

NEBRASKA INVESTMENT FINANCE AUTHORITY

LOW INCOME HOUSING TAX CREDIT PROGRAM

2022/2023

HOUSING CREDIT ALLOCATION PLAN

FOR

9% LIHTC

AND

AHTC



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1. INTRODUCTION.

NIFA's Mission: *Growing Nebraska Communities through Affordable Housing and Agribusiness*

NIFA's (10 year) Vision: *NIFA is an indispensable partner for Nebraska citizens and communities in planning, creating and sustaining affordable housing, advancing agribusiness, and furthering a vibrant Nebraska.*

NIFA's Values: *Collaboration, Commitment, Innovation, Integrity, Stewardship*

The Nebraska Investment Finance Authority (NIFA or the "Authority") is charged with allocating tax credits for Low Income Housing in the state of Nebraska. The Board of the Authority has set forth policy, bolstered by the Mission, Vision and Values of the Authority, to guide creation of the Qualified Allocation Plan (QAP).

This QAP is intended to reflect policies that will further a vibrant Nebraska, using affordable housing as the lens of that vibrancy. Priorities embedded in this QAP include:

- **Collaboration:** Create collaborative, local partnerships that achieve local vision for strong neighborhoods and communities.
- **Stewardship:** Ensure a balanced approach between quality of unit construction and creation of much-needed units.
- **Commitment:** Provide access to opportunity for tenants, supporting quality of life and dignity.
- **Innovation:** Target special or underserved populations with programs and projects that overcome barriers to access and provide stable environments for progress.
- **Integrity:** Develop policies and procedures taking into account best practices and current data, implementing thoughtful, intentional, and open public processes.

These priorities are further reflected in the following strategic objectives.

Increasing opportunities for tenants & improving quality of life	Coordination with communities & local/regional partners	Targeting Special or Underserved Populations
Encouraging eventual tenant homeownership	Incentivizing communities to have a community or neighborhood redevelopment plan/comprehensive approach (such as Choice Neighborhoods program) for developments in Qualified Census Tracts	Incentivizing larger units for families
Encouraging development in areas of high opportunity	Encouraging development in communities with a housing loss as a result of a federally declared natural disaster	Encouraging developments in smaller, rural communities
Incentivizing mixed-income developments	Incentivizing communities to become Economic Development Certified Communities	A set-aside for CRANE to target specific populations and types of development
Incentivizing supportive services and amenities	Encouraging at least one supportive service to be provided by a local or regional service organization	Encouraging the use of project-based rental assistance that can also assist in the conversion of public housing units to Section 8 voucher units

The 2022/2023 Housing Credit (“LIHTC”) Allocation Plan for 9% LIHTC and AHTC, as part of the Qualified Allocation Plan (“QAP”) described below, provides for the allocation of the federal 9% low income housing tax credit for the following Nebraska Investment Finance Authority (“NIFA”) programs: Competitive LIHTC and Collaborative Resources Allocation for Nebraska (“CRANE”). For ease of discussion, credits awarded pursuant to the Competitive LIHTC program (“Competitive Credit”) and the CRANE program are sometimes collectively referred to herein as 9% LIHTC”. The allocation of the federal low income housing tax credit issued in connection with the issuance of qualifying tax-exempt bonds (the 4% LIHTC) is governed by a separate 2022/2023 Housing Credit Allocation Plan for 4% LIHTC.

In 2016, the Nebraska State Legislature enacted LB 884 creating the Nebraska Affordable Housing Tax Credit (the “AHTC”). Additionally, the 2022/2023 Housing Credit Allocation Plan for 9% LIHTC and AHTC provides for the allocation of the AHTC. The AHTC will be awarded only in connection with qualifying developments for which the owners have also received an allocation of 9% LIHTC except as otherwise may be provided in the 2022/2023 Housing Credit Allocation Plan for 4% LIHTC.

1.1 AVAILABLE LOW INCOME HOUSING TAX CREDITS AND NEBRASKA AFFORDABLE HOUSING TAX CREDITS.

In both 2022 and 2023, NIFA expects to have approximately \$4,800,000, of 9% LIHTC allocation for qualifying developments in Nebraska pursuant to the 9% LIHTC program. This amount is based on the U.S. Census Bureau's Current Population Report for Nebraska multiplied by \$2.50 (as may be adjusted). The amount of LIHTC available for allocation pursuant to the 9% LIHTC program may be increased by 9% LIHTC returned to NIFA from a prior year or 9% LIHTC allocated to Nebraska from the 2021 and 2022 respective national LIHTC pool.

All owners of qualifying developments receiving an allocation of 9% LIHTC will also receive an allocation of AHTC equal to no more than one hundred percent (100%) of the 9% LIHTC allocation. The total combined amount of LIHTC and AHTC allocated in connection with a qualifying development shall be determined by NIFA staff based upon underwriting of the developments in order to meet the requirements of the 2022/2023 QAP.

The maximum annual amount of AHTC that will be awarded in both 2022 and 2023 to owners of qualified developments pursuant to the 2022/2023 Housing Credit Allocation Plan for 9% LIHTC and AHTC shall not exceed the maximum annual amount of 9% LIHTC awarded by NIFA for 2022 and 2023 (Competitive LIHTC and CRANE combined), provided that such annual amount of AHTC is only available for six years, except that any reduction in AHTC allowable in the first year of the credit period due to the calculation in Section 42(f)(2) of the Internal Revenue Code of 1986 (the "Code") shall be allowable in the seventh year of the credit period as defined in Code Section 42(f)(1). The maximum annual allocation of AHTC that will be awarded for any single development under either the Competitive LIHTC and CRANE programs shall be consistent with the Maximum Allocation of LIHTC as described in Section 9 of the 2022/2023 Housing Credit Allocation Plan for 9% LIHTC and AHTC.

