Procedures Manual.

AHTC: In connection with the allocation, if applicable, of the AHTC, a non-refundable fee equal to \$500 is due and payable to NIFA by the developer/owner at the time of submission of the Final Cost Certification Documentation as set forth in the Final Cost Certification Procedures Manual.

2.12 4% LIHTC LATE FEE – COST CERTIFICATION.

A late fee of 1% of the 4% LIHTC amount reserved for a development will be assessed and collected from developers/owners of developments for which the Cost Certification Documentation is not received in NIFA's office by the required deadline as set forth in the Cost Certification Procedures Manual.

2.13 4% LIHTC EXTENSION FEE.

A developer/owner may request an extension of any of the following deadlines: Section 42(m) Letter and Final Cost Certification, if

- (a) an Extension Fee of \$500 is received in NIFA's office on or before the applicable deadline; and
- (b) in NIFA's sole discretion, the following conditions have been satisfied.
 1. A written explanation of the conditions that exist which have caused the need for the extension, along with the proposed date that information will be submitted to NIFA to meet the extended deadline.
 2. Based on the facts and circumstances, the request for an extension is reasonable.
 3. The request for an extension is submitted to NIFA on or before the deadline for the original submittal.
 4. The Extension Fee is paid concurrently with the extension request.

If NIFA has granted an extension prior to any deadline as outlined above, no late fees will be assessed, unless the agreed upon extension date is not met.

2.14 4% LIHTC/AHTC ANNUAL COMPLIANCE FEES.

4% LIHTC: A non-refundable fee equal to the greater of 2% of the annual 4% LIHTC allocated or \$500 minimum is due to NIFA each year during the 15-year Compliance Period for the development.

If an owner chooses the Income Averaging (“IA”) set-aside election (set forth in Section 9) an additional fee of one half of one percent of the annual 4% LIHTC allocated for each year during the 15-year compliance period will be due at Final Cost Certification submission.

Example: Annual Credit Amount x .005 x 15 years= Additional Annual Fee for IA Election

AHTC: In connection with the AHTC, a non-refundable fee equal to \$250 is due to NIFA each year during the 6-year Credit Period for the development. (The AHTC annual fee may be paid upfront; however, there is no discount for doing so.)

PREPAYMENT OF ANNUAL COMPLIANCE FEES: Owners have the option to pay the 4% LIHTC Annual Fee upfront as part of their Development Budget. If an owner chooses to pay the 4% LIHTC Annual Fee in full, the amount due for the Annual Fee will be discounted to 1.5% of the annual 4% LIHTCs allocated multiplied by 15 years with a minimum fee of \$7,500.

Example: Annual Credit Amount x 1.5% x 15 years = Total Upfront Annual Fee for first 15 years.

If an owner elects to pay the full 15 years of the Annual Fee upfront, this should be reflected in the Development Budget within the LIHTC/AHTC Application.

After the 15-year Compliance Period (e.g. during the Extended Use Period), the 4% LIHTC Annual Fee will be payable in the amount and as set forth in the Post Year-15 Monitoring Procedures.

The AHTC annual fee may be paid upfront; however, there is no discount for doing so.

2.15 4% LIHTC LATE PAYMENT PENALTY.

A late payment penalty equal to 5% of the 4% LIHTC Annual Fee will be charged to all accounts that are more than 30 days delinquent. Any fees not collected will be turned over to appropriate agencies for collection.

2.16 4% LIHTC DEVELOPMENT TRANSFER/ASSUMPTION FEE.

In addition to any ownership transfer/assumption fees due to NIFA if proceeds of Bonds issued by NIFA have been used to finance the development, a nonrefundable fee of \$1,500, plus attorney fees shall be assessed and collected from the owner of the development for changes in the ownership structure of the development or a transfer of the development to another entity.

NIFA reserves, commits and allocates LIHTCs/AHTCs/Private Activity Bond Cap to partnerships, corporations, limited liability companies and individuals. Reservations and commitments of LIHTCs/AHTCs/Private Activity Bond Cap are non-transferable, and **any change in the partners/members of the development owner or sale of the development requires NIFA’s prior written approval and payment of the fee described in this Section 2.16, and, if applicable, other provisions of the 4% LIHTC/AHTC Allocation Plan** (e.g., addition of a third party or removal of an

individual/entity listed as part of the ownership entity of the development in the Pre-Application, the LIHTC/AHTC Application, or the Private Activity Cap Application).

2.17 4% LIHTC/AHTC APPLICATION OR DOCUMENTATION CHANGE FEE.

A non-refundable fee of \$100 an hour after the first hour of review, plus attorney fees, shall be assessed in connection with a request, subsequent to receipt of the reservation of 4% LIHTCs/AHTCs for the development, to amend the terms, conditions or information included in the Pre-Application, LIHTC/AHTC Application or other documentation submitted in connection with the request for 4% LIHTCs/AHTCs. Such non-refundable fees shall be submitted to NIFA at the time of request for consideration of an application or documentation change.

Reservations and commitments of Private Activity Bond Cap, 4% LIHTCs and AHTCs are non-transferable, and any change from the commitments in the application requires NIFA's prior written approval and payment of the fee described in this Section 2.17 (e.g., request for changes to commitments made in the Pre-Application, the LIHTC/AHTC Application or the Private Activity Cap Application).

2.18 LEGAL FEES.

Extraordinary legal fees incurred by NIFA in connection with the review of the Pre-Application, the LIHTC/AHTC Application, or the Private Activity Cap Application or any materials submitted in connection with an allocation of 4% LIHTCs/AHTCs/Private Activity Bond Cap, the allocation process (including, but not limited to the cost certification process) or ongoing compliance with respect to a development will be assessed and charged to the development owner, including but not limited to the following:

- Fees for research relating to irregular situations
- Ownership agreements
- Rental rate questions
- Unusual timing situations
- Specific technical questions related to Code Section 42

3. 4% LIHTC AND AHTC ALLOCATIONS, PRE-APPLICATION, LIHTC/AHTC APPLICATION AND PRIVATE ACTIVITY BOND CAP.

3.1 REVIEW OF PRE-APPLICATION AND SCORING OF LIHTC/AHTC APPLICATION.

PRE-APPLICATION:

Applicants who have submitted a Pre-Application by the required Allocation Cycle deadline should proceed to the completion of the final LIHTC\AHTC Application by the required Allocation Cycle deadline unless notified by NIFA.

FINAL APPLICATION:

The following criteria will be reviewed for purposes of scoring each LIHTC/AHTC Application:

- Threshold Criteria
- Other Selection Criteria
- NIFA Scored Criteria

A minimum score of 25 is required in the Other Selection Criteria of the LIHTC/AHTC Application for Private Activity Bond Cap/4% LIHTCs/AHTCs.

NOTE: Pre-Applications and LIHTC/AHTC Applications will be scored SOLELY on information provided in the online Pre-Application and LIHTC/AHTC Application submitted for the applicable Allocation Cycle deadlines. Any Pre-Application or LIHTC/AHTC Application submitted for review (and for which an allocation is not awarded during an Allocation Cycle) must be resubmitted in full (whether or not changes have been made by the applicant subsequent to the prior review by NIFA) by the next Pre-Application and LIHTC/AHTC Application deadline in order to be considered for an allocation of Private Activity Bond Cap/4% LIHTCs/AHTCs. (Any documentation or information submitted for a previous Allocation Cycle will not be taken into consideration for the current deadline.)

3.2 PRE-APPLICATION and LIHTC/AHTC APPLICATION SUBMITTAL PROCESS.

To be considered for a reservation of Private Activity Bond Cap, 4% LIHTCs and AHTCs, all documentation must be submitted through the online Pre-Application and LIHTC/AHTC Application. Only the information submitted for the current Allocation Cycle will be reviewed regardless of any prior Allocation Cycle's submittal of documentation. If information was submitted for the first Allocation Cycle, information must be resubmitted in full for each subsequent Allocation Cycle, until the submissions results in an award. The Private Activity Bond Cap, Pre-Application and LIHTC/AHTC Application Fees must be submitted on or prior to the submittal of the online Pre-Application or LIHTC/AHTC Application.

3.3 EVALUATION OF THE PRE-APPLICATION AND FULL LIHTC APPLICATION.

- (a) Each Pre-Application and subsequent full LIHTC/AHTC Application for 4% LIHTCs, and, if applicable, AHTCs for a particular development will be evaluated based upon the information submitted in the respective online Pre-Application or LIHTC/AHTC Application for the applicable Allocation Cycle in which such application was submitted and such other information that NIFA may request or obtain in the evaluation process. LIHTC/AHTC Applications that do not receive points under all Threshold Criteria will not be considered for an allocation of Private Activity Bond Cap, 4% LIHTCs or AHTCs.
- (b) Developments will be ranked based upon the total number of points awarded in all criteria categories, with the exception of the following: 1). The Efficient Housing Production points will only be utilized in the event that multiple applications are received for development in a single county. In the event more than one application is received for development in a single county, those applications will be evaluated against each other in the Efficient Housing Production category, and 2). The Natural Disaster Designation points will not be applied.
- (c) Applications that do not receive points under all Threshold Criteria will not be considered for an allocation of 4% LIHTC and AHTC.
- (d) NIFA anticipates awarding Private Activity Bond Cap with 4% LIHTCs and AHTCs to approximately 1 to 3 applications, with no more than one application awarded in a single county.
- (e) NIFA will conduct an initial evaluation to determine the appropriate amount, if any, of Private Activity Bond Cap, 4% LIHTCs, and, if applicable, AHTCs to be reserved, using data provided by the eligible applicant and according to NIFA benchmarks and Sections 142 and 42 of the Code.

NOTE: NIFA will only review materials submitted during the applicable Allocation Cycle in which it was submitted.

3.4 MAXIMUM ALLOCATION OF 4% LIHTCS/AHTCS.

- (a) In accordance with Section 42 of the Code, each LIHTC/AHTC Application will be evaluated by NIFA to determine the amount of 4% LIHTCs (and AHTCs, if applicable) to be allocated for a particular development. LIHTC/AHTC allocations will be limited to the amount necessary to ensure the financial feasibility of the development based on the pro-forma information submitted by the developer/owner and such other materials as requested and deemed necessary by NIFA.
- (b) For purposes of determining the amount, if any, of 4% LIHTCs (and AHTCs, if applicable) to be reserved for a particular development, NIFA will limit the amount of developer/contractor overhead, profit and fees, general requirements,

Developments financed with tax-exempt Bonds pursuant to Section 142 of the Code and with respect to which Private Activity Bond Cap is allocated to the owner/developer of the development in accordance with Section 146 of the Code are eligible to receive 4% LIHTC based on the amount of the qualified basis of the development (as set forth in Section 42 of the Code). The Nebraska AHTC will only be available to owners of developments to whom specific Private Activity Bond Cap is allocated in connection with AHTCs. 4% LIHTC do not count against, and are not required to be allocated from, Nebraska's 9% LIHTC credit ceiling.

3.7 NIFA AS ISSUER OF TAX-EXEMPT BONDS.

Applicants desiring that NIFA act as the issuer of the tax-exempt Bonds shall indicate such request on the Pre-Application (along with payment of applicable fees) by the appropriate dates set forth for each Allocation Cycle in order for the NIFA board to consider the adoption of a limited purpose intent resolution. A limited purpose intent resolution does not bind NIFA to ultimately issuing Bonds, but is a requirement prior to the consideration by the NIFA board of an allocation of Private Activity Bond Cap and final Bond issuance approval. Additionally, the applicant must submit a completed LIHTC/AHTC Application by the appropriate dates set forth for each Allocation Cycle. A separate application for the Bond Cap allocation (NIFA's Unified Volume Cap Allocation Application) must then be submitted at the request of NIFA after a completed LIHTC Application has been reviewed and accepted by NIFA with no deficiencies and selected for an allocation, along with the applicable Reservation Deposit and Bond Allocation Fee.

3.8 NON-NIFA ISSUER OF TAX-EXEMPT BONDS.

If NIFA will not be the issuer of the Bonds, the applicant must submit a completed Pre-Application and include a copy of the intent resolution adopted by the proposed issuer (e.g. governmental entity) of the Bonds. Once the Pre-Application has been submitted (in accordance with the deadlines for the applicable Allocation Cycle) and reviewed, the applicant may submit the completed LIHTC/AHTC Application (in accordance with the deadlines for the applicable Allocation Cycle). A separate application for Bond Cap allocation (NIFA's Unified Volume Cap Allocation Application) must then be submitted at the request of NIFA after a completed LIHTC/AHTC Application has been reviewed and accepted by NIFA with no deficiencies and selected for an allocation, along with the applicable Reservation Deposit and Bond Allocation Fee.

4. LIHTC SECTION 42(m) LETTER.

An applicant requesting to receive an allocation of 4% LIHTC in a particular Allocation Cycle will be notified in writing of the allocation of 4% LIHTCs and will receive a Section 42(m) Letter of 4% LIHTCs subject to the conditions set forth in the Conditional Reservation.

Within 90 days of notification of a Section 42(m) Letter, the applicant must submit to NIFA documentation of the following:

- (a) Payment of Section 42(m) Letter Fee and any other fees due to NIFA (including fees due for all other developments sponsored by such applicant).

- (b) Syndication commitment (signed by both parties) outlining 4% LIHTCs and AHTCs, if applicable, equity contribution commitment or terms (i.e., percentage, proceeds to be received, etc.).
- (c) A Phase I Environmental Site Assessment prepared by an unrelated third party professional. For developments for which rehabilitation will be performed, such report must include an assessment of the risks relating to environmental conditions including but not limited to lead-based paint, asbestos and radon.
- (d) Each development owner must agree to provide complete annual operating data and federal income tax returns to NIFA on a timely basis.
- (e) Firm commitments for all sources of funding (including construction and permanent sources and subsidies, if applicable).
- (f) A Fair Housing Certification in the form attached hereto as Exhibit A signed by the development's architect evidencing that, when constructed in accordance with the plans and specifications, the development will be in compliance with the design and construction requirements set forth in the Fair Housing Act and Americans with Disabilities Act.
- (g) Development status reports, in form and frequency as specified by NIFA, outlining the progress toward completion of the development. The Quarterly Progress Report attached hereto as Exhibit B shall be used to submit such reports to NIFA by the 5th day following the end of each calendar quarter. Information requested by NIFA may include such items as zoning approvals, construction progress reports, site control documentation and cost analysis updates.
- (h) If the owner of the development intends to claim Federal or State Historic Rehabilitation Tax Credits, NIFA will require evidence from the State Historic Preservation Office (SHPO) of the United States Department of the Interior National Park Service Part I approval of the historic rehabilitation of the development, if not previously submitted with the LIHTC/AHTC Application.
- (i) Exhibit 111.
- (j) Each development owner must certify that the development will be in compliance with the Violence Against Women's Act, to include ensuring prospective applicants and tenants are provided with the Notice of Occupancy Rights Under the Violence Against Women Act.
- (k) Any other documentation required by NIFA.
- (l) Election of Applicable Percentage.
- (m) Designation of Placed-In Service Date as effective date of Gross Rent.

NOTE: Failure to submit the above requirements, and/or other conditions imposed by NIFA, by the required deadline, will result in late fees and could result in the

revocation of the development's Section 42(m) Letter issued in connection with the 4% LIHTCs for the development. Extensions may be requested as set forth in Section 2.13.

5. LIHTC REVOCATION.

NIFA may revoke the Section 42(m) Letter providing for the 4% LIHTC allocation (and accompanying AHTC, if any) made to a developer/owner for any development. Revocation may occur at NIFA's sole discretion due to actions taken by the development's owner without NIFA's prior written approval, from the time the Section 42(m) Letter is issued and up to the placed-in-service date of the development, for any of the following reasons:

- (a) Site change;
- (b) Change in ownership—a change in the parties involved in the ownership entity (e.g., addition of a third party or removal of an individual/entity listed as part of the development ownership submitted in the LIHTC/AHTC Application);
- (c) Change in unit design, square footage, unit mix, number of units, number of residential buildings, etc.;
- (d) Instances of curable non-compliance issues beyond the specified cure period on an applicant's existing LIHTC developments in any state; or
- (e) Change in rents to be charged to tenants; or
- (f) Applicant fails to promptly notify NIFA of any material adverse changes from the original LIHTC/AHTC Application.

6. MODIFICATION OR REVOCATION OF 4% LIHTC AND, IF APPLICABLE, AHTC ALLOCATIONS.

NIFA may modify or revoke a 4% LIHTC Section 42(m) Letter to the developer/owner of the development for any of the following reasons:

- (a) Information submitted to NIFA is determined to be false or fraudulent;
- (b) Failure to meet conditions set forth in the Conditional Reservation;
- (c) Material changes occur in the actual costs and/or square footage of the development without the prior written approval of NIFA;
- (d) Owner receives additional subsidies or financing for the development other than those disclosed in the LIHTC/AHTC Application without the prior written approval of NIFA;
- (e) Subsequent regulations are issued by Department of the Treasury or the IRS pertaining to Section 42 of the Code; or

- (f) Applicant fails to promptly notify NIFA of any material or adverse changes from either the Pre-Application or the LIHTC/AHTC Application.

7. FINAL 4% LIHTC (AND, IF APPLICABLE, AHTC) ALLOCATION/COST CERTIFICATION.

No 4% LIHTC (and AHTC, if applicable) allocation will be made until the development has been placed-in-service and the developer/owner has submitted to NIFA the Final Cost Certification Documentation, as set forth in the Cost Certification Procedures Manual. Final 4% LIHTC (and AHTC, if applicable) allocations may be requested as soon as an eligible building has been placed in service. NIFA requires the submission of the Final Cost Certification Documentation by the deadlines set forth in the Final Cost Certification Procedures Manual. The 4% LIHTC (and AHTC, if applicable) amount allocated for a development will be based on NIFA's final determination of the qualified basis for the building(s) or development and a review of the development's costs.

NOTE: Failure to submit the Final Cost Certification Documentation by the required deadlines as set forth in the Final Cost Certification Procedures Manual will result in late fees and could result in the revocation of the 4% LIHTC and, if applicable, the AHTC allocations. Extensions may be requested as set forth in Section 2.13.

8. LIHTC GUIDELINES.

Following are general guidelines of the LIHTC Program and other set-asides. These guidelines are not conclusive and should not be relied upon as tax advice. NIFA suggests that, prior to completing the Pre-Application or the LIHTC/AHTC Application; you consult with an independent, third-party certified public accountant or attorney for a complete interpretation of Section 42 and other related tax laws in the Code. NIFA's review of documents submitted in connection with a Pre-Application or the LIHTC/AHTC Application is solely for its own purposes. NIFA makes no representations to the development's Owner or anyone else as to:

- (a) compliance with the Code, Treasury Regulations or any other laws or regulations governing LIHTCs or AHTCs; or
- (b) the financial feasibility or viability of any development.

No member, officer, agent or employee of NIFA will be personally liable concerning any matters arising out of, or in relation to, the allocation of LIHTCs or AHTCs. LIHTCs will be awarded based on federal tax law and Nebraska's QAP. AHTCs will be awarded based on Nebraska law and Nebraska's QAP. NIFA reserves, commits and allocates LIHTCs to partnerships, corporations, limited liability companies. LIHTC commitments, reservations and allocations are not transferable, and any change in development ownership requires NIFA's prior written approval. NIFA verifies development ownership through organizational documents, closing documents, warranty deeds and title reports.

NIFA reserves the right to not allocate 4% LIHTCs (and, if applicable, AHTCs) to any development, regardless of ranking/scoring, if NIFA determines in its sole discretion that the development does not further the purpose and goals of the LIHTC Program. For purposes of this

determination, the information taken into account may include, but is not limited to, the applicant/sponsor's experience and performance and the applicant/sponsor's prior participation in the NIFA program and other states' LIHTC programs. The prior performance considered may include, but is not limited to, progress achieved with previous Conditional Reservations, Section 42(m) Letter, Carryover Allocations, Cost Certifications, development compliance and payment of fees due to NIFA.

NIFA reserves the right to not allocate 4% LIHTCs (and, if applicable, AHTCs) to any development, regardless of ranking/scoring, if NIFA determines in its sole discretion that a disproportionate number of LIHTC developments (including developments using 9% LIHTCs) have been developed in a particular census tract within the past three-year period. NIFA may decide to allocate 4% LIHTC to a development in another county to best serve the citizens of Nebraska. This right will be exercised only in limited circumstances, such as when LIHTC developments (including developments using 9% LIHTCs) in a particular census tract have a vacancy rate of 7% or more, or if, when taking into account current LIHTC/AHTC Applications and existing LIHTC developments and others previously approved and funded (but not yet constructed or occupied), LIHTC developments would create a disproportional number of low-income housing units in that particular area.

Applicants who have been convicted of, entered an agreement for immunity from prosecution for or pleaded guilty (including a plea of no contest) to a crime of dishonesty, moral turpitude, fraud, bribery, payments of illegal gratuities, perjury, false statement, racketeering, blackmail, extortion, falsification or destruction of records are ineligible to apply for LIHTCs. Applicants who have been barred from any other NIFA program, other state LIHTC programs or any federal programs are also ineligible to apply for LIHTCs. Applicants having an identity of interest with any barred entity may also not be eligible to apply for LIHTCs at the sole discretion of NIFA. Furthermore, NIFA reserves the right to amend or modify any of the program instructions or procedures contained within the QAP, the Pre-Application and LIHTC/AHTC Application and may exercise such right at any time and without liability to any applicant or other party for their expenses incurred in the preparation of a Pre-Application or a LIHTC/AHTC Application or otherwise.

9. BOND MINIMUM SET-ASIDE ELECTIONS

The Applicant must elect a minimum set-aside of income levels from those listed below.

9.1 20-50 ELECTION.

At a minimum twenty percent (20%) or more of the residential units in the development are occupied by individuals whose income is fifty percent (50%) or less of the Area Median Income ("AMI"); or

9.2 40-60 ELECTION.

At a minimum forty percent (40%) or more of the residential units in the development are occupied by individuals whose income is sixty percent (60%) or less of the AMI.

10. LIHTC MINIMUM SET-ASIDE ELECTIONS.

Any owner election made in regard to the minimum set-aside election requirement for a qualified low-income housing development cannot be changed once made at the final LIHTC/AHTC Application submittal date(s) as outlined for the Allocation Cycles in Sections 4. If a development fails to meet its elected minimum set-aside at the end of a year, it is not a qualified low-income housing project for that year under Section 42(g)(1)(C) of the Code and this noncompliance will be reported to the IRS on IRS Form 8823. Note, the owner may be subject to the loss of 4% LIHTCs and any accompanying AHTCs.

NIFA will permit the IA option only for 4% LIHTC/AHTC Applications submitted under the 2020 (and future) Qualified Allocation Plan. Section 42 was modified to allow for IA, but similar changes were not made in Section 142 of the Code, with respect to multifamily housing bonds. However, IA still may be used in bond-financed LIHTC developments as long as the development satisfies both the IA set-aside election and one of the minimum set-aside elections applicable to tax-exempt bond financing (20/50 or 40/60 minimum set-aside). Thus, units with income limits above 60% or 50%, as applicable, do not count for purposes of bond compliance.

10.1 20-50 ELECTION.

At a minimum twenty percent (20%) or more of the residential units in the development are both rent restricted and occupied by individuals whose income is fifty percent (50%) or less of Area Median Income (“AMI”); or

10.2 40-60 ELECTION.

At a minimum forty percent (40%) or more of the residential units in the development are both rent restricted and occupied by individuals whose income is sixty percent (60%) or less of AMI; or

10.3 INCOME AVERAGING ELECTION.

At a minimum forty percent (40%) or more of the residential units in the development serve households earning as much as eighty (80%) AMI, as long as the development’s average income/rent limit is sixty (60%) or less of AMI.

NIFA is currently developing IA compliance and monitoring policies and will require any development electing IA to comply with such policies. Please note that as of the date of this Allocation Plan the IRS has not issued full and definitive guidance as to how it will administer or monitor developments making the IA election. Any development that considers such an election should do so in consultation with its counsel and/or tax advisors. NIFA is not espousing or recommending any specific approach to this matter.

(a) IA Affordability Requirements

IA is only permitted if all residential units in a development are designated low-income. Developments selecting IA may not have any unrestricted or market-rate residential units. Manager units are not subject to this restriction and are permitted in IA developments.

Income and rent levels are restricted to four (4) of the following AMI income brackets: 20% of AMI, 30% of AMI, 40% of AMI, 50% of AMI, 60% of AMI, 70% of AMI, and 80% of AMI.

Existing LIHTC developments are not eligible for the IA Election.

(b) Multi-Building Election

If the proposed development contains more than one building, the owner must make the 8b election on Form 8609, indicating that the development will be treated as a multiple building development.

(c) Documentation Requirements

The market study submitted with the LIHTC/AHTC Application, must demonstrate sufficient market demand for each AMI income bracket proposed. Equity and debt commitment letters must affirmatively demonstrate that they are based upon an IA set-aside. NIFA reserves the right to require a legal opinion verifying the ability of a development to utilize IA in combination with any other subsidy.

(d) Design Requirements

Units of similar size and configuration must have substantially similar design and be reasonably distributed throughout the building(s) regardless of the assigned AMI income bracket restriction. Owners must disperse AMI income bracket levels across unit types in a manner that does not violate fair housing laws.

(e) Timing Requirements

Eligible applicants must select IA at the time of final application as indicated in Section 4. NIFA will not permit a change to IA after a development has received a Section 42(m) Letter.

11. LIHTC COMPLIANCE MONITORING.

During the 15-year Compliance Period as set forth in the LURA, NIFA, as part of this LIHTC/AHTC Allocation Plan, is required to adopt and adhere to compliance monitoring procedures which will: (i) monitor developments for noncompliance and (ii) notify the IRS of any noncompliance of which NIFA becomes aware of in accordance with Section 42(m) of the Code, Treasury Regulation §1.42-5 and any other applicable regulations. All development owners must enter into a LURA with NIFA, binding all parties to comply with Section 42 of the Code, Treasury Regulation §1.42-5 and any other applicable regulations, such as the Violence Against Women Act of 2013. Pursuant to the LURA, development owners (or the management agents thereof) are required to attend, on an annual basis, a compliance seminar sponsored by NIFA. In addition, development owners with items of noncompliance that have not been corrected in a timely fashion may be required to provide quarterly compliance reports to NIFA and may, in NIFA's sole discretion, be ineligible to receive future allocations of LIHTCs/AHTCs.

The following procedures outline NIFA's plans for compliance monitoring by development owners. Such procedures, together with the covenants and representations contained in the LURA (which form of LURA is part of the 2020/2021 QAP) shall constitute the procedures for compliance monitoring by NIFA. (Capitalized terms used below and not otherwise defined shall have the meanings as set forth in the LURA).

11.1 TENANT INCOME CERTIFICATIONS.

Development owners shall maintain a file for each Qualified Tenant residing in the development (which shall be updated during each year of unit occupancy by the development owner). Each tenant file shall contain a copy of the rent record and a copy of such tenant's executed Application and Tenant Income Certification (a form of which is attached to the LURA) as well as supporting documentation, which is subject to independent investigation and verification by NIFA. Each tenant file shall be submitted to NIFA as set forth below or in such other form and manner as may be required by the applicable rules, regulations or policies now or hereafter promulgated by the Department of the Treasury or the IRS.

11.2 ANNUAL OWNER CERTIFICATIONS.

Development owners are required to immediately notify NIFA if, at any time, the residential units in a development are not occupied or available for occupancy as provided above. Development owners shall prepare and submit, under penalty of perjury, to NIFA, no later than January 31st of each year following the first year in which the minimum set-aside is required to be met, a Certificate of Continuing Program Compliance (a form of which resides on NIFA's website at www.nifa.org) and an Annual Tax Credit Summary Report (a form of which resides on NIFA's website at www.nifa.org), both executed by the development owner stating the number of dwelling units in the development which, as of the first date of such calendar year, were occupied by Qualified Tenants (or were deemed to be occupied by Qualified Tenants as provided in the LURA for all or part of such period), and submission of Certification On-Line (COL) data collected by the development owner.

11.3 RECORD KEEPING AND RETENTION.

Development owners are required to collect and retain records for each qualified low-income building in the development for at least six years after the due date (with extensions) for filing the federal income tax return for such year. Notwithstanding the above, records for the first year of the Credit Period must be retained for at least six years beyond the due date (with extensions) for the filing of the federal income tax return for the last year of the 15-year Compliance Period of the building. Such records shall include for each year during the 15-year Compliance Period the following information pertaining to each building in the development:

- (a) The total number of residential rental units in the building (including the number of bedrooms and the size in square feet of each residential rental unit);
- (b) The percentage of residential rental units in the building that are Qualified Units;
- (c) The rent charged on each residential rental unit in the building, including any utility allowances;

- (d) The number of occupants in each Qualified Unit and any changes in the number of occupants in each Qualified Unit;
- (e) The Qualified Unit vacancies in the building and information that indicates when, and to whom, the next available units were rented;
- (f) The annual income certification of each Qualified Tenant per Qualified Unit;
- (g) Documentation to support each Qualified Tenant's annual income certification (for example, a copy of the Qualified Tenant's federal income tax return, Forms W-2 or verifications of income from third parties such as employers or state agencies paying unemployment compensation). Tenant income is to be calculated in a manner consistent with the determination of annual income under Section 8 of the United States Housing Act of 1937 ("Section 8"), and not in accordance with the determination of gross income for federal income tax liability. In the case of a tenant receiving housing assistance payments under Section 8, this documentation requirement is satisfied if the public housing authority provides a statement to the development owner declaring that the tenant's income does not exceed the applicable income limit under Section 42(g) of the Code;
- (h) The Eligible Basis and the Qualified Basis of the building at the end of the first year of the Credit Period; and
- (i) The character and use of the nonresidential portion of the building included in the building's eligible basis under Section 42(d) of the Code (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).

11.4 REVIEW PROCESS.

For each year of the Affordability Period, NIFA will perform a compliance review on the development. Certifications and other information submitted to NIFA (as described above) shall be reviewed for compliance with the requirements of Section 42 of the Code.

11.5 ON-SITE INSPECTION AND TENANT FILE REVIEW.

The LURA provides that NIFA, or its designated agent, shall have the right to perform on-site inspections of each building in the development, inspect each Qualified Unit and review the tenant file for each such Qualified Unit.

NIFA, or its designated agent, will conduct an on-site inspection of each building in the development and inspect the number of the Qualified Units and review the tenant files for such Qualified Units as required by Section 42 of the Code. On-site inspections and tenant file reviews shall be conducted by the end of the second calendar year following the year in which the last building in the development was placed in service. Thereafter, NIFA, or its designated agent, will conduct on-site inspections of all buildings in the development and review the tenant files at least once every three years. NIFA shall notify each development owner in advance of

any such on-site inspection and review. NIFA shall randomly select which Qualified Units and tenant records will be inspected and reviewed.

Any duly authorized representative of NIFA, the Department of the Treasury or the IRS may inspect the books and records of the development pertaining to the incomes of the Qualified Tenants residing in the development.

In conjunction with each on-site inspection, development owners must provide to NIFA, or its designated agent, any local health, safety or building code violations reports or notices received on the development. Based on the on-site inspection and NIFA's receipt and review of any local health, safety or building code violations reports or notices provided by the owner, NIFA shall determine whether each building in the development and its Qualified Units are suitable for occupancy.

11.6 NOTIFICATION TO OWNER.

In the event NIFA discovers a noncompliance issue with any of the provisions of the LURA or Section 42 of the Code, NIFA will immediately notify the development owner in writing. The development owner shall have 60 days from the issuance of such notice (the "Correction Period") to correct the noncompliance.

Noncompliance includes, but is not limited to, the following: (a) NIFA's failure to receive tenant income certifications, supporting documentation and rent records, (b) noncompliance with any provision of Section 42 of the Code and/or (c) any change in the applicable fraction or eligible basis of the development which would result in a decrease in the Qualified Basis of the development. NIFA shall be authorized and entitled, pursuant to the provisions of the LURA, to perform all acts necessary to comply with the monitoring and notification responsibilities set forth in Section 42(m)(i)(B)(iii) of the Code and any Treasury Regulations promulgated thereunder or other interpretations thereof by the IRS or the courts.

11.7 NOTICE TO INTERNAL REVENUE SERVICE.

Within 45 days after the expiration of the Correction Period, NIFA shall file with the IRS, a copy of Form 8823, setting forth the nature of the noncompliance and whether or not such noncompliance has been corrected.

11.8 LIABILITY AND DISCLOSURE OF INFORMATION.

Compliance with the requirements of Section 42 of the Code is the sole responsibility of the development owner. NIFA's obligations to monitor for compliance with the requirements of Section 42 of the Code does not, and will not, make NIFA liable for a development owner's noncompliance.

All Pre-Applications, LIHTC/AHTC Applications, and Private Activity Bond Cap Applications, materials, exhibits and correspondence submitted to NIFA are the property of NIFA. An agreement may be made between NIFA and any other appropriate federal regulatory agency to exchange such information.

Copies of Applications submitted pursuant to the Qualified Allocation Plan (which includes applications for 9% LIHTCs, AHTCs, 4% LIHTCs, CRANE, and Private Activity Bond Cap) will be made available by NIFA to the public (other than during the active review process) upon written request. Additionally, NIFA will post the scores for Applications at www.nifa.org.

By submission of an Application pursuant to the QAP, applicant acknowledges and agrees to such publication of its Application and related information.

12. NIFA CONTACT INFORMATION.

Correspondence and inquiries should be directed to:

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

Attention: LIHTC Program
Telephone: (402) 434-3900
(800) 204-NIFA
Internet: www.NIFA.org

EXHIBIT A

FAIR HOUSING ACT ACCESSIBILITY CERTIFICATION

The following is a certification regarding design and construction requirements of the Fair Housing Act (the “Act”). This certification represents many, but not all, of the requirements to the Act. This certification is not intended to be exhaustive; rather, it is a helpful guide in determining if the major requirements of the Act have been met in designing and constructing the development. **If a box below is not checked due to the applicability of an exception to the Act, the architect MUST include an explanation of the exception, including a citation to the relevant section of the Act.**

GENERAL REQUIREMENTS

- Development has buildings containing 4 or more units and was designed and constructed for first occupancy on or after March 13, 1991.
- If it is an elevator building, all units are “covered units.”
- All units in buildings with elevators have features required by the Act.
- If it is a non-elevator building, all ground-floor units are “covered units.”
- All ground-floor units in buildings without elevators have features required by the Act.

NOTE: There is a narrow exception which provides that a non-elevator building in a development need not meet all of the Act’s requirements if it is impractical to have an accessible entrance to the non-elevator building because of hilly terrain or other unusual characteristics of the site.

ACCESSIBLE BUILDING ENTRANCE ON AN ACCESSIBLE ROUTE

- The accessible route is a continuous, unobstructed path (no stairs) through the development that connects all buildings containing covered units and all other amenities.
- The accessible route also connects to parking lots, public streets, public sidewalks and public transportation stops.
- All slopes are no steeper than 8.33%.
- All slopes between 5% and 8.33% have handrails.
- Covered units have at least one entrance on an accessible route.

- There are sufficient curb cuts for a person using a wheelchair to reach every building in the development.

COMMON AND PUBLIC USE AREAS

- At least two percent of all parking spaces are designated as handicapped parking.
- At least one parking space at each common and public use amenity is designated as handicapped parking.
- All handicapped parking spaces are properly marked.
- All handicapped parking spaces are at least 96" wide with a 60" wide access aisle which can be shared between two spaces.
- The accessible aisle connects to a curb ramp and the accessible route.
- The rental or sales office is readily accessible and usable by persons with disabilities.
- All mailboxes, swimming pools, tennis courts, clubhouses, rest rooms, showers, laundry facilities, trash facilities, drinking fountains, public telephones and other common and public use amenities offered by the development are readily accessible and usable by persons with disabilities.

USABLE DOORS

- All doors into and through covered units and common use facilities provide a clear opening of at least 32" nominal width.
- All doors leading into common use facilities have lever door handles that do not require grasping and twisting.
- Thresholds at doors to common use facilities are no greater than 1/2".
- All primary entrance doors to covered units have lever door handles that do not require grasping and twisting.
- Thresholds at primary entrance doors to covered units are no greater than 3/4" and beveled.

ACCESSIBLE ROUTE INTO AND THROUGH THE COVERED UNIT

- All routes through the covered units are no less than 36" wide.

ACCESSIBLE ENVIRONMENTAL CONTROLS

- All light switches, electrical outlets, thermostats and other environmental controls must be no less than 15" and no greater than 48" from the floor.

REINFORCED BATHROOM WALLS FOR GRAB BARS

- Reinforcements are built into the bathroom walls surrounding toilets, showers and bathtubs for the later installation of grab bars.

USABLE KITCHENS AND BATHROOMS

- At least 30" x 48" of clear floor space at each kitchen fixture and appliance.
- At least 40" between opposing cabinets and appliances.
- At least a 60" diameter turning circle in U-shaped kitchens unless the cooktop or sink at end of U-shaped kitchen has removable cabinets beneath for knee space.
- In bathroom, at least 30" x 48" of clear floor space outside swing of bathroom door.
- Sufficient clear floor space in front of and around sink, toilet and bathtub for use by persons using wheelchairs.

Certification completed by the development architect:

Signature _____

Printed Name _____

Company Name _____

Title _____

Date _____

