

**NEW MEXICO MORTGAGE FINANCE AUTHORITY
NEW MEXICO AFFORDABLE HOUSING CHARITABLE TRUST
POLICY**

As approved by MFA Board of Directors, and revised September 21, 2016 and
July 21, 2021

SECTION 1. AUTHORITY. The New Mexico Affordable Housing Charitable Trust (the “Trust”) was created in November 2007 by a Trust Agreement that names the New Mexico Mortgage Finance Authority (the “MFA”) as Trustee and establishes the purpose and uses of the Trust.

SECTION 2. PURPOSE. The Trust was created to support the Affordable Housing purposes for which MFA was established. The Trust will receive, hold, invest and manage property, including, but not limited to, cash and cash equivalents, stocks, bonds, notes, tangible personal property and real property (the “Property”) and will use and distribute the Property for the purposes set forth in the New Mexico Mortgage Finance Authority Act, NMSA 1978, §58-18-1 et seq. (the “MFA Act”). These purposes include making funds available as grants or loans for land acquisition, infrastructure, construction, building acquisition, remodeling, improvement, rehabilitation, conversion, weatherization and financing Residential Housing for Persons of Low- or Moderate-Income as approved by the Trustee.

SECTION 3. GENERAL DEFINITIONS. The following words and terms shall have the following meanings:

3.1 “Affordable Housing” means Residential Housing primarily for Persons or households of Low- or Moderate-Income.

3.2 “Affordable Housing Tax Credits” or “State Tax Credits” shall mean any tax credits awarded or to be awarded under the Affordable Housing Tax Credit Act, NMSA 1978, §7-9I-1 et seq.,

3.3 “**Area Median Income (AMI)**” – the median income level, issued annually by HUD for each metropolitan area and for each county outside a metropolitan area, which is adjusted for household size and used to calculate maximum income of eligible persons and rents for Rent Restricted Units. As of July 30, 2008, any Project located in a rural area (as defined in Section 520 of the Housing Act of 1949) shall have income limitations measured by the greater of the HUD median income or the national non-metropolitan median income.

3.4 “Donor” shall mean an individual, tribal government, housing authority, corporation, limited liability company, partnership, joint venture, syndicate, association or nonprofit organization that contributes to the New Mexico Affordable Housing Charitable Trust.

3.5 “Donations” shall mean irrevocable and unconditional contributions of land, buildings, materials, cash or services.



3.6 “MFA” shall mean the New Mexico Mortgage Finance Authority.

3.7 “MFA Act” shall mean the Mortgage Finance Authority Act, enacted as Chapter 303 of the Laws of 1975 of the State of New Mexico, as amended (being Sections 58-18-1 through 58-18-27 N.M.S.A. (1978), as amended).

3.8 “Multifamily Housing” shall mean Residential Housing that is designed for occupancy by five or more households living independently of each other, a percentage of whom are Persons of Low- or Moderate-Income, including without limitation Persons of Low- or Moderate-Income who are elderly and handicapped as determined by MFA, provided that the percentage of low-income persons and households shall be at least the minimum, if any, required by any applicable federal tax law. MFA, in its discretion, may increase or decrease the percentage of units that must be occupied by Persons of Low- or Moderate-Income in any agreement with an Applicant consistent with the purposes of the MFA Act.

3.9 “New Mexico Affordable Housing Charitable Trust” shall mean the nonprofit organization for which MFA is Trustee, contributions to which are eligible for Affordable Housing Tax Credits and the federal deduction for charitable contributions.

3.10 “NOFA” shall mean Notice of Funding Availability.

3.11 “Persons of Low- or Moderate-Income” Low-income shall mean persons and households who earn up to 80 percent of local Area Median Income (AMI). Persons of moderate-income shall mean persons and households who earn up to 120 percent of local AMI.

3.12 “Rehabilitation” shall mean the renovation or reconstruction of existing Residential Housing which complies with requirements established by MFA. Rehabilitation shall not include routine or ordinary repairs, improvements or maintenance, such as interior decorating, remodeling or exterior painting, except in conjunction with other renovation or reconstruction, but shall include moderate rehabilitation including but not limited to weatherization activities, roof repair, and improvements to meet Americans with Disabilities Act requirements.

3.13 “Residential Housing” shall mean any building, structure or portion thereof that is primarily occupied, or designed or intended primarily for occupancy, as a residence by one or more households and any real property that is offered for sale or lease for the construction or location thereon of such a Building, structure or portion thereof. “Residential Housing” includes Single Family Housing, Multifamily Housing, manufactured homes, and housing intended to provide or providing Transitional Housing or temporary housing for homeless persons.

3.14 “Single Family Housing” shall mean Residential Housing that is designed for occupancy by one to four households living independently of each other.

3.15 “State” shall mean the State of New Mexico.

3.16 “Transitional Housing” shall mean Residential Housing that is designed for

temporary or transitional occupancy by Persons of Low- or Moderate-Income or special needs.

3.17 “Trust Agreement” shall mean the written instrument approved and executed by the MFA Board of Directors in 2007, creating the New Mexico Affordable Housing Charitable Trust and establishing the MFA as Trustee.

3.18 “Trustee” shall mean the MFA, as Trustee of New Mexico Affordable Housing Charitable Trust.

SECTION 4. DONATIONS TO THE NEW MEXICO AFFORDABLE HOUSING CHARITABLE TRUST. Donations to the New Mexico Affordable Housing Charitable Trust include:

4.1 Donations of Cash and Securities. Donations of cash, cash equivalents, stocks and bonds may be utilized at MFA’s discretion as described in Section 2 of these Policies and for other purposes allowed by the Trust Agreement.

- (A) There is no minimum cash donation to the Trust; however, donations of cash equivalents, stocks and bonds must be valued at two hundred dollars (\$200.00) or more.
- (B) Donations of cash equivalents, stocks and bonds shall be liquidated by MFA at the time of donation.
- (C) A Donor may earmark the Donation either for expenditure in a specific New Mexico county at the time of donation or for expenditure on a specific Affordable Housing Project.

4.2 Other Donations. Donations of land, buildings, materials and services must be associated with an Affordable Housing Project approved by MFA.

4.3 Affordable Housing Tax Credits or State Tax Credits. In accordance with the Affordable Housing Tax Credit Act, NMSA 1978, §7-9I-1 et seq., Donations to the Trust are eligible for Affordable Housing Tax Credits as follows:

- (A) Donations of Cash and Securities: To apply for Affordable Housing Tax Credits for Donations of cash, cash equivalents, stocks and bonds, a Donor shall complete an investment certification form and submit the form to MFA. MFA will issue investment vouchers directly to the Donor after reviewing and approving the investment certification form.
- (B) Other Donations: Donations of land, buildings, materials and services are eligible for Affordable Housing Tax Credits if they are associated with an Affordable Housing Project approved by MFA pursuant to the New Mexico Affordable Housing Tax Credit Program Rules.



- (C) For Donations made directly to the Trust and earmarked for a MFA-approved Affordable Housing Project that has met all readiness requirements outlined in the reservation letter, MFA will issue investment vouchers directly to the Donor after reviewing and approving the investment certification form. The earmarked Donation will be transferred to the Affordable Housing Project owner after the investment voucher has been issued to the Donor. For Donations made directly to the Trust and earmarked for a project which has not been approved by MFA as an Affordable Housing Project, MFA will notify the Donor that the earmarked Donation will be transferred to the organization once the State Tax Credit Award is approved and will obtain agreement from the donor to either apply the funds to an MFA-approved Affordable Housing Project, or to administer the Donation in accordance with Section 5 in the event the earmarked Affordable Housing Project does not receive or is otherwise ineligible for a State Tax Credit award. In these cases, MFA will issue investment vouchers directly to the Donor, after reviewing and approving the investment certification form and obtaining agreement from the Donor of an alternate use of the Donation.

SECTION 5. GRANT AND LOAN AWARDS. At its discretion, MFA may make Trust funds available for grants or loans to Persons or households of Low- or Moderate-Income or other entities serving Persons or households of Low- or Moderate-Income, including but not limited to developers, nonprofit organizations, governmental agencies or service providers. MFA may make grants or loans through any of its existing Affordable Housing programs, and such use of Trust funds shall follow the Delegations of Authority and requirements, policies and processes established for existing programs. MFA may also make grants or loans available through a NOFA for a new or special program which may introduce new requirements, policies and processes for use of Trust funds. Grants or loans to Persons or households of Low- or Moderate-Income or other entities serving Persons or households of Low- or Moderate-Income may also be recommended by MFA staff and such use of Trust funds shall follow the Delegations of Authority.

SECTION 6. DEPARTMENTAL RESPONSIBILITIES The Trust shall be overseen by MFA's Chief Lending Officer, acting pursuant to MFA's Delegations of Authority. The following departmental responsibilities apply to MFA's administration of the Trust:

- (A) Accounting Department: Accounting for the Trust, IRS reporting, tracking of Trust expenses, disbursement and tracking of program expenditures and borrower billing.
- (B) Finance Department: Investment of Trust funds.
- (C) Housing Development Department: Approval and processing of Affordable Housing Tax Credits resulting from a Donation to the Trust.



- (D) Various Departments: Trust funds granted or loaned through one of MFA's Affordable Housing programs shall be solicited, awarded and monitored by the MFA department that manages said Affordable Housing program.
- (E) Legal Counsel: Preparation and/or review of documents.

Adopted by MFA's Board of Directors on July 21, 2021.

This Policy supersedes and replaces all prior New Mexico Mortgage Finance Authority New Mexico Affordable Housing Charitable Trust policies in their entirety.

