

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 by NIFA may be offset by NIFA against any refundable portion of the Reservation Deposit.)

2.2 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% LIHTC/AHTC/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 otherwise notified by NIFA.

OPTIONAL THRESHOLD REVIEW:

Threshold review is optional for any development. However, if an applicant decides to submit for the Optional Threshold Review, the Threshold Criteria in the LIHTC/AHTC Application must be submitted with the Pre-Application, along with the fee outlined in Appendix A.

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 30 is required in the Other Selection Criteria of the LIHTC/AHTC Application for Private Activity Bond Cap/4% LIHTC/AHTC.

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 Threshold Review or Final Full 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% LIHTC/AHTC. (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% LIHTC and AHTC, all documentation must be submitted through the online funding 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. Application Fees must be received in NIFA's office on or prior to the deadline as set forth in Appendix A.

3.3 EVALUATION OF THE PRE-APPLICATION, OPTIONAL THRESHOLD CRITERIA AND FULL LIHTC APPLICATION.

- (a) Each Pre-Application and subsequent full LIHTC/AHTC Application for 4% LIHTC, and, if applicable, AHTC 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.
- (b) Applicants submitting the Optional Threshold Review: 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.
- (c) 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. NIFA will not score or include in the efficiency calculations any Applications not meeting all Threshold Criteria.
- (d) Applications that do not meet all Threshold Criteria will not be considered for an allocation of Private Activity Bond Cap, 4% LIHTC or AHTC.
- (e) NIFA anticipates awarding Private Activity Bond Cap with 4% LIHTC and AHTC to approximately 1 to 3 applications, with no more than one application awarded in a single county.
- (f) NIFA will conduct an initial evaluation to determine the appropriate amount, if any, of Private Activity Bond Cap, 4% LIHTC, and, if applicable, AHTC 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% LIHTC/AHTC.

- (a) In accordance with Section 42 of the Code, each LIHTC/AHTC Application will be evaluated by NIFA to determine the amount of 4% LIHTC (and AHTC, 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% LIHTC (and AHTC, if applicable) 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 includable in eligible basis for LIHTC 42(m) Letter purposes

Applicants/owners/developers should be aware that NIFA may reduce the 4% LIHTC (and AHTC, if applicable) allocation to achieve the range of 24% limit for these fees.

- (c) For purposes of determining the amount of 4% LIHTC (and AHTC, if applicable) 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).

3.5 DEVELOPER FEE/ACQUISITION OF EXISTING BUILDING.

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.

3.6 PRIVATE ACTIVITY BOND CAP APPLICATION.

To be considered for an allocation of Private Activity Bond Cap and 4% LIHTC (and AHTC, if applicable), an applicant/owner/developer must submit a complete Pre-Application and complete LIHTC/AHTC Application, together with all supporting information required by such applications which will be reviewed and scored in accordance with this 4% LIHTC/AHTC Allocation Plan. Developments for which Private Activity Bond Cap is requested for the issuance of tax-exempt Bonds must qualify for and use 4% LIHTC. Additionally, at least 50% of the aggregate basis of the development (including the land) must be financed with the proceeds of the tax-exempt Bonds.

At the request of NIFA, an applicant/owner/developer shall complete the Private Activity Bond Cap Application.

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 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 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 as set forth in Appedix A) 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/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 as set forth in Appendix A.

3.8 NON-NIFA ISSUER OF TAX-EXEMPT 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). If NIFA is not the issuer of the Bonds, the applicant must submit a completed a LIHTC/AHTC Application and include a copy of the intent resolution adopted by the proposed issuer (e.g. governmental entity) of the Bonds. 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 as set forth in Appendix A.

4. LIHTC SECTION 42(m) LETTER.

An applicant requesting to receive an allocation of 4% LIHTC and AHTC in a particular Allocation Cycle will be notified in writing of the allocation of 4% LIHTC and AHTC and will receive a Section 42(m) Letter of 4% LIHTC 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 as set forth in Appendix A (including fees due for all other developments sponsored by such applicant).
- (b) Syndication commitment (signed by both parties) outlining 4% LIHTC and AHTC, 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 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. The Quarterly Progress Report attached hereto as 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. The developments first completed status report must be submitted by the next quarterly due date following notification of Conditional Allocation.
- (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) the Historic Preservation Certification Application 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 Section 42(m) Letter issued in connection with the 4% LIHTC for the development. Extensions may be requested as set forth in Section 5.1.

5. EXTENSIONS AND DEVELOPMENT CHANGES

5.1 4% LIHTC EXTENSION

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 (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 determines 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.

Extension Requested	Maximum # of days Allowed
42(m) Letter	60 days
Cost Certification	60 days

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.

5.2 4% LIHTC DEVELOPMENT TRANSFER/ASSUMPTION.

NIFA reserves, commits and allocates 4% LIHTC/AHTC/Private Activity Bond Cap to partnerships, corporations, limited liability companies and individuals. Reservations and commitments of LIHTC/AHTC/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 Appendix A, 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).

5.3 4% LIHTC/AHTC APPLICATION OR DOCUMENTATION CHANGE.

Subsequent to a reservation of Private Activity Volume Cap, the developer/owner of the development may request to amend the terms, conditions or information included in the 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 application.

Reservations and commitments of Private Activity Bond Cap, 4% LIHTC and AHTC are non-transferable. Any change from the commitments in the 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 Pre-Application, LIHTC/AHTC Application or the Private Activity Cap Application).**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);
- € 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; €(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 ALLOCATIONError! Bookmark not defined..

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 Section 42(m) Letter documentation;
- (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 Section 42(m) Letter and, if applicable, the AHTC allocations. Extensions may be requested as set forth in Section 5.1.

8. LIHTC AND AHTC 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 LIHTC or 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 or AHTC. LIHTC will be awarded based on federal tax law and the 2022/2023 QAP. AHTC will be awarded based on Nebraska law and 2022/2023 QAP. NIFA reserves, commits and allocates 4% LIHTC 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% LIHTC (and, if applicable, AHTC) 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) Letters, Carryover Allocations, Cost Certifications, development compliance and payment of fees due to NIFA.

NIFA reserves the right to not allocate 4% LIHTC (and, if applicable, AHTC) 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% LIHTC) 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% LIHTC) 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 LIHTC. 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. Applicants having an identity of interest with any barred entity may also not be eligible to apply for LIHTC 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 Section 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% LIHTC and any accompanying AHTC.

NIFA will permit the Average Income (“AI”) option only for 4% LIHTC/AHTC Applications submitted under the 2020 (and future) QAP. Section 42 was modified to allow for AI, but similar changes were not made in Section 142 of the Code, with respect to multifamily housing bonds. However, AI still may be used in tax exempt Bond-financed LIHTC developments as long as the development satisfies both the AI 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 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 (80%) AMI, as long as the development’s average income/rent limit is sixty (60%) or less of AMI.

NIFA is currently developing 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 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 low-income. Developments for which an owner selects 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.

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 AI 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 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 Section 42(m) Letter.

11. LIHTC COMPLIANCE MONITORING.

During the Affordability 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 in NIFA's sole discretion, may be ineligible to receive future allocations of LIHTC/AHTC.

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 is part of the 2022/2023 QAP) and 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.

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 (the form of which is published on NIFA's website 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.

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, 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.

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 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 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.

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 QAP (which includes applications for 9% LIHTC, AHTC, 4% LIHTC, 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

APPENDIX A

As stated in Section 2 – Bond, 4% LIHTC and AHTC Fee Schedule, NIFA shall collect the fees described below for the Bond and 4% LIHTC Program. All fees are nonrefundable unless otherwise noted. A 4% LIHTC/Bond Application will not be accepted unless the application fee accompanies the LIHTC 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
Bond Fees		
Bond/4% LIHTC Pre-Application	Due at Submittal of Pre-Application and Optional Threshold	\$250
NIFA Issuance/Bond Application <i>(Applicable only if NIFA is requested to consider issuing the bonds)</i>	Due at submittal of Pre-Application	1/16 of 1% of the Bond amount, tax-exempt and taxable, (0.000625); with a minimum of \$1,000. <i>This fee will be applied to the “Bond Issuance Fee” if the bond issue closes.</i>
Private Activity Bond Cap Application	Due when NIFA has reviewed the LIHTC/AHTC application and notifies the owner/developer that they may submit a request for allocation of Private Activity Bond Cap	\$150
Reservation Deposit	Due when NIFA has reviewed the LIHTC/AHTC application and notifies the owner/developer that they may submit a request for allocation of Private Activity Bond Cap	Equal to the lesser of \$10,000 or 1% of the amount of the Private Activity Bond Cap allocation requested (with a minimum of \$1,000) <i>Additional Information regarding this deposit can be found in the 2022/2023 Housing Credit Allocation Plan for 4% LIHTC and AHTC.</i>

The following Bond Fees are applicable only if NIFA is the Issuer of the Bonds.

Bond Issuance	Due at Bond Closing	1/8 of 1% of the Bond amount (0.00125), less credit for the amount paid as the NIFA Issuance Bond Application fee (with a minimum of \$1,000)
Bond Annual Issuer Compliance	Due annually or upfront	1/8 of 1% (0.00125) of the original principal amount of the Bonds, payable until the expiration of the “qualified project period”
Bond Loan Document/Regulatory Agreement/Assumption/Transfer	Due at request	1/8 of 1% (0.00125) of the original principal amount of the Bonds (with a minimum of \$1,000. The development owner/developer is responsible for paying all other costs.
Bond Modification	Due at request	1/8 of 1% (0.00125) of the original principal amount of the Bonds (with a minimum of \$1,000)

Fee Type	Timeline	Description
Bond Refunding	Due at request	1/8 of 1% (0.00125) of the original principal amount of the Bonds (aggregate of tax-exempt bonds and taxable; \$1,000 minimum)
4% LIHTC and AHTC Application Fees		
Threshold Review (Optional)	Due at submittal of Pre-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
42(m) Letter		
	Due with submittal of the 42(m) Letter Documentation - Section 4	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	Due upon submittal of request	\$100 an hour after the first hour of review, plus attorney fees
Additional Tax Credit Request	Due upon submittal of request	\$2,000
Extension	Paid concurrently with the extension request	\$500
Late Fees		
42(m) Letter	Assessed at 5:01pm on due date - Section 4	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 7	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	Annual - 2% of annual LIHTC allocated or minimum of \$500 each year of the 15-year Compliance Period Upfront - 1.8% of the annual LIHTC allocated multiplied by the 15 years with a minimum fee of \$9,000 (Must be reflected within the LIHTC Application) Example: Annual LIHTC Amount X 1.8% X 15 years= Upfront fee for first 15 years
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	.5% of the annual LIHTC allocated for each year during the 15-year compliance period Example: Annual LIHTC Amount X .005 X 15 years= AI Election Fee
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	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 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 _____

APPENDIX C

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: