



20192020

**LIHTC, AHTC, HOME Funds & National
Housing Trust Fund APPLICATION
EXHIBIT EXAMPLES**

NEBRASKA

Good Life. Great Opportunity.

DEPT. OF ECONOMIC DEVELOPMENT

CERTIFICATION OF APPLICANT/OWNER

The undersigned, on behalf of the applicant entity, is (are) familiar with the provisions of the Internal Revenue Code with respect to the LIHTC Program and the Nebraska Department of Revenue with respect to the AHTC Program and, to the best of my (our) knowledge and belief, the applicant entity has complied, or will comply, with all of the requirements which are prerequisite to an allocation of LIHTCs and AHTC by NIFA. I (We) understand that the LIHTC and the AHTC Program will be governed and controlled by the rules and regulations issued by the United States Treasury and Nebraska Department of Revenue, and I (we) have read such rules and am (are) familiar with the requirements thereof. The undersigned further certifies that the information set forth in this application, and any attachments and exhibits thereto, is true, correct and complete, that no information contained in this application or in the listed attachments and exhibits is in any way false, incorrect or incomplete, and that the proposed construction/rehabilitation will not violate zoning ordinances or deed restrictions.

I (We) understand that any misrepresentations and/or fraudulent information contained within this application may result in the revocation of LIHTCs and AHTCs by NIFA and potentially my (our) and related parties being barred from future LIHTC and the AHTC Program participation and notification of such to the Internal Revenue Service and Nebraska Department of Revenue.

I (We) hereby make application to NIFA for a reservation of LIHTCs and AHTCs. The undersigned hereby acknowledges that the making of a reservation by NIFA does not warrant that the development is financially feasible or otherwise qualified to claim LIHTC and AHTC. I (We) agree that NIFA's directors, officers, employees and agents will not be held responsible or liable for any representations made to the undersigned or its investors relating to the LIHTC and AHTC Program; therefore, I (we) assume the risk of all damages, losses, costs and expenses related thereto and agree to indemnify and save harmless NIFA or any of its directors, officers, employees and agents against any and all claims, suits, losses, damages, costs and expenses of any kind and of any nature that NIFA may hereinafter suffer, incur or pay arising out of its decision concerning the application for LIHTC and AHTC or the use of the information concerning the LIHTC and AHTC Program.

I (We) hereby authorize any state LIHTC Allocating Agency to release to NIFA any and all information that such state LIHTC Allocating Agency has regarding development compliance, the curing of or failure to cure any development noncompliance, any formal or informal action taken by any state LIHTC Allocating Agency with respect to my/our participation in any low-income housing tax credit program and any other data that may be relevant to NIFA in its assessment of our development experience and compliance record.

I (We) acknowledge that copies of Applications submitted pursuant to the Qualified Allocation Plan (which includes applications for 9% LIHTCs, AHTCs, 4% LIHTCs and CRANE), together with all supplemental information and documents submitted in connection therewith, will be made available by NIFA to the public (other than during the active review process); upon written request; subsequent to action by the NIFA Board of Directors related to the consideration of Conditional Reservations for such Applications and agree to such publication. By submission of an Application pursuant to the QAP, applicant acknowledges and agrees to the release and publication of its Application and related information.

Signature of Applicant/Owner

Date

STATE OF)
) ss.
COUNTY OF)

I, the undersigned, a notary public in and for said County, in said State, hereby certify that _____, whose name signed to the foregoing statement, and who is known to me, acknowledged before me on this date, that being informed of the contents of this statement, executed the same voluntarily.

Given under my hand and official seal this _____ day of _____, 20____.

Notary Public Seal _____

(Signature of Notary)

CERTIFICATION OF CRANE APPLICANT

The undersigned hereby certifies that the information set forth in this application and in any exhibits in support thereof, is true, correct and complete. The undersigned understands that any misrepresentation may result in the cancellation of any resources allocated or reserved under the CRANE Program. The undersigned also agrees that NIFA and/or the participating resource providers may request additional information to evaluate this application:

Applicant Signature

Date

Name of Applicant

DRAFT

CERTIFICATION OF HOME/HTF APPLICANT *(if applying for HOME/HTC Funds and LIHTC)*

The undersigned certifies to the Nebraska Department of Economic Development:

He/she is duly authorized to so certify, and sign this application on behalf of the HOME/HTF applicant, under procedures prescribed by the governing rules/organizing documents applicable to governance of the applicant.

That the application contents, which include materials both preceding and following this certification, and all accompanying Exhibits, which Exhibits are incorporated herein by this reference, are true and correct to the best of my knowledge and belief.

That this certification applies to any and all certifications and assurances which may be internally contained within the body of the application (or internally contained within the incorporated Exhibits), as well as to the entirety of the application. Examples (but not an exhaustive listing) of such internally contained certifications and assurances include: the certification found at Exhibit 14 (entitled "Statement of Assurances and Certification for Local Governments"); and the certification found at Exhibit 16 (entitled "Applicant Certification Form for Non-Profits and Housing Authorities").

He/she commits the applicant to notifying the Department of Economic Development of any changes to the original application within 15 days of the change.

Signature as Authorized Official for Applicant

Printed Name & Title

Date

STATE OF)
) ss.
COUNTY OF)

I, the undersigned, a notary public in and for said County, in said State, hereby certify that _____, whose name signed to the foregoing statement, and who is known to me, acknowledged before me on this date, that being informed of the contents of this statement, executed the same voluntarily.

Given under my hand and official seal this _____ day of _____, 20____.

Notary Public Seal _____

(Signature of Notary)

STATEMENT AND CERTIFICATION OF CONSULTANT (if a consultant is utilized in the making or filing of this application)

The undersigned, as consultant(s) to the applicant entity, is (are) familiar with the provisions of the Internal Revenue Code with respect to the LIHTC and the Nebraska Department of Revenue with respect to the AHTC Program, and, to the best of my (our) knowledge and belief, the applicant entity has complied, or will comply, with all of the requirements which are prerequisite to an allocation of LIHTC and AHTC by NIFA. I (We) understand that the LIHTC program will be governed and controlled by rules and regulations issued by the United States Treasury and the Nebraska Department of Revenue, and I (we) have read such rules and am (are) familiar with the requirements thereof. The undersigned further certifies that the information set forth in this application, and any attachments and exhibits thereto, is true, correct and complete, that no information contained in this application or in the listed attachments and exhibits is in any way false, incorrect or incomplete; and that the proposed construction/rehabilitation will not violate zoning ordinances or deed restrictions.

I (We) understand that any misrepresentations and/or fraudulent information contained within this application may result in the revocation of LIHTC and AHTC by NIFA and potentially my (our) and related parties being barred from future LIHTC and AHTC Program participation and notification of such to the Internal Revenue Service and the Nebraska Department of Revenue.

I (We) hereby make application to NIFA for a reservation of LIHTC and AHTC. The undersigned hereby acknowledges that the making of a reservation by NIFA does not warrant that the development is financially feasible or otherwise qualified to claim LIHTC and AHTC. I (We) agree that NIFA's directors, officers, employees and agents will not be held responsible or liable for any representations made to the undersigned or its investors relating to the LIHTC and AHTC Program; therefore, I (we) assume the risk of all damages, losses, costs and expenses related thereto and agree to indemnify and save harmless NIFA or any of its directors, officers, employees and agents against any and all claims, suits, losses, damages, costs and expenses of any kind and of any nature that NIFA may hereinafter suffer, incur or pay arising out of its decision concerning the application for LIHTC or the use of the information concerning the LIHTC and AHTC Program.

Signature of Consultant _____ Date _____

STATE OF _____)
) ss.
COUNTY OF _____)

I, the undersigned, a notary public in and for said County, in said State, hereby certify that _____, whose name signed to the foregoing statement, and who is known to me, acknowledged before me on this date, that being informed of the contents of this statement, executed the same voluntarily.

Given under my hand and official seal this _____ day of _____, 20_____.

Notary Public Seal _____ (Signature of Notary) _____

EXHIBIT 3

NON-PROFIT INFORMATION

If the development is to be considered for the non-profit LIHTC set-aside, the following information must be submitted:

- (i) A copy of the non-profit's IRS determination letter.
- (ii) A list of all names, addresses and phone numbers of the board members for the non-profit.
- (ii) Describe the non-profit's participation in the construction/rehabilitation of the development and the daily operations of the development.
- (iii) Describe the non-profit's ownership in the development entity (including the non-profit's ownership percentage in the development).
- (v) State whether the non-profit's ownership rights with respect to the development are expected to remain the same throughout the compliance period.
- (vi) Identify all paid full-time staff and the sources of funds for the non-profit, for its annual operating expenses and current programs.
- (vii) Copy of the non-profit's by-laws.

EXHIBIT 8

LOCATION MAP

Provide a city location map clearly identifying the proposed development and identifying any of the following within a 1-mile radius:

- a. Grocery Store
- b. Retail Businesses
- c. Community Center(s)
- d. Hospital
- e. Schools (Elementary, Middle and High Schools)
- f. Child Care Centers
- g. Parks
- h. Supportive Service Providers (if services are to be provided at another location than the development)
- i. Bus Service Route

EXHIBIT 11

HOME AND NATIONAL HOUSING TRUST FUND ENVIRONMENTAL REVIEW RECORD AND PROCESS AND DETERMINATION OF LEVEL OF REVIEW FORM

All HOME projects are subject to the provisions of the National Environmental Policy Act of 1969 (NEPA), which establishes national policy and procedures for protecting, restoring and enhancing environmental quality. HOME is also subject to other statutes, Executive Orders and regulations dealing with a number of specific concerns, such as historic preservation, floodplain management, wetland protection, noise control, manmade hazards and others. The applicant must complete the environmental review and receive a Notice of Release of Funds from the Department, before starting any project activities, and obligating or expending any HUD or non-HUD funds (24 CFR 58.22).

FOR HOME and National Housing Trust Fund (HTF) Projects the following needs to be provided in a summary form: An initial evaluation for the environmental review must be completed at the time of the application. This evaluation should include a summary of what environmental review areas may be of most concern during the project development including, but not limited to, whether or not the project site is located within a Special Flood Hazard Area; whether or not the project may impact floodplains or wetlands; whether or not the project may impact historic resources; and whether or not the site may contain contamination or toxic substances that may create an issue to persons within the project. These initial items should be evaluated prior to the submittal of the application as they may impact project development and site suitability. Please contact Pamela Otto, NDED Housing and Community Development Division, at (402) 471-4388 or by email at pamela.otto@nebraska.gov for additional information. In addition, a Determination of Level of Review form must be completed and submitted with the summary, with the exception for HTF, as the DLR is not required.

DETERMINATION OF LEVEL OF REVIEW

ERR GRANT# _____

Project Name: _____ Program Year: _____

Project Location: _____

Project Description (*Attach additional descriptive information, as appropriate to the project, including narrative, maps, photographs, site plans, budgets and other information.*):

The subject project has been reviewed pursuant to HUD regulations 24 CFR Part 58, "Environmental Review Procedures for Entities Assuming HUD Environmental Responsibilities," and the following determination with respect to the project is made:

- ☐ **Exempt** from NEPA review requirements per 24 CFR 58.34(a)(____)
- ☐ **Categorically Excluded NOT Subject** to §58.5 authorities per 24 CFR 58.35(b)(____)
- ☐ **Categorically Excluded SUBJECT** to §58.5 authorities per 24 CFR 58.35(a)(____)
(A Statutory Checklist for the §58.5 authorities is attached.)
- ☐ An **Environmental Assessment** (EA) is required to be performed. (An Environmental Assessment performed in accordance with subpart E of 24 CFR Part 58 is attached.)
- ☐ An **Environmental Impact Statement** (EIS) is required to be performed.

The ERR (see §58.38) must contain all the environmental review documents, public notices and written determinations or environmental findings required by Part 58 as evidence of review, decision making and actions pertaining to a particular project. Include additional information including checklists, studies, analyses and documentation as appropriate.

Preparer Name

Signature

Title

Date

Responsible Entity Certifying Officer

Signature

Title

Date

EXHIBIT 12

NOTICE OF REQUIRED PUBLIC HEARING OR PUBLIC MEETING ON APPLICATION (Required Format)

NOTICE IS HEREBY GIVEN that on (Date) in the (Place) the (Name of the Non-Profit) will hold a public hearing or meeting as applicable concerning an application to the Nebraska Department of Economic Development for a (HOME Investment Partnership (HOME) or National Housing Trust Fund (HTF)) award. This funding is available for local affordable housing activities.

NOTICE IS HEREBY GIVEN that on _____(date) in the _____(Place) the _____(Local Government Unit, Non Profit, etc.) will hold a public hearing or meeting as applicable concerning an application to the Department of Economic Development for a Nebraska Affordable Housing Program Grant. This grant is available for local affordable housing activities.

The (Name of the Non-Profit) is requesting (exact amount of funds) for (Detailed project description which must include: all project activities to be undertaken; the project location, including address(es) and legal description. If no addresses are available, a location description must be used (for example, between Maple and Oak Streets and 23rd and 24th Streets). Also include the requested amount of funds for each activity; the estimate of the total amount of requested HOME/HTF funds which will benefit low and moderate income people; the amount and source of other funds, if any; and the plans for minimizing displacement of people as a result of HOME/HTF and/or activities and for assisting person actually displaced.).

The grant application will be available for public inspection at (place). All interested parties are invited to attend this public hearing/meeting at which time you will have an opportunity to be heard regarding the grant application. Written testimony will also be accepted at the public hearing scheduled for (time), (date), (address, room number). Written comments can be addressed to (contact person) at (address) and will be accepted if received on or before (date).

Individuals requiring physical or sensory accommodations including interpreter service, Braille, large print, or recorded materials, please contact (contact person) at (address, phone number) no later than (date).

The _____(Name of the Local Government Unit, Non Profit) is requesting _____(exact amount of funds) for _____(Detailed project description which must include: the number of units; all project activities to be undertaken; the requested amount of funds for each activity; the estimate of the total amount of requested NAHP funds which will benefit low and moderate income people; the amount and source of local matching funds, if any; and the plans for minimizing displacement of people as a result of NAHP and/or activities and for assisting person actually displaced.)

The grant application will available for public inspection at _____(place). All interested parties are invited to attend this public hearing at which time you will have an opportunity to be heard regarding the grant application. Written testimony will also be accepted at the public hearing scheduled for _____(time), _____(date), _____(address, room number). Written comments addressed to _____(contact person) at _____(address) will be accepted if received on or before _____(date).

Individuals requiring physical or sensory accommodations including interpreter service, Braille, large print, or recorded materials, please contact _____(contact person) at _____(address, phone number) no later than _____(date).

This language must be used for the official public hearings and must be submitted with either Proof of Publication or Certificate of Posting, and a summary of citizens' comments.

EXHIBIT 13

AUTHORIZING RESOLUTION FOR LOCAL GOVERNMENTS
(Required Format)

Whereas, the (Name of Local Government), Nebraska, is an eligible unit of a general local government authorized to file an application under the Housing and Community Development Act of 1974 as Amended for Small Cities Community Development Block Grant Program, and, Cranston-Gonzalez National Affordable Housing Act of 1990 (HOME Program) funds distributed by the Department of Economic Development through the Nebraska Affordable Housing Program.

Whereas, the (Name of Local Government), Nebraska, has obtained its citizens' comments on community development and housing needs; and has conducted public hearing(s) upon the proposed application and received favorable public comment respecting the application which for an amount of (Amount of funds) for (Description of the project); and,

NOW, THEREFORE, BE IT RESOLVED BY

(Controlling Governmental Body) of (Name of Local Government), that the (Title of Chief Elected Official) be authorized and directed to proceed with the formulation of any and all contracts, documents or other memoranda between (Name of Local Government) and the Nebraska Department of Economic Development so as to effect acceptance of the grant application.

Signed by Chief Elected Official

Title: _____

Date: _____

EXHIBIT 14

STATEMENT OF ASSURANCES AND CERTIFICATIONS FOR LOCAL GOVERNMENTS (Required Format)

The (Name of Local Government) hereby assures and certifies to the Nebraska Department of Economic Development (the Department) regarding an application for Community Development Block Grant (CDBG), HOME and NAHTF, the following:

LOCAL GOVERNMENT CERTIFICATIONS – Please contact a Department representative if items 1-6 have not been previously adopted.

1. It has previously adopted, on _____, _____, an Excessive Force Policy that remains in effect.
2. It has previously adopted, on _____, _____, a Code of Conduct that remains in effect.
3. It has previously adopted, on _____, _____, Procurement Procedures that remain in effect.
The procurement procedures were submitted to NDED on _____, _____.
4. It has previously adopted, on _____, _____, a Residential Anti-displacement and Relocation Assistance Plan, which remains in effect.
5. It has previously adopted, on _____, _____, a Citizen Participation Plan that remains in effect. The adopted Citizen Participation Plan contains substantially similar language as the sample plan in these guidelines.
6. It has previously furnished to the department a Financial Management Certification dated _____, _____, which remains accurate.
7. There are no significant unresolved audit findings relating to any prior grant award from the federal and/or state government, which would adversely affect the administration of this grant.
8. No legal actions are underway or being contemplated that would significantly impact the Applicant's capacity to effectively administer the program, and to fulfill the CDBG, HOME and NAHTF program; and
9. No project costs have been incurred which the Department has not approved in writing.

FEDERAL COMPLIANCE CERTIFICATIONS

1. It will adopt and follow a residential anti-displacement and relocation assistance plan, which will minimize displacement as a result of activities assisted with CDBG, HOME and NAHTF funds.
2. It will conduct and administer its programs in conformance with:
 - a. Title VI of the Civil Rights Act of 1964 (Pub. L. 88-352), and the regulations issued pursuant thereto (24 CFR Part 1).
 - b. Title VIII of the Civil Rights Act of 1968 (Pub. L. 90-284), as amended, administering all programs and activities relating to housing and community development in a manner to affirmatively further fair housing, and will take action to affirmatively further fair housing in the sale or rental of housing, the financing of housing and the provision of brokerage services.
 - c. The Fair Housing Act of 1988 (42 USC 3601-20) and will affirmatively further fair housing.

3. It will not attempt to recover any capital costs of public improvements assisted in whole or part by assessing any amount against properties owned and occupied by persons of low- and moderate-income, including any fee charged or assessment made as a condition of obtaining access to such public improvements, unless (1) grant funds are used to pay the proportion of such fee or assessment that relates to the capital costs of such public improvements that are financed from revenue sources other than grant funds, or (2) for purposes of assessing any amount against properties owned and occupied by persons of LMI who are not persons of very-low income, the recipient certifies to the State that it lacks sufficient grant funds to comply with the requirements of clause (1).
4. It will comply with all provisions of Title I of the Housing and Community Development Act of 1974, as amended, which have not been cited previously as well as with other applicable laws.

SPECIAL REQUIREMENTS AND ASSURANCES.

1. The Applicant will comply with the Administrative Requirements of the program, those applicable items in the current Consolidated Plan, Title I of the Housing and Community Development Act of 1974, Public Law 93-383, as amended, and 24 CFR Part 570 including parts not specifically cited below and the laws, regulations and requirements, both federal and state, as they pertain to the design, implementation and administration of the local project, including but not limited to the following:

CIVIL RIGHTS AND EQUAL OPPORTUNITY PROVISIONS.

- Public Law 88-352, Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000(d), et. seq.) (24 CFR Part 1)
- Section 109 of the Housing and Community Development Act of 1974, As Amended
- Age-Discrimination Act of 1975, As Amended (42 U.S.C. 6101, et. seq.)
- Section 504 of the Rehabilitation Act of 1973, As Amended (29 U.S.C. 794) and the Americans with Disability Act
- Executive Order 11246, As Amended
- Executive Order 11063, As Amended by Executive Order 12259 (24 CFR Part 107)

ENVIRONMENTAL STANDARDS AND PROVISIONS.

- Section 104(f) of the Housing and Community Development Act of 1974, As Amended
- Title IV of the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4831) and the Implementing Regulations found at 24 CFR Part 35
- The National Environmental Policy Act of 1969 (42 U.S.C. Section 4321, et. seq., and 24 CFR Part 58)
- The Clean Air Act, As Amended (42 U.S.C. 7401, et. seq.)
- Farmland Protection Policy Act of 1981, (U.S.C. 4201, et. seq.)
- The Endangered Species Act of 1973, As Amended (16 U.S.C. 1531, et. seq.)
- The Reservoir Salvage Act of 1960 (16 U.S.C. 469, et. seq.), Section 3 (16 U.S.C. 469 a-1), As Amended by the Archaeological and Historic Preservation Act of 1974
- The Safe Drinking Water Act of 1974 [42 U.S.C. Section 201, 300(f), et. seq., and U.S.C. Section 349 as Amended, particularly Section 1424(e) (42 U.S.C. Section 300H-303(e)]
- The Federal Water Pollution Control Act of 1972, As Amended, including the Clean Water Act of 1977, Public Law 92-212 (33 U.S.C. Section 1251, et. seq.)
- The Solid Waste Disposal Act, As Amended by the Resource Conservation and Recovery Act of 1976 (42 U.S.C. Section 6901, et. seq.)
- The Fish and Wildlife Coordination Act of 1958, As Amended, (16 U.S.C. Section 661, et. seq.)
- EPA List of Violating Facilities
- HUD Environmental Standards (24 CFR, Part 51, Environmental Criteria and Standards and 44 F.R. 40860-40866, July 12, 1979)
- The Wild and Scenic Rivers Act of 1968, As Amended (16 U.S.C. 1271, et. seq.)
- Flood Insurance
- Executive Order 11988, May 24, 1978: Floodplain Management (42 F.R. 26951, et. seq.)

- Executive Order 11990, May 24, 1977: Protection of Wetlands (42 F.R. 26961, et. seq.)
- Environmental Protection Act, NEB. REV. STAT. 81-1501 to 81-1532 (R.R.S. 1943)
- Historic Preservation

LABOR STANDARDS AND PROVISIONS.

- Section 110 of the Housing and Community Development Act of 1974, As Amended
- Fair Labor Standards Act of 1938, As Amended, (29 U.S.C. 102, et. seq.)
- Davis-Bacon Act, As Amended (40 U.S.C. 276-a - 276a-5); and Section 2; of the June 13, 1934 Act. As Amended (48 Stat. 948.40 U.S.C. 276(c), Popularly Known as The Copeland Act
- Contract Work Hours and Safety Standards Act (40 U.S.C. 327, et. seq.)
- Section 3 of the Housing and Urban Development Act of 1968 [12 U.S.C. 1701(u)]

FAIR HOUSING STANDARDS AND PROVISIONS.

- Section 104(a)(2) of the Housing and Community Development Act of 1974, As Amended
- Public Law 90-284, Title VIII of the Civil Rights Act of 1968 (42 U.S.C. 3601, et. seq.). As Amended by the Fair Housing Amendments Act of 1988
- Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, As Amended (42 U.S.C. 4630) and the Implementing Regulations Found at 49 CFR Part 24
- Relocation Assistance Act, NEB. REV. STAT. 76-1214 to 76-1242 (R.S. Supp. 1989)
- Nebraska Civil Rights Act of 1969 20-105 to 20-125, 48-1102 and 48-1116
- Uniform Procedures for Acquiring Private Property for Public Use, NEB. REV. STAT. 25-2501 to 25-2506 (R.R.S. 1943)

ADMINISTRATIVE AND FINANCIAL PROVISIONS.

- U.S. Office of Management and Budget Circular A-87 "Cost Principles for State and Local Governments"
- U.S. Office of Management and Budget Circular A-102 "Uniform Administrative Requirements for Grants-in-Aid to State and Local Governments"
- 24 CFR 570.503 - Grant Administration Requirements for Use of Escrow Accounts for Property Rehabilitation Loans and Grants
- 24 CFR 570.488 to 570.499a - States Program: State Administration of CDBG Nonentitlement Funds
- Community Development Law, NEB. REV. STAT. 18-2101 to 18-2144 (R.S. Supp. 1982)
- Public Meetings Law, NEB. REV. STAT. 18-1401 to 18-1407 (R.R.S. 1943)

MISCELLANEOUS.

- Hatch Act of 1938, As Amended (5 U.S.C. 1501, et. seq.)

The Applicant hereby certifies that it will comply with the above stated assurances.

Signed by Chief Elected Official

Title: _____

Date: _____

EXHIBIT 15

RESIDENTIAL ANTI-DISPLACEMENT & RELOCATION ASSISTANCE PLAN FOR NON-PROFITS AND HOUSING AUTHORITIES (Required Format)

The (Name of Applicant) will replace all occupied and vacant occupiable low/moderate-income dwelling units demolished or converted to a use other than as low/moderate-income housing as a direct result of activities assisted with the Cranston-Gonzalez Affordable Housing Act of 1990 (HOME Program), Housing Trust Fund (HTF) funds provided under section 1338 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992, and Nebraska Affordable Housing Trust Fund.

All replacement housing will be provided within the federally specified period of the commencement of the demolition or rehabilitation relating to conversion. Before obligating or expending funds that will directly result in such demolition or conversion, the (Name of Applicant) will make public and submit to DED the following information in writing:

1. A description of the proposed assisted activity;
2. The general location on a map and approximate number of dwelling units by size (number of bedrooms) that will be demolished or converted to a use other than as low/moderate-income dwelling units as a direct result of the assisted activity;
3. A time schedule for the commencement and completion of the demolition or conversion;
4. The general location on a map and approximate number of dwelling units by size (number of bedrooms) that will be provided as replacement dwelling units;
5. The source of funding and a time schedule for the provision of replacement dwelling units; and
6. The basis for concluding that each replacement dwelling unit will remain a low/moderate-income dwelling unit for at least 5 years from the date of initial occupancy.

The (Name of Applicant) will provide relocation assistance, according to both the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (49 CFR Part 24) or 24 CFR 570.488 & 24 CFR 570.606 to each low/moderate-income family displaced by the demolition of housing or by the conversion of a low/moderate-income dwelling to another use as a direct result of assisted activities.

Consistent with the goals and objectives of activities assisted under the CDBG, HOME and NAHTF programs, the (Name of Applicant) will take the following steps to minimize the displacement of persons from their homes:

1. Maintain current data on the occupancy of houses in areas targeted for Nebraska Affordable Housing Program assistance.
2. Review all activities prior to implementation to determine the effect, if any, on occupied residential properties.
3. Include consideration of alternate solutions when it appears an assisted project will cause displacement, if implemented.
4. Require private individuals and businesses to consider other alternatives to displacement causing activities, if they are requesting HOME/HTF/NAHTF assistance.

Signed by Chairperson, President or Authorized Person of Organization

Title _____

Date: _____

EXHIBIT 16

APPLICANT CERTIFICATION FORM FOR NON-PROFITS AND HOUSING AUTHORITIES (Required Format)

WHEREAS, (Name of Applicant) (the "Applicant") is applying to the State of Nebraska for assistance from the Nebraska Affordable Housing Program; and

WHEREAS, APPLICANT understands it is necessary that certain conditions be met as part of the application requirements;

THEREFORE, APPLICANT certifies as follows:

1. APPLICANT is eligible for award under state statutes and program guidelines and agrees to comply with all applicable federal, state and local regulations in the event that this application is selected for funding.
2. APPLICANT will minimize displacement as a result of activities assisted with Nebraska Affordable Housing Program resources and assist persons displaced as a result of such activities as specified by the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 49 CFR part 24. The more limited requirements of Section 104(d) of Housing and Community Development Act of 1974 are more detailed as to policy, definitions and requirements listed in 24 CFR 570.606.
3. APPLICANT has previously adopted, on _____, _____, Procurement Procedures that remain in effect. The procurement procedures were submitted to NDED on _____, _____.
4. APPLICANT will actively market in an on-going manner all housing units and services funded through the Nebraska Affordable Housing Program.
5. APPLICANT is prepared and has the authority within its charter or by-laws or through statutory regulations to enter into a contractual agreement with the Nebraska Department of Economic Development for acceptance and use of Nebraska Affordable Housing Program moneys, and makes this application and these certifications with the full cognizance (and approval) of its governing body.
6. There are no significant unresolved audit findings relating to any prior grant award from the federal and/or state government, which would adversely affect the administration of this grant.
7. No legal actions are underway or being contemplated that would significantly impact the Applicant's capacity to effectively administer the program, and to fulfill the NAHP program; and
8. No project costs have been incurred which the Department has not approved in writing.

Signed by Chairperson, President or Authorized Person of Organization

Title _____

Date: _____

EXHIBIT 17

AUTHORIZING RESOLUTION FOR NON-PROFITS AND HOUSING AUTHORITIES
(Required Format)

RESOLUTION NO. _____

A resolution of the (AUTHORIZING BOARD) of (NAME OF ORGANIZATION) authorizing the submission of an application(s) for 20__ HOME Investment Partnership (HOME)/National Housing Trust Fund (HTF), certifying that said application(s) meets the community's housing and community development needs and the requirements of the HOME/HTF program, and authorizing all actions necessary to implement and complete the activities outlined in said application.

WHEREAS, the (AUTHORIZING BOARD) of (NAME OF ORGANIZATION) is desirous of undertaking affordable housing development activities; and

WHEREAS, the State of Nebraska is administering the HOME/HTF program; and

WHEREAS, the HOME/HTF Program requires that funds benefit low-income households; and

WHEREAS, the activity in the application addresses the proposed project area's low-income population housing needs; and

WHEREAS, a recipient of HOME/HTF Program is required to comply with the program guidelines and State regulations.

NOW, THEREFORE BE IT RESOLVED THAT the (AUTHORIZING BOARD) of (NAME OF ORGANIZATION) authorize application to be made to the State of Nebraska, Department of Economic Development for 20__ HOME/HTF Program, and authorize (NAME AND POSITION OF INDIVIDUAL) to sign application and contract or grant documents for receipt and use of these funds, and authorize the (NAME AND POSITION OF INDIVIDUAL) to take all actions necessary to implement and complete the activities submitted in said application(s); and

THAT, the (AUTHORIZING BOARD) of (NAME OF ORGANIZATION) will comply with all State regulations and Nebraska Affordable Housing Program policies.

Passed and adopted by the (AUTHORIZING BOARD) of (NAME OF ORGANIZATION) this _____ day of _____, 20__.

Signed by Chairperson, President or Authorized Person of Organization

Title _____

Date: _____

EXHIBIT 18

CERTIFICATION OF RENTAL PROJECT FEDERAL ASSISTANCE FORM
(Required Format)

WHEREAS, _____ (the “Applicant”) is applying to the State of Nebraska for assistance from the HOME Investment Partnership (HOME) or National Housing Trust Fund (HTF) Program to finance a portion of the project costs for _____ (the “Project”); and

WHEREAS, APPLICANT understands it is necessary that certain conditions be met as part of the project requirements;

THEREFORE, APPLICANT certifies as follows:

1. PROJECT is eligible for award under state statutes and HOME/HTF application guidelines.
2. PROJECT will receive additional financing at the time of application or in the future from the following governmental assistance _____. (if none, please indicate)
3. APPLICANT will notify the Nebraska Department of Economic Development within 30 days of the applicant’s knowledge of actual or potential changes in governmental assistance. Amended financing and budget forms submitted with the application affected by the change in other governmental assistance and the type and amount of assistance will be provided. In addition, applicant understands that any such changes may result in the non-selection of the application, termination or amendment of a contractual agreement with the department, significant delay in the DED approval of the project to proceed, and/or significant delay of pending Requests for DED Funds.
4. APPLICANT is prepared and has the authority within its charter or by-laws or through statutory regulations to enter into a contractual agreement with the Nebraska Department of Economic Development for acceptance and use of HOME/HTF Program moneys, and makes this application and these certifications with the full cognizance (and approval) of its governing body.

Signed by Chairperson, President or Authorized Person of Applicant

Title _____

Date: _____

EXHIBIT 19

SYSTEM FOR AWARD MANAGEMENT (SAM)

Each applicant must register within the SAM system. The applicant must run a query at the System for Award Management website (www.sam.gov) at the time of application and include a copy of the search record showing the DUNS Number and/or search terms and date. This information must be provided within the application and labeled as Exhibit 19.

The Federal Funding Accountability and Transparency Act (FFATA) of 2006 mandated specific reporting requirements for recipients of federal funds. In order to report in this system, each State award recipient must have a DUNS and a CAGE code, assigned as a result of registration in the federal SAM.

For more information on obtaining a DUNS number and registering in the System for Award Management (SAM), please review the following information at: <https://www.sam.gov/portal/SAM/>

EXHIBIT 104

NEBRASKA DED HOUSING SITE REVIEW FORM

Please complete all the information in Box A, B and C. Lines and checkboxes are fillable. Complete Box D with final documents. Please provide one site review form for each address.

Part A. Project Information

Name of Project _____ Grant Number (if applicable) _____

Applicant: _____ Developer: _____

Name of person completing form _____

Address and Phone: _____

Funding Source: ☐ NAHTF ☐ HOME ☐ HTF

Proposed request \$ _____ Proposed Total Project Cost: \$ _____

Description of All activities proposed for the project: _____

The project activities include: ☐ acquisition ☐ rehabilitation ☐ new construction ☐ demolition
☐ road construction ☐ street changes/improvements (i.e. lights, turn lanes, etc.) ☐ Other _____

Households to be served/Project Type

- | | |
|--|--|
| <input type="checkbox"/> Single family | <input type="checkbox"/> Homebuyer |
| <input type="checkbox"/> Multi-family | <input type="checkbox"/> Rental New Construction |
| <input type="checkbox"/> Townhouses (duplex, 3-plex) | <input type="checkbox"/> Rental Rehab |
| <input type="checkbox"/> Elderly | <input type="checkbox"/> Special Needs _____ |
| <input type="checkbox"/> Other _____ | |

Number of Units proposed _____

Number of buildings proposed _____

Sq. Footage of each building _____

Part B. Proposed Site Information

Property Physical Address of Site proposed for the project: _____

Condition of lot: ☐ vacant ☐ existing structure

Shape of Site ☐ Square ☐ Rectangular ☐ Other _____ (long narrow sites should be avoided)

Slope of Site ☐ No Slope ☐ Slight Slope ☐ Medium Slope ☐ Steep Slope

Is the site located in a suitable neighborhood or location? (consider noise, traffic, view, air pollution, etc.)

☐ Yes ☐ No

Is the site compatible with surrounding land uses? ☐ Yes ☐ No

The adjacent properties include: (Residential, Commercial, vacant?)

North _____ South _____

East _____ West _____

Is the site located in reasonable proximity to facilities and services that may be utilized by the residents?

☐ Yes ☐ No

Part B. Proposed Site Information (Continued)

Describe the distance to the following locations:

Day Care _____miles Grocery Store _____miles Hospital _____miles

Parks _____miles Schools _____miles Shopping _____miles

Other Health Care Services _____ miles

Is the site located within a 100 year floodplain? (also known as a Special Flood Hazard Area [SFHA])

☐ Yes ☐ No

Are there any mitigating measures needed for the project?

☐ Yes ☐ No These measures will include: _____

Part C. Infrastructure

Are there unusual drainage problems?

☐ Yes ☐ No

Is street access appropriate for the development? ☐ Yes ☐ No

Are the streets paved? ☐ Yes ☐ No **Will the development also include paving?** ☐ Yes ☐ No

Are there also curbs and gutters? ☐ Yes ☐ No

Will the development include curb and gutters? ☐ Yes ☐ No

Are there any additional street improvements or mitigating measures needed for the project?

(i.e. additional street lights, turn lanes, etc.) ☐ Yes ☐ No (If yes, these additional improvements/measures will include _____)

Are there any mitigating measures needed for the project? ☐ Yes ☐ No

These measures will include: _____

Part D. Required Attachments to accompany form

Exhibit A: Short narrative 100 words or less on the proposed project.

Exhibit B: Proposed site plan for the project

Exhibit C: Aerial maps of the project site and surroundings and clearly identify the site on the map.

Exhibit D: FEMA FIRM map _____ [Map #, Panel #]

To Be Completed By DED Representative

Site review was conducted by _____ on _____ (date).

CONCLUSION: Based on the site review, the Department has determined that the site is:

☐ Approved, because the site is acceptable.

☐ Approved with the following mitigation measures: _____

☐ Not approved because the site is unacceptable based on _____

☐ Not approved because the site is subject to re-inspection. _____

☐ Not approved until the following mitigating measures can be agreed upon: _____

Signature

Printed Name

Date

EXHIBIT 105

VERIFICATION OF ZONING

(Applicable Local Jurisdiction Letterhead)

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

Development Name:
Development Address/Site:

Development City:
Proposed Number of Units:
Housing Type:

The site for the above-described low-income housing tax credit development is zoned _____. The zone allows for residential development of (multifamily)/(single-family) housing. This zoning designation allows _____ units per acre.

The proposed low-income tax credit development does/does not require a Conditional Use Permit/Variance/Density Bonus to be in compliance with local code.

If City Council or Board of Supervisors approvals are required prior to issuance of building permits, in addition to those listed above, please describe. Denote if the approvals are technical or discretionary in nature.

Zoning Ordinance No. _____ allows the development of the affordable housing developments as described above. Attach a copy of the Ordinance to this letter.

Dated: _____

STATEMENT COMPLETED BY:

By _____
Printed Name _____
Title _____

EXHIBIT 108
INVESTOR INTEREST/COMMITMENT FORM

Development Name: _____

Name of Investor for federal LIHTC: _____

Address: _____

Contact Person: _____

Anticipated Amount of Annual LIHTC: _____ Price per LIHTC: _____

Assumptions:

Other sources of funding: _____

Reserve Requirements: _____

I certify the above ☐ commitment ☐ letter of interest (please check one)

is valid until _____ (date):

Execution of this form confirms that we have reviewed Exhibit 111 and the development's proforma, financial statement, other financial projections and LIHTC assumptions meet or exceed the investor's underwriting guidelines.

Investor Signature Date of signature

Accepted:

Applicant/Owner Representative Signature Date of signature

CERTIFICATION OF CONSTRUCTION FINANCING COMMITMENT**[LENDER LETTERHEAD]****[DATE]**

**NEBRASKA INVESTMENT FINANCE AUTHORITY
SUITE 200
1230 O STREET
LINCOLN, NE 68508-1402**

**LENDER HAS APPROVED A CONSTRUCTION LOAN TO _____ FOR
BORROWER

LOCATED _____
DEVELOPMENT NAME _____ ADDRESS _____**

LENDER AGREES TO LEND AS FOLLOWS:

1. **LOAN AMOUNT;**
2. **INTEREST RATE;**
3. **LOAN TERM;**
4. **DEBT SERVICE COVERAGE RATIO (PERMANENT LENDER);**
5. **LOAN AMORTIZATION PERIOD (PERMANENT LENDER);**
6. **BORROWER;**
7. **LOAN FEES;**
8. **COLLATERAL; AND**
9. **CONDITIONS PRECEDENT TO FUNDING.¹**

***THIS COMMITMENT TO FUND WILL EXPIRE ON _____.**

***NOTE: IN ORDER TO MEET THRESHOLD REQUIREMENTS, THE
COMMITMENT EXPIRATION DATE STATED _____ ABOVE MUST BE AT
LEAST 180 DAYS FOLLOWING THE DATE OF THE FINAL APPLICATION
DEADLINE.**

SIGNED BY LENDER

¹Examples of conditions that NIFA deems to be "Under the control of the developer" include, but are not limited to the following:

1. Approval of appraisal
2. Approval of final plans and specifications;
3. Ability to meet financial requirement for closing the Loan;
4. Receipt of LIHTC.

EXHIBIT 109
CONSTRUCTION/INTERIM FINANCING FORM

Development Name: _____

Name of Construction Lender: _____

Address: _____

Contact Person: _____

Construction Loan Amount: _____

Interest Rate: _____

Loan Term: _____

Name of Borrower: _____

Loan Fees: _____

Required Collateral: _____

I certify the above ☐ commitment ☐ letter of interest (please check one)

is valid until _____ (date):

Lender Signature _____ Date of signature _____

Accepted:

Applicant/Owner Representative Signature _____ Date of signature _____

EXHIBIT 110

certification of PERMANENT financing commitment

{LENDER LETTERHEAD}

{DATE}

**NEBRASKA INVESTMENT FINANCE AUTHORITY
SUITE 200
1230 O STREET
LINCOLN, NE 68508-1402**

**LENDER HAS APPROVED A PERMANENT LOAN TO _____ FOR

BORROWER

LOCATED _____

DEVELOPMENT NAME _____ ADDRESS**

LENDER AGREES TO LEND AS FOLLOWS:

10. **LOAN AMOUNT;**
11. **INTEREST RATE;**
12. **LOAN TERM;**
13. **DEBT SERVICE COVERAGE RATIO (PERMANENT LENDER);**
14. **LOAN AMORTIZATION PERIOD (PERMANENT LENDER);**
15. **BORROWER;**
16. **LOAN FEES;**
17. **COLLATERAL; AND**
18. **CONDITIONS PRECEDENT TO FUNDING.²**

***THIS COMMITMENT TO FUND WILL EXPIRE ON _____.**

***NOTE: IN ORDER TO EARN 2 POINTS IN THIS CATEGORY, THE COMMITMENT EXPIRATION DATE STATED _____ ABOVE MUST BE AT LEAST 180 DAYS FOLLOWING THE DATE OF THE FINAL APPLICATION DEADLINE.**

SIGNED BY LENDER

² Examples of conditions that NIFA deems to be "Under the control of the developer" include, but are not limited to the following:

1. Approval of appraisal
2. Approval of final plans and specifications;
3. Ability to meet financial requirement for closing the Loan;
4. Receipt of LIHTC.

EXHIBIT 110

PERMANENT FINANCING FORM

Development Name: _____

Name of Permanent Lender: _____

Address: _____

Contact Person: _____

Permanent Loan Amount: _____

Interest Rate: _____

Loan Term: _____

Name of Borrower: _____

Debt Service Coverage Ratio: _____

Amortization Period: _____

Loan Fees: _____

Required Collateral: _____

Required Reserves: _____

I certify the above ☐ commitment ☐ letter of interest (please check one)

is valid until _____ (date):

Lender Signature Date of signature

Accepted:

Applicant/Owner Representative Signature Date of signature

EXHIBIT 111

DEVELOPMENT WORKSHEETS

~~If applying for HOME funds and/or National Housing Trust Fund funds from the Nebraska Department of Economic Development, you must Complete this Exhibit and attach as Exhibit 111 to the online funding application.~~

Complete the Development Worksheets, including the following tabs by opening the file below:

- ★ [Architect Certification](#)
- ★ Unit Information
- ★ Operating Expenses
- ★ Development Cost Schedule
- ★ Equity Gap
- ★ Number of HOME/HTF Units
- ★ Proforma

Right click on the hyperlink below to access the required format for Exhibit 111.

Complete all yellow-shaded areas.

[Exhibit 111.xls](#)

[Exhibit 111.xls](#)

Right click on Hyperlink to open.

EXHIBIT 112

INFORMATION REQUIRED TO BE INCLUDED IN THE MARKET STUDY

The market study must be conducted by an independent, third-party market evaluation professional whose credentials are acceptable to NIFA. The market study must be conducted at the Owner's expense. **The market study must be current (dated no earlier than one year prior to submission of the Application).** The market study shall include the following:

1. A statement of the competence of the market study provider, detailing education and experience of primary author and including a statement of non-interest.
2. Signature of preparer(s) and date the study was completed.
3. Description of the proposed site and neighborhood, including physical attributes of site, surrounding land uses, and proximity to community amenities or neighborhood features including shopping, healthcare, schools, and transportation.
4. A map and photos of the subject site and surroundings showing location of community services.
5. A description of the proposed development, detailing proposed unit mix (number of bedrooms, bathrooms, square footage, proposed rents, AMI level, utility allowances, and any utilities included in rent), proposed unit features and community amenities, and target population including age restrictions and/or special needs populations.
6. Demographic analysis of the number of eligible households in the market area that are part of the target market, income eligible, and can afford the proposed rent.
7. Analysis of household sizes and types in the market area, including households by tenure, income, and persons per household.
8. A description of rent levels and occupancy rates in existing comparable developments in the market area, segmented by property type and with rents adjusted to account for utility differences and concessions or other incentives. Such description should include all existing LIHTC developments in the primary market area and any planned additions to the rental housing stock, including any recently approved LIHTC developments.
9. Review of population characteristics and projected trends.
10. Review of employment and economic development characteristics, including a list of major employers and labor force employment and unemployment trends over the past 5-10 years.
11. Geographic definition and analysis of market area, including a description of methodology used to define market area and map of market area including proposed site.

- |
12. Analysis of operating expenses of comparable properties in the market area.
 13. Expected market absorption of proposed development, including capture/penetration rate analysis of target populations.
 14. A description of the effect on the market area, including the impact on LIHTC and other existing affordable rental housing.
 15. Indicate whether or not the proposed development meets the identified housing needs of the community's overall housing plan.
 16. A written narrative on the assumptions and methods used in the market study, including data sources.

EXHIBIT 114

CAPITAL NEEDS ASSESSMENT (“CNA”) REQUIRED INFORMATION

(Rehabilitation Developments Only)

The CNA must include a signed statement from a licensed professional architect or engineer that performed the CNA that (a) the CNA meets the requirements of this *Exhibit 114*, (b) the information included is accurate and (c) the CNA can be relied upon by NIFA to present a true assessment of the proposed rehabilitation budget and immediate repairs required at the property. NIFA may determine any CNA to be unsatisfactory and/or may require additional information at the sole expense of the Applicant.

1. The CNA shall examine and analyze the following building components:

- ☐ All infrastructure including, but not limited to site, topography, drainage, pavement, curbing, sidewalks, parking, landscaping, amenities, water, storm drainage, gas and electric utilities;
- ☐ Structural systems, both substructure (i.e., footings and foundations) and superstructure, including exterior walls and balconies, exterior doors and windows, roofing system and drainage;
- ☐ Interiors, including unit and common area finishes (carpeting, vinyl tile, plaster walls, paint condition, etc.), unit kitchen finishes, cabinets, and appliances, unit bathroom finishes and fixtures and common area lobbies and corridors;
- ☐ Mechanical systems, including plumbing and domestic hot water, HVAC, electrical, lighting fixtures, and fire protection;
- ☐ Elevators;
- ☐ Trash removal systems;
- ☐ Clubhouse (if applicable);
- ☐ Storage areas (if applicable); and
- ☐ Parking structures (if applicable).

2. The CNA shall address the following for the building(s) prior to the proposed rehabilitation:

- ☐ Critical Repair Items: All health and safety deficiencies, or violations of housing quality standards, requiring immediate remediation. If the Development has tenants, these repairs are to be made a first priority.
- ☐ Two-Year Physical Needs: Repairs, replacements and significant deferred and other maintenance items that need to be addressed within 24 months of the date of the CNA. Include any necessary redesign of the Development and market amenities needed to restore the property to the standard outlined in the application. These repairs are to be included in the Development budget and funded by construction-period sources of funds.
- ☐ Long-Term Physical Needs: Repairs and replacements beyond the first two (2) years that are required to maintain the Development’s physical integrity over the next twenty (20) years, such as major structural systems that will need replacement during the period. These repairs are to be funded from the reserves for replacement account.

- Analysis of Reserves for Replacement: An estimate of the initial and monthly deposit to the reserves for replacement account needed to fund long-term physical needs, accounting for inflation, the existing reserves for replacement balance and the expected useful life of major building systems. This analysis should not include the cost of the critical repair items, the two-year physical needs or any work items that would be treated as operating expenses.

3. The professional preparing the CNA must:

- (a) Be a licensed architect or mechanical/structural engineer.
- (b) Conduct site inspections of all occupied and vacant units.
- (c) Identify any physical deficiencies as a result of (i) visual survey, (ii) review of pertinent documentation and (iii) interviews with the property owner, management staff, tenants, community groups and government officials.
- (d) Identify physical deficiencies, including critical repair items, two-year physical needs and long-term physical needs. These should include repair items that represent an immediate threat to health and safety and all other significant defects, deficiencies, items of deferred maintenance and material building code violations that would limit the expected useful life of major components or systems.
- (e) Explain how the Development will meet the requirements for accessibility to persons with disabilities. Identify the physical obstacles and describe methods to make the Development more accessible and list needed repair items in the rehabilitation plan.
- (f) Prepare a rehabilitation plan, addressing separately all two-year and long-term physical needs.
- (g) Prepare a replacement reserve schedule, including an estimate of the initial and annual deposits, accounting for inflation and based on a 20-year term.
- (h) Determine the cost/benefit of each significant work item in the rehabilitation plan (items greater than \$5,000) that represents an improvement or upgrade that will result in reduced operating expenses (e.g., individual utility metering, extra insulation, thermo-pane windows, setback thermostats). Compare the cost of the time with the long-term impact on rent and expenses, taking into account the remaining useful life of building systems.

EXHIBIT 115

TEN YEAR RULE
(Form of Legal Opinion)

[DATE]

Nebraska Investment Finance Authority
Suite 200
1230 O Street
Lincoln, NE 68508

Re: [PROJECT NAME]

Dear Ladies and Gentlemen:

We are providing this opinion in connection with the application by [NAME] for low income housing tax credits for the property known as [PROPERTY NAME] (the "Property").¹ Specifically, this opinion addresses whether the "acquisition credit" under Section 42(b)(1)(B) of the Internal Revenue Code of 1986, as amended (the "Code"), will be available with respect to the purchase of the Property. We understand that the [NAME OF OWNER] (the "Current Owner") acquired the Property on [DATE] from [NAME] (the "Prior Owner") and intends to sell the Property to a newly formed limited partnership/limited liability company (the "Tax Credit Partnership").

Factual Information

In providing this opinion, we are relying upon the factual information set forth in the Seller's Certificate, attached as Exhibit B, dated [DATE] from the Current Owner (the "Seller's Certificate").

In preparing this opinion, we have reviewed copies of the Recorded Deed dated [DATE] under which the Prior Owner conveyed title to the Property to the Current Owner.

¹ The legal description of the Property is set out on Exhibit A.

In addition, in providing this opinion we have made, and the opinions set forth below are based upon, the following assumptions:

1. Neither the Tax Credit Partnership nor the tax credit investor in the Tax Credit Partnership will be related directly or indirectly to the Current Owner in any fashion.

2. Neither the Tax Credit Partnership, the tax credit investor in the Tax Credit Partnership nor any affiliate of the Current Owner will have ever owned an interest in the Property except as described in this opinion.

Finally, we have reviewed such other documents and materials as we believe appropriate.

Opinion

Section 42(b)(1)(B) of the Code allows a tax credit for the acquisition of an existing building (the “Acquisition Credit”) if the requirements of Code Section 42(d)(2)(B) are satisfied. These requirements are as follows: (i) the building was acquired by “purchase” (as defined in Code Section 179(d)(2)), (ii) there is a period of at least ten (10) years between the date of its acquisition by the taxpayer or the building meets the requirements under Section 42(d)(6)(A) of the Code, (iii) the building was not previously placed in service by the taxpayer or by any person who was a related person to the taxpayer as of the time previously placed in service, and (iv) the taxpayer’s rehabilitation expenditures are sufficient in the amount to qualify for treatment under Section 42(e) of the Code as a separate new building. Section 42(d)(6) of the Code provides an exception to the Ten Year Rule (the “Federally Financed Exception”) for properties that are substantially financed, operated or assisted under Section 8 of the U.S. Housing Act of 1937, Sections 221(d)(3), (d)(4) or 236 of the National Housing Act, Section 515 of the Housing Act of 1949 or any other housing program administered by HUD or the Rural Housing Service of the Department of Agriculture or any similar state housing program. [The Project is expected to satisfy the Federally Financed Exception.]

Code Section 42(d)(2)(D)(ii) provides that in order for a building to have been “acquired by purchase,” the property must not have been acquired from a seller whose relationship to the buyer of the property will result in the disallowance of losses under Section 267 or 707(b) of the Code. In addition, the property must not have been acquired by one component member of a controlled group from another component member of the same controlled group and the basis of the property in the hands of the buyer must not be determined by reference to the adjusted basis of the property in the hands of the seller (Code Section 42(d)(2)(D)(ii) and 42(d)(2)(B)(iii)). Furthermore, the property cannot have been acquired from a decedent by a person whose basis in the building is determined by reference to Section 1014(a) of the Code.

In addition to the building purchase requirement, Section 42(d)(2)(B)(iii) of the Code provides that a building eligible for the Acquisition Credit cannot have been “previously placed in service by the taxpayer or by any person who is a related person with respect to the taxpayer as of the time previously placed in service.” Section 42(d)(2)(D)(ii) of the Code provides that for purposes of applying this test, “a person (hereinafter in this subclause referred to as the “related person”) is related to any person if the related person bears a relationship to such persons specified in Code Section 267(b) or 707(b)(1), or the related person and such person are

engaged in trades or businesses under common control (within the meaning of subsections (a) and (b) of Code Section 52).

The definition of a related person under Code Section 267(b) includes an individual and a corporation more than 50% in value of the outstanding stock of which is owned, directly or indirectly, by or for such individual, and a corporation and a partnership if the same person owns more than 50% in value of the outstanding stock of the corporation and more than 50% of the capital interest, or the profits interest, in the partnership. In applying these related party rules, Code Section 267(c) provides that in determining the ownership of stock, stock owned directly or indirectly by or for a corporation, partnership, estate, or trust shall be considered as being owned proportionately by or for its shareholders, partners, or beneficiaries and that an individual shall be considered as owning the stock owned, directly or indirectly, by or for his family. Section 707(b) of the Code relates to certain sales or exchanges of property with respect to controlled partnerships and defines the related party relationship as “(A) a partnership and a person owning, directly or indirectly, more than 50% of the capital interest, or the profits interest, in such partnership, or (B) two partnerships in which the same persons own, directly or indirectly, more than 50% of the capital interests or profits interests.”

The Project was **[will be]** acquired by the Tax Credit Partnership by purchase on **[DATE]**, from the Current Owner, an **[STATE] [ENTITY]**, for **[\$AMOUNT]** pursuant to a Purchase and Sale Agreement by and between the Current Owner and the Tax Credit Partnership, a **[STATE] [ENTITY]**, dated as of **[DATE]**. As evidenced by the Partnership Certification dated **[DATE]** (the “**Partnership Certification**”), and the Seller’s Certification as to Ten-Year Ownership dated **[DATE]** (the “**Seller’s Certification**”), the Current Owner and the **[General Partner]** have represented that the Current Owner is not a related party to the **[General Partner]**. The Current Owner also has represented that during the ten (10) -year period prior to **[DATE]**, the Current Owner has owned and held fee simple title to the Project.

[The Project is expected to satisfy the Federally Financed Exception.] [Based on the Seller Certification, the Current Owner has held the Project for at least ten years.] In addition, the Project has been acquired by purchase and the rehabilitation expenditures are projected to satisfy the requirements of Section 42(e) of the Code.

Based upon the foregoing, and subject to the limitations and qualifications set forth in this opinion, in our opinion the purchase of the Property by the Tax Credit Partnership in the manner described above should satisfy the requirements for the Acquisition Credit with respect to the allocable portion of the purchase price paid for the buildings located on the Property.

This opinion is based upon the existing provisions of the Code, applicable Treasury Regulations, and judicial and administrative interpretations of those authorities. Treasury Regulations have not been issued under, and there is little or no other authority interpreting, many of the provisions of the Code governing issues addressed in this opinion. Our opinion represents our legal judgment concerning the application of the pertinent provisions of federal income tax law to the facts relating to the Property, and is not binding on the Internal Revenue Service or the courts. Changes in the facts or the applicable law could cause our conclusions to no longer apply.

|

We are providing this opinion for submission to the Nebraska Investment Financing Authority (“NIFA”) in connection with an application for low-income housing tax credits for the building(s) located on the Property. NIFA may rely on this opinion for that purpose, but no other person may rely on this opinion for any purpose without our consent.

Sincerely,

DRAFT

EXHIBIT 116
AHTC INVESTOR INTEREST/COMMITMENT FORM

Development Name: _____

Name of Investor for Nebraska AHTC: _____

Address: _____

Contact Person: _____

Anticipated Amount of Annual AHTC: _____

Price per AHTC: _____

Assumptions:

Other sources of funding: _____

Reserve Requirements: _____

I certify the above ☐ commitment ☐ letter of interest (please check one)

is valid until _____ (date):

Execution of this form confirms that the development's proforma, financial statement, other financial projects, and LIHTC assumptions meet or exceed the investor's underwriting guidelines.

Investor Signature _____ Date of signature _____

Accepted:

Applicant/Owner Representative Signature _____ Date of signature _____

EXHIBIT A
LEGAL DESCRIPTION

DRAFT

EXHIBIT 204

TRACK RECORD OF APPLICANT AND/OR OWNER

List all LIHTC developments, detailing the name, city and state, number of units,
date placed in service and role in development.

Right click on the Hyperlink Below

Applicant/Owner

[Track Record.xlsx](#)

EXHIBIT 205

HOUSING AUTHORITY REFERRAL ARRANGEMENT

In connection with _____'s (the "Applicant") application for an allocation of low-income housing tax credits, the Applicant hereby agrees upon the conditions that the Applicant receives an allocation of low-income housing tax credits ("LIHTCs") from the Nebraska Investment Finance Authority, and the development is constructed, as follows:

If the Local Housing Authority (the "Authority") in the jurisdiction in which the Applicant's Development is located maintains a public housing waiting list, the Applicant agrees:

1. To notify the Authority when target units, designated in the Applicant's application for LIHTCs, become available for rent. Such notice shall be given by telephone, facsimile or other immediate method and confirmed in writing to the Authority. The notice shall include information describing the location, size, type and rent for the unit.
2. For a period of seven days from the time notice is received by the Authority, the Applicant shall receive and process applications for the unit from persons on the public housing waiting list of the Authority who submit an application to the Applicant and shall not advertise or seek renters from other sources during such period. The Applicant, however, shall be under no obligation to consider a rental application from other than a low-income tenant under the provisions of the LIHTC program and Section 42 of the Internal Revenue Code.
3. It is expressly understood:
 - (a) That the Applicant shall have the final authority to accept tenants into the Development pursuant to the fair housing laws applicable to the Development and the rules and regulations applied to all tenants; and
 - (b) That the Applicant is not required to lease units to unqualified tenants pursuant to the rules applicable to the Development and under the provisions of Section 42 of the Internal Revenue Code.
4. The Applicant acknowledges that this agreement shall be recorded as part of the restrictive covenants and Land Use Restriction Agreement binding the Applicant, and his successors in ownership, to perform under this agreement during the effective period of the restrictive covenants.

For the Applicant: _____ Title: _____

Signature of Applicant: _____

Receipt of Agreement Acknowledged by the Authority on _____, 201____.

By: _____

Title: _____

Name of Authority: _____

Signature of Authority's Representative: _____

~~EXHIBIT 206~~

~~RESIDENTIAL PROVIDER REFERRAL ARRANGEMENT~~

In connection with _____'s (the "Applicant") application for an allocation of low-income housing tax credits, the Applicant hereby agrees upon the conditions that the Applicant receives an allocation of low-income housing tax credits ("LIHTCs") from the Nebraska Investment Finance Authority, and the development is constructed, as follows:

"Provider" means a local supportive service provider authorized through the Nebraska Health and Human Services System to be a regional network provider, and/or a Medicaid-enrolled provider, which offers service(s) to persons with physical or mental disabilities. The Provider for this referral arrangement _____.

The Applicant agrees:

1. _____ To notify the Provider when target units, designated in the Applicant's application for LIHTCs, become available for rent. Such notice shall be given by telephone, facsimile or other immediate method and confirmed in writing to the Provider. The notice shall include information describing the location, size, type and rent for the unit.
2. _____ For a period of fourteen (14) days from the time notice is received by the Provider, the Applicant shall receive and process applications for the unit from persons who (a) receive services, or are eligible to receive services, from the Provider and (b) submit an application to the Applicant. The Applicant shall not advertise or seek renters from other sources during such period. The Applicant, however, shall be under no obligation to consider a rental application from other than a low-income tenant under the provisions of the LIHTC program and Section 42 of the Internal Revenue Code.
3. _____ It is expressly understood:
 - (a) _____ That the Applicant shall have the final authority to accept tenants into the Development pursuant to the fair housing laws applicable to the Development and the rules and regulations applied to all tenants; and
 - (b) _____ That the Applicant is not required to lease units to unqualified tenants pursuant to the rules applicable to the Development and under the provisions of Section 42 of the Internal Revenue Code.
4. _____ The Applicant acknowledges that this agreement shall be recorded as part of the restrictive covenants and Land Use Restriction Agreement binding the Applicant, and his successors in ownership, to perform under this agreement during the effective period of the restrictive covenants.

For the Applicant: _____ Title: _____

Signature of Applicant: _____

Receipt of Agreement Acknowledged by the Provider on _____, 201____.

By: _____

Title: _____

Name of Provider: _____

Signature of Provider's Representative: _____

EXHIBIT 210

TRACK RECORD OF MANAGEMENT COMPANY/AGENT

List all current LIHTC and HOME/HTF developments that the management company/agent is managing in the State of Nebraska. Please ensure that all developments are listed.

Right click on the Hyperlink Below

Management

[Track Record.xlsx](#)

DRAFT