

Appendices

For

Program Operations Manual for New Mexico's Special Needs/ Set Aside Housing Program

- A. Required Forms and Agreements for New Mexico's Special Needs/ Set Aside Housing Program; Section 811 Project Rental Assistance Program**
- B. Fair Housing for Tenants with Disabilities: Understanding Reasonable Accommodations and Modifications**
- C. New Mexico Adaptation of SAMHSA Permanent Supportive Housing Fidelity Tool**
- D. SAHP Site Monitoring Forms:**
 - Local Lead Agency**
 - Property File Review Form**
 - Special Needs Applicant File Review Form**

Appendix A

Required Forms and Agreements for New Mexico's Special Needs / Set Aside Housing Program

**For Local Lead Agencies, Service Providers, Property Managers
And Owner/Developers**

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Lease Up Processes and Target Date Calendar

- ****Sample LIHTC Property Lease Up Calendar**

*[**Form pertains to an initial lease up. Funding limitations disallowed BHSD to support any new LLA and/or existing LLA for new LIHTC properties after State Fiscal Year 2016.]*

New Mexico Special Needs/Set Aside Housing Program Referral and Pre-Application Form Attachments include:

- Commitment of Support Services Provision
- Authorization to Request/Release Information
- Crisis Response Plan and Contact Numbers
- Tenant Responsibility and Participation Agreement
- Monthly Supportive Housing Home Visit Checklist

Forms for Local Lead Agency's Special Needs Applicant Files

- Special Needs Applicant File Documents Checklist
- Attestation of Confirmed of Identity Special Needs Applicant
- Attestation of Homelessness of Special Needs Applicant

Forms for Termination of Special Needs status:

- Discharge Acknowledgement form between LLA, Support Service Provider, Property Management
- Special Needs Set Aside Housing Program – Client Self Discharge From SN/SAHP Form

Forms for Lease Up Processes between Local Lead Agency and Property Manager

- Special Needs Applicant Proof of Eligibility and Letter of Referral to Property Manager
- Notice of Vacancy and Referral of Special Needs Applicant
- Notification that Resident Served 3, 7 or 10 Day Notice of Eviction

Agreements and Scopes of Work

- Special Needs Use Certification - Initial
- Special Needs Set Aside Agreement between the Local Lead Agency and Project Owner/Developer
- Local Lead Agency Annual Scope of Work Agreement
- Assignment of Contract *(Between a current LLA that is transferring the LLA responsibilities/duties to another LLA with BHSD approval)*

Forms for Local Lead Agency's LIHTC Property File

- SN/SAHP LIHTC Property File Checklist

Section 811 Project Rental Assistance Forms *(Not applicable to every LLA; applicable only to LLAs involved with LIHTC properties where the Property Owner has a Section 811 PRA Rental Assistance Contract with the Mortgage Finance Authority)*

- **Section 811 PRA Program / New Mexico Special Needs/Set Aside Housing Program Referral and Pre-Application Form**
- **Reverse Referral Form (To Local Lead Agency from Property Management)**

Sample LIHTC Property Lease Up Calendar

A Sample Calendar of Target Dates for Marketing, Application Submittal and Referral to LIHTC Property

| Activity | Target Date |
|---|--|
| <p>Marketing and Community Awareness Begins</p> <ul style="list-style-type: none"> Email blast sent to all local service providers & advocacy groups announcing Community Stakeholders meeting on May 18 and other Social Media Notifications or Announcements as approved by BHSD Staff Public Notice Display Advertisement in Sunday Paper Property Brochure Developed Post SAHP Property Brochure and SAHP Application on LLA web site | <p>April 27, 2016</p> <p>May 7, 2016</p> <p>May 14, 2016</p> <p>May 18, 2016</p> |
| <p>'Cortez' County Community Stakeholder Meeting</p> <p>City Hall Annex Building, 200 E. Broadway</p> | <p>May 18, 2016</p> <p>1:00 – 3:00 pm</p> |
| <p>First Day of Receipt of SAHP Pre-Applications</p> <p>Application Period May 18 – June 15, 2016 (typically 30 day time frame until deadline)</p> | <p>May 18, 2016</p> |
| <p>Deadline for SAHP Pre-Applications to be received by Local Lead Agency for County</p> | <p>June 15, 2016</p> <p>4:00 pm</p> |
| <p>LLA Staff Review Period of Applications for SAHP Eligibility and Eligible Applicants Names Put into Lottery (unless ongoing application reviews are conducted by LLA as applications are submitted)</p> | <p>June 20 - 24, 2016</p> |
| <p>Date Lottery held by LLA, and, Applicants placed on SAHP Wait List by number drawn</p> | <p>June 27, 2016</p> |
| <p>Date to Begin Contacting and Referring Lottery-Determined SAHP Applicants to LIHTC Property Management</p> | <p>June 28, 2016</p> |
| <p>Target Date for LIHTC Property Lease Up of SAHP units</p> | <p>July 15, 2016</p> |

NEW MEXICO SPECIAL NEEDS /SET ASIDE HOUSING PROGRAM

REFERRAL and PRE-APPLICATION FORM

Revised 8/2019

Date and Time Received

By Local Lead Agency

Date: _____

Time: _____

Applicant and Household Information:

1. Applicant's Legal Name: (First, Middle, Last)

2. Date of Birth: _____ Last 4 digits of SSN: XXX-XX-_____

3. Contact Information: *Must be up to date at all times. Required for immediate communication and notification.*

| Applicant Contact Information | Must Provide Emergency Contact Information for Applicant |
|-------------------------------|--|
| Address: | Address: |
| Phone: | Phone: |
| Cell Phone: | Cell Phone: |
| Email: | Email: |

Note: The Support Services Provider/Referring Agency is: a) responsible for providing the support services and monthly home visits needed by the Applicant; and, b) requested to assist the Applicant in completing this Pre-Application Form.

The Information below is required for purposes of processing Special Needs/Set Aside Housing Unit referrals.

| | |
|--|------------------------|
| Provider/Agency Name: | Date Completed: |
| Referral Agency Point or Back-up person Printed Name: | Phone number: |
| Referral Agency Point or Back-up person Signature required: | Email: |

Referring Person: (if not Support Services Provider/Agency)

Agency Name: _____

Contact Person Name: _____

Phone Number: _____ **Email Address:** _____

4. Eligible Target Populations for Housing

Documentation of an Eligible Target Population Disability or Homelessness must be provided by a licensed professional (e.g. caseworker, social worker, physician, etc.) who will substantiate the Applicant qualifies for the program based upon **one of** the following Special Needs disabilities:

Special Needs (SN) / Set Aside Housing Program (SAHP) Eligible Target Populations (check one)

☐ **Homeless or Precariously Housed**

A Household/individual is considered homeless or precariously housed if, without this assistance, he/she/ they would have to spend the night in a homeless shelter or in a place not meant for human habitation. This includes:

- Persons living on the street, in emergency shelters, or in transitional housing programs for the homeless;
- Persons with a legal eviction notice, or other similar legal circumstances in which they are to lose their housing imminently; and
- People with disabilities who are inappropriately living in an institution or other facility may be considered homeless if no other housing placement is available or appropriate.

☐ **Serious Mental Illness**

☐ **Addictive Disorder** (i.e., individuals in treatment and demonstrated recovery from a substance abuse disorder);

☐ **Developmental Disability** (i.e., mental retardation, autism, or other disability acquired before the age of 22);

☐ **Physical, sensory, or cognitive disability** occurring after the age of 22;

☐ **Disability caused by chronic illness** (i.e., people with HIV/AIDS, Diabetes, etc. or other incapacitating illness)

☐ **Age related Disability** (i.e., frail elderly, or, young adults with other special needs who have been in the foster care or juvenile services system).

Note: Must attach documented evidence of the Special Need, i.e. Diagnosis, SSI Disability Letter, etc. or Attestation of Homelessness. Documentation must be from an individual or organization licensed or authorized to provide said documentation.

Requesting Reasonable Accommodations or Modifications for Housing:

NOTICE: IF YOU HAVE A DISABILITY and need accommodations or modifications that would help you live in the apartment unit, use the facilities, or, take part in programs on-site, you can request a Reasonable Accommodation or Modification from Property Management personnel. If you can show that you have a disability and the request is directly connected to that disability, the Local Lead Agency, Support Services Provider, and Property Manager will work together to make the changes you request.

You can get a **Reasonable Accommodation/Modification Request Form** in the property management office.

5. Disclosure of Criminal History

Have you /the Applicant ever been **convicted** of a Felony? ☐ Yes ☐ No If yes, what year? _____

Do you have either current or pending criminal charges against any member of your household?

☐ Yes ☐ No If yes, name of household member: _____

Note: The Applicant's household includes any member (also applies to persons under age 18 years) who has been arrested or charged.

Where records reflect a past arrest without a final disposition and the crime would be a basis for rejecting the application, the applicant must provide proof the charge was dismissed for lack of evidence, adjudicated not guilty, or an alternative treatment was part of the adjudication process.

6. Total Number of Household members _____ (do not include live-in aide)

List all household members: including sex, age, and relationship of each household member to the Applicant.

| Legal Name: First, Middle, Last | Age | Sex | Relationship to Head of Household |
|---------------------------------|-----|-----|-----------------------------------|
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |

Number of Bedrooms Desired: _____

Number of Bedrooms Required: _____

7. Household Income and Benefits (Please list all sources of income both Cash and Non-Cash)

A. Cash Income: Please provide all applicable sources of income and include the amount per month. Provide information as to whether income is from a household member other than the Applicant. Please note in the description field. Documentation and check stubs will be required for all income sources.

Have you received income from any source in the past 30 days?

☐ Yes ☐ No ☐ Don't Know ☐ Refuse to Answer

Cash Income Type: Please provide amount per month and name of income earner:

☐ Employment Income \$ _____

☐ Child Support Income \$ _____

- ☐ Social Security Disability (SSDI) \$ _____
- ☐ Supplemental Security Income (SSI) \$ _____
- ☐ Social Security Retirement Income \$ _____
- ☐ Temporary Assistance to Needs Families (TANF) \$ _____
- ☐ Veteran's Pension \$ _____
- ☐ Veteran's disability payment \$ _____
- ☐ Unemployment Insurance \$ _____

Cash Income Type (continued):

- ☐ Alimony/other spousal support \$ _____
- ☐ Pension from a former job \$ _____
- ☐ Worker's Compensation \$ _____
- ☐ Private Disability Insurance \$ _____
- ☐ Income from Family/Friends \$ _____
- ☐ Other sources of income \$ _____

B. Non-Cash Benefits or Services: Please provide all applicable sources of non-cash benefits and services and include the amount per month where applicable and a copy of recent award letter. Note if the assistance belongs to a household member other than the Applicant, please note that in the Description field.

Have you received non-cash benefits or services in the past 30 days?

- ☐ Yes ☐ No ☐ Don't Know ☐ Refuse to Answer

Non-Cash Benefits: Please provide amount per month, and/or name of benefit recipient:

- ☐ Food Stamps (aka: SNAP) \$ _____
- ☐ Medicaid _____
- ☐ Medicare _____
- ☐ WIC \$ _____
- ☐ TANF Child Care Services \$ _____
- ☐ TANF Transportation services \$ _____
- ☐ Other TANF funded services \$ _____
- ☐ Children's Health Insurance Program (CHIP) _____

- ☐ VA Medical services _____
- ☐ Other Assistance source _____

Total Annual Gross Household Income:

What is the Total Annual Gross Household Income from all sources and all persons living in the household?:

(e.g. Earned or employment income, social security, SSDI, retirement, government benefits, unearned income, etc.) Per No. 7 above.

Monthly Income \$ _____ x 12 months = **Annual Income** \$ _____
(Monthly income must total to Annual)

8. Indicate whether or not the household needs the following type of apartment:

a. Handicapped Unit (wider doors, grab bars) Yes ☐ No ☐

b. Fully Accessible Unit (curb less shower) Yes ☐ No ☐

c. Visual/Audio Accessible Unit Yes ☐ No ☐

d. Ground floor unit necessary, if no elevator Yes ☐ No ☐

e. Does household have medical reasons for an extra bedroom (e.g. for a care giver) Yes ☐ No ☐

9. Applicant Acknowledgement

I have read and signed the **Tenant Responsibility and Participation Agreement**; understand the **Pre-Tenancy Program Overview Information**; and, the expectations of being a good tenant and program participant in the Set Aside/Special Needs Housing Program [or the Section 811 Project Rental Assistance Program]; and, *also understand that my housing is contingent upon my compliance with these program rules and regulations.*

Applicant's Signature

Date

Support Service Provider Signature

Date

Applicant's Printed Name

Date

Support Service Provider Printed Name

Date

**COMMITMENT OF SUPPORT SERVICES PROVISION
NEW MEXICO SPECIAL NEEDS HOUSING PROGRAM**

As Revised 8/2019

I, ☐ Support Services Agency Caseworker, ☐ Support Services Contact,

for _____ Support Service Provider/Agency, herein
certify that:

Applicant Name: First, Middle, Last

- a) meets the target population eligibility for the Special Needs Housing program
- b) is in need of permanent supportive housing

The Support Services Provider/Agency, Support Worker, and Supervisor further agree that:

- Required support services will be available as needed and requested by this applicant and rendered by the Support Services Provider/Agency,
- Agency will conduct the required Monthly Housing Home Visits in the consumer's apartment,
- Agency will coordinate support services and provide eviction prevention by working with the property manager and Local Lead Agency (LLA), as needed to ensure success of the tenant in their Special Needs Housing;
- Agency will notify the Local Lead Agency of any changes in service provision and/or if services are discontinued.

As a result of this Applicant's homeless or disability status, the household requires the following types of support services to maintain stable tenancy. Please briefly describe:

a) the support services that are necessary; and, b) how the Agency will assist the applicant to live successfully in their own housing in the community:

Support Worker/Case Manager Name: _____ (Printed Name)

Email: _____

Office Phone: _____ Cell Phone: _____

Signature of Support Services Worker

Print Name

Date

Signature of Service Provider Supervisor

Print Name

Date

Authorization to Request/Release Information

[NAME OF SUPPORT SERVICES PROVIDER or LOCAL LEAD AGENCY]

PO Box /Street Address, City, State, Zip

() _____, Fax () _____

This authorizes [Provider/Agency] to request and/or release the following information from/to

(Name and address of person/agency):

Regarding Consumer Name: [First Middle Last]

Date of Birth: _____ SS#: XXX-XX- _____

The information requested is necessary information to support the consumer's application for Special Needs Housing and includes documentation in connection with the Special Needs Pre-Application Form, and the Special Needs Letter of Referral, and, information necessary to the determination and delivery of appropriate support services to ensure my successful and ongoing tenancy in a Special Needs housing unit.

The information to be disclosed is:

- () Information to document the qualifying Special Needs population disability
- () All Household Income and Non-Cash Government Benefits sources
- () Emergency Contact information related to my welfare
- () Criminal History or Activity to determine housing eligibility
- () Other: _____

I understand that the information to be released may include information regarding the following condition(s):

Initial () Chemical abuse and/or dependency Initial () AIDS-HIV testing

I understand that I have the right to examine and copy the information to be released. I also understand this authorization expires automatically in one (1) year from date on signature or on _____ and that, although I may withdraw this authorization at any time earlier, some information may already have been released. I have been told that information released from my records may not be given to people or agencies other than those named on this form without my permission (Section 34-2A-18 NMSA 1953).

(Signature of Client)

(Signature of Witness)

(Date)

(Signature of Representative)

If client is unable to sign, state reason:

This information is requested from records whose confidentiality is protected. The receiving agency is prohibited from making any further disclosure of it without the specific written consent of the person to whom it pertains. A general authorization for the request of medical or other information is not sufficient for this purpose. This information is protected both by the State (Section 34-2A-18 NMSA 1953) and Federal (42 CFR Part 2) Regulations.

You may revoke this authorization at any time by signing and dating the revocation section on your copy of this form and returning it to the: [LLA agency] at [address]. I further understand that any such revocation does not apply to the extent that persons authorized to use or disclose my protected health information have already acted in reliance on this authorization.

Revocation Section

I hereby revoke this authorization.

Client Signature

Client Printed Name

Date

Crisis Response Plan and Contact Numbers

Revised 8/2019

Date of Plan: _____ Date Contact Names or Numbers Updated: _____

TENANT INFORMATION

Tenant Name _____

Apartment Name _____ Apartment No. _____

Apartment Address _____ City _____ Zip _____

RESOURCE PHONE NUMBERS

For Local Lead Agency, Property Manager, and Tenant in the event of Crisis

Personal or Family Member Name: _____ **(Print)**

Office Phone: _____ Cell Phone: _____

Support Services Agency Contact Person Name: _____ **(Print)**

Office Phone: _____ Emergency Cell Phone: _____

Local Lead Agency: _____

LLA Staff Name: _____ **(Print)**

Staff Office Phone: _____ Cell Phone: _____

TENANT RESPONSIBILITY AND PARTICIPATION AGREEMENT

Updated: 8/2019

APPLICANT NAME: _____ (Please Print)

REFERRING AGENCY NAME: _____ (Please Print)

PROPERTY NAME: _____ (Please Print)

I, _____ (Applicant), understand that if I am determined eligible for the Special Needs/SAHP Housing [or Section 811 PRA program] by the information I presented that I agree to the following:

I, as program participant and tenant, will commit to **meet my obligations as a tenant under New Mexico Uniform Owner-Resident Relations Act and this Tenant Responsibility and Participation Agreement**. I understand the Property Manager can establish their own property rules in addition to the rental lease provisions and that I as the Tenant must abide by those.

I will make **Rent Payments on time**: Rent is due the 1st of each month. If the Tenant does not pay the rent and the utilities for the property, the property manager will provide the appropriate notices; and if I have not complied, the property manager will have the right to begin eviction by giving the tenant notice as outlined in New Mexico Owner-Resident Relations Act.

I will allow **Monthly In-Home Apartment Visits**: by my support worker or support service provider staff member of _____ (Name of Support Service Provider Agency) or the Local Lead Agency for the purposes of identifying any risks to my housing stability. During this site visit I, the tenant, will participate in completing the Monthly Supportive Housing Checklist (see attachment) and discuss any necessary follow up actions on the part of myself, the support worker/support service provider, or other partners.

I will keep my **Crisis Response Plan and Contact Numbers** (see attachment) up to date.

I will abide by the following tenancy rules and regulations:

1. **Occupant:** Only the persons whose names appear on the lease agreement may live in this apartment or housing unit.
2. **Pets:** Pets may be allowed if this is consistent with the policy of the landlord or property management.
3. **Damages:** The tenant is to notify the property manager and support service provider immediately of any repairs that are needed and will be required to pay for repairs of all damages (other than normal wear) that they or their guests have caused, including but not limited to windows, furniture, walls, appliances, bathroom fixtures, carpet, counters, light fixtures, etc.

4. **Cleanliness:** Participant will maintain the apartment at a level of cleanliness that meets health, safety, and fire hazard standards.
5. **Violent Behavior:** Any violent behavior toward my neighbors, property management, support service provider, or Local Lead Agency staff will be grounds for immediate termination from the program.
6. **Disturbing the Peace:** The Tenant agrees not to cause or allow on the premises any excessive nuisance, noise, or other activity that disturbs the peace and quiet enjoyment of neighbors or other tenants in the building or violates any state law or local ordinance. The tenant is fully responsible for all guest actions and behavior.
7. **Prohibited Use of Premises:** The premises will not be used for any unlawful purpose whatsoever, including the manufacture or distribution of illegal drugs. Participants shall not bring or permit any other person to bring any weapon of any type, including without limitation, guns and knives (other than normal kitchen knives), into the dwelling.
8. **Building and Property Rules:** Tenant agrees to follow the terms and conditions of the Property Lease or Rental Agreement between the Landlord and Tenant. Tenant also agrees to abide by all Property Rules and guidelines set by manager/owner of the building.

I acknowledge, understand and agree to the terms of this Agreement between _____ (Support Services Provider Name) and myself. I also understand that my housing and my continued participation in the Special Needs/Set Aside Housing Program [or Section 811 PRA program] are contingent upon my compliance with all aspects of this Agreement.

Applicant's Signature

Referring Support Service Provider Agency Staff

Applicant's Printed Name

Referring Support Service Staff Printed Name

Date

Date

Cc: Local Lead Agency

Special Needs Applicant

Support Services Provider

Attachments: Supportive Housing Site Visit Checklist

Crisis Response Plan and Contact Numbers

MONTHLY SUPPORTIVE HOUSING CHECKLIST (version 8/2019)

Month/Day/Year of Visit: _____ / _____ / 20____

Tenant Printed Name: _____

Property Name: _____ City: _____

Tenant's Rental Unit No: _____

Printed Name of Support Services Staff: _____

Provider/Agency: _____ Phone: _____

| | | | | | | | | | | | | | | | | | | | | | | | | | |
|--|---|-------|--------------|--------------|--------------|-----------------------------|--------------|----------|--------------|--------------------|--------------|-----------------|--------------|---------|--------------|-------------|--------------|-------|--------------|---------|--------------|---|--------------|------------------------|--|
| <input type="checkbox"/> YES <input type="checkbox"/> NO | 1. Is the unit in a reasonably clean state? (e.g. are there any health or safety issues?) | | | | | | | | | | | | | | | | | | | | | | | | |
| Corrective Action Due Date _____ | If no, what are next steps for consumer? | | | | | | | | | | | | | | | | | | | | | | | | |
| <input type="checkbox"/> YES <input type="checkbox"/> NO | 2. Is there anything in the housing unit not in good working condition, or in need of repair or replacement? Please review the list of the following items: <table border="0" style="width: 100%;"> <tr> <td style="width: 60%;">Stove</td> <td>Yes___ No___</td> </tr> <tr> <td>Refrigerator</td> <td>Yes___ No___</td> </tr> <tr> <td>Heating and Cooling Systems</td> <td>Yes___ No___</td> </tr> <tr> <td>Lighting</td> <td>Yes___ No___</td> </tr> <tr> <td>Hot and Cold Water</td> <td>Yes___ No___</td> </tr> <tr> <td>Smoke Detectors</td> <td>Yes___ No___</td> </tr> <tr> <td>Toilets</td> <td>Yes___ No___</td> </tr> <tr> <td>Water leaks</td> <td>Yes___ No___</td> </tr> <tr> <td>Doors</td> <td>Yes___ No___</td> </tr> <tr> <td>Windows</td> <td>Yes___ No___</td> </tr> <tr> <td>Electrical fixtures, electrical outlets</td> <td>Yes___ No___</td> </tr> <tr> <td colspan="2">Any other items? _____</td> </tr> </table> | Stove | Yes___ No___ | Refrigerator | Yes___ No___ | Heating and Cooling Systems | Yes___ No___ | Lighting | Yes___ No___ | Hot and Cold Water | Yes___ No___ | Smoke Detectors | Yes___ No___ | Toilets | Yes___ No___ | Water leaks | Yes___ No___ | Doors | Yes___ No___ | Windows | Yes___ No___ | Electrical fixtures, electrical outlets | Yes___ No___ | Any other items? _____ | |
| Stove | Yes___ No___ | | | | | | | | | | | | | | | | | | | | | | | | |
| Refrigerator | Yes___ No___ | | | | | | | | | | | | | | | | | | | | | | | | |
| Heating and Cooling Systems | Yes___ No___ | | | | | | | | | | | | | | | | | | | | | | | | |
| Lighting | Yes___ No___ | | | | | | | | | | | | | | | | | | | | | | | | |
| Hot and Cold Water | Yes___ No___ | | | | | | | | | | | | | | | | | | | | | | | | |
| Smoke Detectors | Yes___ No___ | | | | | | | | | | | | | | | | | | | | | | | | |
| Toilets | Yes___ No___ | | | | | | | | | | | | | | | | | | | | | | | | |
| Water leaks | Yes___ No___ | | | | | | | | | | | | | | | | | | | | | | | | |
| Doors | Yes___ No___ | | | | | | | | | | | | | | | | | | | | | | | | |
| Windows | Yes___ No___ | | | | | | | | | | | | | | | | | | | | | | | | |
| Electrical fixtures, electrical outlets | Yes___ No___ | | | | | | | | | | | | | | | | | | | | | | | | |
| Any other items? _____ | | | | | | | | | | | | | | | | | | | | | | | | | |
| Corrective Action Due Date _____ | Has the landlord or property manager been notified of needed repairs <u>via official letter</u> , and if yes, are they making repairs in a timely fashion? Yes___ No___ Issue: _____ Date Notified: _____ Issue: _____ Date Notified: _____ If no, Corrective Action to be taken: | | | | | | | | | | | | | | | | | | | | | | | | |
| <input type="checkbox"/> YES <input type="checkbox"/> NO | 3. Does the tenant have the necessary amenities for their home: refrigerator, stove, fan (if no air conditioning), basic furniture (bed, pillow, dresser, chair/couch, lamps, table and chairs), basic kitchen set-up (plates, glasses, utensils, pots and pans), and basic linens (bath, hand and dish towels, wash cloths, sheets, blankets, pillowcases). | | | | | | | | | | | | | | | | | | | | | | | | |
| By When: Date _____ | If no, what are next steps: For consumer? | | | | | | | | | | | | | | | | | | | | | | | | |

| | |
|--|--|
| | For support worker or case manager? |
| <input type="checkbox"/> YES <input type="checkbox"/> NO | 4. Is there a record or evidence [receipts, money order stub, etc.] of tenant's monthly rent and other related utilities [if not included with rent] being paid in a timely manner? |
| By When: Date_____ | If no, what are next steps: For consumer? For support worker or case manager? |
| <input type="checkbox"/> YES <input type="checkbox"/> NO | 5. Consumer Well Being: Does the tenant appear to be in good physical and mental health? |
| By When: Date_____ | If no, what are next steps: For consumer? For support worker or case manager? |
| <input type="checkbox"/> YES <input type="checkbox"/> NO | 6. Are there any tenancy-related issues that may become a problem for the tenant? e.g. problems with other tenants/neighbors; lease violations; issues with the landlord or apartment manager. |
| By When: Date_____ | If yes, what are next steps: For consumer? For support worker or case manager? |
| <input type="checkbox"/> YES <input type="checkbox"/> NO | 7. Has a complete Section 8 Voucher application been submitted to local housing authority(s)? |
| By When: Date_____ | <u>If no</u> , what are next steps: For consumer? For support worker or case manager? <u>If yes</u> , what is current number on Section 8 waiting list(s)? _____ Has consumer received a Housing Authority Section 8 waiting list purge/address update notice? <input type="checkbox"/> YES <input type="checkbox"/> NO When is next Section 8 waiting list purge anticipated by the housing authority? Date:_____ |

| | | | | | | | | | | | | | | | | | |
|--|---|----------------|--------------|------|--------------|-----------|--------------|------------------|--------------|-------------------|--------------|----------------|--------------|------------------------|--------------|-------|--------------|
| <input type="checkbox"/> YES <input type="checkbox"/> NO | <p>8. Are there any Tenant changes or new challenges since the last month's visit?</p> <table> <tr> <td>Transportation</td> <td>Yes___ No___</td> </tr> <tr> <td>Food</td> <td>Yes___ No___</td> </tr> <tr> <td>Amenities</td> <td>Yes___ No___</td> </tr> <tr> <td>Purchases/Losses</td> <td>Yes___ No___</td> </tr> <tr> <td>Social Activities</td> <td>Yes___ No___</td> </tr> <tr> <td>Unusual Events</td> <td>Yes___ No___</td> </tr> <tr> <td>Police/Landlord visits</td> <td>Yes___ No___</td> </tr> <tr> <td>Other</td> <td>Yes___ No___</td> </tr> </table> | Transportation | Yes___ No___ | Food | Yes___ No___ | Amenities | Yes___ No___ | Purchases/Losses | Yes___ No___ | Social Activities | Yes___ No___ | Unusual Events | Yes___ No___ | Police/Landlord visits | Yes___ No___ | Other | Yes___ No___ |
| Transportation | Yes___ No___ | | | | | | | | | | | | | | | | |
| Food | Yes___ No___ | | | | | | | | | | | | | | | | |
| Amenities | Yes___ No___ | | | | | | | | | | | | | | | | |
| Purchases/Losses | Yes___ No___ | | | | | | | | | | | | | | | | |
| Social Activities | Yes___ No___ | | | | | | | | | | | | | | | | |
| Unusual Events | Yes___ No___ | | | | | | | | | | | | | | | | |
| Police/Landlord visits | Yes___ No___ | | | | | | | | | | | | | | | | |
| Other | Yes___ No___ | | | | | | | | | | | | | | | | |
| By When: Date_____ | If yes, what are next steps: For consumer? For support worker or case manager? | | | | | | | | | | | | | | | | |
| <input type="checkbox"/> YES <input type="checkbox"/> NO | <p>9. Service or Treatment Plan Update: What progress has been made, or, new challenges developed (per above questions) that need to be addressed in the consumer's Service, Treatment or Housing Plan?</p> | | | | | | | | | | | | | | | | |
| By When: Date_____ | If yes, what are next steps: For consumer? For support worker or case manager? | | | | | | | | | | | | | | | | |
| <input type="checkbox"/> YES <input type="checkbox"/> NO | <p>10. Are there any changes to the contact names or phone numbers on the Crisis Response Plan and Contact Numbers? Contact Name Changes:</p> <p>Name: _____ Phone Number: _____</p> <p>Copies of updated Crisis Plan given to consumer, service provider, property manager and LLA</p> <p>Yes___</p> | | | | | | | | | | | | | | | | |

Support Worker Signature: _____ Printed Name: _____

Date: _____

Tenant: Signature: _____ Printed Name: _____

Date: _____

Forms for Local Lead Agency's Special Needs Applicant File

- SAHP [or Section 811 PRA] Applicant File Checklist (Note: All Applicant files shall include items on this list)
- Attestation of Confirmed Special Needs Applicant Identity (Note: Attestation to verify Social Security card and Driver's License (or Photo ID) presented by Applicant)
- Attestation of Homelessness (Note: for clients whose Special Needs Housing eligibility is based ONLY upon homelessness)

SPECIAL NEEDS / SET ASIDE HOUSING PROGRAM

APPLICANT FILE DOCUMENTS CHECKLIST (Dated 8.2019)

For SN Applicant:

- ___ **Special Needs (SN) Application Form** (all items completed and signed by Applicant and Support Service Provider)
- ___ **Attestation of Confirmed Identity**
- ___ **Attestation of Homelessness** (for Applicants whose Special Needs Housing eligibility is based ONLY upon Homelessness)
- ___ **Proof of Special Needs Disability** (Documented evidence dated within previous 12 months of the Special Need, i.e. Diagnosis, SSI Disability Letter, etc. from an individual or organization licensed or authorized to provide said documentation)
- ___ **Proof of Income Amount and Sources (both Cash and Non-Cash benefits)**
 - Employment Check Stubs (6 months)
 - Social Security Award Letter (Supplemental Security Income/SSI or Social Security Admin /SSA)
 - All Other Income and Benefits: _____, _____, _____
- ___ **Authorization to Request/Release of Information** (signed by Applicant)
- ___ **Tenant Participation and Responsibility Agreement** (signed by Applicant)
- ___ **Commitment of Support Services Provision** (signed by Support Service Provider/Agency)
- ___ **Crisis Response Plan with Contact Numbers** (must be updated as necessary)
- ___ **Applicant Data Entered LLA Data Base Spreadsheet** (for all LIHTC properties qualified for)

After SN/SAHP Applicant is Determined Qualified:

- ___ **Client Data entered into LLA Spreadsheet**
 - Enter Date Qualified, Enter date referred to Property Manager, etc.
- ___ **Special Needs Applicant Proof of Eligibility and Letter of Referral sent to Property Manager**
- ___ **Proof of required Monthly Home Visits:**
 - i.e. Copies of Monthly Supportive Housing Checklists for each month

ATTESTATION OF CONFIRMED IDENTITY OF SPECIAL NEEDS/SAHP APPLICANT

(Note: Letter is to be placed on Support Services Provider Letterhead)

Date of Attestation: _____

To Whom It May Concern

Re: Attestation of Confirmed Identity

By this Letter of Attestation, I am attesting that the identity of this Applicant named:
_____ (Person's full name),

who was born on: _____/_____/_____ (birth day/month/year), and he/she has presented to me **two** of the following valid and official documents of which one must be a current picture identification document:

____ Government Issued Birth Certificate (original or certified copy)

____ U.S. Social Security Card issued by Social Security Administration

____ Driver's License or ID Card issued by a State with Photo

____ Voter's Registration Card

____ Native American Tribal Document with birth date (e.g. Certificate of Indian Blood)

This Attestation document will remain part of the Applicants file and will be considered proof of the Applicant's identity for which the Local Lead Agency staff is responsible for in the determination of eligibility of a Special Needs Applicant.

Support Services Provider Staff Person:

Signature/ Print Name

Date

Contact Information for Support Services Provider:

Name of Local Lead Agency or Support Services Provider (Printed)

Address _____

City, State, Zip _____

Phone Number (area code/ number) _____

ATTESTATION OF HOMELESSNESS OF SPECIAL NEEDS/SAHP APPLICANT

For Applicants whose Housing eligibility is based SOLELY upon homelessness

(Note: Letter is to be placed on Support Services Provider Letterhead)

Date of Attestation: _____

To Whom It May Concern

Re: Attestation of Homelessness or Precariously Housed

By this Letter of Attestation, I am attesting that this Applicant named:

_____ (Person's full name),

and that he/she has demonstrated to me they meet at least one of the following conditions of being Homeless or Precariously Housed:

A Household/individual is considered homeless or precariously housed if, without this assistance, he/she/ they would have to spend the night in a homeless shelter or in a place not meant for human habitation. This includes:

- a) an individual or family which lacks a fixed, regular, and adequate nighttime residence;
- b) an individual or family which has a primary nighttime residence that is:
 - 1) a supervised publicly or privately operated shelter designed to provide temporary living accommodations (including welfare hotels, congregate shelter, and transitional housing for persons with mental illness); or, 2) an institution that provides a temporary residence for individuals intended to be institutionalized, or previously institutionalized; or, 3) a public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings; or, 4) individuals who are certified by their case manager as "doubling up", "couch surfing" or staying with another household of a relative or friend.

This does not include any individual imprisoned or otherwise detained pursuant to an Act of the Congress or State law.

This Attestation document will remain part of the Applicants file and will be considered proof of the Applicant's homelessness status for which the Local Lead Agency staff is responsible for in the determination of eligibility of a Special Needs Applicant.

Support Services Provider Staff Person

Signature / Print Name

Date

Contact Information for Support Services Provider:

Name of Support Services Provider (Printed)

Address: _____ City, State, Zip: _____

Phone Number (area code/ number) _____

Forms for Termination of Special Needs status

- Acknowledgement Form between LLA, Support Service Provider; and Property Manager / Termination of Special Needs Client Status
- Termination of Special Needs/Set Aside Housing Program Client Status – Successful/Unsuccessful Discharge
- Special Needs / Set Aside Housing Program – Client Self Discharge from SN/SAHP Form

SPECIAL NEEDS / SET ASIDE HOUSING PROGRAM

Acknowledgement Form between LLA, Support Service Provider, and Property Manager

Termination of Special Needs Client Status (Dated 8.2019)

Special Needs/SAHP Client Name: _____ Client Notified: ☐ YES ☐ NO

[Section 811 PRA client: ☐ YES ☐ NO]

LIHTC Property Name: _____

Termination of Special Needs status will discontinue eviction prevention support and/or any other supportive housing services by the LLA and Support Service Provider to include monthly home visits; communication between LLA, Support Service Provider, and Property Manager on behalf of tenant; and participation in the Special Needs / Set Aside Housing Program.

The Local Lead Agency; Support Service Provider, and Property Manager hereby acknowledge that a representative of their agency has reviewed, assessed, and discussed the Special Needs/Set Aside Housing Program client status of _____[client]. It is agreed upon that the status of Special Needs for said client will be terminated after having been a Special Needs/Set Aside Housing Program client since _____[date].

Local Lead Agency: _____

LLA Representative Printed Name: _____ Date: _____

LLA Representative Signature: _____

Support Service Provider: _____

Support Service Representative Printed Name: _____ Date: _____

Support Service Representative Signature: _____

Property Management Agency: _____

Property Manager Printed Name: _____ Date: _____

Property Manager Signature: _____

(Note: Form with all parties' signature is necessary for termination of client's SN status to be valid. Copy of Acknowledgement to each agency for their records.)

SPECIAL NEEDS / SET ASIDE HOUSING PROGRAM

Termination of Special Needs/Set Aside Housing Program Client Status

Successful/Unsuccessful Discharge (Dated 8.2019)

(LLA completes form. For LLA/Support Service Provider Records.)

Special Needs/SAHP Client Name: _____

[Section 811 PRA client: ☐ YES ☐ NO]

LIHTC Property Name: _____

Date of Special Needs/Set Aside or Section 811 Eligibility: _____

Date of Move In (as a SN/SAHP and/or Section 811 client): _____

Date of Discharge: _____ **Successful** ☐ **Unsuccessful** ☐

[For termination to be valid, LLA, Support Service Provider, and Property Manager must have agreed and signed the Termination of SN/SAHP Client Status Acknowledgement Form.]

The following is the reason for the successful/unsuccessful discharge:

☐ SN/SAHP client refuses further engagement in monthly home visits and/or support services by their Support Service Provider. (Support Service Provider or LLA will have client sign *Client Self Discharge from SN/SAHP* form.)

☐ After 90 days following due diligence by Support Service Provider and/or LLA to locate client, SN/SAHP client's whereabouts are unknown.

☐ SN/SAHP client no longer meets income eligibility criteria.

☐ SN/SAHP client is unable to participate in monthly home visits and/or support services due to incarceration, hospitalization, or other circumstances of the like and is not on an inactive status. (Client may be on an inactive status not to exceed 90 days pending return.)

☐ Other

The following is information that serves as basis for successful discharge:

☐ SN/SAHP client consistently participated in SAHP program and support services for at least one year. -- Required for successful discharge.

☐ SN/SAHP client made substantial progress toward the goals of their treatment plan and no longer requires supportive housing services, monthly house visits, and/or eviction prevention support.

☐ SN/SAHP's monthly house visits were decreased in frequency, and client is now able to reside independent of further services.

Tenant: (If available)

Printed Name: _____ **Signature:** _____

Date: _____

Support Service Provider: _____

SSP Representative Printed Name: _____ **Signature:** _____

Date: _____

Local Lead Agency: _____

LLA Representative Printed Name: _____ **Signature:** _____

Date: _____

Special Needs / Set Aside Housing Program

Client Self Discharge from Special Needs / Set Aside Housing Programming

Client/Tenant Name:_____

Date of Initial Eligibility:_____

LIHTC Property:_____

Date of Voluntary Discharge:_____

I, _____, a client of the Special Needs/Set Aside Housing Program am voluntarily refusing further support services on this date, _____. I understand that by discontinuing participation in the Special Needs/Set Aside Housing program, I will no longer receive supportive housing support by the Local Lead Agency and/or Support Service provider to include eviction prevention support and monthly house visits. Any and all communication between the LLA, Support Service Provider, and Property Management on my behalf will terminate. I understand that I am able to apply at a later date, if necessary.

Tenant:

Printed Name: _____

Signature: _____

Date: _____

Support Service Provider: _____

Local Lead Agency: _____

Forms for Lease Up Processes between Local Lead Agency and Property Manager

- Special Needs Applicant Proof of Eligibility and Letter of Referral to Property Manager
- Notice of Vacancy and Referral of Special Needs Applicant
- *Notification that Resident Was Served 3, 7 or 10 Day Notice of Eviction
*(*Actual eviction notice(s) rather than notification form would be sufficient.)*

New Mexico Special Needs / Set Aside Housing Program

Special Needs Applicant Proof of Eligibility and Letter of Referral to Property Manager

(Dated 8.2019)

Instructions: The *Special Needs/Set Aside Housing Program [and Section 811 PRA Program]* must serve persons who meet program regulations and eligibility. All programs must maintain documentation on file to prove an Applicant's eligibility. Note: This form is to be used as a guide for LLA and Property Management staff. It does not serve as a substitute for the required backup documentation that should be collected and maintained in each Applicant's file.

Date Referred to Property Manager: _____ / _____ / _____

Property Name: _____ Applying for Apt Unit No: _____

Applicant Name: _____

Applicant Contact Information: Phone: (____) _____

Cell Phone: (____) _____ Email: _____

Other Contact Person: Name: _____ Phone: _____

Proof of Eligibility for Special Needs Housing

_____ Documented Verification of SAHP [or Section 811 PRA] Qualifying Disability or Homelessness

_____ Applicant for Area Median Income Apartment (AMI): (30%) (40%) (50%) (60%) AMI %

_____ Bedroom size: ___ studio; ___ 1; ___ 2; ___ 3; ___ 4

_____ Commitment of Support Services Provision signed by Support Services Provider/Agency

_____ Tenant Participation and Responsibility Agreement signed by Applicant

The Local Lead Agency staff making this referral attests that the Applicant named above is eligible and able to pay the rent for the income/size of apartment unit they are applying for; has received an orientation to tenant responsibilities; demonstrates housing readiness and skills for independent living; and, will have the sufficient support services to ensure that he/she has a reasonable prospect for successful tenancy, based on the submission to the Local Lead Agency of the Commitment of Support Services Provision form by the Support Service Provider.

Signature of LLA Coordinator

Print Name

Date

LLA Contact: Email: _____ Office Phone: (____) _____

Cell Phone: (____) _____

Support Service Provider/Agency; Contact Person: _____ / _____

Email: _____ Office Phone: (____) _____

Cell Phone: (____) _____

**NOTICE OF VACANCY & REFERRAL OF SPECIAL NEEDS/SAHP APPLICANT
FOR LIHTC HOUSING UNIT**

Version 10.2018

Notice of Vacancy at LIHTC property: *[To be sent from Property Manager to LLA via Email Attachment or Fax]*

LIHTC Property Name: _____

Address: _____ City: _____

Property Management Company: _____

Printed Name of Property Manager: _____

Office Phone: _____ Cell Phone: _____

Email: _____ Fax: _____

Date Notice Sent to Local Lead Agency: ____/____/____

Date LIHTC Unit Vacancy Notice will Expire: ____/____/____ Time: 5:00 pm

Date Housing Unit will be ready for Occupancy: ____/____/____

Comments: _____

Area Median Income (AMI) Required: ☐ (30%) ☐ (40%) ☐ (50%) ☐ (60%) _____ AMI %

Bedroom size: ☐ studio ☐ 1 ☐ 2 ☐ 3

Signature of Property Manager: _____

Response from Local Lead Agency (LLA): *[To be returned to Property Manager from LLA via Email Attachment or Fax]*

Acknowledgement of Date Received by LLA: ____/____/____ Time: ____:____ (AM/PM)

Printed Name of LLA Coordinator: _____

Office Phone: _____ Cell Phone: _____

Email: _____ Fax: _____

Attestation from LLA Coordinator of Special Needs/SAHP Referral Status:

Referral Name and Date of Special Needs Consumer by Local Lead Agency:

Name of Referral: _____ Date: ____/____/____;

LLA Release of 30 Day Vacancy Hold for SAHP Unit:

☐ Based upon a good faith effort by the LLA to recruit and screen Special Needs Applicants, there are no eligible Special Needs Applicants to refer for this housing unit identified above.

LLA Coordinator Signature: _____ Date: ____/____/____

Attachment for each Referral: Applicant Proof of Eligibility and Letter of Referral

Response from Property Manager: *[To be returned to LLA from Property Manager via Email Attachment or Fax]*

Acknowledgement of Date Received by Property Manager: ____/____/____ Time:____:____(AM/PM)

Printed Name of Property Manager:_____

Office Phone:_____ Cell Phone:_____

Email:_____ Fax:_____

If applicable, name of Service Coordinator:_____

Office Phone:_____ Cell Phone:_____

Email:_____ Fax:_____

Attestation from Property Manager of Special Needs/SAHP Referral Status:

Referral Name and Date of each Special Needs Consumer by Property Manager:

Name of Referral:_____ Date:_____/_____/_____;

Approval/Denial:

☐ Based upon a good faith effort by the Property Manager to review an application using the Tenant Screening Criteria and in compliance of the Fair Housing Act, the applicant deemed eligible as Special Needs by the LLA is APPROVED for a Special Needs Unit.

☐ Based upon a good faith effort by the Property Manager to review an application using the Tenant Screening Criteria and in compliance of the Fair Housing Act, the applicant deemed eligible as Special Needs by the LLA is DENIED for a Special Needs Unit. Basis for denial attached.

LLA Coordinator Signature:_____ Date:_____/_____/_____

Attachment for each Referral: Tenant Selection Criteria; indication of specific criteria served as basis for application denials

**NOTIFICATION THAT RESIDENT WAS SERVED NOTICE
OF EVICTION (3, 7 or 10 DAY) FROM LIHTC PROPERTY** [Version 8.2018]

This Section is completed by the Property Manager: *Send to LLA via E-mail Attachment ONLY (do not fax).*

Attachment: *Copy of Eviction Notice Served; Property Rules and/or lease with indication of rule(s) violated*

LLA Organization: _____ LLA Coordinator Name: _____

Date Sent to LLA Coordinator: _____ / _____ / _____ Time: _____ AM/PM

LIHTC Property Name: _____ Property Manager Name: _____

Address: _____ City _____ State _____ Zip Code _____

Phone: _____ Fax: _____ E-mail: _____

Property Management Company: _____

Resident/Tenant Name: _____ **Apartment No.** ____

1st Notice(s) Served to Resident: (**attach a copy**): ☐ 3 Day ☐ 7 Day ☐ 10 Day ☐ Other

☐ Notice of Non-payment of Rent ☐ Notice of Non-compliance other than Non-payment of Rent ☐ Other

Notice Date: _____ / _____ / _____ Time: _____ AM/PM

Type of Issue(s): _____

Date Notice Sent to Local Lead Agency: _____ / _____ / _____

Date Copy Sent to On-Site Services Coordinator (if applicable): _____ / _____ / _____

ATTACHMENT FOR EACH EVICTION NOTICE: **Property Rules and/or lease with indication of rule(s) violated.**

2nd Notice(s) Served to Resident: (attach a copy): ☐ 3 Day ☐ 7 Day ☐ 10 Day ☐ Other

☐ Notice of Non-payment of Rent ☐ Notice of Non-compliance other than Non-payment of Rent ☐ Other

Notice Date: _____ / _____ / _____ Time: _____ AM/PM

Type of Issue(s): _____

Date Notice Sent to Local Lead Agency: _____ / _____ / _____

Date Copy Sent to On-Site Services Coordinator (if applicable): _____ / _____ / _____

ATTACHMENT FOR EACH EVICTION NOTICE: **Property Rules and/or lease with indication of rule(s) violated.**

In accordance and compliance of the Fair Housing Act, I find the above tenant violation(s) to merit an eviction notice:

Signature Date Property Manager Title

This Section is completed by the Local Lead Agency

Date Received by LLA Coordinator: _____ / _____ / _____ Time: _____ AM/PM

Resident's Service Provider/Agency Name: (if applicable) _____

Date Resident's Services Provider/Agency date notified _____ / _____ / _____

Resolved: ☐ Yes ☐ No Comments: _____

Signature Date LLA Coordinator Title

Printed name of LLA Coordinator: _____ Phone: _____

E-mail: _____

Agreements and Scopes of Work

- ****Special Needs Use Certification—Initial** [signed by Housing Owner/Developer] ****Form**
pertains to the initial lease up.
- **Special Needs Set Aside Agreement** [signed by Local Lead Agency and Housing Owner/Developer]
- **Local Lead Agency Annual Scope of Work Agreement** [signed by Local Lead Agency and Behavioral Health Service Division/Human Service Department]

“SPECIAL NEEDS” USE CERTIFICATION - INITIAL

I have read and understand to the definition of “Special Needs Household” and “Local Lead Agencies (LLAs)” as defined in the 2016 Qualified Allocation Plan.

By signing this certification, Project Owner(s) _____ and _____ commit(s) _____ (Project) commits to reserve units for Special Needs Households as outlined below and in the attached *Special Needs Housing Set-Aside Agreement*.

Check one of the following:

- ☐ **20 percent of the units set-aside as special needs units. In addition, Project Owner commits to rent restricting 50 percent of the special needs units at 30 percent of AMI, or at 30 percent of tenant’s income via a rental assistance contract. (15 points)**
- ☐ **5 percent of the units set-aside and 5 percent of units rent restricted at 30 percent of AMI, or at 30 percent of tenant’s income via a rental assistance contract (5 points)**

“Reserved” will mean that the units may not be rented to other households unless the unit has been marketed for 30 days and no qualified households have been referred by the Local Lead Agency (LLA).

LLA(s) will be identified for the geographic area and for the Project by the New Mexico Behavioral Health Collaborative.

The Project Owner commits to having a signed *Special Needs Housing Set-Aside Agreement* with the LLA, substantially similar in content and purpose as the attached sample agreement, at Carryover Allocation for the Project. **Failure to sign the *Special Needs Housing Set-Aside Agreement* may result in a cancellation of the Tax Credit Reservation.**

Signature

Signature

Name

Name

Title

Title

Date: _____

Date: _____

Special Needs Housing Set-Aside Agreement
Between
Local Lead Agency and Project Owner

WHEREAS, _____ (“Project”), more particularly described in **Exhibit A**, was awarded Low-Income Housing Tax Credits (“LIHTC”) assistance from the New Mexico Mortgage Finance Authority (“MFA”) to construct or rehabilitate [# of units] apartment units in _____, New Mexico; and

WHEREAS, _____ (the “Project Owner”) committed to reserve _____ percent (%) of the total units (“Special Needs Units”) to individuals/households that meet the definition of “Households with Special Needs” as defined in the 2016 State of New Mexico Housing Tax Credit Program Qualified Allocation Plan (“QAP”) eligible and

WHEREAS, _____ (the “Local Lead Agency”) provides, coordinates or contracts with agencies that provide direct community-based services in the _____ County area to these populations; and

WHEREAS, the Local Lead Agency seeks to expand and support supportive housing opportunities for Households with Special Needs in their communities, and

WHEREAS, there are certain terms contained within this Special Needs Housing Set-Aside Agreement (“Agreement”) that are capitalized shall be defined in the manner set forth in such Glossary attached as Exhibit B, the QAP, or Section 42 of the Internal Revenue Code, and

WHEREAS, the Project Owner may have special conditions pertaining to the Project that are unique and such conditions and any requirements of those conditions are contained and set forth in **Exhibit C** (included, only if applicable),

NOW, THEREFORE, the Project Owner and the Local Lead Agency agree to the following roles and responsibilities regarding the [# of units] Special Needs Units reserved within Project for Households with Special Needs.

PROJECT OWNER

The Project Owner shall:

Set-aside [# of units] of Special Needs Units for persons eligible as described in the QAP and referred by the Local Lead Agency.

- A. Assure that the _____[# of units] Special Needs Units will not be segregated within the Project or in any way be distinguishable (beyond, if applicable, the presence of accessible features or assistive technology) from any other unit in the Project.
- B. Assure that the _____[# of units]_Special Needs Units remain available to eligible members of the Special Needs Household population and that the purposes and provisions of this Agreement are maintained through the Compliance Period as defined in Section 42 of the Internal Revenue Code, as amended and any Extended Use Period.
- C. Meet with the Local Lead Agency and Property Manager to facilitate initial lease up of Special Needs Units; work jointly with the Local Lead Agency and Property Manager in developing the initial lease up calendar of target dates; and ensure ongoing and effective communication between all parties to this agreement.
- D. Promptly notify the Local Lead Agency and Property Manager, via email and phone, of any updates, delays or anticipated delays of the construction, delivery and issuance of certificate of occupancy for the Special Needs Units during the initial lease up phase of the property.
- E. Assure that arrangements outlined in this Agreement are maintained through the Compliance Period and Extended Use Period for the Special Needs Units.
- F. Provide or made to be provided reasonable accommodations/modifications as required under the provisions of the Fair Housing Act (“FHA”), Section 504 of the Rehabilitation Act of 1973 (“Rehab Act”), the Americans with Disabilities Act (“ADA”) and any other current local or state fair housing laws with which Projects are already expected to comply.

LOCAL LEAD AGENCY

The Local Lead Agency shall:

- A. Pre-screen Special Needs applicants and make best efforts to assure that applicants referred to Project Owner or Property Manager for tenancy in the Special Needs Units:
 - Are members of the eligible population as defined herein,
 - Do not have household income in excess of applicable LIHTC limits for the property,
 - Have sufficient income to cover rent and tenant-paid utilities, and
 - Appear able to uphold his or her responsibilities under the lease as participants in this program.

- B. Refer SNU Applicants to Project Owner or Property Manager for the duration of the Compliance Period and Extended Use Period. The Local Lead Agency must provide a standard letter of referral for each household referred to live in a Special Needs Units.
- C. Work with SNU Applicants to obtain and submit to Project Owner or Property Manager required supporting documentation such as sources of income and birth certificates, and
- D. Consistently maintain a waiting list for SNU Applicants eligible to reside in the Special Needs Units so that SNU Applicants can be referred according to agreed upon time frames to Project Owner or Property Manager for vacant Special Needs Units based upon the number of units specified in the application to MFA and LIHTC Land Use Restriction Agreement. If requested by Property Manager, Local Lead Agency shall provide Property Manager with a copy of the waiting list, and updates to the waiting list shall be provided as reasonably requested by Property Manager.
- E. Assist the referred SNU Applicants in the application process, including requesting and negotiating Reasonable Accommodations and Modifications as described in the FHA, the Rehab Act, and the ADA.
- F. Ensure that support services will be provided by the Household with Special Needs' referring or designated services provider organization. Support services will be available to Households with Special Needs on an as requested basis; are not a condition of tenancy but shall be provided as needed to support successful tenancy; and, as indicated by the Tenant's Services Plan jointly developed by the tenant and provider/organization. It is understood and agreed that these supportive services are not the responsibility of the Property Owner or Property Manager. If the designated services provider organization fails to provide the necessary services, the Local Lead Agency will intervene to avert eviction of the tenant; and, then assist the tenant in securing and designating another services provider organization.
- G. Facilitate communication with the Project Owner or Property Manager by designating and maintaining, in the event of staff turnover, a named individual as the tenant services liaison on matters related to units reserved for Households with Special Needs.

PROPERTY MANAGER

The Project Owner shall cause the Property Manager to:

- A. Provide a copy of the tenant selection plan to the Local Lead Agency.
- B. Promptly notify the Local Lead Agency via date and time stamped written or email communication, whenever the Property Manager becomes aware that a Special Needs Units is, or is becoming, available, including at initial occupancy and vacancy turnover.

- C. Promptly notify the Local Lead Agency via email and phone, of any updates, delays or anticipated delays of the construction, delivery and issuance of certificate of occupancy for the Special Needs Units during the initial lease up phase of the property.
- D. Meet with the Local Lead Agency and Project Owner as needed to facilitate initial and ongoing lease up of Special Needs Units; work jointly with the Local Lead Agency in developing the calendar of initial lease up target dates; and ensure ongoing and effective communication between all parties to this agreement.
- E. Participate in any Community Stakeholder meetings at the initial Project lease up phase and as necessary thereafter to facilitate access to Special Needs Units.
- F. Screen all tenants referred by the Local Lead Agency using its established nondiscriminatory screening criteria.
- G. Work with Local Lead Agency to obtain all required supporting documentation from tenants.
- H. Comply with all applicable federal, state and local laws regarding fair housing and nondiscrimination.
- I. Include language on Reasonable Accommodations under the Fair Housing Act and other relevant statutes and regulations on its application for tenancy.
- J. If more than one unit is available, owner shall allow tenant to select between units for which they meet tenant selection plan criteria.
- K. In the event a Household with Special Needs from the Local Lead Agency's waiting list does not meet the established criteria, the Property Manager shall notify the SNU Applicant and the Local Lead Agency within three (3) working days of referral and entertain requests for Reasonable Accommodations in accordance with State and Federal Fair Housing Law and the provisions of this Agreement. SNU Applicants shall be provided with an opportunity to appeal a rejection to the extent that the SNU Applicant is entitled to that right under the FHA, Rehab Act, or the ADA. The Property Manager shall not be obligated to provide the Local Lead Agency with any personal information concerning the SNU Applicant if the SNU Applicant does not consent to the release of same.
- L. Referral Process:
 - 1. During the Initial Lease Up period, the Property Manager will notify the Local Lead Agency via date and time stamped written or email communication of Special Needs Units to become available 30 days in advance of unit availability. The Local Lead Agency will refer one or more Households with Special Needs for application within the following established deadline:

- For developments with a set aside of 4 units or fewer referrals must be made within 7 business days after receipt of written or email notice from the Property Manager.
- For developments with a set aside of 5 or more units referrals must be made within 14 business days after receipt of written or email notice from the Property Manager.

The Property Manager must accept a *qualified* Household with Special Needs referred within 30 days of date that notice of unit availability was delivered to the Local Lead Agency, prior to accepting any other applicant for such unit. Property Managers who are under tight deadlines to meet their tax credit deadlines can negotiate with Local Lead Agencies to increase the timeliness of referrals.

2. After the Initial Lease Up period, when a unit reserved for Households with Special Needs becomes available, if the Local Lead Agency refers one or more Household with Special Needs within a reasonable period not to exceed 7 days after receipt of written notice from the Property Manager of notice of unit availability, the Property Manager must accept or decline such Household with Special Needs referrals prior to considering any other applicant(s) for such unit.
3. If the Local Lead Agency is unable to provide a referral within the allotted period, it may exercise its rights to extend the period it has to make preferential referrals for up to 25 additional days. In this case, the Property Manager is compelled to refrain from renting the unit to a tenant other than a SNU Applicant for an additional period of up to 25 days. However, in this case the Local Lead Agency must offer to compensate the Project Owner for the loss of rental income for a period of up to 25 days. If the unit is rented earlier than 25 days after it is vacated, the Local Lead Agency is only obligated to compensate the owner for the period of time between the end of the last lease and the beginning of the next lease, regardless of whether the Local Lead Agency used the full 25 days to make its referral.
4. Any notice of rejection of a SNU Applicant must be provided in writing to the SNU Applicant and to the Local Lead Agency, must provide the reason(s) for rejection in sufficient detail to permit the SNU Applicant to understand and respond to the rejection, must provide an opportunity for an informal conference, and must include a statement that if the reason(s) for rejection are related to a disability, a request for Reasonable Accommodation may be presented at or before the informal conference, provided that the Property Manager shall not be obligated to provide the Local Lead Agency with any personal information concerning the SNU Applicant if the SNU Applicant does not consent to the release of same. The determination of whether the accommodation request is reasonable and whether the request will influence the SNU Applicant's eligibility determination is to be made within one week.

5. If there is no Reasonable Accommodation that will improve the SNU Applicant's eligibility determination, and the Local Lead Agency finds that the Project Owner met his obligations to participate in a process to reach a reasonable accommodation, the owner may proceed to consider the other SNU Applicants, if any, that were referred by the Local Lead Agency.
 6. If all SNU Applicants that were referred in the initial referral period (or the 25- day extension exercised by the Local Lead Agency) are declined (and given their right to a seven-day period to work out a reasonable accommodation) the unit may be rented to any applicant eligible for the unit under tenant selection restrictions imposed by MFA. The next available unit in the property will be made available for referral for a SNU Applicant from the Local Lead Agency's Special Needs Household waiting list. The Property Manager is not required to hold a unit if the SNU Applicant fails to provide needed information (for example, verification of income) within 10 calendar days. The Property Manager is not obliged to accept a referred SNU Applicant unless the SNU Applicant is acceptable in accordance with the Property Manager's standard nondiscriminatory resident selection criteria (which must be applied consistently to all applicants for all units in the property).
- M. Facilitate communication with Local Lead Agency by designating and maintaining, in the event of staff turnover, a named individual as the primary contact on matters related to the Special Needs Units.

All Parties

All parties to this Agreement agree:

- A. The Local Lead Agency, Property Manager and Project Owner will work jointly to ensure ongoing and effective communication is maintained at all times between all parties to this Agreement.
- B. That the Local Lead Agency is responsible for communicating as needed with the Project Owner and Property Manager to ensure timely referrals of qualified SNU Applicants to available Special Needs Units.
- C. That the provisions and the spirit of this agreement notwithstanding, decisions on the admittance and/or retention of tenants according to Fair Housing are the responsibility of the Project Owner and Property Manager.
- D. That tenant participation in supportive services will not be a condition of tenancy.
- E. That, in the event that disagreements or difficulties arise between the parties to this Agreement that they are unable to resolve through open and cooperative dialogue, they will seek assistance in resolving these conflicts through conference with the New Mexico Behavioral Health Collaborative's designated Statewide Entity (SE) responsible for contracting with Local Lead Agencies, and, a representative of MFA.

- F. That the terms of this Agreement for the Project prepared jointly by the Project Owner, Property Manager and Local Lead Agency as well as any attachments specified are hereby incorporated by reference.

Term

- A. The initial term of this Agreement is three years.
- B. The Project Owner (and its successors or assigns) shall accept renewals of this Agreement, if offered by the Local Lead Agency (and its successors or assigns) on substantially the same terms, for a term (or terms) not to exceed the duration of the Compliance Period and Extended Use Period.
- C. Neither expiration nor termination of the Agreement shall relieve the Project Owner of any of its obligations under leases with Special Needs Households.

Ability to Assign

A. The Local Lead Agency may not assign this Agreement without the prior written consent of the Statewide Entity and the MFA, which consent shall not be unreasonably withheld.

B. The Project Owner may assign this Agreement and its obligations hereunder to any successor to its business by merger or consolidation or to any party acquiring substantially all of the assets of the Project Owner's business, provided the assigning party guarantees the performance of and causes the assignee to assume in writing all obligations of the assignor under this Agreement and has received approval from the MFA.

C. The rights and obligations of this Agreement shall bind and benefit any successors or assignees of the parties.

Default

- A. Default on the terms of this Agreement by the Project Owner shall constitute a default under one or more of the Land-Use Restriction Agreements pertaining to the Project under the Low Income Housing Tax Credit regulatory agreements.
- B. Both parties are required to notify one another, MFA, the Behavioral Health Collaborative and the Behavioral Health Collaborative's designated Statewide Entity responsible for

contacting with the Local Lead Agencies in the event a default has believed to have occurred.

In Witness Whereof, the parties have executed or caused this Agreement to be executed by their duly authorized representatives as of the date written below.

Project Owner:

By: _____

Date: _____

Executive Director

Local Lead Agency:

By: _____

Date: _____

Executive Director

Attachments:

Property description including the specific mix of units designated as reserved units for Special Needs Household, any adaptability or accessibility features and /or assistive technology beyond the required minimums.

Contact information for all parties to this Agreement

Exhibit A: Property Description

Exhibit B: Glossary of Terms

Exhibit C: Special Conditions (if applicable)

Scope of Work

Local Lead Agency Provider Agency

Lead Agency: BHSD

State Fiscal Year: SFY20 (July 1,2019 - June 30,2020)

Services: Client Services

Billing Type: Invoice

Funding: State General Funds

Fund Pool: BB20 : Supportive Housing (State)

Project: Local Lead Agency

CFDA# (If Applicable):

The Vendor shall perform the work outlined in this Scope of Work and attached Appendices which are hereby incorporated and made a part of the Agreement.

I. PROGRAM DESCRIPTION; TARGET POPULATION

The Provider shall administer the “Local Lead Agency (LLA) Low Income Housing Tax Credit (LIHTC) Units for People with Special Needs (SN)” to consumers of the Administration Services Organization (ASO) Provider Network located in _____ County, hereinafter referred to as the Provider’s ‘geographic service area.’ Eligible consumers shall meet all eligibility criteria set forth in this Scope of Work (SOW) and in Guidelines and Procedures for Local Lead Agency (LLA) Low Income Housing Tax Credit (LIHTC) Units for People with Special Needs and in Special Needs Housing Set-Aside Agreement between Local Lead Agency and Project Owner /Developer.

The Provider represents and warrants that it has the necessary administrative capacity for the local implementation, administration, and delivery of the program in accordance with this Agreement, Scope of Work, and Guidelines and Procedures.

A. Definitions

Section 1.1 “Consumer” shall mean an individual with a qualified, diagnosed, and documented disability, or who is homeless in accordance with the Special Needs (SN) tenant definition in the New Mexico Low Income Housing Tax Credit Program and entitled to receive covered services under a benefit plan, or meets the criteria from the funding stream involved in this Agreement.

Section 1.2 “Provider” shall mean Supportive Services Provider who has agreed to this written contract of cooperation with the ASO. The Provider, its agents, and employees are independent contractors performing professional service for the ASO and are not employees of the ASO or employees of the State of New Mexico.

Section 1.3 “Referring Service Provider” shall mean the provider that referred the consumer to the Local Lead Agency Provider to be screened for eligibility of the LLA/LIHTC programming and able to provide services to consumer in support of

their tenancy maintenance. The Referring Service Provider is not affiliated or establishing an agreement to this written contract.

Section 1.4 “Low Income Housing Tax Credit (LIHTC) Units for People with Special Needs,” shall mean units within Low-Income Housing Tax Credits (LIHTC) properties that were awarded tax credits by the New Mexico Mortgage Finance Authority (MFA) with the specified number of units for people with qualified disabilities or homeless that meet the definition of ‘Special Needs Household (SNH),’ as defined in the State of New Mexico Housing Tax Credit Program’s Qualified Action Plan (QAP), Year designated. The designated units are the responsibility of the Local Lead Agency noted herein and are intended to increase access to housing for consumers who have a diagnosed disability, or, who are homeless.

Section 1.5 “Local Lead Agency (LLA)” shall mean the provider agency in a geographic service area that coordinates or contracts with other support service agencies and/or referring service providers that provide direct community-based services to the target population. LLAs seek to support opportunities for supportive housing for homeless and people with disabilities in their communities as defined in accordance with this Agreement, Scope of Work, and Guidelines and Procedures.

Section 1.6 “Program Guidelines and Application” shall mean those Local Lead Agency (LLA) Low Income Housing Tax Credit (LIHTC) Units for People with Special Needs program policies attached in accordance with this Agreement, Scope of Work, and Guidelines and Procedures. Providers must adhere to these guidelines in administering the program.

II. PROGRAM REQUIREMENTS

A. Scope of Services

Section 2.1 The ASO will disburse LLA stipends to cover a portion of associated administrative and programmatic costs to the Provider. Specifically, due to the specialized nature of supportive housing activities performed by the Provider as the LLA, the ASO expects the Provider to begin to shift the use of the LLA stipend to help support the hiring of 0.5/ 1.0 Full Time Employee (FTE) salary as a Housing Specialist with oversight of tasks directly related to implementation and administration of the LLA roles and responsibilities as defined in accordance with this Agreement, Scope of Work, and Guidelines and Procedures. LLA stipends can also be used for the following:

- a) For support staff to attend LLA trainings;
- b) Conduct community outreach, education, and awareness about housing units for people with special needs;
- c) Administer intakes, conduct screenings, manage waitlists, and process referrals to the LIHTC project property manager;
- d) Pay travel expenses related to LLA roles and responsibilities;
- f) Provide move in assistance for Special Needs tenants (to include deposits, utilities, acquisition of furniture, and household goods) and;

- g) Other necessary expenditures in connection with LLA roles and responsibilities as pre-approved by ASO or BHSD Program Manager.

Section 2.2 The Provider shall pre-screen and refer applicants, maintain a wait list, identify a referring services provider, and/or provide services.

- Pre-screen Special Needs applicants and make best efforts to assure that applicants referred to Owner or Owner designated Property Manager for tenancy in the units reserved for Special Needs Households:
 - Are members of the eligible population as defined in accordance with this Agreement, Scope of Work, and Guidelines and Procedures;
 - Do not have household income in excess of applicable LIHTC limits for the property;
 - Have sufficient income to cover rent and tenant-paid utilities; and
 - Appear able to uphold his or her responsibilities under the lease as participants in this program.
- Request that the Referring Services Provider, in collaboration with Local Lead Agency, determine the applicant's capacity for living independently with support services and maintaining their supportive housing unit.
- Ensure that an assessment of service needs is conducted by the Referring Services Provider for the prospective special needs applicant in order that services related to the assessment and the applicant's needs are provided.
- Coordinate Releases of Information for the Special Needs applicant as necessary for purposes of applying for special needs housing units and ensuring adequate services are provided for special needs tenants.
- Meet with the local special needs Housing Developer and their designated Property Manager a minimum of 3 months prior to LIHTC project construction completion to ensure ongoing and effective communication; and, to develop a lease up calendar of target dates in the initial housing project lease up phase to facilitate timely initial lease up and turnover of Special Needs units.
- Refer eligible Special Needs applicants to the Owner or Owner-designated Property Manager for the duration of the Compliance Period and Extended Use Period. The Provider must provide a standard letter of referral for each household referred to live in a permanent supportive housing unit.
- Work with applicants to obtain and submit to Owner or Property Manager required supporting documentation such as sources of income and birth certificates.
- Continuously maintain an active, viable waiting list of screened applicants eligible to reside in the units reserved for Special Needs Households so that applicants can be referred according to the agreed upon time frames to Owner or Owner-designated Property Manager for vacant special needs housing units, based upon the number of units specified in the Owner's application to MFA and LIHTC Land Use Restriction Agreement (LURA). If requested by the Property Manager, the Local Lead Agency shall provide Property Manager with a copy;

updates to the wait list shall be provided as reasonably requested by Property Manager.

- Assist the referred applicants and their Referring Services Provider with requesting and negotiating Reasonable Accommodations and Modifications as described in the Fair Housing Act of 1968, Section 504 of the Rehabilitation Act, the Americans with Disabilities Act, and other Federal or State regulations that relate to consumers and fair housing.
- Ensure that support services will be provided by the Special Needs tenant's Referring or Designated services provider organization. Support services will be available to Special Needs households on an as requested basis; are not a condition of tenancy; but shall be provided as needed to support successful tenancy; and, as indicated by the Tenant's Services Plan jointly
 - Developed by the tenant and provider/organization;
 - It is understood and agreed that these supportive services are not the responsibility of the Owner or Property Manager;
 - If the designated services provider organization fails to provide the necessary services, the Local Lead Agency will intervene to avert eviction of the tenant; and
 - Assist the tenant in securing and designating another services provider organization.
- Facilitate communication with the Property Owner and owner-designated Property Manager by designating and maintaining, a named individual within the Local Lead Agency staff as the Tenant Services Liaison for each LIHTC property that has more than ten (10) Special Needs Units, on matters related to units reserved for Special Needs Households.

Section 2.3 Manage Tenant Referral Process for Special Needs Units

- Track SN units in the Provider's service area and facilitate the timely and appropriate referral of prospective SN tenants to available units.
- Establish a process and requirements utilizing existing resources to the extent possible for continuous outreach to potential tenants;
- Establish appropriate screening procedures to ensure applicants are eligible for SN and implement housing preferences;
- Manage tenant selection to maximize housing choices and options for eligible SN applicants;
- Manage a SN database with applicant's current contact information (email or phone number) for assuring ongoing contact with applicants and their referring service provider so that they may be kept up to date with new SN developments and their waiting list status;
- Provide housing readiness information for potential SNH tenants and referring organizations;

- Ensure applicants are referred to units that are a good match in terms of location, access to services, rent affordability, and other applicant preferences; and
- Manage the SN tenant referral process such that required timeframes for initial lease up and vacancy turnover are met.

Section 2.4 Other Responsibilities

- The Provider shall follow the policies and procedures as outlined in the ***Local Lead Agency Operations Manual*** and any subsequent policy amendments issued.
- The Provider shall maintain multiple methods of access and communication on behalf of the local community including phone and fax; providing 2 agency persons contact email addresses available to receive and respond to calls and inquiries; and, that the LLA shall endeavor to respond to inquiries within 48 hours of contact or sooner. The LLA shall have an accessible agency web site in which the LLA informational brochure and special needs housing application shall be continually posted.
- Submit requested data to the ASO and Behavioral Health Collaborative on special needs units, referrals, access to services, and summary data on tenants;
- Maintain and update as needed a **primary contact log** for each LIHTC property containing the name and contact information for lead staff of the Developer, Property Manager, and LLA agency including the LLA's Tenant Services Liaison, if applicable.
- The Provider shall submit a **list of Services Providers** and organizations within their geographic service area that they collaborate, partner, and/or notified about the Local Lead Agency (LLA) Low Income Housing Tax Credit (LIHTC) Units for People with Special Needs program to the BHSD Supportive Housing Coordinator by the first and third quarter of the fiscal year, as deemed necessary by the BHSD Supportive Housing Coordinator.
- For new LIHTC property lease up processes, the LLA will develop a **lease up calendar** of target dates in the initial housing project lease up phase based upon the housing developer's projected construction completion date and target lease up date for LIHTC purposes. This lease up calendar shall include dates for a Community Stakeholder Meeting; deadlines for receipt of SN applications; lottery date and target lease-up dates; and any other relevant dates. This calendar of target dates shall be updated as needed depending upon any changes in the project construction timetable.
- Ensure the LLA lead staff and direct SN placement staff attend **Fair Housing Trainings** a minimum of once every two years to acquire and maintain a working knowledge of Fair Housing and Reasonable Accommodations and Reasonable Modifications (RA/RM) regulations to be able to support the prospective SN tenant in requesting a RA/RM and the referring services provider in guiding the SN tenant.

- In each calendar year, **acquire the annual updated LIHTC fair market value rents** and income chart for each LIHTC housing project in the County that the LLA is responsible for from the Property Manager, ASO, BHSD, or NM Mortgage Finance Authority staff.
- Participate in **LLA orientation and ongoing supportive housing trainings**, as requested by BHSD staff.
- Participate in **Local Lead Agency regional and statewide provider conference calls** as requested by the LLA technical assistance provider/contractor or BHSD staff.
- To the extent resources are available; assist potential SN tenants (on a case by case basis) with appropriate expenses associated with moving in and establishing a tenancy (i.e. security deposit, first/last months' rent, utility hookup fees, moving expenses, basic furnishings).
- Ensure outreach to and engagement of all prospective SN tenants to announce the availability of SN units in the community including posting of a newspaper ad in the local county newspaper (initial lease up), posting information on other local community websites as appropriate, and communicating via established community email groups.
- Create and lead a **Supportive Housing Learning Community (SHLC)** in the Provider's service area using the first local Community Stakeholder Group attendees and invitees for the initial formation. This county-wide Supportive Housing Learning Community shall be inclusive of all disability advocacy groups and (referring) support services provider agencies in that county that serve the Special Needs population, as defined for each LIHTC property according to the LIHTC Qualified Action Plan. The SHLC will meet as often as necessary with a **minimum frequency of two meetings per year**, or more frequently if needed to educate the public and facilitate and support equal access to special needs housing units for all prospective SNH tenants. The SHLC's goal will be to ensure that Referring Services Providers and advocacy groups have the knowledge, tools, and resources to provide special needs tenants with the services and supports they need to be successful. This will be accomplished through the convening, facilitation, and guidance by the Local Lead Agency (LLA) and the active participation of all providers, advocacy groups, and peers who serve the SN population to:
 - a) Share lessons learned and evidenced-based best practices in supportive housing;
 - b) Fair housing and reasonable accommodations/modifications rules and regulations; and
 - c) Local community resources available for move in expenses, household goods and eviction prevention.

There are circumstances that may serve as justification for a Provider to request of BHSD an approval to have one SHLC meeting per year rather than two; the basis allowing for an approval by the BHSD Supportive Housing Coordinator

include but are not limited to the following: the amount of filled SN units within that year, the outreach conducted by the provider besides SHLC meetings and/or the Provider's presentation(s) during other various community meetings; meetings facilitated by the provider with supportive housing topics relevant to SN and the specific community location; and/or the location of an LLA being rural and limited with which agencies to pursue outreach. Approval to decrease the minimum frequency of two meetings per year will be limited to a Providers with a valid basis of justification and requested of the BHSD Supportive Housing Coordinator before the last quarter of the fiscal year.

- The LLA shall submit Sign in Attendance Sheets and the Agenda for each Supportive Housing Learning Community meeting held during the program year with a minimum requirement of two meetings unless the Provider received approval from the BHSD Supportive Housing Coordinator to have one meeting.
- To the extent resources are available, perform the aforementioned Local Lead Agency services for other non-LIHTC special needs housing programs such as U.S. Housing and Urban Development special voucher allocations.

Section 2.5

- The Provider accepts full responsibility and liability for the Scope of Work/Services as described in this Agreement, and shall defend, hold harmless and indemnify the ASO or the State of New Mexico against any and all claims or liabilities, including attorneys' fees and cost of litigation, arising out of the Provider's performance of or failure to perform the Scope of Work as described herein.

B. Special Requirements

Section 3.1 The LLA shall maintain all relevant records, and make available for review if requested, the following documents, including but not limited to: the LLA's special needs housing marketing brochure; newspaper advertisement(s) of special needs application process citing the open and close dates for receipt of applications; all special needs housing referral applications submitted to the LLA for review; the list of special needs applicants eligible for inclusion in the lottery; the special needs application lottery results list; and the LLA data base which is updated on a continual basis.

A LLA site monitoring visit will be conducted by staff on an as needed basis to determine any technical assistance, training or resources required to ensure appropriate documentation, and optimum services and supports are provided for special needs tenants served by the LLA. LLA's shall provide Special Needs Program information and records for site visits as requested by BHSD and/or ASO staff.

III. DELIVERABLES AND REPORTS

The Provider will be required to submit all requested program and financial reports to the ASO according to the attached Exhibits for the previous month's activities on or before the 5th day of the following month and/or reports using an approved format developed by the ASO and BHSD and generated by a vendor management system. Failure to submit reports in a timely manner may result in termination of this contract.

The Provider shall submit a list of agencies in their geographic service area that have been notified about the Program by the first quarter of the fiscal year, as deemed necessary by the BHSD Supportive Housing Coordinator, and cited herein.

All service components must be provided by adequately trained, licensed and qualified staff as appropriate to services provided and as stipulated by the New Mexico Licensing Board.

IV. COMPENSATION

The ASO (Administration Service Organization) shall enter into contractual agreement with the Behavioral Health Services Division (BHSD), the payer, to compensate the Provider for services delivered by Provider. BHSD is financially responsible for compensation to the ASO so that the ASO may reimburse the Provider. The ASO functioning as the payer for BHSD will reimburse the Provider only after they have received appropriate financial compensation.

Funding for the program shall be disbursed via reimbursement after all required reporting and backup documentation is received. Provider's State Allocation for this program shall be sent out to Provider under a separate notice of State Allocation. Such State Allocation may be unilaterally changed from time to time and is subject to funding availability by the State and/or Federal funding. The State Allocation is contingent upon satisfactory completion of the requirements defined in the Agreement and this Scope of Work, reporting deliverable(s), and availability of State and/or Federal funds. Regardless of the Provider's billing method (i.e. invoice, voucher, claims, other permitted billing method, or a combination thereof) all services billed for are subject to the State Allocation as set forth in Provider's notice thereof.

Final payments of the amounts due under this Agreement to the Provider shall operate as a release of the ASO, their officers, and employees from all liabilities, claims, and obligations whatsoever arising from or under this Agreement.

A. Invoice

Provider agrees to utilize the BHSD approved invoicing system (BHSD Star) and/or the BHSD approved Workbook and backup documentation. Provider agrees to draw down program funds according to the procedures and minimum frequency approved for this program and to provide all required reporting and backup documentation related thereto. If the Provider's invoice and documentation is not properly completed and submitted it

may cause the Provider's reimbursement to be delayed. Faxes and hand-delivered invoices will not be accepted. All submissions must be made electronically.

The Provider shall submit a completed invoice to the ASO through the BHSD approved invoicing system within 30 days of services rendered in the prior month. Reimbursement of invoices submitted more than 30 days after services are rendered will be subject to approval by the BHSD Program Manager and possible denial of reimbursement.

Source documentation substantiating the invoice shall be made available to ASO without notice, and records and financial audits related to this Agreement shall be made available for inspection. The Provider shall be responsible for paying employer and employee portions of FICA, as well as any other applicable federal, state and local taxes.

When a Provider submits invoices, the Provider agrees to use the approved Workbook that includes the ASO Invoice and provide all required reporting and backup documentation related thereto. The BHSD Workbook may be changed from time to time. The Provider's Workbook and necessary backup documentation (sign-in sheets, receipts, etc.) must be complete and submitted electronically to the BHSDStar System at bhdsstar.org. If the Provider's Workbook/Invoice is not properly filled out and complete, it may cause reimbursement to be delayed. Faxes and hand-delivered invoices will not be accepted. All submissions must be made electronically. Providers will only be able to submit invoices for the prior month's activities. The invoice submission period will always be the first 14 days of each month.

Assignment of Contract

Special Needs Housing Set-Aside Agreement Between

Local Lead Agency and LIHTC Property Owner

_____ (“Assignor”) hereby assigns and otherwise transfers (“assigns”) the Local Lead Agency responsibilities to _____ (“Assignee”) all rights and obligations held by Assignor pursuant to the *Special Needs Housing Set Aside Agreement between Local Lead Agency and Owner* (“contract”) described as follows:

Contract dated _____ between _____ (“Owner”) of _____ (“property”) and Assignor and concerning the roles and responsibilities regarding the three (#) units of Special Needs Housing within the _____ rental housing property.

Assignor warrants and represents that said contract is in full force and effect and is fully assignable. Assignor further warrants that it has the full right and authority to transfer said contract and that contract rights herein transferred are free of lien, encumbrance or adverse claim. Said contract has not been modified and remains on the terms contained therein.

Assignee hereby assumes and agrees to perform all remaining obligations of Assignor under the contract and agrees to indemnify and hold Assignor harmless from any claim or demand resulting from non-performance by Assignee. Assignee shall be entitled to all monies remaining to be paid in relation to the contract, which rights are also assigned hereunder.

This Assignment shall become effective as of the date executed below and shall be binding upon and inure to the benefit of the parties, their successors and assigns.

Dated: _____

Assignor

Dated: _____

Assignee

Forms for Local Lead Agency's LIHTC Property File

- SN/SAHP LIHTC Property File Checklist

SPECIAL NEEDS / SET ASIDE HOUSING PROGRAM

LIHTC PROPERTY FILE DOCUMENTS CHECKLIST (Dated 8.2019)

For each LIHTC Property:

INITIAL LEASE UP:

- ___ Calendar of Target Dates for Initial Lease up of LIHTC Property
- ___ Copy of Newspaper Advertisement
- ___ Community Stakeholder Meeting Documentation
 - ___ Agenda; Meeting Presentation Material; Handouts; Sign In sheet

GENERAL:

- ___ LIHTC Property Partners Contact List *(Name, Email, Telephone #; must be updated)*
 - ___ LIHTC Property Owner / Developer;
 - ___ Property Management Company Regional Supervisor;
 - ___ On Site Property Manager;
 - ___ LLA Staff
- ___ LIHTC Property Information:
 - ___ Property Tenant Selection Criteria;
 - ___ Lease Application and Forms;
 - ___ Property Rules, Regulations, & Addendums
 - ___ Property Amenities
 - ___ Income Limits/Rent Current Year
- ___ Special Needs (SN) Use Certification – Initial OR Land Use Restriction Agreement
- ___ Special Needs Set Aside Housing Program Agreement Between the Local Lead Agency and Property Owner/Developer; Signed *(Valid for 3 years)*
- ___ Local Lead Agency - Scope of Work Agreement *(Annual Contract between LLA and BHSD)*

COMMUNITY OUTREACH:

- ___ List of organizations/email groups *(Invitees for Community Stakeholder Meeting or SHLC Meetings and/or providers contacted by LLA when vacancy at LIHTC property)*
 - ___ Name of Agency with contact persons
- ___ LIHTC Property Marketing Brochure

___ **Agency Website available & includes LLA information, SN/SAHP application; copy in file**

___ **Supportive Housing Learning Community Meetings** *(2 per year)*

___ **Agenda; Meeting Presentation Material; Handouts; Sign In sheet** *(Dated)*

___ **Other Marketing Activities, if applicable**

LIHTC PROPERTY STATUS:

___ **Notice of Vacancies**

___ **LLA Data Base/LIHTC Property Specific**

Section 811 Project Rental Assistance Forms *(Not applicable to every LLA; applicable only to LLAs involved with LIHTC properties where the Property Owner has a Section 811 PRA Rental Assistance Contract with the Mortgage Finance Authority)*

- Section 811 PRA Program / New Mexico Special Needs/Set Aside Housing Program Referral and Pre-Application Form
- Reverse Referral Form (To Local Lead Agency from Property Management)

SECTION 811 PROJECT RENTAL ASSISTANCE**NEW MEXICO SPECIAL NEEDS /SET ASIDE HOUSING PROGRAM****REFERRAL and PRE-APPLICATION FORM**

Revised 8/2019

Date and Time Received*By Local Lead Agency**Date:* _____*Time:* _____**Applicant and Household Information:**

1. Applicant's Legal Name: (First, Middle, Last)

2. Date of Birth: _____ Last 4 digits of SSN:
- XXX-XX-
- _____

3. Contact Information:
- Must be up to date at all times. Required for immediate communication and notification.*

| Applicant Contact Information | Must Provide Emergency Contact Information for Applicant |
|-------------------------------|--|
| Address: | Address: |
| Phone: | Phone: |
| Cell Phone: | Cell Phone: |
| Email: | Email: |

Note: The Support Services Provider/Referring Agency is: a) responsible for providing the support services and monthly home visits needed by the Applicant; and, b) requested to assist the Applicant in completing this Pre-Application Form.

The Information below is required for purposes of processing Special Needs/ Set Aside Housing Unit referrals.

| | |
|--|------------------------|
| Provider/Agency Name: | Date Completed: |
| Referral Agency Point or Back-up person Printed Name: | Phone number: |

| | |
|--|-------|
| Referral Agency Point or Back-up person <i>Signature</i> required: | Email |
|--|-------|

Referring Person: (if not Services Provider/Agency)

Agency Name: _____

Contact Person Name: _____

Phone Number: _____ **Email Address:** _____

4. Eligible Target Populations for Housing

Documentation of an Eligible Target Population Disability must be provided by a licensed professional, e.g. (social worker, physician, etc.) that will substantiate the Applicant qualifies for the program based upon **one of** the following Special Needs disabilities:

Special Needs / Set Aside Units (SAHP) Housing Program Eligible Target Populations (**check one** for SN eligibility/Section 811 PRA must include a diagnosis if Homeless/Precariously Housed applies)

☐ **Homeless or Precariously Housed**

A Household/individual is considered homeless or precariously housed if, without this assistance, he/she/ they would have to spend the night in a homeless shelter or in a place not meant for human habitation. This includes:

- a. Persons living on the street, in emergency shelters, or in transitional housing programs for the homeless;
- b. Persons with a legal eviction notice, or other similar legal circumstances in which they are to lose their housing imminently; and
- c. People with disabilities who are inappropriately living in an institution or other facility may be considered homeless if no other housing placement is available or appropriate.

☐ **Serious Mental Illness**

☐ **Addictive Disorder** (i.e., individuals in treatment and demonstrated recovery from a substance abuse disorder);

☐ **Developmental Disability** (i.e., mental retardation, autism, or other disability acquired before the age of 22);

☐ **Physical, sensory, or cognitive disability** occurring after the age of 22;

☐ **Disability caused by chronic illness** (i.e., people with HIV/AIDS, Diabetes, etc. or other incapacitating illness)

☐ **Age related Disability** (i.e., frail elderly, or, young adults with other special needs who have been in the foster care or juvenile services system).

Note: Must attach documented evidence of the Special Need, i.e. Diagnosis, SSI Disability Letter, etc. or Attestation of Homelessness. Documentation must be from an individual or organization licensed or authorized to provide said documentation.

Requesting Reasonable Accommodations or Modifications for Housing:

NOTICE: IF YOU HAVE A DISABILITY and need accommodations or modifications that would help you live in the apartment unit, use the facilities, or, take part in programs on-site, you can request a Reasonable Accommodation or Modification from Property Management personnel. If you can show that you have a disability and the request is directly connected to that disability, the Local Lead Agency, Services Provider and Property Manager will work together to make the changes you request.

You can get a **Reasonable Accommodation/Modification Request Form** in the property management office.

5. Disclosure of Criminal History

Have you /the Applicant ever been **convicted** of a Felony? ☐ Yes ☐ No If yes, what year? _____

Do you have either current, or pending criminal charges against any member of your household?

☐ Yes ☐ No If yes, name of household member: _____

Note: The Applicant's household includes any member (also applies to persons under age 18 years) who has been arrested, or charged.

Where records reflect a past arrest without a final disposition and the crime would be a basis for rejecting the application, the applicant must provide proof the charge was dismissed for lack of evidence, adjudicated not guilty, or an alternative treatment was part of the adjudication process.

6. Total Number of Household members _____ (do not include live-in aide)

List all household members: including sex, age and relationship of each household member to the Applicant.

| Legal Name: First, Middle, Last | Age | Sex | Relationship to Head of Household |
|---------------------------------|-----|-----|-----------------------------------|
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |

Number of Bedrooms Desired: _____

Number of Bedrooms Required: _____

7. Household Income and Benefits (Please list all sources of income both Cash and Non-Cash)

- A. Cash Income:** Please provide all applicable sources of income and include the amount per month. Provide information as to whether income is from a household member other than the Applicant. Please note in the description field. Documentation and check stubs will be required for all income sources.

Have you received income from any source in the past 30 days?

☐ Yes ☐ No ☐ Don't Know ☐ Refuse to Answer

Cash Income Type: Please provide amount per month and name of income earner:

- ☐ Employment Income \$ _____
- ☐ Child Support Income \$ _____
- ☐ Social Security Disability (SSDI) \$ _____
- ☐ Supplemental Security Income (SSI) \$ _____
- ☐ Social Security Retirement Income \$ _____
- ☐ Temporary Assistance to Needs Families (TANF) \$ _____
- ☐ Veteran's Pension \$ _____
- ☐ Veteran's disability payment \$ _____
- ☐ Unemployment Insurance \$ _____

Cash Income Type (continued):

- ☐ Alimony/other spousal support \$ _____
- ☐ Pension from a former job \$ _____
- ☐ Worker's Compensation \$ _____
- ☐ Private Disability Insurance \$ _____
- ☐ Income from Family/Friends \$ _____
- ☐ Other sources of income \$ _____

B. Non-Cash Benefits or Services: Please provide all applicable sources of non-cash benefits and services and include the amount per month where applicable and a copy of recent award letter. Note if the assistance belongs to a household member other than the Applicant, please note that in the Description field.

Have you received non-cash benefits or services in the past 30 days?

☐ Yes ☐ No ☐ Don't Know ☐ Refuse to Answer

Non-Cash Benefits: Please provide amount per month, and/or name of benefit recipient:

- ☐ Food Stamps (aka: SNAP) \$ _____

| | |
|---|----------|
| <input type="checkbox"/> Medicaid | _____ |
| <input type="checkbox"/> Medicare | _____ |
| <input type="checkbox"/> WIC | \$ _____ |
| <input type="checkbox"/> TANF Child Care Services | \$ _____ |
| <input type="checkbox"/> TANF Transportation services | \$ _____ |
| <input type="checkbox"/> Other TANF funded services | \$ _____ |
| <input type="checkbox"/> Children's Health Insurance Program (CHIP) | _____ |
| <input type="checkbox"/> VA Medical services | _____ |
| <input type="checkbox"/> Other Assistance source | _____ |

Total Annual Gross Household Income:

What is the Total Annual Gross Household Income from all sources and all persons living in the household?:

(e.g. Earned or employment income, social security, SSDI, retirement, government benefits, unearned income, etc.) Per No. 7 above.

Monthly Income \$ _____ **x 12 months = Annual Income** \$ _____
 (Monthly income must total to Annual)

8. Indicate whether or not the household needs the following type of apartment:

c. Handicapped Unit (wider doors, grab bars) Yes ☐ No ☐

d. Fully Accessible Unit (curb less shower) Yes ☐ No ☐

c. Visual/Audio Accessible Unit Yes ☐ No ☐

f. Ground floor unit necessary, if no elevator Yes ☐ No ☐

g. Does household has medical reasons for an extra bedroom (e.g. for a care giver) Yes ☐ No ☐

9. Applicant Acknowledgement

I have read and signed the **Tenant Responsibility and Participation Agreement**; understand the **Pre-Tenancy Program Overview Information**; and, the expectations of being a good tenant and program participant in the Set Aside/Special Needs Housing Program or the Section 811 Project Rental Assistance Program.; and, *also understand that my housing is contingent upon my compliance with these program rules and regulations.*

| | | | |
|--------------------------------|---------------|-------------------------------------|---------------|
| _____ Applicant's Signature | _____ Date | _____ Service Provider Signature | _____ Date |
|--------------------------------|---------------|-------------------------------------|---------------|

| | | | |
|-----------------------------------|---------------|--|---------------|
| _____ Applicant's Printed Name | _____ Date | _____ Service Provider Printed Name | _____ Date |
|-----------------------------------|---------------|--|---------------|

**NEW MEXICO SPECIAL NEEDS /SET ASIDE HOUSING
PROGRAM – 811 Project Rental Assistance Program
REFERRAL and PRE-APPLICATION FORM**

811 Project Rental Assistance Applicants

Indicate if applicant is the following Target Population:

- ☐ Institutionalized
- ☐ At risk of institutionalization
- ☐ Homeless
- ☐ At risk of homelessness
- ☐ Leaving Group Homes, Adult Care Homes or other residential settings
- ☐ Exiting Foster Care
- ☐ Other

Referral Source:

- ☐ State/local mental health agency or authority
- ☐ State/local intellectual & development disabilities agency or authority
- ☐ State/local aging/adult services agency or authority
- ☐ State child/family agency or authority
- ☐ Other state/local human services agency or authority
- ☐ Service Provider - mental health
- ☐ Service Provider - intellectual & development disabilities
- ☐ Service provider - center for independent living
- ☐ Service provider - other
- ☐ Other

Reverse Referrals:

- ☐ Is applicant at risk of eviction and did referral source provide an eviction notice?
- ☐ Does applicant have an active, current support service provider?
- ☐ Does applicant meet eligibility criteria (diagnosis) and is at least 18 years of age but less than 62 years of age?

Date and Time Received

By Local Lead Agency

Date: _____

Time: _____

SECTION 811 PROJECT RENTAL ASSISTANCE PROGRAM

**Reverse Referral Form
(To Local Lead Agency from Property Management)**

Low Income Housing Tax Credit (LIHTC)/Section 811

PRA Property: _____

Property Manager/Service

Coordinator: _____

Local Lead Agency: _____

Date Referred: _____

Name of Referral: _____

Support Service Provider: _____

Property Reverse Referral: A reverse referral means the referral of an existing tenant by the property manager and/or service coordinator of a Set Aside Housing Program (SAHP)/Low Income Housing Tax Credit (LIHTC) property to the Local Lead Agency (LLA) to be screened for Special Needs and Section 811 PRA eligibility criteria.

The property manager and/or service coordinator attest that the referred as named above is:

- ☐ At least 18 years of age but less than 62 years of age at the time of screening. Note: Households with a disabled minor child do not qualify for the Section 811 PRA program.
- ☐ Has an eligible Special Needs/Set Aside disability [Serious Mental Illness; Addictive Disorder; Developmental Disability acquired before the age of 22; Physical, sensory, or cognitive disability occurring after the age of 22; Disability caused by effects of chronic illness; Age-related disability]
- ☐ Has a household income that does not exceed the Extremely Low Income limits, per HUD.
- ☐ Has a current, active support service provider that will commit to conducting at least one house visit per month and provide eviction prevention, as necessary. (A service coordinator of the property is not considered an approved Support Service provider.)
- ☐ Is willing to voluntarily participate in Section 811 PRA programming and engage with a support service provider to include but not limited to a monthly house visit.
- ☐ Household must be at risk of eviction to include having received an eviction notice.

For each individual reverse referral, the property manager or service coordinator will provide the LLA with the following and attach to this reverse referral:

- ☐ Demographic information for the client
- ☐ Any relevant, qualifying income and financial information
- ☐ The designated support service agency name, case manager name, and contact information.
- ☐ Eviction notice
- ☐ The *NM Special Needs/Set Aside Housing Program Referral & Pre-Application Form*, if completed.

Property Manager/Service Coordinator Signature

Appendix B

Fair Housing for Tenants with Disabilities: Understanding Reasonable Accommodations and Reasonable Modifications

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DISCLAIMER

Although this Guidebook contains legal information as well as recommendations for policies and practices, it is intended only as a reference. While the ABQ Field Office of HUD reviewed this Guidebook for content accuracy pertaining to the laws that HUD enforces, HUD did not create this Guidebook, nor does it endorse its content. Landlords must use their best judgment in deciding how to implement reasonable accommodation and modification procedures. Individual cases and circumstances vary widely, and the law is always subject to change through legislative or judicial action. This Guidebook is not intended to serve as a substitute for legal advice or to establish any lawyer-client relationship.

INTRODUCTION

The inclusion of persons with disabilities under the protections of the Fair Housing Act in 1988 and the passage of the Americans with Disabilities Act in 1990 provided persons with disabilities similar protections to those given to racial minorities in the preceding decades. These are first and foremost civil rights laws. Like our statutes outlawing discrimination based upon race, they were enacted to remedy a long history of exclusion and unequal treatment based upon prejudice and reinforced by public policy, law and practice. The antidiscrimination laws governing housing issues are collectively known as fair housing laws.

Americans know that racial discrimination is illegal, but almost 20 years after the passage of the Fair Housing Amendments Act only half of Americans know that it is illegal for landlords to refuse to make reasonable accommodation for persons with disabilities or to refuse to permit reasonable modification to a housing unit.

Persons with disabilities face numerous obstacles to securing housing, ranging from architectural barriers to economics and personal history. Fair housing laws recognize these barriers and include important mandates that, if understood and put into practice, will expand housing choice and opportunity for people with disabilities.

Fair housing laws prohibit discrimination against people based on their race, color, religion, national origin, sex, familial status, or disability. For persons with disabilities fair housing law goes a step further, making it illegal to:

- fail to make reasonable accommodation in rules, policies, and services to give a person with a disability equal opportunity to occupy and enjoy the full use of a housing unit and
- fail to allow reasonable modification to the premises if the modification is necessary to allow full use of the premises.

Determining what is a reasonable accommodation or a reasonable modification requires a balancing of interests and a case-by-case judgment as to what is “reasonable.” Because none of the laws define which accommodations or modifications are “reasonable,” this Guide includes numerous examples which illustrate the standards the courts use in determining what is reasonable. Most are taken from actual cases.

FAIR HOUSING LAW

Three federal laws specifically prohibit housing discrimination against rental applicants or tenants because of a disability.

The federal laws are:

1. the Fair Housing Act of 1968 as amended in 1988 (“Fair Housing Act”), which prohibits discrimination based on race, color, religion, national origin, sex, familial status, or disability and requires landlords to make reasonable accommodations and modifications for tenants with disabilities;
2. the Americans with Disabilities Act (“ADA”), enacted in 1990, which prohibits discrimination on the basis of disability in government-funded programs, including housing programs (Title II), as well as public accommodations (Title III) which means that rental offices, homeless shelters, and other on-site business locations used by the public must be accessible to persons with disabilities; and
3. Section 504 of the Rehabilitation Act of 1973 (“Section 504”), which prohibits Discrimination, based on disability, in federally funded housing programs.

Figure 1: Federal and State Laws Prohibiting Discrimination in Housing against People with Disabilities

| Law | Housing Covered | Types of Practices Which Are Prohibited or Required | Definition of Person with a Disability (Handicap) |
|---|--|--|--|
| Fair Housing Amendments Act 42 U.S.C. § 3601 et seq. (federal) | <p>All types of “dwellings” that are designed or used as a residence, and any land or vacant property that is sold or leased as residential property.</p> <p>Does not apply to:</p> <ol style="list-style-type: none"> 1. Rental dwellings of four or less units, when one unit is occupied by the owner. 2. Single family homes sold or rented by the owner without the use of a broker or discriminatory advertising. 3. Housing owned by private clubs or religious organizations that restrict occupancy in housing units to their members. | <ol style="list-style-type: none"> 1. Cannot discriminate in renting, selling, imposing terms and conditions, advertising, asking questions, or blockbusting (implying that people of a designation are entering the community in large numbers). 2. Must provide reasonable accommodations at the landlord's expense. 3. Must allow reasonable modifications at the tenant's expense. | <p>Persons who:</p> <ol style="list-style-type: none"> 1. Have a physical or mental impairment substantially limiting one or more major life activities, including caring for one's self, walking, seeing, hearing, speaking, breathing, working, performing manual tasks, and learning. 2. Have a history of a physical or mental impairment substantially limiting one or more major life activities. 3. Are regarded as having a physical or mental impairment substantially limiting one or more major life activities. |
| Titles II and III of the Americans with Disabilities Act (federal) | <p>Title II applies to housing provided by state and local governments and their entities, including public housing authorities, regardless of whether they receive federal funds.</p> <p>Title III applies to public entities, such as commercial facilities and common areas of rental housing and homeless shelters.</p> | <ol style="list-style-type: none"> 1. Cannot deny qualified individuals the opportunity to participate in or benefit from federally funded programs, services, or other benefits. 2. Cannot deny access to programs (all operations of the housing provider), services, benefits, or opportunities to participate as a result of physical barriers. <p>The housing provider is not required to take steps that it can demonstrate will cause an undue financial and administrative burden or change the fundamental nature of the program.</p> | Same as above. |
| Section 504 of the Rehabilitation Act 29 U.S.C. § 794 (federal) | Any housing program or activity receiving Federal financial assistance or any housing program or activity conducted by any executive agency of the U.S. Government or by the United States Postal Service. See Box on Page 13 for definition of “Federal Financial Assistance”. | <ol style="list-style-type: none"> 1. Same as Title II and III of the ADA. 2. 5% of units must be accessible for persons with mobility impairments and an additional 2% must be accessible for persons with visual or hearing impairments. 3. Reasonable modifications must be made at the expense of the housing provider. | Same as above. |

| Law | Accessibility Requirements | Is Current Illegal Drug Use Covered? | Is a History of Illegal Drug Use Covered? | Are Alcoholics Covered? |
|---|---|--|---|--|
| <p>Fair Housing Amendments Act 42 U.S.C. § 3601 et seq. (federal)</p> <p>Accessibility requirements apply to all ground floor or elevator accessed units in all buildings with four or more units built for first occupancy after March 13, 1991.</p> | <p>1. Dwellings shall be designed and constructed to have at least one building entrance on an accessible route, unless it is impractical to do so because of terrain or unusual characteristics of the site.</p> <p>2. Dwellings with a building entrance on an accessible route shall be designed in such a manner that the public and common use areas are readily accessible to and usable by handicapped persons.</p> <p>3. Dwellings with a building entrance on an accessible route shall be designed in such a manner that doors are wide enough to allow passage by persons in wheelchairs.</p> <p>4. Dwellings with a building entrance on an accessible route shall be designed and constructed such that all premises contain an accessible route into and through the unit.</p> <p>5. Light switches, electrical outlets, thermostats, and other environmental controls must be in accessible locations.</p> <p>6. Dwellings must contain reinforced walls in bathrooms to allow installation of grab bars around toilet, tub, shower stall, and shower seat, where such facilities are provided.</p> <p>7. Dwellings must contain usable kitchens and bathrooms such that an individual in a wheelchair can maneuver about the space.</p> | No | Yes | Yes |
| <p>Titles II and III of the Americans with Disabilities Act (federal)</p> | <p>To be readily accessible, a facility must be able to be approached, entered, and used by individuals with disabilities.</p> <p>All properties subject to Title II constructed after January 26, 1993, must be in compliance with the Americans with Disabilities Act Accessibility Guidelines or the Uniform Federal Accessibility Standards.</p> <p>Title III requires that the rental office, other common areas and parking be accessible.</p> | No | Yes | Yes |
| <p>Section 504 of the Rehabilitation Act 29 U.S.C. § 794 (federal)</p> | <p>Properties must be “readily accessible” to persons with disabilities. Providers must ensure that individuals with visual, speaking, or hearing impairments can effectively communicate. These properties must be in compliance with the Uniform Federal Accessibility Standards (UFAS).</p> | No | <p>Yes, a person with a history of drug use who has been successfully rehabilitated, or someone who is participating in a drug rehabilitation program and is not currently using drugs illegally, is protected.</p> | <p>No, if alcoholism prevents an individual from participating in the housing program or poses a threat to the property or safety of others. Yes, otherwise.</p> |

Determining Prohibited Conduct

There are many prohibited activities under the Fair Housing Act, but the following are a few examples of prohibited actions as they relate to tenants with disabilities:

1. discrimination in the rental of housing because of a handicap or disability of the renter or of a household member or person associated with the renter;
2. discrimination in the terms or conditions of rental or in the provisions of services or facilities because of a handicap or disability of the renter;
3. inquiries to determine whether a person seeking to rent a dwelling unit has a disability; and
4. discriminatory advertising.

Defining “Persons with Disabilities”

While this guidebook refers to persons with disabilities, the fair housing laws use the term individuals with handicap. Cases interpreting fair housing laws make clear that the terms have the same meaning. According to the laws, individuals with handicaps or persons with disabilities include those:

- with a physical or mental impairment that substantially limits one or more major life activities;
- with a record of having such an impairment; or
- regarded as having such an impairment whether they have the impairment or not.

The following persons are **not** included in the definition of disability:

- persons currently engaging in the illegal use of a controlled substance;
- persons whose tenancy would constitute a “direct threat” to the health or safety of other individuals or whose tenancy would cause substantial physical damage to the property of others;
- persons convicted of illegal manufacture or distribution of a controlled substance; and
- juvenile offenders and sex offenders, by virtue of that status.

The term handicapped person is more broadly defined under fair housing laws than under regulations covering eligibility for federally subsidized housing programs (such as Section 811) or federal disability benefits (such as SSI).

The Special Case of Illegal Substance Use and Alcoholism

CURRENT USE

Individuals who currently use illegal drugs are explicitly excluded from protection under all of the antidiscrimination laws, including Section 504 of the Rehabilitation Act, the Americans with Disabilities Act (ADA) and the Fair Housing Amendments Act of 1988 (FHAA).

HISTORY OF ILLEGAL USE

Federal law distinguishes between individuals who are currently using illegal drugs and individuals who are not currently using illegal drugs but who have a history of addiction. Individuals who meet the Fair Housing Act definition of disability and are not currently using but have a history of illegal drug addiction are protected, by law, from discriminatory conduct. The laws are clear that an individual is protected if he or she is not using illegal drugs and (1) has successfully completed a rehabilitation program, (2) has otherwise been successfully rehabilitated, or (3) is participating in a treatment program or self-help group.

ALCOHOLISM

Persons with alcoholism are treated differently under Section 504 (see Figure 1) than under the Fair Housing Act and the ADA.

- HUD regulations for Section 504 explicitly exclude from its definition of “individual with handicap” anyone whose current alcohol use prevents that person from participating in federally funded housing programs (which includes meeting the terms of the lease) or whose current alcohol abuse would constitute a direct threat to property or the safety of others.
- The Fair Housing Act’s definition of an individual with a handicap includes alcoholism as a covered disability but provides a general exclusion for any individual whose tenancy would pose a direct threat to the health or safety of other individuals or whose tenancy would result in substantial physical damage to the property of others, provided reasonable accommodation could not eliminate the threat (see case #10 on page 24).

DEFINING REASONABLE ACCOMMODATIONS

As opposed to modifications, which involve physical alterations to a property, the term “reasonable accommodation” refers to procedural changes such as changes in rules or policies. The mandate for making reasonable accommodations is found in both the Fair Housing Act, as amended and Section 504 (see Figure 1).

The Fair Housing Act requires housing providers to make reasonable accommodations as outlined in 24 CFR 100.204 (a), which states:

It shall be unlawful for any person to refuse to make reasonable accommodations in rules, policies, practices or services, when such accommodations may be necessary to afford a handicapped person equal opportunity to use and enjoy a dwelling unit, including public and common use areas.

The need for a reasonable accommodation may arise at the time a person is applying for

housing, during the tenancy, or to avoid an eviction. It is the responsibility of the tenant to ask for a specific, reasonable accommodation whenever one is needed.

The law does not establish any clear threshold (financial, administrative, or otherwise) for determining what is reasonable, but it does specify that landlords are not required to provide an accommodation if it would impose an “undue burden” or result in a “fundamental alteration” of the nature of the housing program. An undue burden is an unreasonable financial and administrative cost, which is demonstrated by comparing the administrative and financial costs of regular operation, the overall financial resources available to the landlord, and the costs of making the accommodation. A fundamental alteration is an accommodation that would change the basic operation or nature of services provided by significantly modifying, eliminating, or adding to the services that a landlord provides. A request for reduced rent payments is not a reasonable accommodation.

Individuals with Visual, Speaking, or Hearing Impairments

Landlords must ensure that individuals with visual, speaking, or hearing impairments can effectively communicate with them. For example, visually impaired persons may need to have the rental application or other written documents read to them. Landlords should also be familiar with the Telecommunications Relay Service (TRS) which allows a deaf, hard of hearing, deaf-blind, or speech impaired individual to use special equipment to call to the 711 Relay Center, where a specially trained operator relays messages between the relay users using a text telephone or an assistive device and a hearing person using a standard telephone (see Appendix C).

Requests for Reasonable Accommodations

Upon receiving a request for a reasonable accommodation, the landlord should take the following three steps. If a landlord denies a request for reasonable accommodation, and the individual who made the request files a complaint, the landlord’s defense will rest upon proving that these steps were taken before the request was denied.

1. In requesting an accommodation, the individual has disclosed that he or she has a disability. If the disability is not apparent, the landlord may ask for verification that the tenant has a disability as defined by the Fair Housing Act. No additional inquiry into the nature or extent of the disability beyond establishing the need for the accommodation is allowed.
2. Establish that the accommodation is necessary. In other words, the accommodation will enable the person with the disability to have equal opportunity to use and enjoy dwelling unit, including public and common use areas.
3. Determine that the accommodation is reasonable, i.e. it would not impose an “undue burden” or result in a “fundamental alteration” of the nature of the housing program.

Once an accommodation is determined to be reasonable, the landlord cannot directly or indirectly impose on the tenant the expense of providing the accommodation (for example, a pet deposit cannot be required for a service animal). The landlord must bear this expense. Though not required, the recommended practice is to have requests for reasonable

accommodations be made in writing.

Relevant Cases

#1 Ulah was shown a model apartment and subsequently leased an apartment that was smaller than the model. She began to suffer from claustrophobia. She was prescribed Xanax, but it did not abate the symptoms. Ulah verbally requested that she be allowed to move into a larger apartment, but management told her that doing so involved “too much paperwork.” Ulah submitted notice of intent to vacate due to illness, and management sued her for unpaid rent. The court determined that because management was given notice of Ulah’s disability but made no attempt to make reasonable accommodations, she was discriminated against in violation of the Fair Housing Act. *Manor Park Apts. v. Garrison*, 2005 Ohio 1891 (2005).

#2 After Lisa and her son moved into their apartment, there were complaints from other residents that her son was disrupting their right to enjoy their homes due to his physical and verbal threats to other tenants. Lisa’s son had been diagnosed with Oppositional Defiant Disorder (ODD), which is a mental illness and disability under the Fair Housing Act. Management began eviction proceedings, despite requests for a reasonable accommodation of counseling for Lisa’s son, because management felt it would be unreasonable for the other tenants to have to bear repeated disruptions before counseling took effect. The mother agreed to provide eyes-on supervision as well as obtain counseling for her son, but she failed to provide supervision. The court determined that when an effort for reasonable accommodations have been made but the tenant fails to meet them, that eviction is proper. *Housing Authority of the City of Bangor v. Maheux*, 748 A.2d 474 (Me. 2000).

#3 Toni suffers from oversensitivity to multiple chemicals, for which she receives Social Security disability payments. When Toni moved in, her landlords accommodated many requests-removing the carpet, cleaning with specified chemicals, cleaning the air ducts, and not repainting. The downstairs tenant used cleaning solutions that irritated Toni, and she asked her landlords to evict her. The court ruled that the downstairs tenant’s rights did not have to be violated in the name of reasonable accommodation. *Temple v. Gunsalus*, 1996 WL 536710 (6th Cir. 1996).

DEFINING REASONABLE MODIFICATIONS

A reasonable modification is a change in the physical arrangement of the interior of a housing unit, common spaces, or parking areas of rental housing covered by the Fair Housing Act. The landlord must allow physical modifications if they are “reasonable” and necessary for the tenant to enjoy and use the dwelling unit, common spaces, or parking areas.

Requests for Reasonable Modification

Upon receiving a request for a reasonable modification, the landlord should take the following three steps. If a landlord denies a request for reasonable modification, and the individual who made the request files a complaint, the landlord’s defense will rest upon proving that these steps were taken before the request was denied:

1. In requesting a modification the individual has disclosed that they have a disability. If the disability is not apparent, the landlord may ask for verification that the tenant has a disability as defined by the Fair Housing Act. No additional inquiry into the nature or extent of the disability, beyond establishing the need for the modifications allowed.
2. Establish that the modification is necessary. In other words, the modification will enable the person with the disability to have equal opportunity to use and enjoy a dwelling unit, including public and common areas.
3. Determine that the modification is reasonable, i.e. whether the modification is structurally possible, cost effective and will overcome the barrier.
4. Ensure that the modification will not damage the property or interfere with other tenants' use of their units or common areas.

Though not required, the recommended practice is to have requests for reasonable modification be made in writing.

Who Pays for the Modification?

Three questions must be asked in order to determine who will pay for a reasonable modification:

1. If the property was developed, even in part, with federal funds (see section below), the landlord must pay for the modification, as long as it does not cause a significant financial or administrative hardship.
2. If a building was ready for occupancy for the first time after March 13, 1991, it is subject to the Fair Housing Act and must be physically accessible. If the modification requested is necessary because the building is out of compliance with the Fair Housing Act, owners are financially responsible for all expenses necessary to have the property meet these requirements. The fact that a building was approved by a local building inspector and received a Certificate of Occupancy does not prove that it meets Fair Housing Act requirements.
3. If the property did not receive funding from a federal source and meets the minimum accessibility requirements required by law, then the tenant can be required to pay for the modification.

Federal Financial Assistance defined

If a housing development is funded, even partially, with Federal sources or receives a donation of land from a federal source, Section 504 of the Rehabilitation Act applies. Some common sources of Federal financial assistance are:

- HOME
- Community Development Block Grants (including Section 108 Loans)
- Section 202 and 811 Supportive Housing for the Elderly or Persons with Disabilities
- McKinney-Vento Supportive Housing (permanent or transitional)
- USDA Rural Development Section 514, 515 and 538
- Public Housing Authorities
- Privately owned developments with federal project-based rental assistance.

Three common Federal programs do not trigger Section 504 regulations: Low-Income Housing Tax Credits (Section 42), tax-exempt bonds and properties developed without federal funds that are rented with either Housing Choice Vouchers (Tenant-based Section 8) or Shelter Plus Care Assistance. However, most sources of direct or indirect federal funding do trigger Section 504.

Standards for Modifications

If the tenant is paying for the alteration, the landlord can require that the work be done properly, that it comply with all necessary building and architectural codes and that a certified contractor complete the work.

The landlord can also require that at the end of the tenancy the modification be removed and the unit and restored to its original condition, but only if the modification will interfere with a future tenant's use of the unit. Many modifications, such as the installation of grab bars or widening of doorways, do not interfere with a future tenant's use. If the alterations are substantial and the tenant cannot provide adequate assurances regarding payment for the restoration, the landlord can further require that a tenant pay into an interest-bearing escrow account. Any escrow agreement should be described in writing and signed by both the tenant and landlord.

Relevant Cases

#4 Todd has a child who uses a wheelchair. The bathroom door in the apartment is too narrow to permit the wheelchair to pass through it. Todd asks the landlord for permission to widen the doorway at his own expense. The landlord may not refuse to permit Todd to make the modification. Further, the landlord may not condition permission on Todd paying for the doorway to be narrowed at the end of the lease because a wider doorway will not interfere with the landlord's or the next tenant's use and enjoyment of the premises. 24 C.F.R. § 100.204(c).

#5 Hector and three other mobility impaired tenants asked their landlord to install a lift or ramp to enable them to enter and exit their apartment building without assistance. The

estimated cost of installation ranged between \$25,000 and \$55,000. The court determined that even the low estimate of \$25,000 placed an undue burden on the landlord, especially because the building had been operating at a loss for three consecutive years. *Rodriguez v. 551 West 157th Owners Corp.*, 992 F. Supp. 385 (S.D.N.Y. 1998).

REASONABLE ACCOMMODATION AND MODIFICATION PROCEDURES

Accommodating tenants with disabilities requires flexibility and the application of good management techniques. The number of possible accommodations or modifications will be as numerous and diverse as the number of residents they assist. Many variations can be made to the suggestions below, and appropriate alternatives should be considered. Landlords should also draw upon outside experts and organizations that provide information and technical assistance.

The first step, however, is creating an environment that is receptive to change, supportive of people with disabilities, open to a tenant's disclosure of a disability, flexible in discussing accommodations and modifications, and sensitive to relationships among tenants.

General Management Practices

All landlords should:

1. Make sure they understand their obligations under federal and state antidiscrimination laws.
2. Increase their awareness of disability issues. Disabilities come in many forms and affect each person differently.
3. Prominently display lists of community resources and contacts as well as information from supportive service providers.
4. Clearly communicate their expectations to the residents, both in writing and orally, at move-in and throughout the term of tenancy. Expectations should be clearly set out in the lease (and rules, if any).
5. Establish a process for handling requests for accommodations or modifications.
6. Not discuss the tenant's disability with other tenants or third parties without the tenant's specific written permission.

Decisions involving denying a request for a reasonable accommodation or modification should be made by senior management personnel or the property owner, not the site manager.

Admissions Policies

Landlords may not reject a prospective tenant's application because of his or her disability or factors relating to the disability. Landlords also may not use stereotypes to reject an applicant. A refusal based on concerns about the health and safety risk to others, for instance, should be based on documented past history of the person rather than on the

landlord's judgment about possible future behavior. Landlords can refuse to rent to someone who either:

- fails to meet legitimate screening criteria, such as the financial ability to pay the rent, or
- who would pose a direct threat to the health or safety of other individuals or would result in substantial physical damage to the property of others (see page 25 for more information).

The vast majority of issues that arise in the screening process are handled without litigation, and thus case examples are not available. Two of these, poor credit and criminal history, are common barriers for many tenants, including persons with disabilities. Some frequent situations of disability-related credit concerns are shown in the following scenarios:

- Mary had a serious illness that interrupted her working life and resulted in bankruptcy.
- John had an untreated mental illness that created a period of uncontrolled spending, causing him to default on loans, pay bills late and hurt his credit history.

Similarly, a prospective tenant may have a criminal record as a result of their disability:

- Susan, who is in recovery from addiction to illegal drugs, was convicted in the past on drug charges.
- Samuel had an untreated mental illness that resulted in homelessness and convictions for trespassing, vagrancy and assault, all of which can be part of surviving on the streets.

All of the above are reasons to consider making a reasonable accommodation.

Landlords should follow these steps to determine what a reasonable accommodation is in the tenant screening process:

1. In requesting an accommodation the individual has disclosed that they have a disability. If the disability is not apparent, the landlord may ask for verification that the tenant has a disability as defined by the Fair Housing Act. No additional inquiry into the nature or extent of the disability, beyond establishing the need for the accommodation, is allowed.
2. Establish that the accommodation is necessary. In other words, the issue causing concern is a result of the individual's disability and the accommodation will enable the person with the disability to have equal opportunity to use and enjoy a dwelling unit, including public and common areas.
3. Determine that the accommodation is reasonable, i.e. it would not impose an "undue financial and administrative burden" or result in a "fundamental alteration" of the nature of the housing program.

Using the examples from the scenarios above, some circumstances that could warrant an accommodation in the application procedure may include:

- After Mary declared bankruptcy, she has paid her bills on time;
- John is receiving psychological counseling for his mental illness and is in compliance with a repayment plan;
- Susan is no longer uses illegal drugs and has not been arrested since she completed substance abuse treatment; and
- Samuel has not been convicted of a crime since he began taking medications to treat his mental illness.

Unfortunately, the regulations and settled case law in this area are inadequate to provide useful guidance, therefore the illustrations above are not taken directly from a legal authority.

In considering requests for reasonable accommodations in the screening process, as elsewhere, the landlord must consider individual circumstances and facts. Before making an accommodation, landlords are within their rights to have assurances that issues from the tenant's past have been adequately addressed. The requested accommodation must be reasonable, i.e. it will not cause an undue financial and administrative burden or result in a fundamental alteration of the nature of the housing program. The landlord does not have to waive the protective policy entirely, but can accommodate an applicant by modifying it for the situation. In the case of poor credit, if the period of paying bills on time has been too short to establish a pattern of financial responsibility, the tenant may be asked to have a cosigner for the initial term of their lease until they can demonstrate their ability to pay rent on time. In the case of a past criminal history a lease addendum could clearly state that criminal activity in violation of the lease will lead to eviction proceedings.

No person comes with a guarantee that they will be a good tenant, but a thoughtful and well documented reasonable accommodation process can both protect the landlord from undue risk and allow the tenant with a disability access to housing.

Did the applicant/ tenant ask for a reasonable accommodation or modification?

NO ►

Do not ask if he or she has a disability, even if apparent. Inform all applicants/tenants of Policies regarding reasonable accommodations and modifications.

YES



Is the accommodation or modification reasonable?

1. If the disability is not apparent, the landlord may ask for verification.

2. Establish that the accommodation or modification is necessary.

3. Determine that the accommodation or modification would not impose an “undue burden” or result in a “fundamental alteration” of the nature of the housing program.

NO ►

Give reasons for denying the accommodation or modification and give the tenant an opportunity to appeal the decision

YES ►

Inform the applicant/tenant of the approval of the modification or accommodation and of any conditions, such as: removal of the modification after lease expiration, addendum to the lease, etc.

Questions During the Application Process

A prospective tenant does not have to disclose a disability unless he or she is seeking a reasonable accommodation or modification. Even if the disability is apparent, the landlord should not ask about it. If the applicant discloses a disability, the landlord may then ask follow-up questions but only to the extent necessary to determine the reasonableness of a particular accommodation.

The landlord must be careful to ask the same questions and apply the same screening criteria to all potential tenants and to ensure that the questions asked do not have the effect of probing for information that relates to a disability. For example, the landlord may not ask whether a person is capable of living independently. While it appears to be neutral, the question may have the effect of eliciting information about a disability.

WHAT QUESTIONS ARE LEGAL?

The following are examples of questions that landlords may ask regarding an applicant's ability to follow the terms of the lease:

1. Will the applicant pay rent and other fair charges in a timely manner?
2. Will the applicant care for and avoid damaging the unit and the common areas, use facilities and equipment in a reasonable way, create no health, safety or sanitation hazards, and report maintenance needs?
3. Will the applicant avoid interfering with the rights and enjoyment of others and avoid damaging the property of others?
4. Will the applicant avoid criminal activity that threatens the health, safety, or rights of others and avoid drug-related criminal activity?
5. Will the applicant comply with necessary and reasonable house rules, program requirements of HUD or USDA (if applicable), and health and safety codes?

WHAT QUESTIONS CANNOT BE ASKED?

Generally, it is illegal for landlords to ask:

1. Whether an applicant has a disability;
2. Whether an applicant has a particular type of disability;
3. Questions about an applicant's disability, including its severity;
4. Any question, such as "Do you take any medications?" that would require an applicant to tell about his or her disability;
5. Whether any member of the applicant's family or any friend or associate has a disability; and

6. Whether the applicant has the ability to live independently or evacuate safely.

Exceptions to the above rules include the following scenarios:

- If an applicant has applied for a housing program designated for individuals with disabilities or with a certain type of disability, the applicant may be asked if he or she has a qualifying disability.
- If a person is applying for housing where a priority or preference is in place for persons with disabilities, the applicant may be asked if he or she qualifies for that priority or preference.
- If an applicant is trying to qualify for an allowance that reduces rent on the basis that he or she has a disability, he or she may be asked to verify that he or she has a disability and disability-related expenses when relevant.
- If the applicant requests a reasonable accommodation or modification, the landlord may ask follow-up questions about their disability; but only to the extent necessary to understand the connection between the disability and the accommodation or modification requested.

Denial of Tenancy or Accommodations

When any application for tenancy is denied, the landlord should indicate that an opportunity to request a reasonable accommodation is available if the applicant believes it would enable him or her to meet the terms of the lease. A landlord could include the following language in a rejection letter: “If you are a person with a disability, and the reason your application is being denied is related to your disability, you may contact us no later than (date, time) to discuss whether a reasonable accommodation by us would make your application acceptable”.

If an applicant’s request for a reasonable accommodation is denied, the applicant should be told the reason for the denial and given an opportunity to respond. In responding, the applicant could point out that:

- the reason given for the denial is actually the result of the disability;
- that there has been a change in the applicant’s ability to be a good resident; or
- that there is a plan that will enable the applicant to be a good resident.
-

Any one of these outcomes, if applicable, is grounds for reconsideration. If the request is reconsidered, each step of considering the request (see pages 10-11) should be repeated and documented.

Appendix A provides a sample form that can be used to inform an applicant who is denied housing of his or her right to seek a reasonable accommodation. Appendix B provides a sample form that an applicant can use to request a reasonable accommodation.

Relevant Cases

#6 John applied to rent a one-bedroom apartment. On his application he listed his monthly income at \$850 and his occupation as “disabled.” John has been unable to work because of complications from AIDS. John has a history of prompt rental payment and no negative credit history. John’s application was denied for failing to meet the minimum monthly income requirement, a failure directly related to his disability status. The apartment denied John’s mother’s attempt to act as a cosigner because of the landlord’s strict no-cosigner policy. The court determined that even if an administrative policy seems disability-neutral, the failure to offer or to accept a reasonable accommodation to the administrative policy was a violation of the Fair Housing Act Amendments. *Giebeler v. M&B Associates*, 343 F.3d 1143 (9th Cir. 2003).

#7 Gordon filled out a lease application to live in Cotton Mill, a housing complex available only to persons with disabilities. A portion of the application stated: “STATEMENT OF HEALTH, INCLUDING ANY DISABILITIES (statement of your doctor should be used here). Physician should state here a brief description of your medical condition, disability and/or handicap and whether you are able to care for yourself if living alone and/or able to care for [an] apartment.” The court ruled that although it is permissible to ask whether a prospective tenant has a disability to determine if he or she is eligible for housing available only to those with a disability, the FHAA prohibits an inquiry into the nature and severity of a tenant’s disability. *Robards v. Cotton Mill Associates*, 713 A.2d 952 (Me. 1998).

LEASE VIOLATIONS AND OTHER TENANCY MATTERS

Residents sometimes fail to follow important parts of the lease or repeatedly break minor rules. Persons with disabilities, like all other residents, may be evicted for failure to comply with the terms of the lease or rules of the property. However, as with initial occupancy, landlords are required to make reasonable accommodations to the extent necessary to allow the residents with disabilities to have an opportunity to comply with the terms of the lease. The following suggestions should help landlords to deal effectively with residents with a disability that violate a lease.

1. Managers must distinguish between behavior that is merely irritating and behavior that is so destructive of the rights of other residents that it violates the lease. Residents do not have a right to be shielded from seeing or interacting with persons with disabilities. However, residents do have a right to be protected from behavior that threatens their quiet enjoyment or safety.
2. Education of residents may be helpful so that problems do not occur or escalate. Ideally, a neutral, expert third party would provide such education with the goal of increasing the residents’ understanding. Local human service organizations offer tapes, workshops, and lectures on disabilities. Advocacy and vocational support groups also can provide assistance.
3. If a resident violates the lease agreement, the landlord may issue a notice of lease violation or lease termination. This notice should clearly communicate the reason and include information about reasonable accommodations.

4. All notices of denial, lease violation, and lease termination should include the opportunity for an informal meeting.
5. Landlords must treat all residents with respect, especially when discussing reasonable accommodations.
6. Landlords should offer assistance such as referrals to social service agencies, to help residents comply with the stated expectations.
7. If a resident violates his or her lease after receiving reasonable accommodation, the Landlord may pursue enforcement options. However, another reasonable accommodation may be appropriate if the previous accommodation did not adequately address the tenant's disability.
8. Landlords should take into account the degree to which the problematic behavior is involuntary. Many disabilities result in behavior that cannot be readily controlled and that some neighbors may consider annoying or disturbing. In such cases, landlords should accept the behavior and discuss with the resident with the disability his or her willingness to permit or participate with the landlord in providing information to neighbors that will allay their concerns and help to eliminate further conflict.
9. Landlords should respect an individual's privacy. Not everyone with a disability wants their neighbors to know about their disability. However, if a resident indicates a willingness to discuss his or her condition, the landlord may want to facilitate such a discussion.

Step-by-Step Process for Handling Lease Violations

When confronted with a resident who breaches his or her lease, the landlord can use the steps listed below as a model. Of course, the particular circumstances of each situation will determine which of the steps are warranted or appropriate.

1. When a resident commits a violation that provides sufficient cause for immediate lease termination, the manager should:
 - a. send the resident a termination letter explaining how the resident's action constituted a violation of the lease;
 - b. allow the resident the opportunity to discuss his or her termination; and
 - c. tell the resident that if a disability caused the violation, the resident may request an accommodation.
2. When a resident commits a violation that does not warrant immediate lease termination, the landlord should:
 - a. send the resident a warning letter explaining how the resident's action constituted a violation of the lease;
 - b. allow the resident the opportunity to discuss the matter; and
 - c. inform the resident that if a disability caused the violation, the resident may request an accommodation.

Landlords should provide the opportunity to request a reasonable accommodation for a disability to all residents who violate their lease agreement. Offering such a provision only to those whom the landlord suspects of having a disability may be considered discrimination.

3. During the meeting with the resident to discuss the lease violation, the landlord should:
 - a. discuss the matter openly with the resident;
 - b. use a copy of the resident's lease as reference when explaining how the resident's action constituted a violation; and
 - c. ask the resident if he or she understands everything explained in the warning/ lease termination letter. This will give the resident the chance to discuss his or her disability, if any.
4. If the resident discloses a disability and requests an accommodation, the landlord should:
 - a. have an experienced health care provider verify the disability, if the disability is not readily apparent; and
 - b. use the qualified person verifying the disability as a resource for providing the reasonable accommodation.
5. When reviewing a request for a reasonable accommodation, the landlord may consider the following:
 - a. Will the accommodation prevent future violations?
 - b. Will the accommodation place an undue financial and administrative burden on the management company or owner? If so, and if the accommodation is unlikely to prevent future lease violations, then the landlord is not required to make the accommodation. (See pages 10-11 for a more complete explanation of how to determine whether or not an accommodation is reasonable.)
6. If the manager decides that a reasonable accommodation should be made for the tenant, the manager should prepare a lease addendum that includes this accommodation. The addendum should also include a provision stating that the lease may be terminated if the violation occurs again.
7. If the resident does not disclose a disability or attend a meeting to discuss the violations, the manager should suggest possible sources of support for the resident, (e.g., family, friends, social service agencies). The landlord must respect the resident's right to privacy. Before a third party becomes involved, however, the landlord should try to resolve the matter with the resident.
 - a. If this is not possible, the resident must give written permission before a third party can become involved.
 - b. If permission is granted, the landlord should contact the source of assistance informing them that if the resident has a disability, the resident has the right to request an accommodation.

Note: One exception to this right of privacy may apply. If the landlord can determine, with a reasonable degree of certainty, that the resident is incapable of making a request due to a handicap or disability, the landlord may contact a third party without the resident's permission. This issue must be handled carefully.

8. If a meeting is successfully arranged between the manager, resident, and support for the tenant, the manager should encourage an active discussion of the problem between all three parties. In order to facilitate discussion, the manager should:
 - a. try to foster an atmosphere in which the resident may speak freely about his or her problems and disclose a handicap or disability, if any; and
 - b. allow the tenant's support person to make suggestions that might help prevent future violations and use the support person as a resource if an accommodation is requested.

The resident is not required to participate in any meeting with third parties. If the resident decides not to participate with the third party, the landlord has met its duty by providing the resident the opportunity to request an accommodation or to have a request made on the resident's behalf.

If the resident does not disclose a disability and the landlord decides to contact a relative or social service representative, then these steps must be taken for all residents who do not discuss or disclose a disability and not just for those residents thought to have a disability.

Early Termination of a Lease

A tenant may develop a disability, or an existing disability may become so severe during the term of a lease, that he or she cannot meet the obligations of their lease. In cases in which there is no reasonable modification or accommodation that can remedy the situation, the tenant may have no choice but to find alternative housing. The tenant should request that the landlord permit an early termination of the lease, and the landlord should grant the request, if it is reasonable. Either the tenant or the landlord may offer an alternative accommodation, such as another, more suitable unit.

Relevant Cases

#8 Bruce, who suffers from an undisclosed mental illness, signed a one-year lease with an apartment complex, paying a portion of his rent and supplementing his payment with assistance from HUD. After living in his apartment for three days, his condition worsened, and he was hospitalized. His psychiatrist determined that it would be unsafe for Bruce to continue to live alone in the apartment, and Bruce sought to terminate the lease early. Bruce was assessed for the remaining rent and cleaning charges. The court determined that failure to allow for the early termination of a lease may constitute a failure to provide reasonable accommodations as required by the Fair Housing Act Amendments. *Samuelson v. Mid-Atlantic Realty Co.*, 947 F. Supp. 756 (D. Del. 1996).

#9 Susan, a tenant with a physical disability, was required to walk a considerable distance from her parking spot to her apartment, causing her pain and difficulty. The apartment complex normally rents reserved parking spaces for a fee, but Susan requested that she be reserved a space for free. None of the available reserved spaces were near Susan's apartment. The complex offered to designate some handicapped spaces, but none near her apartment. The court ruled that the complex would not have been unduly burdened by reserving a previously

unreserved space for Susan's use without charge, as a reasonable accommodation required by the FHAA. *Hubbard v. Samson Management Corp.*, 994 F.Supp. 187 (S.D.N.Y. 1998).

#10 Gary and his wife rented a unit in a manufactured home park. Gary was diagnosed as having a schizoaffective disorder, but he stopped taking his medication. After Gary was arrested for assaulting his wife and walking to an adjacent public park with a loaded rifle, his wife was informed that they were no longer welcome to rent their unit. Gary was treated for his psychosis and for a chemical dependency that worsened his condition. The park refused a provisional plan outlined by the treatment facility to return Gary to independent living because he was a direct threat. The court ruled that this constituted a violation of the FHAA for failing to attempt to provide a reasonable accommodation. *Cornwell and Taylor v. Moore*, 2000 WL 1887528 (Minn. Ct. App. 2000).

#11 Phyllis has AIDS-related, non-Hodgkins lymphoma. Phyllis lives in a rent-controlled apartment with a roommate for most of the year, but she spends the winter months in Florida to improve her health. Having a roommate while absent from the apartment is a violation of the lease terms, but Phyllis asked that she be allowed to violate the lease term as a reasonable accommodation. The court ruled that when a reasonable accommodation request is not directly related to a disability, but is based upon economic concerns stemming from the disability, the landlord does not have to make an accommodation to allow lease violations. *Marks v. BLDG Management Co.*, 2002 WL 764473 (S.D.N.Y. 2002).

#12 While the tenant of a mobile home park, Barbara was subject to a lease provision that she is responsible for maintaining the yard around her home. The park sought to evict Barbara for failure to conduct maintenance, and she responded that an illness had prevented her from doing the work. Barbara obtained a caretaker to live rent-free in her home in exchange for doing maintenance. The park again sought to evict her for keeping a roommate not listed on the lease. The court upheld a finding that attempting to evict Barbara instead of allowing the alternative arrangement was a violation of the FHAA. *Boulder Meadows v. Saville*, 2 P.3d 131 (Colo. Ct. App. 2003).

#13 Karen, who is wheelchair-bound, and her daughter moved into Cottonwood and were placed on a top-floor apartment. Karen and her daughter both contacted management, requesting to move to a lower floor where a two-bedroom apartment was available. The court determined that where an alternative apartment is available, it is a violation of the FHAA for an apartment complex to refuse to accommodate a tenant with a physical handicap by allowing the tenant to transfer to a different apartment. *Roseborough by Roseborough v. Cottonwood Apts.*, 1996 WL 490717 (N.D. Ill. 1996).

#14 Linda, suffering from multiple sclerosis, moved into a condominium with a caregiver and two dogs. After one of her dogs died, Linda obtained a puppy to train as a service dog, violating the rules of the association. The dog was trained to provide emotional support for Linda and to alert others when she was in need of assistance. The court found that prohibiting Linda from keeping the dog as a service animal was a violation of the FHAA for failing to provide reasonable accommodation. *Fulciniti v. Village of Shadyside Condo. Association*, 1998 U.S. Dist. LEXIS 23450 (W.D. Pa. 1998).

Protecting the Health and Safety of Other Residents

Landlords may believe that they are protecting the safety of all of their residents by excluding persons with disabilities from tenancy. They may even believe they are under some obligation to do so, based on the possibility that tenants with disabilities could pose a threat to the health or safety of other tenants or their property. In fact, such actions by the landlord could constitute illegal conduct.

First, fair housing law does not allow for exclusion of individuals based on fear, speculation, or stereotypes about a particular disability or persons with disabilities in general. A determination that an individual poses a direct threat must rely on an individualized assessment of the facts of the particular situation that considers:

- the nature, duration, and severity of the risk or injury;
- the probability that injury will occur; and
- whether there are any reasonable accommodations that will eliminate the threat.

For example, a tenant with developing Alzheimer's may have a history of causing cooking related fires, creating a concern for the safety of the resident and other tenants. Reasonable accommodations, such as removing the stove or making it inoperable, can eliminate this risk. The tenant can have a microwave or receive Meals on Wheels as alternatives.

Second, it is important to note that generally landlords are not liable for the criminal acts of their tenants. Landlords may have the responsibility to minimize the risk of foreseeable events, but by definition that is done as part of a comprehensive reasonable accommodation process.

The Issues of Living Independently and Evacuation

Landlords may be concerned about tenants' ability to take care of themselves generally or to engage in more specific activity, such as evacuating safely from an upper floor in the event of an emergency. Regardless of the motivation behind such concerns, they are not criteria that landlords may consider for applications or existing tenancies. Landlords should not ask about the tenant's ability to live independently nor should they ask about the tenant's arrangements for assistance in such matters.

Tenants can make arrangements with relatives, live-in aides, neighbors or a contract service provider to assist them with daily chores and in an emergency. Similarly, in multi-story buildings, with or without an elevator, tenants with disabilities cannot be required to live on the first floor. Although the landlord cannot make the determination of whether tenants can evacuate; if a tenant requests a move to another floor because of a disability, this would often be a reasonable accommodation.

Relevant Case:

#15 A city housing authority provided a questionnaire and conducted an in-home examination to determine if applicants could live independently. Daisy was denied housing because the authority determined that her inability to walk without a walker, her incontinence and use of adult diapers, and her need for ten-hour daily assistance rendered her unable to live independently. The court determined that such a requirement and investigation into an applicant's ability to live independently constitutes unlawful discrimination based on disability. *Cason v. Rochester Housing Authority*, 748 F. Supp. 1002 (W.D.N.Y. 1990).

CONSEQUENCES

Failure to comply with fair housing laws can have significant negative consequences for management companies and owners, including:

- actual damages to a tenant, including pain and suffering;
- injunctive relief, which could cover future business activities, such as preventing a company from buying other apartment complexes;
- civil penalties of \$16,500 for the first offense; and
- punitive damages.

In addition, projects that receive Low Income Housing Tax Credits can have their credits recaptured by the IRS under Treasury Regulation 1.42-9.

Fair Housing for Persons With Disabilities

APPENDICES

APPENDIX A: Sample Notice of Right to Reasonable Accommodation/Modification

APPENDIX B: Sample Request and Response Forms

APPENDIX C: Telecommunications Relay Service

APPENDIX A: Sample

NOTICE OF RIGHT TO REASONABLE ACCOMMODATION/MODIFICATION

IF YOU HAVE A DISABILITY and any of the following kinds of changes would help you live here, use the facilities, or take part in programs on-site, you can ask for these kinds of changes, which are called reasonable accommodation:

- a change in the rules or the way we do things
- repair or modification in your apartment, or a special type of apartment
- a change or repair to some other part of the buildings or grounds
- a change in the way we communicate with you or give you information.

If you can show that you have a disability, and if your request is reasonable, not too expensive or too difficult to arrange, we will try to make the changes you request.

We will give you an answer in _____ days, unless there is a problem getting the information we need or unless you agree to a longer time. We will let you know if we need more information or verification from you or if we would like to talk with you about other ways to meet your needs.

If we turn down your request, we will explain the reasons. You can give us more information if you think that will help.

If you need help filling out the **Reasonable Accommodation/Modification Request Form**, or if you want to give us your request in some other way, we will help you do so.

You can get a **Reasonable Accommodation/Modification Request Form** in the management office.

APPENDIX B:

Sample Request and Response Forms

SAMPLE B1:

REASONABLE ACCOMMODATION REQUEST FORM FOR TENANTS

I have a disability. I believe that the problems causing you to reject my application for housing or to send me a lease violation notice or eviction notice are related to my disability.

1. This is why I think the problem happened as a result of my disability:

2. I think the problem is not likely to happen again because:
The things described below have changed in my life.

or

A reasonable accommodation would solve the problem.
The accommodation I request is:

3. You can verify that the problem for which I would be rejected or evicted from housing was as a result of my disability by contacting:

Name _____

Phone _____

Address _____

4. You can verify the reasons that I think the problem is not likely to happen again and that I will be likely to continue doing what I need to do to avoid these problems by contacting:

Name _____

Phone _____

Address _____

5. You can verify that the reasonable accommodation I am requesting is necessary and likely to solve the problem by contacting:

Name _____

Phone _____

Address _____

[signature]

SAMPLE B2:
REASONABLE ACCOMMODATION REQUEST FOR CURRENT TENANT

Date _____

Building Manager's Name _____

Address _____

Dear _____,

I live in Apartment No. ____ at _____. I have a disability that prevents me from _____. I am therefore requesting a reasonable accommodation. I have attached verification from _____ of my disability and the functional limitations I experience as well as the accommodation(s) I need in order to compensate for my disability. I am asking for this accommodation so that I can have full use and enjoyment of my home.

Please reply to my request in writing within the next ten (10) business days. If you have any questions about my request, please do not hesitate to contact me. I look forward to your response and appreciate your attention to this matter.

Sincerely,

[signature]

SAMPLE B3:
ASSORTED RESPONSE LETTERS FROM LANDLORDS

RESPONSE NO. 1 (requesting confirmation letter from service providers)

Date _____

Dear _____,

We have received your request for a reasonable accommodation, specifically: _____

_____.

Please provide us with a letter from your service providers confirming your disability status and need for the accommodation. Once we receive that letter, we will give prompt consideration to your request.

Sincerely,

[signature]

RESPONSE NO. 2 (outlining accommodation to be made)

Date _____

Dear _____,

We have received your request for a reasonable accommodation, specifically: _____

_____,
together with your health care provider's letter documenting your disability and need for the accommodation.

We will provide the accommodation as follows: _____

_____, within the following time-frame: _____.

Sincerely,

[signature]

RESPONSE NO. 3 (asking for clarification of accommodation request)

Date_____

Dear _____,

We have received your request for a reasonable accommodation. However, we are unclear about your specific needs and would like to meet with you to discuss the accommodation request.

Please contact me as soon as possible so that we can discuss what will best meet your needs.
Sincerely,

[signature]

RESPONSE NO. 4 (outlining reasons for denial of accommodation)

Date_____

Dear _____,

We have received your request for an accommodation for your disability, specifically:

_____. We have given your request reasonable consideration and have decided to deny your request for the following reason(s):

_____.
Under federal and state fair housing laws, we are not required to grant any request(s) we consider unreasonable. If you feel our determination is incorrect, or if you have suggestions for an alternative accommodation, please do not hesitate to contact us.

Sincerely,

[signature]

SAMPLE B4:
REASONABLE MODIFICATION REQUEST

Date _____

Dear _____,

I am a resident of _____. I (or a member of my household) have a disability. As an accommodation for such a disability, I request your permission to

_____,

at my expense. I intend to hire _____ to do the work.
_____ is willing to discuss the project with you and discuss any concerns you may have.

Please respond in writing to my request for a reasonable modification within ten (10) business days. I look forward to your response and appreciate your attention in this matter.

Sincerely,

[signature]

SAMPLE B5:
REASONABLE MODIFICATION RESPONSE FROM LANDLORD

Date _____

Dear _____,

We have received your request for a reasonable modification, specifically, to be allowed to _____.

We have spoken to _____, who has assured us that the project will be done in a professional manner to meet building codes.

Your request to make this modification is granted. Please let me know when the work begins and ends.

When you vacate your unit, we request that you _____.

Sincerely,

[signature]

APPENDIX C:

Telecommunications Relay Service Background

Telecommunications Relay Services (TRS) permits persons with a hearing or speech disability to use the telephone system via a text telephone (TTY) or other device. Under Title IV of the Americans with Disabilities Act, all telephone companies must provide free relay services either directly or through state programs throughout the 50 states, the District of Columbia, Puerto Rico, and all of the U.S. territories. Businesses, government agencies, family, friends, and employers of persons with hearing and speech disabilities make and receive relay calls every day.

How Does TRS Work?

TRS uses operators, called “communications assistants” (CAs), to facilitate telephone calls between people with hearing and speech disabilities and other individuals. Federal Communications Commission (FCC) rules require telephone companies to provide TRS nationwide on a 24 hour-a-day, 7 day a week basis, at no extra cost to callers. Conversations are relayed in real-time and CAs are not permitted to disclose the content of any conversation. Relay callers are not limited in the type, length, or nature of their calls.

What is a TTY (Text Telephone)?

TTYs are also called text telephones. TTYs have a typewriter keyboard and allow persons to type their telephone conversations via two-way text. The text is read on a lighted display screen and/or a paper printout on the TTY.

7-1-1 Access to TRS

Just as you can call 4-1-1 for information, you can dial 7-1-1 to connect to relay service anywhere in the United States. 7-1-1 makes it easier for travelers to use relay because they do not have to remember relay numbers in every state.

Don't Hang Up!

Some people hang up on relay calls because they think the CA is a telemarketer. If you answer the phone and hear, “Hello, this is the relay service. Have you received a relay call before?” please don't hang up. Congratulations! You are about to talk to a person who is deaf, hard-of-hearing, or has a speech disability on your phone!

MORE INFORMATION ON TELECOMMUNICATIONS RELAY SERVICES

To learn more about TRS, visit the FCC's Web site at www.fcc.gov/cgb.

New Mexico Relay Service: 1-800-659-8331

Appendix C

New Mexico Adaptation of SAMHSA Permanent Supportive Housing Fidelity Tool

Appendix D

SAHP Program Site Monitoring Forms

**LOCAL LEAD AGENCY SITE MONITORING VISIT
SPECIAL NEEDS/SET ASIDE HOUSING PROGRAM:**

LIHTC PROPERTY FILE REVIEW (revised 8.2019)

Local Lead Agency _____ for _____ County

Name of LIHTC Property: _____

Section 811 Project Rental Assistance LIHTC Property: Yes___ No___

Available SN Units _____ Filled SN Units: _____

Date of Property File Review: _____ Reviewer Name: _____

INITIAL LEASE UP

Documentation of Preliminary Property Lease Up Meeting between LLA, Housing Developer, Property Management Company Supervisor, and On-Site Property Manager to facilitate initial lease up: Yes___ No___

- **Calendar of Target Dates for Lease Up of LIHTC Property:**
Yes___ No___

Community Outreach Activities to Market the LIHTC Property:

Required documentation to demonstrate county wide outreach to local service providers, advocates and consumers includes:

- **List of organizations and email groups** contacted via 'email blast' or other social media, notifying of the meeting Yes___ No___
- Copy of **LIHTC Property Marketing brochure**; Yes___ No___
- **Copy of Newspaper Advertisement(s)** citing the open and close dates for receipt of Applications: Yes___ No___

Community Stakeholder Meeting Required Documentation:

- Meeting Presentation Material:
Meeting Agenda: Yes___ No___
PowerPoint: Yes___ No___
Handouts: Yes___ No___
- Meeting Sign In Sheets: Yes___ No___ Meeting Date(s): _____

GENERAL

LIHTC Property Partners Contact List : Yes___ No___

Includes: ___ Property Owner/Developer; ___ Property Management Company Regional Supervisor; ___ On Site Property Manager; ___ LLA Staff
(contact(s) name, address; phone – office and cell; e-mail; fax; updated with any staffing changes; and distributed to all parties)

LIHTC Property information:

- Property Tenant Selection/Screening Criteria: Yes___ No___
- Property Lease Applications and Forms: Yes___ No___
- Property Rules, Regulations & Addendums: Yes___ No___
- Property Amenities

- Income Limits/Rent (Current Year)

CERTIFICATION/AGREEMENTS

Special Needs Use Certification – Initial Yes____ No____
OR Land Use Restriction Agreement Yes____ No____

Special Needs Set Aside Housing Program Agreement Between the Local Lead Agency and Property Owner/Developer; signed & current Yes____ No____
(valid for 3 years)

Local Lead Agency – Scope of Work Agreement; Signed & current - Yes____ No____
(Annual Contract between LLA and BHSD)

ONGOING LEASE UP ACTIVITIES/MARKETING & OUTREACH

Supportive Housing Learning Community Meetings Documentation:

- List of organizations/email groups contacted notifying of meeting Yes____ No____
- Meeting Presentation Material:
Meeting Agenda: Yes____ No____
PowerPoint: Yes____ No____
Handouts: Yes____ No____
- Meeting Sign In Sheets: Yes____ No____ Meeting Date(s):_____; _____
(LLAs required to have 2 SHLC meetings per year)

Ongoing community outreach efforts to providers, consumers, and community to market SAHP vacancies; notification of vacancies via email to providers: Yes____ No____

Continuous Community Access and Availability of Application for Special Needs/Set Aside Program:

- LLA shall have posted on their **agency web site** information about the Special Needs/Set Aside Program Yes____ No____
- Brochure for each LIHTC Property: Yes____ No ____
- Special Needs Application: Yes____ No ____

LIHTC PROPERTY STATUS

Review of Special Needs/Set Aside LLA Data Base for _____ LIHTC Property, documentation shall include:

- Review of LLA Data Base: Are all columns and information completed and up to date? Yes____ No____ Comments:_____
- **Applicant names and both the applicant and support services provider contact information** is current and on the LLA waiting list: Yes____ No____

Notice of Vacancies Yes____ No____

LLA Data Base Reporting Requirements

LIHTC Local Lead Agency Data Base reports received for this LIHTC Property for these reporting periods:

- July 1 to December 31 Completed and Submitted Yes ____ No ____
- January 1 to June 30 Completed and Submitted Yes ____ No ____

**LOCAL LEAD AGENCY SITE MONITORING VISIT
SET ASIDE/SPECIAL NEEDS HOUSING PROGRAM:**

SPECIAL NEEDS APPLICANT FILE REVIEW FORM (Revised 8.2019)

Local Lead Agency: _____ for _____ County

LIHTC Property Name: _____

Section 811 Project Rental Assistance LIHTC Property: yes____; no____

Section 811 PRA Client: yes____; no____

Date of Review: _____ Reviewer: _____

Applicant File Review: First Name _____, Last Name Initial _____

- Complete **Special Needs / Set Aside Housing Program Application:** yes____; no____;
 - Signed by Applicant and Support Service Provider: yes____; no____; Date:_____
 - Date Submitted: _____; yes____; no____Comments) _____
- **Attestation of Identity:** yes____; no: ____ Comments _____
(Copies of ID, Social Security Card, etc. not needed if Attestation of Identity form is in file.)
 - Copy of State Issued ID _____
 - Copy of Social Security _____
- **Disability Verification /Diagnosis** [dated within 12 months prior to date of Application]:
yes____; no: ____ Date:_____ Comments _____

(OR) **Attestation of Homelessness:**
yes____; no: ____ Date:_____ Comments _____

(Section 811 PRA must have disability verification/diagnosis)
- **Income Eligibility Documentation:** yes____ no: ____;

Proof of Income Document(s) : _____ (Employment check stubs-6 months;
Social Security Award Letter – SSI or SSA; ISD; other) Date:_____ Comments _____
- Signed copy of **Tenant Responsibility & Participation Agreement:** yes____; no: ____
Date:_____
- Signed copy of **Crisis Response Plan and Contact Numbers** Form: yes____; no: ____;
Date:_____ Updated: _____
- Signed **Release of Information:** yes____; no: ____ Date:_____
- **Date Eligibility Determined:** _____ (from LLA Data Base and SAHP Application)
- **Copy of Applicant Proof of Eligibility and Letter of Referral** for Property Manager yes____;
no ____ Date:_____
- **Added to Wait List** as of Date:_____
- **Date Housed** in SAHP Apt. _____ (from LLA Data Base and Lease Agreement)

- Copy of **Lease Agreement:** yes____; no: _____
- Copies of **Monthly Housing Visit Form(s):** dated: _____ dated: _____ dated: _____
dated: _____ dated: _____ dated: _____ dated: _____ dated: _____ dated: _____
dated: _____ dated: _____ dated: _____ dated: _____
- **Monthly Housing Visit Form Signed:**
 - Tenant: yes____; no: _____
 - Support Service Worker: yes____; no: _____
- Signed **Commitment of Support Services Provision:** yes____; no: _____
- Current **Supportive Services Agency** _____
Case Worker Name: _____
Phone: office and cell: _____
Email: _____
Updated as Needed on LLA Data Base and on Application: _____

APPENDIX E

Special Needs Set Aside Program Policy Modifications for Designated LIHTC Properties Awarded Section 811 Project Rental Assistance Funds

The Department of Housing and Urban Development (HUD) awarded the New Mexico Mortgage Finance Authority (MFA) \$2.3 million for the Section 811 Project Rental Assistance (PRA) program. To develop and implement the 811 PRA for NM, the New Mexico Behavioral Health Services Division (BHSD)/Human Services Department (HSD) and MFA entered a Memorandum of Understanding to serve as the Interagency Partnership Agreement. NMBHSD/HSD manages the Local Lead Agencies, and the NM MFA awards the Low Income Housing Tax Credit (LIHTC) and Section 811 PRA funds. The Interagency Partnership Agreement allows for policy development to guide the processes of the existing LIHTC Special Needs/Set Aside Housing Program (SAHP) and the new Section 811 PRA program.

Purpose:

The purpose of the Section 811 Project Rental Assist Program is to expand supportive housing units in New Mexico and provide project based rental assistance to qualified extremely low-income persons with disabilities for designated, eligible properties of the LIHTC program.

Section 811 PRA Target Population:

Households eligible for 811 PRA include single adults and families with Special Needs (SN) whereby households must meet each of the following criteria:

- Household must include one adult with a disability who is **at least 18 but less than 62 years of age** at the time of screening. Note: Households with a disabled minor child do not qualify for the Section 811 PRA program.
- The household must include at least one adult **with an eligible Special Needs/Set Aside disability**, as listed below ^{/1}.
- The **household income must not exceed the Extremely Low Income limits**, per HUD.
- The applicant **must have a current, active support service provider** that will commit to conducting at least one house visit per month and provide eviction prevention as needed.

Special Needs/Set Aside Disability Screening ^{/1}:

The identified Special Needs applicant is a household member that has one or more of the substantial, long term disabilities listed below. The adult household member does not need to be the primary household member to be eligible for Section 811 PRA. The Local Lead Agency (LLA) will screen applicants for the following Special Needs eligibility criteria:

- Serious Mental Illness
- Addictive Disorder

- Developmental Disability acquired before the age of 22
- Physical, sensory, or cognitive disability occurring after the age of 22
- Disability caused by effects of chronic illness
- Age-related disability

A distinction between the existing Set Aside Housing (SAHP)/Low Income Tax Credit Housing program (LIHTC) and the Section 811 PRA eligibility criteria is that an individual who is homeless or precariously housed is only eligible for 811 PRA subsidy if: 1) an adult household member is at least 18 but less than 62 years of age and has an eligible Special Needs/Set Aside diagnosis, as listed above ^{/1}, and 2) has a household income that not exceed the Extremely Low Income limits, per HUD; and, 3) the household has an active, designated support service provider.

Applicant Referral Process:

LLAs will refer the screened and eligible SN/Section 811 PRA applicants to property management to be processed for tenancy. Set Aside Housing Program/LLA guidelines provide further detail about the screening and referral process, which will be consistent with how the LLA currently processes applicants.

LLAs will continue to screen to identify eligible Special Needs clients to fill other vacant units that are *not* Section 811 PRA eligible. As such, the ‘homeless or precariously housed’ criterion remains a qualifying eligibility criterion for the Special Needs/Set Aside SAHP program only, but not for the Section 811 PRA rental assistance in which a disability is required.

Reverse Referrals:

A reverse referral means the referral of an existing tenant by the property manager and/or service coordinator of a SAHP/LIHTC property to the LLA to be screened for Special Needs and Section 811 PRA eligibility criteria.

If the property manager and/or social coordinator of an eligible LIHTC/SAHP property identify a current, existing tenant as a possible, eligible applicant of the target population who meets Special Needs eligibility criteria; the property manager and/or social coordinator will refer the current, existing tenant to the LLA to be screened. The applicant must be at risk of eviction, received an eviction notice. The referred individual must meet all of the following criteria:

- Household must **include one adult with a disability who is at least 18 but less than 62 years of age** at the time of screening. Note: Households with a disabled minor child do not qualify for the Section 811 PRA program.
- The household must **include at least one adult with an eligible Special Needs/Set Aside disability**, as listed above ^{/1}.
- The **household income must not exceed the Extremely Low Income limits**, per HUD.

- The applicant **must have a current, active support service provider** that will commit to conducting at least one house visit per month and provide eviction prevention as needed.
 - The **applicant will not meet eligibility criteria if lacking a support service provider** willing to commit to conducting the monthly house visit and/or work in collaboration with the LLA.
- The applicant **must be willing to voluntarily participate** in 811 PRA programming and to engage with a support service provider that includes but is not limited to a **monthly house visit**.
- **Household must be at risk of eviction** to include having received an eviction notice.

For each individual reverse referral, the property manager or service coordinator will provide the LLA with all demographic information for the client; any relevant, qualifying income and financial information; the designated support service agency name, case manager name, and their contact information.

Please note that there will be no preference status for existing tenants *after the first available Section 811 PRA units are initially filled*. All Special Needs and Section 811 PRA applicants thereafter will be placed on the LLAs wait list without any preference. The purpose of the initial preference is to prevent homelessness of existing qualified tenants.

Each SAHP/LIHTC property involved with 811 PRA programming has a certain amount of Special Needs (SN) units available. (The amount of SN units may differ from the amount of 811 SN units available.)

Reverse Referrals of existing tenants already identified as Special Needs:

Each SAHP/LIHTC program property may have Special Needs units filled by tenants that the LLA has already screened and identified as Special Needs. To refer these individuals, the referred individuals must have the following:

- Household must **include one adult with a disability who is at least 18 but less than 62 years of age** at the time of screening. Note: Households with a disabled minor child do not qualify for the Section 811 PRA program.
- The household must include at least one adult **with an eligible Special Needs/Set Aside disability**, as listed above ^{/1}.
- The **household income must not exceed the Extremely Low Income limits**, per HUD.
- The applicant **must have a current, active support service provider** that will commit to conducting at least one house visit per month and provide eviction prevention as needed.

- The **applicant must be willing to voluntary participate** in Section 811 PRA programming and continue to engage in support services that include but are not limited to a **monthly house visit**.
- **Household must be at risk of eviction** to include having received an eviction notice.

Please note that there will be no preference status for existing Special Needs tenants *after the first available Section 811 PRA units are initially filled*. All Special Needs and Section 811 PRA applicants thereafter will be placed on the LLAs wait list without any preference. The purpose of the initial preference is to prevent homelessness of existing qualified tenants.

Each SAHP/LIHTC property involved with 811 PRA programming has a certain amount of Special Needs (SN) units available. (The amount of SN units may differ from the amount of 811 SN units available.)