AHTC will be awarded to every applicant of qualifying developments in connection with the award of 9% LIHTC for such development.

In accordance with the Nebraska Affordable Housing Tax Credit Act (the "AHTC Act"), the amount of the AHTC shall be the amount of the LIHTC awarded for the qualifying development. Notwithstanding the foregoing, the AHTC Act provides that NIFA may not award for a particular development any combined amount of LIHTC and AHTC that is more than necessary to make the qualified development financially feasible. In determining that the combined amount of LIHTC and AHTC meet the foregoing, NIFA shall determine the amount of LIHTC and the amount of AHTC to be awarded for a qualifying development based upon the AHTC Act and the parameters of this 2022/2023 Housing Credit Allocation Plan for 9% LIHTC and AHTC.

1.2 DEVELOPMENT OF QUALIFIED ALLOCATION PLAN.

The 2022/2023 QAP is adopted by NIFA pursuant to a public process established by NIFA and involves input from a number of parties. The 2022/2023 QAP consists of the following:

- a. this 2022/2023 Housing Credit Allocation Plan for 9% LIHTC and AHTC
- b. the 2022/2023 Housing Credit Allocation Plan for 4% LIHTC and AHTC
- c. the 2022/2023 9% NIFA/NDED Application
- d. 2022/2023 4%/Bond Application
- e. the 2022/2023 NIFA/NDED Exhibit Examples
- f. the 2022/2023 LIHTC Forms and Documents
- g. the 2022/2023 CRANE Guidelines and Application
- h. the 2022 Carryover Allocation Procedures Manual
- i. the 2022 10% Test Certification
- j. the 2022 Cost Certification Procedures Manual
- k. the 2022/2023 Land Use Restriction Agreement (LURA)
- l. the 2022/2023 LIHTC CROWN Land Use Restriction Agreement (CROWN LURA)
- m. the 2023 Carryover Allocation Procedures Manual
- n. the 2023 10% Test Certification
- o. the 2023 Cost Certification Procedures Manual

A public hearing on the proposed 2022/2023 QAP was held in Lincoln, Nebraska. All comments received by NIFA were taken into consideration in developing and drafting the 2022/2023 QAP.

The 2022/2023 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 Code. The 2022/2023 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 2022/2023 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 2022/2023 QAP may be amended from time to time as new guidelines and regulations are issued under Section 42 of the Code, the AHTC Act or as NIFA deems necessary to meet the LIHTC and AHTC Program goals and objectives.

Persons interested in applying for an allocation of LIHTC (which shall include AHTC combined with LIHTC) must complete a 2022/2023 9% NIFA/DED Application online (the “LIHTC Application”). (See the “CRANE Program Application Process and Allocation Cycles” below for LIHTC available pursuant to the CRANE Program.) The online LIHTC Application is available at NIFA’s website (www.NIFA.org).

1.3 INELIGIBLE APPLICANTS.

A LIHTC Application will not 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 Nebraska LIHTC fees, AHTC fees or Tax-Exempt Bond fees due and payable for other Nebraska LIHTC developments; 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 Nebraska LIHTC development; 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. LIHTC AND AHTC FEE SCHEDULE.

NIFA reserves the right to revise the fee schedule from time to time. Note: Any fee revision will be made pursuant to a 30 day notice posted on NIFA's website.

2.1 Appendix A sets forth the various fees in connection with the allocation of the 9% LIHTC and AHTC. (Fees to be charged by NIFA in connection with the 4% LIHTC and the issuance of bonds are set forth in the separate 2022/2023 Housing Credit Allocation Plan for 4% LIHTC.)

Appendix A contains all current fee and related due date information. Fees must be paid in full prior to NIFA's review of any documentation. If, for any reason, a development does not move forward, NIFA will retain all fees paid in conjunction with the development.

Fees outlined in Appendix A include:

Application: Threshold Competitive, LIHTC Full, AHTC Full, CRANE

Conditional Reservation	Extension	Allocation/Cost Certification
Late	Document Change	Additional Tax Credit Request

Annual Compliance: LIHTC, AHTC, Income-Averaging, Extended Use Period

Qualified Contract	Late Payment Penalty	Transfer/Assumption
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2.2 LEGAL FEES.

Extraordinary legal fees incurred by NIFA in connection with the review of the LIHTC Application, the CRANE Application or any materials submitted in connection with the allocation, the allocation 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. SET-ASIDE PRIORITIES.

All allocations for 9% LIHTC will be based on special set-aside priorities, federal law and the NIFA scoring system, which incorporates various Nebraska housing priorities.

(a) NON-PROFIT SET-ASIDE.

NIFA will reserve at least ten percent (10%) of its annual 9% LIHTC authority for allocations to qualified non-profit sponsors as required by Code Section 42(h)(5). To qualify for this set-aside, the development sponsor must: (i) be a qualified non-profit tax-exempt organization within Section 501(c)(3) or 501(c)(4) of the Code, (ii) have as one of its exempt purposes the fostering of low-income housing, (iii) own an ownership interest in the development (directly or through a wholly-owned subsidiary) and (iv) materially participate on a regular, continuous and substantial basis in the operation of the development throughout the 15-year Compliance Period applicable to the development.

Material participation in the development and operations of the development (the “Activity”), as outlined in Section 469(h) of the Code and Treasury Regulation §1.469-5T, shall be certified to NIFA on an annual basis and shall include one of the following:

- i) Participation in the Activity for more than 500 hours during the tax year;
- ii) Participation in the Activity for the tax year constitutes substantially all of the participation in the activity of all the individuals (including non-owners) for the tax year;
- iii) Participation in the Activity for more than 100 hours during the tax year and such participation in the activity is not less than the participation of any other individual (including non-owners) for the tax year;
- iv) The Activity is a “significant participation activity” for the tax year and the individual’s aggregate participation in all significant activities during the tax year exceeds 500 hours. A significant participation activity is one in which the individual has more than 100 hours of participation during the tax year, but fails to satisfy any other test for material participation;
- v) Material participation in the Activity existed for any five of the ten tax years immediately preceding the tax year in question; or

- vi) Based on all of the facts and circumstances, the individual participated in the activity on a regular, continuous and substantial basis during the tax year and at a minimum participated in such activity for more than 100 hours.

(b) **METRO/NON--METRO SET-ASIDE.**

Metro/Non-Metro set-aside will be as follows:

<u>Percentage of Competitive LIHTC Allocation</u>	<u>Area</u>	<u>County</u>
50% - Metro	South Sioux City MSA	(Dakota and Dixon Counties)
	Lincoln MSA	(Lancaster and Seward Counties)
	Omaha MSA	(Cass, Douglas, Sarpy, Saunders, and Washington Counties)
50% - Non-Metro	Balance of Nebraska	

Note: NIFA will use its best efforts to maintain the Metro/Non-Metro set-aside Metro and Non-Metro developments will be scored separately (Metro vs. Metro and Non-Metro vs. Non-Metro.)

(c) **COLLABORATIVE RESOURCES ALLOCATION FOR NEBRASKA SET-ASIDE.**

In an effort to target specific economic growth, community development and the provision of specific types of affordable housing, NIFA will set-aside up to 33% of Nebraska's annual LIHTC authority to be allocated pursuant to the CRANE Program. All CRANE applications will be scored in accordance with this LIHTC Allocation Plan and compete against other CRANE applications. The maximum LIHTC allocation for any single development in the CRANE set-aside will be no more than 20% of Nebraska's annual LIHTC authority. Further details regarding the CRANE Program can be found in Sections 7 and 8 herein. If the LIHTC and AHTC in the CRANE Program are not fully reserved for a particular year, the unreserved amount will be available to be allocated for other developments in accordance with this LIHTC Allocation Plan.

4. APPLICATION FOR COMPETITIVE LIHTC.

4.1 ANNUAL COMPETITIVE LIHTC CYCLE; ALLOCATION ROUND AND APPLICATION PROCESS.

Annual Competitive Allocation Cycle. Allocation reservations for the Competitive LIHTC available during a particular calendar year are made by NIFA on an annual basis ("the Annual Cycle"). The Annual Cycle may consist of one or more rounds.

Allocation Round. NIFA expects to hold at least one (1) Allocation Round during the Annual Cycle in connection with the allocation of the Competitive LIHTC. For a development to be eligible for review during an Allocation Round, a complete LIHTC Application and all required supporting information must be submitted to NIFA via the online funding application system by the deadline for that particular Allocation Round (both Threshold and Final). Submissions for a reservation of Competitive LIHTC that do not include a fully completed LIHTC Application, with correctly attached Exhibits and specified application fee, will not be reviewed or scored by NIFA. The LIHTC Application is available on NIFA's website at www.NIFA.org.

NIFA expects to hold the following Allocation Round during the Annual Cycle in connection with the Competitive LIHTC:

	Application Deadlines (no later than 5:00 p.m. CST)	Competitive LIHTC Reservations Issued	Approximate funds available through joint application process with Nebraska Department of Economic Development (available in both Competitive and CRANE cycles)
Round 1 Threshold Application:	March 16, 2022(Optional)		
Round 1 Final Full Application:	April 27, 2022	June 17, 2022(tentative)	HOME: Approximately \$2.2 million National Housing Trust Fund (HTF): Approximately \$2.7 million CDBG-DR: \$26 million
Additional Round*			
	Application Deadlines (no later than 5:00 p.m. CST)	Competitive LIHTC Reservations Issued	Approximate funds available through joint application process with Nebraska Department of Economic Development (available in both Competitive and CRANE cycles)
2023			
Round 1 Threshold Application:	July 20, 2022(Optional)		
Round 1 Final Full Application:	August 31, 2022	October 21, 2022 (tentative)	HOME and HTF: Please refer to the 2023 Annual Action Plan that will be available here: https://opportunity.nebraska.gov/program/nebraska-affordable-housing-trust-fund/
Additional Round*			

*NIFA reserves the right to hold additional Allocation Rounds during the Annual Cycle or make changes to the above Allocation Round as it deems necessary to meet LIHTC Program goals and objectives.

4.2 SCORING OF COMPETITIVE LIHTC APPLICATION.

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

- * Threshold Criteria
- * Other Selection Criteria
- * NIFA Scored Criteria

NOTE: LIHTC Applications for Competitive LIHTC will be scored SOLELY on information provided in the online funding LIHTC Application submitted for the applicable Allocation Round deadline.

An LIHTC Application submitted for Threshold review must be resubmitted in full (whether or not changes have been made by the applicant subsequent to threshold review) by the Final Full Application deadline in order to be considered for an allocation of LIHTC and AHTC.

5. COMPETITIVE LIHTC REVIEW AND ALLOCATION PROCESS.

NIFA will use the following process in the allocation of Competitive LIHTC:

5.1 APPLICATION SUBMITTAL PROCESS.

To be considered for a reservation of Competitive LIHTC, all documentation must be submitted through the online funding application. Only the information submitted for the current deadline will be reviewed regardless of any prior submittal of documentation. An LIHTC Application submitted for threshold review must be resubmitted in full (whether or not changes have been made by the applicant subsequent to threshold review) by the Final Full Application deadline in order to be considered for an allocation of Competitive LIHTC and AHTC. (Any documentation or information submitted for a previous deadline will not be taken into consideration for the current deadline.) The Competitive LIHTC Application Fee must be received in NIFA's office on or prior to the deadline as set forth Appendix A.

5.2 EVALUATION OF THRESHOLD CRITERIA.

- (a) Each application for Competitive LIHTC for a particular development will be evaluated based upon the information submitted in the online LIHTC Application for the applicable Competitive Application deadline.
- (b) NIFA will communicate with development owners that do not meet the threshold criteria to generally outline deficiencies in the threshold exhibits with respect to the threshold criteria.

5.3 EVALUATION OF FINAL FULL APPLICATIONS.

- (a) Each application for Competitive LIHTC for a particular development will be evaluated based upon the information submitted in the online LIHTC Application for the applicable Competitive Application deadline.
- (b) Developments will be ranked based upon the total number of points awarded in all criteria categories and placed into the appropriate set-aside priorities. Applications that do not meet all Threshold Criteria will not be considered for an allocation of 9% LIHTC and AHTC. NIFA will not score or include in the efficiency calculations any LIHTC Application that does not meet all Threshold Criteria.
- (c) NIFA will conduct an evaluation to determine the appropriate amount, if any, of Competitive LIHTC to be reserved, using data provided by the developer/owner and according to NIFA Efficient Housing Measurements and Section 42 of the Code. Alternate applicants in both Metro and Non-Metro scoring pools, will be identified and ranked. Alternate applicants may be selected for a Conditional Reservation in the event additional LIHTC/AHTC become available.

- (d) Any development that has a financing gap, due to the non-award of another source of funding that is greater than \$500,000 will not be eligible for a Conditional Reservation.

6. EXTENSIONS AND DEVELOPMENT CHANGES

6.1 EXTENSIONS

A developer/owner may request an extension of any of the following deadlines: Conditional Reservation; Carryover Allocation; 10% Test Certification; and Final Cost Certification; if

- (a) an Extension Fee (see Appendix A) 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, NIFA will determine whether the request for an extension is reasonable.
 - 3. The request for an extension must be submitted to NIFA on or before the deadline for the original submittal.
 - 4. The Extension Fee is paid concurrently with the extension request.

Extension Requested	Maximum # of days Allowed
Conditional Reservation	60 days
Carryover Agreement	30 days
10% Test	60 days - Not to exceed one-year from the date of the Carryover Agreement
Cost Certification	60 days

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

6.2 APPLICATION OR DOCUMENTATION CHANGE.

Subsequent to a Conditional Reservation, a developer/owner may request to amend the terms, conditions or information included in the LIHTC Application or other documentation submitted in connection with the request for LIHTC and AHTC. Any such request will be reviewed by NIFA to determine any impact to the original scoring for the LIHTC Application.

Any change from the commitments with the respect o the development in the LIHTC Application requires NIFA's prior written approval and payment of the fee described in Appendix A (e.g.,

request for changes to commitments made in the LIHTC Application). Such non-refundable fee must be submitted to NIFA at the time of request for consideration of an LIHTC Application or documentation change.

6.3 ADDITIONAL TAX CREDIT REQUEST

NIFA will review and consider requests for additional LIHTC and/or AHTC . A non-refundable fee (see Appendix A) must be submitted to NIFA at the time of request for consideration along with the applicable documentation to demonstrate the need for the additional LIHTC and/or AHTC. Amounts reserved for LIHTC and AHTC may be adjusted by the Executive Director in an amount not to exceed: (i) a 10% increase or (ii) a 10% decrease, based upon receipt and review of the final information necessary to complete the analysis and subsidy layering reviews.

6.4 OWNER MEMBER CHANGES/TRANSFER/ASSUMPTION

NIFA reserves, commits and allocates LIHTC and AHTC to partnerships, corporations, limited liability companies and individuals. Conditional Reservations and commitments of LIHTC and AHTC are non-transferable, and **any change in the partners/members of the development owner requires NIFA's prior written approval and payment of the fee described in Appendix A** (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 LIHTC Application).

Any transfer, sale or other disposal by the owner of a development requires the prior written consent of NIFA (pursuant to the terms of the LURA) and payment of the fee described in Appendix A. NOTE: Upon any such transfer, sale or other disposal of the development, any existing right of the owner to request, in accordance with Section 42(h)(6) of the Code, that NIFA assist in procuring a qualified contract for the acquisition of the development, shall terminate with respect to the development as of the date of such transfer, sale or disposition of the development. Such termination of the right to proceed through the qualified contract process shall be binding on all subsequent owners of a transferred development.

7. CRANE PROGRAM APPLICATION PROCESS

CRANE Application: NIFA will accept CRANE Applications on an ongoing basis throughout the year. For a development to be eligible for review, a complete CRANE or LIHTC Application and all required supporting information must be submitted to NIFA via the online funding application system. Submissions for a reservation of LIHTC for developments that do not include a fully completed LIHTC Application, with correctly attached Exhibits and specified Application Fee, will not be reviewed by NIFA. The CRANE and LIHTC Applications are available on NIFA's website.

NIFA expects to review applications for the CRANE Program on a monthly basis (See CRANE Application).

The focus and primary purpose of CRANE Program is to target specific long-term, interrelated and coordinated job creation/enhancement, economic growth, and joint housing and community development strategies. For both 2022 and 2023 NIFA will set-aside up to 33% (**approximately \$1.6 million**) of Nebraska's annual 9% LIHTC authority to be allocated pursuant to the CRANE Program (set-aside can be increased as set forth in Section 9(d)). The CRANE Program is a

strategic alliance among NIFA and other collaborating resource providers. To participate in the CRANE Program, for-profit or non-profit entities (“Eligible Applicant”) must join together with cities, communities and neighborhoods and collectively demonstrate that through a public process they have assessed the needs of their particular community with respect to economic development, community resource and housing development, and have proposed specific solutions to address those needs (the “Plan”). Proposals submitted under the CRANE Program must demonstrate how current and potential employers and institutions (schools, hospitals, municipal service providers) located in the community will be involved in any proposed solutions. Such proposals shall also demonstrate the development of businesses and creation of jobs and the impact on the development of affordable housing in the area. NIFA will work with other collaborating resource providers to coordinate the various resources available for a community requesting funds for a development pursuant to the CRANE Program and identify those proposals which best demonstrate the need for LIHTC and AHTC to address the needs identified by a community.

Communities/developers interested in applying for LIHTC and AHTC through the CRANE Program must meet with NIFA staff prior to the submission of a CRANE Application. Eligible Applicants may apply for LIHTC and AHTC through the CRANE Program for developments that provide substantial benefit (as determined in NIFA’s sole discretion) in one or more of the following areas:

- Housing provided to one or more of the following populations: serious/chronic mental illness, physical or developmental disabilities, substance abuse issues, or homelessness. At least 30% of the units must serve one or more of these populations; or
- Native American Housing (housing that is developed on an Indian Reservation or on tribal land, either held in trust or fee simple, or housing developed and operated by an Indian Tribe that is recognized by Nebraska or the federal government); or
- Adaptive Reuse of a non-residential building to create affordable housing; or
- Housing developments in response to settlement agreements or consent decrees relating to housing deficiencies, housing discrimination or other housing issues i.e. Choice Neighborhood program; or
- Housing developments, located or to be located, in a county that has never had an occupied LIHTC development; or
- Reentry Housing targeting individuals released from a correctional institution.
- Housing developments, located or to be located, in a community that at any time during the prior three (3) years has been designated as a natural disaster area pursuant to a Presidential Disaster Declaration, and with respect to which NIFA has determined (using available information, including information from partner organizations (e.g. FEMA)) that there is a significant loss of housing as a result of such natural disaster.

The CRANE Program will utilize a three-tier process. Potential CRANE Program eligible applicants must submit an email to NIFA with a brief description of the development that includes how the development is CRANE eligible. Upon review by NIFA, potential CRANE Program Eligible Applicants will be invited to submit a CRANE Application and all required supporting information via the online funding application system, along with a nonrefundable CRANE

Application Fee (see Appendix A) which must be received in NIFA's office at the time the CRANE Application is submitted to NIFA. NIFA will notify the applicant if they are CRANE eligible and if the CRANE Application has satisfied all the requirements under the CRANE Program, at which time the eligible applicant must submit a completed LIHTC Application via the online funding application system and the LIHTC and AHTC Application fee must be received in NIFA's office on or prior to the time periods specified by NIFA. CRANE Applications and documentation received by NIFA will be reviewed the month following receipt. NIFA will develop a timeline to assign categorization status in which to meet the requirements under the CRANE Program. CRANE Applications will be categorized as follows:

- Category 4: Conceptual
- Category 3: Feasible
- Category 2: Information
- Category 1: Ready, in all aspects, to proceed

Developments in the CRANE Program that do not submit the online LIHTC Application, with applicable exhibits by the specified deadline, will not be reviewed or scored by NIFA. Upon satisfaction of the requirements under the LIHTC Application and the CRANE Program, NIFA will, if LIHTC/AHTC are available, issue a Conditional Reservation of 9% LIHTC/AHTC for the development.

8. CRANE PROGRAM REVIEW AND ALLOCATION PROCESS.

NIFA will use the following process in the allocation of 9% LIHTC and AHTC under CRANE Program:

8.1 CRANE APPLICATION PHASE.

To be considered under the CRANE Program, the CRANE Application must be completed, signed and submitted to NIFA via the online funding application along with the application fee (see Appendix A).

8.2 CRANE PROGRAM – REVIEW PROCESS.

With respect to a CRANE Program development receiving a CRANE designation, the developer/owner must provide to NIFA, development status reports, in a form and frequency as determined by NIFA, outlining the developer/owner's progress with respect to the development toward completion or satisfaction of all requirements necessary to receive a Conditional Reservation and/or Carryover Allocation of LIHTC. Information requested by NIFA will be development specific, and may include such items as zoning approvals, firm debt and/or equity financing commitments (conditioned only upon receipt of LIHTC/AHTC), construction progress reports, site control documentation and cost analysis updates. NIFA will review all CRANE Program status reports and determine, in its discretion, whether, with respect to a CRANE Program development, significant progress toward meeting the requirements to receive a Conditional Reservation of LIHTC/AHTC has been made by the developer/owner. If NIFA determines that significant progress has not been achieved in connection with the CRANE Program development, NIFA reserves the right to cancel or suspend the Conditional Reservation of LIHTC/AHTC. The LIHTC/AHTC reserved under the Conditional Reservation will be available to other applicants meeting the requirements under the CRANE Program.

8.3 LIHTC APPLICATIONS SUBMITTED BY CRANE PROGRAM APPLICANTS.

To be considered for a Conditional Reservation of LIHTC/AHTC under the CRANE Program, all documentation must be submitted through the online funding application. Only the information submitted for the current cycle will be reviewed regardless of any prior cycle's submittal of documentation. If information was submitted in the first cycle, information must be resubmitted in full for each subsequent cycle, until the applicant has received an award. The LIHTC/AHTC Application Fee (see Appendix A) must be submitted on or prior to the submittal of the online Application. NOTE: Applicants requesting LIHTC/AHTC for developments in the CRANE Program must commit to a minimum affordability period of 45 years (15-year compliance period and 30-year extended-use period).

8.4 EVALUATION OF LIHTC APPLICATIONS UNDER THE CRANE PROGRAM.

LIHTC Applications submitted under the CRANE Program that do not meet all Threshold Criteria will not be considered for an allocation of LIHTC and AHTC.

- (a) Each application for the CRANE Program for a particular development will be evaluated based upon information submitted in the online CRANE Application and the online LIHTC Application for the applicable cycle in which it was submitted and such other information that NIFA may request or obtain in the evaluation process.
- (b) NIFA will conduct an initial evaluation to determine the appropriate amount, if any, of LIHTC and AHTC to be reserved, using data provided by the eligible applicant and according to NIFA benchmarks and Section 42 of the Code.

9. MAXIMUM ALLOCATION AND FEE LIMITS

9.1 MAXIMUM ALLOCATION OF LIHTC.

- (a) The maximum LIHTC allocation for any single development in the Application Rounds for Competitive LIHTC and in the CRANE Program set-aside will be no more than 20% of Nebraska's annual 9% LIHTC authority. No development may be divided into two or more developments to receive in excess of this limit of LIHTC in a particular year. Multiple applications in the same year determined to be a single development will be returned to the applicant and all fees forfeited.
- (b) No one owner, developer, co-developer, sponsor, any member of the development team, or an affiliate thereof with an "identity-of-interest" (excluding property management control) will be eligible to receive, for a particular allocation year, more than a total of 20% of Nebraska's annual 9% LIHTC authority. (LIHTC received pursuant to the CRANE Program will be added to the total LIHTC amount when determining the ratio of LIHTC received under Nebraska's annual 9% LIHTC authority.) An exception to this limitation may be made to ensure maximum distribution and/or effective utilization of LIHTC as determined by NIFA's Executive Director.
- (c) In accordance with Section 42 of the Code, each LIHTC Application will be evaluated by NIFA to determine the amount of 9% LIHTC to be allocated for a

particular development. LIHTC 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 and such other materials as requested and deemed necessary by NIFA.

- (d) After completion of the Annual Cycle, any 9% LIHTC (in either the CRANE Program or the competitive process) that have not been reserved, may be transferred either to the competitive process or to the CRANE Program upon a recommendation of the Executive Director and approval of NIFA's Board of Directors.
- (e) NIFA will reduce the 9% LIHTC/AHTC amount if any of the Efficient Cost Measures exceed one standard deviation above the mean as outlined in the LIHTC Application.

9.2 MAXIMUM FEE LIMITS

- ((a) For purposes of determining the amount, if any, of 9% LIHTC and AHTC to be reserved for a particular development, NIFA will limit the amount of developer/contractor overhead, profit and fees, general requirements, and consultant fees included in the eligible basis to an amount not to exceed 24% of the total eligible basis of the development.

Example:

Total Eligible Basis	
- (Builder/Contractor Overhead)	
- (Builder/Contractor Profit)	
- (General Requirements)	
- (Developer Overhead)	
- (Developer Fee)	
- (Tax Credit Consultant Fee)	
- (Real Estate Consultant Fee)	
= Adjusted Eligible Basis	
	X 24%
=	Maximum amount allowable for developer, contractor overhead & profit, general requirements & consultant fees <u>includable in eligible basis for LIHTC and AHTC reservation purposes.</u>

Applicants should be aware that NIFA may reduce the LIHTC and AHTC allocations to achieve the range of 24% limit for these fees.

- (b) For purposes of determining the amount of LIHTC and AHTC allocable to a development, NIFA will limit the amount of architecture design/architect supervision/ engineering/survey fees to an amount not to exceed 7% of new and/or rehabilitation of hard construction costs (not to include contractor overhead/profit or general requirements).
- (c) A developer fee is permitted in an amount related to the acquisition cost of an existing building that will also be rehabilitated. Such developer fee will be limited to 5% of the building acquisition costs excluding the cost of land and fees

associated with the purchase or lease of the land. Acquisition cost of the existing building(s) must be supported by an appraisal from an unrelated third party.

10. MINIMUM SET-ASIDE ELECTIONS.

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

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 Application submittal dates as outlined in Section 4. If a development fails to meet the 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 9% LIHTC and AHTC.

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 AVERAGE INCOME ELECTION.

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

NIFA is currently developing Average Income (“AI”) compliance and monitoring policies and will require any development electing AI 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 AI election. Any owner of a 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) AI Affordability Requirements

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

Existing LIHTC developments are not eligible for the AI Election.

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.

(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 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 AI set-aside. NIFA reserves the right to require a legal opinion verifying the ability of a development to utilize AI 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 AI at the time of Final Application as indicated in Section 4. NIFA will not permit a change to AI after a development has received a Conditional Reservation of 2022 or 2023 LIHTC and AHTC.

11. LIHTC BASIS BOOST.

As authorized by the Housing and Economic Recovery Act of 2008 (H.R. 3221), NIFA may increase or “boost” the eligible basis of a particular development for purposes of the allocation of LIHTC by up to 30% (“Basis Boost”) for designated buildings that are located outside of an established Qualified Census Tract (QCT) or Difficult Development Area (DDA). NIFA will review the financial feasibility of the development and the request for additional Basis Boost in accordance with this LIHTC Allocation Plan. Applicants may request the Basis Boost under the following guidelines if the Basis Boost is needed to make the development financially feasible:

- a. Up to a 15% Basis Boost in connection with any development;
- b. Up to a 20% Basis Boost in connection with developments located in non-metro areas (outside of an MSA) that have an average combined gross rent amount that would be affordable to households with an income of less than 45% of the county’s Area Median Income (AMI);
- c. Up to a 30% Basis Boost in connection with CRANE developments; or
- d. Up to a 30% Basis Boost in connection with developments located in a census tract in which an active LIHTC (including 4% LIHTC) development is not located.

12. CONDITIONAL RESERVATION.

Applicants determined to receive a reservation of LIHTC and AHTC in a Competitive Round or in the CRANE Program will be notified in writing and will receive a Conditional Reservation of LIHTC and AHTC subject to the conditions set forth in the Conditional Reservation (and as applicable to CRANE Program, the availability of LIHTC and AHTC under the CRANE Program).

Within 90 days of notification of a Conditional Reservation, the applicant must submit to NIFA documentation of the following:

- (a) Payment of Reservation Fee and any other fees (see Appendix A) due to NIFA (including fees due for all other developments sponsored by such applicant).
- (b) Syndication commitment (signed by both parties) outlining LIHTC and AHTC equity contribution commitment and 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). HOME funds, CDBG-DR, National Housing Trust funds and USDA-RD commitments will be due at the time of the Carryover Allocation submission. Any development that has not secured all funding sources at the time of the Conditional Reservation deadline may be subject to revocation of the Conditional Reservation for LIHTC and AHTC.
- (f) A Fair Housing Certification, Appendix B, 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 or satisfaction of all requirements necessary to receive a Carryover Allocation Agreement or a final allocation of LIHTC and AHTC. The Quarterly Progress Report, Appendix C, 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. An owner/developer's first completed status report for the development must be submitted at the next quarterly due date following notification of Conditional Reservation.
- (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 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.

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 Conditional Reservation of LIHTC and AHTC. Extensions may be requested as set forth in Section 6.1.

13. REVOCATION.

NIFA may revoke a Future Binding Commitment, Conditional Reservation, Firm Commitment or LIHTC and AHTC allocation 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 of a Future Binding Commitment, Conditional Reservation, or Firm Commitment 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 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 Application.

14. MODIFICATION OR REVOCATION OF LIHTC AND AHTC ALLOCATION.

NIFA may modify or revoke a LIHTC and AHTC reservation or allocation 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 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;
- (f) Applicant fails to promptly notify NIFA of any material or adverse changes from the original LIHTC Application; or
- (g) Applicant fails to meet the Carryover Agreement, 10% Test Certification or Placed in Service deadlines.

15. CARRYOVER ALLOCATION AND 10% TEST.

Section 42 of the Code provides that NIFA may issue a carryover allocation (the “Carryover Allocation”) to certain qualified developments for which a 9% LIHTC Conditional Reservation has been granted and which will not be placed in service by December 31, 2022 for 2022 Conditional Reservations or December 31, 2023 for 2023 Conditional Reservations. To be eligible for a Carryover Allocation, costs in an amount equal to 10% or more of the expected basis in the development must be incurred within one year from the date of the Carryover Allocation.

NIFA requires the submission of the Carryover Allocation and 10% Test by the deadlines set forth in the Carryover Allocation Procedures Manual.

All developers/owners of developments with respect to which a Conditional Reservation has been received must submit the Carryover Allocation Documentation to NIFA by no later than November 1, 2022 for 2022 Conditional Reservations and November 1, 2023 for 2023 Conditional Reservations. The 10% Test certification must be submitted to NIFA by no later than June 30, 2023 for a 2022 Conditional Reservations and June 28, 2024 for 2023 Conditional Reservations. If the Carryover Allocation Documentation and 10% Test certification are not submitted to NIFA by the specified deadlines, a 1% late fee, as outlined in Appendix A, will be assessed to the development owner. A Carryover Allocation Agreement will not be issued for a development prior to payment of all fees due and payable to NIFA.

NOTE: Failure to submit the Carryover Allocation Documentation and 10% Test certification by the required deadlines may result in the revocation of the Conditional Reservation. Extensions may be requested as set forth in Section 6.1.

16. FINAL LIHTC AND AHTC ALLOCATION / COST CERTIFICATION.

No LIHTC and AHTC 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 LIHTC and AHTC 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 LIHTC and AHTC 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 LIHTC and AHTC allocation. Extensions may be requested as set forth in Section 6.1.

17. LIHTC AND AHTC GUIDELINES.

Following are general guidelines of the LIHTC and AHTC 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 LIHTC Application and/or CRANE 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 LIHTC Application or CRANE 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 LIHTC and AHTC; 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 LIHTC and AHTC. LIHTC and AHTC will be awarded based on federal and state tax law and Nebraska's QAP. NIFA reserves, commits and allocates LIHTC and AHTC to partnerships, corporations, limited liability companies. LIHTC and AHTC 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 LIHTC and AHTC for 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 and AHTC 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 and AHTC programs. The prior performance considered may include, but is not limited to, progress achieved with previous Conditional Reservations, Carryover Allocations, Cost Certifications, development compliance and payment of fees due to NIFA.

NIFA reserves the right to not allocate LIHTC and AHTC for any development, regardless of ranking/scoring, if NIFA determines in its sole discretion that a disproportionate number of LIHTC

developments have been developed in a particular census tract within the past three-year period. NIFA may decide to allocate LIHTC and AHTC 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 in a particular census tract have a vacancy rate of 7% or more, or if, when taking into account current LIHTC 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 LIHTC and AHTC. Applicants who have been barred from any other NIFA program, other state LIHTC programs or any federal programs are also ineligible to apply for LIHTC and AHTC. Applicants having an identity of interest with any barred entity may also not be eligible to apply for LIHTC and AHTC 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 and LIHTC 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 LIHTC Application or otherwise.

17.1 Public Information

Copies of Applications submitted pursuant to the Qualified Allocation Plan (which includes applications for 9% LIHTC, AHTC, 4% LIHTC and CRANE) 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.

18. COMPLIANCE MONITORING.

During the Affordability Period as set forth in the LURA, NIFA, as part of this 2022/2023 Housing Credit Allocation Plan, has adopted compliance monitoring procedures to: (i) monitor developments for noncompliance and (ii) notify the IRS of any noncompliance during the 15-year Compliance Period 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 in NIFA's sole discretion, may be ineligible to receive future allocations of LIHTC.

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 (the LURA constitutes a part of the 2022/2023 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). Additional guidance can be found in the NIFA Compliance Manual located at www.nifa.org.

18.1 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 (the form of which is published on NIFA's website at www.nifa.org or otherwise available from NIFA) 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.

18.2 TENANT RECERTIFICATIONS FOR AVERAGE INCOME (AI) DEVELOPMENTS.

Developments (100% low income developments) that select AI are neither required nor prohibited from completing annual tenant income recertifications. If the owner of a development chooses to perform annual tenant income recertifications, household rents may be adjusted (in accordance with lease terms) provided the development still has an AI equal to or less than the percentage represented in the LURA.

18.3 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, the Owner's Certificate of Continuing Program Compliance (a form of which resides on NIFA's website at www.nifa.org) and submission of Certification Portal (CP) data collected by the development owner.

18.4 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).

18.5 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.

18.6 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 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 violation 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 violation reports or notices provided by the owner, NIFA shall determine whether each building in the development and its Qualified Units are suitable for occupancy.

18.7 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.

18.8 NOTICE TO INTERNAL REVENUE SERVICE AND NEBRASKA DEPARTMENT OF REVENUE.

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. A copy of such Form 8823 shall also be filed with the Nebraska Department of Revenue in connection with the AHTCs allocated to an owner of a development. By submission of an application for LIHTC, the owner shall be deemed to have agreed to such filing by NIFA with the Nebraska Department of Revenue.

18.9 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 LIHTC 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 or state regulatory agency to exchange such information.

19. 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
Website: www.NIFA.org

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Appendix A - Fee Schedule As stated in Section 2 – LIHTC and AHTC Fee Schedule, NIFA shall collect the fees described below for the LIHTC Program. All fees are nonrefundable. An LIHTC/CRANE Application will not be accepted unless the application fee accompanies the LIHTC/CRANE Application. **NIFA reserves the right to revise the fee schedule with a 30-day notice. Note: Any revision will be pursuant to a 30-day notice posted on the NIFA website.**

Fee Type	Timeline	Description
Application Fees*		
Threshold Competitive	Due at submittal of Threshold Application	\$250
LIHTC Full	Due at submittal of Full Application	The greater of 1% of the annual LIHTC requested or \$500
AHTC Full	Due at submittal of Full Application	\$500
CRANE	Due at submittal of CRANE Application	\$500; additionally the LIHTC and AHTC Full Application Fees will be due upon invitation to submit a full application
Conditional Reservation		
	Due with submittal of the conditional reservation items - Section 12	The greater of 2% of the annual LIHTC amount or \$500
Cost Certification		
LIHTC	Due within 90 days of PIS	2% of the annual amount of LIHTC allocated to the development- See Cost Certification Procedures Manual
AHTC	Due within 90 days of PIS	\$500
Other Fees		
Application/Documentation Change Fee	Due upon submittal of request	\$100 an hour after the first hour of review, plus attorney fees
Additional Tax Credit Request Fee	Due upon submittal of request	\$2,000
Extension Fee	Paid concurrently with the extension request	\$500
Late Fees		
Conditional Reservation	Assessed at 5:01pm on due date - Section 12	1% of the annual LIHTC amount; an additional .5% will be assessed each subsequent 30-day period
Carryover Allocation	Assessed at 5:01pm on due date - Section 15	1% of the annual LIHTC amount; an additional .5% will be assessed each subsequent 30-day period
10% Test	Assessed at 5:01pm on due date - Section 15	1% of the annual LIHTC amount; an additional .5% will be assessed each subsequent 30-day period
Cost Certification	Assessed at 5:01pm on due date - Section 16	1% of the annual LIHTC amount; an additional .5% will be assessed each subsequent 30-day period

Fee Type	Timeline	Description
Annual Compliance Fees		
LIHTC	Annually on January 31st or Upfront	<p>Annual - 2% of annual LIHTC allocated or minimum of \$500 each year of the 15-year Compliance Period</p> <p>Upfront - 1.80% of the annual LIHTC allocated multiplied by the 15 years with a minimum fee of \$9,000 (Must be reflected within the LIHTC Application)</p> <p>Example: Annual LIHTC Amount X 1.8% X 15 years= Upfront fee for first 15 years</p>
AHTC	Annually on January 31st or Upfront	\$250 each year for 6-year credit period (Can be paid up front without a discount)
Average Income	Cost Certification Submission	<p>.5% of the annual LIHTC allocated for each year during the 15-year compliance period</p> <p>Example: Annual LIHTC Amount X .005 X 15 years= AI Election Fee</p>
Extended Use Period	After Compliance Period	The LIHTC Annual Fee will be payable in the amount as set forth in the Post Year-15 Monitoring Procedures
Other Fees		
Late Payment Penalty	Accounts more than 30 days delinquent	5% of the Annual Fee; any fees not collected will be turned over to legal counsel for collection
Transfer/Assumption Fee	Due upon submittal of request	\$1,500 plus attorney fees
Qualified Contract	Due upon submittal of Qualified Contract	\$5,000

APPENDIX B

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 nonelevator 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 _____

APPENDIX C
LIHTC QUARTERLY PROGRESS REPORT

LIHTC Quarterly Progress Report

Date: Quarter:

Development Owner: NIFA #:

Development Name: City:

Total Number of Buildings in Development:

Number of Buildings Placed-In-Service:

Estimated Completion Date for Entire Development:

Progress Update (please provide a brief explanation of the development's progress)

Title:

Submitted by: