MFA Housing New Mexico
MFA October Board of Directors Meeting 2023
October 18, 2023
9:30 am-12:30 pm Mountain Time

Chair Convenes Meeting

- ➢ Roll Call (Izzy Hernandez)
- ➢ Approval of Agenda – Board Action
- ➢ Approval of 9/20/23 Board Meeting Minutes – Board Action
- ➢ Executive Director Updates

	Board Action Items	**Action Required?**
	Finance Committee	
1	MFA Rules and Regulations – Approval of Amendment (Julie Halbig)	YES
2	2024 Qualified Allocation Plan (Jeanne Redondo)	YES
	Contracted Services/Credit Committee	
3	NM Energy$mart Memo Tribal RFP Award Recommendation (Dimitri Florez)	YES
4	Recommendation for Approval for CPF Fire Affected Counties (Robyn Powell and Stephanie Gonzales)	YES
5	Eastern Regional Housing Authority – Non Profit Formation (Theresa Laredo-Garcia, Chris Herbert, and Cesar Marenco)	YES
6	Biannual Compliance Activity Report for May 2023- September 2023 (Julie Halbig)	YES
	New Mexico Housing Trust Fund	
7	Pedrena Apartments HOME, NMHTF, NHTF Loan Requests (Jacobo Martinez and George Maestas)	YES
8	Single Family Development Grant Pilot Program Notice of Funding Availability (Robyn Powell)	YES
	Property Committee	
9	7425 Jefferson St. NE Cost Summary, Highlights and Budget Amendment (Izzy Hernandez)	YES
10	7425 Jefferson Renovation RFP Award (Izzy Hernandez and Jeff Payne)	YES
11	7425 Jefferson Re-Roof RFP Award (Jeff Payne)	YES
	Other	**Action Required**
12	401k and 457b Plan Amendment (Dolores Wood and Karen Kahn)	YES
	Closed Session	**Action Required**

13 (Motion and affirmative vote are required to close the meeting for these limited purposes)
Executive Session- Sale of Real Property YES
・Executive Session to be held pursuant to Section 10-15-1 H (8) of the Open Meetings Act: Discuss Letter of Interest/Purchase Agreement Related to Sale of Real Property (Izzy Hernandez and Tom Jenkins)

Open Session **Action Required**

14 (Motion and affirmative vote are required to open the meeting)
Letter of Interest/Purchase Agreement Related to Sale of Real Property (Izzy Hernandez and Tom Jenkins) YES

Other Board Items **Information Only**

15 **(Staff is available for questions)**

・Staff Action Requiring Notice to Board
・Board Member Feedback from the 2023 Board Retreat

Monthly Reports **No Action Required**

16 **(Staff is available for questions)**

・8/31/23 Financial Statements
・New Mexico Housing Trust Fund Monthly Update

Announcements and Adjournment **Discussion Only**

Confirmation of Upcoming Board Meetings

➢ November 7, 2023 – Tuesday, Contracted Services 10:00 a.m. Finance Committee 1:30 p.m.
➢ November 15, 2023 - Wednesday- 9:30 a.m. (MFA Board of Directors Meeting)
➢ December 12, 2022 - Tuesday, Contracted Services 10:00 a.m. Finance Committee 1:30 p.m.
➢ December 20, 2022 – Wednesday – 9:30 a.m. (MFA Board of Directors Meeting)
➢ January 9, 2024 – Tuesday, Contracted Services 10:00 a.m. Finance Committee 1:30 p.m.
➢ January 17, 2024 - Wednesday- 9:30 a.m. (MFA Board of Directors Meeting)

MFA
Housing New Mexico

NEW MEXICO MORTGAGE FINANCE AUTHORITY
Board Meeting
344 4th St. SW, Albuquerque, NM
Wednesday October 18, 2023 - 9:30 a.m.

Proposed Agenda

Chair Convenes Meeting

- Roll Call (Izzy Hernandez)
- Approval of Agenda – Board Action
- Approval of 9/20/23 Board Meeting Minutes – Board Action
- Executive Director Updates

Board Action Items	Action Required?
Finance Committee	
1 MFA Rules and Regulations – Approval of Amendment - Julie Halbig	YES
2 2024 Qualified Allocation Plan – Jeanne Redondo	YES
Contracted Services/Credit Committee	
3 NM Energy$mart Memo Tribal RFP Award Recommendation- Dimitri Florez	YES
4 Recommendation for Approval for Community Project Fund Fire Affected Counties – Robyn Powell and Stephanie Gonzales	YES
5 Eastern Regional Housing Authority – Non Profit Formation – Theresa Laredo-Garcia, Chris Herbert, and Cesar Marenco	YES
6 Biannual Compliance Activity Report for May 2023- September 2023 - Julie Halbig	YES
New Mexico Housing Trust Fund	
7 Pedrena Apartments HOME, New Mexico Housing Trust Fund, Nation Housing Trust Fund Loan Requests – Jacobo Martinez and George Maestas	YES
8 Single Family Development Grant Pilot Program Notice of Funding Availability – Robyn Powell	YES
Property Committee	
9 7425 Jefferson St. NE Cost Summary, Highlights and Budget Amendment – Izzy Hernandez	YES
10 7425 Jefferson Renovation RFP Award - Izzy Hernandez and Jeff Payne	YES
11 7425 Jefferson Re-Roof RFP Award - Jeff Payne	YES

Other	Action Required
12 401(k) and 457(b) Plan Amendment - Dolores Wood and Karen Kahn	YES

Closed Session	Action Required
(Motion and affirmative vote are required to close the meeting for these limited purposes)	
13 Executive Session- Sale of Real Property	YES
▪ Executive Session to be held pursuant to Section 10-15-1 H (8) of the Open Meetings Act: Discuss Letter of Interest/Purchase Agreement Related to Sale of Real Property (Izzy Hernandez and Tom Jenkins)	

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Other Board Items	Information Only
15 (Staff is available for questions)	
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Monthly Reports **Non Action Required**

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Board Action Items **Action Required?**

Finance Committee

1 **MFA Rules and Regulations – Approval of Amendment (Julie Halbig)** - Staff are proposing adoption of the amendment to MFA's Rules and Regulations. With the Board's input and approval, the proposed amendment will be presented to the Legislative Oversight Committee on November 9, 2023. YES

2 **2024 Qualified Allocation Plan (Jeanne Redondo)** - The proposed changes to the 2024 QAP continue to improve the allocation process. Staff conducted two Developer's Forum sessions and three additional focus groups wherein we gathered input to the QAP. New ideas were raised by attendees at the Forum, which were carefully considered. In addition, staff solicited input from staff from the Asset Management Department. YES

Contracted Services/Credit Committee

3 **NM Energy$mart Memo Tribal RFP Award Recommendation (Dimitri Florez) -** Based on the responses to the NM Energy$mart Tribal RFP, staff recommends Board approval for Central New Mexico Housing Corporation to serve the Pueblo Territory and Red Feather Development Group to serve the Navajo Nation Territory. Board approval would allow the NM Energy$mart service providers to receive a half-year contract (January 1, 2024 – June 30, 2024) with the option of three, one-year renewals. Upon funding availability, there is the possibility that these agencies can hold a contract from January 1, 2024, through June 30, 2027. YES

4 **Recommendation for Approval for CPF Fire Affected Counties (Robyn Powell and Stephanie Gonzales) -** Staff recommends approval of the Community Project Funding Affordable Housing in New Mexico's Fire Affected Counties Notice of Funding Availability for publication. YES

5 **Eastern Regional Housing Authority – Non Profit Formation (Theresa Lorado-Garcia, Chris Herbert, and Cesar Marenco) -** Staff recommends approval of the formation of ERHA Housing Development Corporation (HDC). The HDC will provide the ability to expand ERHA's mission of providing affordable housing to its region in southeast NM. YES

6 **Biannual Compliance Activity Report for May 2023- September 2023 (Julie Halbig) -** The activities described in this report are intended to provide the Board of Directors with assurance that MFA is effectively managing compliance with Federal and State consumer financial laws applicable to the products and services being provided by MFA and mitigating related risk. Compliance activities will be reported to the Board through the Contracted Services/Credit Committee no less than twice per year, and as needed to fulfill the compliance department's responsibility to inform the Board of any critical compliance issues. There were no significant compliance concerns identified during this reporting period. YES

New Mexico Housing Trust Fund

7 **Pedrena Apartments HOME, NMHTF, NHTF Loan Requests (Jacobo Martinez and George Maestas)** - A HOME request in the amount of $800,000, a NMHTF request in the amount for $1,000,000, and a NHTF request in the amount of $1,500,000 for the Pedrena Apartments, located in Las Cruces, New Mexico. Pedrena Apartments is a new construction 80-unit multifamily senior (55+) housing project, with 72 units income restricted to households earning 60% or less of Area Median Income (AMI), and 8 units restricted to 30% or less of AMI. YES

8 **Single Family Development Grant Pilot Program Notice of Funding Availability (Robyn Powell) -** Staff recommends approval to publish the Single Family Development Grant Pilot Program NOFA. YES

Property Committee

9 **7425 Jefferson St. NE Cost Summary, Highlights and Budget Amendment (Izzy Hernandez)-** Staff respectfully requests your approval of the recommended awards, along with an amendment to MFA's capital budget for this amount. YES

10 **7425 Jefferson Renovation RFP Award (Izzy Hernandez and Jeff Payne) -** The Board approved the Construction Services RFP on July 19, 2023. MFA received three responses. All responses met the Minimum Qualifications and Requirements and were scored. Staff recommends the Construction Services RFP award be made to Klinger Constructors, LLC and that staff begin contract negotiations. YES

11 **7425 Jefferson Re-Roof RFP Award (Jeff Payne)** - The Board approved the Construction Services Request for Proposals to Re-Roof the building at 7425 Jefferson St. NE on July 19, 2023. MFA received three responses. All offerors met the Minimum Qualifications and Requirements and were scored. Staff recommends the Construction Services Award to Re-Roof 7425 Jefferson be made to J3 Systems, LLC. YES

Other **Action Required**

12 **401(k) and 457(b) Plan Amendment (Dolores Wood and Karen Kahn)** - Staff recommends approval of 401(k) and 457(b) Plan Amendments. The 401(k)-plan amendment will include, 1) eliminates catch-up contributions, effective January 1, 2024, and 2) eliminates the forced distribution to terminated participants at age 65 and instead requires distributions when a terminated participant reaches required minimum distribution age. The amendment of the 457(b) plan will eliminate availability of loans because of the administrative burden involved. Since the provisions prohibiting a cutback in Plan benefits does not apply to governmental plans, we made the change effective retroactively to when the Plan was adopted in June 2023. YES

Closed Session **Action Required**

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NEW MEXICO MORTGAGE FINANCE AUTHORITY
Board Meeting Minutes
Hilton Santa Fe Historic Plaza, Santa Fe, NM
Wednesday, September 20, 2023 at 9:30 a.m.

Chair Angel Reyes convened the meeting on September 20, 2023 at 9:35 a.m. Secretary Hernandez called the roll. Members attending in person: Chair Angel Reyes, State Treasurer Laura M. Montoya, Derek Valdo, Martina C'de Baca (designee for Lieutenant Governor Howie Morales), and Rebecca Wurzburger. Virtual attendance: Patricia Sullivan. Absent: Gideon Elliot (designee for Attorney General Raúl Torrez). Hernandez informed the Board that everyone had been informed about today's meeting in accordance with the New Mexico Open Meetings Act.

Chair Reyes welcomed Board members, guests, and staff and thanked everyone for being here. He informed everyone that the meeting is being recorded, referencing the microphone sensitivity.

Approval of Agenda – Board Action. Motion to approve the September 20, 2023 Board agenda as presented: Wurzburger. Seconded by C'de Baca. Vote: 6-0

Approval of 8/16/23 Board Meeting Minutes – Board Action. Motion to approve the August 16, 2023 Board Meeting Minutes as presented: Wurzburger. Seconded by Valdo. Vote: 5-0 (Treasurer Montoya abstained)

Hernandez provided his Executive Director updates: Hernandez introduced three new MFA employees: Arundhati Bose, Chief Financial Officer; Kristie Garcia, Director of Communications and Marketing; and Alex Lundy, Finance Manager. **Program Updates**: Subservicing Portfolio: $2.150bil/13,540. 9.81% Growth since 9/22. Mortgage Ops: Slightly ahead of last year's weekly avg. '21- $11.0m/ '22- $9.33m/ '23- 9.36m (as of 9/8/23). MFA (GOV) Int. 6.00%/ Mkt: 7.25% (9/8/23) – 4.50% (4/15/22). **Significant meetings/presentations**: 8/30: LOC Meeting #3-SF/MF Development. 8/31: Meeting on Silver City Housing Development. 9/07: Senate Rules Committee- Member Wurzburger Confirmation Hearing. 9/08: Meeting with Zuni Pueblo Governor Valentino Pino and staff. 9/11: Governor's Conference on Economic Development. **Upcoming Meetings**: 9/27: Moody's Rating Call. 10/4: LOC Meeting #4-Financing/Homeownership/HTF. 10/6: 2023D Due Diligence Call. **Noteworthy News**: Building Materials Remain Stable. Hernandez then provided Santa Fe Housing Stats and Production and August 31, 2023 YTD Activity Investments for Santa Fe and surrounding Counties chart. Hernandez referred to the Housing Continuum Items that will be focused on during the meeting. He informed the Board that the next MFA Board of Directors meeting will be October 18, 2023 at 9:30 a.m. in Albuquerque, NM.

Chair Reyes welcomed local perspectives: Alan M. Webber, Mayor City of Santa Fe and Mike Loftin Chief Executive Officer, Homewise.

Local Perspectives

The Honorable Alan M. Webber, Mayor of the City of Santa Fe welcomed the Board and staff to Santa Fe. The mayor provided a perspective on housing from his mayoral view, stating there is a larger set of issues that coincide with housing issues. He highlighted three concerns: affordable housing, workforce housing and homelessness; post covid issue – increase drug addictions; and mental and behavioral health issues. The mayor spoke of his vision of affordable housing for everyone who works and lives in Santa Fe. He stated that Santa Fe is experiencing a loss in community, due to the increased in individuals leaving the city to find affordable housing elsewhere. This loss will create a serious problem for the city's future. His main goal is to end veteran and youth homelessness in Santa Fe and in the State with anti-displacement strategies and solutions for individual homelessness needs. The mayor then stated a need for creating a First Responders Mortgage Assistance Program and the need for a Regional Emergency Healthy Living Center for Northern New Mexico. A discussion ensued regarding zoning impacts, supply and demand and education for trade programs. The mayor emphasized the huge need for financing affordable housing.

Hernandez welcomed and introduced guest in the audience: Alexandra Ladd, City of Santa Fe; Gene Bostwick, Santa Fe Public Schools; Rich Brown, City of Santa Fe Community Development; Angie Ferguson, Thomas Development;

Lisa Parrish, Thomas Development; Debbie Davis, Supportive Housing of Central New Mexico; and Laura Chavez, Supportive Housing of Central New Mexico.

Mike Loftin, Chief Executive Officer of Homewise provided information regarding his background and Homewise focus which is homeownership. He provided an overview of his programs which include homebuyer education, individualized financial coaching, real estate services, and mortgage lending services to help New Mexicans achieve their dream of homeownership. Homewise's mission is to help create successful homeowners and strengthen neighborhoods so that individuals and families can improve their long-term financial wellbeing and quality of life. Loftin states we should be the leader and set the goal to increase access to homeownership in the state.

Member C'de Baca stepped out during Local Perspective addresses at 10:23 a.m.

Consent

1 RFQ Mortgage Servicing Legal Services (Yvonne Segovia) - Staff recommends the approval of the Request for Qualifications for Mortgage Servicing Legal Services. Responses will be due to MFA by Wednesday, October 18, 2023. Recommendations for awards will be presented on Wednesday, November 15, 2023, for MFA Board of Directors approval. Staff are also requesting approval for the option to extend the current contracts by 90 days if contract negotiations are not completed by November 30, 2023.

2 Authorized Signature Resolution (Joseph McIntyre) - The Authorized Signatures Resolution is updated periodically as needed. Staff recommends the update of the Authorized Signature Resolution to add MFA's CFO Arundhati Bose as an authorized signor.

Chair Reyes asked if the Board has a request to separate the two consent agenda items: RFQ Mortgage Servicing Legal Services and Authorized Signature Resolution. No request was made. Chair Reyes then asked for a motion to approve the two consent items: RFQ Mortgage Servicing Legal Services and Authorized Signature Resolution as one vote. Motion to approve the RFQ Mortgage Servicing Legal Services and Authorized Signature Resolution as presented: Treasurer Montoya. Seconded by Wurzburger. Vote: 5-0

Following action on the Consent Agenda, items 1 and 2, Chair Reyes recused himself from the discussion and action related to the Property Committee items 3 and 4 pursuant to disclosure he made to the Board of Directors on August 16, 2023, handing the gavel over to Vice Chair Valdo.

Property Committee

Member C'de Baca returned to the meeting during Tab 3 at 10:31 a.m.

3 7425 Jefferson Renovation RFP Award (Izzy Hernandez and Jeff Payne) - Hernandez began his presentation by providing background on the 7425 Jefferson St. NE propety. He mentioned Doug Heller was present in the audience for any detailed questions that he cannot address. MFA determined that it required a property better able to accommodate its current and future operations. He started by referencing the Cost Summary and highlights, referring to memo provided in Tab 3 of the board packet. The Board approved a resolution on July 20, 2022, authorizing the Property Committee to conduct a search for real property to acquire that will satisfy the Authority's current and reasonably foreseeable future needs for space from which to conduct its operations, and to list and sell its Offices. He respectfully requested consideration of the recommendation and approval of the Construction Services RFP on July 19, 2023. MFA received three responses. All responses met the Minimum Qualifications and Requirements and were scored. Staff recommends the Construction Services RFP award be made and that staff begin contract negotiations. He stated we are confident that the RFP has rendered us competitive bids and that the recommended agencies will provide quality work. While the proposed total improvement cost of $4.2m is higher than our pre-design budget estimates of $2.3M, reconciling the list of added scope costs ($1.1M not fully reflective of all new scope) in addition to the increased costs we have been

experiencing, brings our initial estimate in line with the proposed bids. Staff through Doug Heller (Architect) will work with contractors to hone in costs where possible. Hernandez stated the recommendation was presented at Property Committee but there was no quorum at the time of the committee meeting, therefore the proposal is coming straight to the Board without Property Committee a recommendation. Discussion ensued regarding the last Property Committee meeting and who composes the committee. Chair Reyes (who recused himself from the last committee meeting), Member Wurzburger, Member Sullivan (who did not participate in the last property committee meeting), and Hernandez are members of the Property Committee. The Board decided to send the item back to the Property Committee for review once a quorum is established, then bring back to Board. Motion to Table 7425 Jefferson Renovation RFP Award: Treasurer Montoya. Seconded by Wurzburger. Vote: 5-0

4 7425 Jefferson Re-Roof RFP Award (Jeff Payne) – Vice Chair asked Board for an open discussion on the recommendation to re-roof the building at 7425 Jefferson St. NE unless there is a motion to table the item under the same situation as item 3. He then asked the Board if they were ok with proceeding with the requested proposal. Member Sullivan recommended item 4 be sent to Property Committee and reviewed collectively. Motion to Table the 7425 Jefferson Re-Roof RFP Award: Wurzburger. Seconded by Sullivan. Vote: 5-0.

Vice Chair Valdo requested that Chair Reyes be notified and rejoin the meeting at the close of the Tab 4.

The Board asked for a short break at 10:52 a.m.

Chair Reyes continued chairing the meeting at 11:07 a.m.

<u>Finance Committee</u>

5 Request for Renewal and Increase of Revolving Line of Credit with New Mexico Small Business Investment Corporation (Sharlynn Rosales and George Maestas) – Rosales began her presentation by recommending the approval of the resolution to amend the revolving line of credit agreement with SBIC which will be used as an additional resource for the Primero Loan Fund Program. She then stated the revolving line of credit term will end on November 30, 2023. To maintain productivity, requests approval to increase the loan amount to $3.5 million and extend the term for an additional 5 years. MFA staff attended and received approval of these requests on August 18, 2023, with unanimous approval from the SBIC Board. The SBIC Board determined that the agency will require a resolution of MFA's Board documenting the Board's approval of the loan amendments. To satisfy the request from SBIC, the resolution this memo accompanies was prepared for the MFA Board of Directors' approval. Motion to approve the Request for Renewal and Increase of Revolving Line of Credit with New Mexico Small Business Investment Corporation as presented: Treasure Montoya. Seconded by Wurzburger. Vote 6-0

6 Primero Loan Fund Program Policy Revisions (Sharlynn Rosales and George Maestas) – Rosales began her presentation by recommending revisions to the Primero Loan Program Policy. This revision will be the first since its approval by the Board in 2004. The revisions pertaining to the single-family development will better coincide with our existing Homeownership single family loan programs to better meet the needs of our communities. She then stated other revisions are necessary to remove out-of-date information and clarify the use of the program. Discussion ensued defining a modular home and mobile home. Jeff Payne stated a modular home is built as panes and taken to a site and assembled while a mobile home is built on a chassis and taken to the site. In the mortgage world there is a very distinct way of how they are handled, in conclusion the definition of mobile home will be added to the memo. Motion to approve the Primero Loan Fund Program Policy Revisions as presented: Treasurer Montoya. Seconded by C'de Baca. Vote 6-0

7 New Mexico Housing Trust Fund (NMHTF) Loan Awards Notice of Funding Availability (NOFA) Revisions (Tim Martinez and George Maestas) – Hernandez begun with comments on the New Mexico Trust Fund Report referring to the NMHTF Board update chart that was provided. He recapped the strategic considerations in allocating the funds to the various activities (HTF/State Board of Finance requirements, capacity/timely use of funds, Governor's Priorities, Statewide distribution, program income generation, maximize leveraging, and housing needs

assessment). Martinez then began his presentation by proposing revisions to the NMHTF Loan Awards NOFA aim to better align single family development lending requirements with the current income eligibility language in the MFA Rules and Regulations. Not only will this increase program utilization, but it will significantly expand eligibility for moderate income households to purchase homes funded by the NMHTF. He provided background stating in November 2022, MFA Board of Directors and MFA Legislative Oversight Committee approved an amendment to the MFA Rules and Regulations which significantly expanded the income levels that determine eligibility for MFA's non-federal programs. In the current Rules and Regulations, the definition of moderate income now applies to households earning above 80% and up to 150% of AMI adjusted for family size. The current version of the NMHTF Loan Award NOFA does not align with this expanded definition, doing so could significantly increase the utilization of the program for single family development as well as opportunities for moderate income homebuyers. He then stated recommended amendment serves as both a practical program improvement and will better align with MFAs overall mission and existing homeownership programs. Discussion ensued regarding how often the Rules and Regulations are reviewed. Hernandez reminded the Board that the MFA Rules and Regulations are taken to both the Legislative Oversite Committee and the Board on an annual basis. Motion to approve the New Mexico Housing Trust Fund (NMHTF) Loan Awards Notice of Funding Availability (NOFA) Revisions as presented: Treasurer Montoya. Seconded by C'de Baca. Vote 6-0

8 Fiscal Year 2023/2024 Bond Resolution (Alex Lundy & Yvonne Segovia) – Lundy began his presentation by recommending the approval of the Fiscal Year 2023/2024 Single Family Bond Resolution in an amount not to exceed $600 million, to authorize future bonding activity and to ensure MFA can be responsive to market conditions. This resolution would cover the period of October 1, 2023, through October 31, 2024. The resolution is anticipated to provide funds for $600 million of new single family first-time homebuyer mortgage loans. MFA anticipates providing funds for up to $600 million of new loans or refinanced prior issuances. He then stated the timing and sizing of each issuance has not been determined and will depend on actual reservation activity and bond market conditions. Motion to approve the Fiscal Year 2023/2024 Bond Resolution as presented: Valdo. Seconded by Treasurer Montoya. Vote 6-0

Board Meeting paused for an address from Senator Nancy Rodriguez at 12:03 p.m. after Tab 8.

Senator Nancy Rodriguez addressed the Board by thanking MFA and the Board for the great partnership and for their ability to face the many challenges regarding housing. She stated we have so much more to do and together we are going to work on the housing shortage and affordable housing issues we face. She recognized MFA staff for the great job that is being done. Likewise, the Board thanked Senator Rodriguez for all the hard work that she does with MFA.

Board Meeting continued at 12:09 p.m.

9 Production Statistics (Jeff Payne, Donna Maestas-De Vries, Arundhati Bose) Payne began the presentation referring to the production and financial highlights graph on pg.130 of the board packet. He then highlighted ongoing programs, funding, and allocation, creation of a new direct services program, creation of the Restoring Our Communities program (which is rehabilitation of single-family homes), creation of an emergency fund and the return of the TBA mortgage program. Maestas-De Vries then provided a review of the Portfolio of Assets Under Managements graph. Bose then provided a review of the Financial Data- General Fund Revenue and Expenditure Analysis, and the MFA Detailed Administrative Expense breakout graphs. Payne then reviewed the Loan Loss Provision Allowances vs Annual Expense and Annual Write Offs graph. Maestas-De Vires reviewed the Production Data: Number of Multifamily, Single Family 1st Mortgage and Single-Family Homeowner Rehab Units and Funds Disbursed-Federal and State Programs graphs. Payne reviewed the Housing Opportunity Fund Graph. Bose reviewed the Production Data: TBA vs Bond Production graph. Payne then reviewed the MFA Total Housing Dollars Produced FY 2014-2024 graph. Lastly Maestas-De Vires reviewed the Economic Impact of MFA programs graph. Non-Action Item.

Member Valdo stepped out during Tab 9 at 12:10 p.m. and returned to meeting at 12:12 p.m.

Member C'de Baca stepped out during Tab 9 at 12:12 p.m. and returned to the meeting at 12:21 p.m.

Chair Reyes stepped away during Tab 9 at 12:23 p.m. and returned to the meeting at 12:27 p.m.

10 FY 2023-2024 General Fund Budget (Joe McIntyre & Yvonne Segovia) – McIntyre began his presentation recommending approval of MFA's General Fund proposed budget for Fiscal Year (FY) 2023-2024. Revenue is projected at $31,739,991, an increase of $1,876,706 or 7% over the prior year budget and a decrease of ($493,563) or -2% under projected 9/30/23 actuals. He stated the expense budget is projected at $30,275,693, an increase of $2,748,879 or 11% over the prior year budget and an increase of $5,769,341 or 24% over 9/30/23 projected actuals. The FY 2023-2024 budgeted excess revenue over expenses is $1,464,298. And the capital budget is $7,227,686, a decrease of ($7,163,485) or (50%) under the prior year budget and a decrease of ($6,057,567) or -46% under prior year's projected actual. He stated the changes are primarily a result of the single-family mortgage loan production, repurchased loan expenses, and the addition of 10.375 full-time equivalent (FTE) staff positions over the FY 2023 budget. Chair Reyes then provided the background from the Compensation Committee memo on which he, Member Sullivan, and Member Wurzburger sit on. The Compensation Committee believed that MFA's compensation and benefits programs and the approach to the FY2024 compensation and benefits budget are reasonable and fair and supports the recommendation as presented. Discussion ensued regarding the capital budget and removal of the expenditures related to the 7425 Jefferson Street building until after the Property Committee recommendation. Motion to approve the FY 2023-2024 General Fund Budget – Approval with the amendment to capital budget changing the amount in items 2920 to $0 and 2860 to $0.: Treasurer Montoya. Seconded by Wurzburger. Vote 6-0

11 Housing Opportunity Fund Appropriations (Joe McIntyre & Yvonne Segovia) – McIntyre began his presentation recommending the following appropriations: 1. $341,000 appropriation to Down Payment Assistance Loan Program which will be funded by a transfer from the Access Loan Program. 2. $331,000 appropriation to Partners Loan Program which will be funded by a transfer from the Access Loan Program. 3. $492,000 appropriation to the Primero Loan program which will be funded by transfers of $451,000 from the Primero Loan PRLF program and $41,000 from the Access Loan Program. He then stated the attached schedule provided in the board packet summarizes the appropriations, uses, and projections for each program in the General Fund HOF as of 6/30/2023. Staff has estimated the availability of "Funds Required to meet Demand" for each of the programs that comprise the General Fund HOF. Staff also estimated the "Anticipated Need" for the programs through 9/30/2024 as well as the "Estimated Repayments" through 9/30/2024. Based on these estimates, funds will be necessary to support demand in the DPA Loan program, the Primero Loan Program, and the Partners Loan Program; however, there are excess funds available in the Access Loan program, the Primero Loan PRLF program, and the Emerging Housing Needs program. Motion to approve the Housing Opportunity Fund Appropriations as presented: Wurzburger. Seconded by Treasurer Montoya. Vote 6-0

12 FY 2023-2024 NM Affordable Housing Charitable Trust Budget (Joe McIntyre & Yvonne Segovia) – McIntyre began his presentation recommending the NM Affordable Housing Charitable Trust Budget for approval. He stated revenue is projected at $107,010, and the expense budget is projected at $136,714, resulting in a FY 2023-2024 budgeted excess revenue over expenses of ($29,704.) A question was raised on how the deficit funding is covered. Segovia stated that if there will is a deficit at September 2024, it is normally covered by a contribution from MFA. Motion to approve the FY 2023-2024 NM Affordable Housing Charitable Trust Budget as presented: C'de Baca. Seconded by Treasurer Montoya. Vote 6-0

13 Second Amended Resolution to Sell and Acquire Real Estates (Izzy Hernandez and Eleanor Werenko) – Werenko began her presentation recommending the adoption of the Second Amended Resolution and re-composition of the Property Committee as outlined in the memorandum found in Tab 13 and in the Second Amended Resolution. She stated the Resolution is being brought before the Board of Directors to amend Section 1 of the January 18, 2023 (First Amended) Resolution to appoint the following persons as members of the Property Committee: Vice Chair Derek Valdo, MFA Treasurer Rebecca Wurzburger, Member Patricia Sullivan, and Executive Director/Chief Executive Officer. Motion to approve the Second Amended Resolution to Sell and Acquire Real Estates as presented: C'de Baca. Seconded by Wurzburger. Vote 5-0 (Valdo abstained)

14 MFA Policies and Procedures Manual Revisions- Code of Conduct (Eleanor Werenko) – Werenko began her presentation recommending the approval of changes to Section 1.2 of MFA's Policies and Procedures Manual, to update the Code of Conduct to clarify its policies and to provide additional transparency through the posting of disclosures on MFA's website. She states the changes can be found on Tab 14 page 161 in board packet. She then states the MFA's Code of Conduct provides general guidelines and a minimum standard of conduct for Members, Management and Employees of MFA. The policy details the principals and obligations of disclosures and provides instructions for Members, Management, Employees and Funding Committee Members on Initial, Annual and Updated Disclosure requirements, as well as providing policies related to gifts, conflict of interest transactions, and political activities. Motion to approve the MFA Policies and Procedures Manual revisions as presented: Treasurer Montoya. Seconded by Sullivan. Vote 6-0

Contracted Services/Credit Committee

15 Housing Innovations Program Notice of Funding Availability (Sonja Unrau) – Unrau began her presentation recommending approval of the Housing Innovation Program Notice of Funding Availability (NOFA) for publication. She stated within the FY 2024 Rental and Single-Family Development Certified Use, $5 million is allocated to the "Housing Innovation" activity, which is funding intended to support initiatives that MFA could not support through its other programs. MFA staff drafted a NOFA to solicit projects for funding considerations. The full NOFA document is attached to the memo provided. Motion to approve the Housing Innovations Program Notice of Funding Availability as presented: Treasurer Montoya. Seconded by Wurzburger. Vote 6-0

Member Sullivan left the meeting during Tab 16 at 1:13 p.m.

16 La Serena Apartments HOME, New Mexico Housing Trust Fund (NMHTF), National Housing Trust Fund (NHTF) Loan Requests- (Jacobo Martinez and George Maestas) - Martinez began his presentation recommending approval for three loan requests: 1. HOME loan request in the amount of $800,000 with no payments during the construction period, which is not to exceed 24 months; thereafter, 479 equal principal payments during the permanent loan period, based on an 80-year amortization, and one final balloon payment of all outstanding principal. Outstanding principal due at the earlier of maturity, refinance, or sale of the project. 2. NHTF request in the amount of $1,500,000 with no payments due during the construction period and, thereafter, annual payments, as determined from available cash-flow, or fixed at $500, maturing in 35 years with a final balloon payment of all outstanding principal due at its maturity. The interest rate will be 0.00% and the NHTF loan's affordability period will be 35 years. The affordability period starts on the placed in-service date and ends 35 years later. 3. NMHTF request in the amount for $1,000,000 with interest only monthly during the construction period not to exceed 24 months; 360 equal principal & interest payments during the permanent loan period. Outstanding principal and interest due at the earlier of maturity, refinance, or sale of the project. La Serena Apartments, located in Albuquerque, New Mexico. Martinez then states La Serena Apartments is a new construction 100-unit multifamily senior (55+) supportive housing project, with 92 units income restricted to households earning 60% or less of Area Median Income (AMI), and 8 units restricted to 30% or less of AMI. Question raised regarding the number of elevators in the building. Martinez introduced Angie Ferguson, Thomas Development Company to address the question. Ferguson stated there will be two elevators in the building. Motion to approve the La Serena Apartments HOME, New Mexico Housing Trust Fund (NMHTF), National Housing Trust Fund (NHTF) Loan Requests as presented: Treasurer Montoya. Seconded by Wurzburger. Vote 5-0

Other

17 Strategic Management Plan Proposed FY2024 Benchmarks (Robyn Powell and Jeff Payne) – Payne began his presentation recommending approval for the proposed changes to MFA's FY 2021-2025 Strategic Plan for Year 4 to update several benchmarks that reflect current initiatives. He then stated MFA's current Strategic Plan covers the FYs 2021-2025. MFA will complete the third year (FY 2023) of the plan on September 30, 2023, and will begin the fourth year (FY 2024) on October 1, 2023. The Strategic Management Committee is recommending changes to some benchmarks to reflect work planned for Year 4. Discussion ensued on item 4 the change from EHAP to ESG. Powell

stated that is the Emergency Shelter Grant, EHAP is a program under ESG. Motion to approve the Strategic Management Plan Proposed FY2024 Benchmarks as presented: Treasurer Montoya. Seconded by Wurzburger. Vote 5-0

Other Board Items- Information Only

18 There were no questions asked of staff.

- Staff Action Requiring Notice to Board
- Strategic Plan Benchmarks FY23 Q3 Update
- Single Family Mortgage Bonds 2023 Series C – Pricing Summary

Monthly Reports- Non-Action Required

19 There were no questions asked of staff.

- 7/31/23 Financial Statement

There being no further business the meeting was adjourned at 1:26 p.m.

Approved:

Chair, Angel Reyes

Secretary, Isidoro Hernandez

MFA
Housing New Mexico

NEW MEXICO MORTGAGE FINANCE AUTHORITY

Finance/Operations Committee Meeting

Tuesday October 10, 2023 at 1:30 p.m.

Webex - call-in information is 1-408-418-9388 (access code): 2483 035 4429
or you can join the call from the calendar item

Agenda Item	COMMITTEE RECOMMENDED	BOARD ACTION REQUIRED
Agenda		
1 HOME-ARP Internal Audit Executive Summary Report – Claire Hilleary, CPA, Director and Jenny Fox, CPA, from Moss Adams	DEFER	YES
2 MFA Rules and Regulations – Approval of Amendment - Julie Halbig	3-Ø COB/LM	YES
3 2024 Qualified Allocation Plan – Jeanne Redondo	3-Ø LM/COB	YES
Information items		
4 August 2023 Wire Transfers		NO
5 August 2023 Check Register		NO

Committee Members present:

Derek Valdo, Chair	☐ present	☐ absent	☑ conference call
State Treasurer Laura M. Montoya/ JR Rael	☐ present	☐ absent	☑ conference call
Lt. Governor Howie Morales or Proxy Martina C'de Baca	☐ present	☐ absent	☑ conference call

DH mander

MFA Housing New Mexico

MEMO

TO: Board of Directors

Through Finance Committee – October 10, 2023

Through: Policy Committee – October 3, 2023

FROM: Julie Halbig, Director of Compliance and Initiatives

DATE: October 18, 2023

SUBJECT: Approval of Proposed Amendment to MFA Rules and Regulations

Recommendation:
MFA staff recommends discussion and adoption of amended language outlined herein to the MFA Rules and Regulations.

Background:
Pursuant to Section 58-18-8 NMSA 1978, Rules and Regulations of the authority:

A. The authority shall adopt and may from time to time modify or repeal, subject to prior approval by the Mortgage Finance Authority Act oversight committee, rules and regulations…

Pursuant to New Mexico Statutes Section 58 Financial Institutions and Regulations, Article 18, the rules and regulations governing MFA must be approved by an oversight committee from the New Mexico legislature.

As required by Section 10 of the MFA Rules and Regulations, MFA will provide an opportunity for public comment by posting the Notice of Request for Public Comment and Proposed Amendments to MFA Rules and Regulations on MFA's website.

If approved by the Board, this proposed amendment will be presented for approval to the Legislative Oversight Committee on November 9, 2023.

Discussion:

As part of the MFA's annual review of the Rules and Regulations, all Department Directors as well as MFA's General Counsel and Bond Counsel reviewed the Rules and Regulations.

The proposed changes are from their markup of the Rules and Regulations:

Page & Section	Proposed Change/Question	Comments from General Counsel or Bond Counsel
Throughout the Rules	Various Definitions throughout the Rules.	General Counsel's recommended changes to the General Definitions are intended to align the definitions in these Rules with the Act, unless otherwise stated.
Throughout the Rules	For consistency, if a term or phrase is defined in the Rules or the Act, it will now be capitalized throughout the Rules.	Recommended by General Counsel.
Throughout the Rules	Consistent references to "state of New Mexico".	Recommended by General Counsel.
Page 3, Definition O – Home Improvement Loan	Should the following language remain in the definition: "including without limitation the acquisition and installation of energy conservation building materials and solar energy equipment."	Language is not in the MFA Act or Internal Revenue Code (IRC), but Bond Counsel recommends keeping the language in the definition of "Home Improvement Loan".
Page 3, Definitions R, S and T– Manufactured, Mobile and Modular Home	The MFA Act defines "Manufactured Home" but not "Modular" and "Mobile Home".	Bond Counsel recommends including references to all three definitions in Section 5.9: Single Family Homeownership Programs.
Page 4, Definition X – Mortgage Loan	Revision to definition of "Mortgage Loan".	Bond Counsel recommends more generic language.
Page 4, Definition BB – Persons of Very Low, Low and Moderate Income	The term "Persons of Very Low, Low and Moderate Income" is defined in the Act yet it is not used in the Rules.	General Counsel included the term where appropriate throughout the Rules.
Page 5, Definition EE – Rehabilitation Page 7, Definition of Rehabilitation under Single Family	"Rehabilitation" shall mean the substantial renovation or reconstruction of an existing Residential Housing as may be further defined by Policies and Procedures established by MFA for particular programs.	General Counsel proposes using a more generic definition of "Rehabilitation" in the Definition section to encompass all of the MFA's programs. General Counsel recommends including a more specific definition of "Rehabilitation in Section 5.

Homeownership Programs		Single Family Homeownership Programs that aligns to the Internal Revenue Code.
Page 10, Section 6 – Multifamily Dwelling, Transitional and Congregate Project Mortgage Loans, Definition G - Sponsor	There are references to "public" and "tribal entities" in the current definition of "Sponsor" under the Rules but this is not the case in the Act.	General Counsel states that both "public" and "tribal entities" are able to act as "Sponsors" so long as they do so through one of the allowed entity types. General Counsel recommends adding a footnote emphasizing the purpose of MFA in Section 2 as it relates to this definition of Sponsor and keep the reference to "public and tribal entities".
Page 16, Section 7. Housing Opportunity Fund (HOF) – Additional Definitions	Add Definition of "Emergency Housing Needs Pilot Program". Delete Definition of "BUILD IT Loan Guaranty Program" and "HERO"	Recommended by Acting Chief Financial Officer (CFO).

Summary:
Staff are proposing adoption of the amendment to MFA's Rules and Regulations. With the Board's input and approval, the proposed amendment will be presented to the Legislative Oversight Committee on November 9, 2023.

NEW MEXICO MORTGAGE FINANCE AUTHORITY
RULES AND REGULATIONS

SECTION 1. AUTHORITY. These Rules and Regulations are issued under and pursuant to the Mortgage Finance Authority Act, enacted as Chapter 303 of the Laws of 1975 of the state of New Mexico, as amended; Chapter 86 of the Laws of 1982 of the state of New Mexico, as amended (being Section 58-18-1 through 58-18-27, N.M.S.A. (1978); and Section 2-12-5, N.M.S.A. (1978), as amended (collectively, the "Act"). These Rules and Regulations supersede and replace all prior rules and regulations of the New Mexico Mortgage Finance Authority ("MFA") and will become effective upon approval by the MFA Oversight Committee.

SECTION 2. PURPOSE AND OBJECTIVES. These Rules and Regulations are established to effectuate, and shall be applied so as to accomplish, the general purposes of the Act and the following specific objectives: (i) expanding the supply of funds in New Mexico available for new residential mortgages for Persons and Families of Very Low, Low or Moderate Income; (ii) alleviating the shortage of adequate housing, including Multiple-Family, tTransitional and cCongregate Dwellings, in New Mexico for Persons and Families of Very Low, Low or Moderate Income; (iii) encouraging and providing the financing for the acquisition, construction, rehabilitation and improvement of Residential Housing, including Multiple-Family, Transitional and Congregate Dwellings, in New Mexico for Persons and Families of Very Low, Low or Moderate Income; (iv) down payment assistance for persons and families of low or moderate income; (v) assisting in providing Mortgage Loans at below market interest rates for private individuals, organizations and entities willing to undertake the acquisition, development and/or operation of Multiple-Family, Transitional and Congregate dwellings for persons and families of low or moderate income; and (vi) obtaining the effective participation by lending institutions and others in the mortgage purchase program authorized by the Act, while restricting the financial return and benefit to such lending institutions to that necessary and reasonable to induce such participation. In carrying out its objectives and purposes, MFA, pursuant to the Act has the power to raise funds from private and public investors to make funds available for such purposes; to create and implement programs from time to time as may be necessary or appropriate to accomplish its purposes; and to assist, administer, finance or service housing programs and to contract for such services for or through private and nonprofit organizations and local, state, federal and tribal agencies or their instrumentalities.

SECTION 3. GENERAL DEFINITIONS. The following words and terms shall have the following meanings. A statutory change in the Act of any of the following definitions shall result in a corresponding change in the meaning of the same word or term within Section 3. of these Rules and Regulations.

A. "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; Chapter 86 of the Laws of 1982 of the state of New Mexico, as amended (being Section 58-18-1 through 58-18-27, N.M.S.A. (1978); and Section 2-12-5, N.M.S.A. (1978), as amended .

B. "Affiliate" shall mean any entity controlling, controlled by or under the common control of another entity, person, or common parent company; provided that an entity which is a Mortgage Lender, must meet MFA's requirements set forth in the Policies and Procedures established by MFA for the particular program. For the purposes of this definition, "control" when used with respect to any specified entity, means the power to direct the management and policies of such entity, directly or indirectly, whether through the ownership of voting securities, by contract, statute or otherwise. For purposes of this definition the terms "person" and entity" include non-profit corporation, other public entities, governmental agencies and instrumentalities, Mortgage Lenders, Sponsors, Builders, and Applicants.

C. "Affordable" shall mean consistent with minimum rent and/or income limitations set forth in the Act, and in guidelines established for specific programs administered by MFA.

D. "Applicant" shall mean a lending institution, non-profit corporation, public or tribal entity, governmental agency or instrumentality, Mortgage Lender, Builder, Sponsor, or Affiliate of any of the foregoing, or any other person or entity meeting the appropriate criteria of MFA.

E. "Application" shall mean an application for MFA approval to participate in one or more programs of MFA submitted by an Applicant to MFA.

F. "Bonds" or "Notes" shall mean the bonds or bond anticipation notes, respectively issued by MFA pursuant to the Act.

G. "Builder" shall mean a person or entity licensed as a general contractor to construct Residential Housing in the state which has been approved by MFA to participate in an MFA program.

H. "Code" shall mean the Internal Revenue Code of 1986, as amended.

I. "Existing Mortgage Loan" shall mean a loan secured by a Mortgage or deed of trust made by an Applicant to: (i) a Person of Low or Moderate Income to finance the purchase of an owner-occupied single family residence in the state; or (ii) to a person or entity to finance Multiple-Family, Transitional and Congregate dwelling Projects for persons and families of low or moderate income, which loan was made prior to the date of submission by the Applicant of its Application.

J. "Federal Government" shall mean the United States of America and any agency or instrumentality, corporate or otherwise, of the United States of America.

K. "FHA" shall mean the Federal Housing Administration or its successors.

L. "FHLMC" or "Freddie Mac" shall mean the Federal Home Loan Mortgage Corporation or its successors.

M. "FNMA or "Fannie Mae" shall mean the Federal National Mortgage Association or its successors.

N. "GNMA" or "Ginnie Mae" shall mean the Government National Mortgage Association or its successors.

O. "Home Improvement Loan" shall mean a Mortgage Loan to finance such alterations, repairs, and improvements on or in connection with an existing residence as MFA may determine will substantially protect or improve the basic livability or energy efficiency of the residence, including without limitation the acquisition and installation of energy conservation building materials and solar energy equipment.

P. "HUD" shall mean the United States Department of Housing and Urban Development.

Q. "MFA" shall mean the New Mexico Mortgage Finance Authority.

R. "Manufactured Home" shall mean a dwelling of at least 400 square feet and at least 12 feet wide, and constructed to "HUD Code" which for manufactured housing means that it is built on a permanent chassis, installed on a permanent foundation system and titled as real estate.

S. "Mobile Home" shall mean a movable or portable housing structure, constructed to be towed on its own chassis and designed to be installed with or without a permanent foundation for human occupancy as a residence; it may include one or more components that can be retracted for towing purposes and subsequently expanded for additional capacity, or two or more units separately towable but designed to be joined into one integral unit, except that the definition does not include recreational vehicles, or modular or premanufactured homes, built to Uniform Building Code standards and designed to be permanently affixed to real property.

T. "Modular Home" shall mean a site-built home built on a non-removeable steel chassis and built in accordance with the Uniform Building Codes that are adopted and administered by the state in which the home is installed. The home must also conform to local building codes in the area in which it will be located but does not meet "HUD Code".

U. "Mortgage" shall mean a mortgage, mortgage deed, deed of trust or other instrument creating a lien, subject only to title exceptions as may be acceptable to MFA on a fee interest in real property located within the state or on a leasehold interest that has a remaining term at the time of computation that exceeds or is renewable at the option of the lessee until after the maturity date of the Mortgage Loan or the instrument creating a lien on a Mobile Home.

V. "Mortgage Credit Certificate" shall mean certificates issued by MFA to Persons of Very Low, Low or Moderate Income enabling them to claim a credit against federal income tax for a portion of interest paid by such persons on a Mortgage Loan.

W. "Mortgage Lender" shall mean any bank, bank or trust company, trust company, mortgage company, mortgage banker, national banking association, savings bank, savings and loan association, credit union building and loan association and any other lending institution; *provided that the mortgage lender maintains an office in New Mexico, is authorized to make Mortgage*

Loans in the state and is approved by MFA and either the FHA, VA, Rural Housing Service (RHS), HUD's Office of Native American Programs, FNMA ("Fannie Mae"), or FHLMC ("Freddie Mac").[1]

X. "Mortgage Loan" shall mean a financial obligation secured by a Mortgage, or or a security based on and backed by a pool of Mortgage Loans. Mortgage Loan refers to a New Mortgage Loan and not an existing Mortgage Loan.

Y. "Municipality" shall mean any county, city, town or village of the state.

Z. "New Mortgage Loan" shall mean a Mortgage Loan, including a Home Improvement Loan, made by a Mortgage Lender to a Person of Low or Moderate Income to finance Project Costs, and containing such terms and conditions as MFA may require.

AA. "Oversight Committee" shall mean MFA's Oversight Committee created by, and appointed in accordance with, the Act.

BB. "Persons of Very Low, Low or Moderate Income" shall mean the categories of income levels attributed to persons and families for the determination of eligibility for MFA's programs. Very Low, Low or Moderate Income persons and families within the state are those who are determined by MFA to lack sufficient income to pay enough to cause private enterprise to build an adequate supply of decent, safe and sanitary Residential Housing in their locality or in an area reasonably accessible to their locality and whose incomes are below the income levels established by MFA to be in need of the assistance made available by the Act, taking into consideration, without limitation, such factors as defined under the Act. For purposes of this definition, the word "families" shall mean a group of persons consisting of, but not limited to, the head of a household; his or her spouse, if any; and children, if any, who are allowable as personal exemptions for Federal income tax purposes. Very Low Income persons or families are those with income at or below 50% of the Area Median Income ("AMI") adjusted for family size. For Loans to persons and families on Indian Reservations or other Indian area MFA will use the income basis determined under HUD's Native American Housing and Self Determination Act ("NAHASDA"). Low Income persons or families are those with income above 50% and up to and including 80% of the AMI adjusted for family size. Moderate Income persons or families are those with income above 80% and up to and including 150% of the AMI adjusted for family size. Moderate income limits may be adjusted for high-cost areas to accommodate qualification of purchase of a median priced home in a county of the subject property or rent at the fair market rate. These definitions of income apply to all non-federal, unrestricted programs administered by MFA. All federal and restricted programs will continue to follow the income requirements outlined in statute, regulations, guidance or contractual documents. This definition is in line with the needs throughout the state and is in accordance with the requirements of the Act. AMI is defined as the point at which half the households in an area have lower incomes and half have higher incomes.

[1] Definition of "Mortgage Lender" was amended (as italicized) per 1999 legislative action and was subsequently approved by the MFA Board of Directors and MFA Legislative Oversight Committee.

CC. "Policies and Procedures" shall mean Policies and Procedures of MFA, including but not limited to, Mortgage Loan purchasing, selling, servicing and reservation procedures, which MFA may update and revise from time to time as MFA deems appropriate.

DD. "Recertification" shall mean the recertification of Applicants participating in MFA programs as determined necessary from time to time by MFA.

EE. "Rehabilitation" shall mean the substantial renovation or reconstruction of an existing Residential Housing as may be further defined by Policies and Procedures established by MFA for particular programs .

EE. "Reservation and Compliance Procedures" shall mean MFA's procedures for allocating funds to purchase Mortgage Loans, and allocating Mortgage Credit Certificates, if applicable. Such procedures may be updated and revised by MFA as MFA deems appropriate.

FF. "Residential Housing" shall mean the acquisition, construction or rehabilitation of real property, buildings, and improvements undertaken primarily to provide one or more dwelling accommodations for Persons of Very Low, Low or Moderate Income , including, without limitation, Mobile Homes, single-family, Multiple-Family, Transitional and Congregate dwellings.

GG. "Residential Use" shall mean that the structure is designed primarily for use as the principal residence of the occupant or occupants and shall exclude vacation or recreational homes.

HH. "RHS/USDA" shall mean Rural Housing Service of the United States Department of Agriculture and Rural Housing Community Development Service (RHCDS) and its successors.

II. "State" shall mean the state of New Mexico.

JJ. "State, Local, Federal or Tribal Agency" means any board, authority, agency, department, commission, public corporation, body politic or instrumentality of the state or of a local, federal or tribal government; and

KK. "VA" shall mean the Department of Veterans Affairs.

SECTION 4. GENERAL REQUIREMENTS. The following requirements shall apply to all programs established by MFA.

4.1 Fees and Charges of MFA. MFA may establish and collect fees from Applicants who file Applications: (i) requesting allocations of funds for Mortgage Loans; or (ii) selling or offering to sell Mortgage Loans to MFA in such amounts as MFA may deem appropriate. Such fees may be used for, among other purposes: (i) reimbursing MFA for all or part of its reasonably expected costs of issuing its Bonds or other obligations and of administering its programs; and (ii) providing inducements to make or deliver Mortgage Loans or other financing for public purposes which MFA determines require additional inducements to accomplish. MFA may establish such

other charges, premiums, and penalties as it shall deem to be necessary in connection with the administration of its programs.

4.2 Servicing of Mortgage Loans. MFA shall cause each Mortgage Loan financed by MFA to be serviced pursuant to the Policies and Procedures established by MFA for the particular program.

4.3 Examination of Books and Records. MFA shall cause to be made such examinations of the books and records of each Applicant as MFA deems necessary or appropriate to determine compliance with the terms of the Act, these Rules and Regulations and any agreement between the Applicant and MFA. MFA may require each Applicant to pay the costs of any such examination.

4.4 Consent to Jurisdiction. Each Applicant shall consent to the jurisdiction of the courts of the state, or the appropriate tribal court, over any proceeding to enforce compliance with the terms of the Act, these Rules and Regulations and any agreement between the Applicant and MFA.

4.5 Purchase of MFA's Bonds. No Mortgage Lender (including any "related person," as defined in Section 103 of the Code, and the regulations related thereto) shall, pursuant to any arrangement, formal or informal, or direct or indirect, purchase Bonds or other obligations of MFA in an amount related to the aggregate principal amount of the Mortgage Loans to be sold to MFA by such Mortgage Lender (or related person).

4.6 Policies and Procedures. MFA shall adopt written Policies and Procedures for each of its programs and for the general conduct of its business. MFA's Policies and Procedures Manual shall become effective upon approval by the Board of Directors of MFA; and shall be established in accordance with the Act, the Code, these Rules and Regulations, and if applicable, the requirements of the guarantor, insurer, or purchaser with respect to the particular program. All Policies and Procedures and these Rules and Regulations shall be maintained at the offices of MFA and be available for review by all Applicants and the general public during normal business hours.

4.7 Recertification. MFA may establish procedures for recertifying Applicants from time to time. Applicants which fail to satisfy MFA's requirements for Recertification shall cease to be eligible and shall be denied further participation in MFA programs until the requirements of MFA are satisfied.

SECTION 5. SINGLE FAMILY HOMEOWNERSHIP PROGRAMS. In addition to the programs defined in this Section 5, MFA shall have the power to create variations or extensions of such programs, or additional programs which comply with the Act and these Rules and Regulations.

5.1 Additional Definitions. The following words and terms shall have the following meanings only within this Section 5.

A. "Single Family Homeownership Programs" shall mean MFA's single family mortgage programs established from time to time in which funds are available to finance Mortgage Loans through the sale of Bonds or other obligations, or from the proceeds of a Secondary Market Facility, or from MFA's general fund, or through the issuance of Mortgage Credit Certificates allocated to Applicants on an aggregate or loan-by-loan basis pursuant to the Act and these Rules and Regulations set forth in this Section 5, and shall include: (i) MFA's program pursuant to which MFA shall issue Mortgage Credit Certificates to Persons of Very Low, Low or Moderate Income; (ii) the financing of Mortgage Loans, Home Improvement Loans and Rehabilitation Loans; and (iii) the purchase and sale of Mortgage Loans.

B. "Rehabilitation" shall mean the substantial renovation or reconstruction of an existing single-family residence, not including an increase in living area, 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 substantial renovation or reconstruction.

C. "Rehabilitation Loan" shall mean a qualified rehabilitation loan within the meaning of Section 143(k)(5) of the Internal Revenue Code of 1986, as that section may be amended or renumbered;

D. FOR PURPOSES OF THE MAKING OF LOANS TO MORTGAGE LENDERS, THE PURCHASE OR FINANCING OF MORTGAGE LOANS, REHABILITATION LOANS AND HOME IMPROVEMENT LOANS, "Residential Housing" shall mean an owner-occupied, single family residence located in the state, which the mortgagor(s) intend(s) to occupy as his or her (their) principal residence within sixty (60) days after: (1) the date of the closing of the purchase of the residence, or (2) in the case of a Rehabilitation Loan where the Rehabilitation is to be accomplished by the mortgagor, the date of completion of the Rehabilitation, or, with respect to Home Improvement Loans, is occupied by the mortgagor(s). For purposes of this definition, with regard to those properties and Projects funded by tax exempt Bonds, Residential Housing shall otherwise comply with the requirements of the Code and shall meet other requirements as MFA may from time to time determine to be necessary or appropriate to properly administer the Single Family Homeownership Program.

5.2 Allocation of Funds for Financing.

A Allocation of Funds by MFA. Funds may be allocated by MFA either on an aggregate or on a loan-by-loan basis in accordance with MFA's Reservation and Compliance Procedures. Allocations of funds for Mortgage Loans, Rehabilitation Loans and/or Home Improvement Loans financed by MFA shall be conclusive. In making such allocations, MFA may consider, among other things, as appropriate:

1. In the case of programs, the funds of which are allocated on a loan-by-loan basis, the order of receipt of a request for reservation of funds, so as to generally allocate funds on a first-come, first-served basis;

2. The ability of the Applicant to deliver individual Mortgage Loans, Rehabilitation Loans or Home Improvement Loans or otherwise utilize the funds for the purpose of the program within the time limits of the program; and/or

3. In the case of programs for the purchase of Existing Mortgage Loans, the terms and conditions of the Mortgage Loans offered for sale by the Applicant.

B. Allocation of Mortgage Credit Certificates. Mortgage Credit Certificates shall be allocated on a loan-by-loan basis in accordance with the Policies and Procedures established by MFA.

5.3 Applications.

A. Process for Applying. MFA shall maintain an Application policy for Applicants wishing to apply for MFA approval to participate in the Single Family Homeownership Program. Applications will be provided with all documents required to be executed and submitted in connection therewith upon request. An Application to sell Mortgage Loans, Rehabilitation Loans or Home Improvement Loans to MFA shall contain, among other things, the unconditional agreement of the Applicant, upon acceptance of the Application by MFA, to sell Mortgage Loans, Rehabilitation Loans or Home Improvement Loans to MFA or its designee which comply with the terms of an agreement to be signed by the Applicant and MFA.

B. Review by MFA. On receipt of an Application, MFA shall review and analyze the Applicant's ability to sell Mortgage Loans, Rehabilitation Loans or Home Improvement Loans to MFA or its designee and to service such Mortgage Loans, Rehabilitation Loans or Home Improvement Loans, or cause them to be serviced.

C. Notification of Acceptance. MFA, by written notice shall notify each Applicant which has submitted an Application of the approval or disapproval of its Application. Upon approval of its Application, a Mortgage Lender or other Applicant shall be considered approved by MFA to participate in the Single Family Homeownership Program. MFA's approval or disapproval of any Application shall be conclusive.

5.4 Acceptance. MFA shall establish Policies and Procedures for the financing of Mortgage Loans, Rehabilitation Loans and Home Improvement Loans as set forth in paragraph 4.6 of these Rules and Regulations. Each allocation of funds shall be conditioned upon the receipt by MFA from the Applicant of a commitment fee, if any, and the documents required by MFA within the time specified in the acceptance. In all cases MFA may deny requests and may reallocate funds in accordance with MFA's Reservation and Compliance Procedures. The allocation and reallocation of funds by MFA for the financing of Mortgage Loans, Rehabilitation Loans and Home Improvement Loans shall be conclusive.

5.5 Financing of Mortgage Loans, Rehabilitation Loans and Home Improvement Loans. The financing of Mortgage Loans, Rehabilitation Loans and Home Improvement Loans by MFA shall be in accordance with the Policies and Procedures established by MFA for the particular program. Each Mortgage Loan, Rehabilitation Loan and Home Improvement Loan

financed must: (i) be the subject of an allocation of funds; (ii) be the subject of a written agreement executed by MFA and the Applicant; (iii) comply with the terms and conditions of such agreement; (iv) be serviced in compliance with the servicing requirements of such agreement; and (v) otherwise comply with MFA's requirements for the financing and servicing of Mortgage Loans, Rehabilitation Loans and Home Improvement Loans under the Single Family Homeownership Program.

5.6 Yield on Mortgage Loans, Rehabilitation Loans and Home Improvement Loans. Mortgage Loans, Rehabilitation Loans and Home Improvement Loans under the Single Family Homeownership Program shall bear interest at such a rate or rates as in the aggregate shall produce a yield to MFA on such Mortgage Loans and Home Improvement Loans sufficient to (i) pay interest on any related issue of MFA's Bonds or other obligations; (ii) provide adequate reserves, if any, for the holder of any of MFA's Bonds or other obligations; and (iii) cover the operating costs of MFA.

5.7 Conditions of Mortgage Loans, Rehabilitation Loans and Home Improvement Loans.

A. Mortgage Loans, Rehabilitation Loans and Home Improvement Loans financed by MFA under the Single Family Homeownership Program shall: (i) comply with the applicable terms and conditions prescribed by MFA in a written agreement between MFA and the Applicant for such Mortgage Loan, Rehabilitation Loan or Home Improvement Loan; and (ii) comply with the Policies and Procedures of MFA.

B. Each loan commitment to make a Mortgage Loan, Rehabilitation Loan or Home Improvement Loan must be made to a Person of Low or Moderate Income unless other Board approved program limits are in place. Mortgage Loans, Rehabilitation Loans and Home Improvement Loans shall be financed by MFA within such time periods as are specified by MFA.

5.8 Restrictions on Return Realized by Mortgage Lenders. MFA shall establish and set forth the maximum rate or rates of return which may be realized by Mortgage Lenders from Mortgage Loans, Rehabilitation Loans or Home Improvement Loans, including any commitment fees, premiums, bonuses, points, or other fees charged by the Mortgage Lender in connection with the making of such Mortgage Loans, Rehabilitation Loans or Home Improvement Loans. Such maximum rates of return shall be set in such amounts as MFA finds to be reasonably necessary to induce participation in the Single Family Homeownership Program by Applicants in order to accomplish the purposes of the Act.

5.9 Manufactured Homes, Mobile Homes and Modular Homes. The eligibility of Manufactured Homes, Mobile Homes and Modular Homes for use as security for Mortgage Loans shall be determined in accordance with standards established by MFA.

SECTION 6 MULTIPLE-FAMILY DWELLING, TRANSITIONAL, AND CONGREGATE PROJECT MORTGAGE LOANS. In addition to the Multifamily Housing Programs as defined in this Section 6, MFA shall have the power to create variations or extensions

of the programs, or additional programs which comply with the Act and these Rules and Regulations.

6.1 Additional Definitions. The following words and terms shall have the following meanings only within this Section 6.

A. "Congregate Housing Facility" shall mean Residential Housing designed for occupancy by more than four Persons of Very Low, Low or Moderate Income living independently of each other. The facility may contain group dining, recreational, health care or other communal facilities and each unit in a congregate housing facility shall contain at least its own living, sleeping, and bathing facilities.

B. "Lender Loan" shall mean a loan made by MFA to a Mortgage Lender, pursuant to the Act and these Rules and Regulations, the proceeds of which are used directly or indirectly to make Project Mortgage Loans.

C. "Multiple-family Dwelling Project" shall mean the Residential Housing that is designed for occupancy by more than four persons or families living independently of each other or living in a Congregate Housing Facility, at least sixty percent of whom are Persons of Very Low, Low or Moderate Income, including without limitation Persons of Very Low, Low or Moderate Income who are elderly and who have a disability as determined by MFA, provided that the percentage of low-income persons and families shall be at least the minimum, if any, required by federal tax law and any other federal or state funding regulations.

D. "Multifamily Housing Program" shall mean a program involving a Congregate Housing Facility, a Multi-family Dwelling Project or a Transitional Housing Facility.

E. "Project" shall mean any work or undertaking, whether new construction, acquisition of existing Residential Housing, remodeling, improvement, or rehabilitation approved by MFA for the primary purpose of providing sanitary, decent, safe, and aAffordable Residential Housing within the state for one or more Persons of Very Low, Low or Moderate Income.

F. "Project Mortgage Loan" shall mean a Mortgage Loan made to a Sponsor to finance Project Costs, as such term is defined in the Act, of a Multifamily Housing Project

G. "Sponsor" shall mean an individual, association, corporation, public or tribal entity, joint venture, partnership, limited partnership, trust or any combination thereof which has been approved by MFA as qualified to own and maintain a Multiple-Family Dwelling, Transitional or Congregate Housing Project, maintains its principal office or a branch office in New Mexico and has agreed to subject itself to the regulatory power of MFA and the jurisdiction of the courts of the state, including Tribal courts having jurisdiction of Projects located on Native American Trust Lands located in New Mexico. [2]

[2] "... [T]he New Mexico mortgage finance authority should be created ... to create and implement programs from time to time as may be necessary or appropriate to accomplish its purposes and to assist, administer, finance or service housing programs for or through private and nonprofit organizations and local, state, federal and tribal agencies or their instrumentalities." NMSA 1978 Section 58-18-2 (F)

H. "Transitional Housing Facility" shall mean Residential Housing that is designed for temporary or transitional occupancy by Persons of Very Low, Low or Moderate Income or special needs.

6.2 Application Procedures.

A. Offers to Sell Project Mortgage Loans. Application procedures for offers to sell Project Mortgage Loans shall be set forth in the Policies and Procedures established by MFA for the particular program and in accordance with paragraph 4.6 of these Rules and Regulations. The Application shall contain such information as required by the Act and MFA for determining whether MFA shall finance the Mortgage Loans.

B. Loans to Lenders Program. A Sponsor requesting a Lender Loan from MFA must first submit an Application to MFA, in the form prescribed by MFA. Formal Application procedures for loans to lenders shall be set forth, in writing, in the Policies and Procedures established by MFA for the particular program and in accordance with paragraph 4.6 of these Rules and Regulations.

C. Other Programs Established by MFA. MFA shall, from time to time, establish Application procedures for programs. The Application procedures shall be published in Policies and Procedures established by MFA for the particular program and in accordance with paragraph 4.6 of these Rules and Regulations for various programs. The Application procedures shall take into consideration:

1. timely completion and submission to MFA of a program Application;

2. timely submission of all other information and documentation related to the program required by MFA, as set forth in MFA's Policies and Procedures for the particular program;

3. timely payment of any fees required to be paid to MFA at the time of submission of the Application; and

4. compliance with program eligibility requirements as set forth in MFA's Policies and Procedures established for the particular program.

6.3 Standards for Approving Qualification of Applicants.

A. Sponsors. MFA shall, from time to time, establish standards for approving qualifications of Sponsors, which standards shall be published in Policies and Procedures established for the particular program. These standards shall take into consideration the following factors:

1. MFA shall require each Sponsor, at the time of such Sponsor's request for MFA approval, to submit a verified certificate stating that, among other things:

(a) for every Multifamily Housing Program, including every assisted or insured project of HUD, RHS/USDA, FHA and any other state or local government housing finance agency in which such Sponsor has been or is a principal;

(b) except as shown on such certificate:

(i) no mortgage on a Project listed on such certificate has ever been in default, assigned to the United States government or foreclosed, nor has any mortgage relief by the mortgagee been given;

(ii) there has not been a suspension or termination of payments under any HUD assistance contract in which the Sponsor has had a legal or beneficial interest;

(iii) such Sponsor has not been suspended, debarred, or otherwise restricted by any department or agency of the federal government or any state government from doing business with such department or agency because of misconduct or alleged misconduct; and

(iv) the Sponsor has not defaulted on an obligation covered by a surety or performance bond.

If such Sponsor cannot certify to each of the above, such Sponsor shall submit a signed statement to explain the facts and circumstances which such Sponsor believes will explain the lack of certification. MFA may then, in its sole and absolute discretion, determine if such Sponsor is or is not qualified.

2. The experience of the Sponsor in developing, financing, and managing Multifamily Residential Housing.

3. Whether the Sponsor has been found by the United States Equal Employment Opportunity Commission or the New Mexico Human Rights Commission to be in noncompliance with any applicable civil rights laws.

B. Mortgage Lenders. In approving Mortgage Lenders, MFA shall consider, among other things:

1. The financial condition of the Mortgage Lender;

2. The terms and conditions of the Lender Loans to be made;

3. The aggregate principal balances of Lender Loans to be made to each Mortgage Lender compared with the aggregate principal balances of the Lender Loans to be made to all other Mortgage Lenders;

4. MFA's assessment of the ability of the Mortgage Lender or its designated servicer to act as originator and servicer of Mortgage Loans for the Multifamily Housing Programs to be financed; and

5. Previous participation by the Mortgage Lender in MFA's programs and HUD, FHA, or RHS/USDA programs.

C. Other Applicants. MFA shall, from time to time, establish standards for approving the qualifications of other Applicants seeking MFA assistance, which standards shall be published in Policies and Procedures established for the particular program.

6.4 Notice of Acceptance. MFA shall, in writing, notify each Applicant, which has submitted an Application as to the aggregate principal balance of the loan, if any, MFA shall agree to make, subject to the conditions set forth in the Application. The aggregate principal balance of loans, which MFA agrees to make to any Applicant, may be in an amount less than that requested.

6.5 Standards for Determining Minimum Equity Requirements, Acceptable Debt-to-Equity Ratios, and Acceptable Loan-to-Value Ratios.

A. Generally. MFA shall, from time to time, establish standards for (i) minimum equity requirements and acceptable debt-to-equity ratios; and (ii) acceptable loan-to-value ratios for each Project under a particular program, which standards shall be in accordance with generally accepted standards in the lending industry and shall be published in Policies and Procedures established for the particular program.

B. Sponsors. With respect to establishing such standards for Sponsors, MFA shall require that the maximum mortgage amount not exceed the estimate of the replacement cost of the Multifamily Housing Project when the proposed improvements are completed and required reserves are funded. The replacement cost may include land, the proposed physical improvements, utilities within the boundaries of the land, architect's fees, taxes, interest during construction and other miscellaneous charges incident to construction and approved by MFA, including an allowance for Builder's and Sponsor's profit and risk.

6.6 Uniform Accounting System. The accounting system used by Sponsors shall be based upon generally accepted accounting standards for the industry. Additional requirements may be dictated by the state or federal funding source, which in such cases will be included in the Sponsor's contract or loan documents.

6.7 Costs of the Project.

A. Submission of Cost Certificate. Upon completion of any Multifamily Housing Project, MFA shall require the Sponsor to submit a cost certificate detailing the specific items of the Project if required by the regulations of the funding source. MFA will require the Sponsor to document all costs funded by MFA.

B. Cost Approvals. MFA shall, from time to time, develop standards for approving Project Costs for Projects to be financed through an MFA program. These standards shall be set forth in Policies and Procedures established for the particular program and shall include such factors as:

1. the cost of the land upon which the Project is to be built;

2. the architect's and other professionals' fees;

3. organizational and legal expenses;

4. the number of square feet to be built together with the cost per square foot to build;

5. the amount of Builder's and Sponsor's overhead to be allocated to the Project;

6. the amount of Builder's and Sponsor's profit;

7. taxes and insurance, including title insurance and recording fees; and

8. the Sponsor's relationship, if any, with the Builder or general contractor for the Project, including any collateral agreements.

MFA shall take into account the guarantor's, insurer's, or purchaser's approved cost limits in effect at the time in evaluating the reasonableness of and approving the Project Costs for each Project. These standards shall also take into consideration the requirements of the Act, the Code, and the requirements of any applicable federal government program.

6.8 Geographic Allocation and Other Site Considerations. MFA shall make all reasonable efforts to provide loan assistance under various Multifamily Housing Programs on a statewide basis. In providing for reasonable geographic allocation for all MFA Multifamily Housing Programs, MFA may consider with respect to a Project, among other things:

A. the nature of the proposed neighborhood;

B. whether there is a need in the area for decent, safe and sanitary housing for Persons of Low and Moderate Income;

C. the number of similar multifamily housing projects, if any, located in the particular area and the type, location, number of units and size of such projects;

D. the occupancy history of similar multifamily housing projects in the area;

E. the need for new housing in the area to attract a new industry or plant;

F. the availability of adequate utilities (water, sewer, gas and electricity) and streets to service the Project;

G. the availability of, and accessibility to, social, recreational, educational, commercial and health facilities and services, which should at least be equivalent to those found in neighborhoods consisting largely of unassisted, standard housing of similar market rents; and

H. whether the Project site is free from adverse environmental conditions, natural or man-made, such as instability, flooding, sewage hazards, harmful air pollution, smoke or dust, excessive vehicular traffic, and fire hazards.

In addition, MFA shall give great weight in making its determination with respect to geographic allocation to whether the Project will promote a greater choice of housing opportunities in the area and will avoid an undue concentration of assisted persons in areas containing a high proportion of Persons of Low and Moderate Income. MFA may rely on such guarantor's, insurer's or purchaser's approval as evidence that the above criteria have been met.

6.9 Discrimination Prohibited. The development, construction, occupancy, and operation of a Multifamily Housing Program financed or assisted by MFA shall be undertaken in a manner consistent with principles of non-discrimination and equal opportunity, and MFA shall require compliance with all applicable federal and state laws and regulations relating to affirmative action, non-discrimination, and equal opportunity.

SECTION 7. HOUSING OPPORTUNITY FUND ("HOF"). In addition to the following programs defined in this Section 7, MFA shall have the power to create certain variations or extensions of the programs, or additional programs which comply with the Act and these Rules and Regulations.

7.1 Additional Definitions. The following words and terms shall have the following meanings only within this Section 7.

A. "Down Payment Assistance Programs" shall mean MFA's programs that provide down payment and closing cost assistance in the form of a second mortgage lien to Persons of Low and Moderate Income who areusing MFA's Single Family Homeownership Program (as defined in Section 5, above) to acquire single family homes.

B. "Partners Program" shall mean MFA's program designed to serve as a secondary market for below-market-rate single family mortgages which have been originated by nonprofit organizations to provide financing for families earning no more than 60% of county or median income as published by the US Department of Housing and Urban Development at the time of initial family qualification by participants and MFA.

C. "Primero Investment Fund" shall mean MFA's program designed to provide flexible financing to nonprofit organizations, Tribal and public agencies, as well as for-profit entities undertaking the development of Affordable owner-occupied, rental, or special needs housing Projects.

D. "ACCESS Loan Program" shall mean MFA's program designed to provide guaranteed or insured construction and permanent financing for Affordable rental developments.

E. "Emergency Housing Needs Pilot Program" shall mean MFA's program designed to provide one-time assistance when an individual or household faces an emergency situation is defined as a sudden or unexpected circumstance that has displaced a person or household, poses a significant risk of displacement to a person or household, or threatens the health and safety of an individual or household.

F.

7.2 Funding.

A. Initial Funding. The HOF shall be initially funded with net residual assets of MFA's issue of Home Improvement Loan Revenue Bonds, 1985 Series A and financing adjustment factor (FAF) savings derived from MFA's Multifamily Housing Refunding Revenue Bonds 1990 Series A.

B. Additional Sources. Additional sources of funding may include, but are not limited to:

1. gifts, loans and grants received from the federal government, private foundations, corporate and private individuals and other sources;

2. money and other assets specifically allocated by MFA to the HOF from time to time; and

3. earnings of the HOF.

7.3 Use of Funds. Monies and other assets of the HOF shall be disbursed to Applicants in accordance with the purposes of the HOF and Policies and Procedures developed and established by MFA for the HOF as follows:

A. to provide down payment assistance for the financing of housing by Persons of Low and Moderate Income;

B. to provide closing cost assistance for the financing of housing by Persons of Low and Moderate Income;

C. to pay fees for services utilized in connection with HOF programs;

D. to pay costs of acquisition, rehabilitation and/or construction of Affordable housing Projects, as well as costs associated with single family mortgages; and

E. in such other manner as MFA may determine from time to time.

7.4 Administration. MFA shall administer the affairs of the HOF in accordance with provisions of the Act, these Rules and Regulations, any applicable state and federal laws and regulations, each of which may be amended or supplemented from time to time. MFA, in establishing, funding and administering the affairs of the HOF and by making, executing, delivering and performing any award, contract, grant or any other activity or transaction contemplated by the HOF, shall not violate any provision of law, rule or regulation or any decree, writ, order, injunction, judgment, determination or award and will not contravene the provisions of or otherwise cause a default under any of its agreements, indentures, or other instruments to which it may be bound.

7.5 Program Guidelines. MFA shall, from time to time, develop and adopt Policies and Procedures for each program of the HOF, which shall set forth the specific Application and approval procedures.

SECTION 8. SECONDARY MARKET FACILITY. In addition to the following programs defined in this Section 8, MFA shall have the power to create certain variations or extensions of the programs, or additional programs which comply with the Act and these Rules and Regulations.

8.1 Additional Definitions. The following words and terms shall have the following meanings only within this Section 8.

A. "Pass-Through Securities" shall mean securities representing undivided ownership interests in a pool of Mortgage Loans; and

B. Secondary Market Facility" shall mean a corporation, trust, or other form of legal entity established by MFA for the purpose of the purchase, with private or public funds legally available therefor, of Mortgage Loans, mortgage-based obligations, Pass-Through Securities or interests therein.

8.2 Establishment of Secondary Market Facility. MFA may establish and implement a Secondary Market Facility for Mortgage Loans and to otherwise act as a conduit for public and private funds to provide an increased degree of liquidity for mortgage investments. In establishing a Secondary Market Facility, MFA may issue Pass-Through Securities and may purchase and contract to purchase Mortgage Loans, Pass-Through Securities, obligations secured by Mortgage Loans or revenues therefrom or interests therein. MFA shall establish Policies and Procedures, in accordance with paragraph 4.6 of these Rules and Regulations, which Policies and Procedures shall provide for the governing of the operations of the Secondary Market Facility, the issuance of Pass-Through Securities and for the purchase or issuance by, or the sale of, such obligations to the Secondary Market Facility. The Policies and Procedures shall include, among other things: (i) the submission by Mortgage Lenders of offers to sell Mortgage Loans; Pass-Through Securities; and obligations secured by Mortgage Loans or pledges of Mortgage Loan revenues; (ii) standards for allocating available funds or guarantees among Mortgage Lenders through the Secondary Market Facility; (iii) qualifications or conditions relating to the reinvestment by Mortgage Lenders of the funds

made available to Mortgage Lenders by the Secondary Market Facility; and (iv) characteristics of Pass-Through Securities to be issued by the Secondary Market Facility.

SECTION 9. MISCELLANEOUS. Capitalized terms not otherwise defined in these Rules and Regulations have the same meaning as defined in the Act.

SECTION 10. AMENDMENT TO RULES AND REGULATIONS. These Rules and Regulations may be amended or supplemented by MFA, with the approval of the Oversight Committee, at any time. Proposed amendments to these Rules and Regulations will be posted on MFA's website for a minimum of thirty (30) days prior to approval by the Oversight Committee, to enable public comment on the proposed changes.

MFA Housing New Mexico

MEMO

TO: MFA Board of Directors
Through: Finance Committee October 10, 2023
Through: PC Committee October 3, 2023

FROM: Jeanne Redondo

DATE: October 18, 2023

SUBJECT: **2024 Qualified Allocation Plan**

Recommendation:

Staff recommends approval of the attached 2024 State of New Mexico Housing Tax Credit Program Qualified Allocation Plan ("QAP").

Background:

The Low Income Housing Tax Credit ("LIHTC") program was established in 1986 under Section 42 of the Internal Revenue Code (the "Code"). The Code sets the general program parameters including the requirement that each state adopt its own QAP, which sets forth specific project selection criteria and delineates other program rules. MFA revises the QAP annually.

While stakeholder feedback is encouraged throughout the year, MFA staff holds a "Developer's Forum" focus group prior to beginning draft revisions and then presents a list of proposed changes to the Policy Committee and Finance Committee for discussion. This year, MFA held two Developer's Forums to allow more opportunity for participants to share. In addition, MFA held smaller focus groups on construction costs, the non-profit right of first refusal, and rural development. A draft QAP is then composed and posted on MFA's website and published in at least three newspapers of general circulation. This posting and publication mark the beginning of a 21-day public comment period during which a public hearing is held. After the public comment period is concluded, a final QAP is composed and presented to Policy Committee, Finance Committee, and then the Board of Directors for approval. After Board approval, the QAP is sent to the Governor for final approval.

Discussion:

This year, staff focused on ways to improve the allocation process by removing barriers, where appropriate. Some highlights include allowing the use of the average income test

permitted under Internal Revenue Code ("IRC") Section 42(g)(1)(C) in tax-exempt financed Projects, delaying the review of the property management agent until construction is underway, exempting volunteer board members with no financial interest in a Project from the requirement to execute a compliance affidavit for properties that are already certified as compliant by the developer or Project Principal, adding a streamlined application process for Projects qualifying for supplemental tax credits in hardship situations, and adding a policy regarding recycled tax credits (commonly known as credit swaps). These provisions are further explained below.

The following changes to the QAP are proposed:

Minimum Apartment Units Set-Asides – Section II.E.3. (Begins on page 5 of the redline)

- Projects financed with 4% LIHTC and tax exempt bonds are now permitted to use the Average Income Test as their minimum federal set-aside under IRC Section 42(g)(1)(C), that was previously prohibited through an ancillary Bond Checklist. Projects that receive an allocation of 4% LIHTC in conjunction with an issuance of tax-exempt bonds must meet the set-aside requirements of both Section 42 and Section 142 of the IRS Code. The language referring to these requirements was underlined for emphasis.

General Public Use – Management Units - Section II.G (*See* page 8)

- This section was updated to clarify that management units are requested through Asset Management after the project is completed. This policy has been in place for several years but is sometimes misunderstood by Applicants.

Eligible Projects – Section II.H (*See* page 8)

- This section was updated to clarify that assisted living facilities are not eligible for LIHTC under New Mexico's QAP. Treasury Regulation 1.42-11(b)(2) says that "if continual or frequent nursing, medical or psychiatric services are provided, it is presumed that the services are not optional and the building is ineligible for the credit, as is the case with a hospital, nursing home, sanitarium, life care facility, or intermediate care facility for the mentally or physically handicapped." And while assisted living facilities can have a wide range of services, not necessarily all medical, the expectation of those services being utilized by residents is part of why the model of services in an assisted living facility being Medicaid reimbursable works. In contrast to that model, the LIHTC program requires services to be voluntary, not mandatory. Seniors who wish to age in place will still be able to bring in the services they require through Medicaid or other sources.

Combined Rehabilitation and New Construction Projects and General Guidelines Around Rehabilitation Projects – Section II.J (Beginning on page 9)

- Section II.J.1.a on page 10 was clarified to refer to the definitions of Moderate and Substantial Rehabilitation in the Glossary so Applicants properly classify their Project when claiming points in Section III.E.

- Section II.J.3 on page 11 was clarified that while the relocation plan for 9% Projects is due with the Carryover Allocation package, the relocation plan for 4% LIHTC projects is due with the Initial Application because these Projects do not receive a carryover allocation.

Building Classification and Tax Credit Applicable Percentages – Section II.R (*See* page 15)

- This section was clarified to differentiate the minimum expenditure under the Internal Revenue Code (the "Code") from the minimum expenditure needed for scoring in Section III.E.3.

Needs Analysis – Section III.A (*See* page 17)

- This section was updated to refer to the "current" New Mexico Consolidated Plan and Action Plan to ensure that Applicants always refer to the most recent plans.

Project Selection Criteria to Implement Housing Priorities – Section III.E (Begins on page 23)

- The QAP was updated throughout to properly refer to MFA's design requirements document by its title: Mandatory Design Standards for Multifamily Housing.

- **Tax-exempt bond financed projects** (*See* page 24) will be required to perform a Moderate Rehabilitation, at minimum, to qualify for tax credits under the QAP. The Private Activity Bond volume cap is limited. This will direct those resources to Projects that perform a threshold level of rehabilitation, where applicable.

1. ***Scoring Criterion no. 1*** – *Nonprofit, NMHA, TDHE, or THA Participation* (*See* page 25)
   - This scoring criterion was updated to add the requirement to enter into a right of first refusal agreement afforded to qualified nonprofit organizations and government agencies under Internal Revenue Code Section 42(i)(7) using MFA's form of agreement. The misinterpretation of a nonprofit's right of first refusal has been an ongoing issue causing litigation throughout the country.

2. ***Scoring Criterion no. 3*** – *Rehabilitation Projects* (*See* page 27)
   - The criterion was updated to add a reference to the Glossary definitions of Moderate and Substantial Rehabilitation for clarity.

3. ***Scoring Criterion no. 8*** – *Households with Special Housing Needs Housing Priority (See* page 35)
   - The section on coordinated services was updated to clarify that the services must be implemented immediately following the issuance of a certificate of occupancy.

4. ***Scoring Criterion no. 9*** *– Projects Reserved for Seniors Housing Priority* (*See* page 36)
   - The section on coordinated services was updated to clarify that the services must be implemented within 90 days following the issuance of a certificate of occupancy.
   - It was also updated to clarify the requirement to actively link services to the Project.

5. ***Scoring Criterion no. 10*** *– Households with Children Housing Priority* (*See* page 39)
   - The scoring criterion was updated to clarify that services must be implemented within 90 days following the issuance of a certificate of occupancy.
   - It was also updated to clarify the requirement to actively link services to the Project.

6. ***Scoring Criterion no. 17*** *– Blighted Buildings and Brownfield Site Reuse* (*See* page 47)
   - This scoring criterion was clarified for consistency with the definitions in the Glossary and the Application Checklist of exhibits.

Additional Supplemental Tax Credits for Cost Increases – Section III.G (*See* pages 52-53)

- This scoring criterion was updated to remove the requirement that Projects requiring supplemental credits for feasibility need to compete in the current round.
- The number of credits available was reduced to 10% of the original award.
- The Application was streamlined to only include what is needed to determine whether the application for supplemental credits qualifies.
- The Project must demonstrate hardship and that other financing sources have been exhausted.
- If the score in the original round would have changed based on the additional credits, the Project's score after the increase would still need to have qualified for an award in that original round.
- Once supplemental credits are determined, MFA staff will recommend 2024 LIHTC awards to the Allocation Review Committee based on the balance of the remaining tax credits in the tax credit ceiling plus any forward allocations that may be appropriate.
- Projects that do not meet the criteria for supplemental credits may return the previous valid allocation and compete in the current 9% LIHTC round.

Recycled Allocations – Section III.I (*See* pages 54-55)

- This section was added to the QAP to implement a policy under which MFA would consider a return of a valid tax credit allocation from a previous year in exchange for an allocation of credits from the following year. To provide the

allocation from the following year's tax credit ceiling, the return must occur between October 1st and December 31st.

- This process is also known as a credit swap in the industry. A credit swap does not change the number of credits that are available to allocate to new applications in the 9% LIHTC round.
- The policy allows a return of tax credits between October 1st and December 31st because it is also a point in time when it should be apparent to the developer that the Project will not Place-In-Service by the December 31st deadline of that year.
- The new allocation of tax credits would be issued in January of the following year and the Project would need to be placed in service during that calendar year. For example, a return of 2021 tax credits in December 2023 would receive 2024 tax credits in exchange for the 2021 tax credits and be required to be completed by December 31, 2024.
- Credit swaps are not done lightly and therefore the Principals involved in the Project would not be eligible to compete in the year following the return of credits. For example, a Principal who returns credits in December 2023 would be ineligible to compete in the 2024 9% LIHTC round.

Submission Date(s) – Section IV.A.1 (*See* page 55)

- The submission deadline was moved from January 20th to January 22nd because January 20, 2024 is a Saturday.

Form of Submission and Content and Format: Complete Applications – Section IV.A.4 (*See* page 56)

- This section was updated to require that voluminous documents that interfere with the ability to work with the pdf Application, be uploaded separately. These documents include, as applicable, the market study, architectural plans and specifications, capital needs assessment, and appraisal.

Communications and Quiet Period – Section IV.A.5 (*See* page 58)

- The deadline to submit questions through the Frequently Asked Questions ("FAQ") process has been extended from December 20th to January 15th. This will allow more time to ask for clarification while still allowing sufficient time to respond and allow all potential Applicants time to see the response and make any appropriate revisions to their Application.

MFA Fees and Direct Costs – Section IV.B (*See* page 61)

- The $500 fee for increases in tax credits and requests for changes was clarified that the changes anticipated are prior to issuance of Forms 8609.
- A new $250 fee per Form 8609 with a maximum fee of $2,500 for multiple forms was implemented for changes requested after MFA has provided the opportunity for the Project Owner and their professionals to review and sign off on the forms.

- Existing fees for ownership changes and Land Use Restriction Agreement (LURA) modifications were added to the QAP to make current applicant aware of these fees.

Staff Analysis and Application Processing – Section IV.C (starts page 61)

- *Design Review and Construction Start – Section IV.C.7* (*See* page 64)
  - This section was reformatted for clarity and now includes the services that are included in the base $12,000 design review fee.
- *Other Project Compliance – Section IV.C.7* (*See* page 65)
  - This section was updated to refer to the specific documents that are required to demonstrate compliance.
  - The requirements in this section were reduced to exempt volunteer board members from the requirement to execute a compliance certificate, since the organization itself still attests to the compliance of its portfolio.
  - The specific format of the schedule demonstrating experience is now less restricted, so Applicants may submit other documents with the same information that is normally included in a Real Estate Owned schedule submitted to a lender or HUD's Form 2530.
- *Development Team Review – Section IV.C.9* (*See* page 66)
  - This section was clarified to refer to the specific documents that are reviewed.
  - It is not uncommon for developers to request a change in management agent during development, so the review of the property management agent is deferred until MFA meets with the development team when the Project is 50% complete.

Developer Fees – Section IV.D.2.b (Begins on page 68)

- Recognizing that Developer Fees per unit have not increased during the rising cost environment over the past few years, the updated QAP recommends a $500 per unit increase. At this level, MFA's fees are slightly above the median among states that include per unit caps in their fee structure but still below states that do not cap Developer Fees on a per Unit basis.
- The calculation of the 14% maximum Developer Fee for 4% Tax Exempt Bond financed Projects has been updated to align with 9% LIHTC Projects.

Notification of Approval and Subsequent Project Requirements – Section IV.G (Begins on page 77)

- *Carryover Allocation requirements – Section IV.G.3.c* (*See* page 78)
  - The reference to the qualifications of the professional performing the capital needs assessment (CNA) was removed; Section II.J includes all CNA requirements in one place.

- *No later than June 30 of the year following Carryover – Section IV.G.5* (*See* page 79)
  - Information regarding the design review process that is already included in Section IV.C.7 was removed, and a reference to Section IV.C.7 was added.
- *August 31 of the year following Carryover – Section IV.G.6* (*See* page 79)
  - The requirement for Projects included in the federal nonprofit set-aside to enter into the right of first refusal agreement in MFA's format was added. Projects that do not wish to compete for points and that do not wish to be included in the federal set-aside are not required to enter into this agreement.
- *At or around the 50% construction completion mark – Section IV.G.7 (See page 80)*
  - The materials required to review the property management agent (that were deferred) were added to the information regarding the meeting at or around the 50% construction completion mark were moved to this section.
- *November 15th of the second year following the initial allocation – Section IV.G.8* (*See* page 80)
  - The *Final Allocation and Placed in Service requirements* were updated to add a requirement that the Project Owner notify MFA, by February 15th of the year following the year the Project is placed in service, if the Project Owner reasonably anticipates that a portion of the tax credits will need to be returned. This ensures that the tax credits can be reallocated to another project if the credits are not required for feasibility. If the Project Owner causes New Mexico to lose tax credits due to their failure to timely notify MFA, the Principals involved in the Project will be ineligible to compete in the 9% LIHTC round during the year following the submission of the Final Allocation package.
- *Cost Certification – Section IV.G.8.a (See page 80)*
  - A reference to Section V entitled Cost Certification was added to direct Project Owner's to the portion of the QAP where cost certifications are explained in more detail. Information that is repetitive was removed from this section.

Processing of Tax-Exempt Bond Financed Project Applications – Section VI (Begins on page 86)

- A reference to the ancillary Bond Checklist and separate 4% LIHTC Application was added. MFA prepared these documents for the first time in 2023 to make it easier for 4% LIHTC Applicants to follow the requirements of this program.
- The private activity bond volume cap on page 88 was limited to 60% of the Project's Eligible Basis (used to calculate the tax credits) plus the land. It was formerly 75% of the Project's Total Development Cost, which exceeded the amount necessary for Projects to meet the 50% test to qualify for the tax credits. The 50% test is calculated as follows: the numerator in the fraction is the amount of tax-exempt bonds and the denominator is the aggregate basis of

the building and land. There is also a provision allowing MFA to waive this limitation if sufficient volume cap is anticipated to be available.

MFA Tax Credit Monitoring and Compliance Plan Summary – Section X (Begins on page 89)

- *General Requirements – Section X.A* (*See* page 89)
  - A provision was added that requires Project Owners to notify tenants regarding the expiration of the LIHTC rent restrictions. Tenants residing at the Project as of the date that is three years prior to the expiration of the rent restrictions would receive three years notice. Tenants who move in after that date would be notified when they sign a lease to move in. Failure to timely provide the notices would extend the rent restrictions for the applicable tenants until they receive the time required (either three years or the remaining restriction period that was in effect at the time the lease was signed).

Glossary – Section XI (Begins on page 96)

- Architecture and Engineering was added to clarify which engineering disciplines are included in the calculation of eligible basis limit on these fees.
- Management Units was updated to include the potential that the IRS will disallow an employee unit that is occupied by an employee who is not employed full time by the property in question. (*See* page 104)
- Substantial Rehabilitation was updated to clarify the portion of the Project that must be modified to meet the threshold of this standard. (*See* page 107)

Summary:

The proposed changes to the 2024 QAP continue to improve the allocation process. Staff conducted two Developer's Forum sessions and three additional focus groups wherein we gathered input to the QAP. New ideas were raised by attendees at the Forum, which were carefully considered. In addition, staff solicited input from staff from the Asset Management Department.

STATE OF NEW MEXICO

LOW-INCOME HOUSING TAX CREDIT PROGRAM

QUALIFIED ALLOCATION PLAN

Effective as of December 1, ~~2022~~2023

MFA
Housing New Mexico

NEW MEXICO MORTGAGE FINANCE AUTHORITY

Approved by Board of Directors on October ~~19~~18, ~~2022~~2023
Approved by the Honorable Governor Michelle Lujan Grisham on ~~October 31~~___, ~~2022~~2023

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I. Background and Purpose of the Qualified Allocation Plan

A. General

This "Allocation Plan" constitutes the "Qualified Allocation Plan" (QAP) for the state of New Mexico and is intended to comply with the requirements set forth in Section 42 of the Internal Revenue Code of 1986[1], as amended, including all applicable rules and regulations promulgated thereunder (collectively, the "Code"). This Allocation Plan applies to all allocations of Low Income Housing Tax Credits pursuant to the Code (hereinafter LIHTC, credits or tax credits) and multifamily private activity tax-exempt bonds made for QAP year ~~2023~~2024.

The LIHTC program was created in the Tax Reform Act of 1986 as an incentive for individuals and corporations to invest in the construction or rehabilitation of low income housing. The tax credit provides the investor a dollar-for-dollar reduction in personal or corporate federal income tax liability for a 10-year period for Projects[2] meeting the Program's requirements.

B. Role of MFA

New Mexico Mortgage Finance Authority (MFA) is the Housing Credit Agency (HCA) for the state of New Mexico, responsible for administering the Tax Credit Program and allocating tax credits to eligible New Mexico Projects. Accordingly, MFA awards tax credits to Projects meeting its Project selection criteria, including an annual population allocation, any subsequent carry-forward, returned credits and national pool credits. MFA monitors existing Projects for compliance with the Code; however, MFA does not make any representation to any party concerning compliance with the Code, U.S. Department of Treasury ("Treasury") regulations[3] or other laws or regulations governing LIHTC. Neither MFA, nor its agents or employees, will be liable for any matters arising out of or in relation to, the allocation of LIHTC. All organizations and individuals intending to utilize the LIHTC program should consult their own tax advisors concerning the application of tax credits to their Projects and the effect of tax credits on their federal income taxes.

Administration of the Tax Credit Program, as outlined in this QAP, is consistent with the statutes creating MFA in 1975 [Chapter 303, Laws of New Mexico, 1975, known and cited as the New Mexico Mortgage Finance Authority Act, being Sections 58-18-1 through 58-18-27, inclusive), as supplemented in 1995, as follows:

> The legislature hereby finds and declares that there exists in the state of New Mexico a serious shortage of decent, safe and sanitary residential housing available at prices and rentals within the financial means of persons and families of low income. This shortage is

[1] Section 42 of the Code is found in the United States Code in Title 26, Subtitle A, Chapter 1, Subchapter A, Part 4, Subpart D, at Section 42 (26 U.S.C. §42.)
[2] Capitalized terms, when not defined in the text of this document, are defined in **Section XI** or in the Code.
[3] Treas. Reg. 26 CFR § 1.42.

> severe in certain Urban Areas of the state, is especially critical in the rural areas and is inimical to the health, safety, welfare and prosperity of all residents of the state. The legislature hereby further finds and determines that to aid in remedying these conditions and to help alleviate the shortage of adequate housing, a public body politic and corporate, separate and apart from the state, constituting a governmental instrumentality, to be known as the New Mexico Mortgage Finance Authority should be created with power to raise funds from private investors in order to make such private funds available to finance the acquisition, construction, rehabilitation and improvement of residential housing for persons and families of low income within the state. The legislature hereby finds and declares further that in accomplishing this purpose, the New Mexico Mortgage Finance Authority is acting in all respects for the benefit of the people of the state in the performance of essential public functions and is serving a valid public purpose in improving and otherwise promoting their health, welfare and prosperity and that the enactment of the provisions hereinafter set forth is for a valid public purpose and is hereby so declared to be such as a matter of express legislative determination.

The federal laws governing the Tax Credit Program are subject to change. Final interpretations of certain rules and regulations governing the Program may not yet have been issued by the U.S. Department of Treasury. In the event that any portion of this QAP should conflict with the Code, amendments made thereto, or federal regulations promulgated thereunder, the federal regulation shall take precedence. If any portion of this QAP is invalid due to such conflict, the validity of the remaining portions will in no way be impacted, affected or prejudiced.

MFA reserves the right to resolve all conflicts, inconsistencies or ambiguities, if any, in this Allocation Plan or which may arise in administering, operating or managing the allocation of LIHTC.

In accordance with MFA's inherent discretion, reasonable judgement and prudent business practices, MFA may reject any Application (as defined in the Glossary) or Project that MFA has determined does not satisfy the requirements and objectives of the Code, regulations promulgated under the Code or this QAP, regardless of the Application's rank priority.

MFA shall not be responsible for any expenses incurred by any Applicant in submitting an Application or otherwise responding to or providing any information in conjunction with this QAP. All costs incurred by Applicants in the preparation, transmittal or presentation of any Application or material submitted in response to this QAP shall be borne solely by the Applicants.

In addition, MFA may cancel or modify the provisions of this QAP at any time and may reject any or all Applications submitted under this QAP and re-issue the QAP. If MFA rejects any or all Applications submitted under this QAP and re-issues the QAP, all costs incurred by Applicants in the preparation, transmittal or presentation of any Application or materials submitted in response to this QAP shall again be borne solely by Applicants.

REGARDLESS OF ANY PROVISION OF THIS QAP OR ANY DOCUMENT REFERENCED BY OR INCORPORATED IN THIS QAP, IT IS EACH APPLICANT'S SOLE RESPONSIBILITY TO DEMONSTRATE IN ITS APPLICATION THAT THE PROJECT PROPOSED SHALL COMPLY WITH THE CODE AND ALL ASSOCIATED

REGULATIONS IN ALL RESPECTS. FAILURE BY ANY APPLICANT TO DEMONSTRATE THAT THE PROPOSED PROJECT SHALL COMPLY WITH THE CODE AND ALL ASSOCIATED REGULATIONS SHALL RESULT IN THE REJECTION OF THE APPLICATION AND PROJECT.

Code Section 42(m) states that the HCA must make allocations of tax credits pursuant to a QAP which:

1. Sets forth Project Selection Criteria to be used to determine housing priorities of the HCA, which are appropriate to local conditions. These criteria must consider project location, housing needs characteristics, project characteristics, sponsor characteristics, public housing waiting lists, tenants with Special Housing Needs including individuals with children, energy efficiency standards, historic character and projects intended for eventual tenant ownership.

2. Gives preference in allocating housing credit dollar amounts among selected Projects to those which:
    a. Serve the lowest income tenants;
    b. Serve qualified tenants for extended periods of time; and
    c. Are located in Qualified Census Tracts (QCTs) and the development of which contributes to a Concerted Community Revitalization Plan.

3. Provides a procedure that the Agency will use in monitoring for noncompliance.

This document is intended to fulfill requirements one and two above for MFA's tax credit allocation activity in the state, commencing on its effective date. The procedure required in item three above is summarized in **Section X** but published in full under a separate cover, titled Low-Income Housing Tax Credit Compliance Plan, and is available on our website: http://housingnm.org/asset_management/housing-tax-credit.

C. Public Hearings

Following public notice, a draft QAP was made available to the public for comment for a period of 21 days (beginning August ~~16~~15, ~~2022~~2023 and continuing through September ~~5~~6, ~~2022~~2023, ~~and extended through September 16, 2022~~), during which time ~~two~~ a public hearing~~s were~~ was held on August ~~31~~30, ~~2022~~2023, ~~and September 16, 2022~~. MFA accepted written comments during this 21-day comment period, as extended, and considered comments presented at the public hearing, prior to completion of the plan.

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II. Low Income Housing Tax Credit Program Summary

A. General

The Tax Reform Act of 1986 established the Tax Credit Program to stimulate private sector investment in low income rental housing. In August of 1993, permanency was granted to the Tax Credit Program after numerous temporary annual extensions.

There are numerous technical rules governing a Project's qualification for tax credits. The following subsections of this Section II contain a summary of certain key provisions of the Code and regulations and the Tax Credit Program. Applicants are advised to review the Code directly for further detail.

B. Amount of Competitive Tax Credit Available Statewide

The state of New Mexico, for the calendar year ~~2023~~2024, will receive a population-based 9% tax credit allocation equal to $2.75 per resident. The current year's population estimates, as provided by the Internal Revenue Service (IRS) and the estimated Annual credit ceiling, including any carry-forward, returned or national pool credits received by the state, may be found on MFA's website: http://housingnm.org/developers/low-income-housing-tax-credits-lihtc.

C. Allocation to New Construction and Rehabilitation Projects

In order to serve both the purpose of building new affordable housing units and rehabilitating existing structures to create or preserve affordable housing units, MFA will allocate the tax credits awarded in the 9% Application round based on project type. As such, new construction Applications, including Adaptive reuse Applications, will be scored against other new construction Applications and rehabilitation Applications will be scored against other rehabilitation Applications; thus creating two separate tracks or categories for purposes of scoring and reserving tax credits for specific Projects. An Adaptive reuse Project shall be categorized as a new construction Project for these purposes. From those tracks, the two highest scoring new construction Projects will be awarded first, followed by the highest scoring rehabilitation Project. The target pattern of two new construction Projects followed by one rehabilitation Project will be followed until all credits are allocated, or until the last Project in a track has been awarded. Projects awarded in the Nonprofit or Underserved Population set-asides will be considered in achieving this target. Forward allocations may be made following the same process, however any decision to forward allocate tax credits lies solely within MFA's inherent discretion and is not subject to further review.

MFA will use the same process to select Projects that have been placed on the waiting list for an allocation of tax credits. For example, if a rehabilitation Project is initially awarded tax credits but later fails to move forward in the allocation process, the next highest-scoring rehabilitation Project may be given an award of tax credits. If no similarly categorized Project is available (e.g. if no rehabilitation Project is available for purposes of this example), then MFA may choose the next highest-scoring Project in the other track/category from the waiting list (e.g. new construction for purposes of this example.)

D. Nonprofit Allocation Set-aside

A minimum of 10% of the Annual credit ceiling must be allocated each year to Projects involving Qualified Nonprofit Organizations. MFA's Allocation set-asides (see **Section III.D**) are intended to implement this requirement. However, Qualified Nonprofit Organizations may also apply for tax credits in excess of these set-asides.

For the purposes of identifying Applicants eligible for this Allocation set-aside, several requirements must be met, as described in Code Section 42(h)(5). A Qualified Nonprofit Organization is an organization described in Sections 501(c)(3) or 501(c)(4) of the Code and exempt from tax under Section 501(a). The production of decent, safe and affordable housing must be one of the defined goals, objectives or purposes of the nonprofit organization. The nonprofit organization must materially participate in the Project, meaning that the organization must be involved on a regular, continuous and substantial basis in both the development and operation of the Project during the term of the Compliance Period. The nonprofit must also own an interest in the Project throughout the Compliance Period and may not be affiliated with or controlled by a for-profit organization. An opinion of counsel addressing the status of the nonprofit organization and qualification for the Nonprofit Set-Aside may be required.

E. Minimum Apartment Unit Set-Asides

In order for a Project to qualify for tax credits, the Project Owner must make a minimum Set-aside Election of income and rent levels as listed below. Once made, this election is irrevocable. If the Project fails to meet its elected minimum set-aside standard at the end of each year, it is not a qualified low-income housing project for the year under IRC Section 42(g)(1)(C) and this noncompliance must be reported on IRS Form 8823. The Project Owner may be subject to the recapture of low income housing tax credits.

1. 20/50 election: At least 20% of the Units in the Project must be rent-restricted to and occupied by households whose income is at or below 50% of the Area Median Income (AMI).

2. 40/60 election: At least 40% of the Units in the Project must be rent-restricted to and occupied by households whose income is at or below 60% of the AMI.

3. Average Income (AI) election: This election under the Code was authorized by the Consolidated Appropriations Act of 2018. This election allows the Project to serve households up to 80% AMI as long as at least 40% of the total Units are rent and income restricted and the average income limit for all tax credit Units in the Project is at or below 60% AMI. The following applies for this election:
    a. Income and rent limits **must be in ten percent increments,** and may include 20% AMI, 30% AMI, 40% AMI, 50% AMI, 60% AMI, 70% AMI, or 80% AMI.

b. If the Project has an existing LIHTC Land Use Restriction Agreement (LURA) on the property, both initial election (20/50 or 40/60) and AI election must be met.
c. The average of the imputed income limitations designated cannot exceed 60% AMI.
d. Those Projects electing AI must include at least 5% of their Units above 60% AMI.
e. All Units must be designated with a specific AMI percentage at the time of Application.
f. Unit designations may float but are subject to the Next Available Unit Rule and the original designations must be maintained throughout the Affordability Period. Average Income applies to rent and income limits. If a Unit has a designated limit of 80% AMI, the maximum rent that can be charged to a household for that Unit is 30% of 80% of AMI. Similarly, if a Unit has a limit of 40% AMI, the maximum rent that may be charged is 30% of 40% of AMI.
g. Skewing of Unit designations is not permitted. Project Owners must disperse unit types across chosen rent/income limits in a way that does not violate Fair Housing. MFA will require reasonable parity between different bedrooms sizes at each income band utilized on the Project.
h. The market study must demonstrate sufficient need at each income level chosen.
i. Project Owners of Projects with more than one building must elect to treat all of them as part of a multiple building project (checking "Yes" on line 8b of the 8609 form).
j. AI Projects may be subject to an increased Compliance Monitoring fee.
k. MFA shall only accept an Application that chooses the AI election if all Units in the Project are rent-restricted to and occupied by households whose income is at or below 80% of AMI. In other words, MFA will not accept an Application that chooses the AI election if the Project includes unrestricted~~,~~ Market Rate Units.
l. An Application for an AI Project must include within its equity and debt commitment letters confirmation of the utilization and approval of the AI election.

The changes to the Code described above do not extend to the set-aside requirements associated with the issuance of tax-exempt bonds in accordance with Section 142 of the IRS Code (26 U.S.C. § 142). Projects that receive an allocation of 4% LIHTC in conjunction with an issuance of tax-exempt bonds must meet the set-aside requirements of both Section 42 and Section 142 of the IRS Code.

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The 30% AMI income and rent level under the LIHTC is not the same as the Extremely Low Income and rent restriction under the National Housing Trust Fund (NHTF). The NHTF statute and regulation define "Extremely Low Income" as the greater of 30% of AMI or the federal poverty line for applicable household size. Average Income unit designation is based solely on AMI. Projects that have layered NHTF with LIHTC should be mindful of this difference.

The IRS makes the ultimate determination regarding whether or not the Project is in compliance with this and/or any other election made by the Project Owner. Acceptance by MFA does not

guarantee acceptance by the IRS. Project Owners should consult with their legal counsel. These requirements are subject to change in the event the IRS issues further guidance on the AI election.

Only Low Income Units as determined by the Project's Set-aside Election are eligible for tax credits. For example, if the 20/50 election is chosen, only Units that are rent restricted and set aside for tenants whose income does not exceed 50% of AMI are qualified as Low Income Units. If the 20/50 election is chosen, Units with income and rent limits above 50% of AMI are not eligible for tax credits. Similarly, if the AI election is chosen, only Units that are rent restricted and set aside for tenants whose income does not exceed 80% of AMI are qualified as Low Income Units. The minimum Set-aside Election is irrevocable under the Code.

F. Rent and Income Restrictions

Set-aside Units must only be rented to households meeting certain income restrictions. Furthermore, rents charged for Set-aside Units may not exceed 30% of the applicable income limit(s) designated by Applicant. Gross rent limits provided annually by HUD (found on MFA's website) must be reduced by a utility allowance that accurately reflects the cost of tenant-paid utilities by unit size. While the Code excludes any payments made under section 8 of the United States Housing Act of 1937 or any comparable rental assistance program (with respect to such Unit or occupant thereof) from the gross rent calculation, only rents that do not exceed the Tax Credit Ceiling Rents (as defined in the Glossary) and are supported by the market study will be used for underwriting purposes. Exceptions may be made for Projects with project-based subsidies when the program governing the project-based subsidy allows higher rents. More detail regarding rental assistance payments and qualifying tenants can be found in the MFA Tax Credit Monitoring and Compliance Plan, which is issued under a separate cover and summarized in Section X.

G. General Public Use

Generally, all Units, including Set-aside Units, must be made available to the general public under an initial lease term of at least six months. However, exceptions are made for Single Room Occupancy and transitional homeless facilities.

Under Treasury Regulation Section 1.42-9(b), if a residential Unit is provided only for a member of a social organization or provided by an employer for its employees, the Unit is not for use by the general public and is not eligible for tax credits under the Code. However, as clarified in Section 42(g)(9) of the Code, a qualified low-income project does not fail to meet the general public use requirement solely because of occupancy restrictions or preferences that favor tenants 1) with Special Needs, 2) who are members of a specified group under the federal program or state program or policy that supports housing for such a specified group, 3) who are involved in artistic or literary activities or 4) of indigenous populations for those Projects located on Tribal Lands. Any Unit that is part of a hospital, nursing home, sanitarium, life care facility, retirement home providing significant services other than housing is not for use by the general public.

MFA-approved Management Units (*see* Glossary, Management Units) set-aside for Project employees (i.e., property managers, maintenance staff, etc.) ~~Management Units~~ are not considered residential Units, even if rent is collected on the Unit, but as facilities "reasonably required" for the Project ~~and should~~ not ~~be~~ included in the Applicable Fraction as low-income residential space~~. These Management Units should be described in the narrative but will not be indicated on the application~~. Before excluding them from the Applicable Fraction, Management Units must be approved by the MFA Asset Management Department. ~~for exemption~~ This approval may only be requested after the Project has been Placed In Service. ~~(see Glossary, Management Units)~~ Applicants may include an intent to request Management Units in the Project Narrative but should include those Units as 60% AMI Units (either revenue or non-revenue producing) in the Application because they are not yet approved as Management Units.

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Projects may have a preference for military veterans that have served in the armed forces of the United States and MFA encourages all Projects to develop marketing plans that involve outreach and marketing of Units to veterans.

H. Eligible Projects

MFA's Tax Credit Program is intended for rental housing located in the state of New Mexico. Projects may include transitional housing for the homeless, Single Room Occupancy, senior and other special housing needs projects. Dormitories, assisted living facilities, "trailer parks" and transient housing (e.g. emergency shelters for homeless persons and households) are ineligible. Proposed Projects must be eligible for an allocation of credits under the Code.

I. Scattered-site Projects

Under Code Section 42(g)(3)(D), each low-income building is considered a separate project unless the taxpayer identifies each building which is, or will be, part of the Project. Under Code Section 42(g)(7) and Treasury Regulation Section 1.103-8(b)(4)(ii), two or more qualified low-income buildings can be included in a Project only if the buildings:

1. Are located on the same tract of land, unless all the Units in all the "scattered site" buildings to be included in the Project are low-income Units;
2. Are owned by the same person (entity) for federal tax purposes;
3. Are financed under a common plan for financing; and
4. Have similarly constructed Units.

Generally, each site of a scattered-site Project must have a community space adequate for the provision of services and services must be delivered at each site for the Project to be eligible for points for **Projects in which Units are reserved for Households with Special Housing Needs, Projects Reserved for Senior Housing or Projects in which 25% of all Units are reserved for Households with Children**. However, if one of the project sites proposed for rehabilitation does not have adequate community space for the provision of services, services may be provided for residents at another project site so long

as the following conditions are met: 1) the project sites are located within a quarter of a mile of each other and connected by an ADA compliant route, 2) the Application demonstrates, to the sole satisfaction of MFA, how the needs of persons with disabilities who do not have access to on-site services will be met and 3) sufficient community space for the provision of services is available for all residents of the Project.

J. Combined Rehabilitation and New Construction Projects and General Guidelines Around Rehabilitation Projects

In accordance with the provisions of this QAP, Projects may combine the rehabilitation of existing residential Units with the construction of new residential Units. Should an Application consist of both new construction and rehabilitation, the Project will be classified as new construction if 51% or more of the total Units are newly constructed or constitute an adaptive reuse. Similarly, a Project will be classified as rehabilitation if 51% or more of the total Units are proposed for rehabilitation.

In the event a Project consists of an equal number of new construction/Adaptive reuse Units and an equal number of Units to be rehabilitated, then Applicant shall specifically state in their Application which track/category to place its Project for scoring purposes. Note: an Applicant may choose to place its combined new construction/rehabilitation Project in the rehabilitation track even if the Project fails to satisfy the provisions of Project Selection Criterion No. 3 and is awarded no points pursuant to that criterion. In the event Applicant fails to specify which scoring track/category they desire to place their Project, MFA will make this determination based on the information available, which shall be final and not subject to review.

Note that for scoring purposes, the rehabilitation points set forth in Project Selection Criterion No. 3 shall not be made available to a combined new construction/rehabilitation Project should the Project be categorized as a new construction Project.

Applications for combined rehabilitation and new construction Projects must adhere to the *MFA ~~2023~~2024 Mandatory Design Standards for Multifamily Rental Housing* (Design Standards) for both rehabilitated and newly constructed Units as they pertain to each Unit type. The cost limits will be applied based on the category chosen. For example, if the Project has 51% or more newly constructed Units, it will be held to the new Construction Cost limits provided in Section IV.C.2.

For all rehabilitation Projects, Applicants must also submit an accurate, detailed and concise description of the work to be performed by the contractor, the Applicant and any third parties relating to the rehabilitation of the Project. Referred to as the Scope of Work, this submission must identify the work to be performed including any demolition. See MFA ~~2023~~2024 Mandatory Design Standards for Multifamily Housing for more detailed discussion of Scope of Work requirements.

In addition, all Rehabilitation Projects must submit a detailed Narrative. This Narrative should,

1. Describe the following:

a. Proposed rehabilitation plans, including a detailed discussion ~~of~~ regarding ~~whether~~ how the Project ~~constitutes~~ conforms to the definition of a Moderate Rehabilitation or Substantial Rehabilitation in the Glossary at Section XI, including the major building systems to be replaced and/or improved, whether the work area exceeds 50% of the aggregate building area ~~of the building~~, and how the proposed rehabilitation plans are consistent or inconsistent with the Scope of Work and/or Capital needs assessment ("CNA"). (See below for CNA requirements.)

b. Any capital expenditures made to the Project over the past two (2) years and the nature of these capital expenditures.

c. Any past local, state or federal resources invested in the Project.

d. Any obvious design flaws, obsolescence issues or safety issues.

e. Any significant events that have led to the current need for rehabilitation, e.g. fire, natural disaster or any other catastrophic event.

f. Why the Project is appropriate for rehabilitation and not demolition;

g. The physical aspects of the existing building(s), including, but not limited to, structural conditions;

h. Any relocation issues;

i. Work performed, including the inclusion of any third party reports, to determine the reasonableness of a rehabilitation versus demolition; and

j. Preservation of affordability, including any existing federal rental assistance contracts, and the impact of a rehabilitation or demolition on this federal assistance.

2. Address the following:

a. The anticipated date of site control and whether there is any identity of interest between or among any Principal of the seller and buyer.

b. The Ten-Year Rule.

c. Current financing on the property or Project which will be assumed or paid with LIHTC equity or an MFA-administered funding source. e.g. paid in full vs assumed and current terms.

d. For 9% Projects claiming points available for Rehabilitation Projects under Section III.E.3 that were previously subsidized with either 9% or 4% tax credits, proof that more than 20 years has passed since the Project was Placed In Service. (Tax-exempt bond financed Projects are excluded from this requirement, as they are not scored.)

3. For Projects involving demolition, provide details of what the demolition entails. e.g. interior walls, debris removal, building envelope.

All Projects that include rehabilitation must provide a CNA prepared by a professional who meets the minimum requirements set forth in MFA's Design Standards. (*See* Glossary for requirements.) MFA will review the CNA to determine whether it supports the Scope of Work outlined in the Application and complies with the Design Standards. The CNA is due:

- with the Initial Application for 9% Projects that were Placed In Service less than 20 years prior to the Application Deadline;
- with the Initial Application for all Projects financed with Tax-Exempt Bonds (i.e., 4% LIHTC); and
- by November 15th of the allocation year with the Carryover Application for 9% Projects that were Placed In Service more than 20 years prior to the Application Deadline.

Any assumed debt must be reflected in Schedule A-1 and Schedule C-1 (cash flow). Any debt to be paid off must be reflected as a use in Schedule A-1. If the debt is in the form of outstanding bonded indebtedness, explain whether bonds are redeemable, callable, and/or refundable. MFA may require a legal opinion in the case of redeemable bond debt.

Rehabilitation projects must supply both a current operating expense budget and an anticipated, post-renovation budget with their application materials. The current operating expense budget may not meet MFA's underwriting requirements, but the projected budget must.

Finally, 9% Applicants must submit a preliminary displacement/relocation plan outlining: (i) any potential permanent, temporary or economic displacement/relocation issues; (ii) the approximate number of current tenants to be relocated; (iii) where tenants could be relocated during the rehabilitation and length of time; (iv) how displacement/relocation can be minimized, and how relocation expenses will be paid for if incurred; (v) good faith estimate of displacement/ relocation costs. A final version of the displacement/relocation plan is due at ~~time~~the time of submission of a Carryover Application, along with a displacement/relocation assistance plan (e.g. Who will receive assistance? How much assistance will they receive? When and how will they receive their assistance? Who will provide advisory services to those displaced?)

This relocation plan must include a sample tenant letter outlining the process and informing the tenant of any potential permanent displacement due to a change in unit mix or income eligibility.

Applications for 4% LIHTC Projects must submit the final version of the displacement/relocation assistance plan, including a sample tenant letter, with the Initial Application.

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K. Compliance Period and Extended Use Period (30 Year Minimum)

The initial Compliance Period for any Project is 15 years. An Extended Use Period also applies to any Project for a minimum of 15 additional years following the expiration of the Compliance Period, during which time transfers and tenant dislocation are limited as provided for in the Project's Land Use Restriction Agreement (LURA). The Project Owner shall not sell, assign, convey, transfer or otherwise dispose of the Project or any building in the Project without prior written consent of MFA during the Compliance and Extended Use Periods. For the purposes of the tax credit program, transfer of any of the ownership interests in Project Owner or Project Owner's partner(s) or member(s), as applicable, before the end of the Compliance Period shall be deemed a transfer of the Project. By agreeing to an Extended Use Period, the Project Owner and its successors and assigns agree to maintain the Project as a qualified low income housing project (as defined in Section 42(g) of the Code) through the expiration of the Extended Use Period. During the Compliance and Extended Use Periods the Project Owner is prohibited from evicting or terminating tenancy of an existing tenant of any low income Unit other than for good cause and/or increasing the gross rent with respect to a low income Unit not otherwise permitted by the Code, as applicable throughout the entire commitment period.

By submitting an Application for an allocation of tax credits to a Project in accordance with this QAP, the Applicant and Project Owner agree to waive their right to request that MFA present a "Qualified Contract" for the Project in accordance with Code Section 42(h)(6). The Applicant and Project Owner further agree that the Extended Use Period shall not be terminated for any reason other than foreclosure (or instrument in lieu of foreclosure), in which case existing Low-income Tenants will not be evicted or charged rents in excess of tax credit rents for a period of three years following the foreclosure or transfer by instrument in lieu of foreclosure in accordance with the Code. Failure to comply with set-asides or any reduction in the number or floor space of the Set-aside Units during the Compliance Period, will result in recapture, with non-deductible interest of at least a portion of the tax credits taken previously. MFA will notify the IRS if it learns of any noncompliance. The Project Owner must also make tenant income determinations and file an annual compliance statement with MFA.

L. Compliance Monitoring

As of January 1, 1992, the IRS required each HCA to write and implement a Monitoring and Compliance Plan (summarized in Section X.) MFA's plan includes a combination of Project Owner's certification of continued compliance and regular property visits for all complete LIHTC Projects. During the property visit, MFA will conduct a compliance audit and a physical inspection. The IRS has provided substantial penalties, including recapture of the tax credits plus interest, for non-compliance with the policies and procedures set forth in the Code and MFA's Tax Credit Monitoring and Compliance Plan. Monitoring and compliance fees described in **Section IV.B** will be assessed for each year of the Compliance and Extended Use Periods. The fees will be billed annually in December/January for the subsequent year and will be due no later than January 31. Project Owners will be given the option to pay the initial 15 years of monitoring and compliance fees at the time of Final Allocation Application. Failure to pay monitoring and compliance fees within the time frame specified in the invoice will result in MFA's filing of a "Notice

of Noncompliance" (IRS Form 8823) with the IRS and the Principal(s) will be deemed ineligible for additional funding from MFA, including tax credit, for any Projects while the fees remain outstanding.

M. Eligible Basis According to Type of Activity

The "Eligible Basis" is generally the same as a Project's adjusted depreciable basis for tax purposes. Fees or points charged to obtain long-term financing, syndication costs and fees and marketing expenses are not included in Eligible Basis. These ineligible fees, costs and expenses include credit enhancement, credit origination fees, bond issuance costs, reserves for replacement, start-up costs and future operating expenses. Costs related to the acquisition of land, costs attributable to any commercial portion of the property and costs attributable to non-Set-aside Units that are above the average quality of the Set-aside Units in the Project are also ineligible. Additionally, Federal Grants shall not be included in a Project's Eligible Basis in accordance with the Code.

1. **9% Projects.** Projects located in a HUD-designated Qualified Census Tract or a HUD-designated Difficult Development Area (DDA) are eligible for a 30% basis increase (basis boost). Documentation of this status must be included in the Application. Because it is determined that Development Costs may be higher in some other cases, MFA may designate other project types or geographical areas that are eligible for a state-designated basis boost up to 30%.
2. **4% Tax-Exempt Bond Projects.** Projects located in a HUD-designated Qualified Census Tract (QCT) or a HUD-designated Difficult Development Area (DDA) may be eligible for a 30% basis increase (basis boost). Tax-exempt bond-financed projects are not eligible for any state-designated basis boost. Documentation of this status must be included in the Application. In no case will a Project's Eligible Basis attributable to the acquisition of an existing building be increased.

3. See Section IV.E.5. for further information and instruction on basis boosts for 9% and 4% projects.

N. Ten-Year Rule

In order for the acquisition of an existing building to qualify for tax credits, the taxpayer must adhere to the "Ten-Year Rule," meaning that the Project Owner must acquire the building from an unrelated person who has held the building for at least ten years. The 10-year requirement shall not apply to federally-assisted buildings and State-assisted Buildings. In addition, the Secretary of the Treasury can waive the 10-year "Placed In Service" limitation for buildings acquired from a federally insured depository institution that are in default, as defined by Section 3 of the Federal Deposit Insurance Act or from a receiver or conservator of such an institution. Please refer to Section 42(d) of the Code for exceptions to the Ten-Year Rule.

O. Federal Grants and Federal Subsidy

The Eligible Basis of any Project shall not include costs financed with a Federal Grant. Many federal operating and rental assistance funds are excluded from this provision, as are Native American Housing Self Determination Act (NAHSDA) funds. Please refer to Section 1.42-16(b) of the Treasury regulations for a complete list of federal assistance waived from this provision.

For the purpose of determining a Project's Applicable credit percentage, Federal Subsidy means any construction or permanent financing that is directly or indirectly financed from state or local bonds, including municipal bonds, which are tax-exempt for federal income tax purposes. The most common form of Federal Subsidy is tax-exempt bond financing. Tax-exempt bond financing does not require a reduction in Eligible Basis provided that the tax-exempt bond financing is greater than 50% of the aggregate basis of the land and building(s).

P. Qualified Basis According to Type of Project

The "Qualified Basis" is that portion of the Eligible Basis attributable to Low Income Units. It is calculated as the smaller of the percentage of Low Income Units in the building or the percentage of floor space devoted to Low Income Units in a building.

Q. Placed In Service Requirement

The 10-year Credit Period, 15-year Compliance Period and minimum 15-year Extended Use Period begin with the taxable year in which the building is "Placed In Service" (the time at which a building is "suitable for occupancy," which generally refers to the date of the issuance of the first certificate of occupancy for each building in the Project for new construction, Certificate of Substantial Completion for rehabilitation, or date of purchase by a new owner for acquisitions) or, at the Project Owner's election, the following taxable year.

For 9% Projects, Section 42(h)(1)(E) of the Code allows for the allocation or Carryover Allocation of tax credits to a building that is part of a new construction or rehabilitation Project, with the limitations described in Section 42(h)(1)(E), if an Applicant's qualified expenditures or actual basis in the Project, as of the date which is one year after the date that the allocation was made, is more than 10% of the taxpayer's reasonable expected total basis in the Project as of the close of the second calendar year following the calendar year in which the allocation was made. MFA requires submission of a complete Carryover Allocation Application by November 15th[4] of the year in which the tax credit award was made and evidence of the expenditure of more than 10% of the expected basis in the Project by August 31st[5] of the following year. A Cost Certification detailing the qualified expenditures or actual basis~~,~~ that make up 10% of the reasonable expected basis and a description of Applicant's method of accounting must be prepared by a Certified Public Accountant (CPA) and submitted to MFA at that time. If the complete

[4] If such date falls on a weekend or holiday, the deadline shall be the first working day following such date.
[5] If such date falls on a weekend or holiday, the deadline shall be the first working day following such date.

Carryover Allocation Application, the CPA's Cost certification, the Attorney's Opinion, in the form required by MFA, regarding the qualification of the Project for tax credits and any other required materials are not received by 5:00 p.m. Mountain Standard Time on the applicable dates noted herein, the Project's credit Reservation may be canceled. Section 42(h)(1)(E) further allows for a qualified building to be Placed In Service in either of the two calendar years following the calendar year in which the allocation is made.

For 4% credits, the allocation is made upon issuance of 8609s, so the above paragraph does not apply to tax-exempt bond financed Projects.

R. Building Classification and Tax Credit Applicable Percentages

The tax credit's Applicable Credit Percentage (i.e., the "4%" or "9%" credits for which a Project is eligible) is determined by the type of project proposed, its use of Federal Subsidy or Federal Grants and the amount of credit necessary to reach feasibility and long-term viability. The Protecting Americans from Tax Hikes (PATH) Act of 2015 permanently fixed the floor of the 9% credit at 9%, similarly, The Consolidated Appropriations Act of 2021 permanently fixed the floor of the 4% credit at 4%. The amount of the annual tax credit is calculated to yield a present value of either 30% (in the case of 4% credits) or 70% (in the case of 9% credits) of Qualified Basis, as adjusted by MFA. Listed below are types of projects, which could be considered eligible for the tax credits and the Applicable Credit Percentage for each project type.

1. **New construction**. New construction Projects that are not financed by tax-exempt bonds are eligible for 9% credits. Projects financed with tax-exempt bonds are eligible for 4% credits only.

2. **Rehabilitation of an existing building**. To qualify for tax credits under the Code, rehabilitation expenditures includable in Qualified Basis must exceed the greater of 1) at least 20% of the Qualified Basis of the building being rehabilitated or 2) at least $6,000 per low income Unit being rehabilitated. For Projects Placed In Service after 2009, the $6,000 will be indexed for inflation. The minimum rehabilitation expenditures included in Qualified Basis for Projects Placed In Service in ~~2023~~2024 is $7,900 per Unit. Rehabilitation Projects that are not financed by tax-exempt bonds are eligible for 9% credits. Projects financed with tax-exempt bonds are eligible for 4% credits only.

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3. **Acquisition/rehabilitation of an existing building**. The maximum Applicable Credit Percentage for acquisition of an existing building that will be subsequently rehabilitated is 4%. To qualify for tax credits for the acquisition, the Code requires that rehabilitation expenditures includable in the Qualified Basis must exceed the greater of 1) at least 20% of the Qualified Basis of the building being rehabilitated or 2) at least $6,000 per low income Unit being rehabilitated. For Projects Placed In Service after 2009, the $6,000 per low income Unit figure will be indexed for inflation. The minimum rehabilitation expenditures included in Qualified Basis for Projects Placed In Service in ~~2023~~2024 is $7,900 per Unit. Rehabilitation expenditures associated with

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acquisition of an existing building can qualify for the 9% tax credits as long as the rehabilitation expenditures are not funded with tax-exempt bonds. Projects financed with tax-exempt bonds are eligible for 4% credits only.

4. **Federal Grant financed Projects with reduction in Eligible Basis**. In the case of a Project financed with Federal Grants, whether a newly-constructed or rehabilitated building, the Project Owner shall exclude the amount of the Federal Grants from Eligible Basis.

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S. Audit Requirements

Beginning with issuance of the Reservation Contract and Reservation Letter by MFA and during the entire term of the Compliance and Extended Use Periods, MFA reserves the right, under the provisions of the Code, the Project's LURA, and in accordance with its inherent discretion, to perform an audit or other related procedures of any Project that has received an allocation of tax credits. Projects selected for audit or other related procedures may be chosen at random or based on MFA's discretion. An audit or other related procedure may include, but is not limited to, an on-site inspection of all buildings, and a review of all records and certifications and other documents supporting criteria for which the Project Owner received points in the Application for an allocation of tax credits. In addition, MFA reserves the right to audit all costs of a Project, including invoices, all third-party contracts, e.g., construction contract(s), management contract(s), architect and other professional contract(s), all construction pay applications and back up documentation (including, but not limited to, subcontractor invoices), and any other documents deemed necessary to perform the above.

Additionally, all Projects must maintain records of the process used to select general contractors (including any RFPs and Proposals). Written communication with selected general contractor regarding required Cost Certification upon Project completion should be retained.

T. Subsidy Layering Review

Pursuant to Section 911 of the Housing and Community Development Act of 1992, HUD is required to determine that Projects receiving tax credits **and** federal, state or local assistance do not obtain subsidies in excess of that which is necessary to produce affordable housing. Requests for subsidy layering reviews may be made to the HUD Field Office with a copy of the review provided to MFA. An essential component of this review is an analysis of the reasonableness of fees paid to sponsors, Project Owners, Developers and builders. Consequently, for purposes of Section 911 reviews, fees used to calculate tax credit amounts will not exceed the limits stated in **Section IV.D.2** Developer and Other Fees. Some of these maximum fees allowed by MFA may exceed the "safe harbor" fee amounts that apply to Section 911 reviews. Special factors that justify these published higher fees (which do exceed "ceiling" amounts) include but are not limited to: the relatively high cost of construction and land within

the state of New Mexico; the lack of state- or locally-funded soft second financing or operating subsidies; and the general inability of Local Governments to donate land and/or other services to worthy Projects due to the state's "anti-donation" clause. MFA will perform an internal Subsidy Layering Review only if required by an MFA funding source.

MFA reserves the right to include or consider other criteria to justify exceeding safe harbor limits for fees associated with Projects requiring subsidy layering reviews. MFA also reserves the right to limit Projects to safe harbor limitations for any reason that, in its sole discretion, deems reasonable. This paragraph applies to all Projects that require subsidy layering reviews.

U. Hybrid 9%/4% Developments

Applicants wishing to combine 9% LIHTC with 4% LIHTC (where the 4% credits are not solely for acquisition of a building) pursuant to an allocation of private activity bond volume cap may do so under the following conditions.

1. The 9% LIHTC and 4% LIHTC portions of the development will be two separate projects, each of which has fully self-supporting financing and operations; the two portions of the development will not be cross-collateralized.
2. Complete separate Applications for the 9% and 4% LIHTC will be required.
3. Applicants proposing to build on adjacent parcels (or by splitting a parcel of land) may submit the 4% LIHTC Application concurrent with the 9% LIHTC Application or after the reservation of 9% LIHTC has been approved.
4. Projects that propose allocating 9% and 4% tax credits within a building through a condominium plat must submit both the 9% and 4% LIHTC Applications by the 9% Application Deadline. An application to the state board of finance for private activity volume cap will not be approved to move forward until the MFA board approves the 9% portion of the development, which shall be subject to receipt of the private activity volume cap. If MFA is the proposed bond issuer, the state board of finance application will be due upon MFA board approval of the 9% portion of the development. A reservation of tax credits for the 9% portion, if approved, will be delayed until an allocation of private activity volume cap is approved by the state board of finance.

III. Housing Priorities and Project Selection Criteria

A. Needs Analysis

This Allocation Plan is consistent with the needs analysis of the current state of New Mexico Consolidated Plan for Housing and Community Development and ~~2022~~ Action Plan. Housing priorities stated in the Consolidated Plan include increasing the supply of decent, affordable rental housing, expanding housing opportunities and access for individuals with Special Needs, expanding the supply of housing and services to assist the homeless and preserving the state's existing affordable housing stock.

B. Housing Priorities

The following priorities are to be used by MFA in the distribution of tax credits and are reflected in the Allocation Set-asides and Project Selection Criteria used to rank competitive Projects:

1. Levels of affordability in excess of the minimum requirements, through one or more of the following:
    a. Higher numbers of Set-aside Units; and/or
    b. Rents set to serve lower income tenants, for example, tenants earning no more than 40% or 30% of median income; and/or
    c. Affordability Periods longer than the 30-year minimum.
2. Provision of affordable housing to households on public housing waiting lists;
3. Maximizing leverage by obtaining other public or private non-equity program resources;
4. An equitable distribution of tax credits throughout all parts of the state where affordable housing is needed;
5. Provision of housing to serve documented Senior Households; Permanent Supportive units; and Tribal communities;
6. Nonprofit development;
7. Production of housing with high quality design and construction;
8. Production of Projects that are located in QCTs and which Projects contribute to the development of a Concerted Community Revitalization Plan;
9. Provision of housing that is energy efficient; and
10. Efficient use of scarce resources including tax credits, measured through lower Development Costs or other means.

C. Minimum Project Threshold Requirements

All tax credit Applications must meet each of the following requirements, in addition to the eligibility requirements of the Code. MFA will use the deficiency correction process as described in **Section IV.C.5** to allow Applicants to correct deficiencies related to site control, zoning, fees, and market studies (requirements 1-4 below.) All other threshold requirements are not correctable and Initial Applications not meeting those requirements will be rejected. Applications not meeting site control, zoning, fee requirements, and market studies will be rejected if they are not corrected within the time period allowed in Section IV.C.5.

1. **Site control**.
    a. Site control for all of the property needed for the Project must be evidenced by:
        i. A fully executed and legally enforceable purchase contract or purchase option and**/or** a written governmental commitment to transfer or convey the property to the Applicant or Developer or Project Owner by deed or lease that demonstrates Applicant or Developer or Project Owner will possess a Qualified Leasehold Interest upon execution of the lease, (collectively termed a "transfer commitment"). If a transfer commitment is submitted, the commitment must provide for an initial term

lasting at least until June 30 of the year in which the allocation is made ("initial term.") **This initial term must not be conditioned upon any extensions requiring seller consent, additional payments, financing approval, tax credit award or other such requirements**. Similarly, the transfer commitment must not require any additional actions on behalf of Applicant during the initial term which could allow the seller/lessor to terminate the transfer commitment if the action is not fulfilled by Applicant. If the transfer commitment requires an escrow payment or other deposit due and payable after signing, evidence that payment was received must be included in the Initial Application; or

ii. A recorded deed or recorded lease demonstrating that Applicant possesses a Qualified Leasehold Interest.

b. Site control evidence and the Application materials must show exactly the same names, legal description and Acquisition Costs. (Exception: In the case of To Be Formed partnerships, the relationship between the parties must be shown.) All signatures, exhibits and amendments must be included to be considered complete.

c. For 9 percent projects, at 10% test submission (August 31 of the year following the Reservation), Project Owner must submit evidence that they have taken ownership of the land or depreciable real property or has executed a lease for the land (and buildings if applicable) with a term extending at least three years beyond that of any agreed upon Affordability Period. For tribal projects, this includes a fully executed Master lease and sublease with evidence of filing with the Bureau of Indian Affairs.

~~For 4 percent projects, proof of the above level of site control must be provided upon 8609 request if it had not been provided previously.~~

2. **Zoning**. Evidence that the current zoning of the proposed site(s) does not prohibit multifamily housing must be submitted. The evidence must indicate the specific address or location of the site, if no address has been assigned, for the proposed Project and be dated no more than six months prior to the Application Deadline. This requires that multifamily projects not be prohibited by the existing zoning of the proposed site and that there is no pending litigation, pending variance, or unexpired appeal process relating to the zoning of the proposed site. Projects sited on land which is not zoned or which is zoned agricultural, are exempt from this threshold test, but must obtain zoning approval and deliver evidence of it to MFA no later than November 15th of the year of the Reservation.

3. **Fees**. All fees owed to MFA for all Projects in which Principal(s) of the proposed Project participate must be current. Fees currently due and owing must be received by MFA by the date due.

4. **Market study.** A Market Study must be submitted at Application and completed by a vendor meeting the requirements agreed upon in the Market Study Professional Certification document, found at http://housingnm.org/developers/developer-resources/market-study-

requirements. The market study itself must meet the requirements and follow the methodologies identified in the Market Study Parameters and have been issued within 180 days of the Application submission. All market studies must be issued to MFA as the designated user. The market study must address and meet the following requirement*:

> Subject Capture Rate. The market study must provide a Capture Rate, as defined in the Glossary, for the proposed Project overall, as well as Capture Rates for each targeted income level and bedroom count. The overall Capture Rate for a Project must not exceed 10%. This rate may be the subsidized rate if subsidies are secured at the time of application.

*Tribal and Projects reserved for Seniors are exempt from meeting the Capture Rate level, but they must submit a Market Study meeting the requirements outlined in the Market Study Parameters document within the Application materials, and the Market Study must indicate a need for the type and quantity of housing proposed.

If the Market Study as submitted is not sufficient, there may be an additional Market Study ordered by MFA. The cost of this MFA-ordered Market Study will be covered by the Applicant through the design deposit submitted at Application, with any overage billed to owner. It is MFA's sole discretion whether or not the Market Study is sufficient.

5. **Applicant eligibility**. All members of the development team (i.e., Developer, Project Owner, General Partner, contractor, management company, consultant(s), architect, attorney and accountant, etc.) of the proposed Project must be in good standing with MFA and all other state and federal affordable housing agencies. For example, debarment from HUD, MFA or other federal housing programs, bankruptcy, criminal indictments or convictions, poor performance on prior MFA or federally-financed Projects (for example, late payments within the 18-month period prior to the Application Deadline, misuse of reserves and/or other Project funds, default, fair housing violations, noncompliance (e.g., with the terms of LURAs on other Projects), or failure to meet development deadlines or documentation requirements) on the part of any proposed development team member or Project Owner or other Principal may result in rejection of an Application by MFA. In addition, MFA will consider a Principal's progress made with previous tax credit Reservations, including timeliness in delivering required documents and fees and meeting all required deadlines. ~~All members of the development team (i.e.,~~The Developer, Project Owner, General Partner, contractor, management company, consultant(s), and architect~~, attorney and accountant, etc.)~~ are required to sign an affidavit affirming they have no related party relationships; or, that all related party relationships have been properly disclosed. The form of this affidavit can be found at Tab 1h of the ~~2023~~2024 Universal Rental Development Application on MFA's website. Additionally, a visual diagram of the relationship of the related parties must be submitted, if applicable.

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6. **Financial feasibility**. Applications must demonstrate, in MFA's reasonable judgment, the Project's financial feasibility. Please refer to **Section IV.C.2**, **Section IV.D** and **Section IV.E.4 and 5** requirements pertaining to MFA's financial feasibility considerations.

7. **Pre-Application Requirements**.
    a. Intent to Submit-
        i. The entire Application Package is due at noon on January ~~20~~22, ~~2023~~2024. Before then, Applicants must submit an Intent to Submit a Tax Credit Application and Development Synopsis on or before December 20, ~~2022~~2023. This submission is a mandatory requirement for the ~~2023~~2024 competitive LIHTC Application round. Information contained within the Intent to Submit will be posted on the MFA website following submission.
        ii. All tax-exempt bond financed Projects are required to submit an Intent to Submit a Tax Credit Application and Development Synopsis at least 30 days prior to submitting their Application in order to insure timely processing to meet other bond issuance deadlines.
    b. MFA allows all Applicants for the ~~2023~~2024 competitive LIHTC Application round to meet with MFA staff to discuss their Project (staff is not able to discuss scoring but is available to discuss underwriting issues and gap financing questions). Meetings must take place ahead of the FAQ closing date. All tax-exempt bond financed Projects are encouraged to meet with MFA staff at least 30 days prior to submission to review and discuss the proposed Project.
    c. A representative of the development team (Board member, officer, director, commissioner or staff) must have attended the most recent MFA QAP training prior to submitting the Application. If the development team includes a qualified, nonprofit organization, NMHA, TDHE or THA, a member of that organization must have attended as well to claim points under Project Selection Criteria 1.

        Projects financed with tax-exempt bonds may attend an alternative MFA-approved tax credit training, for which a fee may apply. This approved training must have been completed within the six months prior to submittal of the Application.

Additional minimum Project threshold requirements apply to tax-exempt bond financed Projects, as described in **Section VI.**

D. Allocation Set-asides

1. **Nonprofit set-aside**. Ten percent (10%) of the Annual Credit Ceiling for each calendar year will be reserved for Projects sponsored by Qualified Nonprofit Organizations as defined in Code Section 42(h)(5)(C). For purposes of this set-aside, only federal requirements identified in Code

Section 42(h)(5) will apply. The aggregate amount of tax credits allocated by MFA to Qualified Nonprofit Organizations may exceed this amount.

2. **Underserved Populations set-aside.** Twenty percent (20%) of the Annual Credit Ceiling will be set aside for Underserved Populations as defined in this section. The Application must indicate the desire for the Project to participate in the Underserved Populations set-aside, otherwise the Project will compete within the general round. The Project's score must be within 20% of the highest scoring Project to be awarded tax credits through the ranking process in the same funding round. The aggregate amount of tax credits allocated by MFA to Projects meeting the set-aside requirement may exceed this amount. Any decision to award tax credits within the Underserved Populations set-aside lies solely within MFA's inherent discretion and is not subject to further review. Awards under this set-aside may be made to the highest scoring Project(s) that falls in any of the following categories:

    a. Permanent Supportive Housing (PSH) Projects that meet the following requirements:

        i. The Project must meet threshold requirements within the Households with Special Housing Needs Housing Priority and agree to provide voluntary Case Management Services to residents.*
        ii. All service coordination and budget requirements must be sufficient to provide proposed services to all PSH residents,
        iii. PSH Units have no time limits on occupancy,
        iv. PSH residents have the same rights and responsibilities as those occupying other low-income or market rate housing Units**,
        v. PSH residents must have individual leases with identical requirements and protections as other low-income or market rate residents,
        vi. PSH Units must cover 25% or more of the total Unit count, and
        vii. Project-Based Vouchers or other Federal operating subsidy must be in place or secured for 75% or more of the PSH Units in the Project.
        viii. The Application includes a preliminary Memorandum of Understanding (MOU) between the Project Owner and service provider(s) that describes the service provider's expertise to provide the proposed services (with a minimum of three years of experience providing that service to the targeted population), the planned description and delivery of services, and the staff capacity to provide ongoing case management.

        * Competing in the Underserved Populations set aside as a PSH Project does not automatically result in points in the Households with Special Housing Needs Priority scoring category. Services must be selected and all required scoring items met in order to receive points in that category.

**All Projects will be required to submit a PSH Commitment to Quality checklist (Tab 15c of the ~~2023~~2024 MFA Universal Rental Development Application) with the Application and annually following the award.

b. Tribal Projects. Projects that are located within a Tribal Trust Lands boundary.

3. **Ranking to meet Allocation Set-asides**. The highest scoring, Qualified Nonprofit Organization Eligible Project will be funded first. If there are insufficient Qualified Nonprofit Organization Eligible Projects to meet the nonprofit set-aside, the unallocated nonprofit set-aside tax credits **cannot** be allocated to other Eligible Projects. A similar procedure will be used to meet the Underserved Populations set-aside, following the fulfillment of the nonprofit set-aside; however, if there are insufficient Underserved Populations Eligible Projects to meet the Underserved Populations set-aside, any unallocated set-aside tax credits may be used for other Eligible Projects.

   Tax-exempt bond financed Projects are not subject to the above Allocation set-aside considerations.

E. Project Selection Criteria to Implement Housing Priorities

The criteria shown below are the basis for the awarding of points to a particular proposed Project during the Application round(s) conducted by MFA. Applicants may not rely on prior submissions or prior scoring to support a re-submission of an Application. In addition to meeting the above mentioned threshold requirements, tax credit Reservations will not be awarded to 9% Projects achieving fewer than fifty-three (53) points unless too few Projects score above this level and MFA, in its reasonable judgment, decides to reduce the minimum score. Projects scoring fifty-three (53) or more points will be ranked according to their scores and in accordance with Section II.C. herein, subject to Allocation set-aside requirements. Reservations will be made to these Projects, unless they are eliminated under threshold review or subsequent processing, starting with the highest scoring Projects, all in accordance with Section II.C. herein, until all available tax credits are used. In order to avoid a concentration of tax credit awards in a particular year in any particular municipality, county or market area, MFA reserves the right, in its sole discretion and as a part of its subsequent processing, to eliminate a lower scoring Project which is located in the same municipality, county or market area as a higher scoring Project provided the lower scoring Project is "similar" in terms of construction type and/or resident population served.

Other than the criteria that include scaled-point structures, partial points will not be awarded.

Within each scoring track/category, if two or more Projects with equal scores (each a "tied Project") would require more than the available tax credits, the tied Project with the lower Total Development Cost per Unit will be selected first for an award of credits. If too few tax credits are available to make a full award of credits to any tied Project, MFA will determine in its discretion whether to award a partial

allocation, to commit future year's tax credits to the Project in accordance with **Section VIII**, to award no tax credits at all to any tied Project or to choose some combination of these options.

Regardless of strict numerical ranking, the scoring does not operate to vest in an Applicant or Project any right to a Reservation or tax credit allocation in any amount. MFA will, in all instances, reserve and allocate tax credits consistent with its sound and reasonable judgment, prudent business practices and the exercise of its inherent discretion. Consequently, MFA may reject any Project that MFA deems to be inconsistent with the objectives of this QAP or prudent business practices regardless of the Project's numerical ranking.

Tax-exempt bond financed Projects will *not* ~~*longer*~~ *be required to meet a minimum score* to obtain a Letter of Determination. Tax-exempt bond financed Projects must meet and agree to all of the following mandatory criteria in order to be eligible for 4% non-competitive tax credits:

1. Serve a targeted population (Households with Special Housing Needs, Households with Children, or Projects Reserved for Seniors) and meet the applicable threshold requirements OR meet the requirements for the Underserved Populations set-aside, as described in Section III.D.
2. Achieve a Smoke-Free at Home Certification of Platinum or Gold;
3. Meet all of ~~2023~~2024 ~~Design Requirements~~Mandatory Design Standards for Multifamily Housing (including HERS ratings), unless granted a waiver;
4. Must be located within a 15-minute drive (as demonstrated through Google Maps) to a facility in which fresh produce is available;
5. Market Study must indicate a vacancy rate in the Primary Market Area of less than 10%;
6. Must market to local Public Housing Authorities;
7. Include a preference for Veterans in the Tenant Selection Criteria.
8. ~~7.~~The level of rehabilitation (as applicable) must be at least a Moderate Rehabilitation as defined in the Glossary (Section XI of this QAP.)

Project Selection Criterion

1. ***Nonprofit, New Mexico Housing Authority (NMHA), local Tribally Designated Housing Entity (TDHE), or Tribal Housing Authority (THA) Participation***	**Tier 1: 5 points** **Tier 2: 3 points**

Tier 1: Local nonprofits (as that term is defined in this criterion below), NMHAs, TDHEs and THAs that demonstrate financial capacity by having net worth/net assets of at least $1,000,000 will qualify for five points. Nonprofits, NMHAs, TDHEs and THAs with net worth/net assets below $1,000,000 may partner with another entity to increase the General Partners' combined net worth above this threshold.

Tier 2: Local nonprofits, NMHAs, TDHEs and THAs which have net worth/net assets of at least $250,000 will qualify for three points. In addition, qualified, nonprofit organizations that do not meet this criterion's definition of "local nonprofit" but demonstrate strong financial capacity by having net worth/net assets of at least $2,000,000 will qualify for three points.

For any entity to claim points under this Project Selection Criterion:

- The qualified, nonprofit organization, NMHA, TDHE or THA must own at least 51% of the General Partner interest.
- The Application must commit to providing the qualified nonprofit organization or government agency a First Right of Refusal described in IRC Section 42(i)(7) using MFA's form of Right of First Refusal Agreement. The Right of First Refusal Agreement must be recorded upon closing of equity; a copy must be submitted with the Placed In Service package.
- The qualified, nonprofit organization, NMHA, TDHE or THA must ~~and be~~ receiv~~eing~~ a minimum of 10% of the developer fee as identified in the Project Application. The developer fee calculation is made before any reduction for consultant fees. When more than one entity is receiving a portion of the developer fee, documentation will be required evidencing the agreement among the entities as to the fee split arrangement.
- Also, the Application must include evidence that a representative of the qualified, nonprofit organization, NMHA, TDHE or THA (board member, officer, director, commissioner or staff) has attended the most recent MFA QAP training prior to submitting the Application.

Net worth/net assets must be substantiated by accountant-reviewed or audited year-end financial statements for each General Partner whose financials are being relied upon to meet the minimum net worth/net assets. A for-profit partner entity's reviewed financial statements may be used to achieve net worth/net assets thresholds.

Local nonprofit means a qualified, nonprofit organization that has a board of directors that is comprised of a majority of New Mexico residents at the time the Application is submitted and was incorporated in New Mexico before January 1 of the year in which the Application is submitted.

2. *Locational Efficiency* — Up to 6 points

Projects located in proximity and connected to 1) services or 2) public transportation are eligible for up to six points in total.

In addition to completing the *Locational Efficiency Scoring Worksheet* included in the Application Package, separate maps for each amenity and location of transportation claimed for points must be submitted. Each of the maps shall be used to illustrate the Project compliance with the Locational

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Efficiency criteria. **Maps must show, scale, cardinal direction, and actual walking distance from site to each amenity and public transportation stop with a dotted line.**

Proximity to Services (2 Points)

Locate the Project within these set distances from the designated number of facilities in the table below:

General: a 0.5-mile walk distance to at least three facilities, or a 1-mile walk distance to at least six facilities. For the 0.5-walk distance facilities, at least one of these facilities must be a supermarket, farmers market or other food store with produce. For the 1-mile walk distance facilities, at least two of these facilities must be in the Retail or Services categories below and one must be a supermarket, farmers market or other food store with produce.
Rural / Tribal: A 5-mile walk/drive distance to at least two facilities. At least one of these facilities must be a supermarket, farmers market or other food store with produce.

Projects seeking to use **Rural / Tribal** Locational Efficiency criteria must provide a map indicating the location of the proposed Project. Rural Projects are defined as any Project outside of the defined Urban Areas as defined in the Glossary, Section XI. Initial Applications that do not include a map demonstrating eligibility for **Rural / Tribal** classification will be scored using the **General** Locational Efficiency criteria.

Retail	Services	Civic and Community Facilities
Supermarket Other food store with produce Farmers market Clothing store or department store selling clothes Hardware store Pharmacy Other retail	Bank Gym, health club, exercise studio Hair care Laundry, dry cleaner Restaurant, cafe, diner	Adult or senior care (licensed) Child care (licensed) Community or recreation center Cultural arts facility (museum, performing arts) Educational facility (including K-12 school, university, adult education center, vocational school, community college) Entertainment venue (theater, sports) Government office that serves public on-site Place of worship Medical clinic or office that treats patients Police or fire station

		Post office Public library Public park

Access to Public Transportation (2 or 4 Points)

General and Rural / Tribal (2 points) Locate Project within a 0.5-mile walk distance of commuter bus (i.e. not Greyhound) or commuter rail stop. Public transportation must be established and provided on a fixed route with scheduled service. Alternative forms of transportation may be acceptable provided sufficient documentation is provided that establishes the alternate form of transportation is acceptable to MFA. For example, Projects on tribal land with established "on call" transportation programs that provide the users a choice of local destinations, regardless of their residency in the Project, shall be considered "public transportation." A future promise to provide service does not satisfy this Project Selection Criterion.

Frequent Transportation (4 points) Locate Project within a 0.25-mile walk distance of commuter bus stop. Public transportation must be established and provided on a fixed route with frequent scheduled service (defined as: any series of three or more single direction stops more frequent than every 1 hour, Monday - Friday).

3. Rehabilitation Projects — Up to 5 Points

The Project Selection Criterion applies to the rehabilitation of low-income apartment Units or the conversion of market rate apartment Units to low-income Units. These scoring points are not available in a combined new construction and rehabilitation Project wherein the Application is categorized as new construction as discussed in Section II.J.

To be eligible for points under this criteria, Projects must incur average rehabilitation Construction Costs of $25,000 per Unit or more for Moderate Rehabilitation or $45,000 per Unit or more for Substantial Rehabilitation (*see* Section XI Glossary for definitions), and more than 20 years must have elapsed since issuance of certificates of occupancy or the Units were Placed In Service and/or it has been 20 years since the Project's prior rehabilitation utilizing tax credits as a source of funding was

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finished and those Units were Placed In Service (together, this prerequisite is referred to as the "20-year requirement.") A CNA will be required at Carryover for rehabilitation Projects that are eligible for points under this scoring criterion. The CNA will be reviewed and must support the Scope of Work outlined in the Application. Professionals performing the CNA must meet the minimum qualification/certification requirements set forth by MFA as defined in the Design Standards. (Rehabilitation Projects are also subject to the Qualified Basis limits outlined in Sections II.R.2. & 3.)

For rehabilitation Projects meeting the above threshold criteria, the following points are available for a Project that exceeds the 20-year requirement as follows:

≥ 21 years - 1 point
≥ 23 years - 2 points
≥ 25 years - 3 points
≥ 27 years - 4 points
≥ 29 years - 5 points

Applicants must submit at time of Application sufficient documentation to establish that it satisfies the 20-year requirement with respect to the age of the Project or date of completion of last rehabilitation utilizing tax credits as a source of funding. This documentation may be in the form of certificate(s) of occupancy or property tax records. In the case of a Project with a previous tax credit allocation, the completed Form 8609's (with Part II First Year Certification completed) and recorded LURA must be submitted at the time of Application.

These points can be awarded in conjunction with points under sustaining affordability.

MFA reserves the right to request additional information or documentation regarding the Scope of Work.

4. Sustaining Affordability — **6, 8, 10 Points**

A. Projects which meet one of the criteria listed below are eligible for 10 points:

1. Previously subsidized existing Projects that are currently restricted, but for which use restrictions are to expire on or before December 31, 2028~~7~~ or

2. Existing Projects that are currently subsidized and eligible for prepayment and termination of their use agreement or LIHTC projects that are eligible to make a Qualified Contract request or

3. Existing Projects that are at imminent risk of conversion to market rate or

4. Projects currently without federal rental assistance that will have a new federal rental assistance contract covering at least 75% of all Units.

B. Projects that have an existing federal rental assistance contract covering at least 75% of all Units (or those Projects utilizing a conversion of existing federal rental assistance) are eligible for eight points.

C. Projects that have or will have a federal rental assistance contract covering at least 20% of all Units are eligible for six points.

Anticipated federal rental subsidies (CoC, RD, NAHASDA etc.) must be similarly documented as fully secured to the Project itself, including the number of project-based vouchers allocated to the Project, in order to score under this criterion.

For example, anticipated federal rental assistance contracts from housing authorities must show they are adequately secured through the presentation of specific items:

1. A copy of the PHA administrative plan which describes the selection procedures for owner submission of PBV and for PHA selection of PBV proposals
2. A copy of the published public notice of the PBV proposal selected
3. If the proposal selected is for PHA-owned units, a copy of the HUD field office or HUD-approved independent entity's determination that the PHA-owned units were appropriately selected

(If the proposal is selected based on a previous competitive award, MFA would require documentation that the proposal meets the criteria for selection without additional competition.)

5. Income Levels of Tenants — **12, 14 or 16 points**

An Application may qualify for up to sixteen (16) points for rent and income restricting a Project for the Affordability Period at the levels identified below:

A. For any Project located within an Urban Area that proposes to use either the 20-50 or 40-60 election under §42(g)(1)(A) or §42(g)(1)(B) of the Code, respectively:
- At least 40% of all low-income units at 50% or less of Area Median Income (16 points);
- At least 30% of all low-income units at 50% or less of Area Median Income (14 points); or
- At least 25% of all low-income units at 50% or less of Area Median Income (12 points).

B. For any Project not located within an Urban Area that proposes to use either the 20-50 or 40-60 election under §42(g)(1)(A) or §42(g)(1)(B) of the Code, respectively:
   • At least 25% of all low-income units at 50% or less of Area Median Income (16 points);
   • At least 15% of all low-income units at 50% or less of Area Median Income (14 points*); or
   • At least 10% of all low-income units at 50% or less of Area Median Income (12 points*).
   [*Projects choosing the 20-50 election are not eligible for these point categories]

C. For any Project located within an Urban Area that proposes to use the Average Income election under §42(g)(1)(C) of the Code:
   • The Average Income for the proposed Project will be 54% or lower (16 points);
   • The Average Income for the proposed Project will be 55% or lower (14 points); or
   • The Average Income for the proposed Project will be 56% or lower (12 points).

D. For any Project not located within an Urban Area that proposes to use the Average Income election under §42(g)(1)(C) of the Code:
   • The Average Income for the proposed Project will be 55% or lower (16 points);
   • The Average Income for the proposed Project will be 56% or lower (14 points); or
   • The Average Income for the proposed Project will be 57% or lower (12 points).

Those Projects electing the Average Income Election must include at least 5% of their Units above 60% of Area Median Income.

Projects that receive points under Income Levels and utilize the Average Income election may not receive points under Project Selection Criterion No. 6 below.

6. Projects that Incorporate Market Rate Units **2 Points**

Projects that incorporate Market Rate Units equal to at least 15% of the total Units.

Projects that utilize the Average Income election above may not receive points under Projects that Incorporate Market Rate Units.

7. Projects Committed to a longer Extended Use Period **5 Points**

Projects committing to at least a 35-year Affordability Period (15-year initial Compliance Period plus at least a 20-year Extended Use Period) are eligible for 5 points. This election must be indicated on the Universal Rental Development Application.

If the Project site will be leased, refer to Section III.C.1. for site control requirements.

8. Households with Special Housing Needs Housing Priority **Up to 8 Points**

Due to restrictions within the USDA program, this Project Selection Criterion is not available to Projects involving USDA-RD rental assistance.

Projects are eligible for points if 20% or more of total Units are reserved for Households with Special Housing Needs (see definition in Glossary). To be eligible for points under this option, at least 10% of the total Units in the Project must be rent restricted at 30% of Area Median Income (AMI) or have secured (at time of application) permanent rental subsidy support with a project-based federal rental assistance contract that ensures residents do not pay rent in excess of 30% of their adjusted income.

Part I: Threshold Requirements

Applicants requesting consideration for points for a Project in which Units are reserved for Households with Special Housing Needs (Project Selection Criterion No. 8) are required to submit a Service Coordination Plan, which Plan demonstrates satisfaction of items A, B, C and E below. In addition to supplying the Plan, Applicant shall certify to MFA that it will meet the reporting requirements of Section D below.

A. Service Coordination-

1. A minimum of four hours per week of onsite Service Coordination provided by the service coordinator for properties up to 20 Units, with an additional one hour per week for every five Units over 20. Service coordinator must be in addition to the property manager and property management site staff. Duties of the service coordinator include, but are not limited to:

    a. Providing residents with information about available onsite and community services;

    b. Assisting residents in accessing available services through referral and advocacy;

    c. Arranging for access to transportation; and

    d. Organizing community-building and/or other enrichment events for residents (i.e. holiday events, resident counsel, etc.)

2. Adequate space to meet with residents that provides for confidential conversations and maintenance of secure records.

3. Access to telephone and internet services when meeting with residents for the purpose of coordinating services. Use of a smart phone and tablet is acceptable.

4. Meeting with residents requiring services within 60 days of move-in and semi-annually thereafter.

5. Provide follow up as needed to address resident~~'~~s' needs.

B. Coordinated Services-

1. Immediately following the issuance of a certificate of occupancy, ~~Coordination~~implementation of at least two services/programs to be offered on a monthly or quarterly basis, onsite, online, or in close proximity to the Project (within 0.5-mile ADA compliant walking distance or with free transportation provided.)

2. Services must be provided to residents at little or no cost. Services may not be provided by property management staff. In limited circumstances some services may be provided by the service coordinator. Appropriate services will do one or more of the following:

a. Increase resident knowledge of and access to available services.

b. Help residents maintain stability and avoid eviction.

c. Build life skills.

d. Increase household income and assets.

e. Increase health and wellbeing.

f. Improve educational success of children and youth.

3. **Examples** of services that meet the threshold requirement are listed below, but other services will be considered. One of the two services must be provided at least quarterly by qualified personnel.

b. Literacy/language training;

c. Personal safety (fire, identity theft, scams, drug awareness, self-defense, etc.);

d. Financial fitness (budgeting, money management, credit counseling, entitlement assistance/benefits counseling, etc.);

e. Income and asset building (job coaching, homebuyer education);

f. Life skills (communication skills, conflict resolution/mediation training, training in personal hygiene, self-care and housekeeping, etc.).

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Note that any services selected to meet threshold for this Project Selection Criterion shall not be eligible for any of the eight points described in Part II below.

4. Conduct an annual survey regarding need for and satisfaction or dissatisfaction with the service coordination, including coordinated services.

C. Marketing -

1. Applicants shall provide a narrative explaining how Units will be marketed and made available to Households with Special Housing Needs. This plan shall describe the following:

    a. The manner in which all proposed marketing and outreach will be performed and encouraged in connection with locating and confirming Special Housing Needs applicants, including any assistance to be provided in connection with the Application process, move-in process and resident's rights education.

    b. The process for maintaining and updating a waiting list of Special Housing Needs applicants eligible to reside in a Special Housing Needs Unit.

    c. How the Project will liaise with a Special Housing Needs applicant/resident in order to facilitate communication to help residents maintain stability and avoid eviction.

2. Project Applicant shall agree that Special Housing Needs Units shall not be rented to other non-Special Housing Needs households unless the Unit has been marketed by the Project Owner and/or Management Company for 30 days from Placed In Service or Substantial Completion date, date notice to vacate is received for occupied Units, or date vacancy was established when no notice was received.

D. Reporting Requirements-

1. Project Owners will be required to submit an annual certification of:

    a. The number of hours of onsite Service Coordination and coordinated services provided,

    b. The number of residents served by each, and

    c. The results of the annual survey.

2. Project Owners will be responsible for ensuring that property managers maintain:

    a. Agreement for services on file, if any,

b. Evidence that the services are being provided (i.e., sign-in sheets, letters/memos to residents advertising the event/service, service logbook and/or activity reports, etc.), and

c. Evidence of efforts taken to market and attract Special Housing Needs applicants as promised in Item C. Marketing (i.e., proof/copies of advertisements, evidence of outreach to organizations/non-profits working with Special Housing Needs populations, etc.).

E. **Service Coordination Plan and Budget** The proposed Project annual operating budget must include sufficient costs to cover the selected services and be detailed out in the submitted budget for serving this Housing Priority.

Part II: Scoring Points Available (up to 8 points):

Applicants may choose from the following services to qualify for up to 8 points for providing services.	
Food pantry - onsite, or contiguous and accessible to the property and of adequate size with reasonably sufficient quantities of food, both perishable and non-perishable.	2
Free transportation services to support medical and social service needs – minimum 2 days per week. Bus passes are not sufficient to satisfy this scoring item.	5
Health promotion/disease prevention/wellness classes or blood pressure or other health screening- provided at least every two months onsite and provided by a qualified service provider. Any health services must be provided by a licensed individual or organization. Examples include substance abuse counseling, crisis prevention and intervention, mental health counseling/therapy, etc.	3
Case management services – provided onsite by a qualified service provider to a majority of the Special Housing Needs residents on a voluntary and as-needed basis but at least quarterly.	5
Other - MFA approved service. Must be approved by MFA in writing one month before Application due date and will be posted on the FAQ section of the MFA website.	1-2 Points each as deemed appropriate

- For services provided by a qualified service provider, Application must include an MOU between the Project Owner and the service provider(s) describing their expertise with providing services, a detailed description of planned services and how they will be delivered, and the staff capacity for providing ongoing case management. Qualified service providers shall have a minimum of three years of experience providing a service or assistance to persons with Special Housing

Needs. This MOU must be updated to include a detailed description of the roles and responsibilities of the Project Owner, the Management Agent, and the Qualified Service Provider prior to the 50% completion meeting.

- For services provided by an affiliate of the developer, Application must include a narrative describing the applicant's expertise with providing services, a detailed description of planned services and how they will be delivered, and the qualifications of staff providing direct services and their qualifications to provide ongoing case management. The affiliate of the developer providing services shall have a minimum of three years of experience providing a service or assistance to persons with Special Housing Needs.

Prior to the 50% completion meeting described in Section IV.G.7, MFA will require a detailed MOU between the Project Owner, Property Management Agent and Qualified Service Provider who must meet to plan for the implementation of the service plan and provide minutes of the meeting that describe how property management and service staff will work together to ensure proper service delivery. A Service Coordination Checklist is available on MFA's website.

Recognizing that circumstances change over time, the plan may evolve as needs of residents and market conditions change. Project Owner must obtain MFA approval prior to instituting changes to the plan, and the new services must provide a similar level of service to the residents.

Services must be optional for residents residing in reserved Units. Any cost for services must be accounted for separately from rent.

The Household with Special Housing Needs Housing Priority requirement and any additional services committed to by Applicant will be enforced through a provision in the LURA. Services must be provided throughout the Affordability Period and must not allow for more than a 30-day gap in services provided. Project Owner must notify MFA within seven days of the termination of service agreements/contracts. Recognizing that circumstances change over time, the Service Coordination Plan may evolve as ~~needs~~the needs of residents and market conditions change. Project Owner must obtain MFA approval prior to instituting changes to the plan, and the new services must provide a similar level of service to the residents. The Project will be determined out of compliance if the requirements of the LURA are not met (e.g., if a new service contract is not timely executed or services are altered without MFA's advance approval). The Project Owner will be required to maintain a file containing contracts with qualified service providers and other third-party qualified personnel, documentation of when and where services were provided, and documentation of time spent both on-site and off-site by the qualified service provider or other third-party qualified personnel.

All Projects shall comply with federal Fair Housing requirements. Any limitation or preference must not violate nondiscrimination requirements. A limitation does not violate nondiscrimination requirements if the Project also receives funding from a federal program that limits eligibility to a particular segment of the population (e.g., Housing Opportunity for Persons Living with AIDS program, the Section 202 and Section 811 programs or the Housing for Older Persons Act).

Projects must include appropriate space reserved for the delivery of any third-party services, such as a private office with secure file storage space (if client files are to be stored on-site), to be eligible for points under this Project Selection Criterion.

9. *Projects Reserved for Seniors Housing Priority* — **Up to 10 Points**

These points benefit Projects specifically designated as Senior Housing. "Senior Housing" means Projects that qualify for an exemption from familial status discrimination under the Fair Housing Act. To qualify for this exemption, Projects must be:

- Provided under any state or federal program that HUD has determined to be specifically designed and operated to assist elderly persons (as defined in the state or federal program); or
- Intended for, and solely occupied by persons 62 years of age or older; or
- Intended and operated for occupancy by persons 55 years of age or older in compliance with the Housing for Older Persons Act (HOPA), 24 CFR Part 100 Final Rule.

Applicants are required to submit Fair Housing Act Certification for Senior Housing Facilities.

In addition to MFA's Mandatory Design Standards, new construction Projects must include central common areas that can be used for resident activities and serving meals with an adjoining kitchen area. (Provision of meals is not required. See scoring chart below.)

Housing priority points will be awarded based on the Project first meeting the requirements above. Additional points may be awarded for enrichment service activities as listed below. To receive points under this housing priority, the Project Owner must certify that a service coordinator will be on-site a minimum of two days per week for a cumulative minimum of ten hours per week and the Project must include adequate common space for the provision of the proposed enrichment services. The service coordinator must be in addition to the property manager. Enrichment services must be implemented within the first 90 calendars days following the issuance of a certificate of occupancy, optional to the residents, ~~and~~ offered on-site~~, for the exclusive use of only those residents living at the site,~~ and be actively linked to the Project, not simply available to the community at-large (e.g., senior center) unless the on-site space where the program is held qualifies as a community service facility under the Code. The proposed Project annual operating budget must include sufficient costs to cover the selected services and be provided in detail within the submitted budget for serving this Housing Priority.

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The Applicant must indicate in the Initial Application which enrichment services will be provided, including a list of any proposed fees for services. Fees must be reasonable in MFA's sole determination. Where necessary, Project Owners must provide executed contracts with qualified service providers when the Project is Placed In Service. Contracts with service providers must include: 1) a description of

the service(s) to be provided including frequency, 2) acknowledgement that service(s) will be provided on-site and 3) list the amount of any fee for service(s) provided. MFA will not issue IRS Form(s) 8609 unless Project Owner demonstrates, to MFA's sole satisfaction, that enrichment services are being delivered as committed to in the Initial Application. MFA, at its sole discretion, may allow substitution of enrichment services as deemed appropriate by MFA.

Recognizing that circumstances change over time, the services provided may evolve as the needs of residents and market conditions change. Project Owner must obtain MFA approval prior to instituting changes to the services delivered, and the new services must provide a similar level of service to the residents.

This housing priority requirement and any additional enrichment services committed to will be enforced through a provision in the LURA. Sample LURA's are available upon request which Applicants are encouraged to review. Services must be provided throughout the Affordability Period and must not allow for more than a 30-day gap in service. Project Owner must notify MFA within seven days of the termination of service agreements/contracts. The Project will be determined out of compliance if the requirements of the LURA are not met (e.g., if a new service contract is not timely executed or services are altered without MFA's advance approval.) The Project Owner will be required to maintain a file containing contracts with service providers, documentation of when and where services were provided, documentation of resident marketing and outreach and documentation of time spent on-site by the service coordinator. All documentation must be easily auditable for compliance. Services must be optional for residents. Any cost for services must be separated from rent. Management must conduct an annual survey regarding need for and satisfaction or dissatisfaction with the service coordination, including coordinated services.

Additionally, there will be the following reporting requirements:

a. The number of hours of onsite Service Coordination and coordinated services provided,

b. The number of residents served by each, and

c. The results of the annual survey.

All Projects shall comply with Federal Fair Housing requirements. Any limitation or preference must not violate nondiscrimination requirements. A limitation does not violate nondiscrimination requirements if the Project also receives funding from a federal program that limits eligibility to a particular segment of the population (e.g., Housing Opportunity for Persons Living with AIDS program, the Section 202 and Section 811 programs or the Housing for Older Persons Act).

For Project Owner-provided services, Project Owner must provide sufficient documentation, in MFA's sole discretion, of Project Owner's experience and ability to provide the services, including any past experience in providing said services.

These points may not be combined with points for Households with Children Housing Priority or Households with Special Housing Needs Housing Priority.

Housing priority and design requirements met (must be met to be eligible for further points in this category)	Required
Community building and all Units incorporate Universal Design (must be evidenced in plans and specifications)	3 points
Service enrichment scoring (requires service coordinator for point awards):	
Providing one prepared meal on a daily basis, available to all tenants at little or no cost to tenants	2 points (congregate meals) 1 point (meal service)
Bi-monthly health and nutrition education. Examples include, but are not limited to, fitness classes, walking programs, seminar instruction on cooking for one, information on the Supplemental Nutrition Assistance Program (SNAP.)	1 point
Quarterly blood pressure or other health screening	1 point
Quarterly computer training	1 point
Social events designated to provide engaging activities for residents "build community" such as holiday potlucks, arts and crafts events, book clubs, creative writing, bingo and other games, field trips to the movies or a museum or other place of interest, etc. Bi-monthly or six per year. This must include alternative methods for socializing incorporating social distancing. (qualified service provider not required)	1 point
Beyond Financial Literacy – financial counseling and tax preparation-educational programs to occur quarterly and focus on one or more of the following topics: budget counseling, financial planning assistance, credit score counseling, avoiding credit traps, income tax preparation in partnership with CPAs or a VITA program or local community college.	1 point
Gardening: delivery of at least four monthly gardening classes per year during the growing season by a qualified instructor plus provision of gardening space of at least three square feet per Unit for at least 50% of the Units in the Project.	1 point
Estate Planning and End of Life Planning – educational programs to occur quarterly and focus on one or more of the following topics: 1) estate planning 101 – what is and do you need the following: advance health care directive (living will;) durable power of attorney for healthcare and HIPAA release; durable power of attorney for finances; a will and revocable living trust; 2) What is hospice and does Medicare cover this?; 3) Probate: what is it and how to avoid it; and 4) funeral planning.	1 point

Other - MFA approved service. Must be approved by MFA in writing one month before Application due date and will be posted on the FAQ section of the MFA website.	1-2 Points each as deemed appropriate

10. Households with Children Housing Priority — **Up to 8 Points**

Projects in which 25% of all Units are reserved for Households with Children are eligible for points as described below:

In addition to meeting MFA's Mandatory Design Standards, for new construction Projects, at least:

- 10% of the total Units must have three or more bedrooms with at least two bathrooms, one of which must contain four pieces (bathtub, shower (or bathtub/shower combo), sink, and toilet) and the other must contain at least three pieces (sink, toilet and bathtub or shower)
- and a further 15% of the total Units must have two bedrooms with at least two bathrooms, one of which must contain four pieces (bathtub, shower (or bathtub/shower combo), sink, and toilet) and the other must contain at least three pieces (sink, toilet and bathtub or shower).

For rehabilitation Projects, at least:

- 30% of the total Units must have at least two bedrooms.

For Projects that combine rehabilitation and new construction:

- All newly constructed two- and three or more bedroom Units must have two bathrooms, one of which must contain four pieces (bathtub, shower (or bathtub/shower combo), sink, and toilet) and the other must contain at least three pieces (sink, toilet and bathtub or shower)
- Two- and three or more bedroom Units must be added until the percentages required for new construction Projects are met for the Project overall.

All Projects must include adequate common space for the provision of the proposed enrichment services. The Applicant must provide a description of the Project's specific design elements that serve the needs of Households with Children.

Housing priority points will be awarded based on the Project meeting the requirements above, through the selection of enrichment service activities as listed below. To receive points under this housing priority, the Project Owner must certify that a service coordinator will be on-site a minimum of two days per week for a cumulative minimum of ten hours per week. The service coordinator must be in addition to the property manager. Enrichment services must be implemented within 90 calendar days following the issuance of a certificate of occupancy, optional to the residents, offered on-site and be actively linked to the Project, not simply available to the community at-large (e.g., Head Start) unless the on-site space where the program is held qualifies as a community service facility under the Code. The proposed

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Project annual operating budget must include sufficient costs to cover the selected services and be detailed out in the submitted budget for serving this Housing Priority.

The Applicant must indicate in the Initial Application which enrichment services will be provided including a list of any proposed fees for services. Fees must be reasonable in MFA's sole determination. Where necessary, Project Owners must provide executed contracts with qualified service providers with the Placed In Service Application. Contracts with service providers must include: 1) a description of the service(s) to be provided including frequency, 2) indicate that service(s) will be provided on-site and 3) specify any fee for service(s) provided. MFA will not issue IRS Form(s) 8609 unless the Project Owner demonstrates, to MFA's sole satisfaction, that enrichment services are being delivered as committed to in the Initial Application. MFA, at its sole discretion, may allow substitution of enrichment services as deemed appropriate by MFA.

Recognizing that circumstances change over time, the services provided may evolve as the needs of residents and market conditions change. Project Owner must obtain MFA approval prior to instituting changes to the services delivered, and the new services must provide a similar level of service to the residents.

The housing priority requirement and any enrichment services committed to will be enforced through a provision in the LURA. Services must be provided throughout the Affordability Period and must not allow for more than a 30-day gap in service. Project Owner must notify MFA within seven days of the termination of service agreements/contracts. The Project will be determined out of compliance if the requirements of the LURA are not met (e.g., if a new service contract is not timely executed or services are altered without MFA's advance approval.) The Project Owner will be required to maintain a file containing contracts with service providers, documentation of when and where services were provided, and documentation of time spent on-site by the service coordinator. Management must conduct an annual survey regarding need for and satisfaction or dissatisfaction with the service coordination, including coordinated services.

Additionally, there will be the following reporting requirements:

a. The number of hours of onsite Service Coordination and coordinated services provided,

b. The number of residents served by each, and

c. The results of the annual survey.

All Projects shall comply with Federal Fair Housing requirements. Any limitation or preference must not violate nondiscrimination requirements. A limitation does not violate nondiscrimination requirements if the Project also receives funding from a federal program that limits eligibility to a particular segment of the population (e.g., Housing Opportunity for Persons Living with AIDS program and Section 811 programs).

For Project Owner-provided services, Project Owner must provide sufficient documentation, in MFA's sole discretion, of Project Owner's experience and ability to provide the services, including any past experience in providing said services.

These points may not be combined with points for Projects Reserved for Seniors Housing Priority or Households with Special Housing Needs Housing Priority.

Housing priority and design requirements met (must be met to be eligible for further points in this category)	Required
Service enrichment scoring (requires service coordinator for point awards):	
Bi-monthly health and nutrition education, including but not limited to, fitness classes, walking programs, seminar instruction on meals in minutes.	1 point
Semi-annual CPR training	1 point
Quarterly blood pressure or other health screening	1 point
Quarterly computer training	1 point
Weekly tutoring during school year	1 point
Quarterly job training, search assistance and/or placement	1 point
Gardening: delivery of at least four monthly gardening classes per year during the growing season by a qualified instructor plus provision of gardening space of at least three square feet per Unit for at least 50% of the Units in the Project.	1 point
Food resources program: a monthly program offering two of the following: 1) assistance and referral with applications for SNAP, (USDA), 2) youth summer lunch program (USDA) (daily when school is not in session) or 3) after-school snack program twice a week.	1 point
Youth character building: a program occurring at least quarterly that will provide teens with group education covering a range of topics including drug prevention, self-defense, safe internet behavior, non-violence and teen dating, teambuilding, goal setting, basic teen financial literacy and referral to job training and alternative education resources.	1 point
Beyond financial literacy: financial counseling and tax preparation; educational programs to occur quarterly and focus on one or more of the following topics: budget counseling, financial planning assistance, credit score counseling (restoring credit and avoiding credit traps), homebuyer education and down payment assistance, income tax preparation in partnership with a certified public accountant or VITA program or community college.	1 point
Other - MFA approved service. Must be approved by MFA in writing one month before Application due date and will be posted on the FAQ section of the MFA website.	1-2 Points each as deemed appropriate

11. Leveraging Resources — **Up to 10 Points**

Up to 10 points are available for eligible contributions to the Project described in this Project Selection Criterion. Points awarded shall correspond to the percentage of Total Development Cost (TDC) contributed. Only whole points will be awarded with the point value rounded down to the nearest percentage point; thus at least 1% of TDC must be contributed. For example, a Project that provides leverage of 2.3% of TDC, is eligible for two points, a Project that provides leverage of 5.7% of TDC is eligible for five points, etc., up to 10 points. The value of the contribution must be listed as a source on Schedule A-1 and, when not a cash contribution, as a cost on Schedule A.

Any percentage of contribution claimed, for which points are awarded, will continue to be monitored and tested by MFA and shall be satisfied during the life of the Project, until issuance of Form 8609(s).

The following contributions are eligible if they do not include any form of hard debt and they are irrevocably and permanently contributed to the project. Soft debt may not include any required payments during the Affordability Period (see definition in Glossary) and may not include a higher interest rate than the Applicable Federal Rate in effect when the loan is closed.

- Unrelated private third party with no ownership interest in the project or affiliation with the developer:

  Cash grant: submit a copy of the formal resolution of the third-party's board of directors or other controlling party irrevocably binding the grantor to contribute a specific amount of cash with no obligation for repayment, which may only be conditioned upon receipt of a LIHTC reservation.

  Donated land and/or buildings: submit a copy of the formal resolution of the third-party's board of directors or other controlling party along, a title report evidencing that the unrelated private third party owns the land and/or building(s) with an "As-is" appraisal evidencing the value of the donation dated no earlier than six months prior to the Application date that was completed by an MAI appraiser licensed in New Mexico. The value in the appraisal that will be acceptable for points must assume that any existing use restrictions will remain in place. The entire value of the vacant land or developed land with improvements must be donated to earn points.

- General Partner:

  Deferred Developer Fee: submit a letter from the general partner confirming the amount of the developer fee to be deferred. To be eligible for points, the pro forma (as confirmed by MFA) supports repayment of deferred fee by year 15. Any deferred fee that cannot be repaid in 15 years will not be considered a contribution and will not count in Eligible Basis.

Donated land and/or buildings: submit a copy of a contract binding the general partner to donate the land and/or building(s) that is conditioned only upon receipt of a LIHTC reservation, a title report evidencing that the general partner owns the land and/or building(s) and an "As-is" appraisal evidencing the value of the donation dated no earlier than six months prior to the Application date that was completed by an MAI appraiser licensed in New Mexico. The value in the appraisal that will be acceptable for points must assume that any existing use restrictions will remain in place. The entire value of the vacant land or developed land with improvements must be donated to earn points.

- Government (federal, state or local government):

  Cash or soft loans not requiring payment during the Affordability Period: submit a letter from the government entity awarding the funds that includes the amount and terms of the funding along with evidence that the award has been approved by the applicable government (such as city council meeting minutes) contingent only upon receipt of a reservation of LIHTC.

  Construction permit fee waivers: submit a letter signed by an authorized representative of the Local Governmental entity describing the legal basis for imposing the permit fee(s) and the amount of the permit fee(s) to be waived.

  Land and/or buildings: submit a copy of the contract contributing the land and/or building(s) between the governmental entity and the developer or the proposed project owner (if duly formed) along with an "As-is" appraisal evidencing the value of the land and/or buildings dated no earlier than six months prior to the Application date that was completed by an MAI appraiser licensed in New Mexico. The value in the appraisal that will be acceptable for points must assume that any existing use restrictions will remain in place and include the value of any leasehold interest, if applicable. Contributions may be in the form of:

  - donation of an entire parcel of land and any improvements thereon;
  - lease of an entire parcel of land through the Extended Use Period for a nominal amount (i.e., $1 per year).

- Local tribal governmental entity, tribal housing entity or tribal council:

Cash or soft loans not requiring payment during the Affordability Period: submit a letter from the tribal entity awarding the funds that includes the amount and terms of the funding along with evidence that the award has been approved by the applicable tribal government entity (such as tribal council resolution) contingent only upon receipt of a reservation of LIHTC.

Contributions of Native American Trust Land: to claim points insert a certified copy of the tribal council resolution. Contributions of Native American Trust Land qualify for five points.

The following contributions do not qualify for points under this Project Selection Criterion:

- Tax abatements

- Cost paid by prior owner to remediate land and/or buildings (or other similar cost)
- Tax-exempt bond financing
- MFA funding requiring hard debt payment during the Affordability Period (e.g., HOME, NM Housing Trust Funds)
- Non-verifiable or non-measurable sources not based upon an existing fee schedule (e.g., in-kind contributions)
- Any source requiring any hard debt payment during the Affordability Period
- Contributions made more than two years prior to the Application Deadline
- Donations of the proceeds of a loan of a capitalized lease payment

12. Complete Applications — **3 Points**

Points are awarded to Initial Applications that meet all the standards described in Section IV.A.4 under "Content and Format" when initially submitted and that do not require any deficiency corrections. In addition, the following are necessary for a Complete Application: (i) The ~~2023~~2024 MFA Universal Rental Development Application and Schedules must be fully completed and contain accurate and consistent information/data, including, but not limited to, accurate and complete information contained in any Schedule, with required signatures and the "other" categories; (ii) Applicant shall adhere to MFA's published Underwriting Supplement, unless a waiver has been granted by MFA, when completing the ~~2023~~2024 MFA Universal Rental Development Application and Schedules; (iii) all information contained in the Application Package must match and be consistent with all other information in the Application Package, including, but not limited to, square footages in the ~~2023~~2024 MFA Universal Rental Development Application and Schedules and Architect's drawings and specifications; (iv) the electronic Application Package must be legible; and (v) any narratives submitted must be accurate, complete and concise and contain the requested information.

13. Marketing Units to Households Listed on Public or Indian Agency Waiting Lists — **2 Points**

Projects providing a commitment to market the Units to households listed on public or Indian housing agency waiting lists are eligible for points under this criterion. A letter to the PHA or TDHE which serves

the jurisdiction of the proposed site verifying this commitment is required to obtain points for this criterion.

14. QCT/Concerted Community Revitalization Plan — **3 or 5 Points**

Projects are eligible for 3 points if:

a) the Project is located in an area covered by a Concerted Community Revitalization Plan and the development of the proposed Project contributes to the Concerted Community Revitalization Plan by engaging in a housing activity promoted in the plan. A Concerted Community Revitalization Plan is defined as a metropolitan redevelopment plan as defined in NMSA 1978 Section 3-60A-4 prepared and enacted by a local, county or tribal government prior to the Application Deadline. For Projects located on sovereign tribal lands, "Concerted Community Revitalization Plan" means a written plan similar in content and affect to a metropolitan redevelopment plan as defined in NMSA 1978 Section 3-60A-4, prepared and enacted by a tribal government prior to the Application Deadline, which identifies barriers to community vitality and promotes specific concerted revitalization activities within an area having distinct geographic boundaries; or

b) the proposed Project is located within 0.5 mile of a New Mexico designated MainStreet area or a State-Designated New Mexico Arts and Cultural District.

The Project is eligible for an additional 2 points if eligible for these 3 points (above) and it is located in a QCT.

For scattered site projects, all of the scattered sites comprising the Project need to be located in a QCT and/or located in an area covered by a Concerted Community Revitalization Plan, and all sites must contribute to the Plan to be eligible for points.

Lists of New Mexico designated MainStreet areas and State-Authorized New Mexico Arts and Culture Districts can be found at https://www.nmmainstreet.org/program-directory/.

15. Projects with Units Intended for Eventual Tenant Ownership — **2 Points**

Projects in which all the Units are intended for eventual tenant ownership are eligible for points under this criterion, Projects are limited to single family, duplex, four-plex or townhome style projects, that may be easily separated from other Units.

The Project must be designed and designated at the time of Application for eventual home ownership and demonstrate that the design will meet the subdivision and building code requirements, including fire department requirements of the Local Government that exist at the time of the Carryover Allocation Request Deadline, as evidenced by a letter from the Local Government. All Units must be individually-metered utilities and located on public streets. This commitment will be evidenced by submission of a long-range Tenant Conversion Plan at Initial Application and will be documented in the LURA.
The following conditions generally apply:

- Intention to convert must be expressed in writing at the time of Application;
- Applicant must submit a comprehensive plan that includes, but is not limited to, provisions for repair or replacement of heating system, water heater, and roof prior to sale; limitation on equity upon subsequent sales; homeownership classes for potential homebuyers; and requirements for extent of stay in rental Unit to be eligible for purchase;
- Purchaser must occupy Unit as primary residence;
- Units must be initially marketed to existing rental residents, including residents in Market Rate Units. Remaining Units not sold to existing renter households must be sold to households earning 80% or less of AMI; and
- The Tenant Conversion Plan, which must be reasonably acceptable to MFA in order to receive points under this category, must be implemented on or before one (1) year prior to the termination of the Compliance Period. Please see definition of Tenant Conversion Plan in Section XI. These points may not be awarded in combination with points under Projects Committed to an Extended Use Period.

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16. Projects with Historic Significance **2 Points**

Projects certified on the National Register of Historic Places (i.e., meeting the criteria for Part 1 Approval for Historic Tax Credits) are eligible for points under this criterion. For scattered site projects, the total

Gross Square Footage of the Historic Property must equal or exceed 10% of the proposed total project Gross Square Footage.

If federal Historic Tax Credits are included in the financing structure of the Project, evidence that the National Park Service has received a complete Historic Certification Application – Part 2 for the Project must be included in the Project Owner's Carryover Allocation Application.

17. Blighted Buildings and Brownfield Site Reuse — **5 Points**

Projects that include the demolition of Blighted building(s) or the remediation and reuse of a Brownfield site are eligible for points under this criterion. Blighted building(s), by the definition in the Glossary, must be demolished. The square footage of the demolished Blighted Building must account for at least 10% of the ~~sum of each Building's~~ Gross Square Feet of the entire completed Project. For scattered site projects, the total Gross Square Footage of the Blighted Buildings must equal or exceed 10% of the proposed total new construction Gross Square Footage. Points in this criterion cannot be combined with points under Rehabilitation Projects.

Blighted Building(s): ~~In order to~~To receive points in this criterion, the Application must include a letter from the Local Government Building Division stating the proposed site meets the requirements of the QAP for blight. In the event that the Local Government will not issue a determination of blight, the Applicant must provide a letter from the Local Government stating the Local Government's policy, a third party report indicating that the site meets the QAP's definition of Blighted Building (*see* Glossary), and the Applicant must provide documentary support such as notices of violation of: (1) Local Government's codes or regulations or, (2) the recorded covenants, conditions and restrictions for the property or, (3) a condemnation notice from public record. The Application must also include photos of the blighted structure, neighborhood, or area. MFA reserves the right to determine whether or not the site meets these requirements. The Applicant must also include a demolition budget.

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Brownfield: To receive points in this criterion, the Application must include the Phase II Environmental Site Assessment, remediation budget and plan detailing the proposed work.

18. Efficient Use of Tax Credits — **1, 3, 5 Points**

For purposes of this Project Selection Criterion, new construction Projects include Adaptive Reuse Projects.

Tribal and PSH projects:

- New construction Tribal or PSH Projects that request less than $21,734 tax credits per low income Unit **and** less than $22.46 tax credits per low income square foot are eligible for 5 points.
- New construction Tribal or PSH Projects that request less than $23,907 tax credits per low income Unit **and** less than $24.63 tax credits per low income square foot are eligible for 3 points.
- New construction Tribal or PSH Projects that request less than $21,734 tax credits per low income Unit **or** less than $22.46 tax credits per low income square foot are eligible for 1 ~~points~~point.

- Substantial Rehabilitation Tribal or PSH Projects that request less than $19,018 tax credits per low income Unit **and** less than $19.64 tax credits per low income square foot are eligible for 5 points.
- Substantial Rehabilitation Tribal or PSH Projects that request less than $20,920 tax credits per low income Unit **and** less than $21.56 tax credits per low income square foot are eligible for 3 points.
- Substantial Rehabilitation Tribal or PSH Projects that request less than $19,018 tax credits per low income Unit **or** less than $19.64 tax credits per low income square foot are eligible for 1 ~~points~~point.

- Moderate Rehabilitation Tribal or PSH Projects that request less than $16,300 tax credits per low income Unit **and** less than $16.85 tax credits per low income square foot are eligible for 5 points.
- Moderate Rehabilitation Tribal or PSH Projects that request less than $17,930 tax credits per low income Unit **and** less than $18.47 tax credits per low income square foot are eligible for 3 points.
- Moderate Rehabilitation Tribal or PSH Projects that request less than $16,300 tax credits per low income Unit **or** less than $16.85 tax credits per low income square foot are eligible for 1 ~~points~~point.

All OTHER projects:

- New construction Projects that request less than $20,789 tax credits per low income Unit **and** less than $21.48 tax credits per low income square foot are eligible for 5 points.

- New construction Projects that request less than $22,867 tax credits per low income Unit **and** less than $23.56 tax credits per low income square foot are eligible for 3 points.
- New construction Projects that request less than $20,789 tax credits per low income Unit **or** less than $21.48 tax credits per low income square foot are eligible for 1 point.

- Substantial Rehabilitation Projects that request less than $18,191 tax credits per low income Unit **and** less than $18.78 tax credits per low income square foot are eligible for 5 points.
- Substantial Rehabilitation Projects that request less than $20,010 tax credits per low income Unit **and** less than $20.63 tax credits per low income square foot are eligible for 3 points.
- Substantial Rehabilitation Projects that request less than $18,191 tax credits per low income Unit **or** less than $18.78 tax credits per low income square foot are eligible for 1 point.

- Moderate Rehabilitation Projects that request less than $15,592 tax credits per low income Unit **and** less than $16.12 tax credits per low income square foot are eligible for 5 points.
- Moderate Rehabilitation Projects that request less than $17,151 tax credits per low income Unit **and** less than $17.67 tax credits per low income square foot are eligible for 3 points.
- Moderate Rehabilitation Projects that request less than $15,592 tax credits per low income Unit **or** less than $16.12 tax credits per low income square foot are eligible for 1 point.

For the purpose of this criterion, low income square footage means the sum of each building Gross Square Feet multiplied by the Project's Applicable Fraction and includes the Gross Square Footage of common space allocated to low-income use. Square footage of commercial space, garages and structured parking are excluded for the purposes of this calculation.

Applicants may request less credits than the project is otherwise eligible for to obtain points in this category, however, projects must meet underwriting guidelines for financial feasibility. Projects which were awarded points for the Efficient Use of Credits Project Selection Criteria may not apply for additional tax credits if circumstances change unless the subsequent Application results in the same scoring range under Efficient Use of Credits when combined with the scoring range in the Initial Application. In other words, a subsequent request for additional tax credits shall not be granted if Applicant received points for the Efficient Use of Credits in a prior round and now exceeds the efficient use of credits scoring ranges when evaluating both Applications as one single Application. An exception to this is in the event of a Casualty, in which case additional tax credits may be considered. See Section III.G. for additional requirements concerning supplemental tax credits and the definition of a Casualty.

19. Non-Smoking Properties — **4 or 6 Points**

Both 9% LIHTC and 4% LIHTC Projects are required to participate in the New Mexico Smoke-Free at Home program. More information on the Certification programs may be found at https://www.smokefreeathomenm.org/get-certified-today/. In order to receive Certification, Applicants will be required to complete three steps as detailed on the Smoke-Free at Home website, including the submission of a Letter of Intent, a Lease Addendum, and a Violation Policy. Projects are eligible for scoring points as follows provided the Certification described below is obtained and proof of certification is submitted with the Project's 8609 Application:

(i) Projects agreeing to participate and obtain the Smoke-Free at Home NM Platinum Certification (new construction Projects which do not allow any smoking or use of electronic cigarettes at any time on any part of the property) (6 points);

(ii) Projects agreeing to participate and obtain the Smoke-Free at Home NM Gold Certification (applies to, rehabilitation and/or Adaptive Reuse Projects and no smoking or use of electronic cigarettes is permitted at any time on any part of the property) (6 points);

(iii) Projects agreeing to participate and obtain the Smoke-Free at Home NM Silver Certification (applies to new construction, rehabilitation and/or Adaptive Reuse Projects and does not allow smoking or use of electronic cigarettes inside any of the Units and common areas, nor within 25 feet of all entry ways and windows of the building. (4 points)

The Project must have appropriate space for the provision of smoking cessation classes.

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20. Adaptive Reuse Projects — **2 Points**

Projects which will involve the conversion of an existing building that was not initially constructed for residential use to multifamily residential rental Units (i.e., apartment units) are eligible for two points. Projects involving the conversion of motel rooms, hotel rooms, dormitories, convents, etc. are considered Adaptive reuse and not rehabilitation.

In combined new construction and Adaptive Reuse Projects, converted space must account for at least 20% of the sum of each Building's Gross Square Feet. The separation of conversion costs and new Construction Costs must be designated in the Application on separate Schedule A and D (i.e., the Application must include a Schedule A and D for the entire Project, a Schedule A and D for the

rehabilitation/conversion costs and a Schedule A and D for the new Construction Costs.) All schedules must reconcile.

Projects eligible for points for Rehabilitation Projects are not eligible for points under this criterion.

21. Other Scoring Points Available — **Up to 9 Points**

Up to nine additional points are available to a Project meeting any one or more of the following criteria:

(i) Deep Affordability:

a. **The Project is not in the housing priority for Households with Special Housing Needs** and targets extremely low income residents, which includes income and rent restricting at least 5% of total Units in the Project to residents earning 30% or less of Area Median Income, for which no federal assistance is existing or anticipated or

b. **For Projects in the Special Housing Needs housing priority category**, the Project restricts an additional 5% of the total Units in the Project to residents earning 30% or less of Area Median Income, which Units may have permanent rental subsidy support with a project-based federal rental assistance contract that ensures residents do not pay rent in excess of 30% of their adjusted income.

In either case, Applicants must indicate on the Application form and Schedule B, Unit Type and Rent Summary, the applicable Units will be rent restricted at 30% of AMI (or include a copy of the federal rental assistance contract that covers at least the minimum percentage of the total Units if in the Special Housing Needs housing priority category). (3 points)

(ii) The Project involves newly constructed Units totaling 35 Units or less, and does not contain any rehabilitation or Adaptive reuse in Project scope and the Market Study supports need for the Project (3 points); or

(iii) The Project is to be located in a town, municipality, or Census Designated Place (CDP) with a population less than 16,000 people pursuant to data published by the 2020 U.S. Census Bureau, and the Market Study supports need for the Project (3 points);

(iv) The Project is to be located in a town or municipality with no "active" LIHTC Projects. "Active" is defined as a town or municipality for which a LIHTC award (9% as evidenced by a reservation letter and inclusion of MFA's list of 9% projects on its website and/or 4% LIHTC as evidenced by issuance of a 42(m) letter and inclusion on MFA's list of 4% projects posted on its website on or before the Application Due Date) was made in the last five (5) calendar years and the Market Study supports need for the Project (3 points);

(v) Project's resident selection criteria contain a preference for active duty, Honorably Discharged, or retired US military Veterans (3 points);

(vi) Women and/or Minorities (see Glossary) are encouraged to participate in the ownership, development, or management of the Project. The Minority or female individual(s) must serve as either:

a. The General Partner, manager or managing member of the Ownership Entity or Responsible Owner, must have at least a 50% ownership interest in the Ownership Entity or Responsible Owner or
b. Must have at least 50% ownership interest in the participating business to qualify for the points. These businesses include any members of the development team (i.e. contractor, management company, consultant(s), architect, attorney and accountant, etc.) or
c. Minority or female individuals must comprise at least 50% of the board of directors of the entity which qualifies the Project for points under Project Selection Criterion 1 above.

The name and address of the company and the anticipated contract amount or ownership percentage must be listed at the time of Application on the form provided by MFA in the Application Package in order to be eligible. (3 points)

The Application is capped at nine (9) points maximum for this Project Selection Criterion.

F. Additional Credits for Projects with Partial Allocations

If an Applicant receives a partial allocation in a given round and requests additional credits in a subsequent round, the minimum Project threshold requirements and the Project Selection Criteria for scoring used in the initial allocation year will be applied to the evaluation of the Project in the subsequent allocation year. The Project's ranking relative to Initial Application year Projects will be determined by calculating the Project score as a percentage of the highest score in its initial allocation round and multiplying that percentage by the highest score in the subsequent Application round to derive its subsequent Application year score and ranking among the subsequent round Applications.

G. Additional Supplemental Tax Credits for Cost Increases

Projects with increased Eligible Basis ~~as a result of~~resulting from increases in hard Construction Costs may apply for additional tax credits in a subsequent allocation round~~s~~ prior to issuance of an IRS Form 8609. Only one additional tax credit allocation will be permitted by MFA for any given Project. The total amount of tax credits for the P~~p~~roject (including those previously awarded) shall not exceed the total credits available in Section IV.E.3 of this QAP. The Project must continue to meet the QAP requirements, including Design Requirements, from the year of the original award and the supplemental tax credits will not extend the Placed In Service deadline for the original award. However, the August 31st deadlines at Sections IV.G.6.a and IV.G.6.b will be extended to the federal statutory deadline for the Ten Percent Test based on the date of the Carryover Agreement for the original award.

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Applicants must submit the Intent to Submit a Tax Credit Application described in Section III.C.7.a.i by December 20, 2023 and the streamlined Application described below by the Application Deadline for the 2024 9% round. Applicants will be limited to an additional 10% of the original 9% LIHTC awarded and the supplemental tax credits may reduce the number of tax credits awarded in the 2024 round, as requests for supplemental tax credits will not compete against other Projects in the 2024 9% round.

The streamlined Application will include:

- an updated Application Form;
- updated Schedules A-F;
- updated financing commitments from all financing sources; and
- a narrative with documentation that the supplemental tax credits are required due to an unforeseeable hardship or emergency situation where the completion of the Project is jeopardized without an award of additional tax credits.

The Application must demonstrate that:

- the Project has not previously received supplemental tax credits;
- the development contingency has been exhausted;
- the Applicant was not eligible for additional MFA gap financing from any other source;
- the Developer made reasonable attempts to secure financing from other sources;
- the developer fee has been deferred to the extent which would allow for repayment through Project cash flow within 15 years;
- the Project was value engineered, where possible, to reduce construction costs; and
- that the Project, as currently structured, would not have caused the Project to be ineligible for an award during the competitive round in which it was first awarded credits. Thus, if the score under the Efficient Use of Credits for the original application would have been reduced, the Project will be eligible for the supplemental credits, so long as the reduced score would not have caused the original application to be ineligible for an award in that round.

Applicants who need additional tax credits for financial feasibility and do not qualify for supplemental tax credits under the conditions above may return the previous valid tax credit allocation and submit a full Application to compete in the 2024 9% round.

~~Full Applications will be required for competition within an allocation round and the Project will compete on the same basis as that of the subsequent round Projects.~~

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~~The following provision in italics is waived in 2023 for projects that were initially awarded tax credits in 2020 – 2022:~~

> ~~*However, Projects for which increased tax credits have been requested cannot exceed MFA's cost limits or limitation on an award to a single Project for the year of the initial award or subsequent round. In addition, Projects which were awarded points for the Efficient Use of Credits Project Selection Criteria may not apply for additional tax credits unless the subsequent Application results in the same scoring range under Efficient Use of Credits when combined with the scoring range in the Initial Application. In other words, a subsequent request for additional tax credits shall not be granted if Applicant received points for the Efficient Use of Credits in a prior round and now exceeds the efficient use of credits scoring ranges when evaluating both Applications as one single Application.*~~

~~Applications that are submitted for additional tax credits will be subject to MFA's evaluation process and the availability of credits, as well as limitations on the time period for allocation of additional credits under the Code. The total amount of tax credits for the project (including those previously awarded) shall not exceed the total credits available in Section IV.E.3 of this QAP. Only one additional tax credit allocation will be permitted by MFA for any given Project. The process is intended for hardship cases and hardship will have to be documented accordingly in any such request.~~

An exception to ~~this section~~the number of supplemental credits and/or the need to maintain eligibility in the original round ~~will~~ may be made for P~~p~~rojects undergoing an unforeseen Casualty event, as defined in the Glossary. Supplemental credits in excess of 10% of the original award due to an unforeseen Casualty event must be approved by the MFA Board.

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H. New Allocations to Projects Previously Subsidized with Tax Credits

Existing Projects that previously received tax credit allocations and are now eligible under Code Section 42(d)(2) for new acquisition tax credits may apply for a current allocation. However, because of prior subsidy investment in the Project and the scarcity of the resource and to ensure that the subsidy is not being used primarily for ownership transfer, previously subsidized Projects must demonstrate: 1) a real risk of loss of affordable Units, and 2) an addition of significant improvements and services to enhance livability for the tenants. These may qualify for standard tax credit applicable percentages.

~~However, in a proposed sale transaction when there is an Identity of Interest in any Principal of the buyer and seller, the Project will be subject to reduced developer fees. When there is such an Identity of Interest, the developer fee percentages (described in **Section IV.D.2.b**) will be calculated on Total Development Cost less Acquisition Costs. An "as-is" appraisal dated no earlier than six months prior to the Application date and completed by MAIs licensed in New Mexico must be submitted. The value in the appraisal must assume that any existing use restrictions will remain in place.~~

~~**Tax-exempt bond financed Projects are excluded from the above requirements.**~~

I. ~~Property Standards~~Recycled Allocations

A Property Owner may return a valid allocation of tax credits between October 1st and December 31st to receive an allocation of tax credits from the following year's tax credit ceiling in the same amount of the returned allocation if:

- The Project Owner pays the $500 fee due for requests for changes to a Project;
- No changes to the Project (i.e., design, financing, etc.) have occurred without MFA's approval;
- None of the returned Project's Principals are participating in the following year's 9% LIHTC round (e.g., Principals returning tax credits in 2023 will not participate in the 2024 round);
- The Project demonstrates that all financing necessary to place the Project in service is secured;
- The Project will place in service by December 31st of the year of the newly allocated credits and receive no further opportunity to recycle the tax credits (e.g., if 2021 LIHTC are returned in December 2023 in exchange for 2024 tax credits, the Project will place in service by December 31, 2024).
- MFA must be notified of any request to recycle an allocation of tax credits by November 15th when the Placed In Service submission would have been due.

Notwithstanding the foregoing, if a Project has previously returned tax credits in exchange for a new allocation of tax credits, any return of tax credits for a new allocation shall be at MFA's sole discretion.

J. Property Standards

All newly constructed and/or rehabilitated properties must meet applicable state and local building codes, including but not limited to: the New Mexico Commercial Building Code, the New Mexico Residential Building Code, the New Mexico Energy Conservation Code, the New Mexico Existing Building Code, the New Mexico Plumbing Code, the New Mexico Mechanical Code the New Mexico Solar Energy Code, the New Mexico Electrical Code, the New Mexico Electrical Safety Code, and all international and uniform building codes as referenced and adopted by the aforementioned codes. In addition, all newly constructed Projects must obtain a Home Energy Rating System (HERS) score of 55 or better and all rehabilitation Projects must obtain a HERS score of 65 or better. All Projects must meet the provisions and requirements of the Americans with Disabilities Act (ADA) as applicable. Public and common use areas within Projects are subject to these requirements. Projects combining housing tax credits with another federal source of funding must comply with HUD Section 504 requirements as required in the 2010 ADA Standards. Projects must also adhere to the Federal Fair Housing Act and shall adhere to the federal fair housing accessibility and adaptability requirements promulgated through the Fair Housing Accessibility Guidelines {56 FR 9472, 3/6/91}. Finally, conformance to Design Standards in the Application Package is mandatory for all Projects, including tax-exempt bond financed Projects.

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IV. Allocation Procedure and Application Requirements

A. Allocation Rounds

1. Submission Date(s)

MFA intends to conduct one competitive LIHTC Application round each calendar year. However, MFA reserves the right to conduct additional LIHTC rounds or to award tax credits outside of the rounds. **Initial Applications for the ~~2023~~2024 competitive LIHTC Application round will be accepted anytime between January ~~5~~6, ~~2023~~2024 through January ~~20~~22, ~~2023~~2024 at 12:00~~4~~ p.m. Mountain Standard Time. Initial Applications must be submitted ahead of 12:00~~4~~ p.m. Mountain Standard Time on January 2~~0~~2, ~~2023~~2024 (Application Deadline). Initial applications must be fully uploaded to the file sharing site identified in Section IV.A.2 of this QAP no later than the Application Deadline. Late Applications will not be accepted**. If the Projects submitted do not use all of the available tax credits or if additional tax credits become available later in the year, MFA will consider a second round or make allocations to lower- scored Eligible Projects at MFA's sole discretion.

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Initial Applications for tax-exempt bond financed Projects are accepted on a continuous basis but must meet the same form of submission requirements identified in **Section IV.A.3** below and are subject to the timing requirements outlined in **Section VI.**

2. Place of Submission

Initial Applications must be uploaded to MFA's Secure File Transfer-HD file sharing Site: https://mfa.internal.housingnm.org/SFT_HD/ (described below in Section IV.A.4.b.)

3. Form of Submission

Initial Applications may not be delivered by facsimile transmission or e-mail. The ~~2023~~2024 MFA Universal Rental Development Application and Schedules in excel format and a fully tabbed PDF file~~s~~ that include~~s~~ all materials listed on the Attachments Checklist at Tab 1a must be uploaded to MFA's file sharing site: https://mfa.internal.housingnm.org/SFT_HD/ (described below in **Section IV.A.4.b**.) The required ~~2023~~2024 MFA Universal Rental Development Application will be provided electronically and may be downloaded from MFA's website at https://housingnm.org/developers/lihtc/current-and-prior-tax-credit-rounds. No additional materials may be submitted after the Initial Application Deadline, unless requested by MFA in accordance with the provisions of this QAP.

4. Content and Format: Complete Applications

Complete Applications will meet the following standards when they are initially submitted and without benefit of any subsequent submissions, including any such submissions received during the deficiency correction period:

a) All Application documents that require signatures must be included and bear scanned blue ink or third-party verified digital signatures from all General Partners. MFA will require submission of an "omnibus" signature page wherein all General Partners must certify, among other things, that the Application submitted, including all schedules and certifications, is accurate and complete and does not contain any misrepresentations.

b) Complete Initial Applications must include the ~~2023~~2024 MFA Universal Rental Development Application and Schedules, including all attachments and exhibits that are applicable to the Project – both those listed in the attachments checklist found at Tab 1a of the Application form and any other materials requested in the ~~2023~~2024 QAP that apply to the Project. The ~~2023~~2024 MFA Universal Rental Development Application Form and Schedules must be submitted in excel format. All additional materials (those described in Tab 1a and others indicated in the ~~2023~~2024 QAP) must be contained in a fully tabbed PDF file with protected personal information such as Social Security numbers and board member home addresses redacted. Where required in the Application, the market study, architectural plans and specifications, capital needs assessment and appraisal shall be uploaded as stand-alone documents rather than included in the Application PDF. The PDF files must be "bookmarked" with each applicable tab ("Tab") and named accordingly (e.g., Tab 1, Tab 1a, Tab 2, etc.). Each bookmark must include all of the documents required for the respective tab (including those in the ~~2023~~2024 MFA Universal Rental Development Application and Schedules), as identified in the Attachments Checklist and named accordingly (e.g., Tab 1f – Rehabilitation Scope of Work, Tab 1g – One-page summary of Developer affordable housing experience." All documents in the PDF must be submitted in numerical order. The entire Application Package (the ~~2023~~2024 MFA Universal Rental Development Application, Schedules and the PDF files) must be uploaded to MFA's file sharing site: https://mfa.internal.housingnm.org/SFT_HD/.

c) Complete Initial Applications must include Application fees as outlined in Section IV.B below.

d) No additional materials may be submitted after the Initial Application deadline, unless requested by MFA in accordance with the provisions of this QAP.

e) Current year MFA forms **must be used** when provided and **no substitutions will be accepted**.

f) All information must be current, clearly legible and consistent with all other information provided in the Application.

g) Forms must be completely filled out and executed as needed. Forms that require signatures must bear scanned blue ink or third-party verified digital signatures.

h) Except as MFA may determine is necessary to evaluate the "Applicant eligibility" threshold requirement in **Section III.C.5** all Applications must be self-contained: MFA will not rely on any previously submitted information, written or verbal, to evaluate the Applications in a given round.

In determining whether the Application is complete, MFA will examine the package for both the availability of all required materials listed in Section I of the Application Attachments Checklist and for the content of those materials. Failure to provide or complete any element of the Initial Application Package, including all items listed in Section I of the Application Attachments Checklist, may result in immediate rejection of the Application without complete review. When special documents required to obtain points under particular Project Selection Criteria are not provided in the Initial Application, as listed in Section II of the Application Attachments Checklist, the related points will not be awarded. The Application Attachments Checklist is not intended to be a comprehensive listing of all documents required to be submitted. Applicants bear the burden of determining and submitting any additional documents that directly support an Application or other information required by this QAP to be submitted.

In addition to the actions MFA may take pursuant to Section IV.C.5 Deficiency Correction Period, MFA may request additional information from any Applicant as deemed necessary for a fair and accurate evaluation of an Application. MFA may also choose to accept inconsistent information and if so, may select any of the inconsistent pieces of information over any other pieces of information, in its reasonable judgment. However, MFA is under no obligation to seek further information or clarification or to accept inconsistent responses.

The Applicant will bear sole and full responsibility for submitting its Application in accordance with the requirements of the Internal Revenue Code and the QAP and will be deemed to have full knowledge of such requirements regardless of whether or not a member of MFA's staff responds to a request for assistance from Applicant or otherwise provides Applicant assistance with respect to all or a portion of the Application.

After award, all Applications will be open to the public for inspection and copying. Applicants must redact confidential and personal identifier information from documents if the information is not specifically required by MFA.

Applicant agrees to indemnify MFA from any claims arising from or related to MFA's disclosure or nondisclosure of materials submitted to MFA related to the Application.

5. Communications and Quiet Period

Questions concerning the competitive LIHTC Application round Application requirements must be submitted through MFA's website at https://housingnm.org/developers/lihtc/applications-faq. No questions will be accepted after 5 p.m. Mountain Standard Time, ~~December 20, 2022~~January 15, 2024. Answers will be posted to the website and once posted will be deemed a part of this QAP. Answers to questions submitted on January 15, 2024 that can be answered by January 17, 2024 will be posted on January 18, 2024. It is the sole responsibility of Applicants to review the website for answers to questions.

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A "Quiet Period" for each competitive round will begin at the time an Initial Application is submitted and end upon the approval of tax credit awards by MFA's Board of Directors. During the Quiet Period, Applicants, or any part of the development team (i.e., Developer, Project Owner, General Partner, contractor, management company, consultant(s), architect, attorney, and accountant, etc.), shall not contact MFA's management, employees, members of the Board of Directors or their proxies, officers or agents in regard to an Application under consideration unless expressly directed to do so by MFA staff. The purpose of the Quiet Period is to create a fair and consistent process for all Applications in the competitive round. The Quiet Period only applies to Applications under consideration during the competitive round and not to any other Projects, issues, or Applications, including questions regarding MFA gap funding requested in conjunction with the Application.

The imposition of the Quiet Period does not relieve any Applicant of its obligation~~s~~ to notify MFA of changes to the Project as provided for in Sections IV.H. and IV.I. herein. In addition to the provisions of Sections IV.H. and IV.I., Applicants are required to notify MFA of any material change in circumstances concerning the Application, development team, threshold requirements and/or scoring changes. Applicant shall notify the Tax Credit Program Manager in writing immediately of the material change, and MFA staff shall review the notification and determine, in its sole discretion, what action, if any, is to be taken with respect to the pending Application. After award, all Applications and documents pertaining to the Applications will be available to the public.

All communications regarding Projects which have received tax credit awards and tax-exempt bond financed Projects should be directed to:

Jeanne Redondo
Tax Credit Program Manager
(505)767-2210
jredondo@housingnm.org

6. Prohibited Activities

Applicants (including Applicants for tax-exempt bond financed Projects) or their representatives shall not communicate with or by any other means attempt to influence members of the Board of Directors and their proxies or members of the Allocation Review Committee (ARC) regarding any Application except when specifically permitted to present testimony at a tax credit related proceeding. **An Application shall be rejected if the Applicant or any person or entity acting on behalf of Applicant violates the prohibitions of this section**. A list of the members of MFA's Board of Directors and their proxies and ARC members can be found at http://www.housingnm.org. A list of ARC members, MFA Board members, and MFA leadership, and LIHTC program management staff, which is current as of the date of this QAP, is attached hereto as Exhibit 1. It is the Applicant's responsibility to check MFA's website for a current list of Board members and ARC members.

Any communication made or action taken in violation of the Quiet Period or the prohibited activities section of the QAP shall be immediately reported to the tax credit program officer, whose contact information is provided in **Section IV.A.5**. Nothing in this section shall be construed to alter or affect the

mandatory appeals processes and procedures that are prescribed elsewhere in this QAP. **An Applicant's failure to adhere to the prescribed Application and appeals processes and procedures shall result in the rejection of the Application**.

B. MFA Fees and Direct Costs

All fees are non-refundable. Fees are due at the times and in the amounts shown below and they apply to both allocated and non-allocated tax credits. Fees may be delivered in the form of personal or business checks, money orders or cashier's checks, or wire (contact hd@housingnm.org for wiring instructions). Any check returned for insufficient funds will result in rejection of the Application, cancellation of the Reservation or other actions available to MFA. Exceptions may be granted at MFA's sole discretion and fees may be adjusted annually, as determined by MFA in its sole discretion.

Application Fee (for initial and supplemental requests)

- Due at submission of tax credit Initial Application
- $750 for nonprofit or governmental entity Applicant; $1,500 for a for-profit Applicant

Direct Cost Deposit

- $12,000 (deposit) due at submission of tax credit Initial Application

This deposit is intended to cover the base portion of the design reviews for compliance with Design Standards. Design reviews may require additional site visits and/or document reviews, which would be billed separately and above this $12,000 base fee. This is an estimate only and the final cost may vary. Any amount in excess of the $12,000 deposit is due within 20 calendar days of billing by MFA.

If a subsequent MFA-ordered Market Study is required during the application phase, the cost will be covered by the Applicant through this deposit. Additionally, the base design review fee balance will be billed to cover the $12,000, if the project moves forward with an award.

Processing Fee

- Due at execution of Reservation Contract for 9% awards; due prior to delivery of Letter of Determination or construction start, whichever occurs first for Projects financed with tax-exempt bonds.
- ~~7.75~~8.5% of MFA-determined tax credit allocation amount rounded down to the nearest dollar.
- For Projects financed with tax-exempt bonds, if the actual tax credit amount is greater at Final Allocation than when the Letter of Determination was delivered, the Applicant must pay an additional processing fee of ~~7.75~~8.5% of the increase in the tax credit amount.

Monitoring and Compliance Fees

- Due annually by January 31st for each year of the Extended Use Period. The monitoring and compliance fee for the entire 15-year Compliance Period may be paid in a lump sum at the Final Allocation Application (number of Units x $50/Set-aside Unit/year x 15 years).

    - $50/set-aside Unit/year (Average Income projects may be subject to an increased Compliance Monitoring fee.)
    - $20/set-aside Unit/year during the Extended Use Period

Appeal Fee

- $5,000 due at submission of appeal
- No appeal will be entertained in advance of appeal fee payment

Request for increase in tax credits, request for changes to a Project, including changes in ownership~~,~~ prior to receiving Form 8609 and/or requests for document corrections (when not a result of an administrative error by MFA, including when changes or alternate forms are proposed by an Applicant in lieu of MFA standard forms.)

- $500 due at submission of review/correction request

Reissuance of Form 8609

- MFA sends draft 8609 forms to the Owner for review prior to issuance. A $250 fee for each 8609 form that must be re-issued after it is signed and issued to the Owner; total fees shall not exceed $2,500.

Ownership Change and LURA Modification Fees after receipt of Form 8609:

- $500 non-refundable fee due at submission of application to change ownership, general partner, and/or limited partner, request a limited partner exit and/or request a LURA modification.
- If applicable, an additional $250 per item requested in a LURA Modification, when the Project is out of compliance with Asset Management at the time of the application.
- If applicable, an additional $1,500 processing fee upon approval of an ownership or general partner change.
- If changes are made to the ownership structure without MFA's prior written approval, the Project will be considered out of compliance. This noncompliance may result in a denial of requests for a future ownership change, financing, and/or LURA modification and may, at MFA's discretion, also be subject to a $10,000 fine to move forward with the ownership change process.

Extension Fee

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- Due at submission of request to extend deadline of any documents required under Subsequent Project Requirements and/or with submission of late or missing documents required under Subsequent Project Requirements
- $500 per week

C. Staff Analysis and Application Processing

1. **Threshold review**. Following the Application Deadline, MFA will undertake a threshold review to determine whether the Initial Application meets the minimum Project threshold requirements shown in Section III.C. If the Initial Application fails to meet site control, zoning, fee, or market study requirements, the Applicant will be given an opportunity to correct the deficiency in accordance with Section IV.C.5 and if not corrected in the time period allowed, the Application will be rejected. The Applicant eligibility and financial feasibility threshold requirements are not correctable and Applications that fail to meet these requirements will be rejected.

2. **Cost limits**. Total Development Costs for various types of Projects may not exceed the following:
    a. **New construction and Adaptive Reuse Projects**. The Total Development Cost per Unit must not exceed 130% of the average Total Development Cost per Unit for all new construction and Adaptive Reuse Projects submitted in the same round. Similarly, the hard Construction Cost plus architect and engineering fees per square foot must not exceed 130% of the average cost per square foot for all new construction and Adaptive Reuse Projects submitted in the same round.
    b. **Acquisition/rehabilitation Projects**. The Total Development Cost must not exceed 100% of the average Total Development Cost per Unit for all new construction and Adaptive Reuse Projects submitted in the same round. Similarly, the hard Construction Cost plus architect and engineering fees per square foot must not exceed 100% of the average cost per square foot for all new construction and Adaptive Reuse Projects submitted in the same round.
    c. **Tax-exempt bond financed Projects**. Total Development Cost must not exceed the limits established for new construction, Adaptive reuse or acquisition/rehabilitation Projects, as appropriate, submitted in the most recent allocation round.
    d. **Combined Rehabilitation and New construction Projects**. For Projects that involve rehabilitation of existing Units, the construction of new Units and/or the Adaptive reuse of an existing building, the costs will be evaluated based on the track/category selected by the project as described in Section II.J. above to the limits established in Sections IV.C.2.a. and b. above.

Any Project with extenuating circumstances around the hard construction in their Project may submit additional material justifying those costs and requesting a waiver from that limit either in the initial Application, or through the supplemental information process, during the underwriting review. Waivers may be granted at MFA's sole discretion.

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Recognizing that Tax Credit Projects require soft costs above and beyond traditional development, when determining the average per square foot cost for each Project, only hard costs as found on Schedule D and any architect and engineer fees will be used. For reference, the average Total Development Cost in ~~2022~~2023 was ~~$248,930~~$289,529 per Unit and the average hard cost on Schedule D plus architectural and engineering fees for new construction in ~~2022~~2023 was ~~$183,092~~$289,222 per Unit (~~$187.39~~$197.74 psf).

See the Glossary Section XI for the definition of the terms "Unit," "Total Development Cost," and "Hard Construction Costs" as they apply to the cost limit calculations in this section. Costs that exceed these limits will be excluded when calculating the tax credit amount. These limits are binding through Final Allocations.

3. **Local Notice**. The Chief Executive Officer of the local jurisdiction where the Project is located will receive a "Local Notice" from MFA stating that an Application has been received and requesting a response. The local jurisdiction and the Chief Executive Officer are to be identified by the Applicant in the Application form. The jurisdiction may be a municipality, town, county or tribal government. Such notification will be issued for all Applications not more than 10 business days after MFA's Application Deadline and the recipient will have 30 calendar days to respond.

4. **Site visits**. On completion of the threshold review, and as allowed by current health conditions, public health and executive orders, or laws, MFA will visit the proposed sites for the highest ranking Projects. Sites considered by MFA in its reasonable judgment to be inappropriate due to current or foreseeable adverse health, safety, welfare, site constraints or marketability risks may be cause for rejection of any Application, regardless of threshold review or scoring results. Communications made by or on behalf of an Applicant in response to communications initiated by MFA in conjunction with a site visit shall not be a violation of the Quiet Period.

5. **Deficiency correction period**. MFA may provide a deficiency correction period after the threshold review. This period is intended only to: 1) correct threshold items that are identified as correctable in Section III.C, 2) address Complete Application items, including any issues with the electronic application, 3) clarify ambiguous information, 4) complete forms or 5) make minor corrections to the Application. In no case shall the deficiency correction period be used by MFA to allow an Applicant to submit scoring items listed on Section II of the LIHTC Application Attachments Checklist or to alter the original structure of the project. If the deficiency correction period is used, MFA will provide notice to Applicants having such shortcomings in their Applications via e-mail and U.S. mail. Applicants will have five business days after the date of the e-mail notice to correct deficiencies. All materials must be submitted no later than 5 p.m. Mountain Standard Time on the fifth business day, following "Form of Submission" requirements shown in **Section IV.A.3** above. Certain types of deficiencies cannot be corrected during the deficiency correction period, including an Applicant's failure to provide materials or

to provide materials in the required form, as well as other deficiencies that MFA determines in its reasonable judgment may not be correctable. Furthermore, the deficiency correction period may not be used by the Applicant or MFA to alter the original structure of the Project. This prohibition includes, but is not limited to, all changes listed in **Section IV.H**. If the information requested by MFA is not submitted within the timeframe provided or is submitted but remains deficient, the Application may be rejected without any further review.

6. **Supplemental Information Submission**. If at any point during the processing of an Application, staff determines that supplementary information is needed to complete its review, the Applicant will be notified in writing and will have five business days after the date of MFA's notice to deliver a written response. In no case shall the supplemental information request be used by MFA to allow an Applicant to submit scoring items listed on Section II of the LIHTC Application Attachments Checklist or to alter the original structure of the project. This provision does not apply to incomplete Applications, which may be rejected during the threshold review or subject to the deficiency correction period process.

7. **Design Review and Construction Start**. All Projects will be subject to MFA's design review and construction inspections to determine compliance with the Design Standards. MFA staff will make a good faith effort to perform an initial review of construction documents within ten (10) business days after receipt of complete construction documents.

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   a. The base portion of the design review covered by the $12,000 fee includes one of each of the following:
      i. Preliminary review of Project for Design Standard compliance at Initial Application. All plans and related materials submitted as part of an Application must provide enough detail for MFA to determine compliance with the Design Standards.
      ii. Construction Drawing Review.
      iii. Specification Review.
      iv. Environmental Study & HERS Modeling Projections Review.
      v. Contract document review (construction contract, permit, schedule).
      vi. 33% Site Inspection visit.
      vii. 66% Site Inspection visit.
      viii. 100% Site Inspection visit, report and closeout document review. MFA will not issue the IRS Form 8609 before MFA's Architectural Services Representative indicates that the Project has been built as proposed and that all outstanding issues, if can, have been resolved.
   b. A CNA is required for rehabilitation and Adaptive Reuse Projects. MFA will review the CNA for completeness, consistency with the Application and compliance with the Design Standards. See QAP Section II.J for details.
   c. **Prior to commencing construction:**

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i. **Applicant must have MFA's written approval of complete construction documents;**

ii. Applicants must request and receive MFA-provided signs/banners in English and Spanish featuring MFA's fraud hotline at the Project work site(s), which shall remain in place throughout the duration of construction.

iii. Applicants must close on all Project financing (except the permanent mortgage).

d. Material Design Changes: Differences between the plans and specifications submitted with the Application and those contained in the final construction documents must be approved by MFA. The Applicant must submit a detailed narrative of Material Design Changes made to final plans and specifications along with the Change Fee described in Section IV.I.

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~~7. a minimum of four design reviews by MFA (upon completion of the construction documents, twice during construction and upon full completion of the Project) to determine compliance with the Design Standards. Design review will require periodic site visits to determine compliance with Design Standards. For rehabilitation and Adaptive Reuse Projects, a CNA will be required subsequent to the Initial Application (prior to the issuance of the Letter of Determination for tax-exempt bond financed Projects and at Carryover Application for all other Projects) and this assessment will be reviewed by MFA for completeness, consistency with the Application and compliance with the Design Standards. All plans and related design materials submitted as part of an Application must provide enough detail for MFA to determine compliance with the Design Standards. Professionals performing the CNA must meet the minimum qualification/certification requirements set forth by MFA as defined in the Design Standards. **Applicants shall not commence construction on a Project prior to receipt of MFA's written approval of complete construction documents.** Applicants are required to post MFA-provided signs/banners in English and Spanish featuring MFA's fraud hotline at the Project work site(s) throughout the duration of construction. In the event there are Material Design Changes/differences between those plans and specifications submitted with the Application and those contained in the final construction documents, MFA will require Applicant to submit a detailed narrative of Material Design Changes made to final plans and specifications along with the Change Fee as described in Section IV.I. MFA staff will make a good faith effort to perform an initial review of construction documents within 10 business days of submission of complete construction documents. Final approval will occur upon receipt and acceptance of the final construction completion report confirming that the Project was built as proposed and that all outstanding issues, if any, have been resolved. MFA must give final approval prior to 8609 issuance.~~

8. **Other Project compliance.** All Principals (see Glossary) related entities and affiliates must be in compliance with respect to all other federally subsidized housing or LIHTC Projects that they own or operate throughout the country. Each Principal shall submit a compliance affidavit in the form stipulated at Tab 1l of the Application certifying the Principal and its affiliate(s) are not in default with respect to any material compliance matter for any such Project or shall state what

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defaults exist and what corrective action Applicant is taking. Applicants shall ~~submit~~ attach a complete list of **all** Projects in which ~~Applicant, or a~~the Principal or its affiliate ~~of Applicant~~ has ~~an interest~~experience (*see* schedule of experience[6] footnote below). ~~Each Applicant shall also submit an affidavit certifying Applicant is not in default with respect to any material compliance matter for any such Project or shall state what defaults exist and what corrective action Applicant is taking.~~ For the purposes of this review, volunteer board members with no financial interest in the Project will not be required to complete a compliance affidavit. If MFA determines, either through information provided by an Applicant or through MFA's investigation, that any federally subsidized housing or LIHTC Project in which Applicant, or any Principal or affiliate of Applicant has an interest is in default of any material compliance matter, MFA may reject the Application. See **Section IV.F.1** for additional discussion. This determination of default ~~in regard to~~regarding any Principal may concern, but is not limited to, progress made with previous tax credit Reservations, including timely delivery of required documents and meeting all required deadlines; development compliance; and payment of monitoring fees.

9. **Development team review**. Staff will review the qualifications of ~~each development team member~~ the(Developer, Project Owner, General Partner, contractor, management company, consultant(s), and architect~~, attorney, and accountant, etc.)~~ to determine capacity to perform in the role proposed. Considerations may include related experience, financial capacity, performance history, references, management and staff, among others. ~~-~~Staff will review related party affidavits inserted at Tab 1h for each ~~member of the~~ development team member listed above (see Section III.C.5), and development team resumes inserted at Tab 12. ~~All members of the development team (i.e., Developer, Project Owner, General Partner, contractor, management company, consultant(s), architect, attorney, and accountant, etc.) are required to sign an affidavit affirming they have no related party relationships; or, that all related party relationships have been properly disclosed. The form of this affidavit can be found in the 2023 Universal Rental Development Application. The applicant's experience is certified on Schedule H that may also be found in the 2023 Universal Rental Development Application.~~ The management company will be reviewed when construction is 50% complete (*see* Section IV.G.7). The organizational chart(s) inserted at Tab 1i must include all related party interests among the Developer, Project Owner, General Partner, contractor, management company, consultant(s) and architect. MFA may conduct its own related party search utilizing Secretary of State websites, online searches, or other means to ensure all related parties have been properly disclosed. **An Application may be rejected or substitutions requested if the development team or any member thereof is unsuitable and/or undisclosed related parties are identified as determined by MFA.**

[6] The schedule of experience required shall be in the form of a recent real estate owned schedule provided to a lender, a HUD Form 2530, or other similar form that includes the experience of the Principal completing the compliance affidavit. The schedule of experience shall include every project that is Placed In Service for which the Principal has a financial interest and that the Principal developed without an ownership participation. Projects that are planned or under development may be included but are not required.

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D. Feasibility Analysis and Financial Considerations

All Projects, in addition to the threshold review process, will undergo financial analysis by MFA staff to determine whether the Projects are financially feasible. Such determinations will rely on both the financial data submitted by the Applicant and on staff judgments with respect to feasibility matters. Projects that do not appear financially feasible in MFA's judgment may be rejected without further processing. Although Financing Commitments will not be required at Initial Application, all sources must be clearly identified, and their terms specified. Financing Commitments will be required as a "subsequent requirement" after the initial Reservation is made.

Initial Applications for any tax credits (4 or 9%) must include a letter of interest from a tax credit syndicator or direct investor stating the terms and pricing for the purchase of tax credits allocated to the Project. In addition, all Projects will be underwritten using the more conservative of the standards indicated in this QAP, those in an underwriting supplement to be published by MFA at least one month prior to the Application Deadline, the terms listed in any Financing Commitment or letter of interest; or the Project's market study. Project 15-year pro forma cash flow projections must include an operating expense inflation factor of at least 3%, a rental income inflation factor of no more than 2% and a vacancy factor of at least 7% for all occupancy-related income. However, for projects with at least 90% of all units covered by a federal rental assistance contract and any Project Reserved for Seniors, MFA will use the market study vacancy factor but not less than 5%.

1. **Development Costs**. Development Costs will be evaluated against the average costs of competing Projects. In the case of rehabilitation Projects and Adaptive Reuse Projects an appraisal and CNA of the existing project will be required ~~(prior to the issuance of the Letter of Determination for tax-exempt bond financed Projects and at the time of the Carryover Application for all other Projects)~~ and used by MFA to evaluate Development Costs. The appraisal is due with the Initial Application for tax exempt bond financed projects and with the Carryover Application for 9% Projects not claiming points under the Leveraging Resources scoring criterion. ~~Professionals performing the CNA must meet the minimum qualification/certification requirements set forth by MFA as defined in the Design Standards.~~See Section II.J and Glossary for further details regarding the CNA. ~~For rehabilitation Projects, the~~The acquisition cost on which tax credits are calculated will be held to the ~~lesser~~ lowest among the~~of~~ sale price, ~~or appraised value at application~~Applicant's procured appraisal and the~~, or~~ construction lender's appraisal. ~~appraised value.~~ Applicants submitting costs atypical in the marketplace must provide information acceptable to MFA, justifying such costs. Projects with excessive costs will be subject to adjustments to the amount of tax credits requested. MFA, in the course and scope of its underwriting, will examine how costs are categorized /allocated in Schedules A and D. MFA reserves the right to re-categorize /allocate costs to different categories should MFA determine, in its sole discretion, that costs have been categorized

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incorrectly. Applicants shall describe all costs contained in any category labelled "other" with sufficient specificity so that it is clear what these costs encompass.

2. **Developer and other fees.** Fees are limited to the following standards:

   a. **Builder profit, overhead and general requirements**

   In Projects where an "identity of interest" (as defined in this section) is not present, builder profit may not exceed 6% of Construction Costs, builder overhead may not exceed 2% of Construction Costs and general requirements may not exceed 6% of Construction Costs. For the purposes of these calculations, see definition of Construction Costs in the Glossary.

   Where an Identity of Interest exists between or among the Developer/Project Owner, builder (e.g., the general contractor), design professionals and/or subcontractors, builder profit shall not exceed 4% of Construction Costs. An Identity of Interest means any relationship that is based on shared family or financial ties between or among the Developer/Project Owner, builder (general contractor), design professionals and/or subcontractors that would suggest that one entity may have control over or a financial interest in another. An Identity of Interest will be presumed if any of the following factors are present as between or among the Developer/Project Owner, builder (general contractor), design professionals and/or subcontractors; common or shared ownership of any of the above-listed entities; common family members as owners or investors in any of the above-listed entities; common control of the above-listed entities even if the control is not exercised by a common owner or common investor.

   For LIHTC purposes, any amount of fee that exceeds the percentage limitations will be excluded from the Project's Eligible Basis when calculating the tax credit allocation.

   b. **Developer fees**

   Developer fees for 9% LIHTC Projects shall not exceed: 1) ~~$22,500~~$23,000 per low-income Unit for the first 30 Units, plus 2) ~~$20,000~~$20,500 per low-income Unit for Units 31 – 60, plus 3) ~~$17,500~~$18,000 per low-income Unit for Units 61+, which shall not cause the total Developer Fee to exceed the lesser of $2,000,000 or 14% of Total Development Cost. Developer Fee for 4% LIHTC Projects shall not exceed 14% of Total Development Cost. *9% Projects utilizing MFA-issued Section 811 Project Rental Assistance (PRA) are eligible for a 5% boost to the capped developer fee (as calculated above; for qualifications, see below) For example, a 30-Unit Project which qualifies for $675,000 and which is at or below 14% of Total Development Cost qualifies for a 5% boost to the allowable Developer Fee resulting in a total Developer Fee of $708,750.

   Donations of land and waived fees are excluded from Total Development Cost when calculating maximum allowable developer fees. Developer fees include all consulting

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costs for services typically rendered by a Developer. Any reserve, excluding any MFA-required Project reserve (see below), may be considered as part of the developer fee, if it is not held for the benefit of the Project for a minimum of 15 years. For the purposes of these calculations, Total Development Cost is adjusted to exclude developer fees, consultant fees and all reserves. Notwithstanding the Developer Fee amounts described in the preceding paragraph, where an Identity of Interest exists between the Developer/Project Owner and the builder, the above-mentioned fee may be further reduced if MFA, in its discretion, determines the fee to be excessive. In a proposed sale transaction where there is an Identity of Interest in any Principal of the seller and buyer, the Project will be subject to reduced developer fees. Where there is such an Identity of Interest, the developer fee percentages will be calculated on Total Development Cost reduced by Acquisition Costs. Also, an "as-is" appraisal dated no earlier than six months prior to the Application date and completed by a MAI licensed in New Mexico must be submitted. The value in the appraisal must assume that any existing use restrictions will remain in place. ~~This paragraph is only applicable to 9% LIHTC Projects.~~

The maximum developer fee is locked in at Initial Application for 9% Projects and is locked in at 8609 issuance for 4% Projects.

***Section 811 Project-Based Rental Assistance Program (Section 811 PRA)**

In 2020 MFA applied for a $3.6 million award to participate in HUD's Section 811 Project Rental Assistance (PRA) program, which provides project-based rental assistance for extremely low- income persons with disabilities, 18-61 years of age who are linked with long-term services. An award of Section 811 funds is contingent upon MFA entering into a Cooperative Agreement with HUD. In order to utilize these funds, projects must be in a location served by an active Local Lead Agency (LLA), through which the services will be provided. The Section 811 program will be implemented over a five-year period and will serve an estimated 58 households.

Qualifications and Restrictions:
No more than 25 percent of the total units (a minimum of 5 Units) in an eligible multifamily property can:

- Be provided Section 811 PRA funds
- Be used for supportive housing for persons with disabilities
- Have any occupancy preference for persons with disabilities

Owner Capacity and Experience:
Owner and Property Management must demonstrate the capacity to participate in Section 811 PRA. This will be measured, in part, by the level of experience administering HUD rental subsidy programs, specifically with HUD's Tenant Rental Assistance

Certification System (TRACS) and Enterprise Income Verification (EIV) and experience with managing a range of housing populations, with a particular emphasis on persons with disabilities.

In the event of non-compliance, any additional developer fee received (because of the participation in the **Section 811 PRA program**) beyond the Developer Fee cost limits outlined in Section IV.D.2 must be returned to the project in the form of a capitalized reserve account.

In addition, units must meet program criteria for unit integration and accessibility. Should this source become competitive, PRA allocations will be made based on score.

4% Projects looking to participate in the 811 PRA program are welcome to apply with the expectation of availability, however they are not eligible for the 5% boost to the capped developer fee.

See https://housingnm.org/property-owners-agents-and-managers/section-811-project-rental-assistance for more information.

c. Architect and Engineering Fees

Architects' fees, including design and supervision fees, and engineering fees, must be capped at 3.3 percent of Total Development Cost. This fee limit is a soft cap and any amounts in excess of this cap will not be included in Eligible Basis. Exceptions to the above rules governing architect and engineering fees may be granted based on site or Project specifics and in MFA's sole discretion. Supporting documentation shall be provided to justify any increase in request. Although the same standards will apply for Projects subject to subsidy layering review, such Projects will require Board approval for subsidy layering purposes whenever they exceed the federally-defined ceiling standard limits and only five such excess fee amounts can be approved in any given year. See Section II.T. for information on subsidy layering reviews.

Increases in Project costs subsequent to the Application Deadline may not result in an increase in any of the fees calculated above for tax credit allocation purposes. Any changes in the amount of fees through the course of development will require prior approval of MFA and must be justified by a change in scope of the Project. Any change in the scope of the Project that results in increased fees for which an exception is being requested constitutes a change to that Project.

3. **Reserves (escrows) included in Development Costs**. The development budget must include an operating reserve equal to a minimum of six (6) months of projected operating expenses, debt service payments and replacement reserve payments. Larger operating reserves may be

required for Projects which show a declining debt coverage ratio in 15-year cash flow projections, have rental assistance contracts included in their income projections or have other factors that MFA determines in its discretion to warrant larger reserves. Replacement reserve levels must be shown in the operating budget at the minimum of $250 per Unit, per year for Senior Housing (new construction Projects only) and $300 per Unit, per year for all other new construction and rehabilitation and Adaptive Reuse Projects. Project reserves of any kind in the development budget will not be included in MFA's calculation of Eligible Basis for tax credit purposes.

4. **Operating expenses and replacement reserves**. MFA will review the projected operating expenses, replacement reserves and loan terms and may, in its determination of economic feasibility, make adjustments based upon industry standards, its own underwriting parameters, the CNA or facts obtained from other appropriate sources. Applicants are urged to carefully review operating cost pro formas. Applicants must include real estate taxes in their operating expenses unless evidence of a perpetual real estate tax waiver (throughout the term of permanent financing) is submitted with the Application.

   Rehabilitation projects must supply both a current operating expense budget and an anticipated, post-rehabilitation budget with their application materials. The current operating expense budget may not meet MFA's underwriting requirements, but the projected budget must.

   Replacement reserves for the first 15 years may be capitalized in the development budget assuming there is a source of funds that can be used to establish the reserve account. Capitalized reserves are a non-Eligible Basis project cost and establishing reserve accounts may not be an eligible expense for some MFA funding sources. If the capitalization results in projected excess cash flow, MFA may reduce the subsidy for the Project. A qualified CPA or tax attorney should be used to determine the appropriate accounting treatment of capitalized reserves.

5. **Debt service coverage and subordinate debt**. Applicants who are proposing subordinate debt must include the terms of the loan and pro formas must reflect the requirements set forth in the MFA's Universal Multifamily Initial Underwriting Supplement. MFA will consider total annual cash flow as well as debt service ratio when making this determination. MFA will generally not consider the repayment of deferred developer fees when underwriting for feasibility but removes any deferred fee that can't be repaid during the Compliance Period from eligible basis and may consider a Project infeasible if the deferred fee represents a financial burden to the Project.

6. **Unit distributions**. For Projects with more than one income and rent tier, all Unit types must be distributed proportionately among each of the multiple tiers. That is, if 30% of the Units are to

be set-aside for tenants earning no more than 50% of median income, then the Units used for this income group must include 30% of all one-bedroom Units, 30% of all two-bedroom Units, etc. This also applies to Market Rate Units in the Project. This is intended to prevent allocation of all of the high rent Units to the higher income groups, thereby maximizing income while potentially violating the intent of fair housing law.

While the Code excludes any payments made under section 8 of the United States Housing Act of 1937 or any comparable rental assistance program (with respect to such Unit or occupant thereof) from the gross rent calculation, only rents that do not exceed the Tax Credit Ceiling Rents and are supported by the market study will be used for underwriting purposes. Exceptions may be made for Projects with project-based subsidies when the program governing the project-based subsidy allows higher rents. See MFA ~~underwriting policy~~Universal Multifamily Initial Underwriting Supplement - ~~LIHTC and project-based rental *assistance*~~*Projects with Rental Subsidies* section for additional requirements. Note that in order to underwrite to such rents, a copy of a federally-approved rent schedule must be provided to MFA, e.g. HUD, USDA. If project-based vouchers are awarded, but a federally-approved rent schedule is unavailable, proof of the award is required, and MFA will underwrite to HUD FMR. More detail regarding rental assistance payments and qualifying tenants can be found in the MFA tax credit Monitoring and Compliance Plan, which is issued under a separate cover and summarized in Section X.

E. Credit Calculation Method

1. **Tax credit calculations**. During each evaluation, MFA will determine the amount of tax credits to be reserved, committed or allocated by considering factors specific to each Project including, but not limited to, the following:
    a. Development Costs
    b. Funding sources available to the Project for construction and permanent financing:
        i. First mortgage loans
        ii. Grants
        iii. Tax credit proceeds
        iv. Project Owner equity
        v. Subordinate debt
    c. Projected operating income and expenses, cash flow and tax benefits
    d. Maximum tax credit eligibility
    e. Debt service coverage ratio ~~compared to lender requirements or commercial lending practices, as applicable~~
    f. Project reserves
    g. Developer fees and builder overhead and profit
    h. Per Unit and per square footage cost limits (section IV.C.2)

2. **Amount of tax credits for Reservation or Carryover Allocation**. To estimate the amount of tax credit allocation for a Project at Initial Application or at Carryover, MFA will use the Applicable Credit Percentage of the Qualified Basis, as adjusted by MFA, or the amount needed to fill the

financing gap. The procedure to determine the amount to fill the financing gap is outlined in number three below.

Tax credit proceeds. The MFA Universal Multifamily Initial Underwriting Supplement describes the method to be used to determine the equity pricing factor that will be used to calculate tax credit proceeds for underwriting purposes. The Applicable Credit Percentage will be used along with the equity-pricing factor to estimate the tax credit proceeds. Any ownership split other than 99.99% (Limited Partner) and 0.01% (General Partner) requires written MFA approval ahead of application submission, which approval shall be given in MFA's sole discretion.

The Protecting Americans from Tax Hikes (PATH) Act of 2015 permanently fixed the floor of the 9% credit at 9%. Similarly, the Consolidated Appropriations Act, passed by Congress on December 21, 2020, permanently fixed the floor of the 4% credit at 4%. At the time of the Carryover Allocation for 9% credits, the Project Owner must deliver a written letter of intent from a syndicator or equity provider that clearly states the equity-pricing factor. That equity-pricing factor along with the Applicable Credit Percentage will be used to estimate the tax credit proceeds for the Carryover Allocation. The equity-pricing factor to be used at Final Allocation will be the actual equity-pricing factor contained in the Project's syndication agreement and the Applicable Credit Percentage as determined at either Carryover or Placed In Service date.

For 4% credits the equity-pricing factor to be used at Final Allocation will be the actual equity-pricing factor contained in the Project's syndication agreement and the Applicable credit percentages determined at either the month the tax-exempt obligations are issued or Placed In Service date.

3. **Limitation on tax credit awards to a single Project or Principal.** Subject to the exceptions contained herein, no 9% LIHTC Project shall receive a tax credit Reservation in excess of $1,622,805. No Applicant, any General Partner or affiliate of an Applicant or person or entity receiving or identified as eligible to receive any part of a developer fee for a Project may receive more than two tax credit Reservations in any given competitive LIHTC Application round. Two 9% LIHTC Projects to be located on adjacent sites proposed by the same Applicant in the same LIHTC Application round will be treated as a single Project. Notwithstanding the foregoing sentence, a request for Supplement Tax Credits for the first Project in the same year as an Initial Application for a second Project located contiguous to the Project for which the Supplemental Tax Credits are requested, shall not cause the two Projects to constitute a single Project.

4. **Other factors limiting the credit Reservation**. The amount of credit reserved, committed and finally allocated to a Project shall be the lesser of:
    a. The maximum tax credit eligibility of the Project
        i. Maximum tax credit eligibility is the maximum amount of tax credit justified by a Project's Qualified Basis, as adjusted by MFA and taking into consideration any increase in Eligible Basis approved by MFA and the Applicable Credit Percentage

as described in **Section IV.E.2** above or the Applicable Credit Percentage that was locked-in at Carryover (or in the case of tax-exempt bond financed Projects, the month the tax-exempt obligations are issued) or was in effect when the building was Placed In Service; or

ii. The amount requested in the Application; or

iii. The amount necessary to fill the funding gap.

b. The funding gap is the difference between Total Development Cost (exclusive of syndication-related costs) and all available funding sources, including ~~HOME funds~~MFA financing awarded in conjunction with the tax credit allocations, excluding anticipated tax credit proceeds. The terms of all proposed sources must be within reasonable industry norms, and financing for the Project has to be maximized when evaluating rate, term, debt service coverage, loan-to-value, etc. The maximum tax credit amount allowed based on the funding gap will be determined by MFA limits stated in **Section IV.E.3** above.

5. **Increased basis for high cost areas**. Additional Eligible Basis (30% of the initial calculation) will be applied for Projects located in HUD-designated Difficult Development Areas (DDA) or Qualified Census Tracts (QCT). Applicants requesting such increases must deliver evidence in the Initial Application Package that the Project is located in a DDA or QCT.

   Projects, regardless of whether they are located in a DDA or QCT, may also be determined to be eligible for the state-designated basis boost (up to 30% of the initial calculation) if deemed necessary for Project feasibility as determined by MFA.

   The state-designated basis boost is available to the following 9% Projects:

   a. Projects receiving points under the Households with Special Housing Needs Housing Priority
   b. Projects receiving points under the Projects Reserved for Seniors Housing Priority
   c. Projects receiving points under the Households with Children Housing Priority

The state-designated basis boost cannot be applied to Projects financed by tax-exempt bonds.

6. **Adjustments to credit allocations**. When actual tax credit proceeds are confirmed and final financial Feasibility Analysis is performed during review of Final Allocation packages, there may be adjustments to the tax credit allocation. Adjustments may also be made at Carryover for rehabilitation Projects when the CNA and appraisal are provided. Professionals performing the CNA must meet the minimum qualification/certification requirements set forth by MFA as defined in the Design Standards. If actual Project costs or funding sources differ substantially from the projections submitted in the Application, MFA may adjust the final tax credit allocation or the Project Owner may establish Project reserves to offset the deficit, if in MFA's reasonable

judgment the Project has sufficient tax credit eligibility. The conditions for such reserve accounts will be determined by MFA on a case-by-case basis.

7. **Federally required subsequent financial analysis**. Federal regulations require that housing credit agencies conduct evaluations at three specific times to determine the amount of applicable tax credits.
    a. Upon receipt of an Application for LIHTC Reservation; and
    b. Prior to granting a tax credit allocation; and
    c. No earlier than 30 days prior to awarding the tax credit certification, IRS Form 8609.

F. Final Processing and Awards

1. **Additional considerations**. Applications meeting the requirements of the threshold review and Feasibility Analysis described above will be further evaluated and processed by MFA. In this step all remaining determinations will be made with respect to development team capability, design, readiness to proceed and other factors in MFA's reasonable judgment to evaluate the Project's Application. Projects must meet the Design Standards available from MFA on the website. Debarment from HUD, MFA or other federal housing programs, bankruptcy, criminal indictments or convictions, poor performance on prior MFA or federally-financed Projects (for example, late payments within the 18-month period prior to the Application Deadline, misuse of reserves and/or other Project funds, default, fair housing violations, non-compliance [e.g. with the terms of LURAs on other Projects] or failure to meet development deadlines or documentation requirements) on the part of any proposed development team member or Project Owner or other Principal or affiliate may result in rejection of an Application by MFA. In addition, MFA will consider a Principal's progress made with previous tax credit Reservations, including timeliness in delivering required documents and fees and meeting all required deadlines. When scoring and ranking generates multiple Projects that would draw tenants from a single market area (as determined by the market studies for the Projects in question), MFA may choose to eliminate the lower scoring or higher cost Project to avoid overbuilding and distribute credits more evenly throughout the state. In addition, MFA reserves the right to reject any Project, which MFA in its reasonable judgment determines is inconsistent with prudent business practices or with the intent and purpose of the QAP. MFA may also make awards conditional on specific modifications to the Project that MFA in its sound judgment considers necessary to enhance the feasibility or safety of the Project.

2. **Selection of projects for awards**. Projects meeting the threshold review requirements listed in Section III.C will be ranked and ordered according to scoring procedures established in Sections II.C and III.E with consideration to the Allocation Set-asides as described in Section III.D. Staff will then prepare a summary of the Projects to be recommended for allocations. Eligible and ineligible Projects will be distinguished for purposes of subsequent awards if additional credits become available. Tax-exempt bond financed Projects will be evaluated in a similar process but will not compete against other Projects for an allocation of tax credits.

3. **Allocation Review Committee (ARC)**. The Chairman of the Board of MFA will appoint an ARC. The functions of this committee will be to: 1) review the Project rating and ranking results in the staff's proposed award summary, 2) determine whether or not the proposed awards have been made consistent with this QAP, 3) conduct the appeals process and 4) make final award recommendations to the Board of Directors. MFA will notify Applicants of the preliminary status of their Projects with the use of a preliminary Reservation Letter, preliminary waitlist letter or rejection letter, after ARC's approval of the staff's proposed awards and before the appeal process begins. Such letters will be scheduled to be issued after the Allocation Review Committee meets.~~approximately 90 days after the Application Deadline~~. Except for appeals as described in **Section IV.F.4** below, the provisions of this section are not applicable to tax-exempt bond financed Projects.

4. **Appeal process**. Applicants wishing to appeal a determination made by MFA with respect to their Application may do so by way of the "Form of Submission" (Section IV.A.3) no later than 5 p.m. Mountain Standard Time on the 10th calendar day after the date of the preliminary Reservation Letter, preliminary waitlist letter or rejection letter (or draft Letter of Determination, in the case of tax-exempt bond financed Projects). Appeal requests may only be filed by the General Partner or proposed General Partner and only one appeal may be filed with regard to an Application. MFA's initial determination with respect to the Application will stand unless the Applicant can prove or justify, solely on the basis of materials submitted in the Initial Application, why the decision should be changed. The ARC will review the appeal and take whatever action it deems appropriate. The decision by ARC or the Board, if the matter is referred to the Board, will be final, no further appeals will be entertained. Appeals may result in re-ranking of Projects, in rejection of previously approved Projects and/or in approval of previously rejected Projects. Once the appeals process is completed and the resulting recommendations are considered and approved by MFA's Board of Directors, final Reservation Letters, in accordance with Section IV.F.5, (or draft Letter of Determination in the case of tax-exempt bond financed Projects) will be issued.

5. **Board of Directors**. The Board will make final awards for each competitive 9% tax credit allocation round (for logistical reasons the preliminary Reservation Letters, preliminary waitlist letter and rejection letters will be issued prior to the appeals process and the Board's final decisions).

   On or before May 1, ~~2023~~2024, Applicants are required to upload a brief (approximately three minute) MP4 video (suitable to be shared on YouTube) to MFA's website portal. The video must highlight the proposed Project being recommended for approval by MFA's Board of Directors. MFA will provide an outline of the presentation format. Applicants are also required to attend the MFA Board of Directors meeting to answer any questions board members may have regarding the Project recommended for approval. Final Reservation Letters will be issued following the Board decision. MFA Board-approved hybrid 9%/4% projects with a pending

allocation of private activity bond volume cap will receive Final Reservation Letters following approval of private activity bond volume cap. The Board will approve Projects considered to be Eligible Projects and these may include Projects for which tax credit allocations are not immediately available. If any Projects receiving a Reservation fail to meet subsequent requirements, an allocation of tax credits may be revoked and then awarded by MFA to the next highest scoring Eligible Project(s) on the waiting list. Any conflicts of interest of Board members are to be disclosed and Board members having such conflicts will abstain from votes approving or disapproving LIHTC Projects in accordance with MFA's policies, procedures, rules and regulations regarding conflicts of interest. The provisions of this section relating to Board actions following competitive allocation rounds are not applicable to tax-exempt bond financed Projects.

G. Notification of Approval and Subsequent Project Requirements

Note: Only Sub-sections 2, 7, 8 (at 8609 Application), and 9-11 of this section (IV.G) apply to tax-exempt bond financed Projects.

Successful Applicants will be notified of MFA's allocation decision in the form of a Reservation Letter. MFA anticipates Reservation Letters will be delivered in May ~~2023~~2024, shortly after approval of tax credit awards at the May ~~2023~~2024 Board meeting.

Reservation Letters and/or Carryover Allocations are non-transferable either to another entity or within the same entity where there is a change in control or General Partner interests, except with the express written consent of MFA, it being the explicit intention of the QAP to prevent one party from obtaining such a Reservation and/or Carryover Allocation in order to sell or broker its interest in the proposal (except for syndication purposes). Because all representations made with respect to the Project Owner, Application, Developer or related party or entity, or any member of the development team, their experience and previous participation are material to the evaluation made by MFA, it is not expected that MFA's consent will be granted for such transfers unless a new Application is submitted and scores no less than the original Application, and the transfer would result in a benefit to the Project.

Affirmative actions after Reservation. From the date of the Reservation, the Applicant must meet each of the deadlines specified below for follow up activity in order to maintain its Reservation or Carryover Allocation. **MFA has no obligation to provide any further notice to Applicants of these requirements and failure to submit any one or more of the items may cause the Reservation to be terminated or the Carryover Allocation to be cancelled**. Applicants must further agree to voluntarily return their Reservations or tax credit allocations for reallocation to other Projects by MFA if any of the deadlines below are not met. **All submissions must follow "Form of Submission" requirements shown in Section IV.A.3.**

1. **At Reservation**

The processing fee must be paid at this time and any other conditions noted in the Reservation Letter, which may include evidence of continued site control, must be satisfied.

2. **Quarterly Progress Reports**

All 9% Projects must submit a quarterly progress report to MFA on or before March 31st, June 30th, September 30th, and December 31st each year, beginning with March 31st after the allocation year, and continuing until the Final Allocation Application has been submitted. All 4% Projects must submit a quarterly progress report to MFA following the issuance of a Final Determination letter, starting with the next quarter end, March 31st, June 30th, September 30th, and December 31st each year. The information to be covered in the progress reports will be provided on MFA's website. Any failure to provide a timely progress report, or failure to provide a complete and accurate report containing the required information, may result in a loss of tax credits.

3. **By November 15th** (see footnote 5) of the allocation year
   a. Threshold requirement number two:
      Applicants whose Projects were not required to meet threshold requirement number two (zoning) at the Application Deadline must submit evidence that all required zoning approvals for the proposed Project have been obtained; and
   b. All Applicants must deliver:
      i. The contractor's resume, if it was not included in the Application.
      ii. Financing Commitment(s) (see definition) for construction and permanent financing and any other rental or other subsidy, as applicable. Financing Commitments must be submitted from all funding and subsidy sources including construction and first mortgage lender(s), all secondary financing sources (i.e., grants, loans, in-kind contributions) and a letter of intent from the equity provider. Projects which include federal historic tax credits in the financing structure must submit evidence from the National Park Service that a complete historic certification – part two (2) for the Project has been received.
      iii. For a Project to be financed by HUD (e.g., HUD 221(d)(4)), evidence that Applicant has submitted a site appraisal and market analysis (SAMA) application to HUD (for new construction Projects) or a feasibility application (for rehabilitation Projects).
      iv. For a Project to be financed by MFA's 542(c) Risk Sharing program, a HUD firm approval letter.
   c. **Carryover Allocation requirements**. If the Project will not be Placed In Service during the calendar year in which the Reservation is made, the Applicant must request a Carryover Allocation, which allows for 24 additional months to complete the Project. The complete Carryover Allocation package must contain all items on the Carryover Allocation requirements checklist, including a tax opinion addressing satisfaction of the 50% rule where there are related parties. ~~Professionals performing the CNA must meet the minimum qualification/certification requirements set forth by MFA as defined in the Design Standards.~~ All tax credit fees must be paid to date. In addition, the Project

architect must certify that the Project's final plans and specifications meet the Design Standards and contain all commitments made in the Initial Application regarding design and building. The Project architect must further certify either there have been no Material Design Changes in the final plans and specifications or, if there have been Material Design Changes made, changes in the key development team members, or if the costs as identified on Schedule D of the original Application have changed more than 5%, then a detailed narrative description of the changes made in the construction drawings and/or Schedule D between Application and Carryover must be provided. If there is a change to a key member of the development team (Developer, Project Owner, General Partner, contractor, management company, consultant(s), architect, attorney and accountant, etc.) following Carryover, the project must supply MFA with a written explanation of the reason behind the change, materials supporting the benefit to the Project in making the change (including resumes) in order to assess whether or not the Project is negatively impacted by the change.

d. **Rehabilitation and Adaptive reuse Projects**. In addition, rehabilitation Projects must provide, with the Carryover Application, an appraisal and a CNA of the existing Project, dated within 12 months of the Carryover Application. Professionals performing the CNA must meet the minimum qualification/certification requirements set forth by MFA as defined in the Design Standards.

4. **March 1**[7] of the year following Carryover
   If applicable, the MFA 542(c) Risk Sharing commitment is to be fully executed.

5. **No later than June 30** (see footnote 5) of the year following Carryover
   The Applicant must submit complete final construction drawings, specifications and construction documents for MFA review for compliance with the Design Standards. ~~Applicants must receive written approval of complete plans, specifications and construction documents from MFA prior to the start of construction. MFA staff will make a good faith effort to perform an initial review of construction documents within 10 business days of submission of complete construction documents. Final approval will occur upon receipt of an approval recommendation from MFA's architect that all outstanding issues, if any, have been resolved.~~See Section IV.C.7 for further details.

6. **August 31** (see footnote 5) of the year following Carryover
   a. The Applicant must submit evidence that the basis in the Project exceeds 10% of the reasonable expected total basis in the Project, an independent auditor's report and Cost Certification, a Project Owner's attorney's opinion, in the form required by MFA, and any other documentation required by MFA ("10% test.")
   b. The Applicant must deliver evidence acceptable to MFA that construction of the Project has begun. This will include, at a minimum, building permits and site photographs.

[7] If such date falls on a weekend or holiday, the deadline shall be the first working day following such date.

c. The Applicant must deliver an executed partnership agreement.

~~c.~~d. Qualified Nonprofit Organization Eligible Projects included in the federal set-aside (as defined in the Code Section 42(h)(5)(C)) must deliver an executed Right of First Refusal Agreement using MFA's form of Right of First Refusal Agreement.

~~d.~~e. If federal historic tax credits are included in the financing structure of the Project, evidence of National Park Service approval of the Project's historic certification – part 2 must be submitted.

~~e.~~f. The Applicant must deliver evidence that the Project Owner has taken ownership of the land and, if applicable, depreciable real property, that is expected to be part of the Project. For tribal Projects, this would include fully executed master and sub-lease agreements with evidence of filing with the Bureau of Indian Affairs.

7. **At or around the 50% construction completion mark**
The Applicant must organize a meeting with MFA staff (both Asset Management and Housing Development departments). The Developer, owner, nonprofit representative, management company staff, and any service providers involved in the Project must be in attendance. This meeting will be required ahead of lease-up. The following materials must be submitted prior to this meeting:
   - Related Party Affidavit for the Management Agent
   - Compliance Affidavit for the Property Management Agent
   - Property Management Agent resume
   - Schedule I for the Property Management Agent
   - ~~The~~ MOU required under Section III.E.8 above will be required for this meeting, as applicable.

8. **November 15th** (see footnote 5) of the second year following the initial allocation.

Final Allocation and Placed ~~i~~In Service requirements. On or before November 15th of the second year following the initial allocation, a Placed In Service Application or a Final Allocation Application must be submitted. **Failure to meet this requirement will result in the loss of tax credits**. If the Project is to be Placed In Service but Applicant is not yet ready to request LIHTC allocation certification (IRS Form 8609), the Placed In Service portion of the Final Allocation package must still be submitted on or before November 15th of the second year following the initial allocation. A complete Final Allocation package shall be submitted no later than 120 days following the close of the Project's first taxable year of the Credit Period.

If the Project Owner anticipates returning any portion of the allocated tax credits, updated Schedules A-F are due no later than February 15th of the year following the Placed In Service date to ensure that the returned credits can be awarded to another Project or MFA's loans can be adjusted prior to the Final Allocation package submission. If the Project Owner fails to notify MFA and submit the updated Schedules A-F by February 15th of the year following the Placed In

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Service date and the tax credits are not able to be allocated to another Project, the Principals involved in the Project will be ineligible to participate in the 9% LIHTC round the year after the Final Allocation package is submitted.

Prior to the issuance of IRS Form 8609 certifications for the Project, the Project Owner must submit a complete Final Allocation package, containing all items in the Final Allocation checklist, which include, among other items, the following:

a. **Cost Certification**. ~~Two~~ Cost Certifications are required to be prepared as described in Section V. ~~follows: (i) a Project Cost Certification prepared by a CPA and executed by both the Project Owner and CPA preparing the report, with a minimum of 20% of costs tested, and (ii) a Project Cost Certification prepared and executed by the general contractor if the project is not utilizing a stipulated sum contract.~~ The CPA-prepared Cost Certification must be delivered by the Project Owner prior to the issuance of IRS Form 8609 certifications; the general contractor-prepared Cost Certification (if applicable) may be held in escrow by the project or general contractor, but would be required for audit purposes, as outlined in Section II.S.
b. **Architect's certification**. A certification from the Project architect with required text as set forth in the Final Allocation package, certified by the Project Owner, that the Project has been built in conformance with the Design Standards, all applicable codes and commitments made in the Initial Application regarding design and building, unless otherwise approved in writing by MFA.
c. **Project Owner's attorney's opinion**. A Project Owner's attorney opinion submitted on the firm's letterhead with required text as set forth in the Application Package.
d. **Final contractor's application and certificate for payment, AIA doc. G702 or equivalent**. A fully executed copy indicating all the hard Construction Costs for the Project must be submitted with the Final Allocation package.
e. **LURA**. Prior to December 31st of the year in which the buildings are Placed In Service, the Project Owner must submit an executed and recorded LURA, satisfactory to MFA in form and content.

9. **Design Review.** MFA must approve the final construction completion inspection described in Section IV.C.7. prior to 8609 issuance.

10. **Other Project Owner responsibilities and elections**. The Project Owner must place the buildings in service and claim tax credits within certain time periods. Project Owner must forward written notice and copies of all Certificates of Occupancy (for new construction) or Certificates of Substantial Completion (for rehabilitation) to the tax credit program manager within 30 days of issuance, to ensure that all necessary administrative actions are taken in a timely manner. Otherwise, tax credits may not be able to be claimed as desired.

11. **LURA or Extended Use Agreement**. Section 42(h)(6) of the Code requires imposition of "an extended low-income housing commitment." MFA complies with this requirement with a LURA filed at the time of placement in service or Final Allocation. The LURA sets forth, as covenants running with the land for a minimum of 30 years (or longer if Project Owner commits to a longer restriction period), the compliance fees, the low-income set-asides, the percentages of median income to be served, the Special Housing Needs to be served, if any, and any other such commitment made in the Initial Application or that may be imposed through this QAP and the Code. The LURA may not be terminated prior to its term for any reason other than foreclosure or an instrument in lieu of foreclosure and the Project Owner will not have the right to require MFA to present a "Qualified Contract" in accordance with Code Section 42(h)(6). The Project Owner will also have to deliver subordination agreements from all lenders, giving lien priority to the tax credit restrictions.

H. Termination of Reservations or Rejection of Applications

Any of the following events or actions on the part of the Applicant at any time subsequent to the Initial Application may cause the Application to be rejected or the Reservation to be terminated in MFA's sole discretion:

1. Loss of site control or site change
2. Submission of any false or fraudulent information in the Application or in other submissions
3. Failure to meet the conditions of Section IV.B and IV.G above or in the Reservation Letter
4. Subsequent regulations issued by U.S. Department of Treasury or the IRS pertaining to the Code
5. Failure to promptly notify MFA of any material or adverse changes in the facts of the original Application pursuant to **Section IV.I** below
6. Instances of non-compliance continuing beyond the specified cure period on Applicant's or Principal's other Projects
7. Any other change which would alter the original scoring of the Application or which was not approved in advance by MFA
8. Debarment from HUD, MFA or other federal programs, bankruptcy, criminal indictments or convictions, poor performance on prior MFA or HUD-financed Projects (including but not limited to late payments within the 18 month period prior to the Application Deadline, misuse of reserves and/or other Project funds, default, fair housing violations, non-compliance [e.g. with the terms of LURAs on other Projects,] failure to meet development deadlines or documentation requirements) on the part of any development team member or Project Owner or Principal

9. Change in the federal Set-aside Election or other set-aside proposed in the Initial Application, subsequent to the Application Deadline

I. Notification to MFA of Changes to the Project

It is Applicant's responsibility to notify MFA immediately, in writing, of any changes to the Project subsequent to submission of an Application, including the changes listed below and any other material changes, by requesting MFA's approval of such changes. Failure to notify MFA may result in the rejection of an Application or loss of a Reservation or tax credit allocation. Approval of such changes will be made in MFA's sole discretion and the change may result in a change in the tax credit amount or other action by MFA. A $500 fee payment is required at the time of the request for approval of any changes in accordance with Section IV.B. In addition to this fee, Applicant agrees it shall pay MFA any legal fees it may incur in processing the request. Applicants/Project Owners will not be allowed to make changes to a Project that would result in a change to any of the specific items for which points were awarded, unless extraordinary and well-documented circumstances would warrant it, and changes must be approved by MFA. Any such change(s) to a Project that would require a re-scoring or re-evaluation which causes the Project's score to fall below its original score may cause the LIHTC allocation to be rescinded in the case of 9% Projects or never issued in the case of 4% Projects.

Examples of changes of which MFA must be notified:

1. Site control or rights of way are lost;

2. Project costs change in excess of 5% of the Total Development Cost shown in the Carryover Allocation Application Package (for 9% Projects) or subsequent to Initial Application submission (for 4% Projects);

3. Applicant obtains additional subsidies or financing other than those disclosed in the Carryover Allocation Application Package; or loses subsidies or financing included in the Carryover Application Package, and/or the amount of any such financing or subsidy changes by greater than or equal to 10% from the amount shown in the Carryover Allocation Application Package (for 9% Projects) or subsequent to Initial Application submission (for 4% Projects);

4. Development cost contributions made by a state, local or tribal governmental entity are reduced, increased, withdrawn or substituted with other types of contributions than the ones originally proposed in the Application;

5. The syndication payment timing and/or net proceeds change from those stated in the Carryover Allocation Application Package (for 9% Projects) or subsequent to Initial Application submission (for 4% Projects);

6. The parties [other than the limited partner(s) formation] involved in the ownership entity as represented in the Application change;

7. Changes to Project design, unit design, square footage, unit mix, number of Units, number of buildings changes, amenities, parking quantities, landscaping scope, energy performance, water usage, quality of construction or specification;

8. A change in any enrichment service provider and/or change in type of enrichment service to be provided;

9. The general contractor or other member of the original development team changes;

10. Any fire or other natural disaster occurring at or near the Project site; or

11. Any other factor deemed material by MFA in its reasonable judgment.

J. Notice Provisions

MFA will typically provide notice to Applicants through certified mail, courier service or e-mail transmission. Consequently, correct street addresses, e-mail addresses and phone numbers must be provided clearly in the Application form. **Such notices will be provided only to the Contact Person(s) shown in the Application form. MFA will not be responsible for any consequences that may result from the Applicant's inability to receive notice from MFA due to a change in Contact Person information, or other contact information i.e. address or phone number, that was not reported to MFA**.

K. Applications are Public Records

All information contained in Applications for tax credits are public records subject to inspection under state and federal open records laws. In addition, MFA may share information and details obtained from Applications with other public agencies.

L. Attorney Fees

Any and all attorney fees incurred by MFA in the course of contract development, negotiations, project reviews, loan conditions, ownership changes or other project-specific legal expenses will be reimbursed by the Project or Developer. In any litigation, arbitration or other proceeding arising from, as a result of or pursuant to this QAP and/or the resulting tax credit allocation round, selection process or award determinations, MFA, if it is the prevailing party, shall be entitled to be awarded its reasonable attorney fees, costs and expenses incurred from the opposing party, regardless of which party initiated the litigation, arbitration or other proceeding.

V. Cost Certification

A. Applicability of Cost Certification

Certification by a CPA is required to certify compliance with the 10% test as defined in **Section IV.G.6.a**. Prior to the issuance of a LIHTC certification (IRS Form 8609), MFA will require two Cost Certifications to be prepared, one by an independent CPA and executed by both the CPA and Project Owner, and a second Cost Certification prepared and executed by the general contractor The Cost Certification prepared and executed by the general contractor should reflect real costs to the general contractor, but those costs may not be reflected in the CPA-prepared Cost Certification if the project entered into a Maximum Guaranteed Price or Stipulated Sum Contract for example. In those cases, the owner-incurred costs should be reflected in the CPA-prepared document, regardless of the general contractor costs. The general contractor Cost Certification may not meet MFA cost requirements if a Maximum Guaranteed Price or Stipulated Sum Contract was utilized. Therefore, if the project entered into a Stipulated Sum Contract or a Maximum Guaranteed Price, a Cost Certification does not need to be prepared by the general contractor.

B. Requirements

The Form 8609 Cost Certification must meet the following requirements:

1. The CPA preparing the Cost Certification must certify that all costs are related to the Project's development and do not include costs for organization, syndication, professional or consultant fees related to syndication. The CPA shall "test" a minimum of 20% of all costs listed therein. Both the CPA and Project Owner must execute the Cost Certification. In addition, a Cost Certification is required to be prepared and executed by the general contractor if the project is not utilizing a stipulated sum contract. Each Cost Certification must specifically identify those costs listed in any general or "Other" category. The general contractor Cost Certification (if applicable) may be held in escrow by the project or general contractor but must be produced in the event of an audit as outlined in Section II.S.

2. All fees, including the developer fee, paid to the Project Owner or Developer or to an entity with an Identity of Interest with the Project Owner or Developer, must be clearly identified. If all or a portion of the developer fee is deferred, copies of the promissory note or other substantiation of the validity of the fee must be reviewed.

3. If the land is purchased from a related party, the Project Owner must submit an appraisal to substantiate fair market value, which appraisal must include a determination of value based upon any land use restrictions per HUD or other entity, including MFA.

4. Legal fees related to land acquisition must be clearly identified.

5. Interest expense related to land must be clearly identified.

6. The sources of all funding including loans, tax credit proceeds, Project Owner/Developer equity and all other sources must be certified.

C. Authority to Determine Maximum Qualified Basis

MFA may challenge the costs provided in the Cost Certification, impose the limitations set forth in this QAP and in its sole discretion, determine the maximum Qualified Basis against which credit is allocated.

VI. Processing of Tax-Exempt Bond Financed Project Applications

The Code allows tax-exempt bond financed Projects to receive an allocation of 4% tax credits provided they meet the minimum requirements for an allocation in the QAP. MFA's determination that a Project satisfies the requirements of the QAP will be based on the Project meeting all minimum Project threshold requirements, staff analysis, Application processing, Feasibility Analysis and property standards described in the QAP in effect when the determination is made. ~~Unless otherwise stated, all provisions of this QAP are intended to apply to tax-exempt bond financed Projects.~~ The tax credits allocated to tax-exempt bond financed Projects are not subject to the Annual Credit Ceiling and, consequently, are not required to compete in the competitive allocation process described in the QAP. MFA staff will undertake an analysis to determine the tax credit amount necessary for financial feasibility using the same underwriting criteria used in evaluating non-bond-financed projects.

Similar to competitive applications, all tax-exempt bond financed Projects are required to submit an Intent to Submit a Tax Credit Application and Development Synopsis at least 30 days prior to submitting their Application in order to insure timely processing to meet other bond issuance deadlines. Additionally, all tax-exempt bond financed Projects are encouraged to meet with MFA staff at least 30 days prior to submission to review and discuss the proposed Project.

Requests for these determinations (Applications) must be made by the Project's Developer/sponsor at least 60 days prior to submission to the State Board of Finance for bond volume cap. Requests must include an Application fee and Direct Cost Deposit as listed in Section IV.B., a market study, a completed ~~2023~~2024 Universal Rental Development Application and Schedules with all attachments and any other material specified by MFA. The market study must meet all ~~of the~~ requirements identified within the Market Study Parameters in MFA's determination and be dated no more than 180 calendar days prior to the date on which a Complete Application is received by MFA. (See Section III.C.4 for more information about Market Study requirements.) Prior to the release of the Letter of Determination by MFA staff, a

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processing fee in the amount of ~~7.75~~8.5% of the approved annual credit amount will be due. MFA's initial response to the Application for 4% tax credits will be provided no later than 60 business days subsequent to receipt of the Complete Application by MFA.

Unless otherwise stated, all provisions of this QAP are intended to apply to tax-exempt bond financed Projects. To assist in clarifying where provisions are different, MFA has prepared a separate application form for 4% Applications and a 2024 Bond Checklist that are available to download from MFA's website. In addition to the ~~full Application requirements~~Project Narrative required for ~~of~~ 9% Projects, the required Project Narrative must also include the description of the characteristics of the Project in terms of the tax-exempt bond issuance. A failure to provide any of the information required herein will result in a determination, in MFA's sole discretion, that the Project Application is incomplete. You may provide additional documentation that supports this narrative. Each supporting document should include a brief description of what is contained in the document and the purpose for which it is being submitted. This expanded document shall also address the following:

a. The current use and condition of the proposed site;

b. The amount of requested Volume Cap. Provide explanation of and support for the amount requested;

c. Evidence of qualification under the relevant bond financing sections of the Code;

d. Describe in detail the bond financing structure;

    1. Identify if there will be more than one series of bonds;

    2. Will the bonds be used in construction only or be used in permanent financing;

    3. Bond terms including any source used to pay back the bonds;

    4. All entities involved in the financing, e.g., rating agencies, bond insurer, letter of credit bank, credit enhancement entity;

e. Evidence and support of adequate market for the Units and explanation of why the housing needs of households eligible to live in the proposed Project are not being met by existing multifamily housing;

f. Conditions to be satisfied prior to bond issue, e.g., all governmental approvals, real estate conditions;

g. Statement indicating why the public purpose of the bonds could not be as economically or effectively served without an allocation of bond cap;

h. Other information regarding the economic benefits of the Project to the Project's community and the State of New Mexico;

i. Provide a detailed timeline, incorporating all pertinent milestones including but not limited to all governmental approvals and the bond closing.

Tax-exempt bond financed Projects may receive tax credits on the full amount of their Eligible Basis only if at least 50% of the Project's "aggregate basis" is financed with tax-exempt bonds. Additionally, numerous bond-financing rules apply and many tax credit requirements are different for tax-exempt bond financed Projects. MFA recommends that Project Owners undertaking these Projects obtain advice from qualified tax professionals to ensure that such requirements are met.

To ensure that these credits are used to leverage the greatest possible amount of resources, the following additional minimum Project threshold requirements will apply:

1. **Percent of total sources limit**. The private activity bond volume cap allocation by the State Board of Finance must not exceed ~~75~~60% of the Project's Total Development Cost without a waiver from MFA, which shall not unreasonably be withheld if sufficient volume cap is anticipated to be available.

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2. **Costs of issuance limit**. Costs of issuance may not exceed 5% of the bond issue for Projects with total financing sources of $2,000,000 or more and 7% for Projects with total financing sources of less than $2,000,000.

For all tax-exempt bond financed Projects, the Project Owner must provide notice to MFA that Units have been Placed In Service by providing written notice and copies of the Certificates of Occupancy for new construction, the Certificate of Substantial Completion for rehabilitation within thirty (30) days of issuance. Additionally, the Project Owner must request the issuance of a LURA from MFA within one month of the date on which the last Unit of the Project was Placed In Service.

VII. Amendments to the Allocation Plan and Waivers of Plan Provisions

MFA reserves the right to modify this QAP, including its compliance and monitoring provisions, and to waive plan provisions, as required by the promulgation or amendment of the Code, from time to time or for other reasons as determined by MFA, including, but not limited to, the ability to respond to government declared disasters and emergencies. MFA will, however, make available to the general public a written explanation of any allocation of housing tax credits that is not made in accordance with established priorities and selection criteria of the Agency.

VIII. Future Year's Binding Commitments

MFA staff shall have the authority to advance allocate up to $300,000 in future year's tax credits to Board-approved Eligible Projects. However, advance allocations are made solely at MFA's discretion and no advance allocation may be made to any Project whose tax credit amount is not at least 50% funded

by the current year's Annual Credit Ceiling without MFA Board approval. Future year commitments in excess of $300,000 in any given year must also be approved by the Board. Any advance allocation will require the Applicant to execute a Binding Commitment, as drafted by MFA and agree to the dates and timeframes required in this QAP.

IX. Disaster Relief Allocations

The Board will retain the authority to allocate current or future year's tax credits at any time and in any amount to Projects approved by the Board that are intended to alleviate housing shortages in communities affected by declared and natural disasters.

X. MFA Tax Credit Monitoring and Compliance Plan Summary

A. General Requirements

Federal law requires MFA to develop and implement a compliance-monitoring program for completed Projects that have received LIHTCs. A compliance plan contained in a manual has been developed and is available to the Project Owners at MFA's website, www.housingnm.org. Compliance Monitoring is required for a minimum 15 years after receipt of a tax credit allocation. Each Project Owner has chosen to utilize LIHTCs to take advantage of the tax benefits provided. In exchange for these tax benefits, certain requirements must be met so that the Project will benefit low income tenants.

Project Owners will be required to submit a quarterly report to MFA for each of the first four calendar quarters after a Project is Placed In Service. At that time, if the Project is determined to be in compliance with the Code, reports may be filed on an annual basis with MFA's approval. Project Owners will be required to submit to MFA a copy of all federal form 8609's, including schedule A, filed with the IRS in the first year that credits are claimed and at any subsequent time as requested by MFA. MFA reserves the right, in its sole discretion, to require such additional reports and/or records as MFA reasonably determines are necessary.

Beginning three (3) years prior to the expiration of rent restrictions:

- Project Owners shall notify existing tenants in writing of the date when the Project's long-term use restrictions will expire. If the Project Owner fails to timely issue the notice, each existing tenant's rent shall remain restricted until such time as each existing tenant receives three years notice of the expiring use restrictions.
- Notify all new tenants in writing of the date when the Project's long-term use restrictions will expire concurrent with signing a lease to move into the property. If the notice is not signed by the tenant with the lease, the tenant's rent restriction shall be extended for the number of days the notice was delayed.

Project Owners shall maintain copies of each notice with documentation of the date that the tenant received the notice.

B. Inspections

MFA will conduct on-site inspections of all buildings in the low-income housing Project and will review low-income certifications by the end of the second calendar year following the year the last building in the low-income housing Project is Placed In Service; and at least once every 3 years thereafter. The minimum number of low-income Units that must be included in the random samples on which MFA will conduct physical inspections or low-income certification review is the lesser of the applicable REAC number or 20 percent of the low-income Units in the Project, rounded up to the next whole number.

Each inspection will include a review of the Project's low-income certifications, supporting income documentation, leases, rent records (including utility documentation) and Unit inspections in at least the minimum Unit sample size of the Project's Set-aside Units and a physical inspection of the entire Project (interior and exterior). In mixed-use and mixed-income properties, 100% of the Units may be monitored. If Projects are determined to be in noncompliance, site visits may occur more often. MFA will provide the owner written notification at least 15 days in advance of scheduled inspections.

MFA will also inspect, as applicable to the property, compliance with service coordination plans and service coordinator office hour requirements, enrichment services, coordinated services, etc. committed to under the Households with Children Housing Priority, Households with Special Housing Needs Housing Priority, Projects Reserved for Seniors Housing Priority and the PSH category under the Underserved Populations set-aside.

During the Extended Use Period, MFA reserves the right, under the provisions of the Code and the Project's LURA, to perform an audit of any Project that has received an allocation of tax credits. This audit will include an on-site inspection of all buildings and a review of all tenant records and certifications and other documents supporting criteria for which the Project Owner received points in the Application for an allocation of credits.

C. Recordkeeping and Record Retention

Under the provisions of the tax credits, the Project Owner will be required to keep records as defined below for each building within a particular Project. These records must be retained by the Project Owner for a minimum of six years beyond the Project Owner's income tax filing date for that year. However, first-year Project records must be maintained for six years beyond the tax filing date of the final year of the Project's eligibility for tax credits. The Project Owner must report to MFA, through MFA's Web Compliance Management System (WCMS), annual audited property financial statements within 120 days of the close of the Project's fiscal year, as well as annual operating budgets. On a monthly basis, the Project Owner must provide tenant income certifications and property vacancy data using the WCMS

online system. In addition, the Project Owner must maintain records for each qualified low-income building in the Project showing:

1. The total number of residential Units in the building (including the number of bedrooms and size in square feet of each residential unit)
2. The percentage of residential Units in the building that are Set-aside Units
3. The rent charged on each residential Unit in the building (including utility allowances)
4. The number of occupants in each residential Unit in the building
5. The low-income Unit vacancies in the building and documentation of when and to whom the "next available Units" were rented
6. The income certification of each low-income tenant
7. The documentation to support each low-income tenant's income certification
8. The Eligible Basis and Qualified Basis for each building
9. The character and use of any nonresidential portion of the building included in the building's Eligible Basis (this includes separate facilities such as clubhouses or swimming pools whose Eligible Basis is allocated to each building)
10. Additional documentation and reporting as required by federal regulation
11. Additional documentation and reporting as required by MFA

Failure to annually report is deemed as noncompliance and is reportable to the IRS.

D. Annual Certification Review

It is the responsibility of the Project Owner to annually certify to MFA that the Project meets the requirements of the Code, whichever set-aside is applicable to the Project. Failure to make this certification is deemed as noncompliance and is reportable to the IRS. This annual certification requires the Project Owner to certify that:

1. The Project meets the minimum requirements of the set-aside election
2. There has been no change in the Applicable Fraction

3. An annual low-income certification has been received from each low-income tenant and documentation is available to support that certification

4. Each low-income Unit is rent restricted under the Code

5. Subject to the income restrictions on the Project, all Units in the Project are for use by the general public and are used on a non-transient basis

6. There has been no finding of discrimination under the Fair Housing Act

7. Each building within the Project is suitable for occupancy taking into account local health, safety and building codes

8. There has been no change in any building's Eligible Basis under the Code or if there has been a change, adequate explanation of the nature of the change has been given

9. All tenant facilities included in the Eligible Basis of any building in the Project are provided on a comparable basis, without a separate fee, to all tenants in the building

10. If a low-income Unit in the Project becomes vacant during the year, reasonable attempts are made to rent the Unit to tenants having a qualifying income and while the Unit is vacant, no Units of comparable or smaller size are rented to tenants not having a qualifying income

11. If the income of Low-income Tenants of Units increases above 140% of the applicable income limit allowed in the Code, the next available Unit of comparable or smaller size will be leased to tenants having qualifying income.

12. Project Owner has not refused to lease a Unit to an Applicant based exclusively on their status as a holder of a Section 8 voucher and the Project otherwise meets the provisions outlined in the extended low-income housing commitment

13. If the Project Owner received its tax credit allocation from the state ceiling set-aside for Projects involving "Qualified Nonprofit Organizations," the nonprofit entity materially participated in the operation of the development

14. There has been no change in ownership or management of the Project that was not approved in advance by MFA

15. The Project Owner has obtained accurate, allowable, current utility allowances for use in the calculation of rents for the Project and acknowledges this to be an annual requirement for the duration for the Compliance Period

16. For the preceding 12 months the Project Owner has complied with Section 42(h)(6)(E)(ii)(l) of the Code that an existing tenant of a low-income Unit has not been evicted or had their tenancies terminated for anything other than good cause

17. The Project Owner has complied with Section 42(h)(6)(E)(ii)(ll) of the Code and not increased the gross rent above the maximum allowed under the Code with respect to any low-income Unit.

18. The Project has complied with the Violence Against Women Act (VAWA), which provides protections for residents and Applicants who are victims of domestic violence, dating violence or stalking, and any other situation or incidence mandated by VAWA. Compliance requirements mandated by VAWA include, but are not limited to, honoring civil protection orders, eviction protection and bifurcation of lease when necessary.

19. The owner has received an annual Student Self Certification for each low-income household.

20. The owner continues to comply with all terms it agreed to in its Application for Credit authority, including all federal and state-level program requirements and any commitments for which it received points or other preferential treatment in its Application.

21. The property has not suffered a casualty loss resulting in the current displacement of residents.

22. If applicable, the property has completed the annual service coordination requirements per the LURA including on site office hours, providing coordinated services and conducting an annual survey. If yes, include the number of hours and the number of residents served with coordinated services in the next section.

23. The property has completed PSH Commitment to Quality checklist for every Permanent Supportive Housing for each qualified household if applicable.

24. The property has provided all required service enrichments according to the schedule listed in the LURA if applicable.

25. The property is in compliance with the Smoke Free at Home Program.

24. The building identification number, first year of Credit Period and Applicable Fraction of each building.

As an exception, only for RD Projects, MFA may accept a certification from RD that income is based upon annual tenant certifications/re-certifications and that third party verification has been obtained. This certification will be in a form that is acceptable to both RD and MFA. Project Owners must furnish RD certifications annually, verifying that Projects are in compliance with the Code.

Tax-exempt bond financed Projects in which 50% or more of the aggregate basis is funded with the proceeds of bond financing may also be exempt, in MFA's discretion, from many of the certification and review provisions outlined within this document. The monitoring and certification guidelines for these Projects must be in a form that will satisfy those agencies issuing the bonds and MFA. The Project's monitoring procedures must, at a minimum, satisfy the compliance guidelines set forth by the Code.

Projects which are 100% allowable for tax credit purposes (i.e., all Units are income and rent restricted at 60% of AMI or lower or 80% of AMI or lower with an average income of 60% AMI or lower for Average Income Projects) and that have no other financing requiring annual income re-certifications may also be exempt pursuant to HR 3221. Project Owners must furnish MFA certifications annually, verifying that Projects are in compliance with the Code, as well as any other data that MFA may require per our monitoring and compliance guidelines.

The Project Owner of any exempted Project must certify to MFA on an annual basis that the Project is in compliance with the requirements for RD assistance, tax credits or the tax-exempt bond financing guidelines, as applicable, and that all requirements of the Code are also being met. The Project Owner must inform MFA of any noncompliance or if Project Owner is unable to make one or more of the required certifications.

E. Compliance Review

MFA may elect to subcontract the monitoring procedure to other agents. In doing so, MFA would designate the subcontractor as the compliance-monitoring agent who would perform MFA's function.

In the event that any noncompliance with the Code is identified, a discrepancy letter entitled "Notice of Non-Compliance," detailing the noncompliance will be forwarded promptly to the Project Owner and the management company of the Project. The Project Owner must then respond in writing to MFA within 30 days after receipt of the discrepancy letter. The response must address all discrepancies individually and must indicate the manner in which corrections will be made. The Project Owner will then have a cure period of 30 days from the date of the discrepancies individually and must indicate the manner in which corrections will be made. The proposed owner will then have a cure period of 30 days from the date of the discrepancy letter to correct the noncompliance detected and to provide MFA with any documentation or certification found to be missing during the annual management review. The cure period may be extended for periods of up to six months. Extensions will be based on a determination by MFA that there is good cause for granting the extension.

MFA will notify the IRS within 45 days after the expiration of the cure period of any noncompliance that has been detected. All corrections made by the Project Owner within the cure period will be acknowledged within this notice. A copy of the Project Owner's response to the noncompliance will accompany the notice to the IRS.

If potential noncompliance is discovered during a Compliance Monitoring review, the Project Owner will be required to have the Project's managing agent attend a compliance training session within two months following the Compliance Monitoring review.

In order to offset the cost of monitoring procedures, an annual fee will be assessed for each year through the end of the Extended Use Period. For ~~2023~~2024, the monitoring/compliance fee is $50.00/set-aside Unit/per year. The monitoring/compliance fee can be paid annually, on or before January 31,or in a lump sum to cover the initial 15 years of the Compliance Period. If paid in a lump sum, the amount will be determined in the year the development receives a Final Allocation. Payment of the lump sum amount will be required prior to issuance of Forms 8609 for each Project. For ~~2023~~2024, the amount of the Compliance Monitoring fee for the remainder of the contractual Extended Use Period will be $20.00/set-aside Unit/per year beginning in year 16. Annual certifications and reports are due in the MFA office by March 31st of each year (for the past reporting year.) Annual compliance reports are due by March 31st of each year, through MFA's WCMS online compliance system for the full term of the Extended Use Period. Annual audited property financial statements are due in the MFA office within 120 days of the property's fiscal year end. A notice will be mailed to each Project Owner or a designated representative to remind them that the certification, reports and fees are due.

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XI. GLOSSARY

Acquisition Costs - for purposes of calculating developer fee in related party transactions, the full appraised value of any land and/or existing improvements, including any buildings; and/or costs attributable to the acquisition of any land and/or improvements, including any buildings, and including costs relating to title, recording, legal and site review.

Adaptive Reuse Projects - Projects which will involve the conversion of an existing building or buildings, which was not initially constructed for residential use to multifamily residential rental units (i.e., apartment units).

Affordability Period - Total of the initial Compliance Period plus the Extended Use Period (30-year minimum plus any additional time required and documented in the LURA).

Agency - New Mexico Mortgage Finance Authority (MFA).

Allocation Review Committee (ARC) - a committee appointed by the Chairman of the MFA Board of Directors to review Projects rating and ranking results, to determine if the proposed allocations have been made consistent with the Project Selection Criteria and the QAP, and to hear appeals and decide their outcome.

Allocation Set-asides - the federally mandated tax credit Allocation set-aside requirement for Projects involving Qualified Nonprofit Organizations, as well as other tax credit Allocation Set-asides designated by MFA from time-to-time and incorporated into the QAP.

Annual Credit Ceiling - the total dollar volume of tax credits available for distribution by the Agency and authorized pursuant to the Code, in a given year. The population-based ceiling amount is the amount of tax credits allocated to the state each year based on the state population.

Applicable Credit Percentage - the monthly interest rate issued by the U.S. Department of Treasury and used to discount the present value of the 70% tax credit (set at 9% by the PATH Act of 2015) and the 30% tax credit (~~approximately~~ set at 4% by the Consolidated Appropriations Act of 2021.)

Applicable Fraction - the fraction, the numerator of which is the number of low-income Units and the denominator of which is the total number of residential rental Units less any Unit exempted by Revenue Ruling 92-61; or the fraction, the numerator of which is the floor space of the low-income Units and the denominator of which is the total floor space of the residential rental Units less any Unit exempted by Revenue Ruling 92-61, whichever is less. The Eligible Basis of a building is multiplied by the Applicable Fraction to determine the Qualified Basis of a building for tax credit purposes.

Applicant - the General Partner or the managing member(s) of the General Partner.

Application - the completed forms, schedules, checklists, exhibits uploaded to MFA's file sharing site https://mfa.internal.housingnm.org/SFT_HD/ any additional documentation requested in the Initial

Application Package, Carryover Allocation package and Final Allocation package, as well as any supplemental materials requested by MFA. They must be submitted to MFA in accordance with the QAP in order to apply for the Tax Credit Program.

Application Deadline ~~–~~ 12:00~~4~~ p.m. Mountain Standard Time on the final day of the Application Period, except for tax-exempt bond financed Projects, for which the submission date is specified in Section VI.

Application Package - the forms, schedules, checklists, exhibits uploaded to MFA's file sharing site: https://mfa.internal.housingnm.org/SFT_HD/ and instructions thereto obtained from the Agency, which shall be completed and submitted to the Agency in accordance with all regulations in order to apply for the Tax Credit Program.

Application Period – the period during which Applications will be accepted by MFA as described in Section IV.A.

Architecture and Engineering – includes the following disciplines: all services provided through the architectural firm including architectural services and supervision, landscape design and civil, structural, mechanical, plumbing, electrical engineering. It does not include the services of a geotechnical engineer or HERS rater as these consultants are contracted directly with the developer. Interior design, if applicable to the Project, is included in the Furniture, Fixtures and Equipment line under Other Construction Costs on Schedule A.

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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.

Average Income (AI) Election – This election under the Code was authorized by the Consolidated Appropriations Act of 2018. This set-aside allows the Project to serve households up to 80% AMI as long as at least 40% of the total Units are rent and income restricted and the average income limit for all tax credit Units in the Project is at or below 60% AMI.

Binding Commitment – an agreement between MFA and an Applicant by which MFA allocates and the Applicant accepts tax credits in accordance with Section 42(h)(1)(C) of the Code. MFA's Carryover Allocation is its Binding Commitment.

Blighted Buildings – buildings that are in such severe disrepair that rehabilitation or Adaptive reuse is no longer feasible.

Board of Directors (Board) – MFA's Board of Directors.

Brownfield – land where the development, redevelopment or reuse may be complicated by presence of hazardous substance, pollutant or contaminant including petroleum. Brownfield sites require a remediation plan based on a Phase II Environmental Site Assessment.

Building's Gross Square Feet – the sum of the Gross Square Feet on each floor of a building. Covered parking and structured parking should not be included in the Building's Gross Square Feet.

Capital Needs Assessment (CNA) – a report prepared by a competent professional meeting the minimum qualification/certification requirements set forth by MFA, as defined in the Design Standards, that addresses the following:

1. Site visit and physical inspection of the interior and exterior of Units and structures
2. Interview with available on-site property management and maintenance personnel regarding past and pending repairs/improvements and physical deficiencies
3. Identification of the presence of any visible environmental hazards on the site or other life safety concerns
4. Opinion as to the adequacy of the proposed budget for recommended improvements.
5. Description of all major systems of the buildings and Units with a projection of the remaining useful life of each, including certification of critical building systems or components that have reached or exceeded their expected useful lives
6. Description of all building envelope and structural systems deficiencies
7. Projection of recurring probable expenditures for significant systems and components over 15 years.
8. Determination of the appropriate upfront and ongoing replacement reserve deposits.

Capture Rate – Ratio of the total Units proposed to the number of income qualified households in the Primary Market Area (PMA). This ratio is calculated by dividing the total number of proposed Units by the total number of age, size and income qualified renter households in the PMA.

Carryover Allocation – the provision under the Code which allows a Project, under certain conditions allowed by the Code, to receive a tax credit allocation in a given calendar year and to be Placed in Service within a period of two calendar years after the calendar year in which Applicant qualifies for a Carryover Allocation. The Carryover Allocation is MFA's Binding Commitment for tax credits.

Casualty - A casualty loss can result from the damage, destruction, or loss of your property from any sudden, unexpected, or unusual event such as a flood, hurricane, tornado, fire, earthquake, or volcanic eruption. A casualty does not include normal wear and tear or progressive deterioration.

Code –Section 42 of the Internal Revenue Code of 1986, as in effect on the date of the QAP, together with corresponding and applicable final, temporary or proposed regulations and revenue rulings issued with respect thereto by the U.S. Department of Treasury or the Internal Revenue Service of the U.S.

Complete Application – an Initial Application meeting all of the requirements in Section IV.A.4, Content and Format.

Compliance Monitoring – the Agency's procedure, as required by the Code and detailed in MFA's Tax Credit Monitoring and Compliance Plan, of auditing and inspecting all completed LIHTC Projects.

Compliance Period – with respect to any building that is included in the LIHTC Project, a minimum period of 15 years beginning on the first day of the first taxable year of the tax Credit Period with respect thereto in which a LIHTC Project shall continue to maintain the low-income Units as low-income Units pursuant to Applicant's Set-aside Election in the Application, pursuant to the Code. Compliance Period plus Extended Use Period equals Affordability Period.

Concerted Community Revitalization Plan – a metropolitan redevelopment plan as defined in NMSA 1978 Section 3-60A-4 prepared and enacted by a local, county or tribal government prior to the Application Deadline. For Projects located on sovereign tribal lands, "Concerted Community Revitalization Plan" means a written plan similar in content and affect to a metropolitan redevelopment plan as defined in NMSA 1978 Section 3-60A-4, prepared and enacted by a tribal government prior to the Application Deadline, which identifies barriers to community vitality and promotes specific concerted revitalization activities within an area having distinct geographic boundaries and must contain more components than the LIHTC Project itself.

Consolidated Plan – plan prepared in accordance with HUD regulations, 24 C.F.R. 91 (1994), which describes needs, resources, priorities and proposed activities to be undertaken with respect to certain HUD programs.

Construction Costs – for purposes of calculating builder profit, overhead and general requirements and per Unit rehabilitation construction Cost, the on-site and construction Costs in the construction contract, before gross receipts tax, profit, overhead and general requirements. At Initial Application and Carryover, Construction Cost should include a reasonable construction contingency.

Contact Person – a person identified in the Initial Application with decision-making authority for the Applicant, Developer or the Project Owner, with whom MFA will correspond concerning the Application and for the Project.

Contractor's Cost Certification – a certification prepared and executed by the general contractor, indicating all identities of interest and certifying that all Construction Costs included are related to the Project.

Cost Certification – A certification prepared by a CPA on forms provided by MFA, indicating the method of certification, all identities of interest and certification that all Project costs included are related to the project.

Credit Period – with respect to any building that is included in the LIHTC Project, the period of 10 years beginning with 1) the taxable year in which the building is Placed In Service or 2) at the election of the Project Owner, the succeeding taxable year.

Developer – any individual, association, corporation, joint venture or partnership, which is to manage all aspects of the construction and/or rehabilitation of the proposed Project.

Development Costs – the sum total of all costs incurred in the development of a ~~Project~~Project, all of which shall be subject to approval and are approved by MFA as reasonable and necessary. Such costs may include, but are not limited to:

1. The cost of acquiring real property and any building thereon, including payment for options, deposits or contracts to purchase properties.
2. The cost of site preparation and development.
3. Any expenses relating to the issuance of tax-exempt bonds or taxable bonds by the Agency, if any, related to the Project.
4. Fees in connection with the planning, execution and financing of the Project, such as those of architects, engineers, attorneys, accountants and the Agency.
5. The cost of studies, surveys, plans, permits, insurance, interest, financing, tax and assessment costs and other operating and carrying costs incurred during construction, rehabilitation or reconstruction of the Project.
6. The cost of the construction, rehabilitation and equipping of the Project.
7. The cost of land improvements, such as landscaping and off-site improvements related to the Project, whether such costs are paid in cash, property or services.
8. Expenses in connection with initial occupancy of the Project.
9. Allowances established by the Agency for working capital, contingency reserves and reserves for any anticipated operating deficits during the first two years after completion of the Project.
10. The cost of such other items, including relocation cost, indemnity and surety bonds, premium on insurance and fee and expenses of trustees, depositories and paying agents for bonds.

Difficult Development Area or DDA – any area designated by the secretary of HUD as having high construction, land and utility costs relative to Area Median Income in accordance with Section 42(d)(5) of the Code.

Eligible Application or **Eligible Project** – an Application or Project which has met all minimum Project threshold requirements.

Eligible Basis – the sum of the eligible cost elements that are subject to depreciation, such as expenditures for new construction, rehabilitation and building acquisition.

Eligible Partners or **Eligible Households** – one or more natural persons or a household, irrespective of race, creed, national origin or sex, determined by the Agency to be of low- or very low-income. In determining the income standards of eligible persons for its various programs, the Agency shall take into account the following factors:

1. Requirements mandated by federal law
2. Variations in circumstances in the different areas of the state
3. Whether the determination is for rental housing
4. The need for household size adjustments

Extended Use Period – with respect to any building that is included in a LIHTC Project, the period of affordability **following** the initial 15-year Compliance Period during which time the Project continues to be restricted to affordable low-income housing. The minimum Extended Use Period required by Code is fifteen years. Compliance Period plus Extended Use Period equals Affordability Period.

Feasibility Analysis – a financial analysis based on rules established by the IRS and MFA to determine a Project's financial feasibility, which is completed to ascertain a tax credit amount, the adequacy of financing sources, and the income required to support operation of the Project.

Federal Grant – any federal grant except those specifically excluded in Section 1.42-16(b) of the Treasury regulations.

Federal Subsidy – any construction or permanent financing that is directly or indirectly financed from state or local bonds, including municipal bonds, which are tax-exempt for federal income tax purposes.

Federally-assisted Building – any building which is substantially assisted, financed or operated under Section 8 of the United States Housing Act of 1937, Section 221(d)(3), Section 221(d)(4) or 236 of the United States Housing Act, Section 515 of the Housing Act of 1949 or any other program administered by HUD or by the rural housing service of the Department of Agriculture.

Final Allocation – a determination by MFA that a Project is complete and that a certain amount of tax credits is warranted. The Final Allocation must be requested by the Project Owner and culminates in delivery of IRS Form 8609 by MFA.

Financing Commitment – a commitment for permanent or construction financing which 1) is not subject to further approval by any loan committee or board of directors or other entity of the creditor making the commitment and 2) contains specific terms of funding and repayment.

General Partner – that partner or collective of partners identified as the General Partner of the partnership that is the Project Owner and that has general liability for the partnership. If the Project Owner is a limited liability company, the term General Partner shall mean the managing member or members with management responsibility for the limited liability company.

Government Entity or **Instrumentality** – any agency or other government created entity of the state of New Mexico, the counties or municipalities of New Mexico or the tribal governments of New Mexican tribes and pueblos.

Gross Square Feet – the area that includes all enclosed space as measured from the exterior face of the building walls and means everything under the roof, including storage and patios. Covered parking and structured parking should not be included in Gross Square Feet.

Hard Construction Costs - calculated as the sum of costs for existing structures, site work, rehab and/or new construction, and hard cost contingency, as related to the housing components of the development only. This figure excludes land costs. The costs considered for calculating these points will not include any costs related to commercial or retail space. (All costs reflected on Schedule D in the Application.)

Historic Property – a building or buildings certified on the National Register of Historic Places (i.e., meet the criteria for Part 1 Approval for Historic Tax Credits

Households or individuals experiencing homelessness - A household or individual is considered homeless if they:

1. lack a fixed, regular, and adequate nighttime residence, which includes a primary nighttime residence of places not designed for or ordinarily used as a regular sleeping accommodation (including cars, parks, abandoned buildings, etc.) or publicly or privately operated shelters or transitional housing, including a hotel or motel paid for by government or charitable organizations; or
2. are being discharged from an institution where they've been a resident for 90 days or less and the person resided in a shelter (but not transitional housing) or place not meant for human habitation immediately prior to entering that institution; or
3. are being evicted from their primary nighttime residence within 14 days and no subsequent residence has been identified and the individual/household lacks the resources and support networks (i.e., family, friends, faith-based or other social networks) needed to obtain housing; or
4. have ALL of these characteristics:
    - unaccompanied youth (less than 25 years of age) or family with children and youth;
    - defined as homeless under other federal statutes who do not otherwise qualify under this definition;
    - has not had a lease, ownership interest, or occupancy agreement in permanent housing for 60 days prior to applying for occupancy;
    - has moved two or more times in the 60 days immediately prior to applying for occupancy; AND
    - has one or more of the following: a) chronic disabilities, b) chronic physical or mental health conditions, c) substance addiction, d) histories of domestic violence or childhood abuse, e) child with a disability, f) or two or more barriers to employment, which include i) lack of a high school diploma or GED, ii) illiteracy, iii) low English proficiency, iv) history of incarceration or detention for criminal activity, or v) history of unstable employment.
5. are fleeing or attempting to flee domestic violence, dating violence, sexual assault, stalking, or other dangerous or life-threatening situations related to violence; have no other residence; and lack the resources and support networks needed to obtain housing.

Households with Children – households that include one or more persons under the age of 18 years.

Households with Special Housing Needs – households in which an individual or household member is in need of supportive services, tenancy supports and housing and meets at least one of the following definitions:

1. Has a physical or mental impairment that substantially limits one or more major life activities; has a record of such impairment; or is regarded as having such impairment. In general, a physical or mental impairment includes hearing, mobility and visual impairments, chronic alcoholism, chronic

mental illness, AIDS, AIDS Related Complex, and developmental disability that substantially limits one or more major life activities. Major life activities include walking, talking, hearing, seeing, breathing, learning, performing manual tasks, and caring for oneself.

2. Households or individuals experiencing homelessness (see definition above).

HUD – U.S. Department of Housing and Urban Development.

Identity of Interest – occurs when any officer, director, board member or authorized agent of any development team member (consultant, general contractor, attorney, management agent, seller of the land, etc.): 1) is also an officer, director, board member or authorized agent of any other development team member; 2) has any financial interest in any other development team member's firm or corporation; 3) is a business partner of an officer, director, board member or authorized agent of any other development team member; 4) has a family relationship through blood, marriage or adoption with an officer, director, board member or authorized agent of any other development team member or 5) advances any funds or items of value to the sponsor/borrower.

Initial Application – the Application first provided to MFA on or before an Application Deadline to request an allocation of tax credits.

Land Use Restriction Agreement or **LURA** – the agreement submitted to the Agency restricting the property to affordable housing use during the Compliance Period and Extended Use Period.

Letter of Determination – the letter issued by MFA pursuant to Section 42(m)(1)(D) of the Code advising the Project Owner that MFA has made the determination that a tax-exempt bond financed Project satisfies the requirements for an allocation of tax credits under the QAP conditioned upon Project compliance with the Code.

LIHTC Project – the proposed or existing rental housing development(s) for which tax credits have been applied for or received.

Local Government – any county, municipality, tribe or other general-purpose political subdivision in the state of New Mexico.

Local Notice – MFA's letter to the chief executive office (or the equivalent) of the local jurisdiction within which the Project is located, which provides a 30-day period to comment on the Project pursuant to Code Section 42(m)(1)(A)(ii).

Low Income Housing Tax Credit (LIHTC) Program or **Tax Credit Program** – the rental housing program administered by MFA pursuant to the Code and by the state of New Mexico Executive Order 97-01.

Low-income Tenants – households that occupy Set-aside Units.

Low Income Units or **Set-aside Units** – Units which are rent restricted and set-aside for tenants whose income does not exceed 50%, 60% or some lower percentage, whichever is elected, of Area Median Income.

Management Units -

Employee/Exempt Unit

The general-public-use requirement of § 1.42-9 does not apply in the case of units for resident managers, maintenance personnel or courtesy officers (Exempt Units) in a qualified low- income building because the units are not residential rental units but facilities reasonably required for the project. Because the presence of an employee unit must be necessary for project operations, the IRS may examine whether an employee who resides in an employee/exempt unit serves primarily the property where they live by working full time at the property. The necessity of the employee unit may be called into question if the employee's responsibilities are split among more than one property or even if the employee holds a second job.

Based upon the above facts and representations, the IRS has ruled as follows: The adjusted basis of

the unit occupied by resident managers, maintenance personnel or courtesy officers is included in the eligible basis of the building under section 42(d)(1), but the unit is excluded from the applicable fraction of the building under section 42(c)(1)(B). Further, the inclusion of the adjusted basis of the unit occupied by resident managers, maintenance personnel or courtesy officers in eligible basis will not be affected by a later conversion of that unit into a residential rental unit.

Additionally, the Internal Revenue Service (IRS) released a program manager technical assistance (PMTA) memo dated June 2, 2014 (PMTA 2014-22), which clarified the IRS position regarding charging for exempt units. In the memo, the IRS states, "Charging resident managers or maintenance personnel rents, utilities, or both for units in a qualified low-income building does not make the units residential rental units and not facilities reasonably required for the project under §1.103-8(b)(4)(iii)."

Market Rate Units – residential rental Units that are not low-income Units.

Material Design Changes – any change in the Project, its scope or its quality which would affect its underwriting or compliance with MFA's mandatory design standards. For example, a change in building area, unit areas, unit counts, amenities, parking quantities, landscaping scope, energy performance, water usage, quality of construction or specification would each constitute a material change.

Minority - For purposes of Scoring Criterion 21(vi), a Minority is a racial or ethnic group, members of which have been subjected to prejudice or cultural bias by virtue of belonging to the group, without regard to individual qualities. Such racial or ethnic groups include, but are not limited to:

(1) African Americans. Persons having origins in any of the African racial groups of Africa.

(2) Hispanic Americans. All persons of Mexican, Puerto Rican, Cuban, South or Central American, Caribbean and other Spanish or Portuguese culture or origin.

(3) Native Americans. Persons having origins in any of the original peoples of North America or the Hawaiian Islands, in particular, American Indians, Eskimos, Aleuts and Native Hawaiians.

(4) Asian-Pacific Americans. Persons having origins in Japan, China, the Philippines, Vietnam, Korea, Samoa, Guam, the U.S. Trust Territories of the Pacific, Northern Marianas, Laos, Cambodia, Taiwan and India.

Moderate Rehabilitation – repairs, replacements and improvements that do not fall into Substantial Rehabilitation as defined herein or where the work is limited to level two (2) alterations (as described by Enterprise Green Communities Criteria.) Level two alterations include the reconfiguration of space, the addition or elimination of any door or window, the reconfiguration or extension of any system, does not include the replacement of two or more major systems or the installation of any additional equipment. A Project where the work area does not exceed 50% of the aggregate area of the building (the work scope is less than an ICC level three alteration.)

New Mexico Housing Authority (NMHA) – any public housing authority legally established in the state of New Mexico.

Placed In Service – the date on which the first Unit of a new construction Project is certified or otherwise officially declared as available for occupancy as evidenced by the Certificate of Occupancy. For rehabilitation Projects, it is the date of the Certificate of Substantial Completion. For acquisitions of existing Projects, it is the date of purchase by a new Project Owner.

Principal – an Applicant, any General Partner of an Applicant, and any officer, director, board member or any shareholder, General Partner, managing member or affiliate of an Applicant. It also includes any entity receiving any part of a developer fee for a Project. For Project compliance purposes (**Section IV.C.8**), Principal would include shareholders with interests of 25% or more, all officers of a corporation (including employees, but excluding volunteer ~~whether~~ board members with no financial interest ~~or employees~~), all General Partners or members.

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Project – the development proposed by the Applicant as specifically described in the Application.

Project Owner – the legal entity that ultimately owns the Project and to which tax credits will be allocated.

Project Selection Criteria – the criteria used to score a Project for tax credit allocation purposes.

Qualified Allocation Plan or **QAP** – this Qualified Allocation Plan, which was adopted by Board action on October 18~~19~~, ~~2022~~2023 and made effective as of December 1, ~~2022~~2023, which was approved by the Governor of the state of New Mexico pursuant to Section 42(m)(1)(B) of the Code and sets forth the Project Selection Criteria and the preferences for Projects which will receive tax credits.

Qualified Basis – the portion or percentage of the Eligible Basis that qualifies for the tax credit. It is calculated by multiplying the Eligible Basis by the Applicable Fraction.

Qualified Census Tract or QCT – any census tract which is designated by the Secretary of HUD as having 50% or more of the households at an income level which is less than 60% of the Area Median Income in accordance with Section 42(d)(5) of the Code.

Qualified Leasehold Interest – a leasehold interest running at least as long as the Extended Use Period.

Qualified Nonprofit Organization – an organization described in Sections 501(c)(3) or 501(c)(4) of the Code and exempt from tax under Section 501(a). The production of decent, safe and affordable housing must be one of the defined goals, objectives or purposes of the nonprofit organization. The nonprofit organization must materially participate in the Project, meaning that the organization must be involved on a regular, continuous and substantial basis in both the development and operation of the Project during the term of the Compliance Period. The nonprofit must also own an interest in the Project throughout the Compliance Period and may not be affiliated with or controlled by a for-profit organization.

Rent Restricted Unit – with respect to a LIHTC Project, a Unit for which the gross rent does not exceed 30% of the imputed Area Median Income limitation applicable to such Unit as chosen by the Applicant in the Application and in accordance with the Code. Gross rent must be determined from the rent charts included in the Application Package and must correspond to the percentage of Area Median Income selected by the Applicant in the Application. It includes the cost of utilities and must be reduced by the amount of tenant-paid utilities. Gross rent includes all income for the Unit, including tenant and any subsidy payments. See also "Unit."

Reservation or Reservation Contract – the contract executed by MFA and the Applicant with respect to an allocation of tax credits, which states the conditions to be met by Applicant prior to issuance of a Carryover Allocation.

Reservation Letter– a document issued by MFA which describes the amount of credits provisionally awarded to a Project and the conditions which the Project Owner must meet in order to obtain a Binding Commitment for tax credits.

Rural Development or RD or USDA (previously called "Farmer's Home Administration" or "FMHA" of the U.S. Department of Agriculture) means Rural Development or other Agency or Instrumentality created or chartered by the U.S. to which the powers of RD have been transferred.

Section 811 Project-based Rental Assistance Demonstration Program (Section 811 PRA) – The purpose of the Section 811 PRA is to expand the supply of supportive housing that promotes and facilitates community integration for people with significant and long-term disabilities. Section 811 PRA provides a project-based rent assistance subsidy that covers the difference between the tenant payment and the approved contract rent. Tenants pay 30 percent of their adjusted gross income for rent and utilities. Tenant referrals and service providers are coordinated by the Department of Human Services (DHS) and Local Lead Agencies (LLAs). For more information go to: https://housingnm.org/property-owners-agents-and-managers/section-811-project-rental-assistance

Senior Housing – Projects that qualify for an exemption from familial status discrimination under the Fair Housing Act. To qualify for this exemption, Projects must be: (i) provided under any state or federal program that HUD has determined to be specifically designed and operated to assist elderly persons (as defined in the state or federal program); or (ii) intended for, and solely occupied by persons 62 years of age or older; or (iii) intended and operated for occupancy by persons 55 years of age or older in compliance with the Housing for Older Persons Act (HOPA), 24 CFR Part 100 Final Rule.

Set-aside Election – the federally imposed minimum proportion of total Project Units set-aside as low-income Units at one or more Area Gross Median Income level(s). This election is made by the Applicant and meets the minimum requirements of Code Section 42: larger proportions of Units are generally set-aside by the Applicant and restricted in the LURA.

Set-aside Units those Units eligible for low income housing tax credits.

Single Room Occupancy – housing consisting of single room dwelling Units. The Unit must contain either food preparation and/or sanitary facilities.

Special Needs – see definition above under Households with Special Housing Needs.

State-assisted Building – any building which is substantially assisted, financed or operated under any state law similar in purposes to Section 8 of the United States Housing Act of 1937, Section 221(d)(3), Section 221(d)(4) or 236 of the United States Housing Act, Section 515 of the Housing Act of 1949 or any other program administered by HUD or by the USDA Rural Housing Service.

Substantial Rehabilitation – commonly referred to as a "gut" rehabilitation and includes the replacement and/or improvements to at least two (2) major systems of the building, including its envelope. Major building systems include roof structures, wall or floor structures, foundations, plumbing, heating, ventilating and air conditioning (HVAC) and electrical systems. The building envelope is defined as the air barrier and thermal barrier separating exterior from interior space. A Substantial Rehabilitation also includes a Project where the work area exceeds 50% of the aggregate building area ~~of the building~~ (an ICC level 3 alteration Scope of Work.)

Tax Credit Ceiling Rents – the maximum rent that may be charged for a Rent Restricted Unit.

Tenant Conversion Plan – a written plan acceptable to MFA, describing the method to be used to enable tenants to acquire ownership of their Units at such time as conversion to owner occupancy is allowed under the Code. The Project Owner must provide and describe the type of homeownership, financial and maintenance counseling to be offered. The Project Owner must describe in detail how the Unit will be converted from a rental Unit to homeownership. Please refer to Section III.E.15 for more information on Eventual Tenant Ownership.

Total Development Cost – the total of all costs incurred or to be incurred by the Project in acquiring, constructing, rehabilitating and financing the Project. For ~~purposes~~the purposes of calculating developer fees, Total Development Cost will be adjusted to exclude developer fees (which includes consultant fees), commercial space Construction Costs and all reserves. For purposes of calculating cost limits, the

purchase price attributed to the land, any costs related to commercial space, reserves (not eligible for tax credits), and costs of bond issuance on line 65 of Schedule A will be excluded.

Unit – a residential rental housing Unit in a Project including manager and employee Units.

Universal Design – any component of a house or apartment that increases the usability for people of all ages, size and abilities and enhances the ability of all residents to live independently for as long as possible.

Urban Area – A location within the boundaries of Bernalillo County, the City of Rio Rancho, the City of Las Cruces, or the City of Santa Fe.

XII. List of Appendices

The following documents are incorporated by reference into this Qualified Allocation Plan:

- ~~2023~~2024 MFA Universal Rental Development Application
- ~~2023~~2024 MFA Universal Rental Development Schedules A – F
- ~~2023~~2024 MFA Underwriting Supplement
- ~~2023~~2024 MFA Design Standards
- ~~2023~~2024 MFA Design Standards – Supplement A – NHTF Requirements
- ~~2023~~2024 Market Study Parameters
- ~~2023~~2024 Bond Checklist
- ~~2023~~2024 Carryover Allocation & 10% Test Instructions & Checklist
    - Assignment of Building Identification Numbers
    - Architect's Certification
    - Option to Lock Applicable Credit Percentage (Section 42(b) of the Code)
    - Ten Percent Letter (Independent Accountant's Report)
    - Form of Owner's Attorney's Opinion
    - Exhibit A to Independent Auditor's Report
- MFA Compliance Addendum
- Service Coordination Checklist of Responsibilities
- ~~2023~~2024 Placed In Service and Final Allocation Instructions & Checklist
    - Schedule M Addendum to Application
    - Form A Instructions
    - Form A – Final Certification of Uses
    - Form B – Independent Accountant's Report
    - Form C1 – Owner's Cost Certification
    - Form C2 – General Contractor's Cost Certification
    - ~~2023~~2024 MFA form of Attorney Opinion
    - ~~2023~~2024 Form 8609 Certification
    - ~~2023~~2024 As-Built Architect Certification
    - ~~2023~~2024 Lender's Consent and Agreement to Recording of and Subordination to Land Use Restriction Agreement
    - ~~2023~~2024 Project Ownership Profile
    - ~~2023~~2024 Sample LIHTC LURA
    - ~~2023~~2024 Sample Equity Certification Letter
- Low-Income Housing Tax Credit Compliance Plan, December 2021 as may be amended
- Annual Owners Certification, December 2021 as may be amended
- Rent and Income Limits (LIHTC, TCAP, TCEP, RS) - https://housingnm.org/property-owners-agents-and-managers/tools-resources-1/rent-and-income-limits

Exhibit 1

Board Members

Chair – Angel Reyes – Centinel Bank in Taos
Vice Chair – Derek Valdo – Chief Executive Officer, AMERIND Risk
Treasurer – Rebecca Wurzburger – Strategic Planning Consultant
Member - Howie Morales - Lieutenant Governor, state of New Mexico
Member - ~~Hector Balderas~~Raúl Torrez – Attorney General, state of New Mexico
Member -~~Tim Eichenberg~~Laura M. Montoya – Treasurer, state of New Mexico
Member – Patricia A. Sullivan – Associate Dean, New Mexico State University

Allocation Review Committee

Chair, Patricia A. Sullivan
Member, Michael A. D'Antonio
Member, ~~Lyle Greenberg~~Edward Archuleta
Member, Rosalyn Nguyen Chafey
Member, Robert White
Member, Nicole L. Martinez
Member, Adelmo (Del) Archuleta
Member, Kenneth Carson, Jr.

Management

Isidoro "Izzy" Hernandez, Executive Director and Chief Executive Officer
Donna Maestas-De Vries, Chief Housing Officer
Jeff Payne, Chief Lending Officer
~~Lizzy Ratnaraj~~Arundhati Bose, Chief Financial Officer
George Maestas, Director of Housing Development
~~Kathryn Turner~~Jacobo Martinez , Assistant Director of Housing Development
Jeanne Redondo, Tax Credit Program Manager
Christi Wheelock, Tax Credit Analyst

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STATE OF NEW MEXICO

LOW-INCOME HOUSING TAX CREDIT PROGRAM

QUALIFIED ALLOCATION PLAN

Effective as of December 1, 2023



Housing New Mexico

DRAFT

NEW MEXICO MORTGAGE FINANCE AUTHORITY

Approved by Board of Directors on October 18, 2023
Approved by the Honorable Governor Michelle Lujan Grisham on ___, 2023

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I. Background and Purpose of the Qualified Allocation Plan

A. General

This "Allocation Plan" constitutes the "Qualified Allocation Plan" (QAP) for the state of New Mexico and is intended to comply with the requirements set forth in Section 42 of the Internal Revenue Code of 1986[1], as amended, including all applicable rules and regulations promulgated thereunder (collectively, the "Code"). This Allocation Plan applies to all allocations of Low Income Housing Tax Credits pursuant to the Code (hereinafter LIHTC, credits or tax credits) and multifamily private activity tax-exempt bonds made for QAP year 2024.

The LIHTC program was created in the Tax Reform Act of 1986 as an incentive for individuals and corporations to invest in the construction or rehabilitation of low income housing. The tax credit provides the investor a dollar-for-dollar reduction in personal or corporate federal income tax liability for a 10-year period for Projects[2] meeting the Program's requirements.

B. Role of MFA

New Mexico Mortgage Finance Authority (MFA) is the Housing Credit Agency (HCA) for the state of New Mexico, responsible for administering the Tax Credit Program and allocating tax credits to eligible New Mexico Projects. Accordingly, MFA awards tax credits to Projects meeting its Project selection criteria, including an annual population allocation, any subsequent carry-forward, returned credits and national pool credits. MFA monitors existing Projects for compliance with the Code; however, MFA does not make any representation to any party concerning compliance with the Code, U.S. Department of Treasury ("Treasury") regulations[3] or other laws or regulations governing LIHTC. Neither MFA, nor its agents or employees, will be liable for any matters arising out of or in relation to, the allocation of LIHTC. All organizations and individuals intending to utilize the LIHTC program should consult their own tax advisors concerning the application of tax credits to their Projects and the effect of tax credits on their federal income taxes.

Administration of the Tax Credit Program, as outlined in this QAP, is consistent with the statutes creating MFA in 1975 [Chapter 303, Laws of New Mexico, 1975, known and cited as the New Mexico Mortgage Finance Authority Act, being Sections 58-18-1 through 58-18-27, inclusive), as supplemented in 1995, as follows:

> The legislature hereby finds and declares that there exists in the state of New Mexico a serious shortage of decent, safe and sanitary residential housing available at prices and rentals within the financial means of persons and families of low income. This shortage is

[1] Section 42 of the Code is found in the United States Code in Title 26, Subtitle A, Chapter 1, Subchapter A, Part 4, Subpart D, at Section 42 (26 U.S.C. §42.)
[2] Capitalized terms, when not defined in the text of this document, are defined in **Section XI** or in the Code.
[3] Treas. Reg. 26 CFR § 1.42.

> severe in certain Urban Areas of the state, is especially critical in the rural areas and is inimical to the health, safety, welfare and prosperity of all residents of the state. The legislature hereby further finds and determines that to aid in remedying these conditions and to help alleviate the shortage of adequate housing, a public body politic and corporate, separate and apart from the state, constituting a governmental instrumentality, to be known as the New Mexico Mortgage Finance Authority should be created with power to raise funds from private investors in order to make such private funds available to finance the acquisition, construction, rehabilitation and improvement of residential housing for persons and families of low income within the state. The legislature hereby finds and declares further that in accomplishing this purpose, the New Mexico Mortgage Finance Authority is acting in all respects for the benefit of the people of the state in the performance of essential public functions and is serving a valid public purpose in improving and otherwise promoting their health, welfare and prosperity and that the enactment of the provisions hereinafter set forth is for a valid public purpose and is hereby so declared to be such as a matter of express legislative determination.

The federal laws governing the Tax Credit Program are subject to change. Final interpretations of certain rules and regulations governing the Program may not yet have been issued by the U.S. Department of Treasury. In the event that any portion of this QAP should conflict with the Code, amendments made thereto, or federal regulations promulgated thereunder, the federal regulation shall take precedence. If any portion of this QAP is invalid due to such conflict, the validity of the remaining portions will in no way be impacted, affected or prejudiced.

MFA reserves the right to resolve all conflicts, inconsistencies or ambiguities, if any, in this Allocation Plan or which may arise in administering, operating or managing the allocation of LIHTC.

In accordance with MFA's inherent discretion, reasonable judgement and prudent business practices, MFA may reject any Application (as defined in the Glossary) or Project that MFA has determined does not satisfy the requirements and objectives of the Code, regulations promulgated under the Code or this QAP, regardless of the Application's rank priority.

MFA shall not be responsible for any expenses incurred by any Applicant in submitting an Application or otherwise responding to or providing any information in conjunction with this QAP. All costs incurred by Applicants in the preparation, transmittal or presentation of any Application or material submitted in response to this QAP shall be borne solely by the Applicants.

In addition, MFA may cancel or modify the provisions of this QAP at any time and may reject any or all Applications submitted under this QAP and re-issue the QAP. If MFA rejects any or all Applications submitted under this QAP and re-issues the QAP, all costs incurred by Applicants in the preparation, transmittal or presentation of any Application or materials submitted in response to this QAP shall again be borne solely by Applicants.

REGARDLESS OF ANY PROVISION OF THIS QAP OR ANY DOCUMENT REFERENCED BY OR INCORPORATED IN THIS QAP, IT IS EACH APPLICANT'S SOLE RESPONSIBILITY TO DEMONSTRATE IN ITS APPLICATION THAT THE PROJECT PROPOSED SHALL COMPLY WITH THE CODE AND ALL ASSOCIATED

REGULATIONS IN ALL RESPECTS. FAILURE BY ANY APPLICANT TO DEMONSTRATE THAT THE PROPOSED PROJECT SHALL COMPLY WITH THE CODE AND ALL ASSOCIATED REGULATIONS SHALL RESULT IN THE REJECTION OF THE APPLICATION AND PROJECT.

Code Section 42(m) states that the HCA must make allocations of tax credits pursuant to a QAP which:

1. Sets forth Project Selection Criteria to be used to determine housing priorities of the HCA, which are appropriate to local conditions. These criteria must consider project location, housing needs characteristics, project characteristics, sponsor characteristics, public housing waiting lists, tenants with Special Housing Needs including individuals with children, energy efficiency standards, historic character and projects intended for eventual tenant ownership.

2. Gives preference in allocating housing credit dollar amounts among selected Projects to those which:
    a. Serve the lowest income tenants;
    b. Serve qualified tenants for extended periods of time; and
    c. Are located in Qualified Census Tracts (QCTs) and the development of which contributes to a Concerted Community Revitalization Plan.

3. Provides a procedure that the Agency will use in monitoring for noncompliance.

This document is intended to fulfill requirements one and two above for MFA's tax credit allocation activity in the state, commencing on its effective date. The procedure required in item three above is summarized in **Section X** but published in full under a separate cover, titled Low-Income Housing Tax Credit Compliance Plan, and is available on our website: http://housingnm.org/asset_management/housing-tax-credit.

C. Public Hearings

Following public notice, a draft QAP was made available to the public for comment for a period of 21 days (beginning August 15, 2023 and continuing through September 5, 2023,), during which time a public hearing was held on August 30, 2023, . MFA accepted written comments during this 21-day comment period, as extended, and considered comments presented at the public hearing, prior to completion of the plan.

II. Low Income Housing Tax Credit Program Summary

A. General

The Tax Reform Act of 1986 established the Tax Credit Program to stimulate private sector investment in low income rental housing. In August of 1993, permanency was granted to the Tax Credit Program after numerous temporary annual extensions.

There are numerous technical rules governing a Project's qualification for tax credits. The following subsections of this Section II contain a summary of certain key provisions of the Code and regulations and the Tax Credit Program. Applicants are advised to review the Code directly for further detail.

B. Amount of Competitive Tax Credit Available Statewide

The state of New Mexico, for the calendar year 2024, will receive a population-based 9% tax credit allocation equal to $2.75 per resident. The current year's population estimates, as provided by the Internal Revenue Service (IRS) and the estimated Annual credit ceiling, including any carry-forward, returned or national pool credits received by the state, may be found on MFA's website: http://housingnm.org/developers/low-income-housing-tax-credits-lihtc.

C. Allocation to New Construction and Rehabilitation Projects

In order to serve both the purpose of building new affordable housing units and rehabilitating existing structures to create or preserve affordable housing units, MFA will allocate the tax credits awarded in the 9% Application round based on project type. As such, new construction Applications, including Adaptive reuse Applications, will be scored against other new construction Applications and rehabilitation Applications will be scored against other rehabilitation Applications; thus creating two separate tracks or categories for purposes of scoring and reserving tax credits for specific Projects. An Adaptive reuse Project shall be categorized as a new construction Project for these purposes. From those tracks, the two highest scoring new construction Projects will be awarded first, followed by the highest scoring rehabilitation Project. The target pattern of two new construction Projects followed by one rehabilitation Project will be followed until all credits are allocated, or until the last Project in a track has been awarded. Projects awarded in the Nonprofit or Underserved Population set-asides will be considered in achieving this target. Forward allocations may be made following the same process, however any decision to forward allocate tax credits lies solely within MFA's inherent discretion and is not subject to further review.

MFA will use the same process to select Projects that have been placed on the waiting list for an allocation of tax credits. For example, if a rehabilitation Project is initially awarded tax credits but later fails to move forward in the allocation process, the next highest-scoring rehabilitation Project may be given an award of tax credits. If no similarly categorized Project is available (e.g. if no rehabilitation Project is available for purposes of this example), then MFA may choose the next highest-scoring Project in the other track/category from the waiting list (e.g. new construction for purposes of this example.)

D. Nonprofit Allocation Set-aside

A minimum of 10% of the Annual credit ceiling must be allocated each year to Projects involving Qualified Nonprofit Organizations. MFA's Allocation set-asides (see **Section III.D**) are intended to implement this requirement. However, Qualified Nonprofit Organizations may also apply for tax credits in excess of these set-asides.

For the purposes of identifying Applicants eligible for this Allocation set-aside, several requirements must be met, as described in Code Section 42(h)(5). A Qualified Nonprofit Organization is an organization described in Sections 501(c)(3) or 501(c)(4) of the Code and exempt from tax under Section 501(a). The production of decent, safe and affordable housing must be one of the defined goals, objectives or purposes of the nonprofit organization. The nonprofit organization must materially participate in the Project, meaning that the organization must be involved on a regular, continuous and substantial basis in both the development and operation of the Project during the term of the Compliance Period. The nonprofit must also own an interest in the Project throughout the Compliance Period and may not be affiliated with or controlled by a for-profit organization. An opinion of counsel addressing the status of the nonprofit organization and qualification for the Nonprofit Set-Aside may be required.

E. Minimum Apartment Unit Set-Asides

In order for a Project to qualify for tax credits, the Project Owner must make a minimum Set-aside Election of income and rent levels as listed below. Once made, this election is irrevocable. If the Project fails to meet its elected minimum set-aside standard at the end of each year, it is not a qualified low-income housing project for the year under IRC Section 42(g)(1)(C) and this noncompliance must be reported on IRS Form 8823. The Project Owner may be subject to the recapture of low income housing tax credits.

1. 20/50 election: At least 20% of the Units in the Project must be rent-restricted to and occupied by households whose income is at or below 50% of the Area Median Income (AMI).

2. 40/60 election: At least 40% of the Units in the Project must be rent-restricted to and occupied by households whose income is at or below 60% of the AMI.

3. Average Income (AI) election: This election under the Code was authorized by the Consolidated Appropriations Act of 2018. This election allows the Project to serve households up to 80% AMI as long as at least 40% of the total Units are rent and income restricted and the average income limit for all tax credit Units in the Project is at or below 60% AMI. The following applies for this election:
    a. Income and rent limits **must be in ten percent increments,** and may include 20% AMI, 30% AMI, 40% AMI, 50% AMI, 60% AMI, 70% AMI, or 80% AMI.

b. If the Project has an existing LIHTC Land Use Restriction Agreement (LURA) on the property, both initial election (20/50 or 40/60) and AI election must be met.
c. The average of the imputed income limitations designated cannot exceed 60% AMI.
d. Those Projects electing AI must include at least 5% of their Units above 60% AMI.
e. All Units must be designated with a specific AMI percentage at the time of Application.
f. Unit designations may float but are subject to the Next Available Unit Rule and the original designations must be maintained throughout the Affordability Period. Average Income applies to rent and income limits. If a Unit has a designated limit of 80% AMI, the maximum rent that can be charged to a household for that Unit is 30% of 80% of AMI. Similarly, if a Unit has a limit of 40% AMI, the maximum rent that may be charged is 30% of 40% of AMI.
g. Skewing of Unit designations is not permitted. Project Owners must disperse unit types across chosen rent/income limits in a way that does not violate Fair Housing. MFA will require reasonable parity between different bedrooms sizes at each income band utilized on the Project.
h. The market study must demonstrate sufficient need at each income level chosen.
i. Project Owners of Projects with more than one building must elect to treat all of them as part of a multiple building project (checking "Yes" on line 8b of the 8609 form).
j. AI Projects may be subject to an increased Compliance Monitoring fee.
k. MFA shall only accept an Application that chooses the AI election if all Units in the Project are rent-restricted to and occupied by households whose income is at or below 80% of AMI. In other words, MFA will not accept an Application that chooses the AI election if the Project includes unrestricted Market Rate Units.
l. An Application for an AI Project must include within its equity and debt commitment letters confirmation of the utilization and approval of the AI election.

The changes to the Code described above do not extend to the set-aside requirements associated with the issuance of tax-exempt bonds in accordance with Section 142 of the IRS Code (26 U.S.C. § 142). Projects that receive an allocation of 4% LIHTC in conjunction with an issuance of tax-exempt bonds must meet the set-aside requirements of both Section 42 and Section 142 of the IRS Code.

The 30% AMI income and rent level under the LIHTC is not the same as the Extremely Low Income and rent restriction under the National Housing Trust Fund (NHTF). The NHTF statute and regulation define "Extremely Low Income" as the greater of 30% of AMI or the federal poverty line for applicable household size. Average Income unit designation is based solely on AMI. Projects that have layered NHTF with LIHTC should be mindful of this difference.

The IRS makes the ultimate determination regarding whether or not the Project is in compliance with this and/or any other election made by the Project Owner. Acceptance by MFA does not

guarantee acceptance by the IRS. Project Owners should consult with their legal counsel. These requirements are subject to change in the event the IRS issues further guidance on the AI election.

Only Low Income Units as determined by the Project's Set-aside Election are eligible for tax credits. For example, if the 20/50 election is chosen, only Units that are rent restricted and set aside for tenants whose income does not exceed 50% of AMI are qualified as Low Income Units. If the 20/50 election is chosen, Units with income and rent limits above 50% of AMI are not eligible for tax credits. Similarly, if the AI election is chosen, only Units that are rent restricted and set aside for tenants whose income does not exceed 80% of AMI are qualified as Low Income Units. The minimum Set-aside Election is irrevocable under the Code.

F. Rent and Income Restrictions

Set-aside Units must only be rented to households meeting certain income restrictions. Furthermore, rents charged for Set-aside Units may not exceed 30% of the applicable income limit(s) designated by Applicant. Gross rent limits provided annually by HUD (found on MFA's website) must be reduced by a utility allowance that accurately reflects the cost of tenant-paid utilities by unit size. While the Code excludes any payments made under section 8 of the United States Housing Act of 1937 or any comparable rental assistance program (with respect to such Unit or occupant thereof) from the gross rent calculation, only rents that do not exceed the Tax Credit Ceiling Rents (as defined in the Glossary) and are supported by the market study will be used for underwriting purposes. Exceptions may be made for Projects with project-based subsidies when the program governing the project-based subsidy allows higher rents. More detail regarding rental assistance payments and qualifying tenants can be found in the MFA Tax Credit Monitoring and Compliance Plan, which is issued under a separate cover and summarized in Section X.

G. General Public Use

Generally, all Units, including Set-aside Units, must be made available to the general public under an initial lease term of at least six months. However, exceptions are made for Single Room Occupancy and transitional homeless facilities.

Under Treasury Regulation Section 1.42-9(b), if a residential Unit is provided only for a member of a social organization or provided by an employer for its employees, the Unit is not for use by the general public and is not eligible for tax credits under the Code. However, as clarified in Section 42(g)(9) of the Code, a qualified low-income project does not fail to meet the general public use requirement solely because of occupancy restrictions or preferences that favor tenants 1) with Special Needs, 2) who are members of a specified group under the federal program or state program or policy that supports housing for such a specified group, 3) who are involved in artistic or literary activities or 4) of indigenous populations for those Projects located on Tribal Lands. Any Unit that is part of a hospital, nursing home, sanitarium, life care facility, retirement home providing significant services other than housing is not for use by the general public.

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MFA-approved Management Units (*see* Glossary, Management Units) set-aside for Project employees (i.e., property managers, maintenance staff, etc.) are not considered residential Units, even if rent is collected on the Unit, but as facilities "reasonably required" for the Project not included in the Applicable Fraction as low-income residential space. Before excluding them from the Applicable Fraction, Management Units must be approved by the MFA Asset Management Department. This approval may only be requested after the Project has been Placed In Service. Applicants may include an intent to request Management Units in the Project Narrative but should include those Units as 60% AMI Units (either revenue or non-revenue producing) in the Application because they are not yet approved as Management Units.

Projects may have a preference for military veterans that have served in the armed forces of the United States and MFA encourages all Projects to develop marketing plans that involve outreach and marketing of Units to veterans.

H. Eligible Projects

MFA's Tax Credit Program is intended for rental housing located in the state of New Mexico. Projects may include transitional housing for the homeless, Single Room Occupancy, senior and other special housing needs projects. Dormitories, assisted living facilities, "trailer parks" and transient housing (e.g. emergency shelters for homeless persons and households) are ineligible. Proposed Projects must be eligible for an allocation of credits under the Code.

I. Scattered-site Projects

Under Code Section 42(g)(3)(D), each low-income building is considered a separate project unless the taxpayer identifies each building which is, or will be, part of the Project. Under Code Section 42(g)(7) and Treasury Regulation Section 1.103-8(b)(4)(ii), two or more qualified low-income buildings can be included in a Project only if the buildings:

1. Are located on the same tract of land, unless all the Units in all the "scattered site" buildings to be included in the Project are low-income Units;
2. Are owned by the same person (entity) for federal tax purposes;
3. Are financed under a common plan for financing; and
4. Have similarly constructed Units.

Generally, each site of a scattered-site Project must have a community space adequate for the provision of services and services must be delivered at each site for the Project to be eligible for points for **Projects in which Units are reserved for Households with Special Housing Needs, Projects Reserved for Senior Housing or Projects in which 25% of all Units are reserved for Households with Children**. However, if one of the project sites proposed for rehabilitation does not have adequate community space for the provision of services, services may be provided for residents at another project site so long as the following conditions are met: 1) the project sites are located within a quarter of a mile of each other and connected by an ADA compliant route, 2) the Application demonstrates, to the sole

satisfaction of MFA, how the needs of persons with disabilities who do not have access to on-site services will be met and 3) sufficient community space for the provision of services is available for all residents of the Project.

J. Combined Rehabilitation and New Construction Projects and General Guidelines Around Rehabilitation Projects

In accordance with the provisions of this QAP, Projects may combine the rehabilitation of existing residential Units with the construction of new residential Units. Should an Application consist of both new construction and rehabilitation, the Project will be classified as new construction if 51% or more of the total Units are newly constructed or constitute an adaptive reuse. Similarly, a Project will be classified as rehabilitation if 51% or more of the total Units are proposed for rehabilitation.

In the event a Project consists of an equal number of new construction/Adaptive reuse Units and an equal number of Units to be rehabilitated, then Applicant shall specifically state in their Application which track/category to place its Project for scoring purposes. Note: an Applicant may choose to place its combined new construction/rehabilitation Project in the rehabilitation track even if the Project fails to satisfy the provisions of Project Selection Criterion No. 3 and is awarded no points pursuant to that criterion. In the event Applicant fails to specify which scoring track/category they desire to place their Project, MFA will make this determination based on the information available, which shall be final and not subject to review.

Note that for scoring purposes, the rehabilitation points set forth in Project Selection Criterion No. 3 shall not be made available to a combined new construction/rehabilitation Project should the Project be categorized as a new construction Project.

Applications for combined rehabilitation and new construction Projects must adhere to the *MFA 2024 Mandatory Design Standards for Multifamily Rental Housing* (Design Standards) for both rehabilitated and newly constructed Units as they pertain to each Unit type. The cost limits will be applied based on the category chosen. For example, if the Project has 51% or more newly constructed Units, it will be held to the new Construction Cost limits provided in Section IV.C.2.

For all rehabilitation Projects, Applicants must also submit an accurate, detailed and concise description of the work to be performed by the contractor, the Applicant and any third parties relating to the rehabilitation of the Project. Referred to as the Scope of Work, this submission must identify the work to be performed including any demolition. See MFA 2024 Mandatory Design Standards for Multifamily Housing for more detailed discussion of Scope of Work requirements.

In addition, all Rehabilitation Projects must submit a detailed Narrative. This Narrative should,

1. Describe the following:

    a. Proposed rehabilitation plans, including a detailed discussion regarding how the Project conforms to the definition of a Moderate Rehabilitation or Substantial

Rehabilitation in the Glossary at Section XI, including the major building systems to be replaced and/or improved, whether the work area exceeds 50% of the aggregate building area, and how the proposed rehabilitation plans are consistent or inconsistent with the Scope of Work and/or Capital needs assessment ("CNA"). (See below for CNA requirements.)

b. Any capital expenditures made to the Project over the past two (2) years and the nature of these capital expenditures.

c. Any past local, state or federal resources invested in the Project.

d. Any obvious design flaws, obsolescence issues or safety issues.

e. Any significant events that have led to the current need for rehabilitation, e.g. fire, natural disaster or any other catastrophic event.

f. Why the Project is appropriate for rehabilitation and not demolition;

g. The physical aspects of the existing building(s), including, but not limited to, structural conditions;

h. Any relocation issues;

i. Work performed, including the inclusion of any third party reports, to determine the reasonableness of a rehabilitation versus demolition; and

j. Preservation of affordability, including any existing federal rental assistance contracts, and the impact of a rehabilitation or demolition on this federal assistance.

2. Address the following:

   a. The anticipated date of site control and whether there is any identity of interest between or among any Principal of the seller and buyer.

   b. The Ten-Year Rule.

   c. Current financing on the property or Project which will be assumed or paid with LIHTC equity or an MFA-administered funding source. e.g. paid in full vs assumed and current terms.

   d. For 9% Projects claiming points available for Rehabilitation Projects under Section III.E.3 that were previously subsidized with either 9% or 4% tax credits, proof that more than 20 years has passed since the Project was Placed In Service. (Tax-exempt bond financed Projects are excluded from this requirement, as they are not scored.)

3. For Projects involving demolition, provide details of what the demolition entails. e.g. interior walls, debris removal, building envelope.

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All Projects that include rehabilitation must provide a CNA prepared by a professional who meets the minimum requirements set forth in MFA's Design Standards. (*See* Glossary for requirements.) MFA will review the CNA to determine whether it supports the Scope of Work outlined in the Application and complies with the Design Standards. The CNA is due:

- with the Initial Application for 9% Projects that were Placed In Service less than 20 years prior to the Application Deadline;
- with the Initial Application for all Projects financed with Tax-Exempt Bonds (i.e., 4% LIHTC); and
- by November 15th of the allocation year with the Carryover Application for 9% Projects that were Placed In Service more than 20 years prior to the Application Deadline.

Any assumed debt must be reflected in Schedule A-1 and Schedule C-1 (cash flow). Any debt to be paid off must be reflected as a use in Schedule A-1. If the debt is in the form of outstanding bonded indebtedness, explain whether bonds are redeemable, callable, and/or refundable. MFA may require a legal opinion in the case of redeemable bond debt.

Rehabilitation projects must supply both a current operating expense budget and an anticipated, post-renovation budget with their application materials. The current operating expense budget may not meet MFA's underwriting requirements, but the projected budget must.

Finally, 9% Applicants must submit a preliminary displacement/relocation plan outlining: (i) any potential permanent, temporary or economic displacement/relocation issues; (ii) the approximate number of current tenants to be relocated; (iii) where tenants could be relocated during the rehabilitation and length of time; (iv) how displacement/relocation can be minimized, and how relocation expenses will be paid for if incurred; (v) good faith estimate of displacement/ relocation costs. A final version of the displacement/relocation plan is due at the time of submission of a Carryover Application, along with a displacement/relocation assistance plan (e.g. Who will receive assistance? How much assistance will they receive? When and how will they receive their assistance? Who will provide advisory services to those displaced?)

This relocation plan must include a sample tenant letter outlining the process and informing the tenant of any potential permanent displacement due to a change in unit mix or income eligibility.

Applications for 4% LIHTC Projects must submit the final version of the displacement/relocation assistance plan, including a sample tenant letter, with the Initial Application.

K. Compliance Period and Extended Use Period (30 Year Minimum)

The initial Compliance Period for any Project is 15 years. An Extended Use Period also applies to any Project for a minimum of 15 additional years following the expiration of the Compliance Period, during which time transfers and tenant dislocation are limited as provided for in the Project's Land Use Restriction Agreement (LURA). The Project Owner shall not sell, assign, convey, transfer or otherwise

dispose of the Project or any building in the Project without prior written consent of MFA during the Compliance and Extended Use Periods. For the purposes of the tax credit program, transfer of any of the ownership interests in Project Owner or Project Owner's partner(s) or member(s), as applicable, before the end of the Compliance Period shall be deemed a transfer of the Project. By agreeing to an Extended Use Period, the Project Owner and its successors and assigns agree to maintain the Project as a qualified low income housing project (as defined in Section 42(g) of the Code) through the expiration of the Extended Use Period. During the Compliance and Extended Use Periods the Project Owner is prohibited from evicting or terminating tenancy of an existing tenant of any low income Unit other than for good cause and/or increasing the gross rent with respect to a low income Unit not otherwise permitted by the Code, as applicable throughout the entire commitment period.

By submitting an Application for an allocation of tax credits to a Project in accordance with this QAP, the Applicant and Project Owner agree to waive their right to request that MFA present a "Qualified Contract" for the Project in accordance with Code Section 42(h)(6). The Applicant and Project Owner further agree that the Extended Use Period shall not be terminated for any reason other than foreclosure (or instrument in lieu of foreclosure), in which case existing Low-income Tenants will not be evicted or charged rents in excess of tax credit rents for a period of three years following the foreclosure or transfer by instrument in lieu of foreclosure in accordance with the Code. Failure to comply with set-asides or any reduction in the number or floor space of the Set-aside Units during the Compliance Period will result in recapture, with non-deductible interest of at least a portion of the tax credits taken previously. MFA will notify the IRS if it learns of any noncompliance. The Project Owner must also make tenant income determinations and file an annual compliance statement with MFA.

L. Compliance Monitoring

As of January 1, 1992, the IRS required each HCA to write and implement a Monitoring and Compliance Plan (summarized in Section X.) MFA's plan includes a combination of Project Owner's certification of continued compliance and regular property visits for all complete LIHTC Projects. During the property visit, MFA will conduct a compliance audit and a physical inspection. The IRS has provided substantial penalties, including recapture of the tax credits plus interest, for non-compliance with the policies and procedures set forth in the Code and MFA's Tax Credit Monitoring and Compliance Plan. Monitoring and compliance fees described in **Section IV.B** will be assessed for each year of the Compliance and Extended Use Periods. The fees will be billed annually in December/January for the subsequent year and will be due no later than January 31. Project Owners will be given the option to pay the initial 15 years of monitoring and compliance fees at the time of Final Allocation Application. Failure to pay monitoring and compliance fees within the time frame specified in the invoice will result in MFA's filing of a "Notice of Noncompliance" (IRS Form 8823) with the IRS and the Principal(s) will be deemed ineligible for additional funding from MFA, including tax credit, for any Projects while the fees remain outstanding.

M. Eligible Basis According to Type of Activity

The "Eligible Basis" is generally the same as a Project's adjusted depreciable basis for tax purposes. Fees or points charged to obtain long-term financing, syndication costs and fees and marketing expenses are

not included in Eligible Basis. These ineligible fees, costs and expenses include credit enhancement, credit origination fees, bond issuance costs, reserves for replacement, start-up costs and future operating expenses. Costs related to the acquisition of land, costs attributable to any commercial portion of the property and costs attributable to non-Set-aside Units that are above the average quality of the Set-aside Units in the Project are also ineligible. Additionally, Federal Grants shall not be included in a Project's Eligible Basis in accordance with the Code.

1. **9% Projects.** Projects located in a HUD-designated Qualified Census Tract or a HUD-designated Difficult Development Area (DDA) are eligible for a 30% basis increase (basis boost). Documentation of this status must be included in the Application. Because it is determined that Development Costs may be higher in some other cases, MFA may designate other project types or geographical areas that are eligible for a state-designated basis boost up to 30%.
2. **4% Tax-Exempt Bond Projects.** Projects located in a HUD-designated Qualified Census Tract (QCT) or a HUD-designated Difficult Development Area (DDA) may be eligible for a 30% basis increase (basis boost). Tax-exempt bond-financed projects are not eligible for any state-designated basis boost. Documentation of this status must be included in the Application. In no case will a Project's Eligible Basis attributable to the acquisition of an existing building be increased.

3. See Section IV.E.5. for further information and instruction on basis boosts for 9% and 4% projects.

N. Ten-Year Rule

In order for the acquisition of an existing building to qualify for tax credits, the taxpayer must adhere to the "Ten-Year Rule," meaning that the Project Owner must acquire the building from an unrelated person who has held the building for at least ten years. The 10-year requirement shall not apply to federally-assisted buildings and State-assisted Buildings. In addition, the Secretary of the Treasury can waive the 10-year "Placed In Service" limitation for buildings acquired from a federally insured depository institution that are in default, as defined by Section 3 of the Federal Deposit Insurance Act or from a receiver or conservator of such an institution. Please refer to Section 42(d) of the Code for exceptions to the Ten-Year Rule.

O. Federal Grants and Federal Subsidy

The Eligible Basis of any Project shall not include costs financed with a Federal Grant. Many federal operating and rental assistance funds are excluded from this provision, as are Native American Housing Self Determination Act (NAHSDA) funds. Please refer to Section 1.42-16(b) of the Treasury regulations for a complete list of federal assistance waived from this provision.

For the purpose of determining a Project's Applicable credit percentage, Federal Subsidy means any construction or permanent financing that is directly or indirectly financed from state or local bonds, including municipal bonds, which are tax-exempt for federal income tax purposes. The most common

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form of Federal Subsidy is tax-exempt bond financing. Tax-exempt bond financing does not require a reduction in Eligible Basis provided that the tax-exempt bond financing is greater than 50% of the aggregate basis of the land and building(s).

P. Qualified Basis According to Type of Project

The "Qualified Basis" is that portion of the Eligible Basis attributable to Low Income Units. It is calculated as the smaller of the percentage of Low Income Units in the building or the percentage of floor space devoted to Low Income Units in a building.

Q. Placed In Service Requirement

The 10-year Credit Period, 15-year Compliance Period and minimum 15-year Extended Use Period begin with the taxable year in which the building is "Placed In Service" (the time at which a building is "suitable for occupancy," which generally refers to the date of the issuance of the first certificate of occupancy for each building in the Project for new construction, Certificate of Substantial Completion for rehabilitation, or date of purchase by a new owner for acquisitions) or, at the Project Owner's election, the following taxable year.

For 9% Projects, Section 42(h)(1)(E) of the Code allows for the allocation or Carryover Allocation of tax credits to a building that is part of a new construction or rehabilitation Project, with the limitations described in Section 42(h)(1)(E), if an Applicant's qualified expenditures or actual basis in the Project, as of the date which is one year after the date that the allocation was made, is more than 10% of the taxpayer's reasonable expected total basis in the Project as of the close of the second calendar year following the calendar year in which the allocation was made. MFA requires submission of a complete Carryover Allocation Application by November 15th[4] of the year in which the tax credit award was made and evidence of the expenditure of more than 10% of the expected basis in the Project by August 31st[5] of the following year. A Cost Certification detailing the qualified expenditures or actual basis that make up 10% of the reasonable expected basis and a description of Applicant's method of accounting must be prepared by a Certified Public Accountant (CPA) and submitted to MFA at that time. If the complete Carryover Allocation Application, the CPA's Cost certification, the Attorney's Opinion, in the form required by MFA, regarding the qualification of the Project for tax credits and any other required materials are not received by 5:00 p.m. Mountain Standard Time on the applicable dates noted herein, the Project's credit Reservation may be canceled. Section 42(h)(1)(E) further allows for a qualified building to be Placed In Service in either of the two calendar years following the calendar year in which the allocation is made.

For 4% credits, the allocation is made upon issuance of 8609s, so the above paragraph does not apply to tax-exempt bond financed Projects.

[4] If such date falls on a weekend or holiday, the deadline shall be the first working day following such date.
[5] If such date falls on a weekend or holiday, the deadline shall be the first working day following such date.

R. Building Classification and Tax Credit Applicable Percentages

The tax credit's Applicable Credit Percentage (i.e., the "4%" or "9%" credits for which a Project is eligible) is determined by the type of project proposed, its use of Federal Subsidy or Federal Grants and the amount of credit necessary to reach feasibility and long-term viability. The Protecting Americans from Tax Hikes (PATH) Act of 2015 permanently fixed the floor of the 9% credit at 9%, similarly, The Consolidated Appropriations Act of 2021 permanently fixed the floor of the 4% credit at 4%. The amount of the annual tax credit is calculated to yield a present value of either 30% (in the case of 4% credits) or 70% (in the case of 9% credits) of Qualified Basis, as adjusted by MFA. Listed below are types of projects, which could be considered eligible for the tax credits and the Applicable Credit Percentage for each project type.

1. **New construction**. New construction Projects that are not financed by tax-exempt bonds are eligible for 9% credits. Projects financed with tax-exempt bonds are eligible for 4% credits only.

2. **Rehabilitation of an existing building**. To qualify for tax credits under the Code, rehabilitation expenditures includable in Qualified Basis must exceed the greater of 1) at least 20% of the Qualified Basis of the building being rehabilitated or 2) at least $6,000 per low income Unit being rehabilitated. For Projects Placed In Service after 2009, the $6,000 will be indexed for inflation. The minimum rehabilitation expenditures included in Qualified Basis for Projects Placed In Service in 2024 is $7,900 per Unit. Rehabilitation Projects that are not financed by tax-exempt bonds are eligible for 9% credits. Projects financed with tax-exempt bonds are eligible for 4% credits only.

3. **Acquisition/rehabilitation of an existing building**. The maximum Applicable Credit Percentage for acquisition of an existing building that will be subsequently rehabilitated is 4%. To qualify for tax credits for the acquisition, the Code requires that rehabilitation expenditures includable in the Qualified Basis must exceed the greater of 1) at least 20% of the Qualified Basis of the building being rehabilitated or 2) at least $6,000 per low income Unit being rehabilitated. For Projects Placed In Service after 2009, the $6,000 per low income Unit figure will be indexed for inflation. The minimum rehabilitation expenditures included in Qualified Basis for Projects Placed In Service in 2024 is $7,900 per Unit. Rehabilitation expenditures associated with acquisition of an existing building can qualify for the 9% tax credits as long as the rehabilitation expenditures are not funded with tax-exempt bonds. Projects financed with tax-exempt bonds are eligible for 4% credits only.

4. **Federal Grant financed Projects with reduction in Eligible Basis**. In the case of a Project financed with Federal Grants, whether a newly-constructed or rehabilitated building, the Project Owner shall exclude the amount of the Federal Grants from Eligible Basis.

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S. Audit Requirements

Beginning with issuance of the Reservation Contract and Reservation Letter by MFA and during the entire term of the Compliance and Extended Use Periods, MFA reserves the right, under the provisions of the Code, the Project's LURA, and in accordance with its inherent discretion, to perform an audit or other related procedures of any Project that has received an allocation of tax credits. Projects selected for audit or other related procedures may be chosen at random or based on MFA's discretion. An audit or other related procedure may include, but is not limited to, an on-site inspection of all buildings, and a review of all records and certifications and other documents supporting criteria for which the Project Owner received points in the Application for an allocation of tax credits. In addition, MFA reserves the right to audit all costs of a Project, including invoices, all third-party contracts, e.g., construction contract(s), management contract(s), architect and other professional contract(s), all construction pay applications and back up documentation (including, but not limited to, subcontractor invoices), and any other documents deemed necessary to perform the above.

Additionally, all Projects must maintain records of the process used to select general contractors (including any RFPs and Proposals). Written communication with selected general contractor regarding required Cost Certification upon Project completion should be retained.

T. Subsidy Layering Review

Pursuant to Section 911 of the Housing and Community Development Act of 1992, HUD is required to determine that Projects receiving tax credits **and** federal, state or local assistance do not obtain subsidies in excess of that which is necessary to produce affordable housing. Requests for subsidy layering reviews may be made to the HUD Field Office with a copy of the review provided to MFA. An essential component of this review is an analysis of the reasonableness of fees paid to sponsors, Project Owners, Developers and builders. Consequently, for purposes of Section 911 reviews, fees used to calculate tax credit amounts will not exceed the limits stated in **Section IV.D.2** Developer and Other Fees. Some of these maximum fees allowed by MFA may exceed the "safe harbor" fee amounts that apply to Section 911 reviews. Special factors that justify these published higher fees (which do exceed "ceiling" amounts) include but are not limited to: the relatively high cost of construction and land within the state of New Mexico; the lack of state- or locally-funded soft second financing or operating subsidies; and the general inability of Local Governments to donate land and/or other services to worthy Projects due to the state's "anti-donation" clause. MFA will perform an internal Subsidy Layering Review only if required by an MFA funding source.

MFA reserves the right to include or consider other criteria to justify exceeding safe harbor limits for fees associated with Projects requiring subsidy layering reviews. MFA also reserves the right to limit Projects to safe harbor limitations for any reason that, in its sole discretion, deems reasonable. This paragraph applies to all Projects that require subsidy layering reviews.

U. Hybrid 9%/4% Developments

Applicants wishing to combine 9% LIHTC with 4% LIHTC (where the 4% credits are not solely for acquisition of a building) pursuant to an allocation of private activity bond volume cap may do so under the following conditions.

1. The 9% LIHTC and 4% LIHTC portions of the development will be two separate projects, each of which has fully self-supporting financing and operations; the two portions of the development will not be cross-collateralized.
2. Complete separate Applications for the 9% and 4% LIHTC will be required.
3. Applicants proposing to build on adjacent parcels (or by splitting a parcel of land) may submit the 4% LIHTC Application concurrent with the 9% LIHTC Application or after the reservation of 9% LIHTC has been approved.
4. Projects that propose allocating 9% and 4% tax credits within a building through a condominium plat must submit both the 9% and 4% LIHTC Applications by the 9% Application Deadline. An application to the state board of finance for private activity volume cap will not be approved to move forward until the MFA board approves the 9% portion of the development, which shall be subject to receipt of the private activity volume cap. If MFA is the proposed bond issuer, the state board of finance application will be due upon MFA board approval of the 9% portion of the development. A reservation of tax credits for the 9% portion, if approved, will be delayed until an allocation of private activity volume cap is approved by the state board of finance.

III. Housing Priorities and Project Selection Criteria

A. Needs Analysis

This Allocation Plan is consistent with the needs analysis of the current state of New Mexico Consolidated Plan for Housing and Community Development and Action Plan. Housing priorities stated in the Consolidated Plan include increasing the supply of decent, affordable rental housing, expanding housing opportunities and access for individuals with Special Needs, expanding the supply of housing and services to assist the homeless and preserving the state's existing affordable housing stock.

B. Housing Priorities

The following priorities are to be used by MFA in the distribution of tax credits and are reflected in the Allocation Set-asides and Project Selection Criteria used to rank competitive Projects:

1. Levels of affordability in excess of the minimum requirements, through one or more of the following:
    a. Higher numbers of Set-aside Units; and/or

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   b. Rents set to serve lower income tenants, for example, tenants earning no more than 40% or 30% of median income; and/or
   c. Affordability Periods longer than the 30-year minimum.
2. Provision of affordable housing to households on public housing waiting lists;
3. Maximizing leverage by obtaining other public or private non-equity program resources;
4. An equitable distribution of tax credits throughout all parts of the state where affordable housing is needed;
5. Provision of housing to serve documented Senior Households; Permanent Supportive units; and Tribal communities;
6. Nonprofit development;
7. Production of housing with high quality design and construction;
8. Production of Projects that are located in QCTs and which Projects contribute to the development of a Concerted Community Revitalization Plan;
9. Provision of housing that is energy efficient; and
10. Efficient use of scarce resources including tax credits, measured through lower Development Costs or other means.

C. Minimum Project Threshold Requirements

All tax credit Applications must meet each of the following requirements, in addition to the eligibility requirements of the Code. MFA will use the deficiency correction process as described in **Section IV.C.5** to allow Applicants to correct deficiencies related to site control, zoning, fees, and market studies (requirements 1-4 below.) All other threshold requirements are not correctable and Initial Applications not meeting those requirements will be rejected. Applications not meeting site control, zoning, fee requirements, and market studies will be rejected if they are not corrected within the time period allowed in Section IV.C.5.

1. **Site control**.
   a. Site control for all of the property needed for the Project must be evidenced by:
      i. A fully executed and legally enforceable purchase contract or purchase option and**/or** a written governmental commitment to transfer or convey the property to the Applicant or Developer or Project Owner by deed or lease that demonstrates Applicant or Developer or Project Owner will possess a Qualified Leasehold Interest upon execution of the lease, (collectively termed a "transfer commitment"). If a transfer commitment is submitted, the commitment must provide for an initial term lasting at least until June 30 of the year in which the allocation is made ("initial term.") **This initial term must not be conditioned upon any extensions requiring seller consent, additional payments, financing approval, tax credit award or other such requirements**. Similarly, the transfer commitment must not require any additional actions on behalf of Applicant during the initial term which could allow the seller/lessor to terminate the transfer commitment if the action is not fulfilled by Applicant. If the transfer commitment requires an escrow payment or other

deposit due and payable after signing, evidence that payment was received must be included in the Initial Application; or

ii. A recorded deed or recorded lease demonstrating that Applicant possesses a Qualified Leasehold Interest.

b. Site control evidence and the Application materials must show exactly the same names, legal description and Acquisition Costs. (Exception: In the case of To Be Formed partnerships, the relationship between the parties must be shown.) All signatures, exhibits and amendments must be included to be considered complete.

c. For 9 percent projects, at 10% test submission (August 31 of the year following the Reservation), Project Owner must submit evidence that they have taken ownership of the land or depreciable real property or has executed a lease for the land (and buildings if applicable) with a term extending at least three years beyond that of any agreed upon Affordability Period. For tribal projects, this includes a fully executed Master lease and sublease with evidence of filing with the Bureau of Indian Affairs.

2. **Zoning**. Evidence that the current zoning of the proposed site(s) does not prohibit multifamily housing must be submitted. The evidence must indicate the specific address or location of the site, if no address has been assigned, for the proposed Project and be dated no more than six months prior to the Application Deadline. This requires that multifamily projects not be prohibited by the existing zoning of the proposed site and that there is no pending litigation, pending variance, or unexpired appeal process relating to the zoning of the proposed site. Projects sited on land which is not zoned or which is zoned agricultural, are exempt from this threshold test, but must obtain zoning approval and deliver evidence of it to MFA no later than November 15th of the year of the Reservation.

3. **Fees**. All fees owed to MFA for all Projects in which Principal(s) of the proposed Project participate must be current. Fees currently due and owing must be received by MFA by the date due.

4. **Market study.** A Market Study must be submitted at Application and completed by a vendor meeting the requirements agreed upon in the Market Study Professional Certification document, found at http://housingnm.org/developers/developer-resources/market-study-requirements. The market study itself must meet the requirements and follow the methodologies identified in the Market Study Parameters and have been issued within 180 days of the Application submission. All market studies must be issued to MFA as the designated user. The market study must address and meet the following requirement*:

Subject Capture Rate. The market study must provide a Capture Rate, as defined in the Glossary, for the proposed Project overall, as well as Capture Rates for each targeted income level and bedroom count. The overall Capture Rate for a Project must not

exceed 10%. This rate may be the subsidized rate if subsidies are secured at the time of application.

*Tribal and Projects reserved for Seniors are exempt from meeting the Capture Rate level, but they must submit a Market Study meeting the requirements outlined in the Market Study Parameters document within the Application materials, and the Market Study must indicate a need for the type and quantity of housing proposed.

If the Market Study as submitted is not sufficient, there may be an additional Market Study ordered by MFA. The cost of this MFA-ordered Market Study will be covered by the Applicant through the design deposit submitted at Application, with any overage billed to owner. It is MFA's sole discretion whether or not the Market Study is sufficient.

5. **Applicant eligibility**. All members of the development team (i.e., Developer, Project Owner, General Partner, contractor, management company, consultant(s), architect, attorney and accountant, etc.) of the proposed Project must be in good standing with MFA and all other state and federal affordable housing agencies. For example, debarment from HUD, MFA or other federal housing programs, bankruptcy, criminal indictments or convictions, poor performance on prior MFA or federally-financed Projects (for example, late payments within the 18-month period prior to the Application Deadline, misuse of reserves and/or other Project funds, default, fair housing violations, noncompliance (e.g., with the terms of LURAs on other Projects), or failure to meet development deadlines or documentation requirements) on the part of any proposed development team member or Project Owner or other Principal may result in rejection of an Application by MFA. In addition, MFA will consider a Principal's progress made with previous tax credit Reservations, including timeliness in delivering required documents and fees and meeting all required deadlines. The Developer, Project Owner, General Partner, contractor, management company, consultant(s), and architect are required to sign an affidavit affirming they have no related party relationships; or, that all related party relationships have been properly disclosed. The form of this affidavit can be found at Tab 1h of the 2024 Universal Rental Development Application on MFA's website. Additionally, a visual diagram of the relationship of the related parties must be submitted, if applicable.

6. **Financial feasibility**. Applications must demonstrate, in MFA's reasonable judgment, the Project's financial feasibility. Please refer to **Section IV.C.2**, **Section IV.D** and **Section IV.E.4 and 5** requirements pertaining to MFA's financial feasibility considerations.

7. **Pre-Application Requirements**.
    a. Intent to Submit-
        i. The entire Application Package is due at noon on January 22, 2024. Before then, Applicants must submit an Intent to Submit a Tax Credit Application and

Development Synopsis on or before December 20, 2023. This submission is a mandatory requirement for the 2024 competitive LIHTC Application round. Information contained within the Intent to Submit will be posted on the MFA website following submission.

ii. All tax-exempt bond financed Projects are required to submit an Intent to Submit a Tax Credit Application and Development Synopsis at least 30 days prior to submitting their Application in order to insure timely processing to meet other bond issuance deadlines.

b. MFA allows all Applicants for the 2024 competitive LIHTC Application round to meet with MFA staff to discuss their Project (staff is not able to discuss scoring but is available to discuss underwriting issues and gap financing questions). Meetings must take place ahead of the FAQ closing date. All tax-exempt bond financed Projects are encouraged to meet with MFA staff at least 30 days prior to submission to review and discuss the proposed Project.

c. A representative of the development team (Board member, officer, director, commissioner or staff) must have attended the most recent MFA QAP training prior to submitting the Application. If the development team includes a qualified, nonprofit organization, NMHA, TDHE or THA, a member of that organization must have attended as well to claim points under Project Selection Criteria 1.

Projects financed with tax-exempt bonds may attend an alternative MFA-approved tax credit training, for which a fee may apply. This approved training must have been completed within the six months prior to submittal of the Application.

Additional minimum Project threshold requirements apply to tax-exempt bond financed Projects, as described in **Section VI.**

D. Allocation Set-asides

1. **Nonprofit set-aside**. Ten percent (10%) of the Annual Credit Ceiling for each calendar year will be reserved for Projects sponsored by Qualified Nonprofit Organizations as defined in Code Section 42(h)(5)(C). For purposes of this set-aside, only federal requirements identified in Code Section 42(h)(5) will apply. The aggregate amount of tax credits allocated by MFA to Qualified Nonprofit Organizations may exceed this amount.

2. **Underserved Populations set-aside.** Twenty percent (20%) of the Annual Credit Ceiling will be set aside for Underserved Populations as defined in this section. The Application must indicate the desire for the Project to participate in the Underserved Populations set-aside, otherwise the Project will compete within the general round. The Project's score must be within 20% of the highest scoring Project to be awarded tax credits through the ranking process in the same funding round. The aggregate amount of tax credits allocated by MFA to Projects meeting the set-aside requirement may exceed this amount. Any decision to award tax credits within the

Underserved Populations set-aside lies solely within MFA's inherent discretion and is not subject to further review. Awards under this set-aside may be made to the highest scoring Project(s) that falls in any of the following categories:

a. Permanent Supportive Housing (PSH) Projects that meet the following requirements:

i. The Project must meet threshold requirements within the Households with Special Housing Needs Housing Priority and agree to provide voluntary Case Management Services to residents.*
ii. All service coordination and budget requirements must be sufficient to provide proposed services to all PSH residents,
iii. PSH Units have no time limits on occupancy,
iv. PSH residents have the same rights and responsibilities as those occupying other low-income or market rate housing Units**,
v. PSH residents must have individual leases with identical requirements and protections as other low-income or market rate residents,
vi. PSH Units must cover 25% or more of the total Unit count, and
vii. Project-Based Vouchers or other Federal operating subsidy must be in place or secured for 75% or more of the PSH Units in the Project.
viii. The Application includes a preliminary Memorandum of Understanding (MOU) between the Project Owner and service provider(s) that describes the service provider's expertise to provide the proposed services (with a minimum of three years of experience providing that service to the targeted population), the planned description and delivery of services, and the staff capacity to provide ongoing case management.

* Competing in the Underserved Populations set aside as a PSH Project does not automatically result in points in the Households with Special Housing Needs Priority scoring category. Services must be selected and all required scoring items met in order to receive points in that category.

**All Projects will be required to submit a PSH Commitment to Quality checklist (Tab 15c of the 2024 MFA Universal Rental Development Application) with the Application and annually following the award.

b. Tribal Projects. Projects that are located within a Tribal Trust Lands boundary.

3. **Ranking to meet Allocation Set-asides**. The highest scoring, Qualified Nonprofit Organization Eligible Project will be funded first. If there are insufficient Qualified Nonprofit Organization Eligible Projects to meet the nonprofit set-aside, the unallocated nonprofit set-aside tax credits **cannot** be allocated to other Eligible Projects. A similar procedure will be used to meet the Underserved Populations set-aside, following the fulfillment of the nonprofit set-aside;

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however, if there are insufficient Underserved Populations Eligible Projects to meet the Underserved Populations set-aside, any unallocated set-aside tax credits may be used for other Eligible Projects.

Tax-exempt bond financed Projects are not subject to the above Allocation set-aside considerations.

E. Project Selection Criteria to Implement Housing Priorities

The criteria shown below are the basis for the awarding of points to a particular proposed Project during the Application round(s) conducted by MFA. Applicants may not rely on prior submissions or prior scoring to support a re-submission of an Application. In addition to meeting the above mentioned threshold requirements, tax credit Reservations will not be awarded to 9% Projects achieving fewer than fifty-three (53) points unless too few Projects score above this level and MFA, in its reasonable judgment, decides to reduce the minimum score. Projects scoring fifty-three (53) or more points will be ranked according to their scores and in accordance with Section II.C. herein, subject to Allocation set-aside requirements. Reservations will be made to these Projects, unless they are eliminated under threshold review or subsequent processing, starting with the highest scoring Projects, all in accordance with Section II.C. herein, until all available tax credits are used. In order to avoid a concentration of tax credit awards in a particular year in any particular municipality, county or market area, MFA reserves the right, in its sole discretion and as a part of its subsequent processing, to eliminate a lower scoring Project which is located in the same municipality, county or market area as a higher scoring Project provided the lower scoring Project is "similar" in terms of construction type and/or resident population served.

Other than the criteria that include scaled-point structures, partial points will not be awarded.

Within each scoring track/category, if two or more Projects with equal scores (each a "tied Project") would require more than the available tax credits, the tied Project with the lower Total Development Cost per Unit will be selected first for an award of credits. If too few tax credits are available to make a full award of credits to any tied Project, MFA will determine in its discretion whether to award a partial allocation, to commit future year's tax credits to the Project in accordance with **Section VIII**, to award no tax credits at all to any tied Project or to choose some combination of these options.

Regardless of strict numerical ranking, the scoring does not operate to vest in an Applicant or Project any right to a Reservation or tax credit allocation in any amount. MFA will, in all instances, reserve and allocate tax credits consistent with its sound and reasonable judgment, prudent business practices and the exercise of its inherent discretion. Consequently, MFA may reject any Project that MFA deems to be inconsistent with the objectives of this QAP or prudent business practices regardless of the Project's numerical ranking.

Tax-exempt bond financed Projects will *not be required to meet a minimum score* to obtain a Letter of Determination. Tax-exempt bond financed Projects must meet and agree to all of the following mandatory criteria in order to be eligible for 4% non-competitive tax credits:

1. Serve a targeted population (Households with Special Housing Needs, Households with Children, or Projects Reserved for Seniors) and meet the applicable threshold requirements OR meet the requirements for the Underserved Populations set-aside, as described in Section III.D.
2. Achieve a Smoke-Free at Home Certification of Platinum or Gold;
3. Meet all of 2024 Mandatory Design Standards for Multifamily Housing (including HERS ratings), unless granted a waiver;
4. Must be located within a 15-minute drive (as demonstrated through Google Maps) to a facility in which fresh produce is available;
5. Market Study must indicate a vacancy rate in the Primary Market Area of less than 10%;
6. Must market to local Public Housing Authorities;
7. Include a preference for Veterans in the Tenant Selection Criteria.
8. The level of rehabilitation (as applicable) must be at least a Moderate Rehabilitation as defined in the Glossary (Section XI of this QAP.)

Project Selection Criterion

1. ***Nonprofit, New Mexico Housing Authority (NMHA), local Tribally Designated Housing Entity (TDHE), or Tribal Housing Authority (THA) Participation***	**Tier 1: 5 points** **Tier 2: 3 points**

Tier 1: Local nonprofits (as that term is defined in this criterion below), NMHAs, TDHEs and THAs that demonstrate financial capacity by having net worth/net assets of at least $1,000,000 will qualify for five points. Nonprofits, NMHAs, TDHEs and THAs with net worth/net assets below $1,000,000 may partner with another entity to increase the General Partners' combined net worth above this threshold.

Tier 2: Local nonprofits, NMHAs, TDHEs and THAs which have net worth/net assets of at least $250,000 will qualify for three points. In addition, qualified, nonprofit organizations that do not meet this criterion's definition of "local nonprofit" but demonstrate strong financial capacity by having net worth/net assets of at least $2,000,000 will qualify for three points.

For any entity to claim points under this Project Selection Criterion:

- The qualified, nonprofit organization, NMHA, TDHE or THA must own at least 51% of the General Partner interest.
- The Application must commit to providing the qualified nonprofit organization or government agency a First Right of Refusal described in IRC Section 42(i)(7) using MFA's form of Right of First

Refusal Agreement. The Right of First Refusal Agreement must be recorded upon closing of equity; a copy must be submitted with the Placed In Service package.

- The qualified, nonprofit organization, NMHA, TDHE or THA must receive a minimum of 10% of the developer fee as identified in the Project Application. The developer fee calculation is made before any reduction for consultant fees. When more than one entity is receiving a portion of the developer fee, documentation will be required evidencing the agreement among the entities as to the fee split arrangement.
- Also, the Application must include evidence that a representative of the qualified, nonprofit organization, NMHA, TDHE or THA (board member, officer, director, commissioner or staff) has attended the most recent MFA QAP training prior to submitting the Application.

Net worth/net assets must be substantiated by accountant-reviewed or audited year-end financial statements for each General Partner whose financials are being relied upon to meet the minimum net worth/net assets. A for-profit partner entity's reviewed financial statements may be used to achieve net worth/net assets thresholds.

Local nonprofit means a qualified, nonprofit organization that has a board of directors that is comprised of a majority of New Mexico residents at the time the Application is submitted and was incorporated in New Mexico before January 1 of the year in which the Application is submitted.

2. Locational Efficiency — **Up to 6 points**

Projects located in proximity and connected to 1) services or 2) public transportation are eligible for up to six points in total.

In addition to completing the *Locational Efficiency Scoring Worksheet* included in the Application Package, separate maps for each amenity and location of transportation claimed for points must be submitted. Each of the maps shall be used to illustrate the Project compliance with the Locational Efficiency criteria. **Maps must show, scale, cardinal direction, and actual walking distance from site to each amenity and public transportation stop with a dotted line.**

<u>Proximity to Services</u> (2 Points)

Locate the Project within these set distances from the designated number of facilities in the table below:

General: a 0.5-mile walk distance to at least three facilities, or a 1-mile walk distance to at least six facilities. For the 0.5-walk distance facilities, at least one of these facilities must be a supermarket, farmers market or other food store with produce. For the 1-mile walk distance facilities, at least two of

these facilities must be in the Retail or Services categories below and one must be a supermarket, farmers market or other food store with produce.
Rural / Tribal: A 5-mile walk/drive distance to at least two facilities. At least one of these facilities must be a supermarket, farmers market or other food store with produce.

Projects seeking to use **Rural / Tribal** Locational Efficiency criteria must provide a map indicating the location of the proposed Project. Rural Projects are defined as any Project outside of the defined Urban Areas as defined in the Glossary, Section XI. Initial Applications that do not include a map demonstrating eligibility for **Rural / Tribal** classification will be scored using the **General** Locational Efficiency criteria.

Retail	**Services**	**Civic and Community Facilities**
Supermarket Other food store with produce Farmers market Clothing store or department store selling clothes Hardware store Pharmacy Other retail	Bank Gym, health club, exercise studio Hair care Laundry, dry cleaner Restaurant, cafe, diner	Adult or senior care (licensed) Child care (licensed) Community or recreation center Cultural arts facility (museum, performing arts) Educational facility (including K-12 school, university, adult education center, vocational school, community college) Entertainment venue (theater, sports) Government office that serves public on-site Place of worship Medical clinic or office that treats patients Police or fire station Post office Public library Public park

<u>Access to Public Transportation</u> (2 or 4 Points)

General and Rural / Tribal (2 points) Locate Project within a 0.5-mile walk distance of commuter bus (i.e. not Greyhound) or commuter rail stop. Public transportation must be established and provided on a fixed route with scheduled service. Alternative forms of transportation may be acceptable provided

sufficient documentation is provided that establishes the alternate form of transportation is acceptable to MFA. For example, Projects on tribal land with established "on call" transportation programs that provide the users a choice of local destinations, regardless of their residency in the Project, shall be considered "public transportation." A future promise to provide service does not satisfy this Project Selection Criterion.

Frequent Transportation (4 points) Locate Project within a 0.25-mile walk distance of commuter bus stop. Public transportation must be established and provided on a fixed route with frequent scheduled service (defined as: any series of three or more single direction stops more frequent than every 1 hour, Monday - Friday).

3. Rehabilitation Projects — **Up to 5 Points**

The Project Selection Criterion applies to the rehabilitation of low-income apartment Units or the conversion of market rate apartment Units to low-income Units. These scoring points are not available in a combined new construction and rehabilitation Project wherein the Application is categorized as new construction as discussed in Section II.J.

To be eligible for points under this criteria, Projects must incur average rehabilitation Construction Costs of $25,000 per Unit or more for Moderate Rehabilitation or $45,000 per Unit or more for Substantial Rehabilitation (*see* Section XI Glossary for definitions), and more than 20 years must have elapsed since issuance of certificates of occupancy or the Units were Placed In Service and/or it has been 20 years since the Project's prior rehabilitation utilizing tax credits as a source of funding was finished and those Units were Placed In Service (together, this prerequisite is referred to as the "20-year requirement.") A CNA will be required at Carryover for rehabilitation Projects that are eligible for points under this scoring criterion. The CNA will be reviewed and must support the Scope of Work outlined in the Application. Professionals performing the CNA must meet the minimum qualification/certification requirements set forth by MFA as defined in the Design Standards. (Rehabilitation Projects are also subject to the Qualified Basis limits outlined in Sections II.R.2. & 3.)

For rehabilitation Projects meeting the above threshold criteria, the following points are available for a Project that exceeds the 20-year requirement as follows:

≥ 21 years - 1 point
≥ 23 years - 2 points
≥ 25 years - 3 points

≥ 27 years - 4 points
≥ 29 years - 5 points

Applicants must submit at time of Application sufficient documentation to establish that it satisfies the 20-year requirement with respect to the age of the Project or date of completion of last rehabilitation utilizing tax credits as a source of funding. This documentation may be in the form of certificate(s) of occupancy or property tax records. In the case of a Project with a previous tax credit allocation, the completed Form 8609's (with Part II First Year Certification completed) and recorded LURA must be submitted at the time of Application.

These points can be awarded in conjunction with points under sustaining affordability.

MFA reserves the right to request additional information or documentation regarding the Scope of Work.

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4. Sustaining Affordability — **6, 8, 10 Points**

A. Projects which meet one of the criteria listed below are eligible for 10 points:

1. Previously subsidized existing Projects that are currently restricted, but for which use restrictions are to expire on or before December 31, 2028 or

2. Existing Projects that are currently subsidized and eligible for prepayment and termination of their use agreement or LIHTC projects that are eligible to make a Qualified Contract request or

3. Existing Projects that are at imminent risk of conversion to market rate or

4. Projects currently without federal rental assistance that will have a new federal rental assistance contract covering at least 75% of all Units.

B. Projects that have an existing federal rental assistance contract covering at least 75% of all Units (or those Projects utilizing a conversion of existing federal rental assistance) are eligible for eight points.

C. Projects that have or will have a federal rental assistance contract covering at least 20% of all Units are eligible for six points.

Anticipated federal rental subsidies (CoC, RD, NAHASDA etc.) must be similarly documented as fully secured to the Project itself, including the number of project-based vouchers allocated to the Project, in order to score under this criterion.

For example, anticipated federal rental assistance contracts from housing authorities must show they are adequately secured through the presentation of specific items:

1. A copy of the PHA administrative plan which describes the selection procedures for owner submission of PBV and for PHA selection of PBV proposals
2. A copy of the published public notice of the PBV proposal selected
3. If the proposal selected is for PHA-owned units, a copy of the HUD field office or HUD-approved independent entity's determination that the PHA-owned units were appropriately selected

(If the proposal is selected based on a previous competitive award, MFA would require documentation that the proposal meets the criteria for selection without additional competition.)

5. *Income Levels of Tenants* — **12, 14 or 16 points**

An Application may qualify for up to sixteen (16) points for rent and income restricting a Project for the Affordability Period at the levels identified below:

A. For any Project located within an Urban Area that proposes to use either the 20-50 or 40-60 election under §42(g)(1)(A) or §42(g)(1)(B) of the Code, respectively:
   - At least 40% of all low-income units at 50% or less of Area Median Income (16 points);
   - At least 30% of all low-income units at 50% or less of Area Median Income (14 points); or
   - At least 25% of all low-income units at 50% or less of Area Median Income (12 points).

B. For any Project not located within an Urban Area that proposes to use either the 20-50 or 40-60 election under §42(g)(1)(A) or §42(g)(1)(B) of the Code, respectively:
   - At least 25% of all low-income units at 50% or less of Area Median Income (16 points);
   - At least 15% of all low-income units at 50% or less of Area Median Income (14 points*); or
   - At least 10% of all low-income units at 50% or less of Area Median Income (12 points*).

   [*Projects choosing the 20-50 election are not eligible for these point categories]

C. For any Project located within an Urban Area that proposes to use the Average Income election under §42(g)(1)(C) of the Code:
   • The Average Income for the proposed Project will be 54% or lower (16 points);
   • The Average Income for the proposed Project will be 55% or lower (14 points); or
   • The Average Income for the proposed Project will be 56% or lower (12 points).

D. For any Project not located within an Urban Area that proposes to use the Average Income election under §42(g)(1)(C) of the Code:
   • The Average Income for the proposed Project will be 55% or lower (16 points);
   • The Average Income for the proposed Project will be 56% or lower (14 points); or
   • The Average Income for the proposed Project will be 57% or lower (12 points).

Those Projects electing the Average Income Election must include at least 5% of their Units above 60% of Area Median Income.

Projects that receive points under Income Levels and utilize the Average Income election may not receive points under Project Selection Criterion No. 6 below.

6. Projects that Incorporate Market Rate Units — **2 Points**

Projects that incorporate Market Rate Units equal to at least 15% of the total Units.

Projects that utilize the Average Income election above may not receive points under Projects that Incorporate Market Rate Units.

7. Projects Committed to a longer Extended Use Period — **5 Points**

Projects committing to at least a 35-year Affordability Period (15-year initial Compliance Period plus at least a 20-year Extended Use Period) are eligible for 5 points. This election must be indicated on the Universal Rental Development Application.

If the Project site will be leased, refer to Section III.C.1. for site control requirements.

8. Households with Special Housing Needs Housing Priority **Up to 8 Points**

Due to restrictions within the USDA program, this Project Selection Criterion is not available to Projects involving USDA-RD rental assistance.

Projects are eligible for points if 20% or more of total Units are reserved for Households with Special Housing Needs (see definition in Glossary). To be eligible for points under this option, at least 10% of the total Units in the Project must be rent restricted at 30% of Area Median Income (AMI) or have secured (at time of application) permanent rental subsidy support with a project-based federal rental assistance contract that ensures residents do not pay rent in excess of 30% of their adjusted income.

Part I: Threshold Requirements

Applicants requesting consideration for points for a Project in which Units are reserved for Households with Special Housing Needs (Project Selection Criterion No. 8) are required to submit a Service Coordination Plan, which Plan demonstrates satisfaction of items A, B, C and E below. In addition to supplying the Plan, Applicant shall certify to MFA that it will meet the reporting requirements of Section D below.

A. Service Coordination-

1. A minimum of four hours per week of onsite Service Coordination provided by the service coordinator for properties up to 20 Units, with an additional one hour per week for every five Units over 20. Service coordinator must be in addition to the property manager and property management site staff. Duties of the service coordinator include, but are not limited to:
    a. Providing residents with information about available onsite and community services;
    b. Assisting residents in accessing available services through referral and advocacy;
    c. Arranging for access to transportation; and
    d. Organizing community-building and/or other enrichment events for residents (i.e. holiday events, resident counsel, etc.)
2. Adequate space to meet with residents that provides for confidential conversations and maintenance of secure records.
3. Access to telephone and internet services when meeting with residents for the purpose of coordinating services. Use of a smart phone and tablet is acceptable.
4. Meeting with residents requiring services within 60 days of move-in and semi-annually thereafter.
5. Provide follow up as needed to address residents' needs.

B. Coordinated Services-

1. Immediately following the issuance of a certificate of occupancy, implementation of at least two services/programs to be offered on a monthly or quarterly basis, onsite, online, or in close proximity to the Project (within 0.5-mile ADA compliant walking distance or with free transportation provided.)

2. Services must be provided to residents at little or no cost. Services may not be provided by property management staff. In limited circumstances some services may be provided by the service coordinator. Appropriate services will do one or more of the following:

a. Increase resident knowledge of and access to available services.

b. Help residents maintain stability and avoid eviction.

c. Build life skills.

d. Increase household income and assets.

e. Increase health and wellbeing.

f. Improve educational success of children and youth.

3. **Examples** of services that meet the threshold requirement are listed below, but other services will be considered. One of the two services must be provided at least quarterly by qualified personnel.

b. Literacy/language training;

c. Personal safety (fire, identity theft, scams, drug awareness, self-defense, etc.);

d. Financial fitness (budgeting, money management, credit counseling, entitlement assistance/benefits counseling, etc.);

e. Income and asset building (job coaching, homebuyer education);

f. Life skills (communication skills, conflict resolution/mediation training, training in personal hygiene, self-care and housekeeping, etc.).

Note that any services selected to meet threshold for this Project Selection Criterion shall not be eligible for any of the eight points described in Part II below.

4. Conduct an annual survey regarding need for and satisfaction or dissatisfaction with the service coordination, including coordinated services.

C. Marketing -

1. Applicants shall provide a narrative explaining how Units will be marketed and made available to Households with Special Housing Needs. This plan shall describe the following:

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a. The manner in which all proposed marketing and outreach will be performed and encouraged in connection with locating and confirming Special Housing Needs applicants, including any assistance to be provided in connection with the Application process, move-in process and resident's rights education.

b. The process for maintaining and updating a waiting list of Special Housing Needs applicants eligible to reside in a Special Housing Needs Unit.

c. How the Project will liaise with a Special Housing Needs applicant/resident in order to facilitate communication to help residents maintain stability and avoid eviction.

2. Project Applicant shall agree that Special Housing Needs Units shall not be rented to other non-Special Housing Needs households unless the Unit has been marketed by the Project Owner and/or Management Company for 30 days from Placed In Service or Substantial Completion date, date notice to vacate is received for occupied Units, or date vacancy was established when no notice was received.

D. Reporting Requirements-

1. Project Owners will be required to submit an annual certification of:

   a. The number of hours of onsite Service Coordination and coordinated services provided,

   b. The number of residents served by each, and

   c. The results of the annual survey.

2. Project Owners will be responsible for ensuring that property managers maintain:

   a. Agreement for services on file, if any,

   b. Evidence that the services are being provided (i.e., sign-in sheets, letters/memos to residents advertising the event/service, service logbook and/or activity reports, etc.), and

   c. Evidence of efforts taken to market and attract Special Housing Needs applicants as promised in Item C. Marketing (i.e., proof/copies of advertisements, evidence of outreach to organizations/non-profits working with Special Housing Needs populations, etc.).

E. **Service Coordination Plan and Budget** The proposed Project annual operating budget must include sufficient costs to cover the selected services and be detailed out in the submitted budget for serving this Housing Priority.

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Part II: Scoring Points Available (up to 8 points):

Applicants may choose from the following services to qualify for up to 8 points for providing–services.	
Food pantry - onsite, or contiguous and accessible to the property and of adequate size with reasonably sufficient quantities of food, both perishable and non-perishable.	2
Free transportation services to support medical and social service needs – minimum 2 days per week. Bus passes are not sufficient to satisfy this scoring item.	5
Health promotion/disease prevention/wellness classes or blood pressure or other health screening- provided at least every two months onsite and provided by a qualified service provider. Any health services must be provided by a licensed individual or organization. Examples include substance abuse counseling, crisis prevention and intervention, mental health counseling/therapy, etc.	3
Case management services – provided onsite by a qualified service provider to a majority of the Special Housing Needs residents on a voluntary and as-needed basis but at least quarterly.	5
Other - MFA approved service. Must be approved by MFA in writing one month before Application due date and will be posted on the FAQ section of the MFA website.	1-2 Points each as deemed appropriate

- For services provided by a qualified service provider, Application must include an MOU between the Project Owner and the service provider(s) describing their expertise with providing services, a detailed description of planned services and how they will be delivered, and the staff capacity for providing ongoing case management. Qualified service providers shall have a minimum of three years of experience providing a service or assistance to persons with Special Housing Needs. This MOU must be updated to include a detailed description of the roles and responsibilities of the Project Owner, the Management Agent, and the Qualified Service Provider prior to the 50% completion meeting.
- For services provided by an affiliate of the developer, Application must include a narrative describing the applicant's expertise with providing services, a detailed description of planned services and how they will be delivered, and the qualifications of staff providing direct services and their qualifications to provide ongoing case management. The affiliate of the developer providing services shall have a minimum of three years of experience providing a service or assistance to persons with Special Housing Needs.

Prior to the 50% completion meeting described in Section IV.G.7, MFA will require a detailed MOU between the Project Owner, Property Management Agent and Qualified Service Provider who must meet to plan for the implementation of the service plan and provide minutes of the meeting that describe how property management and service staff will work together to ensure proper service delivery. A Service Coordination Checklist is available on MFA's website.

Recognizing that circumstances change over time, the plan may evolve as needs of residents and market conditions change. Project Owner must obtain MFA approval prior to instituting changes to the plan, and the new services must provide a similar level of service to the residents.

Services must be optional for residents residing in reserved Units. Any cost for services must be accounted for separately from rent.

The Household with Special Housing Needs Housing Priority requirement and any additional services committed to by Applicant will be enforced through a provision in the LURA. Services must be provided throughout the Affordability Period and must not allow for more than a 30-day gap in services provided. Project Owner must notify MFA within seven days of the termination of service agreements/contracts. Recognizing that circumstances change over time, the Service Coordination Plan may evolve as the needs of residents and market conditions change. Project Owner must obtain MFA approval prior to instituting changes to the plan, and the new services must provide a similar level of service to the residents. The Project will be determined out of compliance if the requirements of the LURA are not met (e.g., if a new service contract is not timely executed or services are altered without MFA's advance approval). The Project Owner will be required to maintain a file containing contracts with qualified service providers and other third-party qualified personnel, documentation of when and where services were provided, and documentation of time spent both on-site and off-site by the qualified service provider or other third-party qualified personnel.

All Projects shall comply with federal Fair Housing requirements. Any limitation or preference must not violate nondiscrimination requirements. A limitation does not violate nondiscrimination requirements if the Project also receives funding from a federal program that limits eligibility to a particular segment of the population (e.g., Housing Opportunity for Persons Living with AIDS program, the Section 202 and Section 811 programs or the Housing for Older Persons Act).

Projects must include appropriate space reserved for the delivery of any third-party services, such as a private office with secure file storage space (if client files are to be stored on-site), to be eligible for points under this Project Selection Criterion.

9. Projects Reserved for Seniors Housing Priority	**Up to 10 Points**

These points benefit Projects specifically designated as Senior Housing. “Senior Housing” means Projects that qualify for an exemption from familial status discrimination under the Fair Housing Act. To qualify for this exemption, Projects must be:

- Provided under any state or federal program that HUD has determined to be specifically designed and operated to assist elderly persons (as defined in the state or federal program); or
- Intended for, and solely occupied by persons 62 years of age or older; or
- Intended and operated for occupancy by persons 55 years of age or older in compliance with the Housing for Older Persons Act (HOPA), 24 CFR Part 100 Final Rule.

Applicants are required to submit Fair Housing Act Certification for Senior Housing Facilities.

In addition to MFA’s Mandatory Design Standards, new construction Projects must include central common areas that can be used for resident activities and serving meals with an adjoining kitchen area. (Provision of meals is not required. See scoring chart below.)

Housing priority points will be awarded based on the Project first meeting the requirements above. Additional points may be awarded for enrichment service activities as listed below. To receive points under this housing priority, the Project Owner must certify that a service coordinator will be on-site a minimum of two days per week for a cumulative minimum of ten hours per week and the Project must include adequate common space for the provision of the proposed enrichment services. The service coordinator must be in addition to the property manager. Enrichment services must be implemented within the first 90 calendars days following the issuance of a certificate of occupancy, optional to the residents, offered on-site and be actively linked to the Project, not simply available to the community at-large (e.g., senior center) unless the on-site space where the program is held qualifies as a community service facility under the Code. The proposed Project annual operating budget must include sufficient costs to cover the selected services and be provided in detail within the submitted budget for serving this Housing Priority.

The Applicant must indicate in the Initial Application which enrichment services will be provided, including a list of any proposed fees for services. Fees must be reasonable in MFA’s sole determination. Where necessary, Project Owners must provide executed contracts with qualified service providers when the Project is Placed In Service. Contracts with service providers must include: 1) a description of the service(s) to be provided including frequency, 2) acknowledgement that service(s) will be provided on-site and 3) list the amount of any fee for service(s) provided. MFA will not issue IRS Form(s) 8609 unless Project Owner demonstrates, to MFA’s sole satisfaction, that enrichment services are being delivered as committed to in the Initial Application. MFA, at its sole discretion, may allow substitution of enrichment services as deemed appropriate by MFA.

Recognizing that circumstances change over time, the services provided may evolve as the needs of residents and market conditions change. Project Owner must obtain MFA approval prior to instituting

changes to the services delivered, and the new services must provide a similar level of service to the residents.

This housing priority requirement and any additional enrichment services committed to will be enforced through a provision in the LURA. Sample LURA's are available upon request which Applicants are encouraged to review. Services must be provided throughout the Affordability Period and must not allow for more than a 30-day gap in service. Project Owner must notify MFA within seven days of the termination of service agreements/contracts. The Project will be determined out of compliance if the requirements of the LURA are not met (e.g., if a new service contract is not timely executed or services are altered without MFA's advance approval.) The Project Owner will be required to maintain a file containing contracts with service providers, documentation of when and where services were provided, documentation of resident marketing and outreach and documentation of time spent on-site by the service coordinator. All documentation must be easily auditable for compliance. Services must be optional for residents. Any cost for services must be separated from rent. Management must conduct an annual survey regarding need for and satisfaction or dissatisfaction with the service coordination, including coordinated services.

Additionally, there will be the following reporting requirements:

a. The number of hours of onsite Service Coordination and coordinated services provided,

b. The number of residents served by each, and

c. The results of the annual survey.

All Projects shall comply with Federal Fair Housing requirements. Any limitation or preference must not violate nondiscrimination requirements. A limitation does not violate nondiscrimination requirements if the Project also receives funding from a federal program that limits eligibility to a particular segment of the population (e.g., Housing Opportunity for Persons Living with AIDS program, the Section 202 and Section 811 programs or the Housing for Older Persons Act).

For Project Owner-provided services, Project Owner must provide sufficient documentation, in MFA's sole discretion, of Project Owner's experience and ability to provide the services, including any past experience in providing said services.

These points may not be combined with points for Households with Children Housing Priority or Households with Special Housing Needs Housing Priority.

Housing priority and design requirements met (must be met to be eligible for further points in this category)	Required

Community building and all Units incorporate Universal Design (must be evidenced in plans and specifications)	3 points
Service enrichment scoring (requires service coordinator for point awards):	
Providing one prepared meal on a daily basis, available to all tenants at little or no cost to tenants	2 points (congregate meals) 1 point (meal service)
Bi-monthly health and nutrition education. Examples include, but are not limited to, fitness classes, walking programs, seminar instruction on cooking for one, information on the Supplemental Nutrition Assistance Program (SNAP.)	1 point
Quarterly blood pressure or other health screening	1 point
Quarterly computer training	1 point
Social events designated to provide engaging activities for residents "build community" such as holiday potlucks, arts and crafts events, book clubs, creative writing, bingo and other games, field trips to the movies or a museum or other place of interest, etc. Bi-monthly or six per year. This must include alternative methods for socializing incorporating social distancing. (qualified service provider not required)	1 point
Beyond Financial Literacy – financial counseling and tax preparation-educational programs to occur quarterly and focus on one or more of the following topics: budget counseling, financial planning assistance, credit score counseling, avoiding credit traps, income tax preparation in partnership with CPAs or a VITA program or local community college.	1 point
Gardening: delivery of at least four monthly gardening classes per year during the growing season by a qualified instructor plus provision of gardening space of at least three square feet per Unit for at least 50% of the Units in the Project.	1 point
Estate Planning and End of Life Planning – educational programs to occur quarterly and focus on one or more of the following topics: 1) estate planning 101 – what is and do you need the following: advance health care directive (living will;) durable power of attorney for healthcare and HIPAA release; durable power of attorney for finances; a will and revocable living trust; 2) What is hospice and does Medicare cover this?; 3) Probate: what is it and how to avoid it; and 4) funeral planning.	1 point
Other - MFA approved service. Must be approved by MFA in writing one month before Application due date and will be posted on the FAQ section of the MFA website.	1-2 Points each as deemed appropriate

10. Households with Children Housing Priority **Up to 8 Points**

Projects in which 25% of all Units are reserved for Households with Children are eligible for points as described below:

In addition to meeting MFA's Mandatory Design Standards, for new construction Projects, at least:

- 10% of the total Units must have three or more bedrooms with at least two bathrooms, one of which must contain four pieces (bathtub, shower (or bathtub/shower combo), sink, and toilet) and the other must contain at least three pieces (sink, toilet and bathtub or shower)
- and a further 15% of the total Units must have two bedrooms with at least two bathrooms, one of which must contain four pieces (bathtub, shower (or bathtub/shower combo), sink, and toilet) and the other must contain at least three pieces (sink, toilet and bathtub or shower).

For rehabilitation Projects, at least:

- 30% of the total Units must have at least two bedrooms.

For Projects that combine rehabilitation and new construction:

- All newly constructed two- and three or more bedroom Units must have two bathrooms, one of which must contain four pieces (bathtub, shower (or bathtub/shower combo), sink, and toilet) and the other must contain at least three pieces (sink, toilet and bathtub or shower)
- Two- and three or more bedroom Units must be added until the percentages required for new construction Projects are met for the Project overall.

All Projects must include adequate common space for the provision of the proposed enrichment services. The Applicant must provide a description of the Project's specific design elements that serve the needs of Households with Children.

Housing priority points will be awarded based on the Project meeting the requirements above, through the selection of enrichment service activities as listed below. To receive points under this housing priority, the Project Owner must certify that a service coordinator will be on-site a minimum of two days per week for a cumulative minimum of ten hours per week. The service coordinator must be in addition to the property manager. Enrichment services must be implemented within 90 calendar days following the issuance of a certificate of occupancy, optional to the residents, offered on-site and be actively linked to the Project, not simply available to the community at-large (e.g., Head Start) unless the on-site space where the program is held qualifies as a community service facility under the Code. The proposed Project annual operating budget must include sufficient costs to cover the selected services and be detailed out in the submitted budget for serving this Housing Priority.

The Applicant must indicate in the Initial Application which enrichment services will be provided including a list of any proposed fees for services. Fees must be reasonable in MFA's sole determination. Where necessary, Project Owners must provide executed contracts with qualified service providers with the Placed In Service Application. Contracts with service providers must include: 1) a description of the service(s) to be provided including frequency, 2) indicate that service(s) will be provided on-site and 3)

specify any fee for service(s) provided. MFA will not issue IRS Form(s) 8609 unless the Project Owner demonstrates, to MFA's sole satisfaction, that enrichment services are being delivered as committed to in the Initial Application. MFA, at its sole discretion, may allow substitution of enrichment services as deemed appropriate by MFA.

Recognizing that circumstances change over time, the services provided may evolve as the needs of residents and market conditions change. Project Owner must obtain MFA approval prior to instituting changes to the services delivered, and the new services must provide a similar level of service to the residents.

The housing priority requirement and any enrichment services committed to will be enforced through a provision in the LURA. Services must be provided throughout the Affordability Period and must not allow for more than a 30-day gap in service. Project Owner must notify MFA within seven days of the termination of service agreements/contracts. The Project will be determined out of compliance if the requirements of the LURA are not met (e.g., if a new service contract is not timely executed or services are altered without MFA's advance approval.) The Project Owner will be required to maintain a file containing contracts with service providers, documentation of when and where services were provided, and documentation of time spent on-site by the service coordinator. Management must conduct an annual survey regarding need for and satisfaction or dissatisfaction with the service coordination, including coordinated services.

Additionally, there will be the following reporting requirements:

a. The number of hours of onsite Service Coordination and coordinated services provided,

b. The number of residents served by each, and

c. The results of the annual survey.

All Projects shall comply with Federal Fair Housing requirements. Any limitation or preference must not violate nondiscrimination requirements. A limitation does not violate nondiscrimination requirements if the Project also receives funding from a federal program that limits eligibility to a particular segment of the population (e.g., Housing Opportunity for Persons Living with AIDS program and Section 811 programs).

For Project Owner-provided services, Project Owner must provide sufficient documentation, in MFA's sole discretion, of Project Owner's experience and ability to provide the services, including any past experience in providing said services.

These points may not be combined with points for Projects Reserved for Seniors Housing Priority or Households with Special Housing Needs Housing Priority.

Housing priority and design requirements met (must be met to be eligible for further points in this category)	Required
Service enrichment scoring (requires service coordinator for point awards):	
Bi-monthly health and nutrition education, including but not limited to, fitness classes, walking programs, seminar instruction on meals in minutes.	1 point
Semi-annual CPR training	1 point
Quarterly blood pressure or other health screening	1 point
Quarterly computer training	1 point
Weekly tutoring during school year	1 point
Quarterly job training, search assistance and/or placement	1 point
Gardening: delivery of at least four monthly gardening classes per year during the growing season by a qualified instructor plus provision of gardening space of at least three square feet per Unit for at least 50% of the Units in the Project.	1 point
Food resources program: a monthly program offering two of the following: 1) assistance and referral with applications for SNAP, (USDA), 2) youth summer lunch program (USDA) (daily when school is not in session) or 3) after-school snack program twice a week.	1 point
Youth character building: a program occurring at least quarterly that will provide teens with group education covering a range of topics including drug prevention, self-defense, safe internet behavior, non-violence and teen dating, teambuilding, goal setting, basic teen financial literacy and referral to job training and alternative education resources.	1 point
Beyond financial literacy: financial counseling and tax preparation; educational programs to occur quarterly and focus on one or more of the following topics: budget counseling, financial planning assistance, credit score counseling (restoring credit and avoiding credit traps), homebuyer education and down payment assistance, income tax preparation in partnership with a certified public accountant or VITA program or community college.	1 point
Other - MFA approved service. Must be approved by MFA in writing one month before Application due date and will be posted on the FAQ section of the MFA website.	1-2 Points each as deemed appropriate

11. Leveraging Resources — **Up to 10 Points**

Up to 10 points are available for eligible contributions to the Project described in this Project Selection Criterion. Points awarded shall correspond to the percentage of Total Development Cost (TDC)

contributed. Only whole points will be awarded with the point value rounded down to the nearest percentage point; thus at least 1% of TDC must be contributed. For example, a Project that provides leverage of 2.3% of TDC, is eligible for two points, a Project that provides leverage of 5.7% of TDC is eligible for five points, etc., up to 10 points. The value of the contribution must be listed as a source on Schedule A-1 and, when not a cash contribution, as a cost on Schedule A.

Any percentage of contribution claimed, for which points are awarded, will continue to be monitored and tested by MFA and shall be satisfied during the life of the Project, until issuance of Form 8609(s).

The following contributions are eligible if they do not include any form of hard debt and they are irrevocably and permanently contributed to the project. Soft debt may not include any required payments during the Affordability Period (see definition in Glossary) and may not include a higher interest rate than the Applicable Federal Rate in effect when the loan is closed.

- Unrelated private third party with no ownership interest in the project or affiliation with the developer:

  Cash grant: submit a copy of the formal resolution of the third-party's board of directors or other controlling party irrevocably binding the grantor to contribute a specific amount of cash with no obligation for repayment, which may only be conditioned upon receipt of a LIHTC reservation.

  Donated land and/or buildings: submit a copy of the formal resolution of the third-party's board of directors or other controlling party along, a title report evidencing that the unrelated private third party owns the land and/or building(s) with an "As-is" appraisal evidencing the value of the donation dated no earlier than six months prior to the Application date that was completed by an MAI appraiser licensed in New Mexico. The value in the appraisal that will be acceptable for points must assume that any existing use restrictions will remain in place. The entire value of the vacant land or developed land with improvements must be donated to earn points.

- General Partner:

  Deferred Developer Fee: submit a letter from the general partner confirming the amount of the developer fee to be deferred. To be eligible for points, the pro forma (as confirmed by MFA) supports repayment of deferred fee by year 15. Any deferred fee that cannot be repaid in 15 years will not be considered a contribution and will not count in Eligible Basis.

  Donated land and/or buildings: submit a copy of a contract binding the general partner to donate the land and/or building(s) that is conditioned only upon receipt of a LIHTC reservation, a title report evidencing that the general partner owns the land and/or building(s) and an "As-is" appraisal evidencing the value of the donation dated no earlier than six months prior to the Application date that was completed by an MAI appraiser licensed in New Mexico. The value in the appraisal that will be acceptable for points must assume that any existing use restrictions

will remain in place. The entire value of the vacant land or developed land with improvements must be donated to earn points.

- Government (federal, state or local government):

  Cash or soft loans not requiring payment during the Affordability Period: submit a letter from the government entity awarding the funds that includes the amount and terms of the funding along with evidence that the award has been approved by the applicable government (such as city council meeting minutes) contingent only upon receipt of a reservation of LIHTC.

  Construction permit fee waivers: submit a letter signed by an authorized representative of the Local Governmental entity describing the legal basis for imposing the permit fee(s) and the amount of the permit fee(s) to be waived.

  Land and/or buildings: submit a copy of the contract contributing the land and/or building(s) between the governmental entity and the developer or the proposed project owner (if duly formed) along with an "As-is" appraisal evidencing the value of the land and/or buildings dated no earlier than six months prior to the Application date that was completed by an MAI appraiser licensed in New Mexico. The value in the appraisal that will be acceptable for points must assume that any existing use restrictions will remain in place and include the value of any leasehold interest, if applicable. Contributions may be in the form of:

  - donation of an entire parcel of land and any improvements thereon;
  - lease of an entire parcel of land through the Extended Use Period for a nominal amount (i.e., $1 per year).

- Local tribal governmental entity, tribal housing entity or tribal council:

Cash or soft loans not requiring payment during the Affordability Period: submit a letter from the tribal entity awarding the funds that includes the amount and terms of the funding along with evidence that the award has been approved by the applicable tribal government entity (such as tribal council resolution) contingent only upon receipt of a reservation of LIHTC.

Contributions of Native American Trust Land: to claim points insert a certified copy of the tribal council resolution. Contributions of Native American Trust Land qualify for five points.

The following contributions do not qualify for points under this Project Selection Criterion:

- Tax abatements
- Cost paid by prior owner to remediate land and/or buildings (or other similar cost)
- Tax-exempt bond financing
- MFA funding requiring hard debt payment during the Affordability Period (e.g., HOME, NM Housing Trust Funds)
- Non-verifiable or non-measurable sources not based upon an existing fee schedule (e.g., in-kind contributions)

- Any source requiring any hard debt payment during the Affordability Period
- Contributions made more than two years prior to the Application Deadline
- Donations of the proceeds of a loan of a capitalized lease payment

12. Complete Applications — **3 Points**

Points are awarded to Initial Applications that meet all the standards described in Section IV.A.4 under "Content and Format" when initially submitted and that do not require any deficiency corrections. In addition, the following are necessary for a Complete Application: (i) The 2024 MFA Universal Rental Development Application and Schedules must be fully completed and contain accurate and consistent information/data, including, but not limited to, accurate and complete information contained in any Schedule, with required signatures and the "other" categories; (ii) Applicant shall adhere to MFA's published Underwriting Supplement, unless a waiver has been granted by MFA, when completing the 2024 MFA Universal Rental Development Application and Schedules; (iii) all information contained in the Application Package must match and be consistent with all other information in the Application Package, including, but not limited to, square footages in the 2024 MFA Universal Rental Development Application and Schedules and Architect's drawings and specifications; (iv) the electronic Application Package must be legible; and (v) any narratives submitted must be accurate, complete and concise and contain the requested information.

13. Marketing Units to Households Listed on Public or Indian Agency Waiting Lists — **2 Points**

Projects providing a commitment to market the Units to households listed on public or Indian housing agency waiting lists are eligible for points under this criterion. A letter to the PHA or TDHE which serves the jurisdiction of the proposed site verifying this commitment is required to obtain points for this criterion.

14. QCT/Concerted Community Revitalization Plan — **3 or 5 Points**

Projects are eligible for 3 points if:

a) the Project is located in an area covered by a Concerted Community Revitalization Plan and the development of the proposed Project contributes to the Concerted Community Revitalization Plan by engaging in a housing activity promoted in the plan. A Concerted Community Revitalization Plan is defined as a metropolitan redevelopment plan as defined in NMSA 1978 Section 3-60A-4 prepared and enacted by a local, county or tribal government prior to the Application Deadline. For Projects located on sovereign tribal lands, "Concerted Community Revitalization Plan" means a written plan similar in content and affect to a metropolitan redevelopment plan as defined in NMSA 1978 Section 3-60A-4, prepared and enacted by a tribal government prior to the Application Deadline, which identifies barriers to community vitality and promotes specific concerted revitalization activities within an area having distinct geographic boundaries; or

b) the proposed Project is located within 0.5 mile of a New Mexico designated MainStreet area or a State-Designated New Mexico Arts and Cultural District.

The Project is eligible for an additional 2 points if eligible for these 3 points (above) and it is located in a QCT.

For scattered site projects, all of the scattered sites comprising the Project need to be located in a QCT and/or located in an area covered by a Concerted Community Revitalization Plan, and all sites must contribute to the Plan to be eligible for points.

Lists of New Mexico designated MainStreet areas and State-Authorized New Mexico Arts and Culture Districts can be found at https://www.nmmainstreet.org/program-directory/.

15. Projects with Units Intended for Eventual Tenant Ownership — **2 Points**

Projects in which all the Units are intended for eventual tenant ownership are eligible for points under this criterion, Projects are limited to single family, duplex, four-plex or townhome style projects, that may be easily separated from other Units.

The Project must be designed and designated at the time of Application for eventual home ownership and demonstrate that the design will meet the subdivision and building code requirements, including fire department requirements of the Local Government that exist at the time of the Carryover Allocation

Request Deadline, as evidenced by a letter from the Local Government. All Units must be individually-metered utilities and located on public streets. This commitment will be evidenced by submission of a long-range Tenant Conversion Plan at Initial Application and will be documented in the LURA.
The following conditions generally apply:

- Intention to convert must be expressed in writing at the time of Application;
- Applicant must submit a comprehensive plan that includes, but is not limited to, provisions for repair or replacement of heating system, water heater, and roof prior to sale; limitation on equity upon subsequent sales; homeownership classes for potential homebuyers; and requirements for extent of stay in rental Unit to be eligible for purchase;
- Purchaser must occupy Unit as primary residence;
- Units must be initially marketed to existing rental residents, including residents in Market Rate Units. Remaining Units not sold to existing renter households must be sold to households earning 80% or less of AMI; and
- The Tenant Conversion Plan, which must be reasonably acceptable to MFA in order to receive points under this category, must be implemented on or before one (1) year prior to the termination of the Compliance Period. Please see definition of Tenant Conversion Plan in Section XI. These points may not be awarded in combination with points under Projects Committed to an Extended Use Period.

16. Projects with Historic Significance — **2 Points**

Projects certified on the National Register of Historic Places (i.e., meeting the criteria for Part 1 Approval for Historic Tax Credits) are eligible for points under this criterion. For scattered site projects, the total Gross Square Footage of the Historic Property must equal or exceed 10% of the proposed total project Gross Square Footage.

If federal Historic Tax Credits are included in the financing structure of the Project, evidence that the National Park Service has received a complete Historic Certification Application – Part 2 for the Project must be included in the Project Owner's Carryover Allocation Application.

17. Blighted Buildings and Brownfield Site Reuse — **5 Points**

Projects that include the demolition of Blighted building(s) or the remediation and reuse of a Brownfield site are eligible for points under this criterion. Blighted building(s), by the definition in the Glossary, must be demolished. The square footage of the demolished Blighted Building must account for at least 10% of the Gross Square Feet of the entire completed Project. For scattered site projects, the total Gross Square Footage of the Blighted Buildings must equal or exceed 10% of the proposed total new construction Gross Square Footage. Points in this criterion cannot be combined with points under Rehabilitation Projects.

Blighted Building(s): To receive points in this criterion, the Application must include a letter from the Local Government Building Division stating the proposed site meets the requirements of the QAP for blight. In the event that the Local Government will not issue a determination of blight, the Applicant must provide a letter from the Local Government stating the Local Government's policy, a third party report indicating that the site meets the QAP's definition of Blighted Building (*see* Glossary), and the Applicant must provide documentary support such as notices of violation of: (1) Local Government's codes or regulations or, (2) the recorded covenants, conditions and restrictions for the property or, (3) a condemnation notice from public record. The Application must also include photos of the blighted structure, neighborhood, or area. MFA reserves the right to determine whether or not the site meets these requirements. The Applicant must also include a demolition budget.

Brownfield: To receive points in this criterion, the Application must include the Phase II Environmental Site Assessment, remediation budget and plan detailing the proposed work.

18. Efficient Use of Tax Credits — **1, 3, 5 Points**

For purposes of this Project Selection Criterion, new construction Projects include Adaptive Reuse Projects.

Tribal and PSH projects:

- New construction Tribal or PSH Projects that request less than $21,734 tax credits per low income Unit **and** less than $22.46 tax credits per low income square foot are eligible for 5 points.
- New construction Tribal or PSH Projects that request less than $23,907 tax credits per low income Unit **and** less than $24.63 tax credits per low income square foot are eligible for 3 points.

- New construction Tribal or PSH Projects that request less than $21,734 tax credits per low income Unit **or** less than $22.46 tax credits per low income square foot are eligible for 1 point.

- Substantial Rehabilitation Tribal or PSH Projects that request less than $19,018 tax credits per low income Unit **and** less than $19.64 tax credits per low income square foot are eligible for 5 points.
- Substantial Rehabilitation Tribal or PSH Projects that request less than $20,920 tax credits per low income Unit **and** less than $21.56 tax credits per low income square foot are eligible for 3 points.
- Substantial Rehabilitation Tribal or PSH Projects that request less than $19,018 tax credits per low income Unit **or** less than $19.64 tax credits per low income square foot are eligible for 1 point.

- Moderate Rehabilitation Tribal or PSH Projects that request less than $16,300 tax credits per low income Unit **and** less than $16.85 tax credits per low income square foot are eligible for 5 points.
- Moderate Rehabilitation Tribal or PSH Projects that request less than $17,930 tax credits per low income Unit **and** less than $18.47 tax credits per low income square foot are eligible for 3 points.
- Moderate Rehabilitation Tribal or PSH Projects that request less than $16,300 tax credits per low income Unit **or** less than $16.85 tax credits per low income square foot are eligible for 1 point.

All OTHER projects:

- New construction Projects that request less than $20,789 tax credits per low income Unit **and** less than $21.48 tax credits per low income square foot are eligible for 5 points.
- New construction Projects that request less than $22,867 tax credits per low income Unit **and** less than $23.56 tax credits per low income square foot are eligible for 3 points.
- New construction Projects that request less than $20,789 tax credits per low income Unit **or** less than $21.48 tax credits per low income square foot are eligible for 1 point.

- Substantial Rehabilitation Projects that request less than $18,191 tax credits per low income Unit **and** less than $18.78 tax credits per low income square foot are eligible for 5 points.
- Substantial Rehabilitation Projects that request less than $20,010 tax credits per low income Unit **and** less than $20.63 tax credits per low income square foot are eligible for 3 points.

- Substantial Rehabilitation Projects that request less than $18,191 tax credits per low income Unit **or** less than $18.78 tax credits per low income square foot are eligible for 1 point.

- Moderate Rehabilitation Projects that request less than $15,592 tax credits per low income Unit **and** less than $16.12 tax credits per low income square foot are eligible for 5 points.
- Moderate Rehabilitation Projects that request less than $17,151 tax credits per low income Unit **and** less than $17.67 tax credits per low income square foot are eligible for 3 points.
- Moderate Rehabilitation Projects that request less than $15,592 tax credits per low income Unit **or** less than $16.12 tax credits per low income square foot are eligible for 1 point.

For the purpose of this criterion, low income square footage means the sum of each building Gross Square Feet multiplied by the Project's Applicable Fraction and includes the Gross Square Footage of common space allocated to low-income use. Square footage of commercial space, garages and structured parking are excluded for the purposes of this calculation.

Applicants may request less credits than the project is otherwise eligible for to obtain points in this category, however, projects must meet underwriting guidelines for financial feasibility. Projects which were awarded points for the Efficient Use of Credits Project Selection Criteria may not apply for additional tax credits if circumstances change unless the subsequent Application results in the same scoring range under Efficient Use of Credits when combined with the scoring range in the Initial Application. In other words, a subsequent request for additional tax credits shall not be granted if Applicant received points for the Efficient Use of Credits in a prior round and now exceeds the efficient use of credits scoring ranges when evaluating both Applications as one single Application. An exception to this is in the event of a Casualty, in which case additional tax credits may be considered. See Section III.G. for additional requirements concerning supplemental tax credits and the definition of a Casualty.

19. Non-Smoking Properties — **4 or 6 Points**

Both 9% LIHTC and 4% LIHTC Projects are required to participate in the New Mexico Smoke-Free at Home program. More information on the Certification programs may be found at https://www.smokefreeathomenm.org/get-certified-today/. In order to receive Certification, Applicants will be required to complete three steps as detailed on the Smoke-Free at Home website, including the

submission of a Letter of Intent, a Lease Addendum, and a Violation Policy. Projects are eligible for scoring points as follows provided the Certification described below is obtained and proof of certification is submitted with the Project's 8609 Application:

(i) Projects agreeing to participate and obtain the Smoke-Free at Home NM Platinum Certification (new construction Projects which do not allow any smoking or use of electronic cigarettes at any time on any part of the property) (6 points);

(ii) Projects agreeing to participate and obtain the Smoke-Free at Home NM Gold Certification (applies to, rehabilitation and/or Adaptive Reuse Projects and no smoking or use of electronic cigarettes is permitted at any time on any part of the property) (6 points);

(iii) Projects agreeing to participate and obtain the Smoke-Free at Home NM Silver Certification (applies to new construction, rehabilitation and/or Adaptive Reuse Projects and does not allow smoking or use of electronic cigarettes inside any of the Units and common areas, nor within 25 feet of all entry ways and windows of the building. (4 points)

The Project must have appropriate space for the provision of smoking cessation classes.

20. Adaptive Reuse Projects — **2 Points**

Projects which will involve the conversion of an existing building that was not initially constructed for residential use to multifamily residential rental Units (i.e., apartment units) are eligible for two points. Projects involving the conversion of motel rooms, hotel rooms, dormitories, convents, etc. are considered Adaptive reuse and not rehabilitation.

In combined new construction and Adaptive Reuse Projects, converted space must account for at least 20% of the sum of each Building's Gross Square Feet. The separation of conversion costs and new Construction Costs must be designated in the Application on separate Schedule A and D (i.e., the Application must include a Schedule A and D for the entire Project, a Schedule A and D for the rehabilitation/conversion costs and a Schedule A and D for the new Construction Costs.) All schedules must reconcile.

Projects eligible for points for Rehabilitation Projects are not eligible for points under this criterion.

21. Other Scoring Points Available — **Up to 9 Points**

Up to nine additional points are available to a Project meeting any one or more of the following criteria:

(i) Deep Affordability:

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a. **The Project is not in the housing priority for Households with Special Housing Needs** and targets extremely low income residents, which includes income and rent restricting at least 5% of total Units in the Project to residents earning 30% or less of Area Median Income, for which no federal assistance is existing or anticipated or

b. **For Projects in the Special Housing Needs housing priority category**, the Project restricts an additional 5% of the total Units in the Project to residents earning 30% or less of Area Median Income, which Units may have permanent rental subsidy support with a project-based federal rental assistance contract that ensures residents do not pay rent in excess of 30% of their adjusted income.

In either case, Applicants must indicate on the Application form and Schedule B, Unit Type and Rent Summary, the applicable Units will be rent restricted at 30% of AMI (or include a copy of the federal rental assistance contract that covers at least the minimum percentage of the total Units if in the Special Housing Needs housing priority category). (3 points)

(ii) The Project involves newly constructed Units totaling 35 Units or less, and does not contain any rehabilitation or Adaptive reuse in Project scope and the Market Study supports need for the Project (3 points); or

(iii) The Project is to be located in a town, municipality, or Census Designated Place (CDP) with a population less than 16,000 people pursuant to data published by the 2020 U.S. Census Bureau, and the Market Study supports need for the Project (3 points);

(iv) The Project is to be located in a town or municipality with no "active" LIHTC Projects. "Active" is defined as a town or municipality for which a LIHTC award (9% as evidenced by a reservation letter and inclusion of MFA's list of 9% projects on its website and/or 4% LIHTC as evidenced by issuance of a 42(m) letter and inclusion on MFA's list of 4% projects posted on its website on or before the Application Due Date) was made in the last five (5) calendar years and the Market Study supports need for the Project (3 points);

(v) Project's resident selection criteria contain a preference for active duty, Honorably Discharged, or retired US military Veterans (3 points);

(vi) Women and/or Minorities (see Glossary) are encouraged to participate in the ownership, development, or management of the Project. The Minority or female individual(s) must serve as either:

a. The General Partner, manager or managing member of the Ownership Entity or Responsible Owner, must have at least a 50% ownership interest in the Ownership Entity or Responsible Owner or
b. Must have at least 50% ownership interest in the participating business to qualify for the points. These businesses include any members of the development team (i.e.

contractor, management company, consultant(s), architect, attorney and accountant, etc.) or

c. Minority or female individuals must comprise at least 50% of the board of directors of the entity which qualifies the Project for points under Project Selection Criterion 1 above.

The name and address of the company and the anticipated contract amount or ownership percentage must be listed at the time of Application on the form provided by MFA in the Application Package in order to be eligible. (3 points)

The Application is capped at nine (9) points maximum for this Project Selection Criterion.

F. Additional Credits for Projects with Partial Allocations

If an Applicant receives a partial allocation in a given round and requests additional credits in a subsequent round, the minimum Project threshold requirements and the Project Selection Criteria for scoring used in the initial allocation year will be applied to the evaluation of the Project in the subsequent allocation year. The Project's ranking relative to Initial Application year Projects will be determined by calculating the Project score as a percentage of the highest score in its initial allocation round and multiplying that percentage by the highest score in the subsequent Application round to derive its subsequent Application year score and ranking among the subsequent round Applications.

G. Additional Supplemental Tax Credits for Cost Increases

Projects with increased Eligible Basis resulting from increases in hard Construction Costs may apply for additional tax credits in a subsequent allocation round prior to issuance of an IRS Form 8609. Only one additional tax credit allocation will be permitted by MFA for any given Project. The total amount of tax credits for the Project (including those previously awarded) shall not exceed the total credits available in Section IV.E.3 of this QAP. The Project must continue to meet the QAP requirements, including Design Requirements, from the year of the original award and the supplemental tax credits will not extend the Placed In Service deadline for the original award. However, the August 31st deadlines at Sections IV.G.6.a and IV.G.6.b will be extended to the federal statutory deadline for the Ten Percent Test based on the date of the Carryover Agreement for the original award.

Applicants must submit the Intent to Submit a Tax Credit Application described in Section III.C.7.a.i by December 20, 2023 and the streamlined Application described below by the Application Deadline for the 2024 9% round. Applicants will be limited to an additional 10% of the original 9% LIHTC awarded and the supplemental tax credits may reduce the number of tax credits awarded in the 2024 round, as requests for supplemental tax credits will not compete against other Projects in the 2024 9% round.

The streamlined Application will include:

- an updated Application Form;
- updated Schedules A-F;

- updated financing commitments from all financing sources; and
- a narrative with documentation that the supplemental tax credits are required due to an unforeseeable hardship or emergency situation where the completion of the Project is jeopardized without an award of additional tax credits.

The Application must demonstrate that:

- the Project has not previously received supplemental tax credits;
- the development contingency has been exhausted;
- the Applicant was not eligible for additional MFA gap financing from any other source;
- the Developer made reasonable attempts to secure financing from other sources;
- the developer fee has been deferred to the extent which would allow for repayment through Project cash flow within 15 years;
- the Project was value engineered, where possible, to reduce construction costs; and
- that the Project, as currently structured, would not have caused the Project to be ineligible for an award during the competitive round in which it was first awarded credits. Thus, if the score under the Efficient Use of Credits for the original application would have been reduced, the Project will be eligible for the supplemental credits, so long as the reduced score would not have caused the original application to be ineligible for an award in that round.

Applicants who need additional tax credits for financial feasibility and do not qualify for supplemental tax credits under the conditions above may return the previous valid tax credit allocation and submit a full Application to compete in the 2024 9% round.

An exception to the number of supplemental credits and/or the need to maintain eligibility in the original round may be made for Projects undergoing an unforeseen Casualty event, as defined in the Glossary. Supplemental credits in excess of 10% of the original award due to an unforeseen Casualty event must be approved by the MFA Board.

H. New Allocations to Projects Previously Subsidized with Tax Credits

Existing Projects that previously received tax credit allocations and are now eligible under Code Section 42(d)(2) for new acquisition tax credits may apply for a current allocation. However, because of prior subsidy investment in the Project and the scarcity of the resource and to ensure that the subsidy is not being used primarily for ownership transfer, previously subsidized Projects must demonstrate: 1) a real risk of loss of affordable Units, and 2) an addition of significant improvements and services to enhance livability for the tenants. These may qualify for standard tax credit applicable percentages.

I. Recycled Allocations

A Property Owner may return a valid allocation of tax credits between October 1st and December 31st to receive an allocation of tax credits from the following year's tax credit ceiling in the same amount of the returned allocation if:

- The Project Owner pays the $500 fee due for requests for changes to a Project;
- No changes to the Project (i.e., design, financing, etc.) have occurred without MFA's approval;
- None of the returned Project's Principals are participating in the following year's 9% LIHTC round (e.g., Principals returning tax credits in 2023 will not participate in the 2024 round);
- The Project demonstrates that all financing necessary to place the Project in service is secured;
- The Project will place in service by December 31st of the year of the newly allocated credits and receive no further opportunity to recycle the tax credits (e.g., if 2021 LIHTC are returned in December 2023 in exchange for 2024 tax credits, the Project will place in service by December 31, 2024).
- MFA must be notified of any request to recycle an allocation of tax credits by November 15th, when the Placed In Service submission would have been due.

Notwithstanding the foregoing, if a Project has previously returned tax credits in exchange for a new allocation of tax credits, any return of tax credits for a new allocation shall be at MFA's sole discretion.

J. Property Standards

All newly constructed and/or rehabilitated properties must meet applicable state and local building codes, including but not limited to: the New Mexico Commercial Building Code, the New Mexico Residential Building Code, the New Mexico Energy Conservation Code, the New Mexico Existing Building Code, the New Mexico Plumbing Code, the New Mexico Mechanical Code the New Mexico Solar Energy Code, the New Mexico Electrical Code, the New Mexico Electrical Safety Code, and all international and uniform building codes as referenced and adopted by the aforementioned codes. In addition, all newly constructed Projects must obtain a Home Energy Rating System (HERS) score of 55 or better and all rehabilitation Projects must obtain a HERS score of 65 or better. All Projects must meet the provisions and requirements of the Americans with Disabilities Act (ADA) as applicable. Public and common use areas within Projects are subject to these requirements. Projects combining housing tax credits with another federal source of funding must comply with HUD Section 504 requirements as required in the 2010 ADA Standards. Projects must also adhere to the Federal Fair Housing Act and shall adhere to the federal fair housing accessibility and adaptability requirements promulgated through the Fair Housing Accessibility Guidelines {56 FR 9472, 3/6/91}. Finally, conformance to Design Standards in the Application Package is mandatory for all Projects, including tax-exempt bond financed Projects.

IV. Allocation Procedure and Application Requirements

A. Allocation Rounds

1. Submission Date(s)

MFA intends to conduct one competitive LIHTC Application round each calendar year. However, MFA reserves the right to conduct additional LIHTC rounds or to award tax credits outside of the rounds. **Initial Applications for the 2024 competitive LIHTC Application round will be accepted anytime between January 5, 2024 through January 22, 2024 at 12:00 p.m. Mountain Standard Time. Initial Applications must be submitted ahead of 12:00 p.m. Mountain Standard Time on January 22, 2024 (Application Deadline). Initial applications must be fully uploaded to the file sharing site identified in Section IV.A.2 of this QAP no later than the Application Deadline. Late Applications will not be accepted**. If the Projects submitted do not use all of the available tax credits or if additional tax credits become available later in the year, MFA will consider a second round or make allocations to lower-scored Eligible Projects at MFA's sole discretion.

Initial Applications for tax-exempt bond financed Projects are accepted on a continuous basis but must meet the same form of submission requirements identified in **Section IV.A.3** below and are subject to the timing requirements outlined in **Section VI.**

2. Place of Submission

Initial Applications must be uploaded to MFA's Secure File Transfer-HD file sharing Site: https://mfa.internal.housingnm.org/SFT_HD/ (described below in Section IV.A.4.b.)

3. Form of Submission

Initial Applications may not be delivered by facsimile transmission or e-mail. The 2024 MFA Universal Rental Development Application and Schedules in excel format and a fully tabbed PDF files that include all materials listed on the Attachments Checklist at Tab 1a must be uploaded to MFA's file sharing site: https://mfa.internal.housingnm.org/SFT_HD/ (described below in **Section IV.A.4.b**.) The required 2024 MFA Universal Rental Development Application will be provided electronically and may be downloaded from MFA's website at https://housingnm.org/developers/lihtc/current-and-prior-tax-credit-rounds. No additional materials may be submitted after the Initial Application Deadline, unless requested by MFA in accordance with the provisions of this QAP.

4. Content and Format: Complete Applications

Complete Applications will meet the following standards when they are initially submitted and without benefit of any subsequent submissions, including any such submissions received during the deficiency correction period:

a) All Application documents that require signatures must be included and bear scanned blue ink or third-party verified digital signatures from all General Partners. MFA will require submission of an "omnibus" signature page wherein all General Partners must certify, among other things, that the Application submitted, including all schedules and certifications, is accurate and complete and does not contain any misrepresentations.

b) Complete Initial Applications must include the 2024 MFA Universal Rental Development Application and Schedules, including all attachments and exhibits that are applicable to the Project – both those listed in the attachments checklist found at Tab 1a of the Application form and any other materials requested in the 2024 QAP that apply to the Project. The 2024 MFA Universal Rental Development Application Form and Schedules must be submitted in excel format. All additional materials (those described in Tab 1a and others indicated in the 2024 QAP) must be contained in a fully tabbed PDF file with protected personal information such as Social Security numbers and board member home addresses redacted. Where required in the Application, the market study, architectural plans and specifications, capital needs assessment and appraisal shall be uploaded as stand-alone documents rather than included in the Application PDF. The PDF files must be "bookmarked" with each applicable tab ("Tab") and named accordingly (e.g., Tab 1, Tab 1a, Tab 2, etc.). Each bookmark must include all of the documents required for the respective tab (including those in the 2024 MFA Universal Rental Development Application and Schedules), as identified in the Attachments Checklist and named accordingly (e.g., Tab 1f – Rehabilitation Scope of Work, Tab 1g – One-page summary of Developer affordable housing experience." All documents in the PDF must be submitted in numerical order. The entire Application Package (the 2024 MFA Universal Rental Development Application, Schedules and the PDF files) must be uploaded to MFA's file sharing site: https://mfa.internal.housingnm.org/SFT_HD/.

c) Complete Initial Applications must include Application fees as outlined in Section IV.B below.

d) No additional materials may be submitted after the Initial Application deadline, unless requested by MFA in accordance with the provisions of this QAP.

e) Current year MFA forms **must be used** when provided and **no substitutions will be accepted**.

f) All information must be current, clearly legible and consistent with all other information provided in the Application.

g) Forms must be completely filled out and executed as needed. Forms that require signatures must bear scanned blue ink or third-party verified digital signatures.

h) Except as MFA may determine is necessary to evaluate the "Applicant eligibility" threshold requirement in **Section III.C.5** all Applications must be self-contained: MFA will not rely on any previously submitted information, written or verbal, to evaluate the Applications in a given round.

In determining whether the Application is complete, MFA will examine the package for both the availability of all required materials listed in Section I of the Application Attachments Checklist and for the content of those materials. Failure to provide or complete any element of the Initial Application Package, including all items listed in Section I of the Application Attachments Checklist, may result in immediate rejection of the Application without complete review. When special documents required to obtain points under particular Project Selection Criteria are not provided in the Initial Application, as listed in Section II of the Application Attachments Checklist, the related points will not be awarded. The Application Attachments Checklist is not intended to be a comprehensive listing of all documents required to be submitted. Applicants bear the burden of determining and submitting any additional documents that directly support an Application or other information required by this QAP to be submitted.

In addition to the actions MFA may take pursuant to Section IV.C.5 Deficiency Correction Period, MFA may request additional information from any Applicant as deemed necessary for a fair and accurate evaluation of an Application. MFA may also choose to accept inconsistent information and if so, may select any of the inconsistent pieces of information over any other pieces of information, in its reasonable judgment. However, MFA is under no obligation to seek further information or clarification or to accept inconsistent responses.

The Applicant will bear sole and full responsibility for submitting its Application in accordance with the requirements of the Internal Revenue Code and the QAP and will be deemed to have full knowledge of such requirements regardless of whether or not a member of MFA's staff responds to a request for assistance from Applicant or otherwise provides Applicant assistance with respect to all or a portion of the Application.

After award, all Applications will be open to the public for inspection and copying. Applicants must redact confidential and personal identifier information from documents if the information is not specifically required by MFA.

Applicant agrees to indemnify MFA from any claims arising from or related to MFA's disclosure or nondisclosure of materials submitted to MFA related to the Application.

5. Communications and Quiet Period

Questions concerning the competitive LIHTC Application round Application requirements must be submitted through MFA's website at https://housingnm.org/developers/lihtc/applications-faq. No questions will be accepted after 5 p.m. Mountain Standard Time, January 15, 2024. Answers will be posted to the website and once posted will be deemed a part of this QAP. Answers to questions submitted on January 15, 2024 that can be answered by January 17, 2024 will be posted on January 18, 2024. It is the sole responsibility of Applicants to review the website for answers to questions.

A "Quiet Period" for each competitive round will begin at the time an Initial Application is submitted and end upon the approval of tax credit awards by MFA's Board of Directors. During the Quiet Period, Applicants, or any part of the development team (i.e., Developer, Project Owner, General Partner, contractor, management company, consultant(s), architect, attorney, and accountant, etc.), shall not contact MFA's management, employees, members of the Board of Directors or their proxies, officers or agents in regard to an Application under consideration unless expressly directed to do so by MFA staff. The purpose of the Quiet Period is to create a fair and consistent process for all Applications in the competitive round. The Quiet Period only applies to Applications under consideration during the competitive round and not to any other Projects, issues, or Applications, including questions regarding MFA gap funding requested in conjunction with the Application.

The imposition of the Quiet Period does not relieve any Applicant of its obligation to notify MFA of changes to the Project as provided for in Sections IV.H. and IV.I. herein. In addition to the provisions of Sections IV.H. and IV.I., Applicants are required to notify MFA of any material change in circumstances concerning the Application, development team, threshold requirements and/or scoring changes. Applicant shall notify the Tax Credit Program Manager in writing immediately of the material change, and MFA staff shall review the notification and determine, in its sole discretion, what action, if any, is to be taken with respect to the pending Application. After award, all Applications and documents pertaining to the Applications will be available to the public.

All communications regarding Projects which have received tax credit awards and tax-exempt bond financed Projects should be directed to:

Jeanne Redondo
Tax Credit Program Manager
(505)767-2210
jredondo@housingnm.org

6. Prohibited Activities

Applicants (including Applicants for tax-exempt bond financed Projects) or their representatives shall not communicate with or by any other means attempt to influence members of the Board of Directors and their proxies or members of the Allocation Review Committee (ARC) regarding any Application except when specifically permitted to present testimony at a tax credit related proceeding. **An Application shall be rejected if the Applicant or any person or entity acting on behalf of Applicant violates the prohibitions of this section**. A list of the members of MFA's Board of Directors and their proxies and ARC members can be found at http://www.housingnm.org. A list of ARC members, MFA Board members, and MFA leadership, and LIHTC program management staff, which is current as of the date of this QAP, is attached hereto as Exhibit 1. It is the Applicant's responsibility to check MFA's website for a current list of Board members and ARC members.

Any communication made or action taken in violation of the Quiet Period or the prohibited activities section of the QAP shall be immediately reported to the tax credit program officer, whose contact information is provided in **Section IV.A.5**. Nothing in this section shall be construed to alter or affect the

mandatory appeals processes and procedures that are prescribed elsewhere in this QAP. **An Applicant's failure to adhere to the prescribed Application and appeals processes and procedures shall result in the rejection of the Application**.

B. MFA Fees and Direct Costs

All fees are non-refundable. Fees are due at the times and in the amounts shown below and they apply to both allocated and non-allocated tax credits. Fees may be delivered in the form of personal or business checks, money orders or cashier's checks, or wire (contact hd@housingnm.org for wiring instructions). Any check returned for insufficient funds will result in rejection of the Application, cancellation of the Reservation or other actions available to MFA. Exceptions may be granted at MFA's sole discretion and fees may be adjusted annually, as determined by MFA in its sole discretion.

Application Fee (for initial and supplemental requests)

- Due at submission of tax credit Initial Application
- $750 for nonprofit or governmental entity Applicant; $1,500 for a for-profit Applicant

Direct Cost Deposit

- $12,000 (deposit) due at submission of tax credit Initial Application

This deposit is intended to cover the base portion of the design reviews for compliance with Design Standards. Design reviews may require additional site visits and/or document reviews, which would be billed separately and above this $12,000 base fee. This is an estimate only and the final cost may vary. Any amount in excess of the $12,000 deposit is due within 20 calendar days of billing by MFA.

If a subsequent MFA-ordered Market Study is required during the application phase, the cost will be covered by the Applicant through this deposit. Additionally, the base design review fee balance will be billed to cover the $12,000, if the project moves forward with an award.

Processing Fee

- Due at execution of Reservation Contract for 9% awards; due prior to delivery of Letter of Determination or construction start, whichever occurs first for Projects financed with tax-exempt bonds.
- 8.5% of MFA-determined tax credit allocation amount rounded down to the nearest dollar.
- For Projects financed with tax-exempt bonds, if the actual tax credit amount is greater at Final Allocation than when the Letter of Determination was delivered, the Applicant must pay an additional processing fee of 8.5% of the increase in the tax credit amount.

Monitoring and Compliance Fees

- Due annually by January 31st for each year of the Extended Use Period. The monitoring and compliance fee for the entire 15-year Compliance Period may be paid in a lump sum at the Final Allocation Application (number of Units x $50/Set-aside Unit/year x 15 years).

    - $50/set-aside Unit/year (Average Income projects may be subject to an increased Compliance Monitoring fee.)
    - $20/set-aside Unit/year during the Extended Use Period

Appeal Fee

- $5,000 due at submission of appeal
- No appeal will be entertained in advance of appeal fee payment

Request for increase in tax credits, request for changes to a Project, including changes in ownership prior to receiving Form 8609 and/or requests for document corrections (when not a result of an administrative error by MFA, including when changes or alternate forms are proposed by an Applicant in lieu of MFA standard forms.)

- $500 due at submission of review/correction request

Reissuance of Form 8609

- MFA sends draft 8609 forms to the Owner for review prior to issuance. A $250 fee for each 8609 form that must be re-issued after it is signed and issued to the Owner; total fees shall not exceed $2,500.

Ownership Change and LURA Modification Fees after receipt of Form 8609:

- $500 non-refundable fee due at submission of application to change ownership, general partner, and/or limited partner, request a limited partner exit and/or request a LURA modification.
- If applicable, an additional $250 per item requested in a LURA Modification, when the Project is out of compliance with Asset Management at the time of the application.
- If applicable, an additional $1,500 processing fee upon approval of an ownership or general partner change.
- If changes are made to the ownership structure without MFA's prior written approval, the Project will be considered out of compliance. This noncompliance may result in a denial of requests for a future ownership change, financing, and/or LURA modification and may, at MFA's discretion, also be subject to a $10,000 fine to move forward with the ownership change process.

Extension Fee

- Due at submission of request to extend deadline of any documents required under Subsequent Project Requirements and/or with submission of late or missing documents required under Subsequent Project Requirements
- $500 per week

C. Staff Analysis and Application Processing

1. **Threshold review**. Following the Application Deadline, MFA will undertake a threshold review to determine whether the Initial Application meets the minimum Project threshold requirements shown in Section III.C. If the Initial Application fails to meet site control, zoning, fee, or market study requirements, the Applicant will be given an opportunity to correct the deficiency in accordance with Section IV.C.5 and if not corrected in the time period allowed, the Application will be rejected. The Applicant eligibility and financial feasibility threshold requirements are not correctable and Applications that fail to meet these requirements will be rejected.

2. **Cost limits**. Total Development Costs for various types of Projects may not exceed the following:
    a. **New construction and Adaptive Reuse Projects**. The Total Development Cost per Unit must not exceed 130% of the average Total Development Cost per Unit for all new construction and Adaptive Reuse Projects submitted in the same round. Similarly, the hard Construction Cost plus architect and engineering fees per square foot must not exceed 130% of the average cost per square foot for all new construction and Adaptive Reuse Projects submitted in the same round.
    b. **Acquisition/rehabilitation Projects**. The Total Development Cost must not exceed 100% of the average Total Development Cost per Unit for all new construction and Adaptive Reuse Projects submitted in the same round. Similarly, the hard Construction Cost plus architect and engineering fees per square foot must not exceed 100% of the average cost per square foot for all new construction and Adaptive Reuse Projects submitted in the same round.
    c. **Tax-exempt bond financed Projects**. Total Development Cost must not exceed the limits established for new construction, Adaptive reuse or acquisition/rehabilitation Projects, as appropriate, submitted in the most recent allocation round.
    d. **Combined Rehabilitation and New construction Projects**. For Projects that involve rehabilitation of existing Units, the construction of new Units and/or the Adaptive reuse of an existing building, the costs will be evaluated based on the track/category selected by the project as described in Section II.J. above to the limits established in Sections IV.C.2.a. and b. above.

Any Project with extenuating circumstances around the hard construction in their Project may submit additional material justifying those costs and requesting a waiver from that limit either in the initial Application, or through the supplemental information process, during the underwriting review. Waivers may be granted at MFA's sole discretion.

Recognizing that Tax Credit Projects require soft costs above and beyond traditional development, when determining the average per square foot cost for each Project, only hard costs as found on Schedule D and any architect and engineer fees will be used. For reference, the average Total Development Cost in 2023 was $289,529 per Unit and the average hard cost on Schedule D plus architectural and engineering fees for new construction in 2023 was $289,222 per Unit ($197.74 psf).

See the Glossary Section XI for the definition of the terms “Unit,” “Total Development Cost,” and “Hard Construction Costs” as they apply to the cost limit calculations in this section. Costs that exceed these limits will be excluded when calculating the tax credit amount. These limits are binding through Final Allocations.

3. **Local Notice**. The Chief Executive Officer of the local jurisdiction where the Project is located will receive a “Local Notice” from MFA stating that an Application has been received and requesting a response. The local jurisdiction and the Chief Executive Officer are to be identified by the Applicant in the Application form. The jurisdiction may be a municipality, town, county or tribal government. Such notification will be issued for all Applications not more than 10 business days after MFA’s Application Deadline and the recipient will have 30 calendar days to respond.

4. **Site visits**. On completion of the threshold review, and as allowed by current health conditions, public health and executive orders, or laws, MFA will visit the proposed sites for the highest ranking Projects. Sites considered by MFA in its reasonable judgment to be inappropriate due to current or foreseeable adverse health, safety, welfare, site constraints or marketability risks may be cause for rejection of any Application, regardless of threshold review or scoring results. Communications made by or on behalf of an Applicant in response to communications initiated by MFA in conjunction with a site visit shall not be a violation of the Quiet Period.

5. **Deficiency correction period**. MFA may provide a deficiency correction period after the threshold review. This period is intended only to: 1) correct threshold items that are identified as correctable in Section III.C, 2) address Complete Application items, including any issues with the electronic application, 3) clarify ambiguous information, 4) complete forms or 5) make minor corrections to the Application. In no case shall the deficiency correction period be used by MFA to allow an Applicant to submit scoring items listed on Section II of the LIHTC Application Attachments Checklist or to alter the original structure of the project. If the deficiency correction period is used, MFA will provide notice to Applicants having such shortcomings in their Applications via e-mail and U.S. mail. Applicants will have five business days after the date of the e-mail notice to correct deficiencies. All materials must be submitted no later than 5 p.m. Mountain Standard Time on the fifth business day, following “Form of Submission” requirements shown in **Section IV.A.3** above. Certain types of deficiencies cannot be corrected during the deficiency correction period, including an Applicant’s failure to provide materials or

to provide materials in the required form, as well as other deficiencies that MFA determines in its reasonable judgment may not be correctable. Furthermore, the deficiency correction period may not be used by the Applicant or MFA to alter the original structure of the Project. This prohibition includes, but is not limited to, all changes listed in **Section IV.H**. If the information requested by MFA is not submitted within the timeframe provided or is submitted but remains deficient, the Application may be rejected without any further review.

6. **Supplemental Information Submission**. If at any point during the processing of an Application, staff determines that supplementary information is needed to complete its review, the Applicant will be notified in writing and will have five business days after the date of MFA's notice to deliver a written response. In no case shall the supplemental information request be used by MFA to allow an Applicant to submit scoring items listed on Section II of the LIHTC Application Attachments Checklist or to alter the original structure of the project. This provision does not apply to incomplete Applications, which may be rejected during the threshold review or subject to the deficiency correction period process.

7. **Design Review and Construction Start**. All Projects will be subject to MFA's design review and construction inspections to determine compliance with the Design Standards. MFA staff will make a good faith effort to perform an initial review of construction documents within ten (10) business days after receipt of complete construction documents.

    a. The base portion of the design review covered by the $12,000 fee includes one of each of the following:
        i. Preliminary review of Project for Design Standard compliance at Initial Application. All plans and related materials submitted as part of an Application must provide enough detail for MFA to determine compliance with the Design Standards.
        ii. Construction Drawing Review.
        iii. Specification Review.
        iv. Environmental Study & HERS Modeling Projections Review.
        v. Contract document review (construction contract, permit, schedule).
        vi. 33% Site Inspection visit.
        vii. 66% Site Inspection visit.
        viii. 100% Site Inspection visit, report and closeout document review. MFA will not issue the IRS Form 8609 before MFA's Architectural Services Representative indicates that the Project has been built as proposed and that all outstanding issues, if can, have been resolved.
    b. A CNA is required for rehabilitation and Adaptive Reuse Projects. MFA will review the CNA for completeness, consistency with the Application and compliance with the Design Standards. See QAP Section II.J for details.
    c. Prior to commencing construction:

i. **Applicant must have MFA's written approval of complete construction documents;**
ii. Applicants must request and receive MFA-provided signs/banners in English and Spanish featuring MFA's fraud hotline at the Project work site(s), which shall remain in place throughout the duration of construction.
iii. Applicants must close on all Project financing (except the permanent mortgage).

d. Material Design Changes: Differences between the plans and specifications submitted with the Application and those contained in the final construction documents must be approved by MFA. The Applicant must submit a detailed narrative of Material Design Changes made to final plans and specifications along with the Change Fee described in Section IV.I.

8. **Other Project compliance.** All Principals (see Glossary) related entities and affiliates must be in compliance with respect to all other federally subsidized housing or LIHTC Projects that they own or operate throughout the country. Each Principal shall submit a compliance affidavit in the form stipulated at Tab 1l of the Application certifying the Principal and its affiliate(s) are not in default with respect to any material compliance matter for any such Project or shall state what defaults exist and what corrective action Applicant is taking. Applicants shall attach a complete list of **all** Projects in which the Principal or its affiliate has experience (*see* schedule of experience[6] footnote below). For the purposes of this review, volunteer board members with no financial interest in the Project will not be required to complete a compliance affidavit. If MFA determines, either through information provided by an Applicant or through MFA's investigation, that any federally subsidized housing or LIHTC Project in which Applicant, or any Principal or affiliate of Applicant has an interest is in default of any material compliance matter, MFA may reject the Application. See **Section IV.F.1** for additional discussion. This determination of default regarding any Principal may concern, but is not limited to, progress made with previous tax credit Reservations, including timely delivery of required documents and meeting all required deadlines; development compliance; and payment of monitoring fees.

9. **Development team review**. Staff will review the qualifications of the Developer, Project Owner, General Partner, contractor, management company, consultant(s), and architect to determine capacity to perform in the role proposed. Considerations may include related experience, financial capacity, performance history, references, management and staff, among others. Staff will review related party affidavits inserted at Tab 1h for each ~~member of the~~ development team member listed above (see Section III.C.5), and development team resumes inserted at Tab 12. The management company will be reviewed when construction is 50% complete (*see* Section

[6] The schedule of experience required shall be in the form of a recent real estate owned schedule provided to a lender, a HUD Form 2530, or other similar form that includes the experience of the Principal completing the compliance affidavit. The schedule of experience shall include every project that is Placed In Service for which the Principal has a financial interest and that the Principal developed without an ownership participation. Projects that are planned or under development may be included but are not required.

IV.G.7). The organizational chart(s) inserted at Tab 1i must include all related party interests among the Developer, Project Owner, General Partner, contractor, management company, consultant(s) and architect. MFA may conduct its own related party search utilizing Secretary of State websites, online searches, or other means to ensure all related parties have been properly disclosed. **An Application may be rejected or substitutions requested if the development team or any member thereof is unsuitable and/or undisclosed related parties are identified as determined by MFA.**

D. Feasibility Analysis and Financial Considerations

All Projects, in addition to the threshold review process, will undergo financial analysis by MFA staff to determine whether the Projects are financially feasible. Such determinations will rely on both the financial data submitted by the Applicant and on staff judgments with respect to feasibility matters. Projects that do not appear financially feasible in MFA's judgment may be rejected without further processing. Although Financing Commitments will not be required at Initial Application, all sources must be clearly identified, and their terms specified. Financing Commitments will be required as a "subsequent requirement" after the initial Reservation is made.

Initial Applications for any tax credits (4 or 9%) must include a letter of interest from a tax credit syndicator or direct investor stating the terms and pricing for the purchase of tax credits allocated to the Project. In addition, all Projects will be underwritten using the more conservative of the standards indicated in this QAP, those in an underwriting supplement to be published by MFA at least one month prior to the Application Deadline, the terms listed in any Financing Commitment or letter of interest; or the Project's market study. Project 15-year pro forma cash flow projections must include an operating expense inflation factor of at least 3%, a rental income inflation factor of no more than 2% and a vacancy factor of at least 7% for all occupancy-related income. However, for projects with at least 90% of all units covered by a federal rental assistance contract and any Project Reserved for Seniors, MFA will use the market study vacancy factor but not less than 5%.

1. **Development Costs**. Development Costs will be evaluated against the average costs of competing Projects. In the case of rehabilitation Projects and Adaptive Reuse Projects an appraisal and CNA of the existing project will be required and used by MFA to evaluate Development Costs. The appraisal is due with the Initial Application for tax exempt bond financed projects and with the Carryover Application for 9% Projects not claiming points under the Leveraging Resources scoring criterion. See Section II.J and Glossary for further details regarding the CNA. The acquisition cost on which tax credits are calculated will be held to the lowest among the sale price, Applicant's procured appraisal and the construction lender's appraisal. Applicants submitting costs atypical in the marketplace must provide information acceptable to MFA, justifying such costs. Projects with excessive costs will be subject to adjustments to the amount of tax credits requested. MFA, in the course and scope of its underwriting, will examine how costs are categorized /allocated in Schedules A and D. MFA

reserves the right to re-categorize /allocate costs to different categories should MFA determine, in its sole discretion, that costs have been categorized incorrectly. Applicants shall describe all costs contained in any category labelled "other" with sufficient specificity so that it is clear what these costs encompass.

2. **Developer and other fees.** Fees are limited to the following standards:
   a. **Builder profit, overhead and general requirements**
   In Projects where an "identity of interest" (as defined in this section) is not present, builder profit may not exceed 6% of Construction Costs, builder overhead may not exceed 2% of Construction Costs and general requirements may not exceed 6% of Construction Costs. For the purposes of these calculations, see definition of Construction Costs in the Glossary.

   Where an Identity of Interest exists between or among the Developer/Project Owner, builder (e.g., the general contractor), design professionals and/or subcontractors, builder profit shall not exceed 4% of Construction Costs. An Identity of Interest means any relationship that is based on shared family or financial ties between or among the Developer/Project Owner, builder (general contractor), design professionals and/or subcontractors that would suggest that one entity may have control over or a financial interest in another. An Identity of Interest will be presumed if any of the following factors are present as between or among the Developer/Project Owner, builder (general contractor), design professionals and/or subcontractors; common or shared ownership of any of the above-listed entities; common family members as owners or investors in any of the above-listed entities; common control of the above-listed entities even if the control is not exercised by a common owner or common investor.

   For LIHTC purposes, any amount of fee that exceeds the percentage limitations will be excluded from the Project's Eligible Basis when calculating the tax credit allocation.

   b. **Developer fees**
   Developer fees for 9% LIHTC Projects shall not exceed: 1) $23,000 per low-income Unit for the first 30 Units, plus 2) $20,500 per low-income Unit for Units 31 – 60, plus 3) $18,000 per low-income Unit for Units 61+, which shall not cause the total Developer Fee to exceed the lesser of $2,000,000 or 14% of Total Development Cost. Developer Fee for 4% LIHTC Projects shall not exceed 14% of Total Development Cost. *9% Projects utilizing MFA-issued Section 811 Project Rental Assistance (PRA) are eligible for a 5% boost to the capped developer fee (as calculated above; for qualifications, see below) For example, a 30-Unit Project which qualifies for $675,000 and which is at or below 14% of Total Development Cost qualifies for a 5% boost to the allowable Developer Fee resulting in a total Developer Fee of $708,750.

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Donations of land and waived fees are excluded from Total Development Cost when calculating maximum allowable developer fees. Developer fees include all consulting costs for services typically rendered by a Developer. Any reserve, excluding any MFA-required Project reserve (see below), may be considered as part of the developer fee, if it is not held for the benefit of the Project for a minimum of 15 years. For the purposes of these calculations, Total Development Cost is adjusted to exclude developer fees, consultant fees and all reserves. Notwithstanding the Developer Fee amounts described in the preceding paragraph, where an Identity of Interest exists between the Developer/Project Owner and the builder, the above-mentioned fee may be further reduced if MFA, in its discretion, determines the fee to be excessive. In a proposed sale transaction where there is an Identity of Interest in any Principal of the seller and buyer, the Project will be subject to reduced developer fees. Where there is such an Identity of Interest, the developer fee percentages will be calculated on Total Development Cost reduced by Acquisition Costs. Also, an "as-is" appraisal dated no earlier than six months prior to the Application date and completed by a MAI licensed in New Mexico must be submitted. The value in the appraisal must assume that any existing use restrictions will remain in place.

The maximum developer fee is locked in at Initial Application for 9% Projects and is locked in at 8609 issuance for 4% Projects.

***Section 811 Project-Based Rental Assistance Program (Section 811 PRA)**

In 2020 MFA applied for a $3.6 million award to participate in HUD's Section 811 Project Rental Assistance (PRA) program, which provides project-based rental assistance for extremely low- income persons with disabilities, 18-61 years of age who are linked with long-term services. An award of Section 811 funds is contingent upon MFA entering into a Cooperative Agreement with HUD. In order to utilize these funds, projects must be in a location served by an active Local Lead Agency (LLA), through which the services will be provided. The Section 811 program will be implemented over a five-year period and will serve an estimated 58 households.

Qualifications and Restrictions:
No more than 25 percent of the total units (a minimum of 5 Units) in an eligible multifamily property can:

- Be provided Section 811 PRA funds
- Be used for supportive housing for persons with disabilities
- Have any occupancy preference for persons with disabilities

Owner Capacity and Experience:

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Owner and Property Management must demonstrate the capacity to participate in Section 811 PRA. This will be measured, in part, by the level of experience administering HUD rental subsidy programs, specifically with HUD's Tenant Rental Assistance Certification System (TRACS) and Enterprise Income Verification (EIV) and experience with managing a range of housing populations, with a particular emphasis on persons with disabilities.

In the event of non-compliance, any additional developer fee received (because of the participation in the **Section 811 PRA program**) beyond the Developer Fee cost limits outlined in Section IV.D.2 must be returned to the project in the form of a capitalized reserve account.

In addition, units must meet program criteria for unit integration and accessibility. Should this source become competitive, PRA allocations will be made based on score.

4% Projects looking to participate in the 811 PRA program are welcome to apply with the expectation of availability, however they are not eligible for the 5% boost to the capped developer fee.

See https://housingnm.org/property-owners-agents-and-managers/section-811-project-rental-assistance for more information.

c. Architect and Engineering Fees

Architects' fees, including design and supervision fees, and engineering fees, must be capped at 3.3 percent of Total Development Cost. This fee limit is a soft cap and any amounts in excess of this cap will not be included in Eligible Basis. Exceptions to the above rules governing architect and engineering fees may be granted based on site or Project specifics and in MFA's sole discretion. Supporting documentation shall be provided to justify any increase in request. Although the same standards will apply for Projects subject to subsidy layering review, such Projects will require Board approval for subsidy layering purposes whenever they exceed the federally-defined ceiling standard limits and only five such excess fee amounts can be approved in any given year. See Section II.T. for information on subsidy layering reviews.

Increases in Project costs subsequent to the Application Deadline may not result in an increase in any of the fees calculated above for tax credit allocation purposes. Any changes in the amount of fees through the course of development will require prior approval of MFA and must be justified by a change in scope of the Project. Any change in the scope of the Project that results in increased fees for which an exception is being requested constitutes a change to that Project.

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3. **Reserves (escrows) included in Development Costs**. The development budget must include an operating reserve equal to a minimum of six (6) months of projected operating expenses, debt service payments and replacement reserve payments. Larger operating reserves may be required for Projects which show a declining debt coverage ratio in 15-year cash flow projections, have rental assistance contracts included in their income projections or have other factors that MFA determines in its discretion to warrant larger reserves. Replacement reserve levels must be shown in the operating budget at the minimum of $250 per Unit, per year for Senior Housing (new construction Projects only) and $300 per Unit, per year for all other new construction and rehabilitation and Adaptive Reuse Projects. Project reserves of any kind in the development budget will not be included in MFA's calculation of Eligible Basis for tax credit purposes.

4. **Operating expenses and replacement reserves**. MFA will review the projected operating expenses, replacement reserves and loan terms and may, in its determination of economic feasibility, make adjustments based upon industry standards, its own underwriting parameters, the CNA or facts obtained from other appropriate sources. Applicants are urged to carefully review operating cost pro formas. Applicants must include real estate taxes in their operating expenses unless evidence of a perpetual real estate tax waiver (throughout the term of permanent financing) is submitted with the Application.

   Rehabilitation projects must supply both a current operating expense budget and an anticipated, post-rehabilitation budget with their application materials. The current operating expense budget may not meet MFA's underwriting requirements, but the projected budget must.

   Replacement reserves for the first 15 years may be capitalized in the development budget assuming there is a source of funds that can be used to establish the reserve account. Capitalized reserves are a non-Eligible Basis project cost and establishing reserve accounts may not be an eligible expense for some MFA funding sources. If the capitalization results in projected excess cash flow, MFA may reduce the subsidy for the Project. A qualified CPA or tax attorney should be used to determine the appropriate accounting treatment of capitalized reserves.

5. **Debt service coverage and subordinate debt**. Applicants who are proposing subordinate debt must include the terms of the loan and pro formas must reflect the requirements set forth in the MFA's Universal Multifamily Initial Underwriting Supplement. MFA will consider total annual cash flow as well as debt service ratio when making this determination. MFA will generally not consider the repayment of deferred developer fees when underwriting for feasibility but removes any deferred fee that can't be repaid during the Compliance Period from eligible basis and may consider a Project infeasible if the deferred fee represents a financial burden to the Project.

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6. **Unit distributions**. For Projects with more than one income and rent tier, all Unit types must be distributed proportionately among each of the multiple tiers. That is, if 30% of the Units are to be set-aside for tenants earning no more than 50% of median income, then the Units used for this income group must include 30% of all one-bedroom Units, 30% of all two-bedroom Units, etc. This also applies to Market Rate Units in the Project. This is intended to prevent allocation of all of the high rent Units to the higher income groups, thereby maximizing income while potentially violating the intent of fair housing law.

While the Code excludes any payments made under section 8 of the United States Housing Act of 1937 or any comparable rental assistance program (with respect to such Unit or occupant thereof) from the gross rent calculation, only rents that do not exceed the Tax Credit Ceiling Rents and are supported by the market study will be used for underwriting purposes. Exceptions may be made for Projects with project-based subsidies when the program governing the project-based subsidy allows higher rents. See MFA Universal Multifamily Initial Underwriting Supplement - *Projects with Rental Subsidies* section for additional requirements. Note that in order to underwrite to such rents, a copy of a federally-approved rent schedule must be provided to MFA, e.g. HUD, USDA. If project-based vouchers are awarded, but a federally-approved rent schedule is unavailable, proof of the award is required, and MFA will underwrite to HUD FMR. More detail regarding rental assistance payments and qualifying tenants can be found in the MFA tax credit Monitoring and Compliance Plan, which is issued under a separate cover and summarized in Section X.

E. Credit Calculation Method

1. **Tax credit calculations**. During each evaluation, MFA will determine the amount of tax credits to be reserved, committed or allocated by considering factors specific to each Project including, but not limited to, the following:
    a. Development Costs
    b. Funding sources available to the Project for construction and permanent financing:
        i. First mortgage loans
        ii. Grants
        iii. Tax credit proceeds
        iv. Project Owner equity
        v. Subordinate debt
    c. Projected operating income and expenses, cash flow and tax benefits
    d. Maximum tax credit eligibility
    e. Debt service coverage ratio
    f. Project reserves
    g. Developer fees and builder overhead and profit
    h. Per Unit and per square footage cost limits (section IV.C.2)

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2. **Amount of tax credits for Reservation or Carryover Allocation**. To estimate the amount of tax credit allocation for a Project at Initial Application or at Carryover, MFA will use the Applicable Credit Percentage of the Qualified Basis, as adjusted by MFA, or the amount needed to fill the financing gap. The procedure to determine the amount to fill the financing gap is outlined in number three below.

   Tax credit proceeds. The MFA Universal Multifamily Initial Underwriting Supplement describes the method to be used to determine the equity pricing factor that will be used to calculate tax credit proceeds for underwriting purposes. The Applicable Credit Percentage will be used along with the equity-pricing factor to estimate the tax credit proceeds. Any ownership split other than 99.99% (Limited Partner) and 0.01% (General Partner) requires written MFA approval ahead of application submission, which approval shall be given in MFA's sole discretion.

   The Protecting Americans from Tax Hikes (PATH) Act of 2015 permanently fixed the floor of the 9% credit at 9%. Similarly, the Consolidated Appropriations Act, passed by Congress on December 21, 2020, permanently fixed the floor of the 4% credit at 4%. At the time of the Carryover Allocation for 9% credits, the Project Owner must deliver a written letter of intent from a syndicator or equity provider that clearly states the equity-pricing factor. That equity-pricing factor along with the Applicable Credit Percentage will be used to estimate the tax credit proceeds for the Carryover Allocation. The equity-pricing factor to be used at Final Allocation will be the actual equity-pricing factor contained in the Project's syndication agreement and the Applicable Credit Percentage as determined at either Carryover or Placed In Service date.

   For 4% credits the equity-pricing factor to be used at Final Allocation will be the actual equity-pricing factor contained in the Project's syndication agreement and the Applicable credit percentages determined at either the month the tax-exempt obligations are issued or Placed In Service date.

3. **Limitation on tax credit awards to a single Project or Principal.** Subject to the exceptions contained herein, no 9% LIHTC Project shall receive a tax credit Reservation in excess of $1,622,805. No Applicant, any General Partner or affiliate of an Applicant or person or entity receiving or identified as eligible to receive any part of a developer fee for a Project may receive more than two tax credit Reservations in any given competitive LIHTC Application round. Two 9% LIHTC Projects to be located on adjacent sites proposed by the same Applicant in the same LIHTC Application round will be treated as a single Project. Notwithstanding the foregoing sentence, a request for Supplement Tax Credits for the first Project in the same year as an Initial Application for a second Project located contiguous to the Project for which the Supplemental Tax Credits are requested, shall not cause the two Projects to constitute a single Project.

4. **Other factors limiting the credit Reservation**. The amount of credit reserved, committed and finally allocated to a Project shall be the lesser of:
   a. The maximum tax credit eligibility of the Project

i. Maximum tax credit eligibility is the maximum amount of tax credit justified by a Project's Qualified Basis, as adjusted by MFA and taking into consideration any increase in Eligible Basis approved by MFA and the Applicable Credit Percentage as described in **Section IV.E.2** above or the Applicable Credit Percentage that was locked-in at Carryover (or in the case of tax-exempt bond financed Projects, the month the tax-exempt obligations are issued) or was in effect when the building was Placed In Service; or
ii. The amount requested in the Application; or
iii. The amount necessary to fill the funding gap.

b. The funding gap is the difference between Total Development Cost (exclusive of syndication-related costs) and all available funding sources, including MFA financing awarded in conjunction with the tax credit allocations, excluding anticipated tax credit proceeds. The terms of all proposed sources must be within reasonable industry norms, and financing for the Project has to be maximized when evaluating rate, term, debt service coverage, loan-to-value, etc. The maximum tax credit amount allowed based on the funding gap will be determined by MFA limits stated in **Section IV.E.3** above.

5. **Increased basis for high cost areas**. Additional Eligible Basis (30% of the initial calculation) will be applied for Projects located in HUD-designated Difficult Development Areas (DDA) or Qualified Census Tracts (QCT). Applicants requesting such increases must deliver evidence in the Initial Application Package that the Project is located in a DDA or QCT.

   Projects, regardless of whether they are located in a DDA or QCT, may also be determined to be eligible for the state-designated basis boost (up to 30% of the initial calculation) if deemed necessary for Project feasibility as determined by MFA.

   The state-designated basis boost is available to the following 9% Projects:

   a. Projects receiving points under the Households with Special Housing Needs Housing Priority
   b. Projects receiving points under the Projects Reserved for Seniors Housing Priority
   c. Projects receiving points under the Households with Children Housing Priority

The state-designated basis boost cannot be applied to Projects financed by tax-exempt bonds.

6. **Adjustments to credit allocations**. When actual tax credit proceeds are confirmed and final financial Feasibility Analysis is performed during review of Final Allocation packages, there may be adjustments to the tax credit allocation. Adjustments may also be made at Carryover for rehabilitation Projects when the CNA and appraisal are provided. Professionals performing the CNA must meet the minimum qualification/certification requirements set forth by MFA as defined in the Design Standards. If actual Project costs or funding sources differ substantially

from the projections submitted in the Application, MFA may adjust the final tax credit allocation or the Project Owner may establish Project reserves to offset the deficit, if in MFA's reasonable judgment the Project has sufficient tax credit eligibility. The conditions for such reserve accounts will be determined by MFA on a case-by-case basis.

7. **Federally required subsequent financial analysis**. Federal regulations require that housing credit agencies conduct evaluations at three specific times to determine the amount of applicable tax credits.
    a. Upon receipt of an Application for LIHTC Reservation; and
    b. Prior to granting a tax credit allocation; and
    c. No earlier than 30 days prior to awarding the tax credit certification, IRS Form 8609.

F. Final Processing and Awards

1. **Additional considerations**. Applications meeting the requirements of the threshold review and Feasibility Analysis described above will be further evaluated and processed by MFA. In this step all remaining determinations will be made with respect to development team capability, design, readiness to proceed and other factors in MFA's reasonable judgment to evaluate the Project's Application. Projects must meet the Design Standards available from MFA on the website. Debarment from HUD, MFA or other federal housing programs, bankruptcy, criminal indictments or convictions, poor performance on prior MFA or federally-financed Projects (for example, late payments within the 18-month period prior to the Application Deadline, misuse of reserves and/or other Project funds, default, fair housing violations, non-compliance [e.g. with the terms of LURAs on other Projects] or failure to meet development deadlines or documentation requirements) on the part of any proposed development team member or Project Owner or other Principal or affiliate may result in rejection of an Application by MFA. In addition, MFA will consider a Principal's progress made with previous tax credit Reservations, including timeliness in delivering required documents and fees and meeting all required deadlines. When scoring and ranking generates multiple Projects that would draw tenants from a single market area (as determined by the market studies for the Projects in question), MFA may choose to eliminate the lower scoring or higher cost Project to avoid overbuilding and distribute credits more evenly throughout the state. In addition, MFA reserves the right to reject any Project, which MFA in its reasonable judgment determines is inconsistent with prudent business practices or with the intent and purpose of the QAP. MFA may also make awards conditional on specific modifications to the Project that MFA in its sound judgment considers necessary to enhance the feasibility or safety of the Project.

2. **Selection of projects for awards**. Projects meeting the threshold review requirements listed in Section III.C will be ranked and ordered according to scoring procedures established in Sections II.C and III.E with consideration to the Allocation Set-asides as described in Section III.D. Staff will then prepare a summary of the Projects to be recommended for allocations. Eligible and ineligible Projects will be distinguished for purposes of subsequent awards if additional credits

become available. Tax-exempt bond financed Projects will be evaluated in a similar process but will not compete against other Projects for an allocation of tax credits.

3. **Allocation Review Committee (ARC)**. The Chairman of the Board of MFA will appoint an ARC. The functions of this committee will be to: 1) review the Project rating and ranking results in the staff's proposed award summary, 2) determine whether or not the proposed awards have been made consistent with this QAP, 3) conduct the appeals process and 4) make final award recommendations to the Board of Directors. MFA will notify Applicants of the preliminary status of their Projects with the use of a preliminary Reservation Letter, preliminary waitlist letter or rejection letter, after ARC's approval of the staff's proposed awards and before the appeal process begins. Such letters will be scheduled to be issued after the Allocation Review Committee meets.. Except for appeals as described in **Section IV.F.4** below, the provisions of this section are not applicable to tax-exempt bond financed Projects.

4. **Appeal process**. Applicants wishing to appeal a determination made by MFA with respect to their Application may do so by way of the "Form of Submission" (Section IV.A.3) no later than 5 p.m. Mountain Standard Time on the 10th calendar day after the date of the preliminary Reservation Letter, preliminary waitlist letter or rejection letter (or draft Letter of Determination, in the case of tax-exempt bond financed Projects). Appeal requests may only be filed by the General Partner or proposed General Partner and only one appeal may be filed with regard to an Application. MFA's initial determination with respect to the Application will stand unless the Applicant can prove or justify, solely on the basis of materials submitted in the Initial Application, why the decision should be changed. The ARC will review the appeal and take whatever action it deems appropriate. The decision by ARC or the Board, if the matter is referred to the Board, will be final, no further appeals will be entertained. Appeals may result in re-ranking of Projects, in rejection of previously approved Projects and/or in approval of previously rejected Projects. Once the appeals process is completed and the resulting recommendations are considered and approved by MFA's Board of Directors, final Reservation Letters, in accordance with Section IV.F.5, (or draft Letter of Determination in the case of tax-exempt bond financed Projects) will be issued.

5. **Board of Directors**. The Board will make final awards for each competitive 9% tax credit allocation round (for logistical reasons the preliminary Reservation Letters, preliminary waitlist letter and rejection letters will be issued prior to the appeals process and the Board's final decisions).

   On or before May 1, 2024, Applicants are required to upload a brief (approximately three minute) MP4 video (suitable to be shared on YouTube) to MFA's website portal. The video must highlight the proposed Project being recommended for approval by MFA's Board of Directors. MFA will provide an outline of the presentation format. Applicants are also required to attend the MFA Board of Directors meeting to answer any questions board members may have regarding the Project recommended for approval. Final Reservation Letters will be issued

following the Board decision. MFA Board-approved hybrid 9%/4% projects with a pending allocation of private activity bond volume cap will receive Final Reservation Letters following approval of private activity bond volume cap. The Board will approve Projects considered to be Eligible Projects and these may include Projects for which tax credit allocations are not immediately available. If any Projects receiving a Reservation fail to meet subsequent requirements, an allocation of tax credits may be revoked and then awarded by MFA to the next highest scoring Eligible Project(s) on the waiting list. Any conflicts of interest of Board members are to be disclosed and Board members having such conflicts will abstain from votes approving or disapproving LIHTC Projects in accordance with MFA's policies, procedures, rules and regulations regarding conflicts of interest. The provisions of this section relating to Board actions following competitive allocation rounds are not applicable to tax-exempt bond financed Projects.

G. Notification of Approval and Subsequent Project Requirements

Note: Only Sub-sections 2, 7, 8 (at 8609 Application), and 9-11 of this section (IV.G) apply to tax-exempt bond financed Projects.

Successful Applicants will be notified of MFA's allocation decision in the form of a Reservation Letter. MFA anticipates Reservation Letters will be delivered in May 2024, shortly after approval of tax credit awards at the May 2024 Board meeting.

Reservation Letters and/or Carryover Allocations are non-transferable either to another entity or within the same entity where there is a change in control or General Partner interests, except with the express written consent of MFA, it being the explicit intention of the QAP to prevent one party from obtaining such a Reservation and/or Carryover Allocation in order to sell or broker its interest in the proposal (except for syndication purposes). Because all representations made with respect to the Project Owner, Application, Developer or related party or entity, or any member of the development team, their experience and previous participation are material to the evaluation made by MFA, it is not expected that MFA's consent will be granted for such transfers unless a new Application is submitted and scores no less than the original Application, and the transfer would result in a benefit to the Project.

Affirmative actions after Reservation. From the date of the Reservation, the Applicant must meet each of the deadlines specified below for follow up activity in order to maintain its Reservation or Carryover Allocation. **MFA has no obligation to provide any further notice to Applicants of these requirements and failure to submit any one or more of the items may cause the Reservation to be terminated or the Carryover Allocation to be cancelled**. Applicants must further agree to voluntarily return their Reservations or tax credit allocations for reallocation to other Projects by MFA if any of the deadlines below are not met. **All submissions must follow "Form of Submission" requirements shown in Section IV.A.3.**

1. **At Reservation**

The processing fee must be paid at this time and any other conditions noted in the Reservation Letter, which may include evidence of continued site control, must be satisfied.

2. **Quarterly Progress Reports**

All 9% Projects must submit a quarterly progress report to MFA on or before March 31st, June 30th, September 30th, and December 31st each year, beginning with March 31st after the allocation year, and continuing until the Final Allocation Application has been submitted. All 4% Projects must submit a quarterly progress report to MFA following the issuance of a Final Determination letter, starting with the next quarter end, March 31st, June 30th, September 30th, and December 31st each year. The information to be covered in the progress reports will be provided on MFA's website. Any failure to provide a timely progress report, or failure to provide a complete and accurate report containing the required information, may result in a loss of tax credits.

3. **By November 15th** (see footnote 5) of the allocation year
    a. Threshold requirement number two:
    Applicants whose Projects were not required to meet threshold requirement number two (zoning) at the Application Deadline must submit evidence that all required zoning approvals for the proposed Project have been obtained; and
    b. All Applicants must deliver:
        i. The contractor's resume, if it was not included in the Application.
        ii. Financing Commitment(s) (see definition) for construction and permanent financing and any other rental or other subsidy, as applicable. Financing Commitments must be submitted from all funding and subsidy sources including construction and first mortgage lender(s), all secondary financing sources (i.e., grants, loans, in-kind contributions) and a letter of intent from the equity provider. Projects which include federal historic tax credits in the financing structure must submit evidence from the National Park Service that a complete historic certification – part two (2) for the Project has been received.
        iii. For a Project to be financed by HUD (e.g., HUD 221(d)(4)), evidence that Applicant has submitted a site appraisal and market analysis (SAMA) application to HUD (for new construction Projects) or a feasibility application (for rehabilitation Projects).
        iv. For a Project to be financed by MFA's 542(c) Risk Sharing program, a HUD firm approval letter.
    c. **Carryover Allocation requirements**. If the Project will not be Placed In Service during the calendar year in which the Reservation is made, the Applicant must request a Carryover Allocation, which allows for 24 additional months to complete the Project. The complete Carryover Allocation package must contain all items on the Carryover Allocation requirements checklist, including a tax opinion addressing satisfaction of the 50% rule where there are related parties. All tax credit fees must be paid to date. In addition, the Project architect must certify that the Project's final plans and specifications meet the Design Standards and contain all commitments made in the

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Initial Application regarding design and building. The Project architect must further certify either there have been no Material Design Changes in the final plans and specifications or, if there have been Material Design Changes made, changes in the key development team members, or if the costs as identified on Schedule D of the original Application have changed more than 5%, then a detailed narrative description of the changes made in the construction drawings and/or Schedule D between Application and Carryover must be provided. If there is a change to a key member of the development team (Developer, Project Owner, General Partner, contractor, management company, consultant(s), architect, attorney and accountant, etc.) following Carryover, the project must supply MFA with a written explanation of the reason behind the change, materials supporting the benefit to the Project in making the change (including resumes) in order to assess whether or not the Project is negatively impacted by the change.

d. **Rehabilitation and Adaptive reuse Projects**. In addition, rehabilitation Projects must provide, with the Carryover Application, an appraisal and a CNA of the existing Project, dated within 12 months of the Carryover Application. Professionals performing the CNA must meet the minimum qualification/certification requirements set forth by MFA as defined in the Design Standards.

4. **March 1**[7] of the year following Carryover
   If applicable, the MFA 542(c) Risk Sharing commitment is to be fully executed.

5. **No later than June 30** (see footnote 5) of the year following Carryover
   The Applicant must submit complete final construction drawings, specifications and construction documents for MFA review for compliance with the Design Standards. See Section IV.C.7 for further details.

6. **August 31** (see footnote 5) of the year following Carryover
   a. The Applicant must submit evidence that the basis in the Project exceeds 10% of the reasonable expected total basis in the Project, an independent auditor's report and Cost Certification, a Project Owner's attorney's opinion, in the form required by MFA, and any other documentation required by MFA ("10% test.")
   b. The Applicant must deliver evidence acceptable to MFA that construction of the Project has begun. This will include, at a minimum, building permits and site photographs.
   c. The Applicant must deliver an executed partnership agreement.
   d. Qualified Nonprofit Organization Eligible Projects included in the federal set-aside (as defined in the Code Section 42(h)(5)(C)) must deliver an executed Right of First Refusal Agreement using MFA's form of Right of First Refusal Agreement.
   e. If federal historic tax credits are included in the financing structure of the Project, evidence of National Park Service approval of the Project's historic certification – part 2 must be submitted.

[7] If such date falls on a weekend or holiday, the deadline shall be the first working day following such date.

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f. The Applicant must deliver evidence that the Project Owner has taken ownership of the land and, if applicable, depreciable real property, that is expected to be part of the Project. For tribal Projects, this would include fully executed master and sub-lease agreements with evidence of filing with the Bureau of Indian Affairs.

7. **At or around the 50% construction completion mark**
The Applicant must organize a meeting with MFA staff (both Asset Management and Housing Development departments). The Developer, owner, nonprofit representative, management company staff, and any service providers involved in the Project must be in attendance. This meeting will be required ahead of lease-up. The following materials must be submitted prior to this meeting:
   - Related Party Affidavit for the Management Agent
   - Compliance Affidavit for the Property Management Agent
   - Property Management Agent resume
   - Schedule I for the Property Management Agent
   - MOU required under Section III.E.8 above will be required for this meeting, as applicable.

8. **November 15th** (see footnote 5) of the second year following the initial allocation.

Final Allocation and Placed In Service requirements. On or before November 15th of the second year following the initial allocation, a Placed In Service Application or a Final Allocation Application must be submitted. **Failure to meet this requirement will result in the loss of tax credits**. If the Project is to be Placed In Service but Applicant is not yet ready to request LIHTC allocation certification (IRS Form 8609), the Placed In Service portion of the Final Allocation package must still be submitted on or before November 15th of the second year following the initial allocation. A complete Final Allocation package shall be submitted no later than 120 days following the close of the Project's first taxable year of the Credit Period.

If the Project Owner anticipates returning any portion of the allocated tax credits, updated Schedules A-F are due no later than February 15th of the year following the Placed In Service date to ensure that the returned credits can be awarded to another Project or MFA's loans can be adjusted prior to the Final Allocation package submission. If the Project Owner fails to notify MFA and submit the updated Schedules A-F by February 15th of the year following the Placed In Service date and the tax credits are not able to be allocated to another Project, the Principals involved in the Project will be ineligible to participate in the 9% LIHTC round the year after the Final Allocation package is submitted.

Prior to the issuance of IRS Form 8609 certifications for the Project, the Project Owner must submit a complete Final Allocation package, containing all items in the Final Allocation checklist, which include, among other items, the following:

a. **Cost Certification**. Cost Certifications are required to be prepared as described in Section V. The CPA-prepared Cost Certification must be delivered by the Project Owner prior to the issuance of IRS Form 8609 certifications; the general contractor-prepared Cost Certification (if applicable) may be held in escrow by the project or general contractor, but would be required for audit purposes, as outlined in Section II.S.
b. **Architect's certification**. A certification from the Project architect with required text as set forth in the Final Allocation package, certified by the Project Owner, that the Project has been built in conformance with the Design Standards, all applicable codes and commitments made in the Initial Application regarding design and building, unless otherwise approved in writing by MFA.
c. **Project Owner's attorney's opinion**. A Project Owner's attorney opinion submitted on the firm's letterhead with required text as set forth in the Application Package.
d. **Final contractor's application and certificate for payment, AIA doc. G702 or equivalent**. A fully executed copy indicating all the hard Construction Costs for the Project must be submitted with the Final Allocation package.
e. **LURA**. Prior to December 31st of the year in which the buildings are Placed In Service, the Project Owner must submit an executed and recorded LURA, satisfactory to MFA in form and content.

9. **Design Review.** MFA must approve the final construction completion inspection described in Section IV.C.7. prior to 8609 issuance.

10. **Other Project Owner responsibilities and elections**. The Project Owner must place the buildings in service and claim tax credits within certain time periods. Project Owner must forward written notice and copies of all Certificates of Occupancy (for new construction) or Certificates of Substantial Completion (for rehabilitation) to the tax credit program manager within 30 days of issuance, to ensure that all necessary administrative actions are taken in a timely manner. Otherwise, tax credits may not be able to be claimed as desired.

11. **LURA or Extended Use Agreement**. Section 42(h)(6) of the Code requires imposition of "an extended low-income housing commitment." MFA complies with this requirement with a LURA filed at the time of placement in service or Final Allocation. The LURA sets forth, as covenants running with the land for a minimum of 30 years (or longer if Project Owner commits to a longer restriction period), the compliance fees, the low-income set-asides, the percentages of median income to be served, the Special Housing Needs to be served, if any, and any other such commitment made in the Initial Application or that may be imposed through this QAP and the Code. The LURA may not be terminated prior to its term for any reason other than foreclosure or an instrument in lieu of foreclosure and the Project Owner will not have the right to require MFA to present a "Qualified Contract" in accordance with Code Section 42(h)(6). The Project Owner will also have to deliver subordination agreements from all lenders, giving lien priority to the tax credit restrictions.

H. Termination of Reservations or Rejection of Applications

Any of the following events or actions on the part of the Applicant at any time subsequent to the Initial Application may cause the Application to be rejected or the Reservation to be terminated in MFA's sole discretion:

1. Loss of site control or site change
2. Submission of any false or fraudulent information in the Application or in other submissions
3. Failure to meet the conditions of Section IV.B and IV.G above or in the Reservation Letter
4. Subsequent regulations issued by U.S. Department of Treasury or the IRS pertaining to the Code
5. Failure to promptly notify MFA of any material or adverse changes in the facts of the original Application pursuant to **Section IV.I** below
6. Instances of non-compliance continuing beyond the specified cure period on Applicant's or Principal's other Projects
7. Any other change which would alter the original scoring of the Application or which was not approved in advance by MFA
8. Debarment from HUD, MFA or other federal programs, bankruptcy, criminal indictments or convictions, poor performance on prior MFA or HUD-financed Projects (including but not limited to late payments within the 18 month period prior to the Application Deadline, misuse of reserves and/or other Project funds, default, fair housing violations, non-compliance [e.g. with the terms of LURAs on other Projects,] failure to meet development deadlines or documentation requirements) on the part of any development team member or Project Owner or Principal
9. Change in the federal Set-aside Election or other set-aside proposed in the Initial Application, subsequent to the Application Deadline

I. Notification to MFA of Changes to the Project

It is Applicant's responsibility to notify MFA immediately, in writing, of any changes to the Project subsequent to submission of an Application, including the changes listed below and any other material changes, by requesting MFA's approval of such changes. Failure to notify MFA may result in the rejection of an Application or loss of a Reservation or tax credit allocation. Approval of such changes will be made in MFA's sole discretion and the change may result in a change in the tax credit amount or other action by MFA. A $500 fee payment is required at the time of the request for approval of any

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changes in accordance with Section IV.B. In addition to this fee, Applicant agrees it shall pay MFA any legal fees it may incur in processing the request. Applicants/Project Owners will not be allowed to make changes to a Project that would result in a change to any of the specific items for which points were awarded, unless extraordinary and well-documented circumstances would warrant it, and changes must be approved by MFA. Any such change(s) to a Project that would require a re-scoring or re-evaluation which causes the Project's score to fall below its original score may cause the LIHTC allocation to be rescinded in the case of 9% Projects or never issued in the case of 4% Projects.

Examples of changes of which MFA must be notified:

1. Site control or rights of way are lost;

2. Project costs change in excess of 5% of the Total Development Cost shown in the Carryover Allocation Application Package (for 9% Projects) or subsequent to Initial Application submission (for 4% Projects);

3. Applicant obtains additional subsidies or financing other than those disclosed in the Carryover Allocation Application Package; or loses subsidies or financing included in the Carryover Application Package, and/or the amount of any such financing or subsidy changes by greater than or equal to 10% from the amount shown in the Carryover Allocation Application Package (for 9% Projects) or subsequent to Initial Application submission (for 4% Projects);

4. Development cost contributions made by a state, local or tribal governmental entity are reduced, increased, withdrawn or substituted with other types of contributions than the ones originally proposed in the Application;

5. The syndication payment timing and/or net proceeds change from those stated in the Carryover Allocation Application Package (for 9% Projects) or subsequent to Initial Application submission (for 4% Projects);

6. The parties [other than the limited partner(s) formation] involved in the ownership entity as represented in the Application change;

7. Changes to Project design, unit design, square footage, unit mix, number of Units, number of buildings changes, amenities, parking quantities, landscaping scope, energy performance, water usage, quality of construction or specification;

8. A change in any enrichment service provider and/or change in type of enrichment service to be provided;

9. The general contractor or other member of the original development team changes;

10. Any fire or other natural disaster occurring at or near the Project site; or

11. Any other factor deemed material by MFA in its reasonable judgment.

J. Notice Provisions

MFA will typically provide notice to Applicants through certified mail, courier service or e-mail transmission. Consequently, correct street addresses, e-mail addresses and phone numbers must be provided clearly in the Application form. **Such notices will be provided only to the Contact Person(s) shown in the Application form. MFA will not be responsible for any consequences that may result from the Applicant's inability to receive notice from MFA due to a change in Contact Person information, or other contact information i.e. address or phone number, that was not reported to MFA**.

K. Applications are Public Records

All information contained in Applications for tax credits are public records subject to inspection under state and federal open records laws. In addition, MFA may share information and details obtained from Applications with other public agencies.

L. Attorney Fees

Any and all attorney fees incurred by MFA in the course of contract development, negotiations, project reviews, loan conditions, ownership changes or other project-specific legal expenses will be reimbursed by the Project or Developer. In any litigation, arbitration or other proceeding arising from, as a result of or pursuant to this QAP and/or the resulting tax credit allocation round, selection process or award determinations, MFA, if it is the prevailing party, shall be entitled to be awarded its reasonable attorney fees, costs and expenses incurred from the opposing party, regardless of which party initiated the litigation, arbitration or other proceeding.

V. Cost Certification

A. Applicability of Cost Certification

Certification by a CPA is required to certify compliance with the 10% test as defined in **Section IV.G.6.a**. Prior to the issuance of a LIHTC certification (IRS Form 8609), MFA will require two Cost Certifications to be prepared, one by an independent CPA and executed by both the CPA and Project Owner, and a second Cost Certification prepared and executed by the general contractor The Cost Certification prepared and executed by the general contractor should reflect real costs to the general contractor, but those costs may not be reflected in the CPA-prepared Cost Certification if the project entered into a

Maximum Guaranteed Price or Stipulated Sum Contract for example. In those cases, the owner-incurred costs should be reflected in the CPA-prepared document, regardless of the general contractor costs. The general contractor Cost Certification may not meet MFA cost requirements if a Maximum Guaranteed Price or Stipulated Sum Contract was utilized. Therefore, if the project entered into a Stipulated Sum Contract or a Maximum Guaranteed Price, a Cost Certification does not need to be prepared by the general contractor.

B. Requirements

The Form 8609 Cost Certification must meet the following requirements:

1. The CPA preparing the Cost Certification must certify that all costs are related to the Project's development and do not include costs for organization, syndication, professional or consultant fees related to syndication. The CPA shall "test" a minimum of 20% of all costs listed therein. Both the CPA and Project Owner must execute the Cost Certification. In addition, a Cost Certification is required to be prepared and executed by the general contractor if the project is not utilizing a stipulated sum contract. Each Cost Certification must specifically identify those costs listed in any general or "Other" category. The general contractor Cost Certification (if applicable) may be held in escrow by the project or general contractor but must be produced in the event of an audit as outlined in Section II.S.

2. All fees, including the developer fee, paid to the Project Owner or Developer or to an entity with an Identity of Interest with the Project Owner or Developer, must be clearly identified. If all or a portion of the developer fee is deferred, copies of the promissory note or other substantiation of the validity of the fee must be reviewed.

3. If the land is purchased from a related party, the Project Owner must submit an appraisal to substantiate fair market value, which appraisal must include a determination of value based upon any land use restrictions per HUD or other entity, including MFA.

4. Legal fees related to land acquisition must be clearly identified.

5. Interest expense related to land must be clearly identified.

6. The sources of all funding including loans, tax credit proceeds, Project Owner/Developer equity and all other sources must be certified.

C. Authority to Determine Maximum Qualified Basis

MFA may challenge the costs provided in the Cost Certification, impose the limitations set forth in this QAP and in its sole discretion, determine the maximum Qualified Basis against which credit is allocated.

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VI. Processing of Tax-Exempt Bond Financed Project Applications

The Code allows tax-exempt bond financed Projects to receive an allocation of 4% tax credits provided they meet the minimum requirements for an allocation in the QAP. MFA's determination that a Project satisfies the requirements of the QAP will be based on the Project meeting all minimum Project threshold requirements, staff analysis, Application processing, Feasibility Analysis and property standards described in the QAP in effect when the determination is made. The tax credits allocated to tax-exempt bond financed Projects are not subject to the Annual Credit Ceiling and, consequently, are not required to compete in the competitive allocation process described in the QAP. MFA staff will undertake an analysis to determine the tax credit amount necessary for financial feasibility using the same underwriting criteria used in evaluating non-bond-financed projects.

Similar to competitive applications, all tax-exempt bond financed Projects are required to submit an Intent to Submit a Tax Credit Application and Development Synopsis at least 30 days prior to submitting their Application in order to insure timely processing to meet other bond issuance deadlines. Additionally, all tax-exempt bond financed Projects are encouraged to meet with MFA staff at least 30 days prior to submission to review and discuss the proposed Project.

Requests for these determinations (Applications) must be made by the Project's Developer/sponsor at least 60 days prior to submission to the State Board of Finance for bond volume cap. Requests must include an Application fee and Direct Cost Deposit as listed in Section IV.B., a market study, a completed 2024 Universal Rental Development Application and Schedules with all attachments and any other material specified by MFA. The market study must meet all requirements identified within the Market Study Parameters in MFA's determination and be dated no more than 180 calendar days prior to the date on which a Complete Application is received by MFA. (See Section III.C.4 for more information about Market Study requirements.) Prior to the release of the Letter of Determination by MFA staff, a processing fee in the amount of 8.5% of the approved annual credit amount will be due. MFA's initial response to the Application for 4% tax credits will be provided no later than 60 business days subsequent to receipt of the Complete Application by MFA.

Unless otherwise stated, all provisions of this QAP are intended to apply to tax-exempt bond financed Projects. To assist in clarifying where provisions are different, MFA has prepared a separate application form for 4% Applications and a 2024 Bond Checklist that are available to download from MFA's website. In addition to the Project Narrative required for 9% Projects, the required Project Narrative must also include the description of the characteristics of the Project in terms of the tax-exempt bond issuance. A failure to provide any of the information required herein will result in a determination, in MFA's sole discretion, that the Project Application is incomplete. You may provide additional documentation that supports this narrative. Each supporting document should include a brief description of what is contained in the document and the purpose for which it is being submitted. This expanded document shall also address the following:

a. The current use and condition of the proposed site;

b. The amount of requested Volume Cap. Provide explanation of and support for the amount requested;

c. Evidence of qualification under the relevant bond financing sections of the Code;

d. Describe in detail the bond financing structure;

    1. Identify if there will be more than one series of bonds;

    2. Will the bonds be used in construction only or be used in permanent financing;

    3. Bond terms including any source used to pay back the bonds;

    4. All entities involved in the financing, e.g., rating agencies, bond insurer, letter of credit bank, credit enhancement entity;

e. Evidence and support of adequate market for the Units and explanation of why the housing needs of households eligible to live in the proposed Project are not being met by existing multifamily housing;

f. Conditions to be satisfied prior to bond issue, e.g., all governmental approvals, real estate conditions;

g. Statement indicating why the public purpose of the bonds could not be as economically or effectively served without an allocation of bond cap;

h. Other information regarding the economic benefits of the Project to the Project's community and the State of New Mexico;

i. Provide a detailed timeline, incorporating all pertinent milestones including but not limited to all governmental approvals and the bond closing.

Tax-exempt bond financed Projects may receive tax credits on the full amount of their Eligible Basis only if at least 50% of the Project's "aggregate basis" is financed with tax-exempt bonds. Additionally, numerous bond-financing rules apply and many tax credit requirements are different for tax-exempt bond financed Projects. MFA recommends that Project Owners undertaking these Projects obtain advice from qualified tax professionals to ensure that such requirements are met.

To ensure that these credits are used to leverage the greatest possible amount of resources, the following additional minimum Project threshold requirements will apply:

1. **Percent of total sources limit**. The private activity bond volume cap allocation by the State Board of Finance must not exceed 60% of the Project's Total Development Cost without a waiver from MFA, which shall not unreasonably be withheld if sufficient volume cap is anticipated to be available.

2. **Costs of issuance limit**. Costs of issuance may not exceed 5% of the bond issue for Projects with total financing sources of $2,000,000 or more and 7% for Projects with total financing sources of less than $2,000,000.

For all tax-exempt bond financed Projects, the Project Owner must provide notice to MFA that Units have been Placed In Service by providing written notice and copies of the Certificates of Occupancy for new construction, the Certificate of Substantial Completion for rehabilitation within thirty (30) days of issuance. Additionally, the Project Owner must request the issuance of a LURA from MFA within one month of the date on which the last Unit of the Project was Placed In Service.

VII. Amendments to the Allocation Plan and Waivers of Plan Provisions

MFA reserves the right to modify this QAP, including its compliance and monitoring provisions, and to waive plan provisions, as required by the promulgation or amendment of the Code, from time to time or for other reasons as determined by MFA, including, but not limited to, the ability to respond to government declared disasters and emergencies. MFA will, however, make available to the general public a written explanation of any allocation of housing tax credits that is not made in accordance with established priorities and selection criteria of the Agency.

VIII. Future Year's Binding Commitments

MFA staff shall have the authority to advance allocate up to $300,000 in future year's tax credits to Board-approved Eligible Projects. However, advance allocations are made solely at MFA's discretion and no advance allocation may be made to any Project whose tax credit amount is not at least 50% funded by the current year's Annual Credit Ceiling without MFA Board approval. Future year commitments in excess of $300,000 in any given year must also be approved by the Board. Any advance allocation will require the Applicant to execute a Binding Commitment, as drafted by MFA and agree to the dates and timeframes required in this QAP.

IX. Disaster Relief Allocations

The Board will retain the authority to allocate current or future year's tax credits at any time and in any amount to Projects approved by the Board that are intended to alleviate housing shortages in communities affected by declared and natural disasters.

X. MFA Tax Credit Monitoring and Compliance Plan Summary

A. General Requirements

Federal law requires MFA to develop and implement a compliance-monitoring program for completed Projects that have received LIHTCs. A compliance plan contained in a manual has been developed and is available to the Project Owners at MFA's website, www.housingnm.org. Compliance Monitoring is required for a minimum 15 years after receipt of a tax credit allocation. Each Project Owner has chosen to utilize LIHTCs to take advantage of the tax benefits provided. In exchange for these tax benefits, certain requirements must be met so that the Project will benefit low income tenants.

Project Owners will be required to submit a quarterly report to MFA for each of the first four calendar quarters after a Project is Placed In Service. At that time, if the Project is determined to be in compliance with the Code, reports may be filed on an annual basis with MFA's approval. Project Owners will be required to submit to MFA a copy of all federal form 8609's, including schedule A, filed with the IRS in the first year that credits are claimed and at any subsequent time as requested by MFA. MFA reserves the right, in its sole discretion, to require such additional reports and/or records as MFA reasonably determines are necessary.

Beginning three (3) years prior to the expiration of rent restrictions:

- Project Owners shall notify existing tenants in writing of the date when the Project's long-term use restrictions will expire. If the Project Owner fails to timely issue the notice, each existing tenant's rent shall remain restricted until such time as each existing tenant receives three years notice of the expiring use restrictions.
- Notify all new tenants in writing of the date when the Project's long-term use restrictions will expire concurrent with signing a lease to move into the property. If the notice is not signed by the tenant with the lease, the tenant's rent restriction shall be extended for the number of days the notice was delayed.

Project Owners shall maintain copies of each notice with documentation of the date that the tenant received the notice.

B. Inspections

MFA will conduct on-site inspections of all buildings in the low-income housing Project and will review low-income certifications by the end of the second calendar year following the year the last building in the low-income housing Project is Placed In Service; and at least once every 3 years thereafter. The minimum number of low-income Units that must be included in the random samples on which MFA will conduct physical inspections or low-income certification review is the lesser of the applicable REAC number or 20 percent of the low-income Units in the Project, rounded up to the next whole number.

Each inspection will include a review of the Project's low-income certifications, supporting income documentation, leases, rent records (including utility documentation) and Unit inspections in at least

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the minimum Unit sample size of the Project's Set-aside Units and a physical inspection of the entire Project (interior and exterior). In mixed-use and mixed-income properties, 100% of the Units may be monitored. If Projects are determined to be in noncompliance, site visits may occur more often. MFA will provide the owner written notification at least 15 days in advance of scheduled inspections.

MFA will also inspect, as applicable to the property, compliance with service coordination plans and service coordinator office hour requirements, enrichment services, coordinated services, etc. committed to under the Households with Children Housing Priority, Households with Special Housing Needs Housing Priority, Projects Reserved for Seniors Housing Priority and the PSH category under the Underserved Populations set-aside.

During the Extended Use Period, MFA reserves the right, under the provisions of the Code and the Project's LURA, to perform an audit of any Project that has received an allocation of tax credits. This audit will include an on-site inspection of all buildings and a review of all tenant records and certifications and other documents supporting criteria for which the Project Owner received points in the Application for an allocation of credits.

C. Recordkeeping and Record Retention

Under the provisions of the tax credits, the Project Owner will be required to keep records as defined below for each building within a particular Project. These records must be retained by the Project Owner for a minimum of six years beyond the Project Owner's income tax filing date for that year. However, first-year Project records must be maintained for six years beyond the tax filing date of the final year of the Project's eligibility for tax credits. The Project Owner must report to MFA, through MFA's Web Compliance Management System (WCMS), annual audited property financial statements within 120 days of the close of the Project's fiscal year, as well as annual operating budgets. On a monthly basis, the Project Owner must provide tenant income certifications and property vacancy data using the WCMS online system. In addition, the Project Owner must maintain records for each qualified low-income building in the Project showing:

1. The total number of residential Units in the building (including the number of bedrooms and size in square feet of each residential unit)

2. The percentage of residential Units in the building that are Set-aside Units

3. The rent charged on each residential Unit in the building (including utility allowances)

4. The number of occupants in each residential Unit in the building

5. The low-income Unit vacancies in the building and documentation of when and to whom the "next available Units" were rented

6. The income certification of each low-income tenant

7. The documentation to support each low-income tenant's income certification

8. The Eligible Basis and Qualified Basis for each building

9. The character and use of any nonresidential portion of the building included in the building's Eligible Basis (this includes separate facilities such as clubhouses or swimming pools whose Eligible Basis is allocated to each building)

10. Additional documentation and reporting as required by federal regulation

11. Additional documentation and reporting as required by MFA

Failure to annually report is deemed as noncompliance and is reportable to the IRS.

D. Annual Certification Review

It is the responsibility of the Project Owner to annually certify to MFA that the Project meets the requirements of the Code, whichever set-aside is applicable to the Project. Failure to make this certification is deemed as noncompliance and is reportable to the IRS. This annual certification requires the Project Owner to certify that:

1. The Project meets the minimum requirements of the set-aside election

2. There has been no change in the Applicable Fraction

3. An annual low-income certification has been received from each low-income tenant and documentation is available to support that certification

4. Each low-income Unit is rent restricted under the Code

5. Subject to the income restrictions on the Project, all Units in the Project are for use by the general public and are used on a non-transient basis

6. There has been no finding of discrimination under the Fair Housing Act

7. Each building within the Project is suitable for occupancy taking into account local health, safety and building codes

8. There has been no change in any building's Eligible Basis under the Code or if there has been a change, adequate explanation of the nature of the change has been given

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9. All tenant facilities included in the Eligible Basis of any building in the Project are provided on a comparable basis, without a separate fee, to all tenants in the building

10. If a low-income Unit in the Project becomes vacant during the year, reasonable attempts are made to rent the Unit to tenants having a qualifying income and while the Unit is vacant, no Units of comparable or smaller size are rented to tenants not having a qualifying income

11. If the income of Low-income Tenants of Units increases above 140% of the applicable income limit allowed in the Code, the next available Unit of comparable or smaller size will be leased to tenants having qualifying income.

12. Project Owner has not refused to lease a Unit to an Applicant based exclusively on their status as a holder of a Section 8 voucher and the Project otherwise meets the provisions outlined in the extended low-income housing commitment

13. If the Project Owner received its tax credit allocation from the state ceiling set-aside for Projects involving "Qualified Nonprofit Organizations," the nonprofit entity materially participated in the operation of the development

14. There has been no change in ownership or management of the Project that was not approved in advance by MFA

15. The Project Owner has obtained accurate, allowable, current utility allowances for use in the calculation of rents for the Project and acknowledges this to be an annual requirement for the duration for the Compliance Period

16. For the preceding 12 months the Project Owner has complied with Section 42(h)(6)(E)(ii)(I) of the Code that an existing tenant of a low-income Unit has not been evicted or had their tenancies terminated for anything other than good cause

17. The Project Owner has complied with Section 42(h)(6)(E)(ii)(II) of the Code and not increased the gross rent above the maximum allowed under the Code with respect to any low-income Unit.

18. The Project has complied with the Violence Against Women Act (VAWA), which provides protections for residents and Applicants who are victims of domestic violence, dating violence or stalking, and any other situation or incidence mandated by VAWA. Compliance requirements mandated by VAWA include, but are not limited to, honoring civil protection orders, eviction protection and bifurcation of lease when necessary.

19. The owner has received an annual Student Self Certification for each low-income household.

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20. The owner continues to comply with all terms it agreed to in its Application for Credit authority, including all federal and state-level program requirements and any commitments for which it received points or other preferential treatment in its Application.

21. The property has not suffered a casualty loss resulting in the current displacement of residents.

22. If applicable, the property has completed the annual service coordination requirements per the LURA including on site office hours, providing coordinated services and conducting an annual survey. If yes, include the number of hours and the number of residents served with coordinated services in the next section.

23. The property has completed PSH Commitment to Quality checklist for every Permanent Supportive Housing for each qualified household if applicable.

24. The property has provided all required service enrichments according to the schedule listed in the LURA if applicable.

25. The property is in compliance with the Smoke Free at Home Program.

24. The building identification number, first year of Credit Period and Applicable Fraction of each building.

As an exception, only for RD Projects, MFA may accept a certification from RD that income is based upon annual tenant certifications/re-certifications and that third party verification has been obtained. This certification will be in a form that is acceptable to both RD and MFA. Project Owners must furnish RD certifications annually, verifying that Projects are in compliance with the Code.

Tax-exempt bond financed Projects in which 50% or more of the aggregate basis is funded with the proceeds of bond financing may also be exempt, in MFA's discretion, from many of the certification and review provisions outlined within this document. The monitoring and certification guidelines for these Projects must be in a form that will satisfy those agencies issuing the bonds and MFA. The Project's monitoring procedures must, at a minimum, satisfy the compliance guidelines set forth by the Code.

Projects which are 100% allowable for tax credit purposes (i.e., all Units are income and rent restricted at 60% of AMI or lower or 80% of AMI or lower with an average income of 60% AMI or lower for Average Income Projects) and that have no other financing requiring annual income re-certifications may also be exempt pursuant to HR 3221. Project Owners must furnish MFA certifications annually, verifying that Projects are in compliance with the Code, as well as any other data that MFA may require per our monitoring and compliance guidelines.

The Project Owner of any exempted Project must certify to MFA on an annual basis that the Project is in compliance with the requirements for RD assistance, tax credits or the tax-exempt bond financing guidelines, as applicable, and that all requirements of the Code are also being met. The Project Owner

must inform MFA of any noncompliance or if Project Owner is unable to make one or more of the required certifications.

E. Compliance Review

MFA may elect to subcontract the monitoring procedure to other agents. In doing so, MFA would designate the subcontractor as the compliance-monitoring agent who would perform MFA's function.

In the event that any noncompliance with the Code is identified, a discrepancy letter entitled "Notice of Non-Compliance," detailing the noncompliance will be forwarded promptly to the Project Owner and the management company of the Project. The Project Owner must then respond in writing to MFA within 30 days after receipt of the discrepancy letter. The response must address all discrepancies individually and must indicate the manner in which corrections will be made. The Project Owner will then have a cure period of 30 days from the date of the discrepancies individually and must indicate the manner in which corrections will be made. The proposed owner will then have a cure period of 30 days from the date of the discrepancy letter to correct the noncompliance detected and to provide MFA with any documentation or certification found to be missing during the annual management review. The cure period may be extended for periods of up to six months. Extensions will be based on a determination by MFA that there is good cause for granting the extension.

MFA will notify the IRS within 45 days after the expiration of the cure period of any noncompliance that has been detected. All corrections made by the Project Owner within the cure period will be acknowledged within this notice. A copy of the Project Owner's response to the noncompliance will accompany the notice to the IRS.

If potential noncompliance is discovered during a Compliance Monitoring review, the Project Owner will be required to have the Project's managing agent attend a compliance training session within two months following the Compliance Monitoring review.

In order to offset the cost of monitoring procedures, an annual fee will be assessed for each year through the end of the Extended Use Period. For 2024, the monitoring/compliance fee is $50.00/set-aside Unit/per year. The monitoring/compliance fee can be paid annually, on or before January 31,or in a lump sum to cover the initial 15 years of the Compliance Period. If paid in a lump sum, the amount will be determined in the year the development receives a Final Allocation. Payment of the lump sum amount will be required prior to issuance of Forms 8609 for each Project. For 2024, the amount of the Compliance Monitoring fee for the remainder of the contractual Extended Use Period will be $20.00/set-aside Unit/per year beginning in year 16. Annual certifications and reports are due in the MFA office by March 31st of each year (for the past reporting year.) Annual compliance reports are due by March 31st of each year, through MFA's WCMS online compliance system for the full term of the Extended Use Period. Annual audited property financial statements are due in the MFA office within 120 days of the property's fiscal year end. A notice will be mailed to each Project Owner or a designated representative to remind them that the certification, reports and fees are due.

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XI. GLOSSARY

Acquisition Costs - for purposes of calculating developer fee in related party transactions, the full appraised value of any land and/or existing improvements, including any buildings; and/or costs attributable to the acquisition of any land and/or improvements, including any buildings, and including costs relating to title, recording, legal and site review.

Adaptive Reuse Projects - Projects which will involve the conversion of an existing building or buildings, which was not initially constructed for residential use to multifamily residential rental units (i.e., apartment units).

Affordability Period - Total of the initial Compliance Period plus the Extended Use Period (30-year minimum plus any additional time required and documented in the LURA).

Agency - New Mexico Mortgage Finance Authority (MFA).

Allocation Review Committee (ARC) - a committee appointed by the Chairman of the MFA Board of Directors to review Projects rating and ranking results, to determine if the proposed allocations have been made consistent with the Project Selection Criteria and the QAP, and to hear appeals and decide their outcome.

Allocation Set-asides - the federally mandated tax credit Allocation set-aside requirement for Projects involving Qualified Nonprofit Organizations, as well as other tax credit Allocation Set-asides designated by MFA from time-to-time and incorporated into the QAP.

Annual Credit Ceiling - the total dollar volume of tax credits available for distribution by the Agency and authorized pursuant to the Code, in a given year. The population-based ceiling amount is the amount of tax credits allocated to the state each year based on the state population.

Applicable Credit Percentage - the monthly interest rate issued by the U.S. Department of Treasury and used to discount the present value of the 70% tax credit (set at 9% by the PATH Act of 2015) and the 30% tax credit (set at 4% by the Consolidated Appropriations Act of 2021.)

Applicable Fraction - the fraction, the numerator of which is the number of low-income Units and the denominator of which is the total number of residential rental Units less any Unit exempted by Revenue Ruling 92-61; or the fraction, the numerator of which is the floor space of the low-income Units and the denominator of which is the total floor space of the residential rental Units less any Unit exempted by Revenue Ruling 92-61, whichever is less. The Eligible Basis of a building is multiplied by the Applicable Fraction to determine the Qualified Basis of a building for tax credit purposes.

Applicant - the General Partner or the managing member(s) of the General Partner.

Application - the completed forms, schedules, checklists, exhibits uploaded to MFA's file sharing site https://mfa.internal.housingnm.org/SFT_HD/ any additional documentation requested in the Initial

Application Package, Carryover Allocation package and Final Allocation package, as well as any supplemental materials requested by MFA. They must be submitted to MFA in accordance with the QAP in order to apply for the Tax Credit Program.

Application Deadline – 12:00 p.m. Mountain Standard Time on the final day of the Application Period, except for tax-exempt bond financed Projects, for which the submission date is specified in Section VI.

Application Package - the forms, schedules, checklists, exhibits uploaded to MFA's file sharing site: https://mfa.internal.housingnm.org/SFT_HD/ and instructions thereto obtained from the Agency, which shall be completed and submitted to the Agency in accordance with all regulations in order to apply for the Tax Credit Program.

Application Period – the period during which Applications will be accepted by MFA as described in Section IV.A.

Architecture and Engineering – includes the following disciplines: all services provided through the architectural firm including architectural services and supervision, landscape design and civil, structural, mechanical, plumbing, electrical engineering. It does not include the services of a geotechnical engineer or HERS rater as these consultants are contracted directly with the developer. Interior design, if applicable to the Project, is included in the Furniture, Fixtures and Equipment line under Other Construction Costs on Schedule A.

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.

Average Income (AI) Election – This election under the Code was authorized by the Consolidated Appropriations Act of 2018. This set-aside allows the Project to serve households up to 80% AMI as long as at least 40% of the total Units are rent and income restricted and the average income limit for all tax credit Units in the Project is at or below 60% AMI.

Binding Commitment – an agreement between MFA and an Applicant by which MFA allocates and the Applicant accepts tax credits in accordance with Section 42(h)(1)(C) of the Code. MFA's Carryover Allocation is its Binding Commitment.

Blighted Buildings – buildings that are in such severe disrepair that rehabilitation or Adaptive reuse is no longer feasible.

Board of Directors (Board) – MFA's Board of Directors.

Brownfield – land where the development, redevelopment or reuse may be complicated by presence of hazardous substance, pollutant or contaminant including petroleum. Brownfield sites require a remediation plan based on a Phase II Environmental Site Assessment.

Building's Gross Square Feet – the sum of the Gross Square Feet on each floor of a building. Covered parking and structured parking should not be included in the Building's Gross Square Feet.

Capital Needs Assessment (CNA) – a report prepared by a competent professional meeting the minimum qualification/certification requirements set forth by MFA, as defined in the Design Standards, that addresses the following:

1. Site visit and physical inspection of the interior and exterior of Units and structures
2. Interview with available on-site property management and maintenance personnel regarding past and pending repairs/improvements and physical deficiencies
3. Identification of the presence of any visible environmental hazards on the site or other life safety concerns
4. Opinion as to the adequacy of the proposed budget for recommended improvements.
5. Description of all major systems of the buildings and Units with a projection of the remaining useful life of each, including certification of critical building systems or components that have reached or exceeded their expected useful lives
6. Description of all building envelope and structural systems deficiencies
7. Projection of recurring probable expenditures for significant systems and components over 15 years.
8. Determination of the appropriate upfront and ongoing replacement reserve deposits.

Capture Rate – Ratio of the total Units proposed to the number of income qualified households in the Primary Market Area (PMA). This ratio is calculated by dividing the total number of proposed Units by the total number of age, size and income qualified renter households in the PMA.

Carryover Allocation – the provision under the Code which allows a Project, under certain conditions allowed by the Code, to receive a tax credit allocation in a given calendar year and to be Placed in Service within a period of two calendar years after the calendar year in which Applicant qualifies for a Carryover Allocation. The Carryover Allocation is MFA's Binding Commitment for tax credits.

Casualty - A casualty loss can result from the damage, destruction, or loss of your property from any sudden, unexpected, or unusual event such as a flood, hurricane, tornado, fire, earthquake, or volcanic eruption. A casualty does not include normal wear and tear or progressive deterioration.

Code –Section 42 of the Internal Revenue Code of 1986, as in effect on the date of the QAP, together with corresponding and applicable final, temporary or proposed regulations and revenue rulings issued with respect thereto by the U.S. Department of Treasury or the Internal Revenue Service of the U.S.

Complete Application – an Initial Application meeting all of the requirements in Section IV.A.4, Content and Format.

Compliance Monitoring – the Agency's procedure, as required by the Code and detailed in MFA's Tax Credit Monitoring and Compliance Plan, of auditing and inspecting all completed LIHTC Projects.

Compliance Period – with respect to any building that is included in the LIHTC Project, a minimum period of 15 years beginning on the first day of the first taxable year of the tax Credit Period with respect thereto in which a LIHTC Project shall continue to maintain the low-income Units as low-income Units pursuant to Applicant's Set-aside Election in the Application, pursuant to the Code. Compliance Period plus Extended Use Period equals Affordability Period.

Concerted Community Revitalization Plan – a metropolitan redevelopment plan as defined in NMSA 1978 Section 3-60A-4 prepared and enacted by a local, county or tribal government prior to the Application Deadline. For Projects located on sovereign tribal lands, "Concerted Community Revitalization Plan" means a written plan similar in content and affect to a metropolitan redevelopment plan as defined in NMSA 1978 Section 3-60A-4, prepared and enacted by a tribal government prior to the Application Deadline, which identifies barriers to community vitality and promotes specific concerted revitalization activities within an area having distinct geographic boundaries and must contain more components than the LIHTC Project itself.

Consolidated Plan – plan prepared in accordance with HUD regulations, 24 C.F.R. 91 (1994), which describes needs, resources, priorities and proposed activities to be undertaken with respect to certain HUD programs.

Construction Costs – for purposes of calculating builder profit, overhead and general requirements and per Unit rehabilitation construction Cost, the on-site and construction Costs in the construction contract, before gross receipts tax, profit, overhead and general requirements. At Initial Application and Carryover, Construction Cost should include a reasonable construction contingency.

Contact Person – a person identified in the Initial Application with decision-making authority for the Applicant, Developer or the Project Owner, with whom MFA will correspond concerning the Application and for the Project.

Contractor's Cost Certification – a certification prepared and executed by the general contractor, indicating all identities of interest and certifying that all Construction Costs included are related to the Project.

Cost Certification – A certification prepared by a CPA on forms provided by MFA, indicating the method of certification, all identities of interest and certification that all Project costs included are related to the project.

Credit Period – with respect to any building that is included in the LIHTC Project, the period of 10 years beginning with 1) the taxable year in which the building is Placed In Service or 2) at the election of the Project Owner, the succeeding taxable year.

Developer – any individual, association, corporation, joint venture or partnership, which is to manage all aspects of the construction and/or rehabilitation of the proposed Project.

Development Costs – the sum total of all costs incurred in the development of a Project, all of which shall be subject to approval and are approved by MFA as reasonable and necessary. Such costs may include, but are not limited to:

1. The cost of acquiring real property and any building thereon, including payment for options, deposits or contracts to purchase properties.
2. The cost of site preparation and development.
3. Any expenses relating to the issuance of tax-exempt bonds or taxable bonds by the Agency, if any, related to the Project.
4. Fees in connection with the planning, execution and financing of the Project, such as those of architects, engineers, attorneys, accountants and the Agency.
5. The cost of studies, surveys, plans, permits, insurance, interest, financing, tax and assessment costs and other operating and carrying costs incurred during construction, rehabilitation or reconstruction of the Project.
6. The cost of the construction, rehabilitation and equipping of the Project.
7. The cost of land improvements, such as landscaping and off-site improvements related to the Project, whether such costs are paid in cash, property or services.
8. Expenses in connection with initial occupancy of the Project.
9. Allowances established by the Agency for working capital, contingency reserves and reserves for any anticipated operating deficits during the first two years after completion of the Project.
10. The cost of such other items, including relocation cost, indemnity and surety bonds, premium on insurance and fee and expenses of trustees, depositories and paying agents for bonds.

Difficult Development Area or DDA – any area designated by the secretary of HUD as having high construction, land and utility costs relative to Area Median Income in accordance with Section 42(d)(5) of the Code.

Eligible Application or **Eligible Project** – an Application or Project which has met all minimum Project threshold requirements.

Eligible Basis – the sum of the eligible cost elements that are subject to depreciation, such as expenditures for new construction, rehabilitation and building acquisition.

Eligible Partners or **Eligible Households** – one or more natural persons or a household, irrespective of race, creed, national origin or sex, determined by the Agency to be of low- or very low-income. In determining the income standards of eligible persons for its various programs, the Agency shall take into account the following factors:

1. Requirements mandated by federal law
2. Variations in circumstances in the different areas of the state
3. Whether the determination is for rental housing
4. The need for household size adjustments

Extended Use Period – with respect to any building that is included in a LIHTC Project, the period of affordability **following** the initial 15-year Compliance Period during which time the Project continues to be restricted to affordable low-income housing. The minimum Extended Use Period required by Code is fifteen years. Compliance Period plus Extended Use Period equals Affordability Period.

Feasibility Analysis – a financial analysis based on rules established by the IRS and MFA to determine a Project's financial feasibility, which is completed to ascertain a tax credit amount, the adequacy of financing sources, and the income required to support operation of the Project.

Federal Grant – any federal grant except those specifically excluded in Section 1.42-16(b) of the Treasury regulations.

Federal Subsidy – any construction or permanent financing that is directly or indirectly financed from state or local bonds, including municipal bonds, which are tax-exempt for federal income tax purposes.

Federally-assisted Building – any building which is substantially assisted, financed or operated under Section 8 of the United States Housing Act of 1937, Section 221(d)(3), Section 221(d)(4) or 236 of the United States Housing Act, Section 515 of the Housing Act of 1949 or any other program administered by HUD or by the rural housing service of the Department of Agriculture.

Final Allocation – a determination by MFA that a Project is complete and that a certain amount of tax credits is warranted. The Final Allocation must be requested by the Project Owner and culminates in delivery of IRS Form 8609 by MFA.

Financing Commitment – a commitment for permanent or construction financing which 1) is not subject to further approval by any loan committee or board of directors or other entity of the creditor making the commitment and 2) contains specific terms of funding and repayment.

General Partner – that partner or collective of partners identified as the General Partner of the partnership that is the Project Owner and that has general liability for the partnership. If the Project Owner is a limited liability company, the term General Partner shall mean the managing member or members with management responsibility for the limited liability company.

Government Entity or **Instrumentality** – any agency or other government created entity of the state of New Mexico, the counties or municipalities of New Mexico or the tribal governments of New Mexican tribes and pueblos.

Gross Square Feet – the area that includes all enclosed space as measured from the exterior face of the building walls and means everything under the roof, including storage and patios. Covered parking and structured parking should not be included in Gross Square Feet.

Hard Construction Costs - calculated as the sum of costs for existing structures, site work, rehab and/or new construction, and hard cost contingency, as related to the housing components of the development only. This figure excludes land costs. The costs considered for calculating these points will not include any costs related to commercial or retail space. (All costs reflected on Schedule D in the Application.)

Historic Property – a building or buildings certified on the National Register of Historic Places (i.e., meet the criteria for Part 1 Approval for Historic Tax Credits

Households or individuals experiencing homelessness - A household or individual is considered homeless if they:

1. lack a fixed, regular, and adequate nighttime residence, which includes a primary nighttime residence of places not designed for or ordinarily used as a regular sleeping accommodation (including cars, parks, abandoned buildings, etc.) or publicly or privately operated shelters or transitional housing, including a hotel or motel paid for by government or charitable organizations; or
2. are being discharged from an institution where they've been a resident for 90 days or less and the person resided in a shelter (but not transitional housing) or place not meant for human habitation immediately prior to entering that institution; or
3. are being evicted from their primary nighttime residence within 14 days and no subsequent residence has been identified and the individual/household lacks the resources and support networks (i.e., family, friends, faith-based or other social networks) needed to obtain housing; or
4. have ALL of these characteristics:
    - unaccompanied youth (less than 25 years of age) or family with children and youth;
    - defined as homeless under other federal statutes who do not otherwise qualify under this definition;
    - has not had a lease, ownership interest, or occupancy agreement in permanent housing for 60 days prior to applying for occupancy;
    - has moved two or more times in the 60 days immediately prior to applying for occupancy; AND
    - has one or more of the following: a) chronic disabilities, b) chronic physical or mental health conditions, c) substance addiction, d) histories of domestic violence or childhood abuse, e) child with a disability, f) or two or more barriers to employment, which include i) lack of a high school diploma or GED, ii) illiteracy, iii) low English proficiency, iv) history of incarceration or detention for criminal activity, or v) history of unstable employment.
5. are fleeing or attempting to flee domestic violence, dating violence, sexual assault, stalking, or other dangerous or life-threatening situations related to violence; have no other residence; and lack the resources and support networks needed to obtain housing.

Households with Children – households that include one or more persons under the age of 18 years.

Households with Special Housing Needs – households in which an individual or household member is in need of supportive services, tenancy supports and housing and meets at least one of the following definitions:

1. Has a physical or mental impairment that substantially limits one or more major life activities; has a record of such impairment; or is regarded as having such impairment. In general, a physical or mental impairment includes hearing, mobility and visual impairments, chronic alcoholism, chronic

mental illness, AIDS, AIDS Related Complex, and developmental disability that substantially limits one or more major life activities. Major life activities include walking, talking, hearing, seeing, breathing, learning, performing manual tasks, and caring for oneself.

2. Households or individuals experiencing homelessness (see definition above).

HUD – U.S. Department of Housing and Urban Development.

Identity of Interest – occurs when any officer, director, board member or authorized agent of any development team member (consultant, general contractor, attorney, management agent, seller of the land, etc.): 1) is also an officer, director, board member or authorized agent of any other development team member; 2) has any financial interest in any other development team member's firm or corporation; 3) is a business partner of an officer, director, board member or authorized agent of any other development team member; 4) has a family relationship through blood, marriage or adoption with an officer, director, board member or authorized agent of any other development team member or 5) advances any funds or items of value to the sponsor/borrower.

Initial Application – the Application first provided to MFA on or before an Application Deadline to request an allocation of tax credits.

Land Use Restriction Agreement or **LURA** – the agreement submitted to the Agency restricting the property to affordable housing use during the Compliance Period and Extended Use Period.

Letter of Determination – the letter issued by MFA pursuant to Section 42(m)(1)(D) of the Code advising the Project Owner that MFA has made the determination that a tax-exempt bond financed Project satisfies the requirements for an allocation of tax credits under the QAP conditioned upon Project compliance with the Code.

LIHTC Project – the proposed or existing rental housing development(s) for which tax credits have been applied for or received.

Local Government – any county, municipality, tribe or other general-purpose political subdivision in the state of New Mexico.

Local Notice – MFA's letter to the chief executive office (or the equivalent) of the local jurisdiction within which the Project is located, which provides a 30-day period to comment on the Project pursuant to Code Section 42(m)(1)(A)(ii).

Low Income Housing Tax Credit (LIHTC) Program or **Tax Credit Program** – the rental housing program administered by MFA pursuant to the Code and by the state of New Mexico Executive Order 97-01.

Low-income Tenants – households that occupy Set-aside Units.

Low Income Units or **Set-aside Units** – Units which are rent restricted and set-aside for tenants whose income does not exceed 50%, 60% or some lower percentage, whichever is elected, of Area Median Income.

Management Units -

Employee/Exempt Unit

The general-public-use requirement of § 1.42-9 does not apply in the case of units for resident managers, maintenance personnel or courtesy officers (Exempt Units) in a qualified low- income building because the units are not residential rental units but facilities reasonably required for the project. Because the presence of an employee unit must be necessary for project operations, the IRS may examine whether an employee who resides in an employee/exempt unit serves primarily the property where they live by working full time at the property. The necessity of the employee unit may be called into question if the employee's responsibilities are split among more than one property or even if the employee holds a second job.

Based upon the above facts and representations, the IRS has ruled as follows: The adjusted basis of the unit occupied by resident managers, maintenance personnel or courtesy officers is included in the eligible basis of the building under section 42(d)(1), but the unit is excluded from the applicable fraction of the building under section 42(c)(1)(B). Further, the inclusion of the adjusted basis of the unit occupied by resident managers, maintenance personnel or courtesy officers in eligible basis will not be affected by a later conversion of that unit into a residential rental unit.

Additionally, the Internal Revenue Service (IRS) released a program manager technical assistance (PMTA) memo dated June 2, 2014 (PMTA 2014-22), which clarified the IRS position regarding charging for exempt units. In the memo, the IRS states, "Charging resident managers or maintenance personnel rents, utilities, or both for units in a qualified low-income building does not make the units residential rental units and not facilities reasonably required for the project under §1.103-8(b)(4)(iii)."

Market Rate Units – residential rental Units that are not low-income Units.

Material Design Changes – any change in the Project, its scope or its quality which would affect its underwriting or compliance with MFA's mandatory design standards. For example, a change in building area, unit areas, unit counts, amenities, parking quantities, landscaping scope, energy performance, water usage, quality of construction or specification would each constitute a material change.

Minority - For purposes of Scoring Criterion 21(vi), a Minority is a racial or ethnic group, members of which have been subjected to prejudice or cultural bias by virtue of belonging to the group, without regard to individual qualities. Such racial or ethnic groups include, but are not limited to:

(1) African Americans. Persons having origins in any of the African racial groups of Africa.

(2) Hispanic Americans. All persons of Mexican, Puerto Rican, Cuban, South or Central American, Caribbean and other Spanish or Portuguese culture or origin.

(3) Native Americans. Persons having origins in any of the original peoples of North America or the Hawaiian Islands, in particular, American Indians, Eskimos, Aleuts and Native Hawaiians.

(4) Asian-Pacific Americans. Persons having origins in Japan, China, the Philippines, Vietnam, Korea, Samoa, Guam, the U.S. Trust Territories of the Pacific, Northern Marianas, Laos, Cambodia, Taiwan and India.

Moderate Rehabilitation – repairs, replacements and improvements that do not fall into Substantial Rehabilitation as defined herein or where the work is limited to level two (2) alterations (as described by Enterprise Green Communities Criteria.) Level two alterations include the reconfiguration of space, the addition or elimination of any door or window, the reconfiguration or extension of any system, does not include the replacement of two or more major systems or the installation of any additional equipment. A Project where the work area does not exceed 50% of the aggregate area of the building (the work scope is less than an ICC level three alteration.)

New Mexico Housing Authority (NMHA) – any public housing authority legally established in the state of New Mexico.

Placed In Service – the date on which the first Unit of a new construction Project is certified or otherwise officially declared as available for occupancy as evidenced by the Certificate of Occupancy. For rehabilitation Projects, it is the date of the Certificate of Substantial Completion. For acquisitions of existing Projects, it is the date of purchase by a new Project Owner.

Principal – an Applicant, any General Partner of an Applicant, and any officer, director, board member or any shareholder, General Partner, managing member or affiliate of an Applicant. It also includes any entity receiving any part of a developer fee for a Project. For Project compliance purposes (**Section IV.C.8**), Principal would include shareholders with interests of 25% or more, all officers of a corporation (including employees, but excluding volunteer board members with no financial interest), all General Partners or members.

Project – the development proposed by the Applicant as specifically described in the Application.

Project Owner – the legal entity that ultimately owns the Project and to which tax credits will be allocated.

Project Selection Criteria – the criteria used to score a Project for tax credit allocation purposes.

Qualified Allocation Plan or **QAP** – this Qualified Allocation Plan, which was adopted by Board action on October 18, 2023 and made effective as of December 1, 2023, which was approved by the Governor of the state of New Mexico pursuant to Section 42(m)(1)(B) of the Code and sets forth the Project Selection Criteria and the preferences for Projects which will receive tax credits.

Qualified Basis – the portion or percentage of the Eligible Basis that qualifies for the tax credit. It is calculated by multiplying the Eligible Basis by the Applicable Fraction.

Qualified Census Tract or QCT – any census tract which is designated by the Secretary of HUD as having 50% or more of the households at an income level which is less than 60% of the Area Median Income in accordance with Section 42(d)(5) of the Code.

Qualified Leasehold Interest – a leasehold interest running at least as long as the Extended Use Period.

Qualified Nonprofit Organization – an organization described in Sections 501(c)(3) or 501(c)(4) of the Code and exempt from tax under Section 501(a). The production of decent, safe and affordable housing must be one of the defined goals, objectives or purposes of the nonprofit organization. The nonprofit organization must materially participate in the Project, meaning that the organization must be involved on a regular, continuous and substantial basis in both the development and operation of the Project during the term of the Compliance Period. The nonprofit must also own an interest in the Project throughout the Compliance Period and may not be affiliated with or controlled by a for-profit organization.

Rent Restricted Unit – with respect to a LIHTC Project, a Unit for which the gross rent does not exceed 30% of the imputed Area Median Income limitation applicable to such Unit as chosen by the Applicant in the Application and in accordance with the Code. Gross rent must be determined from the rent charts included in the Application Package and must correspond to the percentage of Area Median Income selected by the Applicant in the Application. It includes the cost of utilities and must be reduced by the amount of tenant-paid utilities. Gross rent includes all income for the Unit, including tenant and any subsidy payments. See also "Unit."

Reservation or Reservation Contract – the contract executed by MFA and the Applicant with respect to an allocation of tax credits, which states the conditions to be met by Applicant prior to issuance of a Carryover Allocation.

Reservation Letter– a document issued by MFA which describes the amount of credits provisionally awarded to a Project and the conditions which the Project Owner must meet in order to obtain a Binding Commitment for tax credits.

Rural Development or RD or USDA (previously called "Farmer's Home Administration" or "FMHA" of the U.S. Department of Agriculture) means Rural Development or other Agency or Instrumentality created or chartered by the U.S. to which the powers of RD have been transferred.

Section 811 Project-based Rental Assistance Demonstration Program (Section 811 PRA) – The purpose of the Section 811 PRA is to expand the supply of supportive housing that promotes and facilitates community integration for people with significant and long-term disabilities. Section 811 PRA provides a project-based rent assistance subsidy that covers the difference between the tenant payment and the approved contract rent. Tenants pay 30 percent of their adjusted gross income for rent and utilities. Tenant referrals and service providers are coordinated by the Department of Human Services (DHS) and Local Lead Agencies (LLAs). For more information go to: https://housingnm.org/property-owners-agents-and-managers/section-811-project-rental-assistance

Senior Housing – Projects that qualify for an exemption from familial status discrimination under the Fair Housing Act. To qualify for this exemption, Projects must be: (i) provided under any state or federal program that HUD has determined to be specifically designed and operated to assist elderly persons (as defined in the state or federal program); or (ii) intended for, and solely occupied by persons 62 years of age or older; or (iii) intended and operated for occupancy by persons 55 years of age or older in compliance with the Housing for Older Persons Act (HOPA), 24 CFR Part 100 Final Rule.

Set-aside Election – the federally imposed minimum proportion of total Project Units set-aside as low-income Units at one or more Area Gross Median Income level(s). This election is made by the Applicant and meets the minimum requirements of Code Section 42: larger proportions of Units are generally set-aside by the Applicant and restricted in the LURA.

Set-aside Units those Units eligible for low income housing tax credits.

Single Room Occupancy – housing consisting of single room dwelling Units. The Unit must contain either food preparation and/or sanitary facilities.

Special Needs – see definition above under Households with Special Housing Needs.

State-assisted Building – any building which is substantially assisted, financed or operated under any state law similar in purposes to Section 8 of the United States Housing Act of 1937, Section 221(d)(3), Section 221(d)(4) or 236 of the United States Housing Act, Section 515 of the Housing Act of 1949 or any other program administered by HUD or by the USDA Rural Housing Service.

Substantial Rehabilitation – commonly referred to as a "gut" rehabilitation and includes the replacement and/or improvements to at least two (2) major systems of the building, including its envelope. Major building systems include roof structures, wall or floor structures, foundations, plumbing, heating, ventilating and air conditioning (HVAC) and electrical systems. The building envelope is defined as the air barrier and thermal barrier separating exterior from interior space. A Substantial Rehabilitation also includes a Project where the work area exceeds 50% of the aggregate building area (an ICC level 3 alteration Scope of Work.)

Tax Credit Ceiling Rents – the maximum rent that may be charged for a Rent Restricted Unit.

Tenant Conversion Plan – a written plan acceptable to MFA, describing the method to be used to enable tenants to acquire ownership of their Units at such time as conversion to owner occupancy is allowed under the Code. The Project Owner must provide and describe the type of homeownership, financial and maintenance counseling to be offered. The Project Owner must describe in detail how the Unit will be converted from a rental Unit to homeownership. Please refer to Section III.E.15 for more information on Eventual Tenant Ownership.

Total Development Cost – the total of all costs incurred or to be incurred by the Project in acquiring, constructing, rehabilitating and financing the Project. For the purposes of calculating developer fees, Total Development Cost will be adjusted to exclude developer fees (which includes consultant fees), commercial space Construction Costs and all reserves. For purposes of calculating cost limits, the

purchase price attributed to the land, any costs related to commercial space, reserves (not eligible for tax credits), and costs of bond issuance on line 65 of Schedule A will be excluded.

Unit – a residential rental housing Unit in a Project including manager and employee Units.

Universal Design – any component of a house or apartment that increases the usability for people of all ages, size and abilities and enhances the ability of all residents to live independently for as long as possible.

Urban Area – A location within the boundaries of Bernalillo County, the City of Rio Rancho, the City of Las Cruces, or the City of Santa Fe.

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XII. List of Appendices

The following documents are incorporated by reference into this Qualified Allocation Plan:

- 2024 MFA Universal Rental Development Application
- 2024 MFA Universal Rental Development Schedules A – F
- 2024 MFA Underwriting Supplement
- 2024 MFA Design Standards
- 2024 MFA Design Standards – Supplement A – NHTF Requirements
- 2024 Market Study Parameters
- 2024 Bond Checklist
- 2024 Carryover Allocation & 10% Test Instructions & Checklist
    - Assignment of Building Identification Numbers
    - Architect's Certification
    - Option to Lock Applicable Credit Percentage (Section 42(b) of the Code)
    - Ten Percent Letter (Independent Accountant's Report)
    - Form of Owner's Attorney's Opinion
    - Exhibit A to Independent Auditor's Report
- MFA Compliance Addendum
- Service Coordination Checklist of Responsibilities
- 2024 Placed In Service and Final Allocation Instructions & Checklist
    - Schedule M Addendum to Application
    - Form A Instructions
    - Form A – Final Certification of Uses
    - Form B – Independent Accountant's Report
    - Form C1 – Owner's Cost Certification
    - Form C2 – General Contractor's Cost Certification
    - 2024 MFA form of Attorney Opinion
    - 2024 Form 8609 Certification
    - 2024 As-Built Architect Certification
    - 2024 Lender's Consent and Agreement to Recording of and Subordination to Land Use Restriction Agreement
    - 2024 Project Ownership Profile
    - 2024 Sample LIHTC LURA
    - 2024 Sample Equity Certification Letter
- Low-Income Housing Tax Credit Compliance Plan, December 2021 as may be amended
- Annual Owners Certification, December 2021 as may be amended
- Rent and Income Limits (LIHTC, TCAP, TCEP, RS) - https://housingnm.org/property-owners-agents-and-managers/tools-resources-1/rent-and-income-limits

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Exhibit 1

Board Members

Chair – Angel Reyes – Centinel Bank in Taos
Vice Chair – Derek Valdo – Chief Executive Officer, AMERIND Risk
Treasurer – Rebecca Wurzburger – Strategic Planning Consultant
Member - Howie Morales - Lieutenant Governor, state of New Mexico
Member - Raúl Torrez – Attorney General, state of New Mexico
Member -Laura M. Montoya – Treasurer, state of New Mexico
Member – Patricia A. Sullivan – Associate Dean, New Mexico State University

Allocation Review Committee

Chair, Patricia A. Sullivan
Member, Michael A. D'Antonio
Member, Edward Archuleta
Member, Rosalyn Nguyen Chafey
Member, Robert White
Member, Nicole L. Martinez
Member, Adelmo (Del) Archuleta
Member, Kenneth Carson, Jr.

Management

Isidoro "Izzy" Hernandez, Executive Director and Chief Executive Officer
Donna Maestas-De Vries, Chief Housing Officer
Jeff Payne, Chief Lending Officer
Arundhati Bose, Chief Financial Officer
George Maestas, Director of Housing Development
Jacobo Martinez , Assistant Director of Housing Development
Jeanne Redondo, Tax Credit Program Manager
Christi Wheelock, Tax Credit Analyst

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MFA received the following comments during the public comment period between August 15, 2023 and September 5, 2023. Most of the comments are provided word for word, except where it was not possible or reasonable to do so, for which the substance of the comment is included. (Where written comments from the same person mirror their comments made during the public hearing, the written comments are provided.) The positive comments that were received along with the recommendations for changes to the draft QAP are appreciated. MFA responses are preliminary recommendations that are still going through the approval process and are not final until the 2024 QAP is approved by MFA's board of directors and the governor.

Section II.G – General Public Use (Management Units)

Comment 1:

The MFA procedure seems unduly complicated. The HUD regulations have long made it clear that a "reasonable number" of employee units can be included in the development mix without implication to the Applicable Fraction.

The inability to specify how many employee units we are proposing has sometimes caused underwriting issues with our equity partners. For example, is the employee unit a revenue unit, does the employee receive a rent credit, etc.

We suggest a simpler fix to be:

> Apartment communities with 20 to 80 units, one employee unit.
>
> 80 to 150 units, two employee units.
>
> If developers wish for more units, then the request procedure with MFA could work.

Comment 2:

We believe identifying a manager's unit at initial application is what lenders and equity providers would prefer and could cause confusion.

Comment 3:

I do not understand how our investors could underwrite a project and its cash flow without identifying a manager's unit up front. Additionally, we often have a unit in the community building separate from all other units in the residential building that is a manager's unit. It would not make sense to include this different sized unit in the regular unit count. This would also affect USDA applications as a manager's unit is identified in the Rental Assistance agreement.

MFA Response to Comments 1-3:

MFA is not prohibiting developers from including Employee Units in applications to other funders, nor does MFA deny reasonable requests for Employee Units once the Project is Placed In Service. Postponing the designation of Employee Units until after the Land Use Restriction is in place is the most flexible for the Project. It allows the Owner to designate a Unit that is appropriate to the staff who are living on site and change buildings as needed. It also allows the Unit to be rented out if staff do not want to live on-site. MFA has updated the QAP to allow revenue and/or non-revenue producing Management Units on Schedule B for underwriting purposes. However, Employee Units must still be requested after the Project is Placed-In-Service.

Section II.J – Combined Rehabilitation and New Construction Projects and General Guidelines Around Rehabilitation Projects

Relocation Plan

Comment 4:

We concur that it is important for preservation and rehabilitation projects to have a robust and sound displacement and/or relocation plan; however, we do not think it is advisable for MFA to require the plan in its "final" version at Initial Application. For a variety of reasons, relocation plans may need to be revised between application and the financial closing. We suggest that MFA require the submission of a draft plan at application with the opportunity to update and resubmit a final plan at closing.

MFA Response to Comment:

Unlike Applications in the 9% round that require a Carryover Application, Applications for Projects financed with tax-exempt bonds are only reviewed at Initial Application and when the Project is Placed-In-Service. MFA does not re-underwrite a Project "at closing", thus the relocation plan for a 4% bond Application is required to be in place when the Application is submitted. Section IV.I entitled "Notification to MFA of Changes to the Project" does not include small revisions to the relocation plan, as they may be required by another funder or lender; however, if the relocation plan changes materially, the developer is able to notify MFA of the material change(s) and request a review under this QAP provision.

Section II.T – Subsidy Layering Review

Comment 5:

In the past, MFA had delegated authority to complete Subsidy Layering Reviews on HUD's behalf. Waiting for HUD to complete these reviews has been a major hurdle for us holding to our development timelines so we would like the MFA to consider completing these reviews in the future.

MFA Response to Comment:

MFA will consider its capacity and whether it is advisable to undertake these reviews in the future.

Section III.C.1 – Site Control

Comment 6:

We believe it is valuable to demonstrate site control and the requirements in section [III.C.1] are reasonable. However, we urge MFA to reconsider its proposed change to eliminate the following language relating to site control:

> ~~For 4 percent projects, proof of the above level of site control must be provided upon 8609 request if it had not been provided previously.~~

Although we hope it is rarely exercised, it does give developers of bond deals some flexibility and optionality to work creatively with sellers on contracts that may have been impacted by unanticipated [sic]. In some situations, it may be desirable to allow a developer to work through temporary contract issues while concurrently pursuing their application.

MFA Response to Comments 5-6:

Projects without site control in place have the potential to fall through if the developer is not able to come to terms with the seller. In this environment when there is potential for private activity bond volume cap to be oversubscribed, it is not a wise use of MFA's resources to underwrite Projects that may not come to fruition, and it is unfair to delay Projects that are ready to proceed to request volume cap by reviewing a Project without site control before the Project that is ready to proceed.

Section III.C.4 – Market Study

Comment 7:

We urge MFA to reconsider its 10% capture rate and vacancy thresholds. Capture rates and vacancy are a useful tool to evaluate the strength of markets and should be part of a market study; however, there are many reasons why a project may have strong demand but a high capture rate. We recommend that MFA eliminate its capture rate threshold and vacancy rates in favor of a more holistic review of the market. If MFA chooses to continue to require a capture rate threshold, we believe 10% is very low. Investors and peer agencies consider capture rates and vacancy rates in excess of 20-30% (depending on the investor and/or agency) as potential red flags for further investigation.

MFA Response to Comment:

Because Capture Rates and market vacancy are useful tools to evaluate the strength of markets, MFA has opted to use them as thresholds when evaluating Applications. MFA also recognizes that there are instances when a Project may have strong demand but a high capture rate; thus Tribal and Projects reserved for Seniors have been exempted from meeting the Capture Rate level, so long as the Market Study indicates a need for the type and quantity of housing proposed. The financial resources (i.e., volume cap, 9% LIHTC, etc.) that are available are constrained and not able to meet all of the need in our state. Use of Capture Rates and market vacancy as a threshold to evaluate markets limits the use of our limited financial resources to where the demand is the highest and the units will be absorbed quickly.

Section III.C.7.a.i – Pre-Application Requirements

Intent to Submit

Comment 8:

We would like to suggest making this a point category, to motivate developers to submit in a timely manner, rather than a threshold item.

MFA Response to Comment:

Tax Credit Applications take a considerable amount of time to prepare, so it is not unreasonable to expect that a developer is aware of an Application that they may submit by the December 20th deadline. MFA requests a Development Synopsis and Intent to Submit a Tax Credit Application a month in advance so that adequate staffing is in place for the round and to determine whether sufficient MFA loan resources will be available to meet the potential demand for those resources. It also allows other Applicants to see how many other Applications may be submitted in the round, so they can decide whether to proceed to a full Application.

Section III.E Project Selection Criteria

Scoring Criterion 1 – Nonprofit Participation

Right of First Refusal

Comment 9:

Our comments/thoughts on a proposed requirement of a First Right of Refusal ("ROFR") that is MFA's form.

This requirement and language are unique to New Mexico and the region. No similar requirements in the Arizona, Utah, Colorado, Montana, Wyoming, or Nevada QAPs.

We think this new requirement is problematic for several reasons:

1. First, a ROFR is not mandated in Section 42. Rather, the ROFR under Section 42 as an optional and beneficial feature running in-favor of non-profits and housing authorities designed to promote maintained ownership by said non-profit/housing authority and the long-term affordability of the Property. It's an optional feature under Section 42 that MFA would essentially be mandating. In other words, it's a bit of an overreach by the agency in requiring how deals get structured.

2. Second, the QAP requires that MFA's form be used. This issue dovetails with our point in item 1 above. Investors have their own form of Right of First Refusal and Purchase Option Agreement. MFA's form is missing several features that investors will have significant issues with:

    a. First, in Section 2, MFA's form basically as the right of first refusal running in perpetuity. Investors will often give non-profits a 24 month window following the end of the

compliance period to exercise the ROFR. We think Investor's will take issue with the open ended term of the ROFR in MFA's form.

b. Second, the form requires a "bona fide offer" be needed to trigger the ROFR. That is not a requirement under Section 42 and we always negotiate the "bona fide offer" requirement out of our ROFR Agreements with investors.

c. Third, the Purchase Price for the ROFR is a "minimum" purchase price as prescribed under Section 42(i)(7). However, investors universally add any amounts owing to them under the LPA (unpaid adjusters, accrued and unpaid asset management fee, etc.). This form does not include any of these.

d. Fourth, investors are generally going to have issues with this form. Requiring a ROFR is one thing, but requiring use of the agency's form is really going to create a lot of issues for investors.

3. Third, this requirement could potentially box out non-profits from partnering on these deals. Hundreds of deals across the country are closed every year where a for-profit sponsor will partner with a non-profit on a deal to provide various services, etc. Many non-profits are not interested in, nor in the business of, owning and operating real estate. In exchange for a non-profit's "material participation" and provision of services to a project, the non-profit partner receives an ownership interest in the project, cash flow from operations, a portion of developer fee, and a fee for their services. But I want to circle back to a critical point, often these non-profit partners are NOT interested nor are they organizationally equipped to own and operate a project on their own.

In summary, this requirement is unusual and not industry standard, and we think has a lot of unintended consequences. Requiring the use of MFA's form is also problematic and we anticipate most investors to take issue with the form. Finally, with the LIHTC industry requiring substantial guarantee and liquidity requirements along with significant funders oversight requirements, and managing the inherent development and operational risks, our organization would need to examine its capacity and willingness to further develop and operate in New Mexico.

MFA Response to Comment:

MFA is considering revisions to the designated Right of First Refusal (ROFR) Agreement posted on the website, including whether to limit the number of years to trigger the ROFR once the Compliance Period has expired and include additional options that could benefit a qualified nonprofit or government agency that is afforded a right of first refusal under Internal Revenue Code ("Code") Section 42(i)(7), if the investor agrees to them. However, MFA is committed to the long-term affordability of developments for the benefit of tenants and full compliance by applicants and principals with the provisions of the Internal Revenue Code (Code), the extended use agreement and other program requirements. MFA similarly has an interest in preserving the right of first refusal by a qualified nonprofit organization at the close of the Compliance Period, as authorized by IRC Section 42(i)(7) of the Code. States use a variety of methods to achieve this goal. MFA is among the first states to implement a designated form of Right of First Refusal Agreement to achieve this end but is not alone in requiring a designated form of agreement. While the agreement is

required so that the nonprofit's right of first refusal is preserved, the nonprofit partner is not required to trigger the right of first refusal at the end of the Compliance Period. It merely formalizes that right and the process to do so.

Scoring Criterion 3 – Rehabilitation Projects

Comment 10:

We urge MFA to reconsider its points incentivizing the delay of recapitalization beyond twenty years. While we recognize that MFA has limited resources and it may not wish to use 9% resources on relatively "new" developments we have concerns that the policy will inadvertently lead to more projects opting out of the LIHTC program. Given current market trends, as projects approach the end of their extended-use period (year-30) there is a greater risk that they will be acquired by market rate and/or value add developers that will seek to opt out at the end of the compliance period and raise rents to market. This is particularly the case in markets where there is a significant rent advantage between LIHTC and the market. We suggest that at-risk projects will be best positioned to be preserved while stewarding MFA's scarce resources by incentivizing recapitalization around year 20. We do not recommend MFA offer points to defer recapitalization beyond the 21st year.

MFA Response to Comment:

The 2023 QAP relaxed what was referred to as the 20-Year Rule that prohibited any resyndications before Year 20. Applicants are welcome to apply to resyndicate a "newer" Project, but Projects that are at least 21 years old are incentivized with points so that MFA's limited resources go to the Projects with the highest need. In its pilot phase, MFA created the New Mexico Preservation Loan Fund in 2023 as a flexible source for multifamily properties at-risk of exiting the affordable housing stock that can be used as a long-term source to preserve the property or as bridge financing at or near the end of the 15-year Compliance Period until the Project is able to resyndicate the Project. MFA is also an intermediary of the US Department of Agriculture's Multifamily Housing Preservation Revolving Loan Fund that can be used to preserve Section 514, 515 or 516 properties.

Scoring Criteria 8-10 – Populations

Comment 11:

We respectfully request a 90-day period from certificate of occupancy to implementation of enrichment services. The Project Owner needs to focus on marketing/lease-up in order to hit the investor's qualified occupancy date requirements. A penalty of say $50 to $100/day could be imposed until evidence is provided that services have commenced such as a monthly schedule of services provide to residents.

Comment 12:

Someone from our services team initiates contact with residents upon move-in, with a detailed welcome packet regarding services. However, we would request to have a 60 – 90 day window from when Certificate of Occupancy is received until services must be provided on-site. The focus until that time is upon lease-up and making sure that residents are happily settled in their units. It is very unlikely that

services provided before that "adjustment" time would have adequate participation. The Family with Children enrichment services criteria also stipulates that services be for the exclusive use of only residents living at the site. We often utilize programs that could benefit other from the surrounding community and feel this should be allowed, if the services are actively linked to the project and available at no cost to our residents. Developing ties to the surrounding neighborhood benefits our residents!

Comment 13:

Providing services in the first 45 days (except for permanent supportive housing where services are provided to the resident before entering the property) is unlikely to be effective. We suggest allowing the property to stabilize somewhat before services begin, providing at least 45 days for services to start.

MFA Response to Comments 11-13:

Except for permanent supportive housing where services are necessary to maintain housing from the date of move-in, MFA has updated the draft QAP to allow a period of 90 days from the Certificate of Occupancy to allow Project Owners to focus on leasing up the property before implementing enrichment services. In addition, the updated draft QAP does not include the word "exclusive"; however, services must be actively tied to the site (i.e., for residents living on site) rather than services that are open to the general public (e.g., Head Start) unless the on-site space where the program is held qualifies as a community service facility under the Code. This will not necessarily exclude neighborhood residents who could benefit from the program when there are a few extra seats at a program that are not taken after a preference for residents is taken into account.

Scoring Criterion 21 – Other Scoring Points Available

Sustainable Development

Comment 14:

We respectfully request that the draft QAP be amended to include competitive points for projects that achieve high-performance building certifications, such as LEED.

We recommend that MFA incorporate the following guidelines for competitive points associated with LEED certification:

- Six (6) points available to projects that earn LEED certification at the Platinum or Gold level
- Five (5) points available to projects that earn LEED certification at the Silver level
- Four (4) points available to projects that earn LEED certification at the Certified level

The addition of competitive points for LEED-certified projects aligns with the state Sustainable Building Tax Credit, which requires residential or commercial buildings to earn LEED certification to qualify. Moreover, incentivizing greener affordable housing aligns with New Mexico's goal of achieving a 45% reduction in greenhouse gases by 2030.

Comment 15:

We request that MFA expand its Property Standards requirements to incentivize or require that funded projects certify to a comprehensive green building or water efficiency rating program. Specifically, we support recognition of the ICC-700 National Green Building Standard (NGBS) and the embedded Water Rating Index (WRI), as these programs are comprehensive and cost-effective, well-suited for affordable housing development.

MFA Response to Comments 14-15:

MFA's Mandatory Design Standards for Multifamily Housing include threshold requirements for water and energy conservation, indoor air quality, and EV capable parking spaces. New Mexico's Sustainable Building Tax Credit *is available for those who wish to pursue this incentive for cutting-edge sustainable building practices.*

Section III.G – Additional Supplemental Tax Credits for Cost Increases

Comment 16:

Streamlined application concerning supplemental tax credits for cost increases. This helps to simplify, thank you for this change.

MFA Response to Comment:

Thank you for letting us know.

Comment 17:

10% cap on additional request. We understand that credits are a scarce resource, but due to increases in costs and larger funding gaps, beyond our control, we advocate this cap be raised to the subsequent year's efficient use of credits scoring and overall cost limits.

MFA Response to Comment:

MFA has concerns that Projects are not being completed within the development budget approved at the time of the original reservation. The updated non-competitive process is designed for Projects that just need a small amount of supplemental tax credits to be feasible. Projects requiring more than 10% of the additional request have the option to return the valid allocation and compete for the full amount of tax credits in the 2024 round by submitting a complete Application, as it is assumed that all other avenues to move forward have been exhausted. Any resulting reservation from that full Application would result in the Project having the full amount of time to meet the 10% Test and Place In Service as other reservations issued in 2024.

Comment 18:

The supplemental tax credits will not extend the PIS deadline for the original award and the Project must continue to meet the QAP requirements from the year of the original award – It is very challenging to meet the construction start date and 10% test deadlines when waiting for the timelines of the 2nd year's

LIHTC allocation. We would suggest that those dates be extended to year-end of the second allocation year for all projects receiving an allocation of supplemental credits. It is a bit confusing from the language if projects are required to just meet QAP requirement for the year of the original award, or if it is the more restrictive of the two years (Design Requirements for example). Please clarify.

MFA Response to Comment:

MFA has added the following language to the updated draft QAP: "The Project must continue to meet the QAP requirements, including Design Requirements, from the year of the original award and the supplemental tax credits will not extend the Placed In Service deadline for the original award. However, the August 31st deadlines at Sections IV.G.6.a and IV.G.6.b will be extended to the federal statutory deadline for the Ten Percent Test based on the date of the Carryover Agreement for the original award."

Comment 19:

We appreciate that MFA has mechanisms to provide additional allocations of 9 percent LIHTC for inflation-stressed projects through the process of applying for supplemental allocations of LIHTC to fill project gaps. Given that this option is not available to 4 percent transactions, we recommend MFA consider further modifications to its developer fee structure to generate additional eligible basis for financially stressed bond transactions as an alternative strategy. We suggest MFA allow for a discretionary additional 5% "hardship" developer fee for bond projects experiencing financial stress due to inflation or other unforeseen conditions if they can demonstrate they have exhausted all available resources (i.e. exhausted development contingency, reasonable value engineering, etc.) and can demonstrate that the additional deferred development fee can be repaid through project cash flow within 15 years. This strategy has been modeled by the Arizona Department of Housing in its 2022 and 2023 QAP.

MFA Response to Comment:

While MFA recognizes that there are some states willing to increase developer fees on 4% projects to increase eligible basis, this is not a standard recommended practice among HFAs. MFA does not limit the percentage of developer fee that may be deferred. However, any amount that can't be repaid within 15 years through project cash flow is removed from eligible basis. Therefore, it would take more of MFA's limited soft resources to pay for this increased fee.

Section III.I – Recycled Allocations

Comment 20:

We respectfully request the following two items:

1. Please provide a clearer example, such as "Project Owner returns a valid allocation of 2022 tax credits on October 1, 2024. Project Owner meets all necessary requirements for a recycling of credits, and MFA awards a new allocation of credits that requires the Project Owner to have said Project now be Placed-In-Service by December 31, 2025."
2. MFA staff/board to have sole discretion to waive the proposed requirement that Project Principals returning tax credits cannot participate in the following year's LIHTC application round. If the

reason for the Project Principals returning tax credits is due to no fault of their own (for example, unforeseen delays in supply chains like switch gear or some act of God) and Project Principals are making good strides in completing/leasing-up the delayed project, MFA staff/board at their sole discretion could determine to waive this proposed requirement of Project Principals of passing on the upcoming LIHTC round.

Comment 21:

It seems unnecessarily punitive to require an affordable housing providers to remove themselves from a 9% competitive round when the reasons for the delays could easily be at no fault of the developer or its partner. A financial disincentive to avoid allowing projects to be delayed seems more appropriate without harming parties that may play no role in the delays themselves. Project development takes years and this is yet another disincentive for developers to service New Mexico.

Comment 22:

We support MFA's proposed new language regarding recycled allocations of tax credits.

MFA Response to Comments 20-22:

Recycling tax credits to provide more time is not permitted in all states. It is an option of last resort in times when it is just not possible, through no fault of the developer, to complete the Project by the statutory Placed In Service Deadline. If the Project is not able to be completed by the Placed In Service Deadline, the developer or its partner are still focusing their human resources on that Project, thus New Mexico's QAP includes a year waiting period to reapply in the 9% round. Some states implement a financial penalty – typically the requirement to pay the processing fee again, and sometimes paying the processing fee again is combined with waiting a full year to be eligible to re-apply.

The following example has been added to the draft 2024 QAP to clarify the timing: "The Project will place in service by December 31st of the year of the newly allocated credits and receive no further opportunity to recycle the tax credits (e.g., if 2021 LIHTC are returned in December 2023 in exchange for 2024 tax credits, the Project will place in service by December 31, 2024)."

Section IV.A.1 – Submission Date(s)

Comment 23:

"Initial Applications must be submitted ahead of 4 pm Mountain Time" – This language is confusing, prior to this statement it says due before noon Mountain Time.

MFA Response to Comment:

Thank you for catching this inadvertent error. MFA had also noted it and has corrected the deadline for consistency.

Section IV.A.4 – Content and Format: Complete Applications

Comment 24:

Separate upload of market study, architecture, specifications, Capital Needs Assessment, Environmental Phase I/II, and appraisal apart from the bookmarked PDF application. We are glad to see this change and believe it will help simplify application submittals.

MFA Response to Comment:

Thank you. This change will reduce the file size of the bookmarked PDF Application, thus making it easier to navigate.

Section IV.A.5 – Communications and Quiet Period

Comment 25:

We suggest that the FAQs be allowable until January 19th, 3pm. This last stretch right before application submission is the most critical time for questions that arise for developers.

Comment 26:

Please increase the period of time that questions can be asked of MFA before the quiet period starts. There are often last minute questions that arise despite everyone's best efforts.

MFA Response to Comment 25-26:

The updated QAP draft extends the deadline to submit FAQs (Frequently Asked Questions) until January 15th and all responses that can be answered by January 17th will be posted on January 18th. This will provide time for all Applicants to review the responses with a few days to make any changes necessary to their Application.

Section IV.B – MFA Fees and Direct Costs

Processing Fee

Comment 27:

We recognize the importance of MFA charging sufficient fees to cover its expenses associated with the administration of the LIHTC program; however, we urge MFA to reconsider its proposed increase of the processing fee in the draft QAP. Given the high construction cost environment, interest rate increases and the stubborn inflationary environment the increased fee structure decreases financing proceeds at a time of continued uncertainty related to costs. We suggest MFA hold off on fee increases until the market environment has stabilized and revert the processing fee back to 7.75% from 8.5%.

Comment 28:

We would suggest that if a cost increase is warranted that it be less than .75% in this rising construction cost environment.

MFA Response to Comments 27 – 28:

MFA has been researching the processing fee for the past two years and delayed increasing fees to be in line with other states until this year. Notably, many other states' fee structure remains higher.

8609 Fee

Comment 29:

We suggest a flat fee for 8609 corrections.

MFA Response:

The fee in the draft is a flat fee based on the number of buildings requiring a re-issued Form 8609. This methodology is in line with other states that have a similar fee and takes into account the comparative level of effort required to re-issue the form(s).

Section IV.C.2.a – Cost Limits

Comment 30:

We believe that MFA's approach to setting cost limits for 9 percent LIHTC transactions is dynamic and flexible and we prefer it to hard dollar cost limits, which often lag the market reality on the ground.

For acquisition/rehabilitation projects we recommend that MFA back out the land costs from the calculation of total development costs (TDC). Alternatively, we recommend increasing the TDC limit from 100% of the average TDC per unit in the current round to 115%.

We also recommend updating the section relating to TEB financed projects to consider the additional costs of issuance associated with TEB transactions not incurred by 9% transactions. We also observe that costs for current year projects are exceeding last year's costs by a significant percentage, depending on when a bond application is submitted the comparison to the most recent 9% round may be stale and outdated. We recommend allowing TEB projects be allowed to exceed the TDC limits established for the 9% LIHTC by 10% to account for these differences.

MFA Response to Comment:

The definition of Total Development Costs in the Glossary already states: "For purposes of calculating cost limits, the purchase price attributed to the land, any costs related to commercial space, reserves (not eligible for tax credits), and costs of bond issuance on line 65 of Schedule A will be excluded." It is understood that there is often a delay between the January deadline for 9% Applications and the date that a Tax Exempt Bond transaction is ready to submit. The QAP provides a waiver request process where it is warranted: "Any Project with extenuating circumstances around the hard construction in their Project may submit additional material justifying those costs and requesting a waiver from that limit either in the Initial

Application, or through the supplemental information process, during underwriting review. Waivers may be granted at MFA's sole discretion."

Section IV.C.4 – Market Study

Comment 31:

General best practice within the rest of the HFA community not to use vacancy rates as threshold or scoring items and there's a couple of different reasons for that. For starters, often in the areas where there's very little housing supply, like resort areas, there may not be any low income people that live in the area not for lack of desire, but just lack of housing units. So having a ten percent threshold in places like Taos or Santa Fe even could be problematic and not really reflective of the actual demand in the market. I would recommend market study a little bit more holistically and looking at the capture rate and the vacancy, but considering the whole, the totality of the market study, rather than using data points in the market study as threshold or competitive item.

MFA Response:

Because Capture Rates and market vacancy are useful tools to evaluate the strength of markets, MFA has opted to use them as thresholds when evaluating Applications. MFA also recognizes that there are instances when a Project may have strong demand but a high capture rate; thus Tribal and Projects reserved for Seniors have been exempted from meeting the Capture Rate level, so long as the Market Study indicates a need for the type and quantity of housing proposed. The financial resources (i.e., volume cap, 9% LIHTC, etc.) that are available are constrained and not able to meet all of the need in our state. Use of Capture Rates and market vacancy as a threshold to evaluate markets limits the use of our limited financial resources to where the demand is the highest and the units will be absorbed quickly.

Section IV.C.8 – Other Project Compliance

Schedule H

Comment 32:

Removing the need for volunteer board members to execute Schedule H, we cannot thank you enough for this change!

Comment 33:

We support the additional proposed language in the QAP that for the purposes of the compliance affidavit, volunteer board members with no financial interest in the project will not be required to complete the affidavit.

MFA Response to Comments 32-33:

MFA is hopeful that this will not only reduce the level of effort required but also make it simpler to submit a complete, correct Application.

Section IV.D – Feasibility Analysis and Financial Considerations

Vacancy Rate

Comment 34:

We agree that when underwriting vacancy, 7% is an appropriate rule of thumb; however, there are some very low vacancy markets (e.g., Santa Fe) where we believe it is appropriate (is supported by the market study) to use a lower vacancy rate (we suggest 5%). We request that the QAP be updated to allow the use of a lower vacancy rate in underwriting properties in low-vacancy markets, with MFA's approval.

Comment 35:

To stretch resources and create more units, I encourage you to, unless I'm reading this incorrectly, but I'd encourage you to put that five percent back in for seniors.

Comment 36:

I have not seen the 2024 Underwriting Supplement, but I agree with a comment that was made at the Hearing regarding the vacancy rate used for underwriting a project at application. In recent years, most completed projects have not experienced a vacancy rate as high as 7%. I would suggest using 5% unless the market study recommends a higher rate. I think this should be especially true for senior properties which in previous years were permitted to use 5% as the vacancy rate for underwriting.

Comment 37:

As mentioned in the QAP Public Hearing, vacancy rates of 7% are a very conservative assumption. Most properties run at a much lower rate. We would suggest using a 5% vacancy rate unless the need for a higher rate is indicated in the market study.

MFA Response to Comments 34-37:

One strategy for managing risk that the market will change over time is to provide a vacancy factor that is conservative. MFA's 7% vacancy factor is not out of the ordinary - the Affordable Housing Investors Council Underwriting Guidelines also cite "a minimum 7% vacancy rate" as "customary". If the market study supports it, MFA allows a 5% vacancy rate for projects proposing housing for older persons (i.e., seniors) and for projects where 90% of the units have project based rental assistance.

Section IV.D.1 – Development Costs

Comment 38:

We urge MFA to revert to its original language regarding acquisition costs. We do not think the addition of a second appraisal is necessary but rather delays closings while adding additional costs of limited value. We observe that the construction lender's appraisal is typically delivered several months prior to closing

which gives developers very little time to obtain a second appraisal before submitting the tax credit application to MFA, receiving an award and closing. We suggest that it should be sufficient for MFA to have a single appraisal if the construction lender's appraisal is from an accredited MAI certified appraiser with experience in the state. We also observe that tax credit investors, who are ultimately at financial risk, provide an additional layer of tax due diligence. The investors tax counsel scrutinizes closely acquisition basis before providing a tax opinion for the investment. If there are concerns regarding the acquisition basis in the construction lender's appraisal, a second appraisal will be ordered by the investor.

MFA Response to Comment:

The redlines at Section IV.D.1 of the draft 2024 QAP don't change policy; they clarify what was stated in the 2023 QAP. The appraisal is due with the Initial Application for tax exempt bond financed Projects and with the Carryover Application for 9% Projects not claiming points under the Leveraging Resources scoring criterion. The acquisition cost on which tax credits are calculated will be held to the lowest among the sale price, Applicant's procured appraisal and the construction lender's appraisal – assuming all three data points exist. If the construction lender's appraisal is available with the Initial 4% Application and the Applicant has not separately procured an appraisal, the construction lender's appraisal is sufficient.

Section IV.D.2.b – Developer Fees

Comment 39:

Developer Fees for Acq. /Rehabilitation projects financed with 4% credits (page 69)-I do not understand the need for this change. This would penalize General Partners who want to rehabilitate their properties when there is an opportunity to re-syndicate and thus fully renovate the properties. Often, during the initial credit period, cash flow is not sufficient for renovation and the main way to accomplish this is to re-syndicate with new credits. The lower developer fee could incentivize the current owner to sell to an unrelated party-often an out of state company with no real ties to NM. And as you are aware, the developer fee is a source of contingency for cost overruns-and is now needed more than ever. Finally, this would lower the number of credits available to the project, when these are "unlimited credits", unlike those for the 9% projects.

Comment 40:

We concur with MFA approach of delineating the developer fee methodology between 9 percent LIHTC and 4 percent LIHTC transactions. We also encourage MFA to revisit the actual amounts set in the QAP. Specifically, we encourage MFA to reconsider its flat 14 percent developer fee for 4 percent LIHTC transactions. We suggest a maximum developer fee of 15% for 9% transactions. Additionally we suggest increasing the developer fee for 4% TEB transactions to 18-20 percent.

Additionally, we urge MFA to reconsider its language requiring that acquisitions, where there is an identity of interest between the buyer and seller, to back out the acquisition costs from the Total Development Costs ("TDC") in which developer fee is calculated. This will discourage the use of bridge financing strategies which are critical to being competitive in today's hot acquisition markets. At a minimum, we

recommend MFA eliminate its proposed edit on page 69 that would apply these rules to 4% Tax Exempt Bond transactions.

Comment 41:

As mentioned at the QAP Public Hearing, MFA's developer fees are lower than many other States. On 9% developments, the current formula allows a per unit cost, not to exceed 14%, and on 4% bond deals, the fee is capped at 14% of Total Development Costs. Our most recent 9% project ended up having a fee that was 4.8% of Total Development Costs. Our investor is treating this as our "contingency" and is not allowing any cash portion of the fee to be paid until loan conversion. At that point, we will have been working on this development for more than 5 years without ever receiving any compensation to cover our overhead and help us to work on and fund future projects. This isn't sustainable over the long term.

Comment 42:

I agree with the many comments during the QAP Public Hearing that developer fees in New Mexico should be raised. I do not understand how MFA can raise their own fees to be on par with the rest of the nation, yet leave New Mexico developer fees as some of the lowest.

MFA Response to Comments 39-42:

Developer Fee on 4% Transactions as a percentage of TDC:

While MFA recognizes that there are some states willing to increase developer fees on 4% projects to increase eligible basis, this is not a standard recommended practice among Housing Finance Agencies ("HFAs"). MFA does not limit the percentage of developer fee that may be deferred. However, any amount that can't be repaid within 15 years through project cash flow is removed from eligible basis. Therefore, it would take more of MFA's limited soft resources to pay for this increased fee.

Exclusion of Acquisition Cost from Calculation in Related Party Transactions:

The National Council of State Housing Agencies' recommended practices encourage lower developer fees for the acquisition portion of acquisition/rehabilitation developments – in all instances including transactions between unrelated parties. Allowing the acquisition cost to be included in the developer fee calculation in recent transactions has resulted in similar sized developer fees as new construction transactions. While the new construction transactions result in a large portion of developer fee being deferred to pay for construction, the same can't be said of the acquisition/rehabilitation transactions, where very little of the developer fee has been deferred to improve the property. Related party transactions are less risky and do not require the same level of effort to negotiate the acquisition as an unrelated party transaction.

Developer Fee in 9% Transactions:

The National Council of State Housing Agencies' recommended practices encourage limiting developer fees to the lesser of 1) an appropriate defined per unit dollar cap on developer fee; or 2) 15 percent of total development cost. MFA has researched per unit dollar caps on developer fee and New Mexico's per unit dollar caps on developer fee are comparable to other states with a similar fee structure. However,

recognizing that developer fees per unit have not increased during the rising cost environment over the past few years, the updated QAP includes a $500 per unit increase. At this level, MFA's fees are slightly above the median among states that include per unit caps in their fee structure.

Section IV.D.2.c – Architect and Engineering Fees

Comment 43:

This section seems somewhat vague and ambiguous relative to the Total Development Cost (TDC) as a basis of percentage without a true understanding of ultimate costs. Factors including site location, engineering, and scope can easily exceed 3.3% of the TDC, leaving all other disciplines with inadequate funding to complete the ultimate development.

I am also looking for additional information pertaining to "Architect and Engineering" relative to the QAP. My initial thoughts include all engineering disciplines from civil to landscape, geotechnical to structural, mechanical, electrical and plumbing, architecture and interior design. I could not find a clear definition or explanation of all services included under this section. I would encourage more clarification in this category.

I appreciate the fee cap based on Total Development Cost but feel the definition and methodology to arrive at this could use further clarification. It is clear that additional fee can be requested on a project by project basis, perhaps the scope should weigh in on the cap as a sliding scale.

MFA Response to Comment:

The term "Architecture and Engineering" includes all services provided through the architectural firm including architectural services and supervision, landscape design and civil, structural, mechanical, plumbing, electrical engineering. It does not include the services of a geotechnical engineer or HERS rater who are contracted directly with the developer, rather than the architect. Interior design, if applicable to the Project, is included in the Furniture, Fixtures and Equipment line under Other Construction Costs on Schedule A. A definition has been added to the Glossary for clarity. The QAP does not limit the fees that can be charged, as that is a negotiation between the architect (as lead for the A&E team) and the developer; however, the amount that is included in eligible basis to calculate the tax credits is limited to 3.3% of Total Development Cost (excluding architecture and engineering cost).

Section IV.D.3 – Reserves (escrows) included in Development Costs

Operating Reserves

Comment 44:

We urge MFA to revise its operating reserve budget requirements to the greater of 3 months or the lender/investor operating reserve requirements.

MFA Response to Comment:

In this inflationary market, it is important that properties have sufficient resources to operate if expenses exceed income. Six months is fairly standard in the industry – (see Affordable Housing Investors Council's (AHIC) Underwriting Guidelines and National Coalition of State Housing Agencies' (NCSHA) Recommended Practices).

Section IV.D.5 – Debt service coverage and subordinate debt

Comment 45:

We recommend MFA update its proposed language that requires the removal of deferred developer fee that cannot be repaid during the compliance period from eligible basis. While this is generally the standard by which investor's tax counsel will hold a property to, it can also be permitted by counsel to include this fee if there is a GP note or contribution to pay down the deferred fee, thus allowing it to stay in eligible basis.

MFA Response to Comment:

MFA's underwriting standards adhere to general industry standards – (see AHIC Underwriting Guidelines and NCSHA Recommended Practices).

Section IV.G.7 At or around the 50% construction completion mark

Schedule I

Comment 46:

Schedule I now due at 50% completion meeting with MFA. Thank you for this change.

MFA Response to Comment:

We appreciate your comment acknowledging that we are trying to streamline the Application where it makes sense.

Section IV.I – Notification to MFA of Changes to the Project

Comment 47:

We are supportive of the new proposed language in the design review section but urge MFA to consider an update to the portion relating to material design changes. However, given the incredibly fluid construction cost environment it is a given that there will be changes between design plans and specifications at application and the final construction documents. We believe it would be less burdensome for MFA staff and the development team if these sections were revised to only require notice and approval of material design changes made between the final closing and those contained in the final construction documents.

Given the time covered (which can be as long as a year) and the current inflationary cost environment, we recommend the threshold for notification of project cost changes be increased from 5% to 10%.

Additionally, we urge MFA to amend bullet point #7 [Section IV.I.7]. We agree it is appropriate to provide notice for changes to unit mix, number of units, number of buildings. For the other items listed, we suggest MFA only require notice if there are material changes. Thresholds could be designed if necessary. We believe this will be less burdensome to staff and the development team and will facilitate quicker closings which will help keep costs down.

MFA Response to Comment:

Section IV.I.2 requires notification of cost changes in excess of 5% of the Total Development Cost (with the Carryover Allocation Application Package for 9% or subsequent to Initial Application submission for 4% Projects) because it represents a cost increase for which there may not be sufficient resources to complete the Project. Considering that the average TDC for a 9% Project is now over $19 million (5% is over $950,000) and the average TDC for a 4% Project is almost $49 million (5% is over $2.4 million); this threshold is quite reasonable.

Section IV.I.7 requires notification of changes to Project design, unit design, square footage, unit mix, number of units, number of buildings changes, amenities, parking quantities, landscaping scope, energy performance, water usage, quality of construction or specification because these changes are material in nature and depending upon the change proposed, may cause the Project to be out of compliance with MFA's Design Requirements. MFA reviews the plans and specifications provided with the Initial Application for conformance with MFA's Design Requirements. Once the Application is approved, that is what the Applicant is committing to do. While it is not necessary to notify MFA each time a change is being contemplated, once a proposed decision is made, the Applicant needs to notify MFA so that the proposed change can be reviewed for compliance. These notifications also reduce the time needed to perform the review of the final plan set and specifications before MFA issues its written approval of complete construction documents – thus reducing delays before the Project can close on financing and begin construction. MFA inspects the site during construction and at Project close-out. Transparent communication throughout the process can mitigate the need to go back at the end of construction to remedy any issues that are noncompliant, so that 8609s can be issued more quickly.

Section VI – Processing of Tax-Exempt Bond Financed Project Applications

Percent of total sources limit

Comment 48:

I believe that 55% of eligible basis plus land as stated in the draft 2024 QAP, at MFA application is too low a limitation. I know there was discussion at the August 30th hearing that the MFA might consider using 55% of TDC, but I think that might also be inadequate. In these times of such unprecedented price volatility, it is very difficult to accurately project total development costs at MFA application. And there can be a 6 month or more period between when the MFA application is submitted, and the construction contract is finalized. Even 55% of TDC could cause many projects to need to return to the State Board for

an additional cap when they are near the 50% test requirement (if the State Board has cap available) or become financially infeasible. It will also limit the "4% unlimited credits" if a project has cost increases. And, as unlikely as it seems today, it might leave New Mexico with unused cap at the end of 2024.

I request that you consider not changing the bond cap limit or at least not institute a change to a lower % and from the total development cost to eligible basis plus land, until price volatility and inflation subside.

And if changes to the cap limit are in the final 2024 QAP, I suggest that the MFA staff be allowed to waive the volume cap limitation requirement administratively upon request of the developer, if in the MFA's experience, cap availability does not seem to be a problem as 2024 progresses.

Comment 49:

The percent of total sources limit of 55% is too narrow to assure that projects can meet this threshold requirement. We would suggest 65% as a limit, otherwise there is a very real risk that projects will need to continually reapply for additional cap – which might not be available – and would therefore not meet threshold and be infeasible.

Comment 50:

The bond cap limit of 55% is dangerously low. I recommend at least 65% be allowed to avoid repeated requests for additional bond cap and all the wasted expenses and time that would go with that.

MFA Response to Comments 48-50:

The updated draft QAP includes an increase to 60% of Total Development Cost and a provision allowing a waiver, which shall not be unreasonably withheld if sufficient volume cap is anticipated to be available.

Potential for Schedule and Ranking Criteria

Comment 51:

I would also request that the draft 2024 QAP's new provision allowing MFA to implement a schedule to accept applications and/or implement ranking criteria if private activity bond volume cap becomes constrained during the year be more specific regarding the ranking criteria and/or would be subject to a comment period before it was implemented. It is difficult for a developer to plan their project if the ranking criteria is not known in advance.

Comment 52:

The proposed language change relative to tax exempt bonds, we believe, is creating some unintended consequences.

During the June 2023 NCSHA conference, we learned that New Mexico is one of those states that may be running out of tax-exempt bond volume cap. While that is a good thing, because affordable housing production is increasing, and it is correct for MFA to inform the development community of possible supply chain issues.

Since the QAP now exempts tax exempt bond developments from scoring, developers focus on site selection, unit mix and piecing together the resources necessary to make tax exempt bond deals work, which, as we all know, is no easy task.

A large driver in the competitive scoring criteria is deep rent skewing. In our experience, tax exempt bond deals can only afford to provide the number of deep rent skewed units necessary to meet requirements of subordinate financing, New Mexico HOME, National HTF, New Mexico HTF, etc, etc.

So, to be diligently working on a deal without additional deep rent skewed units, and then perhaps determining that deep rent skewed units need to be added could upset the financial feasibility of a deal, is not an outcome which produces more housing.

A couple of suggestions here:

1. MFA to provide a statement with a minimum 90 days notice that MFA is adopting a schedule of accepting bond applications on certain dates and providing those dates and the projected amount of remaining tax-exempt bond volume cap.
2. We strongly encourage a deferral or "wait and see" on implementing ranking and scoring criteria for the reasons set forth above.

Comment 53:

We do not think that implementation of a schedule or ranking criteria within the year (without disclosing it as part of the QAP review) is appropriate. If the demand for volume cap indicates this criteria is necessary, it should be developed at this time.

MFA Response to Comments 51-53:

The addition of a schedule and/or ranking criteria will be postponed until next year. Program participants with suggestions on how MFA should schedule and/or rank Projects in future years so that it is possible to keep production moving without delays in project completion are welcome to provide them (e.g., criteria that would provide evidence of readiness to proceed to begin construction and close on financing without unduly burdening Applicants would be considered when ranking Projects).

Design Requirements

Comment 54:

The requirement is either 70 or 80 percent of two-bedroom units require a second full bath. I don't have any issue with that on the family properties. I think it is overdesigned and very expensive space in seniors. Our senior two-bedroom units are almost universally occupied by a couple; they may have a very part-time caregiver coming in a few hours a day but I just don't see the need for that second full bathroom. Depending on which contractor you talk to about in today's dollars is about $15,000 to $20,000, and that's a pretty big number. So, I'd like to see some consideration on that second bathroom requirement.

MFA Response to Comment:

The Mandatory Design Requirements do not include a requirement for a second bathroom in two-bedroom Units. However, to qualify for points under Scoring Criterion 10 Households with Children Housing Priority, in addition to the required three or more bedroom Units, a "further 15% of the total Units must have two bedrooms with at least two bathrooms…" – this is not a requirement under Scoring Criterion 9 Projects Reserved for Seniors Housing Priority.

EV-Capable Parking Spaces

Comment 55:

Electric Vehicles. While we support the theory of electric vehicles, their current cost for a new vehicle starts at about $30,000 and the used vehicle market is very thin. Our current information from our contractors is that EV charging stations cost approximately $10,000 per station. So, a 100-unit development is incurring a $50,000 EV installation cost.

Anecdotally, our staff have been onsite at affordable communities in New Mexico, Eastern Idaho, and Montana in the last 30 days. While not specifically looking for electric vehicles in the parking lot, none were observed.

Comment 56:

There are sustainable building tax credits (funding) available for properties that meet this standard, but we feel that this should be a "choice" of developers – if their budgets can allow for this – rather than establishing this as a design mandatory criteria. EV chargers can be a source of theft (chargers/cables contain copper wiring) and the presence of EV charging stations will draw non-residents to the property which could become a security issue for residents and unwanted traffic flow.

Comment 57:

I recommend that providing infrastructure only for future EV capability would be more than sufficient for our affordable housing developments. It is extremely unlikely that our residents will be driving electric vehicles in the near future, and the expense does not feel justified at this point.

MFA Response to Comments 55-57:

The Mandatory Design Standards for Multifamily Housing do not require EV Charging Stations. The footnote at the bottom of page 3 explains that EV-Capable "parking spaces that have the electrical panel capacity and conduit installed during construction to support future implementation of EV charging with 208/240-volt (or greater), 40-ampere (or greater) circuits" is required at a minimum of .05 spaces per Unit. In other words, the electrical panel needs to have sufficient capacity to add EV charging stations in the future, and conduit (not wiring) needs to be installed, so that it is not necessary to open trenches to install wiring in the future.

MFA

NEW MEXICO MORTGAGE FINANCE AUTHORITY
Contracted Services/Credit Committee Meeting
Tuesday, October 10, 2023 @ 10:00 am
MFA – Albuquerque

WebEx join the meeting from the calendar or call 1-408-418-9388 (access code): 2496 234 4466

	AGENDA ITEM	TIME ALLOTTED	COMMITTEE RECOMMENDED	BOARD ACTION REQUIRED
1	Biannual Compliance Activity Report – Julie Halbig	10:00-10:05	2-Ø	YES
2	Eastern Regional Housing Authority – Non Profit Formation – Theresa Laredo-Garcia	10:05-10:10	2-Ø	YES
3	Recommendation for Approval for CPF Fire Affected Counties – Sonja Unrau	10:10-10:15	2-Ø	YES
4	Pedrena Apartments HOME, NMHTF, NHTF Loan Requests – Jacobo Martinez & George Maestas	10:15-10:20	2-Ø	YES
5	NM Energy$mart 2023-2027 Tribal Request for Proposals (RFP) Award Recommendations – Dimitri Florez & Troy Cucchiara	10:20-10:25	2-Ø	YES
6	Single Family Development Grant Pilot Program Notice of Funding Availability – Sharlynn Rosales, Sonja Unrau	10:25-10:35	Forgot to VOTE	YES
Informational Items				
7	Allowance for Loan Loss -Joe McIntyre	10:30-10:35	✓	NO
8	Questions/comments from Committee	10:35-10:40	N/A	NO

Committee Members present:

Rebecca Wurzburger, Chair	☐ present	☐ absent	☑ conference call
Attorney General Raul Torrez/Designee Gideon Elliot	☐ present	☐ absent	☑ conference call
Patricia Sullivan	☐ present	☑ absent	☐ conference call

Hernandez

MFA Housing New Mexico

MEMO

TO: Board of Directors
Through: Contracted Services – October 10, 2023
Through: Policy Committee – October 3, 2023

FROM: Dimitri Florez

DATE: October 18, 2023

SUBJECT: NM Energy$mart 2023-2027 Tribal Request for Proposals (RFP) Award Recommendations
Per Delegation of Authority 15. All Programmatic RFP Language Approved and Selection of Vendor

Recommendation

Based on the responses to the NM Energy$mart RFP, staff recommends Board approval for Central New Mexico Housing Corporation (CNMHC) to serve the Pueblo Territory and Red Feather Development Group to serve the Navajo Nation Territory. Board approval would allow the NM Energy$mart service providers to receive a half-year contract (January 1, 2024 – June 30, 2024) with the option of three, one-year renewals. Upon funding availability, there is the possibility that these agencies can hold a contract from January 1, 2024, through June 30, 2027. Please note the initial half-year contract is for training purposes for new service providers, and that no production under that contract is expected during that period.

Background

The NM Energy$mart Program is funded by U.S. Department of Energy (DOE), Low Income Housing Energy Assistance Program (LIHEAP), New Mexico Gas Company, Public Service Company of NM (PNM), El Paso Electric, and New Mexico Housing Trust Fund. The Program's purpose is to help low-income households reduce their energy consumption, reduce their energy costs, and improve their health and safety by implementing a variety of energy efficient measures in their homes. MFA administers the program through community-based nonprofit organizations who provide statewide services.

Discussion

The NM Energy$mart Tribal RFP was approved by MFA's Board of Directors on August 16, 2023, and released to the public on the same day. The RFP training was held on September 7, 2023, and the response deadline was September 15, 2023.

Three offerors responded to the NM Energy$mart Tribal RFP:

Offeror Name	Geographical Area Applied	Budget / Units
Red Feather Development Group	Navajo Nation Territory	$2,484,730 / 182
CNMHC	Pueblo Territory	$2,478,180 / 180

International Center for Appropriate and Sustainable Technology (ICAST)	Pueblo Territory	$2,478,180 / 180

A total of 165 points were available. Each application was reviewed and scored independently by an RFP review committee consisting of seven members. The average score of each offeror is provided for review. The following categories were used to determine the score for each agency:

Standard Criteria	Maximum Score	Red Feather	CNMHC	ICAST
Submission of Complete Application	**3**	**0**	**3**	**0**
Tribal Territory Selection	**5**	**0**	**0**	**0**
Organization Capacity	**20**	**19**	**20**	**20**
Weatherization Program Management Experience	**10**	**7**	**10**	**8**
Financial Strength	**20**	**15**	**17**	**14**
Existing Weatherization Service Provider Compliant with 10 CFR 440.15	**2**	**0**	**2**	**2**
Energy Efficiency Construction Experience	**65**	**27**	**43**	**40**
NM Energy$mart Program Implementation Plan	**40**	**37**	**26**	**29**
Total Points	**165**	**105**	**121**	**113**

The review committee is recommending service providers to be CNMHC for the Pueblo Territory and Red Feather for the Navajo Nation Territory. ICAST will not be recommended to serve the Pueblo Territory due to scoring lower than CNMHC.

Geographical Area	Review Committee Recommendation
Navajo Nation Territory	Red Feather Development Group
Pueblo Territory	Central New Mexico Housing Corporation (CNMHC)
Grand Territory (includes both Navajo Nation and Pueblo)	No proposals received.

Upon Board approval, staff will ensure the Department of Energy's State Plan will reflect one new service provider totaling four service providers implementing the NM Energy$mart Weatherization Program. In addition, contracts will be issued effective January 1, 2024.

Summary

Based on the responses to the NM Energy$mart Tribal RFP, staff recommends Board approval for Central New Mexico Housing Corporation to serve the Pueblo Territory and Red Feather Development Group to serve the Navajo Nation Territory. Board approval would allow the NM Energy$mart service providers to receive a half-year contract (January 1, 2024 – June 30, 2024) with the option of three, one-year renewals. Upon funding availability, there is the possibility that these agencies can hold a contract from January 1, 2024, through June 30, 2027.

MEMO

TO: MFA Board of Directors
Through Contracted Services Committee on October 10, 2023
Through Policy Committee on October 3, 2023

FROM: Stephanie Gonzales, Research and Development Manager
Robyn Powell, Director of Policy and Planning

DATE: October 18, 2023

SUBJECT: Recommendation to Approve the Community Project Funding Affordable Housing in New Mexico's Fire Affected Counties Notice of Funding Availability for Publication

ATTACHMENT: Affordable Housing in New Mexico's Fire Affected Counties Notice of Funding Availability for Publication

Recommendation
Staff recommends approval of the Community Project Funding Affordable Housing in New Mexico's Fire Affected Counties Notice of Funding Availability (NOFA) for publication.

Background
Congress, under the Consolidated Appropriations Act, 2023 (Public Law 117-328) (the FY2023 Act), made $2,982,285,641 available for "grants for the Economic Development Initiative (EDI). In 2022, MFA staff applied to receive congressionally directed spending through Senator Martin Heinrich's office to address the New Mexican households impacted by fires in 2022.

On March 2, 2023, staff were notified that MFA was awarded Grant Number B-23-CP-NM-1053 in the amount of $3,000,000 which is administered by the Department of Housing and Urban Development (HUD). The 2023 Community Project Funding grant will be the sole funding source to address urgent and long-term housing recovery needs of low- and moderate-income households in New Mexico's fire affected counties, which are Colfax, Lincoln, Mora, Sandoval, San Miguel and Valencia County.

Subsequently on March 21, 2023, MFA Policy Committee approved accepting the award of Community Project Funding in the amount of $3,000,000 to be used to support the fire affected regions of the state with housing support and stability services.

The amount of funding available for release under this NOFA is $2,700,000 for project activities and $210,000 for administrative costs. The administrative costs for the program may be used for non-direct project related activities that contribute to the service providers.

Discussion

Under this program, the eligible activities include:

Urgent Housing Recovery Needs	Long-Term Housing Recovery Needs
Purchase of permanent housing, including manufactured housing units or other dwellings for households currently being housed through FEMA programs or other emergency or temporary response programs.	Repair or replacement of damaged wells, water tanks, pumps, and other residential water infrastructure
Transportation of those units to private land or a long-term residence (such as a commercial park) and associated site and infrastructure cost.	Repair or replacement of damaged residential electrical infrastructure, such as installation of electrical poles, gravel replacement and driveway grading.
Other urgent housing costs associated with the transition from emergency housing to long term housing.	Extermination services for households experiencing animal or insect infestation, such as skunks, mice and termites
	Draining landscaping and retaining wall construction to prevent flooding and erosion
	Site infrastructure work, including dirt work and foundation installation for manufactured housing.
	Repair, rehabilitation, or unit replacement, to address other housing damages
	Other affordable housing needs for households in the fire affected counties

The scoring criteria that will be applied to all applicants is a 75-point system that is based on:
Financial Strength – 25 Possible Points
Experience – 25 Possible Points
Implementation Plan – 25 Possible Points

All proposed projects under this Notice of Funding Availability (NOFA) must comply with the Mortgage Finance Authority Act, the Affordable Housing Act, NMHTF Act and their associated Rules, and all other applicable state and federal laws and regulations.

Timeline
The NOFA will be published on MFA's website and announced to potential applicants following MFA Board of Directors approval. Applications must be received no later than 45 days prior to a regularly scheduled meeting of the MFA Board of Directors in order to be considered at that meeting.

Summary
Staff recommends approval of the Community Project Funding Affordable Housing in New Mexico's Fire Affected Counties Notice of Funding Availability for publication.

MFA
Housing New Mexico

Community Project Funding

Affordable Housing in New Mexico's Fire Affected Counties

Notice of Funding Availability

EQUAL HOUSING OPPORTUNITY

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Introduction and Background

The New Mexico Mortgage Finance Authority (MFA) is a governmental instrumentality, separate and apart from the state, created by the Mortgage Finance Authority Act, N.M. Stat. Ann. Sections 58-18-1 1978 *et seq*. (1978) for the purpose of financing affordable housing for low- and moderate-income New Mexico residents.

MFA received federal funding under the Consolidated Appropriations Act, 2023 (Public Law 117-328) (the FY2023 Act), Assistance Listing number 14.251, made available for "grants for the Economic Development Initiative (EDI) that are administered by the Department of Housing and Urban Development (HUD) Community Project Funding (CPF) program, referred to as "CPF" throughout this document. This CPF program allocation is designated for "Affordable Housing for New Mexico's Fire Affected Counties", which are Colfax, Lincoln, Mora, Sandoval, San Miguel and Valencia County.

The purpose of this Notice of Funding Availability (NOFA) is to invite the submittal of qualification statements from service providers in accordance with applicable guidelines set forth in this NOFA. MFA is looking for qualified, capable service providers, who are knowledgeable, skilled, and experienced in managing federal funding and can provide services to the fire affected counties in New Mexico. Service providers will be selected based on their capacity, experience, and the ability to provide program services.

Agency Contacts

MFA will be responsible for administering the CPF program for current and subsequent funding allocations which include but are not limited to fund management, reporting, and monitoring activities to ensure program compliance. The point of contact for MFA is noted below:

Stephanie Gonzales
Research and Development Manager
NM Mortgage Finance Authority
344 4th Street, Albuquerque, NM 87102
(505) 767-2287
sgonzales@housingnm.org

Questions pertaining to the NOFA and potential Applicants will be answered through the NOFA FAQ.

Questions must be submitted via the FAQ at MFA's website https://housingnm.org/rfps/rfps-rfqs. Select the CPF for Affordable Housing for New Mexico's Fire Affected Counties NOFA and type in your question(s) and submit. Questions will be checked daily. MFA will make every attempt to post responses to questions within 48 business hours of submission.

The FAQ will open immediately following the release of the NOFA.

Funding Allocation

The amount of funding available for release under this NOFA is $2,700,000 for project activities and $210,000 for administrative costs. The administrative costs for the program may be used for non-direct project related activities that contribute to the service providers. The NOFA will remain open as long as there are available funds.

Programmatic Requirements

Eligible Activities

Funds may be used only for reasonable and customary costs that are directly attributable and traceable to the affordable housing needs listed below. Further, funds may only be used to address affordable housing needs in New Mexico's fire affected counties, which include Colfax, Lincoln, Sandoval, San Miguel, Mora, and Valencia County.

Affordable housing needs may include but are not limited to:

Urgent housing recovery needs

- Purchase of permanent housing, including manufactured housing units or other dwellings for households currently being housed through FEMA programs or other emergency or temporary response programs.
- Transportation of those units to private land or a long-term residence (such as a commercial park) and associated site and infrastructure cost.
- Other urgent housing costs associated with the transition from emergency housing to long term housing.

Long-term housing recovery needs

- Repair or replacement of damaged wells, water tanks, pumps, and other residential water infrastructure.
- Repair or replacement of damaged residential electrical infrastructure, such as installation of electrical poles, gravel replacement and driveway grading.
- Extermination services for households experiencing animal or insect infestation, such as skunks, mice and termites.
- Drainage landscaping and retaining wall construction to prevent flooding and erosion.
- Site infrastructure work, including dirt work and foundation installation for manufactured housing.
- Repair, rehabilitation, or unit replacement, to address other housing damages.
- Other affordable housing needs for households in the fire affected counties.

Eligible Applicants

Eligible Applicants include, but are not limited to, public and private non-profit organizations, for-profit organizations, governmental housing agencies, authorities, entities, or instrumentalities, regional housing authorities, tribal governments or housing agencies, developers, builders, corporations, limited liability companies, partnerships, joint ventures, syndicates, associations, or other entities that can assume contractual liability and legal responsibility through execution of a performance agreement and/or other written agreements with MFA. Individual homeowners are not eligible for the Community Project Funding: Affordable Housing for New Mexico's Fire Affected Counties.

Eligible Beneficiaries

To be eligible to receive CPF funding, the beneficiary household must be located in Colfax, Lincoln, Sandoval, San Miguel, Mora, and Valencia County and have been impacted by fire in 2022. The beneficiary household must have an annual household income at or below 150% of area median income (AMI) adjusted for family size as determined

by the HUD and calculated pursuant to the HUD Part 5 (Section 8) guidelines. The incomes of all household members over 18 years of age are needed to determine income eligibility.

The income limits to be used to determine eligibility shall be those established by HUD and published annually. See the following HUD website:

https://www.huduser.gov/portal/datasets/home-datasets/files/HOME_IncomeLmts_State_NM_2022.pdf

Successful applicants must verify that program beneficiaries have been impacted by 2022 wildfires using the self certification form provided by MFA..

Environmental Review

All projects are subject to are subject to requirements under the National Environmental Policy Act (NEPA), HUD's NEPA-implementing regulations at 24 CFR Part 50 or 24 CFR Part 58, and all appropriate federal environmental and historic preservation laws, regulations, and Executive Orders. Accordingly, all projects are subject to an environmental review and must receive appropriate clearance prior to any fund's expenditure, including soft costs and lead-based paint costs. MFA is the responsible entity for all projects being performed by for-profit and non-profit organizations and tribal housing authorities. Local governments and tribal entities (not tribal housing authorities) are their own responsible entity and are required to perform their own environmental reviews which need to be included in all reservation requests. Local governments and tribal entities must submit their Request for Release of Funds to MFA for approval (not to HUD). MFA will issue the Authority to Use Grant Funds.

Project Funding and Reimbursement

All funding is administered on a reimbursement basis. Service Providers must request funds by using MFA's Request for Reimbursement form. All costs must meet the allowability criteria of 2 CFR 200.403.

Interim funding is subject to the following:

- The submission of field inspection report including photos;
- Copies of contractor payment request and/or material receipts; and
- If invoicing for project management as a soft cost, submission of employee timesheets.

Invoices will not be paid until all required documents are received and approved by MFA.

The final funding of each project is subject to the following as applicable:

- The submission of a completion report;
- The submission of a copy of the certificate of occupancy and/or final inspection from the proper code enforcement agency signed by the homeowner;
- The submission of the release of liens certification from the contractor(s);
- The submission of the original recorded Loan and Restrictive Covenants Agreement or Tribal Land Loan Agreement, (if applicable);
- Copy of bid documents and advertisement;
- Copy of executed construction contract with scope of work attached as an exhibit;
- Copies of lead-based paint risk assessment, notification certification(s), and clearance (if applicable);
- Environmental Review checklist and documents; and

- Completed file document checklist.

Final invoices will be paid when all close-out documents are received and approved by MFA.

Incurred Expenses

MFA shall not be responsible for any expenses incurred by an Applicant in applying for a CPF award. All costs incurred by an Applicant in the preparation, transmittal or presentation of any application or material submitted in response to this NOFA will be borne solely by the Applicant.

Administrative Expenses

The administrative costs for the program may be used for non-direct project related activities that contribute to the service providers CPF program. The indirect cost rules under 2 CFR Part 200, subpart E apply. The Performance Agreement will detail the indirect cost rate. All direct project-related activities such as the wages for the project manager or administrative assistant must be charged as soft costs and not to the administrative fees. The administrative costs and soft costs cannot be passed on to the homeowner. The NOFA will remain open as long as there are available funds. MFA will provide notice of additional funding allocations to the program through MFA's website.

Reporting

At a minimum, MFA will require awarded Applicants report on beneficiary data on households served and the activities completed for each household served.

Other Federal Requirements

Service providers must meet Conflict of Interest Requirements as well as any other federal and state requirements applicable to the CPF program including those listed in the FY2023 Economic Development Initiative Community Project Funding Grant Guide published on May 23, 2023, including:

- Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards at 2FR Part 200.
- Environmental Review Requirements (24 CFR Part 50 or Part 58)
- Section 3 of the Housing and Urban Development Act of 1968 found at 24 CFR Part 75 apply to all grant recipients that are awarded $200,000 or more for projects involving housing construction, rehabilitation, or other public construction. CPF grants made to Tribes and TDHEs are subject to Indian Preference requirements in Section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5307(b)). As stated in 24 CFR §75.3(c), grants to Tribes and TDHEs are subject to Indian Preference requirements in lieu of Section 3.
- Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA) (42 U.S.C. §§ 4601 et seq.), and the government-wide regulations issued by the Federal Highway Administration at 49 CFR Part 24.
- Generally applicable HUD and CPD requirements in 24 CFR Part 5, subpart A, including all applicable fair housing, and civil rights requirements. Grants to Tribes and TDHEs are subject to the nondiscrimination requirements in 24 CFR 1000.12 in lieu of the nondiscrimination requirements in 24 CFR 5.105(a).
- HUD's regulations at 24 CFR §5.109 concerning equal participation of faith-based organizations in HUD programs and activities.

- The System for Award Management (SAM) and Universal Identifier Requirements under 2 CFR Part 25 apply.
- Compliance with the Federal Funding Accountability and Transparency Act of 2006 (Pub. L. 109-282) as amended (FFATA).
- The governmentwide debarment and suspension regulations in 2 CFR Part 180 apply as incorporated and supplemented by HUD's implementing regulations in 2 CFR Part 2424.
- Section 319 of Public Law 101-121, 31 U.S.C. 1352, (the Byrd Amendment), and 24 CFR Part 87, which prohibit recipients of federal awards from using appropriated funds for lobbying the executive or legislative branches of the Federal government in connection with a Federal award.
- Lead Disclosure; and Lead Safe Housing (24 CFR part 35), and EPA's lead- based paint rules (e.g., Repair, Renovation and Painting; Pre-Renovation Education; and Lead Training and Certification (40 CFR part 745)

Application Submission

Application Format and Instructions to Applicants

Applicant's service provider proposal submissions must be complete and include all information requested in the NOFA. All exhibits identified in this NOFA are included in the application checklists. Application checklists include but are not limited to the exhibits, documentation, schedules, audits, certifications, and disclosures.

Staff may contact applicants for clarification of the information provided. In the event of a tie score, staff will recommend approval based on need and what is best for achieving program objectives. MFA will enter into a Performance Agreement with the applicant(s) whose applications are deemed to be most advantageous to achieving the goals of the CPF program.

Applicants must complete and submit the service provider application form (Exhibit A) with all required documents included in the service provider application checklist. Under the provisions of this open NOFA, MFA staff will evaluate the application using the Minimum Qualifications and Requirements, and service provider evaluation and scoring criteria listed in this NOFA. Upon approval, MFA and the service provider will enter into a Performance Agreement. Upon execution of the Performance Agreement, project applications can be submitted for project awards.

Irregularities in Applications

MFA may waive technical irregularities in the application of any Applicant selected for an award which do not alter the price, quality or quantity of the services offered.

Responsibility of Applicants

If an Applicant who otherwise would have been awarded funds is found not to be a responsible Applicant, a determination setting forth the basis of the finding, shall be prepared and the Applicant disqualified from receiving the award.

A responsible Applicant means an Applicant who submits an application that conforms in all material respects to the requirements of this NOFA and who has furnished, when required, information and data to support the application. MFA in its sole discretion, shall determine and otherwise verify Applicant's ability to make satisfactory delivery of the services described in this NOFA.

Application Confidentiality

MFA will not disclose the contents of any application or discuss the contents of any application with an Applicant or potential Applicant. The contents of any application will not be disclosed to Applicants competing for funding at the

same time under this NOFA. After awards have been made, and notice given to Applicant(s), all applications shall be made available and open to the public for review pursuant to the MFA Inspection of Public Records policy and procedure.

Application Review Information

Evaluation of Applicants and Documentation

MFA staff will evaluate service provider applications using the Minimum Qualifications and Requirements, and service provider evaluation and scoring criteria as described in the following sections. MFA will follow its own policies and procedures and delegations of authority to obtain the necessary award approvals.

Upon approval, MFA and the service provider will enter into a Performance Agreement with the term to be determined by MFA based on service provider capacity and other factors.

The Performance Agreement will include provisions for adequate security against the loss of CPF program funds if a successful Applicant abandons or otherwise fails to complete a project and further will include remedies and default provisions in the event of the unsatisfactory performance by the successful Applicant.

Service Provider Evaluation Criteria

Minimum Qualifications and Requirements

The following criteria must be met by all Applicants to be considered an approved service provider to receive Community Project Funding: Affordable Housing for New Mexico's Fire Affected Counties funding. Applications from Applicants that do not meet the Minimum Qualifications and Requirements will be rejected.

- Applicant must be organized under state, local, or tribal laws and can provide proof of such organization and that Applicant is in good standing, as applicable;
- Applicants must have a functioning accounting system that is operated in accordance with generally accepted accounting principles or has designated an entity that will maintain such an accounting system consistent with generally accepted accounting principles or has a fiscal agent familiar with affordable housing programs and projects or in lieu of an audit, an independent CPA's review of financial statements, signed by the reviewer.
- Applicants may not have any significant financial audit findings, and no significant outstanding or unresolved monitoring findings from any governmental entity, or from MFA, or otherwise; or if it has any such findings, it has a certified letter from the governmental entity, MFA, or otherwise stating that the findings are in the process of being resolved.
- Applicant may not have been suspended, debarred, or otherwise restricted by any department or agency of the Federal Government or any state government from doing business with such department or agency because of misconduct or alleged misconduct.
- Applicant may not have defaulted on any obligation covered by a surety or performance bond.
- Applicant must have maintain acceptable General Liability Insurance and work with qualified and licensed and bonded contractors.

Non-profit applicants must also provide proof of the following:

- 501(c)(3) tax status;
- Having no part of its net earnings inuring to the benefit of any member, founder, contributor or individual; and

- Compliance with the Charitable Solicitations Act, NMSA 1978, §57-22-1 et seq. and with the filing requirements by the New Mexico Attorney General's Office under that Act.

Applicant Scoring Criteria

In addition to demonstrating fulfillment of the Minimum Qualifications and Requirements, Applicants must score a minimum of 75 of the total points possible.

Criteria		Maximum Score
Financial Strength		***25***
EXTERNAL AUDIT		
Independent audit or audited financial statements must be for the most recently completed fiscal year not ending earlier than 2022. Audit materials must include management's response to any findings and corrective action to clear the finding or provide details on the current status of a finding.		
Unresolved findings	0	15
Independent Audit with management letter and auditor-cleared findings	10	
Independent Audit with zero findings	15	
FINANCIAL MANAGEMENT		
• Provide the policy for the Applicant's system of internal controls for fiscal management as documented in a policies and procedures manual approved by the Applicant's Board of Directors/Owner. • Provide by-laws requiring Board of Director's/Owners fiscal oversight.		
Strength of internal control policy		5
Board of Director by-laws showing fiscal oversight		5
Experience		***25***
Number of Combined Years Experience with Construction/Rehabilitation Projects		10
Less than 15 years	5	
15 to 24 years	7	
25 plus	10	

Number of Combined Years Experience with Affordable Housing Programs		10
Less than 15 years	5	
15 to 24 years	7	
25 plus	10	
Number of Combined Years Experience with Federal Grant Programs		5
Less than 15 years	3	
15 to 24 years	5	
IMPLEMENTATION PLAN		***25***
Provide a summary of how the service provider will implement CPF program that includes the following elements: a description of eligible activities to be provided, a listed of counties and jurisdictions that will be served, beneficiary outreach and intake process, contractor procurement, quality assurance plan, schedule of completion.		
Description of eligible activities to be provided and counties/jurisdictions that will be served		5
Beneficiary outreach and intake process		5
Contractor procurement		5
Quality assurance plan		5
Schedule of completion		5

AWARD NOTICE

MFA shall provide electronic notice (e-mail) of project award(s) to successful Applicants within fifteen days of the MFA Board approval of the award. The award shall be contingent upon signing final award documents. The notification will be delivered to the contact person indicated on the application. This process also applies to denial notification.

PROTESTS

Any Applicant who is aggrieved in connection with this NOFA or the notification of preliminary selection to this NOFA may protest to MFA. A protest must be based on an allegation of a failure to adhere to the evaluation process as designated in the NOFA, including MFA's evaluation of proposals.

The protest must be delivered to MFA via e-mail to sgonzales@housing.org within five business days after the preliminary notice of award. Protests received after the deadline will not be considered. Upon the timely filing of a

protest, MFA shall give notice of the protest to all Applicants who appear to have a substantial and reasonable prospect of being affected by the outcome of the protest. The Applicants receiving notice may file responses to the protest within five business days of notice of protest. The protest and responses to the protest shall be reviewed by the MFA Policy Committee, the Policy Committee shall make a final determination. The protest is then heard by the applicable Board Committee. The Board Committee's recommendation is then taken to the full Board for approval. MFA will issue a notice of determination relating to the protest within a reasonable period of time after submission of the protest. The determination by MFA shall be final.

No appeal of the determination shall be allowed. Applicants or their representatives shall not communicate with members of MFA's Board of Directors, or any MFA staff member regarding any application under consideration, except when specifically permitted to present testimony to the Board. An application will be deemed ineligible if the Applicant or any person or entity acting on behalf of the Applicant attempts to influence members of the MFA Board of Directors or MFA staff during any portion of the NOFA review process or does not follow the prescribed application and protest process.

Funding Terms and Conditions

All awards will be subject to the availability of funds, applicable laws, and funding source regulations for the CPF program. MFA will allocate only the minimum amount of funds that it determines to be necessary for the financial feasibility of a project and its viability.

This NOFA will remain open as long as there are funds available. Service providers will be able to request additional funding when their initial award is at least 80% expended and when it is determined by MFA that they have satisfactorily completed assigned projects.

Code of Conduct

Applicants, including members of the Applicant's board, shall warrant that it has no interest, direct or indirect, which would conflict in any manner or degree with the performance of services related to this application. The Applicant shall always conduct itself in a manner consistent with the MFA's Third-Party Code of Conduct. A copy of the MFA Third Party Code of Conduct is posted on the MFA website for review at https://housingnm.org/uploads/documents/Third_Party_Code_of_Conduct.pdf . Upon request by MFA, Applicant shall disclose information that MFA may reasonably request relating to conflicts or potential conflicts of interest.

EXHIBIT A: APPLICATION

MFA staff may contact Applicants for clarification of the information provided in the application process.

APPLICANT INFORMATION

Entity Type:
☐ Non-Profit Organization
☐ For-Profit Organization
☐ Governmental Housing Agency or Authority
☐ Governmental Entity
☐ Governmental Instrumentality
☐ Regional Housing Authority
☐ Public Housing Authority
☐ Tribal Government
☐ Tribal Housing Agency or Housing Authority
☐ Other

Applicant _____Application Date

Federal Tax ID _____UEI # _____

Address _____

City _____State _____ Zip _____

Contact Person _____Title _____

E-Mail _____ Phone _____ Fax_____

Applicant's Website _____

AWARD REQUEST

Indicate the award request:	
Project Activity Funding	
Administrative Funding (May not exceed 7.8% of Project Activity Funding)	
Total	

MINIMUM QUALIFICATIONS

Check all applicable statements:

☐ Applicant is organized under state, local, or tribal laws and can provide proof of such organization and that Applicant is in good standing, as applicable.

☐ Applicant has a functioning accounting system that is operated in accordance with generally accepted accounting principles or has designated an entity that will maintain such an accounting system consistent with generally accepted accounting principles or has a fiscal agent familiar with affordable housing programs and projects or in lieu of an audit, an independent CPA's review of financial statements, signed by the reviewer.

☐ Applicant has no significant financial audit findings, and no significant outstanding or unresolved monitoring findings from any governmental entity, or from MFA, or otherwise; or if it has any such findings, it has a certified letter from the governmental entity, MFA, or otherwise stating that the findings are in the process of being resolved.

☐ Applicant has not been suspended, debarred, or otherwise restricted by any department or agency of the Federal Government or any state government from doing business with such department or agency because of misconduct or alleged misconduct.

☐ Applicant has not defaulted on any obligation covered by a surety or performance bond.

☐ Applicant maintains acceptable General Liability Insurance and works with qualified and licensed and bonded contractors.

Additional Qualification for Non-Profit Applicants:

☐ Applicant evidences 501(c)(3) tax status;

☐ Applicant evidences that no part of its net earnings inuring to the benefit of any member, founder, contributor or individual; and

☐ Applicant is in compliance with the Charitable Solicitations Act, NMSA 1978, §57-22-1 et seq. and with the filing requirements by the New Mexico Attorney General's Office under that Act.

Scoring Criteria

The following criteria must be met by all Applicants to be considered an approved Service Provider to receive HOME Rehabilitation Program funding. To assist MFA in the scoring process, applicants must provide all requested documents listed in the Scoring Criteria section. Applicants must score a ***minimum of 50 points*** of the total points possible.

FINANCIAL STRENGTH – 25 Possible Points

External Audit – 15 Possible Points

Based on the applicant's most recent independent Certified Public Accountant (CPA)'s auditor's report (audit) conducted in accordance with Government Auditing Standards (GAS) or a recent MFA approved audit letter, which of the following applies to the applicant:

☐Unresolved findings (0 possible points)
☐Independent Audit with management letter and auditor-cleared findings (10 possible points)
☐Independent Audit with zero findings (15 possible points)

Financial Management – 10 Possible Points

Based on the policy for the applicant's system of internal controls for fiscal management as documented in a policies and procedure manual approved by the applicant's Board of Directors/Owner, does the applicant have the following:

☐Internal control policy
☐Board of Director by-laws showing fiscal oversight

EXPERIENCE – 25 Possible Points

Provide a summary that includes number of combined years' experience with Construction/Rehabilitation projects (10 possible points).
Provide a summary that includes number of combined years' experience with affordable housing programs (10 Possible Points)
Provide a summary that includes number of combined years' experience with federal grant programs (5 Possible Points)

IMPLEMENTATION PLAN – 25 Possible Points

Describe the eligible activities to be provided and counties/jurisdictions that will be served (5 possible points).
Provide a summary of beneficiary outreach and intake process (5 possible points).
Provide a summary of the procurement process for potential contractors (5 possible points).
Provide a quality assurance plan that thoroughly describes how Applicant will ensure the highest level of service (5 possible points).
Provide a schedule of completion (5 possible points).

REQUIRED DOCUMENT CHECKLIST

Check all documents provide with the application:

DOCUMENTS REQUIRED FROM ALL APPLICANTS

☐Proof organization is formed under state, local, or tribal laws

☐Current Business License

☐Organization mission statement

☐"Good Standing" Certification from SAM.gov

☐Copy of the most recent independent Certified Public Accountant (CPA)'s auditor's report (audit) conducted in accordance with Government Auditing Standards (GAS) or a recent MFA approved audit letter

☐Applicant's Board of Directors or governing body information

☐ Accounting Practices Certification

☐The policy for the Applicant's system of internal controls for fiscal management as documented in a policies and procedures manual approved by the Applicant's Board of Directors/Owner.

☐By-laws requiring Board of Director's/Owners fiscal oversight.

ADDITIONAL DOCUMENTS REQUIRED FROM NON-PROFIT APPLICANTS

☐A 501 (c)(3) or (4) Certificate from the IRS

☐Articles of incorporation or charter that evidence that no part of the non-profit's net earnings inures to the benefit of any member, founder, contributor, or individual

☐Proof of current registration as a charitable organization with the New Mexico Attorney General's Office for fiscal year ending in 2022 or proof of exemption therefrom (must include all pages of registration form)

MFA Housing New Mexico

MEMO

TO: MFA Board of Directors
Through: Contracted Services Committee – October 10, 2023
Through: Policy Committee – September 26, 2023

FROM: Theresa Laredo-Garcia, Program Development Manager

DATE: October 18, 2023

SUBJECT: Eastern Regional Housing Authority (ERHA) – Non-Profit Formation

Recommendation:
Staff recommends approval of the formation of ERHA Housing Development Corporation (HDC). The HDC will provide the ability to expand ERHA's mission of providing affordable housing to its region in southeast NM.

Background:
In the 2009 Legislative Session, the New Mexico state legislature amended the Regional Housing Law 11-3A-29 NMSA 1978, to re-define the activities of the Regional Housing Authorities (RHA) and to mandate the MFA provide oversight of certain activities. The Department of Housing and Urban Development (HUD) provides funding for ERHA, and is the agency that approves and provides oversight of operational activities which includes budgets, procurements, and 5-year plans.

MFA is in a role of limited oversight and works with HUD to obtain information as required per the Regional Housing Law, Chapter 11, Article 3A NMSA 1978. MFA oversight responsibilities include approval of the articles of incorporations and bylaws, and any subsequent changes of any nonprofit entities to be created by the RHA (NMSA 1978 § 11-3A-9). No funding was appropriated to MFA for the RHA oversight.

Discussion:
ERHA is in the process of creating a non-profit instrumentality, ERHA Housing Development Corporation (HDC). The HDC will provide the ability to expand ERHA's mission of providing affordable housing to its region in southeast NM. ERHA completed the Section 8 Management Assess Program (SEMAP) for 6/30/23 and scored 100% on HUD's scoring criteria which resulted in a HIGH overall performance rating. ERHA's Board of Commissions has reviewed and approved the following organizational documents for HDC, which are included as attachments to this memo.

- Resolution authorizing the formation of the non-profit;
- Secretary's Certification
- Articles of Incorporation;
- Bylaws;
- Conflict of Interest Policy, and;

- Joint Venture Policy

ERHA is still in the process of filing formation documents with the Secretary of State, Attorney General, and IRS for tax exempt status.

Under Regional Housing Law, MFA board approval is needed to move forward with this action. The approval of the HDC is contingent on the successful receipt of these pending documents.

Summary:
Staff recommends approval of the formation of ERHA Housing Development Corporation (HDC). The HDC will provide the ability to expand ERHA's mission of providing affordable housing to its region in southeast NM.

Eastern Regional Housing Authority

Resolution No. 23-08-03

WHEREAS, **Eastern Regional Housing Authority** ("ERHA") is a New Mexico regional housing authority formed pursuant to the provisions of §11-3A-1 et seq NMSA 1978 (1995); and

WHEREAS, the purpose of ERHA is to assist in providing safe and sanitary housing to persons of low and moderate income who reside in the State of New Mexico; and

WHEREAS, during its existence, ERHA (including its predecessors), has acquired significant experience in the development of multifamily low income and affordable residential housing projects, the bulk of which has been financed through the issuance of housing tax credits and grants issued by the State of New Mexico; and

WHEREAS, ERHA believes that it has acquired the knowledge and expertise relating to the acquisition and development of such multifamily residential housing projects to allow it to act as a developer for such projects, and in so doing to receive compensation which may then in turn be utilized to carry of the purposes for which ERHA was created; and

WHEREAS, ERHA has determined that in undertaking the development activities contemplated by it, it is in the best interest of ERHA to create a separate nonprofit corporation, to act on its behalf, as authorized by the provisions of §11-3A-9 NMSA 1978(1994); and

WHEREAS, ERHA acknowledges that by law, the creation of such a nonprofit corporation cannot be accomplished without the permission of the New Mexico Mortgage Finance Authority, who must review and recommend for approval the Articles of Incorporation and By-Laws for such non-profit corporation; and

WHEREAS, ERHA wishes to submit for the approval of the New Mexico Mortgage Finance Authority proposed Articles of Incorporation and By-Laws for a non-profit corporation

to act on behalf of ERHA, which non-profit corporation can act, either alone, or in partnership with other entities, as a developer for multifamily residential housing projects to be built or developed for persons of low or moderate income; and

WHEREAS, once approved, ERHA wishes to take the steps necessary to create a nonprofit corporation to act alone or with other entities to develop low income and/or affordable multifamily housing.

NOW THEREFORE BE IT RESOLVED THAT:

1) ERHA approves the establishment of a Type I Supporting Organization named ERHA Housing Development Corporation ("HDC"), in order to support ERHA by fulfilling those purposes set forth in HDC's Articles of Incorporation to create a non-profit corporation to act on behalf of ERHA in accordance with the provision of §11-3A-9 NMSA 1978 (1994).
2) The Articles of Incorporation and By- Laws for HDC which are attached hereto as Exhibits A and B respectively, are hereby approved;
3) That Chris Herbert, in his capacity as Executive Direct of ERHA is hereby authorized to submit the Article of Incorporation and By-Laws for HDC to the New Mexico Mortgage Finance Authority for approval by that entity, and to agree to such changes to the documents as submitted as are required by the New Mexico Mortgage Finance Authority and which Chris Herbert agrees are appropriate;
4) That the following persons shall serve as the initial officers and directors of HDC until his or her successor is duly appointed:

Chris Herbert	President/Director
Terri Douglass	Secretary/Director

Allan Paschall Treasurer/Director

5) That once approved by the New Mexico Mortgage Finance Authority, Chris Herbert, in his capacity as Executive Director of ERHA is further authorized and instructed on behalf of ERHA to execute and deliver any documents, instrument's and agreements necessary or desirable to create HDC, and to cause to be made make appropriate filings with the New Mexico Secretary of State, the New Mexico Attorney General and/or the IRS, and to take any other actions of whatsoever nature as Chris Herbert shall deem necessary or desirable in order to effectuate the creation of HDC, to obtain a determination of tax exempt status for such non-profit Corporation, and to comply with applicable state or federal requirements required for such a non-profit corporation to do business in the State of New Mexico.

6) That the Conflict of Interest Policy and the Joint Venture Participation Policy attached hereto as Exhibits C and D are approved and are adopted for use by EDC.

7) That all actions previously taken by any commissioners, directors, officers and/or agents of ERHA related to any of the foregoing are hereby ratified and confirmed.

Board Chairperson

Secretary

SECRETARY'S CERTIFICATE

(Eastern Regional Housing Authority)

Comes now Alfred Velasquez Jr., acting Secretary of the Eastern Regional Housing Authority, which housing authority conducts its business in Roswell, Chaves County, New Mexico, and does hereby certify that Resolution RHA# 23-08-03, attached hereto as Exhibit A (the "Resolution"), is a true and correct copy of the Resolution passed at a Regular Board Meeting of the Commissioners of the Eastern Regional Housing Authority which meeting was held on August, 26, 2023 pursuant to applicable provisions of the New Mexico Open Meetings Act. I further certify that a quorum was present at such meeting, with 4 of the 6 Commissioners being present at that meeting. At such time the Resolution came before the meeting for consideration, the Resolution was passed, with 4 Commissioners voting for the Resolution and Ø Commissioners voting against such Resolution. There were Ø abstentions.

Additionally, I do hereby certify that at the August, 26, 2023, Board of Commissioners Meeting, Teri Douglass acted as the Board Chairperson for the Commissioners of the Eastern Regional Housing Authority for the purpose of conducting such meeting and Alfred Velasquez, Jr. appointed to act as Secretary thence.

Dated this 26 day of August, 2023.

Alfred Velasquez, Jr. Acting Secretary of the Commissioners of the Eastern Regional Housing Authority

STATE OF NEW MEXICO
NOTARY PUBLIC
SALLY ARRIZOLA
COMMISSION # 1136163
COMMISSION EXPIRES 12/03/2025

STATE OF NEW MEXICO)
) ss.
COUNTY OF Chaves)

Subscribed, sworn to and acknowledged before me this 30 day of August, 2023 by Alfred Velasquez, Jr.

Sally Arrizola
Notary Public

My Commission Expires:
12-03-2025

ARTICLES OF INCORPORATION
OF
ERHA HOUSING DEVELOPMENT CORPORATION,
a New Mexico non-profit corporation

The undersigned, for the purpose of forming a non-profit corporation, as authorized by the New Mexico Non-Profit Corporation Act, §53-8-1 et seq. NMSA 1978 (1975) (the "Act"), and being authorized pursuant to the provisions of §11-3A-9 NMSA 1978 (1994), to create a non-profit corporation to carry out the powers and duties of the Eastern Regional Housing Authority, a New Mexico regional housing authority, does hereby adopt the following Articles of Incorporation for such Corporation.

ARTICLE I
NAME

The name of this corporation (the "Corporation") is **ERHA Housing Development Corporation**.

ARTICLE II
DURATION

The period of the Corporation's duration is perpetual.

ARTICLE III
PURPOSE OF THE CORPORATION

The Corporation is organized exclusively for charitable, scientific, educational and literary purposes within the meaning of Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, or the corresponding provision of any future federal revenue law (the "Internal Revenue Code") in order to support the Eastern Regional Housing Authority, a regional housing authority created pursuant to the provisions of §11-3A-1 et seq. NMSA 1978 (1995), including but not limited to the following:

A. To develop, construct, reconstruct, improve, alter, extend or repair any low-income or affordable housing projects located within the jurisdiction of Eastern Regional Housing Authority, consistent with all applicable state and federal safe harbor requirements and to provide related resident services in connection with such projects which are consistent with community needs.

B. To create partnerships between state, federal city, and county governments, non-profit entities and the private sector that will provide the necessary resources to carry out the planning, financing, development and delivery of affordable housing and low income housing and housing programs within the jurisdiction of the Eastern Regional Housing Authority, or as may otherwise be authorized by law, and to facilitate the development and delivery of affordable and low-income housing programs and services in the State of New Mexico.

C. To transact any and all lawful business for which non-profit corporations may be

incorporated under the laws of the State of New Mexico, to the extent that such business may be conducted by organizations that qualify as exempt organizations under Section 501(c)(3) of the Internal Revenue Code.

D. To do everything necessary, proper, advisable, and convenient for the accomplishment of the purposes set forth above, and to do all other things incidental thereto or connected therewith, which are not forbidden by the laws of the State of New Mexico, or by these Articles of Incorporation.

IV.
POWERS OF THE CORPORATION

In furtherance, and not in limitation of the general powers conferred on non-profit corporations by the laws of the State of New Mexico, and the Regional Housing Law for the State of New Mexico, it is expressly provided that the Corporation shall have the following powers:

A. To enter into, make, perform or administer contracts of ever sort and kind with any person, firm, association, corporation, municipality, body politic, housing authority, county, state, or with the federal government or instrumentality thereof, which contracts shall relate to the acquisition, development and/or administration of low income or affordable housing projects within the jurisdictional limitations of the Eastern Regional Housing Authority created pursuant to the laws of the State of New Mexico.

B. To do everything necessary, proper, convenient or incidental to the accomplishment of the purposes of the Corporation.

C. To have and exercise all the rights, powers and privileges now or hereafter conferred by the laws of the State of New Mexico relating to non-profit corporations organized under the acts and authorizations by which this Corporation is organized, and all acts amendatory and supplemental thereto.

D. Notwithstanding any other provisions of these Articles, the Corporation shall neither have nor exercise any power, nor engage directly or indirectly in any activity that would invalidate its status as an organization exempt from federal income tax and described in Section 501(c)(3) of the Internal Revenue Code.

V.
LIMITATIONS

At all times the following shall operate as conditions restricting the operations and activities of the Corporation:

1. This Corporation is organized and operated exclusively for those charitable or other purposes authorized by and within the meaning of Section 501(c)(3) of the Internal Revenue Code.

2. Notwithstanding any other provision of these Articles, the Corporation shall not

carry on any other activities not permitted to be carried on (1) by a corporation exempt from federal income tax under Section 501(c)(3) of the Internal Revenue Code or (2) by a corporation, contributions to which are deductible under Section 170(c)(2) of the Internal Revenue Code.

3. No part of the activities of this Corporation shall consist of carrying on propaganda, or otherwise attempting to influence legislation, and the Corporation shall not participate in or intervene in any political campaign (including the publishing or distribution of statements) on behalf of, or in opposition to, any candidate for public office.

ARTICLE VI
NO PRIVATE INUREMENT

No part of the net earnings of the Corporation or the assets of the Corporation shall inure to the benefit of, or be distributable to, any member of the Board of Directors, any officer of the Corporation or any other private person, except that the Corporation shall be authorized to pay reasonable compensation to, and to pay on behalf of or reimburse, reasonable expenses to any persons for services rendered.

ARTICLE VII
MEMBERSHIP

The Corporation shall have no members.

ARTICLE VIII
MANAGEMENT

Management of the Corporation shall be vested in a Board of Directors of the Corporation, with the Board of Directors consisting of three (3) members. A majority of the voting members of the Board of Directors shall constitute a quorum for the transaction of business. Except as otherwise provided in the By-Laws of the Corporation, Directors of the Corporation shall be appointed by the Board of Commissioners of the Eastern Regional Housing Authority prior to such Directors taking office and shall have terms of office as provided in the By-Laws; provided however that the Executive Director of Eastern Regional Housing Authority shall always be named as a member of the Board of Directors.

The names and addresses of the persons who have consented to serve on the initial Board of Directors are as follows:

Name	Address
Chris Herbert	2612 Mercedes Drive, Roswell, NM 88201
Terri Douglass	4806 N. Eisenhower Road, Roswell, NM 88201
Allan Paschall	5 De Sosa Court, Roswell, NM 88201

ARTICLE IX
DISSOLUTION

In the event of a liquidation or dissolution of the Corporation, after all debts, obligations, and liabilities of this Corporation are paid, or provision is made therefor, all of the properties and assets of the Corporation which may remain after the payment of all of the Corporations' liabilities, shall vest in and be transferred to Eastern Regional Housing Authority, without consideration of any kind or nature, provided however that should the Eastern Regional Housing Authority not be in existence at the time of the liquidation or dissolution of the Corporation, then, all such assets shall be transferred to one or more non-profit organizations which have established tax-exempt status under Section 501(c)(3) or 501(c)(4) of the Internal Revenue Code, and which are engaged in activities substantially similar to those of the Corporation, pursuant to a plan of distribution adopted by the Corporation.

ARTICLE X
AMENDMENTS

The Board of Directors of the Corporation shall adopt the initial By-Laws of the Corporation and shall have the exclusive power to adopt, alter, amend or repeal the By-Laws of the Corporation and the exclusive power to amend and restate these Articles of Incorporation. Notwithstanding the foregoing all such amendments, or changes to the By-Laws, or their repeal shall be approved by the Board of Commissioners of the Eastern Regional Housing Authority.

ARTICLE XI
INDEMNIFICATION

The Corporation shall indemnify and hold harmless any present or former director or officer of the Corporation against any and all expenses (other than taxes imposed by Chapter 42 of the Internal Revenue Code, and penalties or expenses of correction), including attorneys' fees imposed upon or reasonably incurred by such officer or director being, or having been, an officer or director to the full extent permitted by the Act, or the corresponding provision or provisions of any successor statute. The Corporation shall advance and pay the expenses, including attorneys' fees incurred by any officer or director or former officer or director of the Corporation in defending any civil, criminal, administrative or investigative action, suit or proceeding in advance of the final disposition of such action, suit or proceeding; provided, however, that the payment of expenses incurred by an officer or director in advance of the final disposition of the action, suit or proceeding shall be made only upon receipt of a written agreement by or on behalf of such officer or director to repay all amounts advanced if it should be ultimately determined that such person is not entitled to be indemnified under this Article or otherwise. The Corporation may indemnify, hold harmless and advance expenses to any present or former employee or agent of the Corporation, or any other person serving at the request of the Corporation, to the same extent that the Corporation is required to indemnify, hold harmless and advance expenses to its officer and directors (or former officers and directors) under this Article. The provisions of this Article shall be deemed to be cumulative

and in addition to any other limitation of liability or right of indemnity to which the Corporation's directors, officers, agents or employees may be entitled under any statute, bylaw, agreement, insurance policy, vote of its directors, principle of law or otherwise.

ARTICLE XII
REGISTERED OFFICE AND AGENT

The address of the initial registered agent of the Corporation is 106 E. Reed and the name of the initial registered agent at that address is Terri Douglass.

ARTICLE XIII
INCORPORATOR

The name of the Incorporator is Chris Herbert, and the address is of said Incorporator is 2612 Mercedes Drive, Roswell, New Mexico 88201.

IN WITNESS WHEREOF, I have hereunder set my hand this 8 day of September, 2023.

Incorporator

STATE OF NEW MEXICO
NOTARY PUBLIC
SALLY ARRIZOLA
COMMISSION # 1136163
COMMISSION EXPIRES 12/03/2025

Sally Arrizola

Chris Herbert

BYLAWS
OF
ERHA HOUSING DEVELOPMENT CORPORATION,
A NEW MEXICO NON-PROFIT CORPORATION

BY-LAWS

FOR

ERHA HOUSING DEVELOPMENT CORPORATION

A NEW MEXICO NON-PROFIT CORPORATION

ARTICLE 1: NAME

The name of the corporation is ERHA Housing Development Corporation (hereafter the "Corporation").

ARTICLE 2: PURPOSE

Section 1. Primary Purposes.

The Corporation is organized in accordance with the New Mexico Non-Profit Corporation Act (the "Act") and as authorized by the provisions of §11-3A-9 NMSA 1978 (1994) to act on behalf of Eastern Regional Housing Authority and to carry out certain powers and duties of a regional housing authority as set forth in §11-3A-7 NMSA 1978 (1994), as more particularly described in the Corporation's Articles of Incorporation. The Corporation is subject to all duties and limitations imposed on Eastern Regional Housing Authority and its Board of Directors. The Corporation is organized exclusively for charitable purposes pursuant to the provisions of §501(c)(4) of the Internal Revenue Code. Its creation has been approved by the New Mexico Mortgage Finance Authority.

Section 2. Incidental Purposes.

In addition, the Corporation is formed for the purpose of performing all things incident to or appropriate in the achievement of the foregoing purposes. However, the Corporation shall not, except to an insubstantial degree, engage in any activities or exercise any powers that are not in furtherance of its primary purposes, nor shall it carry on any activities which are not permitted to be carried on by (1) a corporation exempt from Federal income taxation under § 501(c)(3) of the Internal Revenue code, or (2) by a corporation, the contributions to which are deductible under §170(c)(2) of the Internal Revenue Code.

Section 3. General Corporate Powers.

Except as otherwise provided for herein, the Corporation shall hold and may exercise all such powers as may be conferred upon a nonprofit corporation by the laws of the State of New Mexico and as may be necessary or expedient for the administration of the affairs and attainment of the purposes of the Corporation.

ARTICLE 2: MEMBERSHIP

The Corporation shall have no members. Accordingly, all authority that would otherwise reside with members of a corporation shall be exercised by the Board of Directors of the Corporation as and to the extent authorized by applicable law.

ARTICLE 3: BOARD OF DIRECTORS

Section 1. Powers.

The affairs of the corporation shall be managed by the Board of Directors. The Board of Directors shall exercise all of the powers of the Corporation as conferred upon it in accordance with applicable law relating to non-profit corporations operating in the State of New Mexico.

The Board of Directors may delegate the management of the day-to-day operations of the business of the Corporation to a management company, committee (however composed), or other persons. Notwithstanding the foregoing, all of the activities and affairs of the Corporation shall be managed, and all corporate powers shall be exercised, under the ultimate direction of the Board of Directors.

Section 2. Number of Directors.

The number of Directors of the Corporation shall be three (3). The authorized number of Directors of the Corporation may be changed by an amendment to these By-Laws which is approved by the Board of Directors and by the Commissioners for Eastern Regional Housing Authority.

Section 3. Qualification, Approval and Term.

The Eastern Regional Housing Authority shall appoint the directors of the Corporation, including the members of the initial Board of Directors. In any event, one of the directors shall be the Executive Director of Eastern Regional Housing Authority. The term of each Director shall be for a period of one (1) year. Any Director elected to fill an unexpired term (whether resulting from death, resignation or removal or created by an increase in the number of Directors) shall hold office until the next appointment of Directors. Directors may serve any number of consecutive terms. Any director of the Corporation may be removed at any time by the Commissioners for Eastern Regional Housing Authority.

Section 4. Compensation. No Director shall receive a salary for acting in the capacity as director.

Section 5. Meetings.

A. Annual Meeting

The Board of Directors shall hold an annual meeting at such time and place as it shall deem appropriate for the purpose of electing officers of the Corporation and for the transaction of other business. The regular annual meeting of the Directors shall be held on the fourth Saturday of June of each year of the Corporation's existence at the time and place designated in the notice of the meeting. The purpose of the annual meeting is to elect officers, consider reports for the current fiscal year and transact other business as may come before the meeting. Failure to hold the annual meeting at the designated time shall not work a forfeiture or dissolution of the Corporation, and in the event of such failure, the annual meeting shall be held within a reasonable time after the time originally scheduled for such meeting.

B. Special Meetings

Special meetings of the Board of Directors for any purpose or purposes may be called at any time by the President, or by any Director, and it shall thereupon be the duty of the Secretary to cause notice of the meeting to be given as hereinafter provided. The person calling the meeting shall fix the time and place of the meeting.

C. Open Meetings. All meetings of the Board of Directors shall be "open meetings" as defined by the Open Meetings Act for the State of New Mexico.

Section 6. Notice of Meetings.

Written notice of the time, place and purpose of any meeting of the Board of Directors shall be delivered to each Director not less than three (3) days prior to the meeting, either personally, by mail, or recognized commercial courier, unless otherwise authorized by the provisions of the New Mexico Open Meetings Act. If mailed, such notice shall be deemed delivered when deposited in the United States Mail, first class and postage prepaid addressed to the Director at such Director's address as it appears on the records of the Corporation. Any other written notice shall be deemed to have been given at the time it is personally delivered to the recipient, or two (2) business days after the date on which such notice is delivered to a commercial courier properly addressed with all fees paid. All notices must comply with the provisions of the New Mexico Open Meetings Act.

Section 7. Presence and Participation by Conference Technology.

Directors may participate in any meeting of the Board through the use of conference telephone, electronic video screen communication, or other communications equipment if all of the following apply: (1) each member participating in the meeting can communicate with all of the other members concurrently, and (2) each member is provided the means of participating in all matters before the Board of Directors, including the capacity to propose, or to interpose an objection to a specific action to be taken by the Board. Participation in a meeting pursuant to this Section 7 constitutes presence in person at such meeting.

Section 8. Voting, Quorum, and Action at Meetings.

Each Director shall have one (1) vote. Directors may not vote by proxy. Presence of a majority of the Directors then in office at a meeting of the Board of Directors constitutes a quorum for the transaction of business, except as otherwise provided in these By-Laws. Every decision made by a majority of the Directors at a meeting where a quorum is present shall be regarded as the act of the Board of Directors. Directors at a meeting at which a quorum is initially present, including an adjourned meeting, may continue to transact business notwithstanding the withdrawal of some of the directors, so long as any action taken is approved by at least a disinterested majority of the required quorum for such meeting.

Section 9. Adjourned Meeting and Notice.

A majority of the Directors present may adjourn any meeting of the Board of Directors to another time and place. If the meeting is adjourned for more than twenty-four (24) hours, notice of any adjournment to another time or place must be given prior to the time of the adjourned meeting to the Directors who were not present at the time of the adjournment.

ARTICLE 4: OFFICERS

Section 1. Designation of Officers.

The Officers of the Corporation shall consist of a President, a Secretary, and a Treasurer or such other officers as may be determined by the Board of Directors from time to time to perform such duties as may be designated by the Board of Directors. The President shall be the Executive Director of the Eastern Regional Housing Authority. Officers shall perform those duties customarily incident to their respective offices and such other duties as may be required by law, by the Articles of Incorporation for the Corporation, or by these By-Laws, subject to control of the Board of Directors. Officers shall also perform such additional duties as the Board of Directors shall from time to time assign.

Section 2. Election and Term of Office.

The Officers shall be elected annually by the Board of Directors at the regular annual meeting of the Board of Directors. If the election of officers is not held at such meeting, such election shall be held as soon thereafter as may be conveniently possible. Each Officer shall hold office until the next regular annual meeting of the Board of Directors or until his successor shall have been elected. Except as otherwise provided in these By-Laws, the vacancy in any office shall be filled by the Board of Directors for the unexpired term of the absent officer.

Section 3. Removal of Officers.

Any Officer elected or appointed by the Board of Directors may be removed by the Board of Directors with or without cause, whenever, in the judgment of the Board of Directors the best interest of the Corporation will be served.

Section 4. President

The President shall be the principal executive officer of the Corporation, and shall be the Executive Director of Eastern Regional Housing Authority. The President may sign deeds, mortgages, deeds of trust, notes, bonds, contracts or other instruments authorized by the Board of Directors to be executed, except in those cases where the signing and execution thereof shall be expressly delegated by the Board of Directors or by the By-Laws to some other officer of agent of the Corporation, or shall be required by law to be otherwise signed or executed. The President shall perform all duties incident to the office of the President and such other duties as shall be prescribed from time to time by the Board of Directors.

Section 5. Secretary.

The Secretary shall keep or cause to be kept, at the principal office of the Corporation or such other place as the Board of Directors may direct, a book (or other record) of minutes of all meetings of the Board of Directors and its committees. The minutes shall include the time and place of meetings, and if special, how authorized, the notice thereof given, the names of those present at Board of Directors and committee meetings, and the proceedings thereof. The Secretary shall keep, or cause to be kept, at the principal office of the Corporation the original or a copy of the Corporation's Articles of Incorporation and By-Laws, as either may be amended from time to time, and shall in general be the custodian of the corporate records. The Secretary shall see that all notices are duly given in accordance with these By-Laws and as required by law.

Section 6. Treasurer.

The Treasurer shall keep and maintain, or cause to be kept and maintained, adequate and correct books and accounts of the properties and business transactions of the Corporation. The books of account shall be open at all reasonable times to inspection by any Director of the Corporation, or by the Board of Commissioners for Eastern Reginal Housing Authority.

The Treasurer shall deposit, or cause to be deposited, all money and other valuables in the name and to the credit of the Corporation with such depositaries as may be designated by the Board of Directors. The Treasurer shall disburse the funds of the Corporation as may be directed by the Board of Directors, shall render to the President and the Directors, whenever requested an account of all transactions as Treasurer and of the financial condition of the Corporation, and shall have such other powers and perform such other duties as may be prescribed by the Board of Directors.

ARTICLE 5: FISCAL YEAR

The fiscal year for this Corporation shall be for the period from July 1 through June 30 for each year during the Corporation's existence.

ARTICLE 6: DEDICATION OF ASSETS

The property and assets of the Corporation are irrevocably dedicated to charitable and educational purposes. No part of the net earnings, properties, or assets of the Corporation, on dissolution or otherwise, shall inure to the benefit of any private individual, or any Director or Officer of the Corporation. Upon liquidation or dissolution of the Corporation, all remaining properties and assets of the Corporation shall be distributed in accordance with the Articles of Incorporation for the Corporation.

ARTICLE 7: AMENDMENTS AND REVISIONS

These By-Laws and/or the Articles of Incorporation may be amended or repealed by a majority vote of the Directors then in office. Such action must be taken at a duly called and held meeting of the Board of Directors Any such amendment or repeal shall however be subject to the approval of the Board of Commissioners for Eastern Regional Housing Authority. If any provision of these By-Laws or the Articles of Incorporation requires the vote of a larger proportion of the Board of Directors than is otherwise required by law, that provision may not be altered, amended, or repealed except as stated herein.

ARTICLE 8: INDEMNIFICATION

To the fullest extent permitted by law, the Corporation shall indemnify and hold harmless any present or former director or officer of the Corporation against any and all expenses (other than taxes imposed by Chapter 42 of the Internal Revenue Code, penalties or expenses of correction), including attorneys' fees imposed upon or reasonably incurred by such officer or director being, or having been, an officer or director of the Corporation to the full extent permitted by the Act, or the corresponding provision or provisions of any successor statute. The Corporation shall advance and pay the expenses, including attorneys' fees incurred by any officer or director or former officer or director of the Corporation in defending any civil, criminal, administrative or investigative action, suit or proceeding in advance of the final disposition of such action, suit or proceeding; provided, however, that the payment of expenses incurred by an officer or director in advance of the final disposition of the action, suit or proceeding shall be made only upon receipt of a written agreement by or on behalf of such officer or director to repay all amounts advanced if it should be ultimately determined that such person is not entitled to be indemnified under this Article or otherwise. The Corporation may indemnify, hold harmless and advance expenses to any present or former employee or agent of the Corporation, or any other person serving at the request of the Corporation, to the same extent that the Corporation is required to indemnify, hold harmless and advance expenses to its officer and directors (or former officers and directors) under this Article. The provisions of this Article shall be deemed to be cumulative and in addition to any other limitation of liability or right of indemnity to which the Corporation's directors, officers, agents or employees may be entitled under any statute, bylaw, agreement, insurance policy, vote of its directors, principle of law or otherwise.

ARTICLE 9: CONFLICTS OF INTEREST

The Board of Directors shall adopt a conflict of interest policy, which it shall review annually, to

ensure that the Corporation operates in a manner consistent with its charitable purposes and it does not engage in activities that could jeopardize the Corporation's tax-exempt status.

Adopted this 24 day of August, 2023.

Name: _____
Title: President

Name: _____
Title: Board Chair

ERHA HOUSING DEVELOPMENT CORPORATION
CONFLICT OF INTEREST POLICY

(Adopted 8/26, 2023)

Article I: Purpose

The purpose of this Conflict of Interest Policy is to protect the interests of ERHA Housing Development Corporation (the "**Corporation**") when it is contemplating entering into a transaction or arrangement that might benefit the private interest of an officer or director of the Corporation or might result in an "excess benefit transaction" as defined in section 4958 of the Internal Revenue Code of 1986, as amended (the "**Code**"). This policy is intended to supplement but not replace any applicable state and federal laws governing conflicts of interest applicable to nonprofit and charitable corporations.

Article II: Definitions

1. Interested Person

Any director, officer, or member of a committee with board-delegated powers who has a direct or indirect financial interest, as defined below, is an interested person. If a person is an interested person with respect to the Corporation directly or any entity controlled by the Corporation, he or she is an interested person with respect to the Corporation.

2. Financial Interest

A person has a financial interest if the person has, directly or indirectly, through business, investment or family:

a. An ownership or investment interest in any entity with which the Corporation has a transaction or arrangement, or

b. A compensation arrangement with the Corporation or with any entity or individual with which the Corporation has a transaction or arrangement, or

c. A potential ownership or investment interest in, or compensation arrangement with, any entity or individual with which the Corporation is negotiating a transaction or arrangement.

Compensation includes direct and indirect remuneration as well as gifts or favors that are not insubstantial.

A financial interest is not necessarily a conflict of interest. Under Article III, Section 2, a person who has a financial interest may have a conflict of interest only if the appropriate board or committee decides that a conflict of interest exists.

Article III: Procedures

1. Duty to Disclose

In connection with any actual or possible conflict of interest, an interested person must disclose the existence of the financial interest and must be given the opportunity to disclose all material facts to the directors and members of committees with board-delegated powers considering the impact of the potential conflict of interest on the proposed transaction or arrangement.

2. Determining Whether a Conflict of Interest Exists

After disclosure of the financial interest and all material facts, and after any discussion with the interested person, he/she shall leave the board or committee meeting while the determination of whether a conflict of interest exists is discussed and voted upon. The remaining board or committee members shall decide if a conflict of interest exists. If the remaining board or committee members do decide that a conflict of interest exists, the procedures set forth in Article III, Section 3 shall be followed.

3. Procedures for Addressing the Conflict of Interest

a. The interested person may be invited back into the board or committee meeting to make a presentation, but after such presentation, he/she shall again leave the meeting during the discussion of, and any vote on, the transaction or arrangement involving the possible conflict of interest. The body that considers the proposed transaction or arrangement shall be composed entirely of individuals without a conflict of interest with respect to the proposed transaction or arrangement.

b. The president or chairperson of the board or committee shall, if appropriate, appoint a disinterested person or committee to investigate alternatives to the proposed transaction or arrangement.

c. After exercising due diligence, the board or committee shall determine whether the Corporation can obtain with reasonable efforts a more advantageous transaction or arrangement from a person or entity that would not give rise to a conflict of interest.

d. If a more advantageous transaction or arrangement is not reasonably possible under circumstances not producing a conflict of interest, the board or committee shall determine by a majority vote of the disinterested directors whether the transaction or arrangement is in the Corporation's best interest, for its own benefit, and whether the transaction is fair and reasonable. The Corporation shall make its decision as to whether to enter into the transaction or arrangement in conformity with the above determination.

4. Violations of the Conflict of Interest Policy

a. If the board or committee has reasonable cause to believe that a member has failed to disclose actual or possible conflicts of interest, it shall inform that person

of the basis for such belief and afford the person an opportunity to explain the alleged failure to disclose.

b. If, after hearing the person's response and after making such further investigation as warranted by the circumstances, the board or committee determines that the person has in fact failed to disclose an actual or possible conflict of interest, it shall take appropriate disciplinary and corrective action.

5. Excess Benefit Transactions

The Corporation expects to be classified by the Internal Revenue Service as a public charity and is therefore subject to the "intermediate sanctions" rules contained in section 4958 of the Code and the accompanying Treasury Regulations. These rules in general subject individuals who are in a position to exercise substantial influence over the Corporation's affairs (including officers, directors and in certain instances substantial contributors) as well as their Family Members and entities in which the aforementioned parties own a greater than 35 percent interest ("**Disqualified Persons**") to excise taxes if an excess benefit transaction has occurred. For purposes of this Policy, "**Family Members**" include an individual's spouse, ancestors, brothers, sisters, children, grandchildren, great grandchildren, and spouses of brothers, sisters, children, grandchildren, and great grandchildren. The Corporation's directors and members of committees with board-delegated powers who knowingly approve an excess benefit transaction are also subject to excise taxes.

An excess benefit transaction has occurred if the economic benefit provided by the Corporation to a Disqualified Person, either directly or indirectly, exceeds the value of the consideration provided by the Disqualified Person to the Corporation in return. Examples of excess benefit transactions include payment of excessive compensation for services and a payment for property that exceeds fair market value.

The Corporation does not intend to engage in any excess benefit transactions. In its review of financial interests, the board of directors or appropriate committee shall consider whether such financial interests could constitute an excess benefit transaction and shall in no event pursue an arrangement or transaction that would constitute an excess benefit transaction.

Article IV: Records of Proceedings

1. The minutes of the board and all committees with board-delegated powers shall contain:

a. The names of the persons who disclosed or otherwise were found to have a financial interest in connection with an actual or possible conflict of interest, the nature of the financial interest, any action taken to determine whether a conflict of interest was present, and the board's or committee's decision as to whether a conflict of interest in fact existed.

b. The names of the persons who were present for discussions and votes relating to the transaction or arrangement, the content of the discussion, including any alternatives to the proposed transaction or arrangement, the terms of the

transaction or arrangement and the date it was approved, any action taken with respect to consideration of the transaction or arrangement by any member of the board or committee with a conflict of interest, and a record of any votes taken in connection with the proceedings.

Article V: Compensation

1. A voting member of the board of directors who receives compensation, directly or indirectly, from the Corporation for services is precluded from voting on matters pertaining to that member's compensation.

2. A voting member of any committee whose jurisdiction includes compensation matters and who receives compensation, directly or indirectly, from the Corporation for services is precluded from voting on matters pertaining to that member's compensation.

3. No voting member of the board or any committee whose jurisdiction includes compensation matters and who receives compensation, directly or indirectly, from the Corporation, either individually or collectively, is prohibited from providing information to any committee regarding compensation.

Article VI: Annual Statements

1. Each director, officer and member of a committee with board-delegated powers shall annually sign a statement which affirms that such person:

   a. Has received a copy of the conflict of interest policy,

   b. Has read and understands the policy,

   c. Has agreed to comply with the policy, and

   d. Understands that the Corporation is a charitable organization and that in order to maintain its state and federal tax exemption it must engage primarily in activities which accomplish one or more of its tax-exempt purposes.

Article VII: Periodic Reviews

1. To ensure that the Corporation operates in a manner consistent with its charitable purposes and that it does not engage in activities that could jeopardize its tax-exempt status, the Corporation shall conduct periodic reviews. The periodic reviews shall, at a minimum, include the following subjects:

   a. Whether compensation arrangements and benefits are reasonable, based on competent survey information, and are the result of arm's length bargaining.

   b. Whether partnership, joint ventures, arrangements with management, and arrangements with other entities, be they nonprofit or for-profit entities, conform to the Corporation's written policies, including the Joint Venture Policy, are properly recorded, reflect reasonable investment or payments for goods and

services, further the Corporation's charitable purposes and do not result in private inurement or impermissible benefit.

c. Whether agreements to provide education, training or other services and agreements with other organizations or their employees, further the Corporation's charitable purposes and do not result in private inurement or impermissible benefit.

Article VIII: Use of Outside Experts

In conducting the periodic reviews provided for in Article VII, the Corporation may, but need not use outside advisors. If outside advisors are used, their use shall not relieve the board of its responsibility for ensuring that periodic reviews are conducted.

Exhibit D

ERHA HOUSING DEVELOPMENT CORPORATION

JOINT VENTURE PARTICIPATION POLICY

(Adopted August 24, 2023)

This document states the policy of ERHA Housing Development Corporation ("*Corporation*") as to the participation of the Corporation directly or through any of its tax-exempt controlled entities (together hereinafter referred to as a "*EHDC Entity*") in a joint venture or similar arrangement with any for-profit or private interest, including, without limitation, any joint ventures involving the use of housing tax credits. A joint venture means any joint ownership or contractual arrangement through which there is an agreement to jointly undertake a specific charitable or business enterprise with one or more other entities, without regard to the legal structure of the joint venture.

Article I: Applicability

A. General. This policy applies to any joint venture where participation by any EHDC Entity involves activities that would, but for the joint venture, be in furtherance of the tax-exempt purposes of the EHDC Entity, or where any affordable housing and community development activity previously conducted by the EHDC Entity is being transferred into joint ownership or operation. Such activities include joint ventures wherein any EHDC Entity is participating even in a limited capacity, *provided however* that such EHDC Entity and joint venture shall adhere to the provisions of this Joint Venture Participation Policy, including but not limited to the requirements under Article II(A).

B. Exclusions. This policy excludes investments of cash or marketable securities or other joint ownership arrangements where the primary purpose of the EHDC Entity's participation is passive investment or the active conduct of an unrelated trade or business with respect to the EHDC Entity and not the provision of affordable housing or community development related services or other activities that would, but for the joint venture, be in furtherance of the tax-exempt purposes of the EHDC Entity. To ensure that joint ventures are properly classified under this policy, the Corporation's President shall annually provide to the board of directors of the Corporation ("*Board of Directors*") a report describing all excluded joint ventures and the amount, if any, of unrelated trade or business income generated by the excluded joint ventures.

Article II: Policy

A. General. It is the policy of the Corporation that appropriate provisions be included in the terms of all joint venture arrangements covered by the policy so as to protect the tax-exempt status of any EHDC Entity participating in the joint venture.

1. All joint venture operating agreements or similar documents shall contain a binding statement of tax-exempt purpose that ensures, and explains how, participation in the joint venture furthers the tax-exempt purposes of any EHDC Entity participating.

2. All joint ventures in which any EHDC Entity participates shall be approved by the governing board of such EHDC Entity.

3. All joint venture operating agreements or similar documents shall contain clear, binding provisions sufficient to ensure that tax-exempt purposes are furthered by joint venture activities and that any EHDC Entity participating does not effectively cede to for-profit interests the authority to cause the joint venture to engage in any activity contrary to the EHDC Entity's tax-exempt purposes.

(a) Majority Control: Any EHDC Entity may participate in a joint venture that furthers its tax-exempt purposes if the EHDC Entity at all times maintains majority voting control.

(b) 50/50 Control: Any EHDC Entity may participate in a joint venture that furthers its tax-exempt purposes if the EHDC Entity at all times maintains 50 percent voting control and the joint venture operating agreement or similar documents contain adequate reserved powers to establish that the EHDC Entity does not effectively cede control of joint venture activities to for-profit interests.

(c) Minority Participation: Any EHDC Entity may participate in a joint venture that furthers its tax-exempt purposes as a minority member or partner (49 percent or less of voting control) *provided* that the joint venture operating agreement or similar documents contain (i) adequate reserved powers to the EHDC Entity to ensure that such joint venture is authorized to act only in a manner consistent with the EHDC Entity's tax-exempt purpose, and (ii) specific responsibilities and roles of the EHDC Entity that are in furtherance of its tax-exempt purpose. A EHDC Entity may appropriately cede a greater degree of control to a for-profit partner to the extent reasonably required to protect the for-profit partner from exposure under guarantees it provides in furtherance of the EHDC Entity's tax-exempt purpose.

(d) The Corporation's General Counsel or designee shall review all joint venture operating agreements or similar documents prior to execution and shall, in any instance described in paragraphs 1 and 3(a), 3(b), or 3(c), above, determine the adequacy of provisions governing majority voting or applicable reserved powers after considering the effect of any other applicable governance provisions or arrangements, including, without limitation, any management agreements.

4. Transfers of Assets. All transfers of property or existing charitable or business activities or assets to any joint venture by any EHDC Entity shall be valued at fair

market value and the EHDC Entity shall receive fair market value consideration or appropriate credit to its capital account for such transfer.

5. Provision of Services. Any provision of services to any joint venture covered by this policy by any EHDC Entity shall require the payment fair market value to the EHDC Entity.

Article III: Prohibited Activities.

A. All joint ventures in which any EHDC Entity participates shall include in their operating agreement or similar documents an express prohibition on joint venture participation in or intervention in any political campaigns on behalf of (or in opposition to) any candidate for public office, including contributions to any political action committee.

Article IV: Financial Terms.

A. No EHDC Entity shall participate in any joint venture covered by this policy that is treated as a partnership for tax purposes and involves allocations of items of income and loss not proportional to capital accounts without approval of the Board of Directors.

B. No EHDC Entity shall make any loan to any joint venture or to any other participant in any joint venture without approval of the Board of Directors.

Article V: Conflicts of Interest.

A. Any joint venture subject to this policy shall be subject to the Corporation's Conflicts of Interest Policy.

MFA Housing New Mexico

MEMO

TO: MFA Board of Directors

Through: Contracted Services, October 10, 2023

Through: Policy Committee, October 3, 2023

FROM: Julie Halbig, Director of Compliance and Initiatives

DATE: October 18, 2023

RE: Biannual Compliance Activity Report for May 2023 – September 2023

The compliance officer is responsible for communicating with the Board of Directors regarding compliance matters. The compliance activities report is intended to provide information to the Board regarding compliance management activities and the results of related oversight of MFA's single-family mortgage lending and servicing departments, including subservicing oversight. During this reporting period, no significant compliance concerns were identified.

Background:

The compliance officer is responsible for maintaining a comprehensive compliance program to address legal, regulatory, and internal requirements for MFA's single family mortgage lending and servicing functions, ensure MFA is meeting regulatory compliance requirements related to mortgage operations, and maintain oversight of MFA's contracted subservicer performance.

Discussion:

The following is a summary of compliance activities related to vendor management, subservicing oversight, loan quality control, and tracking of regulatory compliance and consumer complaints from May through September 2023.

Vendor Management

Vendor management and oversight is an ongoing function within the compliance management system and is conducted according to the underlying vendor management policy. Staff identifies vendors who provide services to MFA which are subject to regulation and oversight by the Consumer Financial Protection Bureau (CFPB), or any entity contracted to provide services that would cause MFA to face risk if the vendor or service provider fails to meet contractual obligations, regulatory requirements, or engages in activities that could adversely impact MFA consumers.

Vendors are evaluated for inherent risk, compliance systems and controls, and business performance. This evaluation is completed by the compliance manager, in cooperation with appropriate department directors. All vendors are now on a schedule based on their risk assessment. The most recent vendor reviews did not identify any vendors with critical weaknesses which present a significant risk of violating the law and causing consumer harm.

Risk ratings are assigned to vendors based on the below criteria and the Vendor Management Policy dictates the level and frequency of vendor reviews.
Risk Ratings:

- High – full operational reliance, access to MFA consumer NPPI (non-public personal information), access to MFA consumers, access to MFA systems.
- Medium – limited operational reliance, limited access to MFA consumer NPPI, no access to MFA consumers, no access to MFA systems.
- Low – no operational reliance, no access to MFA consumer NPPI, no access to MFA consumers, no access to MFA systems.

Vendor Review:

The majority of the vendors reviewed during this reporting timeframe are major software systems or platforms that MFA utilizes for document storage or management, have a heavy operational reliance on and contain personal identifying information (PII). For these reasons and in consultation with IT, they receive a High risk rating.

Compliance requests and reviews several types of documents from Vendors:

- Audit reports (internal audit, external audit, Security Operations Center (SOC) type review, security reviews) of other examination reports evidencing internal controls;
- Audited Financial Statements;
- List of third-party vendors and the corresponding oversight policy;
- Evidence of sufficient insurance coverage;
- Policies and procedures related to internal controls and information security;
- Disaster recovery and business continuity plan;
- Information Security Policy;
- Current organizational chart.

Vendor Name	Function	Risk Rating
ACS Powerlender	Loan File Management System	High
ANM	Network Management Service Provider	High

HDS	Operational Software Provider – Asset Management	Medium
IHFA	Subservicer	High
Metasource	Business Process and Document Management	High
Mitas	Software for Servicing	High
Virpack	Software for Document Management	High

Subservicing Oversight

Staff continues to monitor service level performance to ensure our contracted sub-servicer provider, Idaho Housing and Finance Association (IHFA), maintains regulatory compliance, that staffing levels support MFA needs and that controls over data integrity are in place. Staff finalized and executed the amendment to the subservicing contract with IHFA in September. In addition, staff received an update from our internal auditors, Moss Adams, on our annual loan file review. For this year's review, we asked Moss Adams to test borrower loan files that were in loss mitigation or foreclosure to make sure all servicing deadlines and notices were being met. Any findings by the internal auditors are then discussed with IHFA so that we can work on process improvements together. We are in the middle of that discussion with the primary focus being on regulatory requirements related to monthly inspections and proper coding of the loan file.

MFA staff also participate in monthly calls with IHFA to discuss operational processes, reconcile reporting, and provide current updates. IHFA provides several monthly loan portfolio reports, including servicing quality control, advances and reimbursements, loss mitigation and foreclosure activity reports. All reports are reviewed, reconciled, and analyzed for any negative trends or ongoing issues.

The monthly agenda includes a review of several key metrics including foreclosure and delinquency trends. MFA continues to see delinquency rates decline in the subserviced portfolio, which reached the highest total delinquency in February 2021 of 18.70%. Rates continue to remain stable and but we did see an increase in the overall delinquency rate in August. The August 2023 delinquency rate is 11.14% and the seriously delinquent rate is 2.86%. See Chart 1 – Subserviced Portfolio Delinquency Trends on the second to last page of the report. The delinquency rate is a reflection of the usual seasonal back to school trends we typically see year after year as well as the current inflationary pressures on households.

Finally, IHFA along with other mortgage servicers continue to assist MFA in processing grant awards through the Homeowner Assistance Fund (HAF). Below are some updated figures on the status of the HAF program.

Homeowner Assistance Fund (HAF)

Income Targeting

From the 3,834 total households served by the program through October 6, 2023, the number of households with total household income equal to or less than 100% of the area median income or equal to or less than 100% of the median income for the United States, whichever is greater is 3,457 which is 90.2%.

Our program target is 60%. This is currently met by the above.

Total Households	Less than or Equal to 100%	Target
3834	3457	90.2%

Summary of Remaining Funding

The initial HAF Program award amount available for application funding is $44,627,213.00. The total amount of funding dispersed so far is $34,957,581.14, leaving a remaining balance to fund all pending applications of $9,669,631.86.

Total HAF Funding	HAF Funding Disbursed	Remaining to Fund
$ 44,627,213.00	$ 34,957,581.14	$ 9,669,631.86

Loan Quality Control

Loan quality control reports and portfolio management reports received from IHFA alert MFA staff to loan level issues with MFA's approved lenders. These reports provide insight regarding trends and performance of specific lenders and loan officers. MFA staff take a proactive approach in communicating with our partner lenders to mitigate the risk of material findings or repurchase. Why this is critical is that any loans that have unresolved serious defects cannot be pooled and securitized by MFA. In those instances, MFA would ask the lender to buy back the loan.

Every month, MFA's quality control vendor, IHFA, selects and reviews post-funded loans based on a random sampling of 10% of loans purchased during the previous month. MFA staff then completes a 10% oversight review of the vendor's selected sample of Fannie Mae loans. The sample includes a cross-section of the approved lenders as well as MFA's overall book of business being sold or securitized by Fannie Mae.

The post-purchase review includes, but is not limited, to the following:

- Original loan application;
- Underwriting process;
- Employment and Income data;
- Tax Returns;
- Assets;
- Credit history;
- Compliance documents initialed by borrower as having received; and

- Closing documentation

Issues related to the loan file are classified as minor, moderate or serious defects. The below table represents the MFA loan origination defect trend data of cases with serious exceptions (defects). The Gross Defect Rate includes all preliminary serious exceptions and the Net Defect Rate represents only unresolved, serious exceptions. According to MFA's Quality Control plan, the Net Defect Rate should be 4% or less for serious and moderate findings in a reporting month. As you can see, MFA's Net Defect rate remains under the 3.5% Target Rate. Staff did not identify any issues in the loan quality reviews.

MFA DEFECT TREND REPORT Random QC

CASES WITH SERIOUS EXCEPTION(S) - COMPLIANCE EXCLUDED

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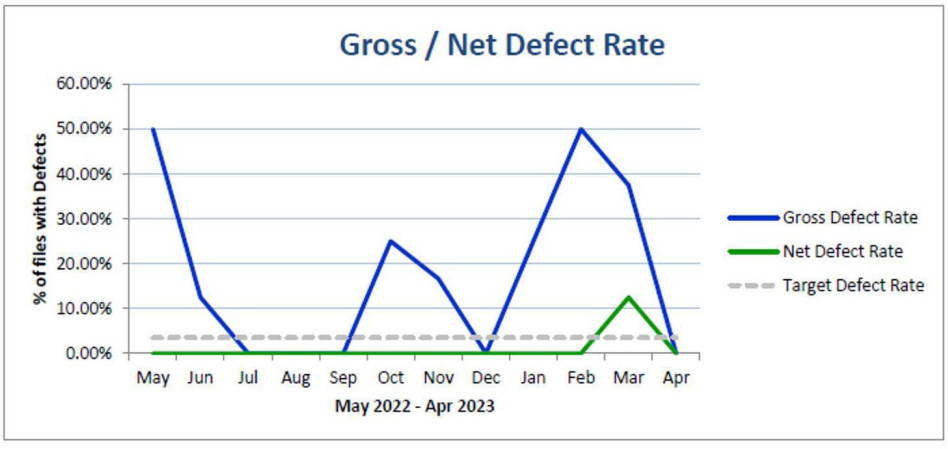
Year	Month	Target Defect Rate	Cases Audited	Defective Cases (Gross)	Defective Cases (Net)	Gross Defect Rate	Net Defect Rate
2022	May	3.5%	4	2	0	50.00%	0.00%
2022	Jun	3.5%	8	1	0	12.50%	0.00%
2022	Jul	3.5%	3	0	0	0.00%	0.00%
2022	Aug	3.5%	3	0	0	0.00%	0.00%
2022	Sep	3.5%	4	0	0	0.00%	0.00%
2022	Oct	3.5%	4	1	0	25.00%	0.00%
2022	Nov	3.5%	6	1	0	16.67%	0.00%
2022	Dec	3.5%	3	0	0	0.00%	0.00%
2023	Jan	3.5%	4	1	0	25.00%	0.00%
2023	Feb	3.5%	2	1	0	50.00%	0.00%
2023	Mar	3.5%	8	3	1	37.50%	12.50%
2023	Apr	3.5%	4	0	0	0.00%	0.00%
Sub-total			**53**	**10**	**1**	**18.87%**	**1.89%**



Regulatory and Legal Compliance

Tracking regulatory information related to federal consumer financial law and implementation of new processes resulting from changing requirements is completed by the compliance officer and mortgage operations staff and management.

During this reporting period, the following regulatory announcement was released that is of relevance to MFA. This notice extends the compliance date for HUD's National Standards for the Physical Inspection of Real Estate (NSPIRE) final rule for Community Planning and Development (CPD) programs. Specifically, HUD is extending the compliance date for the HOME Investment Partnerships Program (HOME) and Housing Trust Fund (HTF), Housing Opportunities for Persons With AIDS (HOPWA), Emergency Solution Grants (ESG) and Continuum of Care (COC) programs ("CPD programs") until October 1, 2024. HUD is taking this action to allow jurisdictions, participants, and grantees additional time to incorporate HUD's NSPIRE standards specific to their own programs and the flexibility to transition to NSPIRE under their own timelines.

With Policy Committee's approval, MFA awarded the Consolidated Plan consulting contract to Civitas, a consulting firm, to assist staff on developing the next 5-year Consolidated Plan as required by the Housing and Urban Development (HUD) agency. One of the many reasons that Civitas was chosen for this contract was their existing familiarity with New Mexico having served as a subcontractor for the last five-year Consolidated Plan and as a current contractor with Department of Finance Administration on Community Development Block Grants (CDBG).

HUD requires all entitlement jurisdictions, including New Mexico Mortgage Finance Authority (MFA) and the state of New Mexico Department of Finance and Administration (DFA), to produce five-year Consolidated Plans, one-year Annual Action Plans and annual Consolidated Annual Performance and Evaluation Report (CAPER) as requisites to receiving the five formula grants. The Consolidated Plan analyzes housing and community development needs of New Mexico citizens and sets out strategies to address those needs. The Annual Action Plan proposes goals and strategies for addressing the Consolidated Plan needs with program funding amounts for the coming year. The CAPER reports on outcomes and the progress towards those goals and strategies, along with the amounts of funding expended for each grant. The 2022 CAPER is the third of five annual performance evaluation reports documenting progress made toward the goals of 2022 Action Plan. This report describes the performance of HOME, ESG, HOPWA and HTF programs as well as the performance of DFA administered grant for CDBG.

The data in the CAPER comes from every department at MFA and from Local Government at DFA. This CAPER gathers production data from both agencies in one document and provides HUD, and the public, a comprehensive representation of what has been accomplished in the last program year July 1, 2022 – June 30, 2023. Production and outcome measures for goals in CDBG, HOME, ESG, HOPWA and HTF programs are reflected in the CAPER.

To prepare for this next five-year plan, a comprehensive update for numerous data points will be gathered and analyzed to help MFA determine goals for the next five-year plan. In addition, significant public and stakeholder feedback from across the state is solicited as part of this process in order to help inform the goals set for the next five years. Staff will keep you apprised once we begin the public feedback portion of this effort to ensure we are touching all corners of the state for this important process.

Training

There were no All-Staff trainings completed during this reporting cycle.

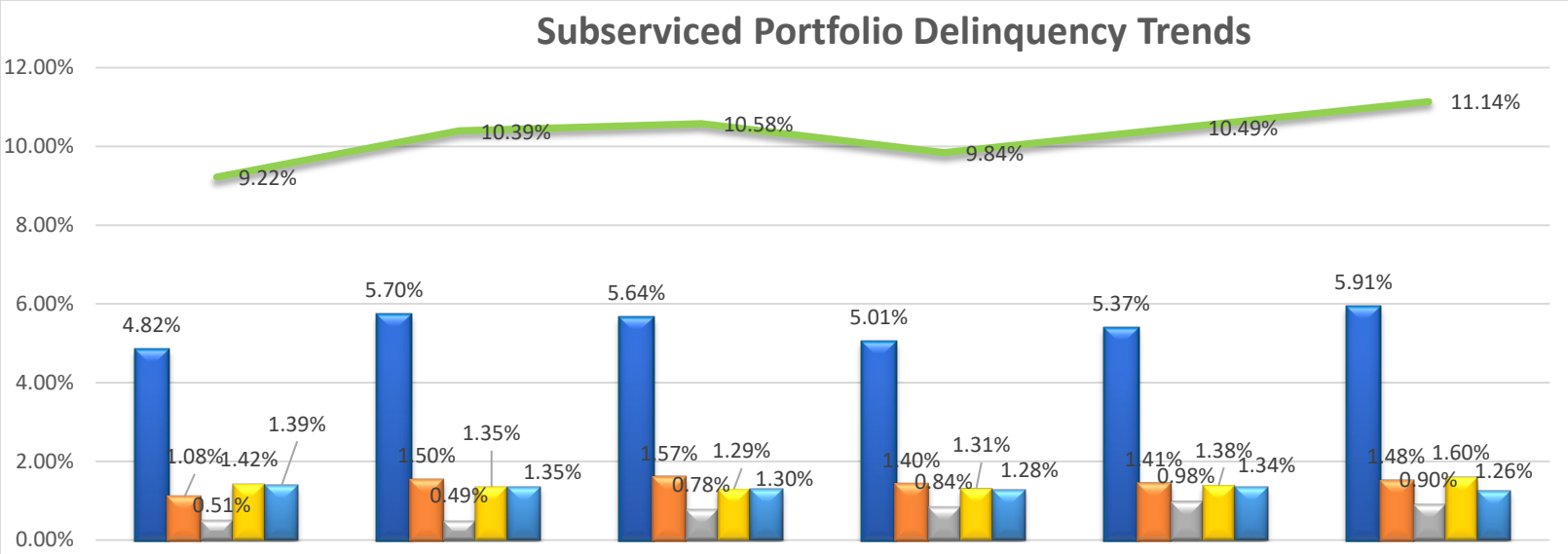
Consumer complaints

Tracking, investigating, and responding to consumer complaints is a function of the Compliance Management System. As the Compliance Director, I route any consumer complaints to the appropriate department for follow-up and make sure that the complaint is resolved. Often times, a complaint is received but is not under MFA's jurisdiction. All efforts are made to direct the consumer to the correct organization and/or resources. No consumer complaints were unresolved during the current reporting cycle.

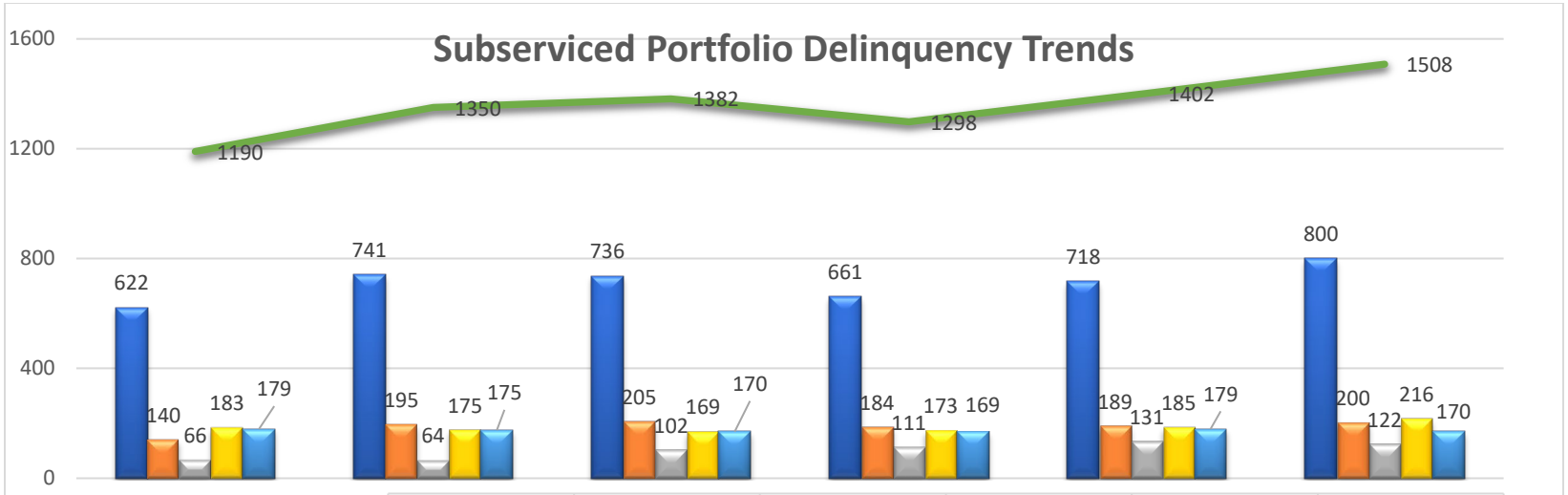
Summary:

The activities described in this report are intended to provide the Board of Directors with assurance that MFA is effectively managing compliance with Federal and State consumer financial laws applicable to the products and services being provided by MFA and mitigating related risk.

Compliance activities will be reported to the Board through the Contracted Services/Credit Committee no less than twice per year, and as needed to fulfill the compliance department's responsibility to inform the Board of any critical compliance issues. There were no significant compliance concerns identified during this reporting period.



	Mar-23	Apr-23	May-23	Jun-23	Jul-23	Aug-23
30 days	4.82%	5.70%	5.64%	5.01%	5.37%	5.91%
60 days	1.08%	1.50%	1.57%	1.40%	1.41%	1.48%
90 days	0.51%	0.49%	0.78%	0.84%	0.98%	0.90%
120+	1.42%	1.35%	1.29%	1.31%	1.38%	1.60%
PreForeclosure and Refer to Legal	1.39%	1.35%	1.30%	1.28%	1.34%	1.26%
Total Delinquency	9.22%	10.39%	10.58%	9.84%	10.49%	11.14%



	Mar-23	Apr-23	May-23	Jun-23	Jul-23	Aug-23
30 days	622	741	736	661	718	800
60 days	140	195	205	184	189	200
90 days	66	64	102	111	131	122
120+ days	183	175	169	173	185	216
PreForeclosure and Refer to Legal	179	175	170	169	179	170
Total Delinquency	1190	1350	1382	1298	1402	1508

2023 RENTAL AWARD SUMMARY

Project Name & Address	**Pedrena Apartments** **1955 El Paseo Rd, Las Cruces, NM 88001**			
Proposed Awards	$800,000	HOME	Rate	0%
	$1,500,000	National Housing Trust Fund (NHTF)	Rate	0%
	$1,000,000	New Mexico Housing Trust Fund (NMHTF)	Rate	1%
Borrowers	**Pedrena Apartments LLC**, a New Mexico limited liability corporation formed in 2022, is 0.0051% owned by Pedrena-NIHC LLC as the Managing Member with the Northwest Integrity Housing Co. as its sole member, and 0.0049% owned by Pedrena-TDC Associates LLC as a Non-Managing Member with Thomas Development Co. as its sole member. The remaining 99.99% is owned by PNC Real Estate Tax Credit Group as the Investor Member.			
Management	**Monarch Properties, Inc.** is a privately held Texas corporation chartered in 1982. Monarch provides third-party, full-service management of multifamily apartment communities throughout Texas, New Mexico and Oklahoma. Its corporate office is located in Albuquerque, New Mexico and the total apartments under management have consistently averaged more than 7,500 with over 280 team members employed.			
Developer	**Thomas Development Co. (TDC)** is a Boise, Idaho, based real estate development company founded in 1990. Under the direction of principals Tom Mannschreck and Barbara Mannschreck, the company has developed more than 4,000 apartment units valued in excess of $700 million across Idaho, Utah, Montana, Arizona and New Mexico. TDC brings with it a deep knowledge of all aspects of affordable housing and financing and land-use planning as well as a commitment to incorporating energy efficient, environmentally conscious, and highly durable design. TDC has not yet received their 2022 Certified Public Accountant (CPA)-reviewed financial statements. TDC's CPA-reviewed financial statements for the fiscal year ending in 12/31/21 show $159K in Cash, $10.3M in Total Assets (comprised primarily of Developer Fee Receivables), a Net Worth of $8.6M, resulting in a debt-to-worth ratio of 0.12 : 1.00, a positive net income, and a positive traditional cash flow. CPA-reviewed financials for FYE 12/31/2020 show $562K in Cash, $9.4M in Total Assets, a Net Worth of $7.3M, resulting in a debt-to-worth ratio of 0.28 : 1.00, a positive net income, and a positive traditional cash flow. TDC's company-prepared financials for the six months ending on 06/30/2023 show $317K in Cash, $8.9M in Total Assets, a Net Worth of $7.9M resulting in a debt-to-worth ratio of 0.12 : 1.00, a positive net income, and a positive traditional cash flow. TDC is an experienced developer that has a proven history of obtaining LIHTC investors at favorable prices and large bank financing at favorable rates. **Northwest Integrity Housing Co. (NIHC)** is a 501(c)(3) Idaho nonprofit organization founded in 2009 and headquartered in Boise, ID. NIHC's mission is to create affordable livable communities where people and place are valued. NIHC has developed 16 affordable housing projects with a total of 1,022 units. NIHC has not yet received their 2022 CPA-reviewed financial statements. NIHC's Consolidated CPA-audited financials for fiscal year ending in 12/31/21 show $98K in Cash, $7.2M in Total Assets a Net Worth of $5.2M, resulting in a debt-to-worth ratio of 0.38 : 1.00, a positive net income, and a positive traditional cash flow. CPA-reviewed financials for FYE 12/31/2020 show $320K in Cash, $4.8M in Total Assets, a Net Worth of $2.8M, resulting in a debt-to-worth ratio of 0.69 : 1.00, a positive net income, and a positive traditional cash flow.			
Project Type & Size	New Construction of an 80-unit multifamily senior (55+) supportive housing project, with 72 units income restricted to households earning 60% or less of Area Median Income (AMI), and 8 units restricted to 30% or less of AMI.			
Project Description	Pedrena Apartments involves the new construction of an 80-unit multifamily senior housing community to be located in Las Cruces, NM. The project consists of one three story building with 74			

	units and three single-level duplexes for a total gross square-footage of 75,009. There will be 44 one-bedroom apartment units, and 36 two-bedroom apartment units, The project's one-bedroom units average 601 net square feet and the two-bedroom units average 890 net square feet. Amenities include common area meeting space with kitchen, elevator, fitness room, business center, meeting room where support services or other counseling items will be conducted, dog park, raised community gardens, fenced perimeter with security gate, washers and dryers in each unit, private decks, and patios, and locking outside storage rooms. The project will be consistent with Enterprise Green Building Standards. Additionally, upon completion, Pedrena Apartments will obtain a Home Energy Rating System (HERS) rating of less than 55. The project will make considerations for water conservation, energy efficiency, healthy living environments with an emphasis on indoor air quality, and careful consideration for sustainable materials. A Novogradac market study, dated 02/18/2022, advises that the subject project is feasible as presented. The report concludes that, after construction, a market will exist for the 80-unit project, Pedrena Apartments, in Las Cruces, NM. The Subject site is located at 1955 El Paseo Road in Las Cruces, New Mexico 88001. The Subject site is located within the southern portion of Las Cruces in the University Park neighborhood, which is a mixed-use neighborhood consisting primarily of commercial/retail uses, educational uses, and single and multi-family homes. According to the Market Study, the Subject will represent excellent quality affordable apartments that are in strong demand in the area. The site is located in a mixed-use neighborhood with surrounding land uses in overall average to good condition. Residential uses consist of both single-family homes and multifamily developments. Good quality senior affordable housing is limited in the area and the Subject will have a positive impact on the surrounding neighborhood. All major shopping, employment, and recreational amenities are located within reasonable proximity to the Subject. Public transportation, medical services, groceries, and shopping are available to the Subject. Construction of the Subject will positively impact the neighborhood.
Environmental & Site	A HUD Part 58 Environmental Review is required for HOME and NHTF loans and must be completed prior to the acquisition of the property.
Site and Neighborhood Standards (HOME New Construction only)	A Site and Neighborhood Standards form must be completed prior to close and reviewed by MFA as the project does include new construction of residential units that will utilize HOME and NHTF funding.
Project Financials, Projections and Assumptions, and Subsidy Layering Review (HOME only)	**Projections and Assumptions:** A 5% vacancy (MFA standard for senior housing) was applied, and operating expenses were estimated at $4,011 per unit per annum (PUPA) after reducing for Replacement Reserves ($250 PUPA) and Social Services. Operating expenses are slightly below the MFA guidelines of $4,300 to $5,800. Novogradac provided an analysis of the operating expenses in comparison with LIHTC properties in the region. Novogradac concluded that the developer's overall total per unit expense estimate appears reasonable based upon the comparables, as it is well within the range. Less taxes, utilities, and reserves, the developer's total per unit expense is slightly below the range of the comparables, but not significantly so, and seems reasonable for a new construction senior development. The Debt Service Coverage Ratio (DSCR) on all hard debt is projected to begin at 1.23 : 1.00 in year one (1) and improves to 1.32 : 1.00 by year 15. The debt service drops below 1.20 : 1:00 in years three (3) , four (4), five (5), and six (6), however, the debt service improves to 1.20 : 1:00 in year seven (7) and finished at 1.32 : 1:00 in year 15.The DSCR is generally within MFA's underwriting standards of 1.20 to 1.40 : 1.00. The first mortgage loan is assumed to be at a 5.75%

	interest rate (5.25% rate per lender's letter of interest adjusted upwards by 50 basis points for underwriting). Currently, 44% (i.e., $1,172,480 of the $2,654,161) of the developer fee will be deferred. Generally, a deferral in fee could be used to replace a portion of the first mortgage loan and would mitigate any possible interest rate risk that may occur between commitment and inception of the permanent loan. Deferral of the developer fee is usually allowable by the investor, provided that project cash flow can repay the deferred fee by the end of the 15-year LIHTC compliance period. Lender projections indicate that the Subject would fully repay the deferred developer fee by the end of the 15th year. The developer is assuming that credits can be sold to an investor at 86 cents on the dollar. Every one-cent drop in that price would create the need for additional $96,903 in capital to be filled by either deferring developer fee or a cash-flow-only loan from PNC Real Estate Tax Credit Group. **Subsidy Layering Reviews:** HOME- MFA's Housing Development Department's underwriting guidelines, performed for the HOME loan request, show this project is not over-subsidized per HUD regulations. National HTF- MFA's Housing Development Department's underwriting guidelines, performed for the National Housing Trust Fund loan request, show this project is not over-subsidized per HUD regulations.
Affordability Requirements	**HOME Requirements:** Total of 4 HOME units consisting of: Two 1-bedroom units, and two 2-bedroom units for households at or below 60% AMI and restricted to High HOME rents for which a Land Use Restriction Agreement (LURA) will be filed in Bernalillo County. The affordability period is 40 years: 20 years as required by HOME rules standards and 20 years for MFA's extended affordability period (i.e. in concurrence with the loan term). The affordability period starts on the date of acceptance by HUD of a final HOME project completion report and ends 40 years later. **NMHTF:** Total of 68 units for households earning 60% or less of AMI for which a Land Use Restriction Agreement (LURA) will be filed in Bernalillo County. The NMHTF affordability period is 30 years; 20 as required by Affordable Housing Act Rules and 10 for MFA's extended affordability period (i.e., in concurrence with the loan term) and starts on the date the Certificate of Occupancy is issued. **NHTF:** Total of 8 NHTF units consisting of: Four 1-bedroom units, and four 2-bedroom units restricted to households earning the greater of 30% AMI or the federal poverty level, for which a Land Use Restriction Agreement (LURA) will be filed in Bernalillo County. The affordability period is 35 years, starting on the date of acceptance by HUD of a final NHTF project completion report and ends 35 years later.
Repayment and Disbursement	**HOME Loan:** Payments: No payments during the construction period, which is not to exceed 24 months; thereafter, 479 equal principal payments during the permanent loan period, based on an 80-year amortization, and one final balloon payment of all outstanding principal. Outstanding principal due at the earlier of maturity, refinance, or sale of the project. Disbursement: Allow three draws, one at construction closing, one during the construction period, and final disbursement upon submission of a HUD project completion report.

	NMHTF Loan: Payments: Interest only monthly during the construction period not to exceed 24 months; thereafter, 360 equal principal & interest payments during the permanent loan period. Outstanding principal and interest due at the earlier of maturity, refinance or sale of the project. Disbursement: Multiple disbursements upon evidence of costs incurred, not more frequently than monthly. **NHTF Loan:** Payments: No payments due during the construction period not to exceed 24 months and, thereafter, annual payments, as determined from available cash-flow, or fixed at $500, maturing in 35 years, with a final balloon payment of all outstanding principal due at its maturity. The interest rate will be 0.00% and the NHTF loan's affordability period will be 35 years. The affordability period starts on the placed-in-service date and ends 35 years later. Disbursement: Allow up to three draws: two during the construction period, and the third upon submission of a final NHTF project completion report to HUD.
Special Conditions	1. All loans are subject to MFA's final underwriting for project feasibility if needed. Loan amounts may be reduced if the financing gap decreases, and/or terms (i.e. interest rate & amortization) may be revised in line with projected cash flow at closing; 2. Any changes or additions to the following development team members listed in the loan application must be approved by MFA: developer, contractor, management company, consultant or architect; 3. Financing commitments acceptable to MFA prior to funding on all funding sources; 4. Acceptance of 2022 award of Low-Income Housing Tax Credits (LIHTC); 5. Approval of plans/construction monitoring/draws by a third party acceptable to MFA (i.e. hired by MFA, investor or primary construction lender) and shared with MFA. Cost to be paid by applicant; 6. Other conditions as may be determined by staff; and 7. Subject to availability of funds. **Additional Conditions: HOME Loan** 1. Loan to be in second lien position; 2. HUD Environmental Review (ER) approval must occur prior to acquisition and construction start, and any other ER approval conditions must be met; 3. Thomas Development Company (TDC) and Thomas & Barbara Mannschreck must provide construction guarantees; 4. If HOME CHDO (Community Housing Development Organization) funds are to be used, Northwest Integrity Housing Co. (NIHC) must be approved by MFA as a CHDO, and any transfers of ownership must be in accordance with HUD's CHDO rules. **Additional Conditions: NHTF Loan** 5. Loan to be in fourth lien position; 6. HUD Environmental Provision (EP) approval must occur prior to acquisition and construction start, and any other ER approval conditions must be met; and 7. Project building plans must meet NHTF Rehabilitation Standards prior to acquisition and construction start; and 8. Thomas Development Company (TDC) and Thomas & Barbara Mannschreck must provide construction guarantees; **Additional Conditions: NMHTF Loan** 9. Loan to be in fifth lien position; 10. Thomas Development Company (TDC) and Thomas & Barbara Mannschreck must provide construction guarantees; 11. Borrower must provide evidence that (1) the project has been registered with the relevant certifying agency (i.e.to achieve Enterprise Green Building Certification) before loan closing, and (2) certification by that agency upon project completions.

MFA Commitments to Other Projects	Thomas Development Company (TDC): 2019 LIHTC (4%) - Marbella Apartments - $420,282 2019 HOME/Rental award - Marbella Apartments - $720,000 2019 NMHTF loan - Marbella Apartments - $500,000 2020 LIHTC (4%) San Roque- $1,119,881 2021 HOME – San Roque- $800,000 2021 NHTF - San Roque- $1,325,000 2021 NMHTF - San Roque- $2,622,031 2023 LIHTC (4%)- La Serena- $1,209,047 2023 HOME- La Serena- $800,000 2023 NHTF- La Serena- $1,500,000 2023 NMHTF- La Serena- $1,000,000 Northwest Integrity Housing Co. 2023 LIHTC (4%)- La Serena- $1,209,047 2023 HOME- La Serena- $800,000 2023 NHTF- La Serena- $1,500,000 2023 NMHTF- La Serena- $1,000,000 Loan balances as of 09/21/2023
MFA Exposure	Total MFA Exposure: $9,267,031 (excludes LIHTC, grants and loans pending approval).
Risk Factors	1. **Market – Low** (Strong demand for proposed property in PMA) 2. **Construction – Medium** (Construction material pricing is stabilizing; however, construction labor is still volatile. The developer is experienced plus the investor and main construction lender will provide additional oversight and controls) 3. **Developer – Low** (Strong balance sheet and completion of successful projects) 4. **Guarantor – Low** (Strong balance sheet) 5. **General Partner/Managing Member – Low (i.e., the developer)** 6. **Community Opposition – Low (Permitted Zoning)** 7. **Financing – Medium** (As long as market conditions for interest rates & LIHTC pricing do not fluctuate too much, the project is feasible. However, in the event of adverse market conditions the project would not move forward. MFA's final underwriting is required before loan closing to ensure viability before final commitment)
Summary & Recommendation	The proposed project presents a favorable risk profile and is recommended for approval.
Prepared by	Jacobo Martinez, Development Loan Manager, Team Lead — 10/3/2023
Reviewed by	George Maestas, Director of Housing Development — 10/03/2023

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PROJECT INFORMATION SUMMARY						
Project Name		**City**	**NC, AR, or NC/AR**	**Total # Units**	**Sizes**	**Target AMIs**
Pedrena Apartments		**Las Cruces**				
Total Development Cost	**$ 25,406,492**		NC	80	1-BED & 2-BED	30% AMI, 60% AMI
Borrowers	**Pedrena Apartments LLC**					
Management	**Monarch Properties, Inc.**		**YEAR BUILT (AR)**		**LIHTC ALLOC**	**4% or 9%**
Developer	**Thomas Development Company**		NC		$ 1,209,047	4%
			NC = New Construction **AR =** Acquisition/Rehab **AMI =** Area Median Income **MR =** Market Rate apartments			

HOME LOAN INFORMATION			NUMBER OF HOME UNITS:	4
Funds Available as of:	09/07/23	$7,098,006		
	MFA Guidelines	**Loan Request**	**EXCEPTIONS/CONDITIONS/NOTES**	
Maximum Loan Amount	$800,000	$800,000	Maximum amount for a non CHDO without 9% LIHTC	
Rates	0.0% to 3.0%	0.00%		
Loan Fees	NA	NA		
Maximum Loan Term	2 yr construct, 40 yr perm	2 yr construct, 40 yr perm		
Loan Amortization	20 to 80 years	80 years		
Lien Position	Subordinate allowed	2nd lien position		
Affordability Requirements	Min 20 yrs, max 60% AMI	40 yrs, 4 units @ 60% AMI		
DSCR	1.20 to 1.40 : 1 on all must-pay debt	1.23 : 1.00 increasing to 1.32 : 1.00 by year 15	The debt service starts at 1.23 : 1 in year one (1) and drops below 1.20 : 1.00 in years three (3) , four (4), five (5), and six (6). The debt service improves to 1.20 : 1.00 in year seven (7) and finished at 1.32 : 1.00 in year 15.	
Scoring Criteria	NA			

NATIONAL HOUSING TRUST FUND LOAN INFORMATION			NUMBER OF NHTF UNITS:	8
Funds Available as of:	09/30/23	$3,028,368		
	MFA Guidelines	**Loan Request**	**EXCEPTIONS/CONDITIONS/NOTES**	
Maximum Loan Amount	$1,500,000	$1,500,000		
Rates	0.00%	0.0%		
Loan Fees	NA	NA		
Maximum Loan Term	2 yr construct, no max on perm	2 yr construct, 35 yr perm		
Loan Amortization	cash-flow with balloon payment	cash-flow with balloon payment		
Lien Position	Subordinate allowed	4th lien position		
Affordability Requirements	Min 30 yrs, max 30% AMI or federal poverty level	35 yrs, max. AMI: 30% or federal poverty level		
DSCR	1.20 to 1.40 : 1.00 on all must-pay debt	1.23 : 1.00 increasing to 1.32 : 1.00 by year 15	The debt service starts at 1.23 : 1 in year one (1) and drops below 1.20 : 1.00 in years three (3) , four (4), five (5), and six (6). The debt service improves to 1.20 : 1.00 in year seven (7) and finished at 1.32 : 1.00 in year 15.	
Scoring Criteria	40-115 points	101		

NEW MEXICO HTF LOAN INFORMATION			NUMBER OF NAT'L HTF UNITS:	68
Funds Available as of:	09/26/23	$4,130,000		
	MFA Guidelines	**Loan Request**	**EXCEPTIONS/CONDITIONS/NOTES**	
Maximum Loan Amount	$2,000,000	$1,000,000		
Rates	1.0% to 5.0%	1.0%		
Loan Fees	NA	NA		
Maximum Loan Term	2 yr construct, 30 yr perm	2 yr construct, 30 yr perm		
Loan Amortization	Mthly during perm	Mthly during perm		
Lien Position	Subordinate allowed	5th lien position		

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Affordability Requirements	Min 20 years, Max 60% AMI	30 yrs, 60% AMI	
DSCR	1.20 to 1.40 : 1.00 on all must-pay debt	1.23 : 1.00 increasing to 1.32 : 1.00 by year 15	The debt service starts at 1.23 : 1 in year one (1) and drops below 1.20 : 1.00 in years three (3) , four (4), five (5), and six (6). The debt service improves to 1.20 : 1.00 in year seven (7) and finished at 1.32 : 1.00 in year 15.
Scoring Criteria	50-100 points	72	

TOTAL DEVELOPMENT COST INFORMATION SUMMARY				
Project:	**Pedrena Apartments**	**Total**	**% TDC**	**Cost/GSF***
Acquisition Costs *(land, building acquisition, & other acquisition costs)*		$ 575,000	2%	$ 7.67
Construction Hard Costs		$ 14,110,342	56%	$ 188.12
Other Construction Costs *(contractor O&P, general req, GRT, landscaping, furnishings, etc)*		$ 4,811,462	19%	$ 64.15
Professional Services/Fees *(architect, engineer, real estate legal, etc)*		$ 785,387	3%	$ 10.47
Construction Financing Costs *(interest, insurance, inspections, fees, etc)*		$ 1,512,898	6%	$ 20.17
Permanent Financing Costs *(fees, title/recording, etc)*		$ 115,000	0%	$ 1.53
Other Soft Costs *(tax credit fees, environmental reports, appraisals, accounting, etc)*		$ 207,919	1%	$ 2.77
Syndication-Related Costs *(organization, bridge loan, tax opinion, etc)*		$ -	0.0%	$ -
Reserves *(rent-up, operating, replacement, escrows, etc)*		$ 634,323	2%	$ 8.46
Developer Fees *(inc consultant fees)*		$ 2,654,161	10%	$ 35.38
Total Development Costs (TDC)		**$ 25,406,492**	**100%**	**$ 338.71**
TDC w/o Land, Reserves & Commercial		**$ 24,250,676**	**95%**	**$ 323.30**

*Gross square footage: 75,009

CONSTRUCTION SOURCES				
Project:	**Pedrena Apartments**	**Total**	**% of Total**	**Per Unit**
Construct. Lender	Cedar Rapids Bank	$ 16,000,000	63.0%	$ 200,000
2nd Lien Holder	NM HOME	$ 720,000	2.8%	$ 9,000
3rd Lien Holder	Las Cruces HOME	$ 200,000	0.8%	$ 2,500
4th Lien Holder	National Housing Trust Fund	$ 1,350,000	5.3%	$ 16,875
5th Lien Holder	NMHTF	$ 900,000	3.5%	$ 11,250
6th Lien Holder	NMMFA SLFRF	$ 1,800,000	7.1%	$ 22,500
7th Lien Holder	Las Cruces CDBG	$ 100,000	0.4%	$ 1,250
Other	City of Las Cruces Local Funds	$ 2,119,787	8.3%	$ 26,497
Other	IRS Energy Credit	$ -	0.0%	$ -
Other	Investor contribution		0.0%	$ -
Other	Operation Revenue	$ -	0.0%	$ -
Deferred Developer Fee	Deferred Developer Fee	$ 1,172,584	4.6%	$ 14,657
LIHTC Equity	PNC Real Estate, Tax Credit Group	$ 1,044,121	4.1%	$ 13,052
Total Construction Sources		**$ 25,406,492**	100.0%	$ 317,581

Check TDC in Development Cost Budget

PERMANENT SOURCES				
Project:	**Pedrena Apartments**	**Total**	**% of Total**	**Per Unit**
Construct. Lender	Cedar Rapids Bank	$ 4,671,000	18.4%	$ 58,388
2nd Lien Holder	NM HOME	$ 800,000	3.1%	$ 10,000
3rd Lien Holder	Las Cruces HOME	$ 200,000	0.8%	$ 2,500
4th Lien Holder	National Housing Trust Fund	$ 1,500,000	5.9%	$ 18,750
5th Lien Holder	NMHTF	$ 1,000,000	3.9%	$ 12,500
6th Lien Holder	NMMFA SLFRF	$ 2,000,000	7.9%	$ 25,000
7th Lien Holder	Las Cruces CDBG	$ 100,000	0.4%	$ 1,250
Other	City of Las Cruces Local Funds	$ 3,000,000	11.8%	$ 37,500
Other	IRS Energy Credit	$ 249,952	1.0%	$ 3,124
Other	Investor contribution	$ 200	0.0%	$ 3
Other	Operation Revenue	$ 271,541	1.1%	$ 3,394
Deferred Developer Fee	Deferred Developer Fee	$ 1,172,480	4.6%	$ 14,656
LIHTC Equity	PNC Real Estate, Tax Credit Group	$ 10,441,319	41.1%	$ 130,516
Total Construction Sources		**$ 25,406,492**	100.0%	$ 317,581

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Appendix A: Development Cost Budget		
Pedrena Apartments	**Gross Sq. Footage:**	75,009
Albuquerque	**TOTAL COST**	**COST/GSF**
ACQUISITION COSTS		
Land Acquisition	$ 521,493	$ 6.95
Building Acquisition	$ 53,507	$ 0.71
Other: Closing/Title Costs	$ -	$ -
SUBTOTAL	**$ 575,000**	**$ 7.67**
CONSTRUCTION HARD COSTS		
Demolition	$ -	$ -
Accessory Structures	$ -	$ -
Site Construction	$ 1,266,900	$ 16.89
Buildings and Structures	$ 12,843,442	$ 171.23
Off-Site Improvements	$ -	$ -
Other:	$ -	$ -
SUBTOTAL	**$ 14,110,342**	**$ 188.12**
OTHER CONSTRUCTION COSTS		
Contractor Overhead	$ 283,799	$ 3.78
Contractor Profit	$ 851,398	$ 11.35
General Requirements	$ 851,398	$ 11.35
Construction Contingency	$ 1,145,963	$ 15.28
Gross Receipts Tax (GRT)	$ 1,273,904	$ 16.98
Landscaping		$ -
Furniture, Fixtures, & Equipment	$ 150,000	$ 2.00
Other: Builder's Risk Insurance, P&P Bond, Building Permits	$ 255,000	$ 3.40
SUBTOTAL	**$ 4,811,462**	**$ 64.15**
PROFESSIONAL SERVICES/FEES		
Architect (Design)	$ 275,000	$ 3.67
Architect (Supervision)	$ 275,000	$ 3.67
Attorney (Real Estate)	$ 45,000	$ 0.60
Engineer/Survey	$ 190,387	$ 2.54
Other : HERS Testing/ Phase 1/2, Geotechnical	$ -	$ -
SUBTOTAL	**$ 785,387**	**$ 10.47**
Hazard Insurance	$ 291,200	$ 3.88
Liability Insurance	$ -	$ -
Performance Bond	$ 79,621	$ 1.06
Interest	$ 803,708	$ 10.71
Origination\Discount Points	$ 160,000	$ 2.13
Credit Enhancement	$ -	$ -
Inspection Fees	$ 21,000	$ 0.28
Title and Recording	$ 92,369	$ 1.23
Legal	$ 55,000	$ 0.73
Taxes	$ 10,000	$ 0.13
Other:	$ -	$ -
SUBTOTAL	**$ 1,512,898**	**$ 20.17**

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Project: Pedrena Apartments		
PERMANENT FINANCING COSTS		
Bond Premium		$ -
Credit Report		$ -
Origination\Discount Points		$ -
Credit Enhancement		$ -
Title and Recording		$ -
Legal	$ -	$ -
Pre-Paid MIP	$ 115,000	$ 1.53
Reserves and Escrows		$ -
Other:		$ -
SUBTOTAL	**$ 115,000**	**$ 1.53**
SOFT COSTS		
Market Study	$ 13,000	$ 0.17
Environmental	$ 65,000	$ 0.87
Tax Credit Fees	$ 84,919	$ 1.13
Appraisal	$ 10,000	$ 0.13
Hard Relocation Costs	$ 20,000	$ 0.27
Accounting/Cost Certification	$ 15,000	$ 0.20
Other: Soft Cost Contingency, Constr. Mngmt	$ -	$ -
SUBTOTAL	**$ 207,919**	**$ 2.77**
SYNDICATION		
Organization	$ -	$ -
Bridge Loan		$ -
Tax Opinion		$ -
Other:		$ -
SUBTOTAL	**$ -**	**$ -**
TDC before Dev. Fees & Reserves	**$ 22,118,008**	**$ 295**
RESERVES		
Rent Up	$ -	$ -
Operating	$ 334,323	$ 4.46
Replacement (inc. only if capitalized)	$ 300,000	$ 4.00
Escrows/Working Capital		$ -
Other:		$ -
SUBTOTAL	**$ 634,323**	**$ 8.46**
DEVELOPER FEES		
Developer Fee	$ 2,654,161	$ 35.38
Consultant Fee		$ -
SUBTOTAL	**$ 2,654,161**	**$ 35.38**
Total Development Cost (TDC)	**$ 25,406,492**	**$ 338.71**
TDC w/o Land, Reserves & Commercial	**$ 24,250,676**	**$ 323.30**

New Mexico Mortgage Finance Authority 344 Fourth St. SW, Albuquerque, NM 87102
tel. 505.843.6880 *toll free* 800.444.6880 *housingnm.org*

MFA | *Housing New Mexico*

MEMORANDUM

TO: **MFA Board of Directors**

Through: **New Mexico Housing Trust Fund Advisory Committee on October 12, 2023**
Through: **Contracted Services on October 10, 2023**
Through: **Policy Committee on October 3, 2023**

FROM: **Sharlynn Rosales, Research and Development Manager**
Sonja Unrau, Sr. Research and Development Manager
Robyn Powell, Director of Policy and Planning

DATE: **October 18, 2023**

SUBJECT: **Recommendation for Approval for Single Family Development Grant Pilot Program Notice of Funding Availability**

ATTACHMENTS: Single Family Development Grant Pilot Program Notice of Funding Availability

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Recommendation:
Staff recommends the approval of the Single-Family Development Grant Pilot Program Notice of Funding Availability (NOFA) for publication.

Background:
Within the SFY 2023, New Mexico Mortgage Finance Authority (MFA) received state severance tax bond earmarked for the New Mexico Housing Trust Fund (NMHTF) that would allow MFA to allocate $3 million to the Single-Family Development Grant Pilot Program. This program is intended to support initiatives for single family development in in New Mexico, including rural communities and Tribal Trust Land. MFA staff drafted a NOFA to solicit projects for funding consideration. The full NOFA document is attached to this memo.

Discussion:
The following section highlights the NOFA's primary parameters:

- Eligible activities: All projects considered for awards must directly benefit low-or moderate-income households. All activities must result in the production of single-family housing units for owner occupancy.
- Funding terms and conditions: MFA will award no more than $500,000 to eligible projects . MFA may initially award funding for up to two projects per applicant. Upon demonstration of successful project implementation, and if funds remain available to award under the NOFA, eligible applicants may request additional funding..
- Threshold requirements:

  - The application is complete and legible, including all required documents, and is submitted by the application deadline.
  - The application complies with all applicable requirements established in this NOFA, and any applicable addendum.
  - The applicant provides sufficient evidence, as determined by MFA, of its ability to undertake and complete the proposal in the areas of financing, acquiring, rehabilitating, developing, and/or administering an affordable housing project.
  - The applicant provides sufficient evidence that the proposed project is financially and technically feasible and includes a proposed budget and performance schedule for the proposed project.
  - The applicant provides sufficient evidence that any award will directly contribute to the affordability of all single-family units produced.
  - The applicant provides sufficient evidence that the project structure will not impair or unduly diminish the ability for beneficiary to obtain mortgage financing.
  - The applicant commits to ensuring the mortgage financing that is most beneficial to the homebuyer.
  - The applicant proposes a project that incorporates a minimum affordability period of 10 years.
- Scoring criteria:
  - Community Need (15)
  - Readiness to Proceed (20)
  - Financial Feasibility (30)
  - Project Design (20)
  - Tribal or Rural Priority (10)
  - Resident Business (5)
- Application submission: All proposed projects under this Notice of Funding Availability (NOFA) must comply with the Mortgage Finance Authority Act, the Affordable Housing Act, NMHTF (New Mexico Housing Trust Fund) Act and their associated Rules.

Summary:

Staff recommend approval of the Single-Family Development Grant Pilot Program Notice of Funding Availability (NOFA) for publication.

SINGLE FAMILY DEVELOPMENT GRANT PILOT PROGRAM

Notice of Funding Availability

NEW MEXICO MORTGAGE FINANACE AUTHORITY

October 2023

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October 2023

PROGRAM BACKGROUND

The New Mexico Mortgage Finance Authority (MFA) has developed the Single Family Development Grant Pilot Program to address supply-side challenges to homeownership opportunities for low and moderate income New Mexicans. This program aims to increase the development of affordable homes for homeownership by making available flexible funding to single family development projects throughout New Mexico, including Tribal and rural communities, that are "shovel ready." This program should primarily be used as gap funding for projects that meet the program's threshold criteria. MFA hopes to award projects that are innovative and will overcome barriers to affordable single family housing development. This NOFA will remain relevant as long as funds are available.

MFA POINT OF CONTACT

Applicants should direct questions regarding the Single-Family Development Grant Pilot Program Notice of Funding Availability (NOFA) and application to:

Sharlynn Rosales
New Mexico Mortgage Finance Authority
344 Fourth Street SW
Albuquerque, NM 87102
Phone: (505) 767-2282 or toll-free statewide (800) 444-6880
E-mail: srosales@housingnm.org
TTY/Voice: 711, or if no answer
1-800-659-8331 (English) OR 1-800-327-1857 (Spanish)

Prior to application submission, MFA encourages inquiries and contacts with its contact person from prospective applicants regarding the NOFA and/or sound housing project policies and procedures.

USE OF ELECTRONIC VERSIONS OF THIS NOFA AND ADDENDA

This NOFA and any addenda are only available by electronic means. If accepted by such means, the applicant acknowledges and accepts full responsibility to ensure that no changes are made to the NOFA or addendum. In the event of a conflict between a version of the NOFA or addendum in the applicant's possession and the version MFA maintains, MFA's maintained version will govern.

FREQUENTLY ASKED QUESTIONS

To provide clarification or answers to questions about this NOFA and addenda, MFA will publish all responses to any inquiries in the "Frequently Asked Questions" section on MFA's website at: https://housingnm.org/rfps/rfps-rfqs.

APPLICATION SUBMISSION

MFA must receive applications no later than 60 days (about 2 months) prior to a regularly scheduled meeting of the MFA Board of Directors to be considered at that meeting. MFA holds its Board of Directors meetings every third Wednesday of the month. MFA will treat all applications submitted by the deadline for a particular meeting of the MFA Board of Directors as one funding round and evaluate concurrently.

Applications submitted for a prior funding round, but which are still pending, will be given priority over new applications. If sufficient funds are not available to fund all projects in a funding round that meet the requirements outlined in this NOFA, MFA will recommend the project receiving the highest score to the Board of Directors for approval, followed by the next highest scoring project, etc. until the remaining funds are no longer sufficient to fulfill the next highest scoring project's requested amount. The required application forms will be provided electronically and may be downloaded from MFA's website at: https://housingnm.org/rfps/rfps-rfqs.

Applications must be submitted via email to srosales@housingnm.org and include "SF Development Grant Pilot Program Application Submission" in the subject line.

PROEJCT APPLICATIONS

Eligible applicants may submit up to two project applications for consideration at one time. Eligible applicants must submit separate applications for each project.

ELIGIBLE APPLICANTS

Eligible applicants include, but are not limited to, non-profit organizations, for-profit organizations, governmental housing agencies or authorities, regional housing authorities, governmental entities, governmental instrumentalities, tribal governments, tribal housing agencies, developers, builders, corporations, limited liability companies, partnerships, joint ventures, syndicates, associations, or other entities that can assume contractual liability and legal responsibility by executing one or more written agreements entered into with MFA. **Individual applicants are not eligible for the SF Development Grant Pilot Program.**

As part of the application, eligible applicants must evidence the following:

- Organization under state, local, or tribal laws and provide proof of such organization and that the applicant is in good standing, as applicable
- A functioning accounting system that is operated in accordance with accepted accounting principles or has designated an entity that will maintain such an accounting system consistent with accepted accounting principles
- No significant financial audit findings, and no significant outstanding or unresolved monitoring findings from any governmental entity, or from MFA, or otherwise; or if it has any such findings, it has a certified letter from the governmental entity, MFA, or otherwise, stating that the findings are in the process of being resolved
- Not having been suspended, debarred, or otherwise restricted by any department or agency of the federal government or any state government from doing business with such department or agency because of misconduct or alleged misconduct
- Not having defaulted on any obligation covered by a surety or performance bond.

Organizational capacity based on experience and can demonstrate the successful completion of a similar project. Non-profit applicants must also provide proof of the following:

- 501(c)(3) tax status;

- Compliance with the Charitable Solicitations Act NMSA 1978, §57-22-1, et seq. and with the filing requirements by the New Mexico Attorney General's Office under that Act; and
- Having no part of its net earnings inuring to the benefit of any member, founder, contributor or individual.

ELIGIBLE ACTIVITIES

Only projects capital in nature will be considered for award and all activities must directly benefit a low- or moderate-income household. Awards will only be made for activities eligible under the New Mexico Housing Trust Fund Rules, which include:

- Cost of infrastructure and infrastructure purposes
- Cost necessary to support or own single family affordable housing projects
- Acquisition, construction, rehabilitation, renovation, reconstruction, alterations, or repair of single-family residential buildings

All activities must result in the production of single-family housing units for owner occupancy. These units may include the following types:

- **Single Family/Detached**: A structure that consists of a single living unit and is surrounded by permanent open spaces.
- **Semi-Detached**: A structure containing two separate living units, surrounded by open spaces.
- **Row/Townhouse Dwelling**: A structure containing three or more separate living units, each having individual outside entrances at ground level. Each unit may have more than one level.
- **Modular**: A factory-built structure that is assembled by connecting prefabricated sections called modules. The modules are constructed away from the building site, then delivered to the intended site to be installed on a permanent foundation.
- **Manufactured Home**: A factory-built structure that is constructed and assembled off site. It is transported in one piece and affixed to a permanent foundation at the intended site. This type of structure can be relocated to a different site.

Walk-up/Multifamily Apartment or condominiums are ineligible for funding under this program.

Regardless of the activity, the applicant must demonstrate how the subsidy contributes to affordability through a credit to the borrower, downpayment assistance, or similar structure proposed by the applicant.

ELIGIBLE EXPENSES

SF Development Grant Pilot Program funds may only cover reasonable and customary costs that are directly attributable and traceable to the awarded project.

ELIGIBLE BENEFICIARIES

Only low- or moderate-income households, as defined as a household with an annual income at or below 150% area median income, may be the beneficiaries of any SF Development Grant Pilot Program project. The income limits to be used to determine eligibility shall be those established by HUD (Housing and Urban Development) and published annually. See the following HUD website:

https://www.huduser.gov/portal/datasets/home-datasets/files/HOME_IncomeLmts_State_NM_2022.pdf

FUNDING TERMS AND CONDITIONS

All awards will be subject to the availability of funds and the New Mexico Housing Trust Fund Act[1] and Rules[2]. The total amount of funding available under this NOFA is $3 million. **MFA will initially award no more than $500,000 to eligible applicants for a single project. MFA may initially award funding for up to two projects. Upon demonstration of successful project implementation, and provided that funds remain available to award under the NOFA, eligible applicants may request additional funding. Applicants must provide evidence and supporting documentation to justify that the award request is reasonable. MFA will allocate only the minimum amount of funds that it determines to be necessary for the financial feasibility of a project and its viability.**

MFA may make awards in the form of loans or grants. The terms and conditions for each award will be based on the financing needs of each project or activity. Loan terms and conditions may range from no interest, deferred payment loans to revolving line of credit loans to loans with near-market interest rates and terms.

All awards may be secured by mortgages and/or other appropriate liens/security interests. The recording of Land Use Restriction Agreements (LURAs) may be required for all awards.

CANCELLATION OF NOTICE OF FUNDING AVAILABILITY OR REJECTION OF APPLICATIONS

MFA may cancel this NOFA at any time for any reason and may reject all applications (or any application) which are/is not responsive.

EVALUATION OF APPLICATIONS AND DOCUMENTATION

MFA staff will evaluate applications using the Threshold Requirements and Ranking Criteria as described in the following sections. MFA will follow its own policies and procedures to obtain the necessary award approvals. MFA reserves the right to make final award decisions at its discretion.

Staff may contact applicants for clarification of the information provided. In the event of a tie score, staff will recommend approval based on need as determined by staff. MFA will enter into loan or grant agreements and related agreements with the applicants whose applications are deemed to be most advantageous to achieving the goals of the SF Development Grant Pilot Program. All loans, grants and related agreements will include provisions for adequate security against the loss of Housing Innovation Program funds if a successful applicant abandons or otherwise fails to complete a project and further will include remedies and default provisions in the event of the unsatisfactory performance by the successful applicant.

THRESHOLD REQUIREMENTS

To be considered for funding, an applicant must first demonstrate that it meets each of the following threshold requirements:

[1] New Mexico Housing Trust Fund Act: https://housingnm.org/uploads/documents/5.2.pdf

[2] New Mexico Housing Trust Fund Rules: https://housingnm.org/uploads/documents/2020_NM_HTF_Rules.pdf

- The application is complete and legible, including all required documents, and is submitted by the application deadline.
- The application complies with all applicable requirements established in this NOFA, and any applicable addendum.
- The applicant provides sufficient evidence of its ability to undertake and complete the proposal in the areas of financing, acquiring, rehabilitating, developing, and/or administering an affordable housing project.
- The applicant provides sufficient evidence that the proposed project is financially and technically feasible and includes a proposed budget and performance schedule for the proposed project.
- The applicant provides sufficient evidence that any award will directly contribute to the affordability of all single-family units produced.
- The applicant provides sufficient evidence that the project structure will not impair or unduly diminish the ability for beneficiary to obtain mortgage financing.
- The applicant commits to ensuring the mortgage financing that is most beneficial to the homebuyer.
- The applicant proposes a project that incorporates a minimum affordability period of 10 years.

Applications from Applicants that do not meet the Threshold Requirements, as determined by MFA, will be rejected.

RANKING CRITERIA

MFA staff will evaluate all submitted proposals within 15 days (about 2 weeks) of application submittal and score them in each category below, receiving a maximum of 100 points. Organizations must meet the threshold items for MFA funding consideration. Applicants must score a minimum of 70% of the total points possible to be considered for an award. Further, the applicant must score points in each Scoring Criteria category, expect 5. Tribal or rural priority and 6. Resident Business, to be considered for an award.

A Scoring Committee will be identified and will review all proposals that meet the Selection Criteria threshold. The Scoring Committee will recommend selected proposals for funding which will be taken to the MFA Board for final approval.

Scoring Criteria	**Points Possible**
1. Community Need MFA will evaluate the extent to which the applicant's proposed projects is dedicated to resolving one or more of the following identified housing concerns: 1. Community identified to have prospective homebuyers (5) 2. Community identified to have an aging housing stock (4) 3. Community identified to have overcrowded homes (2) 4. The proposed project will fulfill a housing need as stated within an approved Master Plan, Ordinance, Housing Plan, or Community Sector Plan (2)	15

5. The proposed project will incorporate sustainable design features for the homes or engage in sustainable building practices (2)	
2. Readiness to proceed MFA will evaluate the extent to which the applicant's proposed project is ready to proceed. MFA intends to prioritize funding for projects that demonstrate "shovel readiness." The project must meet one or more of the following to determine readiness to proceed: 1. Proposed project that will increase the number of homes by connecting to existing infrastructure (5) 2. Completion of a Phase I Environmental Site Assessment (5) 3. All development parties overseeing the project have been identified and plans have been approved (5) 4. The proposed project has received formal support from local authority by obtaining site control and zoning approval or other form of permissible zoning (5)	20
3. Financial feasibility MFA will evaluate the extent to which the applicant's proposed project is financially feasible through a project budget and/or pro forma, the evidence of secure match funding, and/or other supporting documents. Furthermore, MFA will evaluate whether the award amount requested is sufficiently justified and if other financing support has been acquired 1. SF Development Grant Pilot Program funda as a percentage of total development cost (TDC)for affordable units. a. Zero to 10% (17) b. Greater than 10% to 20% (12) c. Greater than 20% to 30% (10) d. Greater than 30% to 40% (8) e. Greater than 40% (6) 2. Per unit subsidy is reasonable based on income level served. (7) 3. Other gap funding (if applicable) a. has been committed. (6) b. has not formally been committed and is pending approval (2)	30
4. Project Design MFA will evaluate the extent to which the applicant's project design includes the following long-term affordability protection and a service delivery structure. 1. Long-term affordability protection through Land Use Restriction Agreement, credit due upon sale, forgivable loan, or other structure a. 10 years (3) b. 15 years (4) c. 20 years (5) 2. A project homeownership implementation plan outlining the following	20

a. Target population and/or income (2) b. Marketing strategy (2) c. Homebuyer and homeowner education (3) d. Completion schedule (4) e. Homebuyer approval process (4)	
5. Tribal or rural priority MFA will evaluate the extent to which an applicant's proposed project will serve residents in rural communities (defined as any of the following: a place having fewer than 2,500 inhabitants, a county or parish with an urban population of 20,000 inhabitants or less, any place with a population not in excess of 20,000 inhabitants and not located in a Metropolitan Statistical Area) and/or residents of Tribal areas. The application must include a map of the proposed project site.	10
6. Resident Business MFA will evaluate whether the applicant is a New Mexico Resident Business which for the purpose of this NOFA is defined as one in which the majority of the applicant's employees who would perform services related to the project reside in New Mexico.	5

MFA reserves the right to award funding to applicants with contingencies, including requirements to impose specific measures to ensure long term affordability.

APPLICATION FORMAT AND INSTRUCTIONS TO APPLICANTS

All applicants must complete **the SF Development Grant Pilot Program Application Form and Required Document Checklist**, which is located at this link on MFA's website: https://housingnm.org/rfps/rfps-rfqs.

INCURRED EXPENSES

MFA will not be responsible for any expenses incurred by an applicant in applying for SF Development Grant Pilot Program funding. All costs incurred by an applicant in the preparation, transmittal or presentation of any application or material submitted in response to this NOFA will be borne solely by the applicant.

AWARD NOTICE

MFA will provide written notice of the award to all applicants within 15 days (about 2 weeks) of the date of the award. The award will be contingent upon signing final loan/grant documents.

APPLICATION CONFIDENTIALITY

MFA will not disclose any information regarding a proposed application provided during such inquiries and contacts to any third party, except as may be required under MFA's Request to Inspect Documents policy. After the application deadline and until awards are made and notice given to all applicants, MFA will not disclose the contents of any application or discuss the contents of any proposal with an applicant or potential applicant, so as to make the contents of any offer available to competing or potential applicants, except as may be required under MFA's Request to Inspect Documents policy.

After awards have been made and notice given to all applicants, all applications will be available and open to the public for review.

IRREGULARITIES IN APPLICATIONS

MFA may waive technical irregularities in the form of proposal of any applicant selected for award which do not alter the price, quality or quantity of the services offered.

RESPONSIBILITY OF APPLICANTS

If an applicant who otherwise would have been awarded funds is found not to be a responsible applicant, a determination setting forth the basis of the finding will be prepared, and the applicant disqualified from receiving the award.

A responsible applicant means an applicant who submits an application that conforms in all material respects to the requirements of this NOFA and the Housing Innovation Program application and who has furnished, when required, information and data to prove that the applicant's financial resources, production or service facilities, personnel, service reputation and experience are adequate to make satisfactory delivery of the services described in this NOFA.

PROTEST

Any Applicant who is aggrieved in connection with this NOFA or the notification of preliminary selection to this NOFA may protest to MFA. A protest must be based on an allegation of a failure to adhere to the evaluation process as designated in the NOFA, including MFA's evaluation of proposals.

The protest must be delivered to MFA via e-mail to srosales@housingnm.org within five business days after the preliminary notice of award. Protests received after the deadline will not be considered. Upon the timely filing of a protest, MFA shall give notice of the protest to all Applicants who appear to have a substantial and reasonable prospect of being affected by the outcome of the protest. The Applicants receiving notice may file responses to the protest within five business days of notice of protest. The protest and responses to the protest shall be reviewed by the MFA Policy Committee, the Policy Committee shall make a final determination. The protest is then heard by the applicable Board Committee. The Board Committee's recommendation is then taken to the full Board for approval. MFA will issue a notice of determination relating to the protest within a reasonable period of time after submission of the protest. The determination by MFA shall be final.

No appeal of the determination shall be allowed. Applicants or their representatives shall not communicate with members of MFA's Board of Directors, or any MFA staff member regarding any application under consideration, except when specifically permitted to present testimony to the Board. An application will be deemed ineligible if the Applicant or any person or entity acting on behalf of the Applicant attempts to influence members of the MFA Board of Directors or MFA staff during any portion of the NOFA review process or does not follow the prescribed application and protest process.

THIRD-PARTY CODE OF CONDUCT

Applicants will conduct themselves in a manner consistent with MFA's Third-Party Code of Conduct which is located on MFA's website at: https://housingnm.org/uploads/documents/Third_Party_Code_of_Conduct.pdf.

Applicant will promptly disclose information MFA may reasonably request relating to conflicts or potential conflicts of interest.

MFA
Housing New Mexico

NEW MEXICO MORTGAGE FINANCE AUTHORITY

Property Committee Meeting

Thursday, October 12, 2023 at 5:00 p.m.

Webex - call-in information is 1-408-418-9388 (access code): 2489 073 2637
or you can join the call from the calendar item

	Agenda Item	TIME ALLOTTED	COMMITTEE APPROVED	BOARD ACTION REQUIRED
1	7425 Jefferson St. NE Cost Summary, Highlights and Budget Amendment	**5:00 - 5:10**	4-0 RW/PS	YES
2	7425 Jefferson Renovation RFP Award (Izzy Hernandez and Jeff Payne)	**5:10 – 5:20**		YES
3	7425 Jefferson Re-Roof RFP Award (Jeff Payne)	**5:20 – 5:30**		YES
4	Questions	**5:30 – 5:45**	N/A	

Committee Members present:

Derek Valdo, Chair	☐ present	☐ absent	☑ conference call
Rebecca Wurzburger	☑ present	☐ absent	☐ conference call
Patricia Sullivan	☐ present	☐ absent	☑ conference call
Izzy Hernandez	☑ present	☐ absent	☐ conference call

Hernandez

SEE ATTACHED NOTES

MFA
Housing New Mexico

MEMORANDUM

TO: MFA Property Committee

FROM: Isidoro Hernandez, Executive Director/CEO

DATE: October 12, 2023

SUBJECT: **7425 Jefferson St, NE Cost Summary and Highlights**

Recommendation:

Staff respectfully requests your approval of the recommended awards in the amount of $4,220,689, along with an amendment to the capital budget for this amount. We are confident that the RFPs have rendered us competitive bids and that the recommended agencies will provide quality work. While the proposed total improvement cost of $4.2m is higher than our pre-design budget estimates of $2.3M, the reconciling list of added scope costs ($1.6M not fully reflective of all new scope) in addition to the increased costs we have been experiencing, brings our initial estimate in line with the proposed bids. Staff through Mr. Doug Heller (Architect) will work with contractors to hone-in costs where possible.

Background:

MFA determined that it required a property better able to accommodate its current and future operations. The Board approved a resolution on July 20, 2022, forming and authorizing the Property Committee "to conduct a search for real property to acquire that will satisfy the Authority's current and reasonably foreseeable future needs for space from which to conduct its operations, and to list and sell its Offices." Our current building has 98 workspaces, 54 parking spaces and we currently have 141 (136.875 FTE) approved and budgeted positions.

Reasons for relocating:

- *344 4th Street does not meet our space needs.*
- *Need additional workstations and offices.*
- *Need for larger Community/Board room. (All Staff meetings, LOC, Board Meetings, Partner Trainings.)*
- *Need for additional parking.*
- *Security Concerns.*

A third-party space needs assessment was conducted and used in conjunction with other criteria developed by staff and the Property Committee in our search of a suitable building. A total of 18 meetings (Finance Committee (1), Property Committee (11), Board Meetings (6)) were held in the methodical process leading to the purchase/closing of 7425 Jefferson Ave on May 15, 2023.

7425 Jefferson is a 45,035 square foot building on 2.77 acres with 186 parking spaces, great corner location on main thoroughfare (excellent visibility/exposure), energy efficient with solar panels (LEED GOLD Certified). The building meets/exceeds our building selection criteria and has room for future projected growth. The negotiated purchase price of $9,950,000 included approximately $2M of office and systems furniture that was installed by the original tenant. The appraisal came in at $10,000,000 and considered the unfinished/shell space. A $50,000 credit was negotiated prior to closing due to the condition of the roof.

Building Search Criteria

- ✓ *Affordable/Price*
- ✓ *Square Footage*
- ✓ *Parking*
- ✓ *Large Community/Board Room*
- ✓ *Location/ Accessible (staff/partners/customers)*
- ✓ *Visibility*
- ✓ *Energy Efficient*
- ✓ *Public Transit*
- ✓ *Proximity to amenities*
- ✓ *Large Break Room*
- ✓ *Security*

7425 Jefferson - Value vs. Purchase Price		
ITEM	**VALUE**	**NOTES**
Building Appraised Value	$10,000,000	Value took into account the unfinished/shell space estimated at $77/sq ft.
Furniture (Office and Systems)	$2,000,000	Approximately $2M of office and systems furniture was installed by tenant.
TOTAL VALUE	**$12,000,000**	Total value w/o the proposed improvements.
PURCHASE PRICE	**$9,950,000**	We negotiated a $50k credit due to roof condition.
Proposed Improvements	$4,220,689	Includes Re-Roof, Furniture and Internal Improvements (Community Room and other "preference" improvements.)
TOTAL PROPOSED EXPENDITURES	**$14,170,689**	

On July 19, 2023, the Board approved staff to publish two Requests for Proposals (RFPs) for Building Renovation/Improvements and Building Roofing along with approval of a Limited Source Procurement for systems furniture.

Cost Summary:

Proposals have been received for the two RFPs and award recommendations are being presented for approval. We've also received cost quotes for the disassembly, reinstallation, and purchase of new systems furniture from Contract Associates and a quote for the removal and reinstallation of the solar panels to enable the new roofing of the building. The table below summarizes the various bids and total costs. The table also includes our very preliminary pre-design budget estimates. It is important to note that the pre-design estimates were developed prior to detailed discussions and design documents being produced. Further, the pre-design estimates ($1,452,000) were calculated at $100/sq ft to build out the 6,900 sq foot of shell space ($690k) and $20 sq ft for cosmetic improvements of 38,100 sq ft ($762k). These pre-design estimates did not include new flooring, IT Needs/Wiring, HVAC, Electrical, 2nd floor community room and exterior improvement which are detailed below. It is important to note that we do not yet have quotes for information technology (IT) equipment, we will come back to the Board for a budget amendment if needed at a future meeting.

7425 Jefferson - Building Improvements/Re-Roofing/Furniture Costs				
Activity		Pre-Design Budget Estimate	Recommended Awards	Notes
Improvements		**$1,500,000**	**$2,935,626**	**$1.5M was a pre-design estimate w/o actual bids and limited scope**
Not Included in pre-design estimates	Flooring		$240,000	Cost detailed in recommended bid.
	IT Needs/Wiring		$150,000	Cost detailed in recommended bid. (Does not include equipment)
	HVAC/Electrical/Plumbing		$743,000	Cost detailed in recommended bid. Cost to be honed in.
	Community Room (2nd Floor)		$474,000	3160/SF at $150/SF. Evaluated 1st & 2nd floor.
	New Offices		NA	Not Detailed in proposal
	Conference Rooms		NA	Not Detailed in proposal
	Sub-Total of Added Scope	**$1,607,000**		Total of items added that were not included in pre-design estimates
	Total Improvements (Pre-Design & Added)	**$3,107,000**		
Re-Roof		**$500,000**	**$373,777**	
Furniture		**$300,000**	**$778,500**	
				1. Potential savings on demo and storage of existing workstations. 2. Reusing and relocating existing MFA furniture. 3. Reusing all existing office furniture. Reusing all existing workstations. 4. 51 new workstations. 5. Community Room furniture.
Solar Panels		$132,786	**$132,786**	
				Not included in pre-design budget estimate. Remove, Clean, Reinstall and Connect Solar Panels.
TOTAL w/o Added Scope		**$2,300,000**		
TOTAL w/ Added Scope		**$4,039,786**	**$4,220,689**	

Below is a table detailing cost per square foot calculations.

7425 Jefferson St NW		
Cost Per Square Foot Calculations		
	Costs	Cost Per Sq/Ft
Building w/o improvements	$9,950,000	$220.94
Improvements minus furniture	$2,935,626	$65.19
Interior Improvement Costs (No Roof/Solar)	$3,714,126	$82.47
All Improvements	$4,220,689	$93.72
Total Cost (Purchase Price & Improvements)	$14,220,689	$315.77

Attached are the current building layout/design and the proposed design plans developed by Mullen Heller Architecture which depict the current building design and new building as re-designed. Additionally, the design drawings drafted by Contract Associates are attached for your review. You will notice the re-use of the existing systems furniture and the new additions. There is a slight difference in workstation layout between Mullen Heller Architecture and Contract Associates. The architect plans are from the bid documents, and we've since worked with Contract Associates to define the exact workstation layout.

Summary:

Staff respectfully requests your approval of the recommended awards in the amount of $4,220,689, along with an amendment to MFA's capital budget for this amount.

7425 Jefferson - Value vs. Purchase Price		
ITEM	**VALUE**	**NOTES**
Building Appraised Value	$10,000,000	Value took into account the unfinished/shell space estimated at $77/sq ft.
Furniture (Office and Systems)	$2,000,000	Approximately $2M of office and systems furniture was installed by tenant.
TOTAL VALUE	**$12,000,000**	Total value w/o the proposed improvements.
PURCHASE PRICE	**$9,950,000**	We negotiated a $50k credit due to roof condition.
Proposed Improvements	$4,220,689	Includes Re-Roof, Furniture and Internal Improvements (Community Room and other "preference" improvements.)
TOTAL PROPOSED EXPENDITURES	**$14,170,689**	

7425 Jefferson - Building Improvements/Re-Roofing/Furniture Costs				
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Re-Roof		**$500,000**	**$373,777**	
Furniture		**$300,000**	**$778,500**	
				1. Potential savings on demo and storage of existing workstations. 2. Reusing and relocating existing MFA furniture. 3. Reusing all existing office furniture. Reusing all existing workstations. 4. 51 new workstations. 5. Community Room furniture.
Solar Panels		$132,786	**$132,786**	
				Not included in pre-design budget estimate. Remove, Clean, Reinstall and Connect Solar Panels.
TOTAL w/o Added Scope		**$2,300,000**		
TOTAL w/ Added Scope		**$4,039,786**	**$4,220,689**	

For Sale or Lease

JOURNAL CENTER OFFICE BUILDING

7425 Jefferson St. NE | Albuquerque, NM 87109

FLOOR PLAN

1ST FLOOR

±21,676 SF



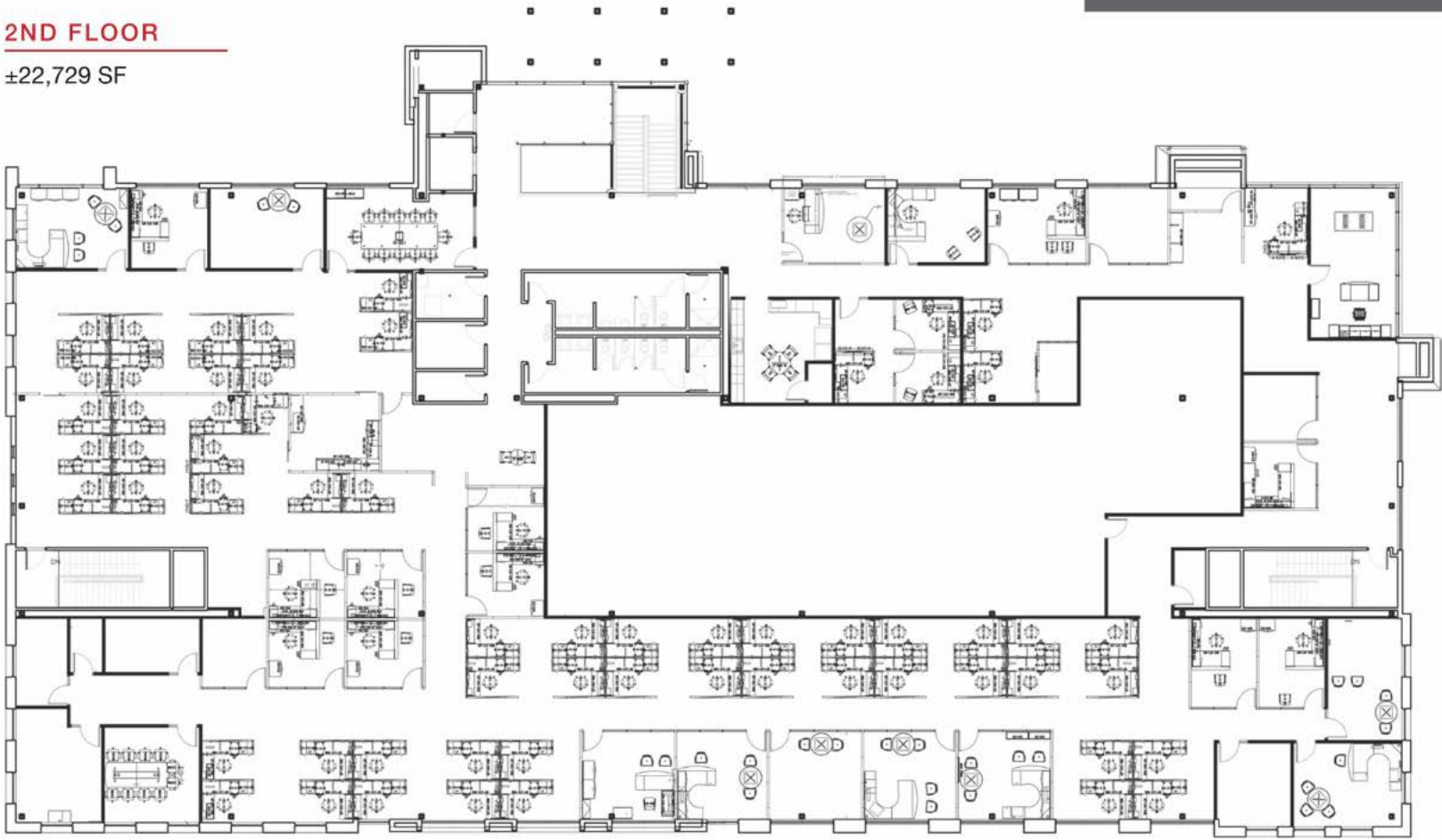
JOURNAL CENTER OFFICE BUILDING

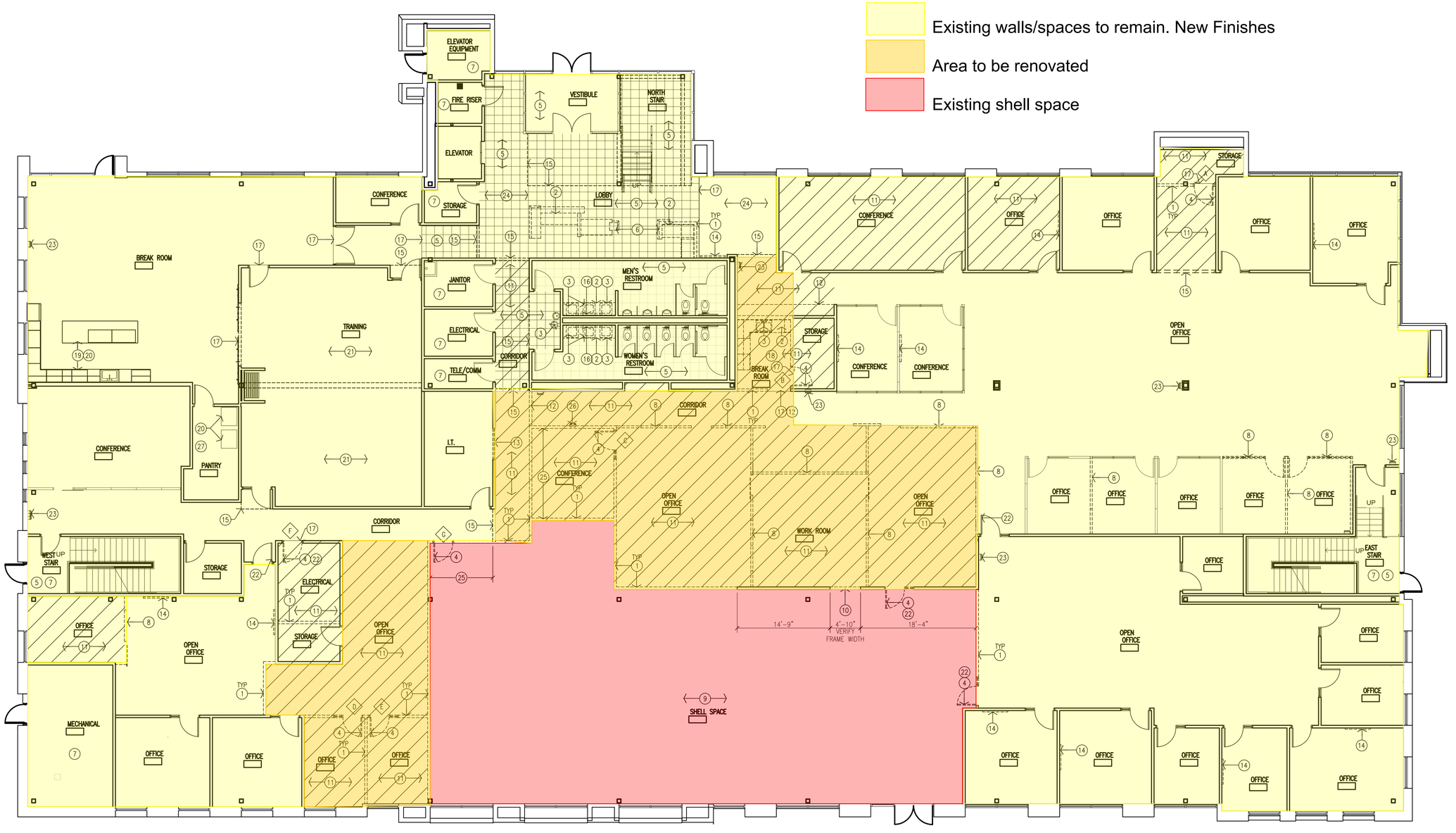
7425 Jefferson St. NE | Albuquerque, NM 87109

FLOOR PLAN

2ND FLOOR

±22,729 SF





1 First Floor Demolition Plan
Scale: 1/8"=1'-0"

REV	DATE	BY	DESCRIPTION
5			
4			
3			
2			
1			

mullen heller architecture

PRELIMINARY NOT FOR CONSTRUCTION

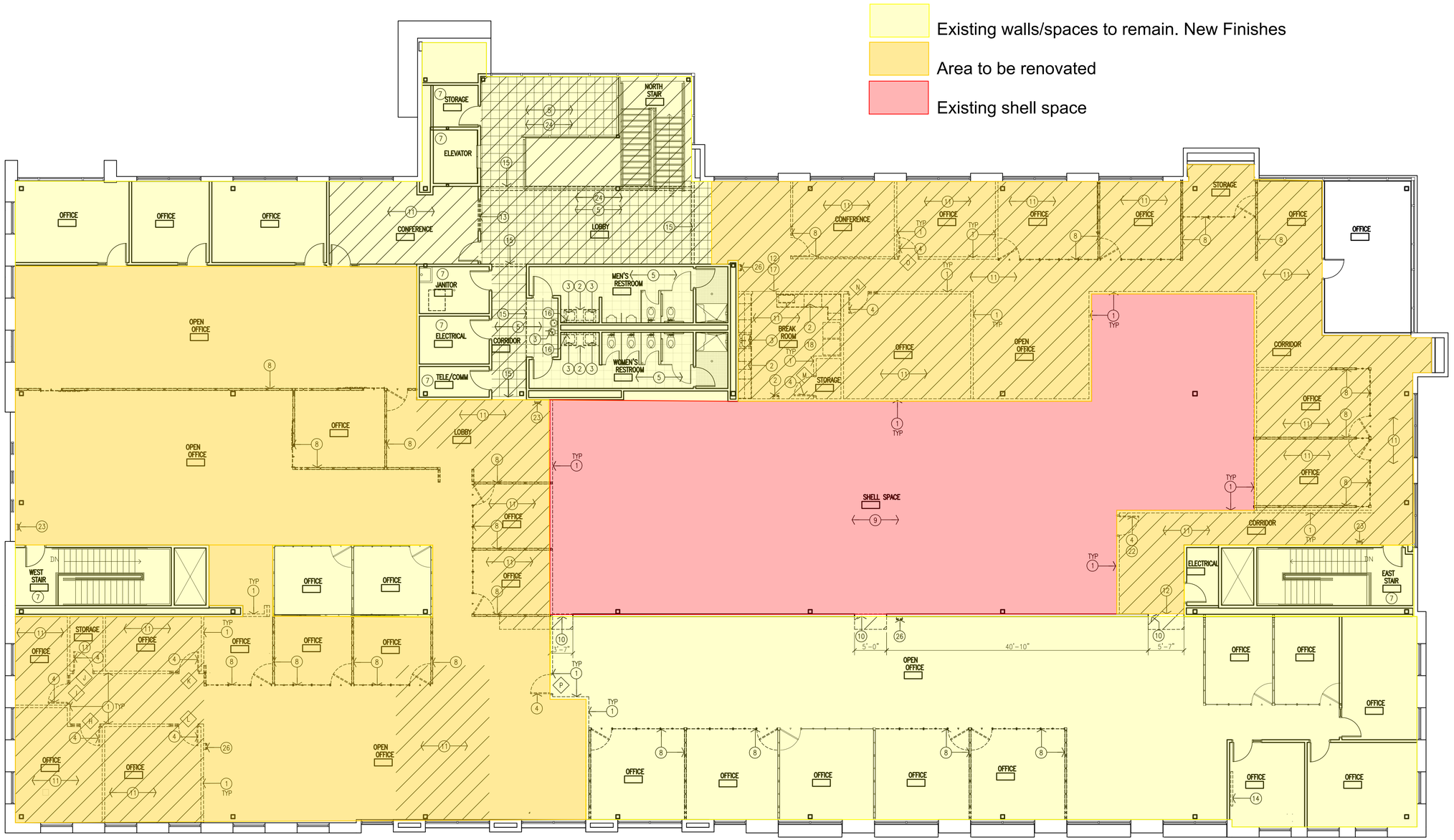
MULLEN HELLER ARCHITECTURE
1718 CENTRAL AVE SW | STE. D
ALBUQUERQUE, NM | 87109
P | 505.268.4144
F | 505.268.4244
www.mullenheller.com

JOB NUMBER	22-19
DRAWN BY	LF
PROJECT MGR	JDH
DATE	7/20/23
PHASE	BID SET

PROJECT
NM MFA Office Renovation
7425 JEFFERSON ST. NE
ALBUQUERQUE, NM 87109

TITLE
First Floor Demolition Plan

SHEET
D101



1 Second Floor Demolition Plan
Scale: 1/8"=1'-0"

REV	DATE	BY	DESCRIPTION
5			
4			
3			
2			
1			

mullen heller architecture

PRELIMINARY NOT FOR CONSTRUCTION

MULLEN HELLER ARCHITECTURE
1718 CENTRAL AVE SW | STE. D
ALBUQUERQUE, NM | 87109
P | 505.268.4144
F | 505.268.4244
www.mullenheller.com

JOB NUMBER	22-19
DRAWN BY	LF
PROJECT MGR	JDH
DATE	7/20/23
PHASE	BID SET

PROJECT
NM MFA Office Renovation
7425 JEFFERSON ST. NE
ALBUQUERQUE, NM 87109

TITLE
Second Floor Demolition Plan

SHEET
D102

GENERAL NOTES:

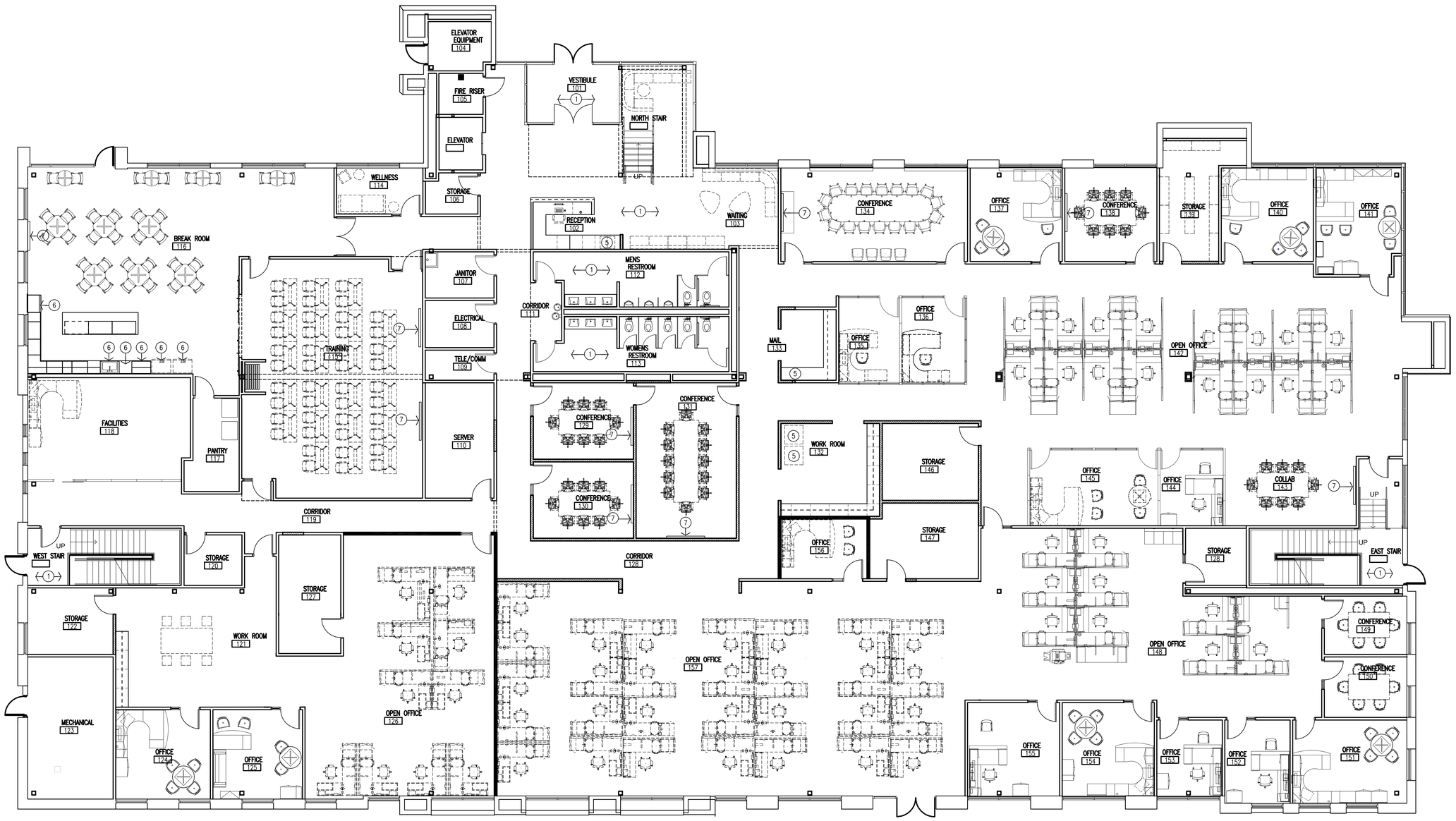
[A] FURNITURE PROVIDED BY OWNER. CONTRACTOR TO COORDINATE INSTALLATION. CONTRACTOR TO PROVIDE BLOCKING AS REQUIRED. CONTRACTOR TO COORDINATE LOCATION OF POWER, SWITCHES, AND LIGHT FIXTURES.

[B] EQUIPMENT PROVIDED BY OWNER UNLESS NOTED OTHERWISE. CONTRACTOR TO COORDINATE RELOCATION & ELECTRICAL OR PLUMBING NEEDS.

[C] REFER TO INTERIOR ELEVATIONS FOR ADDITIONAL INFORMATION.

KEYED NOTES:

1. RELOCATED REFRIGERATOR.
2. RELOCATED MICROWAVE.
3. RELOCATED DISHWASHER.
4. ICE MAKER BY OWNER.
5. OFFICE EQUIPMENT BY OWNER. COORDINATE POWER & DATA. CONFIRM LOCATION WITH OWNER PRIOR TO INSTALLATION.
6. EXISTING APPLIANCE TO REMAIN.
7. RELOCATED TV BY OWNER. PROVIDE BLOCKING, POWER, AND DATA.



1 First Floor Furniture Plan
Scale: 1/8"=1'-0"

REV	DATE	BY	DESCRIPTION
5			
4			
3			
2			
1			

mullen heller architecture

PRELIMINARY NOT FOR CONSTRUCTION

MULLEN HELLER ARCHITECTURE
1718 CENTRAL AVE SW | STE. D
ALBUQUERQUE, NM | 87109
P | 505.268.4144
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JOB NUMBER	22-19
DRAWN BY	LF
PROJECT MGR	JDH
DATE	7/20/23
PHASE	BID SET

PROJECT
NM MFA Office Renovation
7425 JEFFERSON ST. NE
ALBUQUERQUE, NM 87109

TITLE
First Floor Furniture & Equipment Plan

SHEET
F201

GENERAL NOTES:

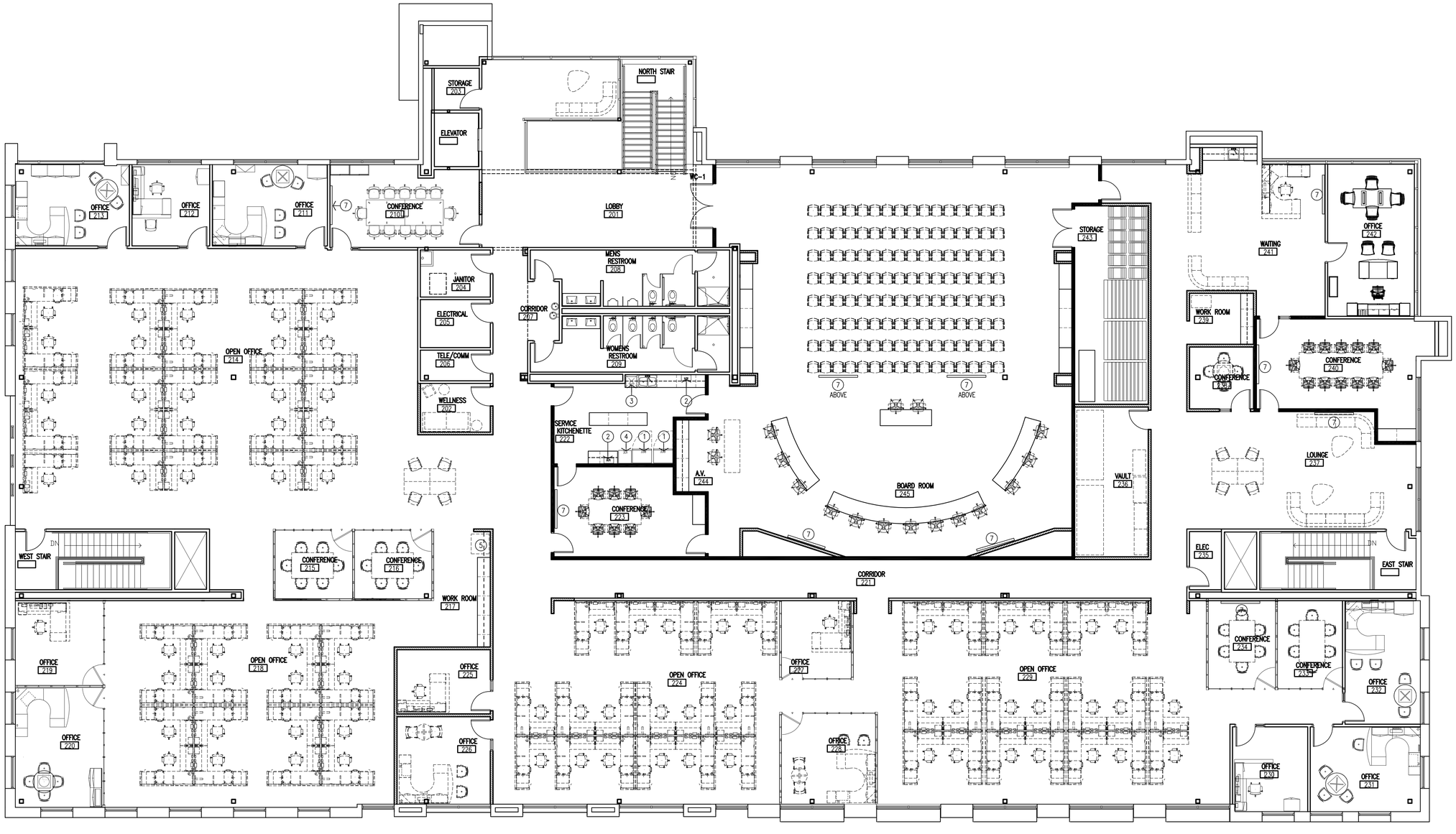
[A] FURNITURE PROVIDED BY OWNER. CONTRACTOR TO COORDINATE INSTALLATION. CONTRACTOR TO PROVIDE BLOCKING AS REQUIRED. CONTRACTOR TO COORDINATE LOCATION OF POWER, SWITCHES, AND LIGHT FIXTURES.

[B] EQUIPMENT PROVIDED BY OWNER UNLESS NOTED OTHERWISE. CONTRACTOR TO COORDINATE RELOCATION & ELECTRICAL OR PLUMBING NEEDS.

[C] REFER TO INTERIOR ELEVATIONS FOR ADDITIONAL INFORMATION.

KEYED NOTES:

1. RELOCATED REFRIGERATOR.
2. RELOCATED MICROWAVE.
3. RELOCATED DISHWASHER.
4. ICE MAKER BY OWNER.
5. OFFICE EQUIPMENT BY OWNER. COORDINATE POWER & DATA. CONFIRM LOCATION WITH OWNER PRIOR TO INSTALLATION.
6. EXISTING APPLIANCE TO REMAIN.
7. RELOCATED TV BY OWNER. PROVIDE BLOCKING, POWER, AND DATA.



1 Second Floor Furniture Plan
Scale: 1/8"=1'-0"

REV | DATE | BY | DESCRIPTION

PRELIMINARY NOT FOR CONSTRUCTION

MULLEN HELLER ARCHITECTURE
1718 CENTRAL AVE.SW | STE. D
ALBUQUERQUE, NM | 87109
P | 505.268.4144
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JOB NUMBER	22-19
DRAWN BY	LF
PROJECT MGR	JDH
DATE	7/20/23
PHASE	BID SET

PROJECT
NM MFA Office Renovation
7425 JEFFERSON ST. NE
ALBUQUERQUE, NM 87109

TITLE
Second Floor Furniture & Equipment Plan

SHEET
F202

A8526 MFA RECONFIGURE: DESIGN DRAWING FLOOR 1 NEW AND RE-USE

02



Scale1/8" = 1'

1 FLOOR PLAN

GENERAL NOTES

A. Installation staff are not permitted to make changes to design scope or undertake work beyond that described on this installation drawing without prior approval from project management.
B. Client is responsible for hardwire connections from furniture to building power as noted in key notes.
C. All telecommunication lines to be provided, routed, and terminated by client (as needed).

KEY NOTES (##)

EXISTING TO RE-USE

NEW FURNITURE

KEY NOTES (##)

01. ALL TASK CHAIRS IN OFFICES AND WORKSTATION ASSUMED TO BE EXISTING OR RE-USE
02. CONFERENCE ROOM UTALIZING THE ZODY GUEST RE-USE CHIARS - SEE REFERENCE IMAGE ABOVE

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o. 915.642.6808 | 500 W. Overland, Suite 260, El Paso, TX 79901

DESIGN DRAWING

PROJECT INFORMATION

COMPANY:	MFA
SITE ADDRESS:	7425 Jefferson St NE, Albuquerque, NM 87109
CONTACT:	-
PROJECT NAME:	-
PROJECT #:	A8526
SALES:	MARIA
DESIGNER:	MADISON
DATE:	6-28-2023

REVISIONS

REVISION #	DATE:	INITIALS:
01	-	-
02	-	-
03	-	-
04	-	-
05	-	-

CLIENT APPROVAL

SIGNATURE:

DATE:

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SHEET NUMBER

A8526 MFA RECONFIGURE: DESIGN DRAWING FLOOR 2 NEW AND RE-USE

02



04



QUANTITY OF (4)

Scale1/8" = 1'

1 FLOOR PLAN

GENERAL NOTES

A. Installation staff are not permitted to make changes to design scope or undertake work beyond that described on this installation drawing without prior approval from project management.
B. Client is responsible for hardwire connections from furniture to building power as noted in key notes.
C. All telecommunication lines to be provided, routed, and terminated by client (as needed).

KEY NOTES

EXISTING TO RE-USE

NEW FURNITURE

KEY NOTES

01. ALL TASK CHAIRS IN OFFICES AND WORKSTATION ASSUMED TO BE EXISTING OR RE-USE
02. CONFERENCE ROOM UTALIZING THE ZODY GUEST RE-USE CHIARS - SEE REFERENCE IMAGE ABOVE
03. CONFERENCE ROOM RE-USING CONFERENCE TABLE
04. (4) EXISTING HBF CHAIRS TO BE RE-USED IN 2ND FLOOR LOUNGE

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o. 915.642.6808 | 500 W. Overland, Suite 260, El Paso, TX 79901

DESIGN DRAWING

PROJECT INFORMATION

COMPANY:	MFA
SITE ADDRESS:	7425 Jefferson St NE, Albuquerque, NM 87109
CONTACT:	-
PROJECT NAME:	-
PROJECT #:	A8526
SALES:	MARIA
DESIGNER:	MADISON
DATE:	6-28-2023

REVISIONS

REVISION #	DATE:	INITIALS:
01	-	-
02	-	-
03	-	-
04	-	-
05	-	-

CLIENT APPROVAL

SIGNATURE:

DATE:

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SHEET NUMBER

2/2

October 12, 2023 Property Committee Questions/Comments and Answers	
Questions	**Summation of Answers**
1. Did we evaluate leasing vs owning?	Yes. While there was a strong preference from leadership and Property Committee to own vs. lease, we analyzed the costs. Based on an average cost of $24.54 per sq ft (NNN) and an average escalation factor of 3%/year on a 45,000 sq ft building, Total lease payments were: • Yr. 10: $12.6M • **Yr. 11: $14.1M** • Yr. 12: $15.6M • Yr. 15: $20.5M • Yr. 20: $29.6M We've been in our current building for close to 40 years. With 7425 Jefferson, we are building for and investing in our future. Its size can accommodate our current and projected growth. Total proposed cost for 7425 Jefferson is $14.2M. This includes all of the proposed improvements. While the building sizes vary, the prices per square foot in the Albuquerque market are comparable.
2. Has there been any interest/buyers for our current building?	Yes. We do not yet have an actual purchase offer but there have been 3 tours of the building to date. Our Broker indicates that there are a few other entities that have expressed interest on taking a tour. • 9/18: Albuquerque Community Foundation • 10/2: Bernalillo County (County Manager and Sheriff) • 10/5: City of Albuquerque Others expressing interest: • Charter School – Undisclosed • Law Firm – Undisclosed
3. Will we continue with a hybrid work environment once we move into the new building?	Yes. The hybrid work environment has worked well for us. We've made some adjustments in the last couple of years and have reached a good comfort level. The new building has sufficient space and is conducive to the entire organization coming together as a team. It will enable each department to be together in their respective areas and not spread throughout the building or having to participate in department meetings virtually. The new layout provides improved flow and will support increased collaboration. The building has sufficient office areas and conference rooms to better accommodate a virtual/hybrid environment without being disruptive. We will continue to have a robust cybersecure IT system that meets our internal and remote work environment.

4. We don't want to be in a situation where we invest $14M in the building and it is half empty. Will staff continue to telecommute in the new building.	Yes. We plan on continuing to offer a telecommuting option. Upon moving into the new building our telecommuting policy requires that staff be in the building a minimum of 3 days a week. Based on the new policy we anticipate having the following percentage of staff in the office: (total of 141 positions/staff). 35 are in the office 100% of the time. • Monday: (35-45%) 40% - 56 • Tuesday: 90% - 127 • Wednesday: 100% - 141 • Thursday: 90% - 127 • Friday (CWS): (25-35%) 30% - 43 Note: MFA offers a compressed work schedule (CWS). For those participating, they are off every other Friday. This does not include others coming to the office for meetings, training, etc.
5. How many workspaces will you have at the new building with the proposed improvements:	174 Workspaces vs. the current need for 141. This leaves 33 spaces (23%) for growth available. • 27 offices • 147 workstations The offices and workstations are planned as dedicated spaces. We currently have 98 workspaces (344 4th Street)
6. What is the difference between the initial estimates for improvements and the costs that are now being recommended? There is a significant difference.	There are a couple of reasons for the differences: 1. The initial estimates were pre-design estimates and not based on actual bids obtained from contractors. Initial Estimates: **$2.3M** a. Improvements: $1.5M b. Re-Roof: $500k c. Furniture: $300k 2. The initial estimates did not include the following that we added/included in the RFPs that were issued: **$1.6M** a. Flooring - $240k b. IT Wiring - $150K c. HVAC/Electrical – $743k d. 2nd Floor Community Room - $474k
7. Did we know the building needed a new roof?	Yes. Roof inspection during the due diligence period surfaced the roof issues. We attempted to negotiate a $250k credit due to the roof condition and settled for a $50k credit. We were willing to settle for a $50k credit as we had negotiated the furniture estimated at a value of $2M in the purchase price of $9,950,000.
8. Will the proposed improvements meet MFA's growth needs in the foreseeable future? 10-20 Years?	Yes. We currently have 141 team members. While it is difficult to determine what our growth will be in 10-20 years, at the time of the space needs assessment, we had 129 employees and estimated growing by 59 in the next 5-10 years for a total of 188. These estimates were based on growth in: • Servicing Portfolio • Asset Management Portfolio • Direct Services Dept.

	• NM HTF Activities • Other… As proposed the building will have 174 workspaces but has room to add "hoteling"/shared spaces as needed.
9. Is there a way to perform the improvements in a phased in approach?	While it is possible to phase in the improvements, we do not believe a phased approach is ideal for the following reasons: • Performing construction/renovations while the building is occupied can be very disruptive. • We do not believe that material and construction costs will be going down in the future. • Finding contractors for smaller scope jobs may be challenging and/or more expensive. • Colors/Material matching may be challenging in future (carpets, systems furniture, etc.) We do plan on phasing in the IT equipment for the conference rooms. We plan to outfit the minimal number of conference rooms with the Audio/Visual equipment and phasing in the other conference rooms in the next few years.
10. Is it more effective to do the work before we move in or can staff move in and the work be phased in?	We strongly believe that getting the improvements completed before we occupy the building is the best approach. See answer above (#9) on phasing in the improvements.
11. Could new workstations be purchased later, after MFA moves in?	Yes, we could defer the purchase and installation of some of the new workstations. The estimated savings per workstation (material only) is $5529. We are proposing a total of 51 new workstations for a total of $282,000 (Material only). Please see phasing in answers to question #9 above.
12. Are the items listed in the rehab scope of work needs or wants, what items are absolutely necessary?	We see the building and proposed improvements as needs and investment for the future. They will enable us to re-establish a family culture and collaborative work environment that will help us attract and retain employees. While the extra workstations are not needed now, they are an investment for the future. See answers to question #9 for potential risks.
13. May we go without the new furniture now? Why do we need new furniture?	See answer to question #11 above regarding systems furniture. Most of the furniture is not new furniture. The only new furniture is detailed below, question #14 answer.
14. What exactly does the furniture bid entail?	The furniture bid of $778,500 consists of: • New workstations (51): $282,000 • Parts for reconfiguration: $ 5,000 • Labor for Demo and Storage: $125,000 • Labor for installation: $172,900 • **Sub-Total: $585,500**

	• Community Room: $65,000 • Training Room: $40,000 • Conference Rooms:* $47,000 • Touch Down Areas: $10,000 • IT Worktable:* $ 5,000 • 1st Floor Lounge/Reception: $ 13,000 • 2nd Floor Lounge: $ 13,000 • **Sub-Total: $193,000** • **TOTAL: $778,500** • *** Potential re-use of existing furniture at 344 4th Street** Our Architect (Mullen Heller Architecture) will make every effort to work with the various contractors to value engineer and lower costs and equipment needed.
15. Could we move in and make do with old carpet and old furniture?	**Carpet:** We could but believe that replacing the carpet later would be very disruptive and likely more expensive. Additionally, as we relocate some of the workstations, we believe there will be noticeable color (wear/tear) differences in the carpet. **Furniture:** Most of the existing furniture is being reused. See answers to question #9 concerns/risks.
16. Can we put off some of the rehab items until after the current building sells?	This would not be our recommendation for several reasons. • We are fortunate to be in a strong financial position and can afford the improvement without the proceeds from the sale of 344 4th Street. • Our current RFP requires the contractors to hold their bid prices for 90 days. The timing of the sale of the building is unknown and will very likely be after the 90 days have expired, which would require a new RFP and potential price increases. • Phasing in or delaying some of the improvements may be challenging to coordinate with the respective contractors. • We believe that having all improvements completed at the same time is more efficient and will eliminate the risks with phasing in improvement mentioned in question #9.
17. What exactly is the breakdown of the quotes?	Renovation: $2,935,626 Re-Roof: $373,777 Solar Panels: $132,786 Furniture: $778,500 **TOTAL: $4,220,689**
18. What is the cost of the Community Room?	$474k. 3160 square feet at $150 per sq feet. The cost would be similar if placed on the 1st floor, but the room would not be quite as functional.

19. Aside from Board meetings, what will the Community Room be used for? Assuming it can be used to bring in the public and let them be part of what is happening to MFA.	We anticipate the community room to be used for: • Board Meetings • Legislative Oversight Committee Meetings • All Staff Meetings • Partners meeting/trainings • We envision using the room for health/benefit fairs, focus group meetings with our partners, housing fairs, developer forums, and other events that help advance and support our mission. • The IT and Audio/Visual capabilities in the community room will be designed to accommodate in-person, virtual and hybrid meetings. Note: We currently rent out space to conduct larger meetings including All Staff Meetings.
20. Can the vacant space (unfinished/shell space) be converted into the community room?	Confining the community room into the existing shell spaces boundaries is not ideal. The existing shell spaces have several challenges for use as a Community Room. A couple are listed below. • 1st Floor: Long and narrow with windows facing the alley. Space is in the back of the building and direct access would be from the alley. • 2nd Floor: The shell space is in the middle of the 2nd floor, is a narrow space and has no natural light.
21. Are we able pay for this? How are we paying for this?	Yes. MFA if fortunate to be in a strong financial position. We have earmarked funds available in the Local Government Investment Pool (LGIP) to pay for the improvements. The balance in LGIP is currently $6M and will be $7M at the end of October. We also have the option of using proceeds from the sale of the building to pay for a portion of the improvements. Proceeds are estimated to be between $3M -4M. Upon sale of the 344 4th street building, we'll evaluate the most advantageous (best execution) use of the proceeds, e.g. pay for improvements, prepayment of mortgage loan or investment. MFA is projecting a $1.6M excess revenues over expenses in FY 2024. The building is considered a fixed asset on our financial statements. The long-term investment in the 7425 will not impact our ability to meet our mission of providing affordable housing opportunities for all New Mexican's. We view this investment as helping us expand our reach by enabling us to grow, bring on additional funding sources and programs, and attract/retain the employees to administer them.
22. What other uses are there for Local Government Investment Pool (LGIP)?	LGIP funds are non-restricted funds and can be used at the discretion of MFA. Please see answer to question #21 above.

23. Will this affect our bond rating?	No, we do not anticipate a change in our Issuer Credit Rating. Our Aa3/Stable rating issued by Moody's in 2020 included the following comments: a high asset-to-debt ratio, good profitability, and a low-risk profile due to a mortgage-backed security structure, and no exposure to variable-rate debt. Our single-family indenture ratings are tied to an indenture that is collateralized backed by mortgage-backed securities (MBS). The indenture ratings of Aaa/Stable were reaffirmed on 10/10/23. Our use of LGIP will not impact our bond ratings.

24. Are we using our funds wisely?
 	
25. What are the optics to outsiders of the new building remodel?
 	
ANSWER: We will develop talking points that highlight the process and analysis undertaken as outlined on the right to support that the right decision was made.
	Yes. We strongly believe that this is a wise use of funds and that it was a well-thought-out decision to purchase a new building.
	• Over 20 meetings have been held in the last 16 months with the Board to evaluate and make decisions regarding the purchase of a building. This has been a very methodical process.
	• A professional third-party architect was procured to assess the current and future space needs of MFA. We have outgrown our building and need a building that will satisfy our current and future needs.
	• 7425 Jefferson meets the building evaluation/selection criteria vetted by the Property Committee that includes:
	  ○ Space needs/square footage
	  ○ Parking
	  ○ Accommodates a large community room.
	  ○ Location/Accessible to partners and staff
	  ○ Visibility
	  ○ Security and safety for staff, partners and stakeholders (Community).
	  ○ Energy Efficiency (LEED Certified/Solar panels)
	  ○ Public Transportation.
	• The building was appraised for $50k ($10M) more than we paid and included furniture with an estimated value of $2M.
	• We procured very favorable financing terms/interest rates.
	• We evaluated several options to include purchasing land and building new, leasing, and acquiring an existing building. We are confident that the total cost of purchasing 7425 Jefferson and the proposed improvements is more cost effective than building or leasing.
	  ○ The cost to build easily exceeded $400/sq ft as compared to $315.
	  ○ With a lease, we'd pay over $14M by year 11 at which point we will have finished paying off our 10-year loan of 7425 Jefferson.
	• The proposals for the improvements (3) and re-roof (3) were obtained via a competitive process.
	  ○ The proposed improvement cost of $65/sq ft is very reasonable compared to a few examples obtained from our architect ranging from $200-$400/sq ft.

	The decision to purchase a new building and the improvements are an investment in the future that will allow us to continue growing, expand our reach and enable us to continue attracting and retaining employees for the next 40 years.
26. How does our cost per square foot compare to other renovations?	See above, #25.
27. How comfortable is MFA that the cost of the renovations will not increase?	The RFP required that respondents commit to holding the proposed pricing for 90 days. We feel confident that the contractors we are recommending are well established, have a great reputation and will honor their commitment as submitted in their proposal. We feel confident that the design and plans provided by Mullen Heller were comprehensive and we do not anticipate change orders that would increase the total costs. Once the contracts are awarded, Mullen Heller will work with contractors to value engineer and work to reduce costs.
28. Did we budget for the cost of two properties this year? Impact on budget?	Yes. Operations and maintenance costs were budgeted for both 344 4th Street ($21k) and 7425 Jefferson Street ($79k). We also budgeted the revenue from the lease with REDW. We are projecting $1.6M excess revenues over expenses.
29. Aside from IT equipment, are there any other costs that will surface later? We don't want this to continue to grow.	We do not anticipate any additional cost other than IT equipment.
30. The initial building purchase was $10M which included approximately $2million in furniture. That is a value of $12 million. The pre-design rehab amount was estimated at $2.3M. The current improvement bids total $4.2M; so is it accurate (big picture) to say we are not off in overall cost?	The value of the building and furniture totals $12M. We had a pre-bid estimate of $2.3M for improvements. The sum of the value of the building and the improvement estimates is $14.3M. The $9.95M purchase price of the building along with the proposed improvements of $4.22M total $14.170M
31. Is it fair to say that Investment in the building is for the long term?	Yes. We see this as a long-term and wise investment. We have been in our current building for close to 40 years. 7425 Jefferson accommodates our current and foreseeable future needs and will allow us to attract and retain valued team members. Our analysis indicates that the purchase and renovations costs of the building are more cost effective than building or leasing.

The Property Committee unanimously approved awarding the contracts totaling $4,220,689 with the caveat that Architect (Mullen Heller Architecture) would make every effort to work with the various contractors to value engineer and lower costs. There was also a clarification and understanding that the IT equipment costs were not included in these awards.

MFA Housing New Mexico

MEMO

TO: MFA Board of Directors

Through: Property Committee

FROM: Isidoro Hernandez, Executive Director/CEO

Jeff Payne, Chief Lending Officer

DATE: October 18, 2023

SUBJECT: Construction Services Award Approval for 7425 Jefferson Renovation

Recommendation:

Staff recommends the Construction Services Award be made to Klinger, LLC in an amount not to exceed $2,935,626 (not including NMGRT) along with an amendment to the capital budget for this amount. Klinger, LLC was selected by MFA's internal review committee based on the highest score per evaluation criteria outlined in the RFP and detailed below. Staff intends to hone the scope and reduce potential construction costs as the contract is negotiated.

Background:

The MFA Board approved the Request for Proposal (RFP) for Construction Services on July 19, 2023. The RFP was advertised in the Albuquerque Journal and posted on MFA's website. In addition, Doug Heller of MFA's architectural firm, Mullen Heller Architecture, P.C., reached out to contractors who may be interested in the project to view the RFP on the MFA website.

Discussion:

On May 15, 2023, MFA closed on the purchase of the office building at 7425 Jefferson St. NE, Albuquerque, NM. Renovations are to be made to meet the current and future needs of MFA. After approval of the RFP for construction services by MFA's Board of Directors, staff and MFA's contracted architect, Mullen Heller Architects (Doug Heller) held a mandatory Pre-bid meeting with interested contractors at the Jefferson building. Five contractors attended the pre-bid conference. Four of the five contractors that attended the pre-bid conference were contractors contacted by Mr. Heller. The architect explained the scope of work, answered questions, and took the potential offerors on a tour of the building to help provide additional clarity for work requested in the RFP.

The RFP gave Offerors the deadline of August 10, 2023, to submit bids directly to MFA.

Preliminary Budget Expectations:

Mullen Heller Architecture's initial estimated renovation costs at the time the Jefferson building became available for purchase in January 2023 was $1,452,000 ($690,000: Tenant Improvements; $762,000: Cosmetic Improvements). Assumptions were that any interior improvements were anticipated to be cosmetic, such as painting. The flooring, ceiling, and lighting did not look like they needed to be replaced, although the budget anticipated some replacement of damaged ceiling tiles, carpet tiles, window

coverings, etc. We did not believe there would be a need for new offices, conference rooms, etc. This budget did not include any exterior improvements, additional IT needs, replacement of mechanical units, or other equipment that may be determined to be at the 'end of life.'

In February 2023 as part of staff's attempt to project the overall cost of purchasing the building, staff produced an estimate of $1.5 million to renovate the Jefferson property and $1 million for furniture and other related costs. MFA was able to negotiate the inclusion of the existing systems furniture as part of the purchase, which had an estimated value of $700,000+.

Minimum Qualifications and Requirements:
Only those Offerors who met the following minimum criteria outlined in the RFP were eligible to be evaluated. Any proposal submitted by an Offeror that did not meet these minimum qualifications and requirements would be rejected:

1. An Offeror must, at a minimum, hold a current State of New Mexico general contractor license designation of GB-98 and be licensed to do business in the State of New Mexico.

2. Have the ability to work around the existing tenant and to comply with their security and professional requirements.

3. Offeror shall be willing and able to enter into a standard American Institute of Architects (AIA) contract with MFA (**Exhibit B**). MFA shall be under no obligation to accept any material changes to the standard terms of the AIA contract. Materiality shall be determined in MFA's sole discretion.

4. Offeror shall provide evidence of its ability and willingness to provide MFA certificates of insurance acceptable to MFA prior to the commencement of any Work evidencing compliance with the insurance requirements in the AIA Document A101 Exhibit A, including but not limited to:
    a. Commercial General Liability;
    b. Automobile Liability;
    c. Workers' Compensation;
    d. Employers' Liability;
    e. All Risks; and
    f. Other insurance that may be identified by MFA.

5. Offeror shall provide evidence of its ability and willingness to provide surety bonds, from a company or companies lawfully authorized to issue surety bonds in the jurisdiction where the Project is located, as follows:
    a. Payment Bond in an amount equal to 100% of the contract between MFA and Offeror
    b. Performance Bond in an amount equal to 100% of the contract between MFA and Offeror

Offerors were also required to meet the following requirements, among others:

6. Offeror shall provide a written statement disclosing: (1) any political contribution or gift valued in excess of $250.00 (singularly or in the aggregate) made by Offeror to any elected official of the State of New Mexico in the last three years, (2) any current or proposed business transaction between Offeror and any MFA member, officer, or employee, and (3) any other conflict or potential conflict which may give rise to a claim of conflict of interest.

7. Offeror shall provide a written statement disclosing any pending investigation, litigation, recent settlements or regulatory sanctions in performing professional services during the past five years involving Offeror's firm or employees or individuals or organizations involved in any third-party agreements or joint venture agreements. Describe any circumstances under which Offeror's firm or any of Offeror's members or employees have been disciplined by any professional licensing, regulatory or ethics entity. Indicate whether Offeror's firm has been involved in any capacity in litigation, investigations or regulatory proceedings involving HUD, the State of New Mexico or any agency thereof.

8. Offeror shall provide written certification, on the form attached as Exhibit A (to the RFP), that Offeror has read and shall at all times conduct itself in a manner consistent with MFA's Third-Party Code of Conduct. Upon request by MFA, Offeror shall disclose information MFA may reasonably request relating to conflict or potential conflicts of interest.

9. Offeror shall provide a written certification that Offeror is an Equal Opportunity Employer and complies fully with all government regulations regarding nondiscriminatory employment practices.

Project Description

This project is an interior renovation of the 2-story, ±44,978 square feet building at 7425 Jefferson Street NE. There is no change of occupancy associated with this project. The renovation is considered a Level 3 Alteration based on the International Existing Building Code. Currently, a majority of the building is unoccupied, except as noted below.

The renovated building will house new private offices, new open office areas, new conference rooms, a new Community Room on the second floor and new support spaces. New metal stud partitions, ceilings, finishes, painting, wallcovering, casework, doors, manual and automatic blinds, plumbing fixtures, power distribution, interior lighting, and modifications to the existing HVAC systems, fire suppression system and fire alarm will be required to complete the renovation. Currently there are two areas that are considered 'shell' spaces. These areas are to be improved, with new partitions, ceilings, finishes, HVAC equipment, lighting and power distribution. No work to the building envelope or site is anticipated.

All flooring, with the exception of the porcelain tile in the lobby and the restrooms, and those areas designated as 'No Work,' in the RFP is to be removed and replaced with new carpet tile and vinyl tile with wall base.

The majority of the interior doors will remain in place. It is the intent to relocate existing doors and frames to new locations. Door hardware may require modifications for the Owner's new access control system.

The majority of the suspended acoustical ceilings throughout the building will remain 'as-is' with modifications needed to accommodate the new layout. New gypsum board 'beams' and decorative wood ceilings will be installed in the new conference rooms and Community Room.

The majority of the existing lighting is to be removed and replaced 'in kind' with LED fixtures throughout. New decorative and specialty lights will be installed in the lobby, new conference rooms and Board Room.

The restrooms will remain 'as-is' with the exception of new solid surface countertops, sinks, trim, and new vanity lighting. There is no change to the flooring, ceilings, toilet partitions or other plumbing fixtures.

All new and existing gypsum board walls and ceilings, with the exception of those areas designed as 'No Work,' are to be repainted.

The current lobby stair and second floor railing system are to remain 'as-is' and are to be protected during construction.

Installation of the phone, data, IT, and audio and visual systems.

Reconfiguration of the current modular office furniture and removal of the modular wall systems will be the responsibility of MFA. The Offeror will be required to coordinate with the MFA's vendor to maintain the construction schedule.

The Offeror will be required to coordinate new roof penetrations with MFA's vendor to maintain the construction schedule.

Finally, a separate tenant currently occupies ±8,000sf on the west side of the second floor. This tenant, also, has use of the building lobby, the restrooms and a breakroom on the second floor outside their space. During construction, the Offeror must ensure these spaces remain operational for the tenant's employees and guests at all times. Electrical, mechanical, and plumbing systems in these areas shall remain in working order throughout construction. The Offeror must provide a schedule for work in these areas as MFA will coordinate appropriately with the tenant. The schedule for work in these areas will be determined by MFA and tenant. Other than these areas, the Offeror will have full access to the building during construction.

Drawings and Manual

Interested parties were electronically provided with a 28-page set of bid drawings which included a demolition plan, renovation plan, reflected ceiling plan, door and hardware schedule, community room elevations, finish plan, furniture plan, original construction mechanical and HVAC documents with notations regarding the new scope of work, a list of new heat pump units needed, renovation plan with notes for mechanical scope of work. Bid drawings can be accessed at: https://mfa.internal.housingnm.org/BoardSS/NM_Mortgage_Finance_Authority_Office_Renovation-Bid_Drawings_7-20-23.pdf

In addition, interested parties were given an electronic 274-page project manual with instructions to bid and scopes of work for electrical, mechanical, and an overall scope of work. This manual covers topics such as access to the site, coordination with occupants, work restrictions, project management and coordination, construction progress documentation, submittal and quality requirements, and various detailed specification requirements. The Project Manual can be accessed at: NM Mortgage Finance Authority Office Renovation - Project Manual _7-20-23.pdf

Evaluation Criteria

The Board-approved RFP set out the following criteria to evaluate proposals and gave the flexibility to award the contract for construction services to the offeror whose proposal is most advantageous to MFA. Proposals that met the Minimum Qualifications and Requirements were evaluated. Proposals were scored on a scale of 1 to 150 based on the criteria listed below. A serious deficiency in any one criterion could be grounds for rejection regardless of overall score.

Criteria	**Point Range**	**Maximum Points**
1. Evidence of Offeror's Ability to Perform the Work: 1. profiles of the technical competence and experience of: i. Offeror's principal(s); ii. Proposed Project manager and superintendent; and iii. any Subcontractor(s) identified in the response	 0-5 0-3 0-2	10
2. Examples of Past Performance in terms of cost control, quality of work, and compliance with performance schedules.	0-30	30
3. Base Bid Proposal not including NMGRT.	0-35	35
4. Project Schedule and capability to provide services in a timely manner	0-20	20
5. New Mexico Resident Business: Offeror is licensed to do business in New Mexico and the majority of Offeror's employees who would perform the services to be performed in New Mexico reside in New Mexico	0-5	5
6. Interviews, if held	0-50	50
Maximum Points		150 with interviews held

Staff proposed and received approval from the MFA Policy Committee to create an internal review committee to evaluate the proposals received. MFA policy requires at least three members for an internal review committee. While policy also allows non-MFA staff to participate on the review

committee, only MFA staff committee member scores as listed in **Exhibit A** were used to arrive at the recommendation. The internal review committee consisted of the MFA Executive Director/CEO, Chief Lending Officer, and the Architectural Services Representative, all of whom are employed by MFA. MFA's Architectural Services Representative is an architect and member of MFA staff. He evaluates plans for proposed multifamily construction and renovation projects and inspects the work to make sure it meets or exceeds MFA's design standards.

Doug Heller, MFA's contracted architect, was involved in providing information to the bidders, attended the scoring meeting and answered committee member questions. Staff each individually reviewed and scored the proposals received prior to the scoring meeting and then came together to share those scores and their own evaluations of the proposals. All three proposals met the Minimum Qualifications and Requirements. The individual scores of the internal review committee members were recorded and averaged. Although there was some variation in the scores awarded by the individual committee members, there was unanimity in the ranking of the proposals.

Proposals Received

MFA received proposals from William Cervantes Enterprises, Inc. ("William Cervantes"), Klinger Constructors, LLC ("Klinger"), and Enterprise Builders Corporation ("Enterprise").

The following is a summary of the evaluation of each scoring category. **Final scores of all qualified offerors are summarized on attached, Exhibit A**

Ability to Perform the Work

Each of the offerors are experienced. All offerors provided information on the offeror's principals, and the proposed project manager and superintendent, and any subcontractor who would work with MFA on the renovation project and shared their level of experience. Based on materials contained within the proposals the teams presented by Klinger and Enterprise scored higher in this evaluation criterion based on is years of experience, education and training. William Cervantes did not provide any indication of how long the company had been in business or the experience of its principals. Enterprise scored the highest on average, followed closely by Klinger.

William Cervantes: The William Cervantes proposal did not give much background about the company or how long the company had been in business but listed Gerald Cervantes as the proposed project coordinator. Gerald Cervantes has been in this role since 2017 and prior to that worked as an Electrician Helper for three years. Alex Apachito was listed as Lead Carpenter and had been in that role for two years. Before that he worked as a framing carpenter for eight years. The project management team proposed by William Cervantes is less experienced than the teams proposed by the other offerors.

Klinger: The Klinger proposal indicated the company has been in business for over 40 years. Klinger's principals have 40, 28, 33, and 15 years of experience. The proposal indicated Klinger performs 20 to 25% of the work themselves instead of using subcontractors. The company has over 100 field employees. The Klinger proposal listed Joe Reed as Senior Project Manager. Mr. Reed joined Klinger

in 1997 and has over 24 years of experience in the construction industry. He has a BA in business and completed a four-year carpentry apprenticeship. He has completed 19 projects as Project Manager throughout the state of New Mexico ranging in size from 3,200 sq ft to 70,000 sq ft. The Superintendents that would be involved with the project have been with the company since 1991 and 1997 and have 40 years and 28 years of experience respectively.

Enterprise: Enterprise has been in business for over 35 years and has a team of seasoned managers with 26 years, 36 years, and 16 years of experience for the CEO, EVP of Operations and VP of Estimating. The Enterprise' proposal listed Jared Vigil as the project manager. Mr. Vigil has a BA in construction and a minor in business. He has seven years of experience in the construction industry and lists 13 projects varying from 2,500 sq ft to 60,000 sq ft in size. John Lente is the Project Superintendent and has 20 years of experience and has been with Enterprise just over a year.

Examples of Past Performance

All offerors indicated that their projects were on time and budget and customers were happy with the work they performed. While all the offerors seemed capable as contractors, Enterprise and Klinger were seen as superior in their examples of past performance provided. Both had examples of projects that were recent and very impressive. They showed they do very similar work to that specified in the RFP. As a result, Enterprise and Klinger received a full 30 points in this category while Cervantes earned 24.67.

William Cervantes: The William Cervantes proposal listed 5 examples of past performance. The projects presented in the proposal were not recent and were as old as 2012, 2017, and 2019. No recent examples were provided. The cost of these projects ranged from $1 million to $3.6 million. They ranged in size from 6,600 sq ft to 27,000 sq ft. Four of those projects were new construction of a charter school, shooting range, animal shelter and a club house.

Klinger: The Klinger proposal listed five examples with only two projects mentioning dates of construction (2019 and 2022). These projects were selected because they involved working with renovations where the buildings were still occupied. They also listed several projects in buildings with high traffic like three hospitals where they have had to work around the occupants for long periods of time and large projects. Finally, they listed eight projects ranging from $2.5 million to $19 million that are in progress with both bid and negotiated contracts. The sizes ranged from 18,000 to 100,000 sq ft.

Enterprise: The Enterprise proposal listed five project examples ranging in cost from $1 million to $23 million. The proposal materials presented two new construction projects and three renovation or tenant improvement projects. The sizes ranged from 22,000 sq ft to 89,000 sq ft. One project is still under construction.

Base Bid Proposal

Bid prices are listed below with William Cervantes being the lowest bidder followed by Klinger at the 2nd lowest. Enterprises' bid was significantly higher than the other bids. William Cervantes received the highest score of 33.33 and Klinger was close at 30.67. Enterprise was rated much lower at 21.67. In the

process of negotiating the contract with the winning offeror, there would be an opportunity to work with the contractor to refine the scope to reduce the cost.

William Cervantes: $2,331,170
Klinger: $2,935,626
Enterprise: $4,016,247

Project Schedule

The William Cervantes and Klinger proposals contained timelines that fit the expected time to complete the project. While William Cervantes proposal mentioned an earlier completion time, it lacked much detail. The Klinger proposal provided a detailed path and schedule to meet that timeline. Enterprise showed some level of completion in February but had many weeks scheduled to wrap up and get a Certificate of Occupancy. Klinger unanimously earned full points with William Cervantes a close second, and Enterprise earning a little more than half of the 20 points available.

William Cervantes: The William Cervantes proposal indicated that the project could be completed by late December 2023 or January 2024. The company is available to start right away and proposed getting started with demolition while waiting for building permits and ordering mechanical equipment immediately.

Klinger: The Klinger proposal presented a very specific timeline r. They projected that the project could be completed by January 25, 2024. They also described a three week look ahead method of keeping the project on schedule used by the project superintendents.

Enterprise: A specific timeline was presented in the Enterprise proposal showing completion by May 8, 2024, with a certificate of occupancy.

New Mexico License and Employees

All offerors received all five points available.

William Cervantes: New Mexico licensed and New Mexico employees.
Klinger: New Mexico licensed and New Mexico employees.
Enterprise: New Mexico licensed and New Mexico employees.

Results

After all scoring was determined and averaged, Klinger was the top choice with 94.67 points and William Cervantes as a runner up with 89.00 points. The Enterprise proposal scored significantly lower. It was determined that the leading two candidates would be interviewed with another 50 points available.

Interviews

The internal review committee posed the following questions the William Cervantes and Klinger teams:

- How have you worked with occupying tenants and how do you propose to work with tenants in this project? Do you provide a 3 week look ahead?
- What is your plan to keep common areas open and safe?
- Do you anticipate any problems with phasing/working around existing tenant?
- How is the timeline impacted with the change in the RFP award date?
- How often will you hold construction update meetings?
- How much parking will you need and what is the ideal location?
- How did you determine your bid in Mechanical and Electrical?
- Was there anything on the plans you were unsure of?
- How have you resolved conflicts with owners in the past?
- Any suggested changes to plans to "value engineer"?
- Discuss how you maintain schedule control of your subcontractor base.
- Have you seen price increases recently that require change orders to signed contracts?
- How many full-time staff will be assigned to this project?
- How many projects is the project manager going to be working on during construction?
- How many projects is the superintendent going to be working on during construction?

Staff scheduled in person interviews with both offerors. Both were provided with an agenda and list of questions or topics to be covered. The Executive Vice President and the proposed Project Manager attended for Klinger. They shared experience with many jobs in hospitals, schools and at Intel which required them to work in a setting where the building was not only occupied but where outside patients, students and customers were coming and going constantly. They shared that in their view frequent communication is the key to project success and has resulted in Klinger maintaining good relationships with its customers even after project completion. Their goal is that the owner becomes a long-time customer and that they continue to provide construction services in the future for even the smallest of tasks.

Klinger holds weekly meetings with the architect and owners. They also meet weekly with sub-contractors. An automated system maintains the construction schedule and notifies all parties involved of tasks needed to be completed. The key to maintaining a schedule is treating their sub-contractors well. They pay on time and don't hold back pay so there is loyalty and trust. The project manager for the MFA job was awarded "Project Manager of the Year" as voted on by the sub-contractors.

Klinger sees an opportunity to reduce costs when the final plans for mechanical and electrical are available. Because they did not have the detailed plans at the time of bidding, they think their mechanical subcontractor bid on the worst-case scenario. They committed to assigning a full-time superintendent on the project and the project manager has 2 to 4 projects at any given time. They expect five months to completion of the project.

William Cervantes was the only attendee on behalf of the offeror. Mr. Cervantes is the Owner and President of the company. He also believes that communication is key to success. He proposed bi-weekly meetings with the architect and owner but was open to weekly meetings as well. He also thought that receiving the final plans for mechanical and electrical would help to refine costs. As the owner, Mr. Cervantes is involved in everything and would act as the project manager. He also proposed a full-time superintendent at the job site.

Mr. Cervantes acknowledged that maintaining control of the subcontractor base is difficult. He indicated that the subcontractors he works with have “bought in” to the project and are ready to throw in extra manpower. He also noted that his wood prices were only good for 30 days.

William Cervantes expects to have another project in process during our job. Other projects are expected to come online at the beginning of the year.

Both offerors scored high, and the final scores were very close. Klinger received more points in the definitive nature of their answers. Beyond the questions asked, it was apparent that Klinger is a very capable contractor with a lot of resources and employees. The nature and scope of our project is routine for them. William Cervantes also sounded very capable but in several of his answers it sounded like the size of this project was larger than his company typically performs.

After the interviews were held, the internal review committee shared their individual scores which were averaged and resulted in the following:

William Cervantes: 44 interview points
Klinger: 48 interview points

Total points average between the three internal review committee members was:

William Cervantes: 133.00
Klinger: 142.67

After the evaluation process, Klinger, LLC had the highest combined score based on ability to perform work, past performance, bid proposal, project schedule, New Mexico business and interviews. Staff will negotiate a standard AIA Contract with the offeror selected through the RFP process and approved by the board.

Summary:
The Board approved the Construction Services RFP on July 19, 2023. MFA received three responses. All responses met the Minimum Qualifications and Requirements and were scored. Staff recommends the Construction Services RFP award be made to Klinger Constructors, LLC, approval of an amendment to the capital budget for the award amount, and that staff begin contract negotiations.

Exhibit A

Average Scores

Scoring Criteria	Point Range	Maximum Points	Cervantes Average	Enterprise Average	Klinger Average
Ability to Perform the Work Profiles of technical competence and experience		10	7.67	9.33	9.00
Offeror's principal(s)	0-5				
Proposed Project manager and superintendent	0-3				
Any subcontractor(s) identified in response	0-2				
Examples of Past Performance: Cost control, quality of work, compliance with performance schedule	0-30	30	24.67	30.00	30.00
Base Bid Proposal not including NMGRT	0-35	35	33.33	21.67	30.67
Project Schedule: Capability to Provide Services in Timely Manner	0-20	20	18.33	11.67	20.00
Offeror is licensed to do business in New Mexico and the majority of Offeror's employees who would perform the services to be performed in New Mexico reside in New Mexico	0-5	5	5.00	5.00	5.00
Interviews (if held)	0-50	50	44.00	NA	48.00
Total	**100-150**	**150**	**133.00**	**77.67**	**142.67**

Links to Documents

Renovation Proposals

Enterprise Builders:
https://mfa.internal.housingnm.org/BoardSS/7425_Jefferson_Renovation_RFP_Proposals/Enterprise_Builders_Proposal.pdf

Klinger LLC Proposal:
https://mfa.internal.housingnm.org/BoardSS/7425_Jefferson_Renovation_RFP_Proposals/Klinger_LLC-NM_MFA_Proposal_Schedule.pdf
Klinger LLC Schedule:
https://mfa.internal.housingnm.org/BoardSS/7425_Jefferson_Renovation_RFP_Proposals/Klinger_LLC-NM_MFA_Proposal.pdf

William Cervantes:
https://mfa.internal.housingnm.org/BoardSS/7425_Jefferson_Renovation_RFP_Proposals/William_Cervantes_Proposal.pdf

Re-Roof Proposals

First Mesa Construction:
https://mfa.internal.housingnm.org/BoardSS/First_Mesa_Construction_bid.pdf

J3 Systems:
https://mfa.internal.housingnm.org/BoardSS/J3_systems_bid.pdf

William Cervantes:
https://mfa.internal.housingnm.org/BoardSS/William_Cervantes_bid.pdf

Renovations Project Manual

https://mfa.internal.housingnm.org/BoardSS/NM_Mortgage_Finance_Authority_Office_Renovation-Project_Manual_7-20-23.pdf

Renovations Bid Drawings

https://mfa.internal.housingnm.org/BoardSS/NM_Mortgage_Finance_Authority_Office_Renovation-Bid_Drawings_7-20-23.pdf

MFA Housing New Mexico

MEMO

TO: MFA Board of Directors

Through: Property Committee

FROM: Jeff Payne, Chief Lending Officer

DATE: October 18, 2023

SUBJECT: Construction Services Award Approval for 7425 Jefferson Re-roof

Recommendation:
Staff recommends the Construction Services Award to re-roof the building at 7425 Jefferson be made to J3 Systems, LLC for $373,777 along with an amendment to the capital budget for this amount. J3 Systems, LLC was selected by MFA's internal review committee based on highest score per evaluation criteria outlined in the RFP and detailed below.

Background:
The MFA Board approved the Request for Proposal (RFP) for Construction Services to re-roof on July 19, 2023. The RFP was advertised in the Albuquerque Journal and posted on MFA's website.

Discussion:
On May 15, 2023, MFA closed on the purchase of the office building at 7425 Jefferson St. NE, Albuquerque, NM. Renovations are to be made to meet the current and future needs of MFA. Inspections of the building prior to purchase revealed a somewhat unconventional metal roof with many seams and fasteners requiring frequent maintenance and attention. The roofing consultant used by staff to evaluate the building, the architect and staff determined it would be better to replace the roof than to continue with the maintenance of the current roof and potential for failure of the system. The removal, storage, and reinstallation of the exiting solar system on the roof will be procured separately and contracted directly with the MFA, and as a result not part of the RFP's scope. Staff proposed through an RFP to award a contract to remove the existing metal roof and install a more conventional roofing option. After approval of the RFP for Construction Services to Re-Roof by MFA's Board of Directors, staff and MFA's architect scheduled a mandatory Pre-bid meeting for interested contractors at the Jefferson building.

Although some contractors expressed interest none attended the pre-bid conference. It was determined that the meeting would be rescheduled, and an updated RFP was posted with communication to the interested parties of the change in schedule. The pre-bid meeting was rescheduled from July 25, 2023, to August 1, 2023. Five companies attended the pre-bid conference, two of which were general contractors who were in attendance with their roofing subcontractors. At the meeting, the architect explained the scope of work, answered questions, and took the potential offerors on a tour of the roof to help provide additional clarity for work requested in the RFP.

The updated RFP timeline gave Offerors the deadline of August 22, 2023, to submit bids directly to MFA. All three roofing contractors that attended the pre-bid conference provided proposals by the deadline.

Preliminary Budget Expectations:
Mullen Heller Architecture's initial estimate to install a new roof prior to closing on the Jefferson building as $250,000. The additional labor cost to remove and dispose of the existing metal panels was an unknown variable.

Minimum Qualifications and Requirements:
Only those Offerors who met the following minimum criteria outlined in the RFP were eligible to be evaluated. Any proposal submitted by an Offeror that did not meet these minimum qualifications and requirements would be rejected:

1. An Offeror must, at a minimum, hold a current State of New Mexico general contractor license designation of GB-98 and be licensed to do business in the State of New Mexico.

2. Have the ability to work around the existing tenant and to comply with their security and professional requirements.

3. Offeror shall be willing and able to enter into a standard American Institute of Architects (AIA) contract with MFA (**Exhibit B**). MFA shall be under no obligation to accept any material changes to the standard terms of the AIA contract. Materiality shall be determined in MFA's sole discretion.

4. Offeror shall provide evidence of its ability and willingness to provide MFA certificates of insurance acceptable to MFA prior to the commencement of any Work evidencing compliance with the insurance requirements in the AIA Document A101 Exhibit A, including but not limited to:
    a. Commercial General Liability;
    b. Automobile Liability;
    c. Workers' Compensation;
    d. Employers' Liability;
    e. All Risks; and
    f. Other insurance that may be identified by MFA

5. Offeror shall provide evidence of its ability and willingness to provide surety bonds, from a company or companies lawfully authorized to issue surety bonds in the jurisdiction where the Project is located, as follows:
    a. Payment Bond in an amount equal to 100% of the contract between MFA and Offeror
    b. Performance Bond in an amount equal to 100% of the contract between MFA and Offeror

Offerors were also required to meet the following requirements:

6. Offeror shall provide a written statement disclosing: (1) any political contribution or gift valued in excess of $250.00 (singularly or in the aggregate) made by Offeror to any elected official of the

State of New Mexico in the last three years, (2) any current or proposed business transaction between Offeror and any MFA member, officer, or employee, and (3) any other conflict or potential conflict which may give rise to a claim of conflict of interest.

7. Offeror shall provide a written statement disclosing any pending investigation, litigation, recent settlements or regulatory sanctions in performing professional services during the past five years involving Offeror's firm or employees or individuals or organizations involved in any third-party agreements or joint venture agreements. Describe any circumstances under which Offeror's firm or any of Offeror's members or employees have been disciplined by any professional licensing, regulatory or ethics entity. Indicate whether Offeror's firm has been involved in any capacity in litigation, investigations or regulatory proceedings involving HUD, the State of New Mexico, or any agency thereof.

8. Offeror shall provide written certification, on the form attached as Exhibit A (to the RFP), that Offeror has read and shall at all times conduct itself in a manner consistent with MFA's Third-Party Code of Conduct. Upon request by MFA, Offeror shall disclose information MFA may reasonably request relating to conflict or potential conflicts of interest.

9. Offeror shall provide a written certification that Offeror is an Equal Opportunity Employer and complies fully with all government regulations regarding nondiscriminatory employment practices.

Project Description

This project is the re-roof of the existing 2-story, ±44,978 square feet building located at 7425 Jefferson Street NE. The roof is approximately ±23,000 square feet with existing solar panels which need to be removed, stored and re-installed. The Offeror will be required to coordinate new roof penetrations with MFA's General Contractor who will be renovating the interior of the building and with tenant to maintain the Project Schedule.

Evaluation Criteria

The board-approved RFP set out the following criteria to evaluate proposals and gave the flexibility to award the contract for construction services to the offeror whose proposal is most advantageous to MFA. Proposals that met the Minimum Qualifications and Requirements were evaluated. Proposals were scored on a scale of 1 to 150 based on the criteria listed below. A serious deficiency in any one criterion could be grounds for rejection regardless of overall score.

Criteria	Point Range	Maximum Points
1. Evidence of Offeror's Ability to Perform the Work: 1. profiles of the technical competence and experience of: i. Offeror's principal(s); ii. Proposed Project manager and superintendent; and iii. any Subcontractor(s) identified in the response	 0-5 0-3 0-2	10
2. Examples of Past Performance in terms of cost control, quality of work, and compliance with performance schedules.	0-30	30
3. Base Bid Proposal not including NMGRT.	0-35	35
4. Project Schedule and capability to provide services in a timely manner	0-20	20
5. New Mexico Resident Business: Offeror is licensed to do business in New Mexico and the majority of Offeror's employees who would perform the services to be performed in New Mexico reside in New Mexico.	0-5	5
6. Interviews, if held	0-50	50
Maximum Points		150 with interviews held

Staff proposed and received approval from the MFA Policy Committee to create an internal review committee to evaluate the proposals received. MFA policy requires at least three members for an internal review committee. While policy also allows non-MFA staff to participate on the review committee, only MFA staff committee member scores as listed in **Exhibit A** were used to arrive at the recommendation. The internal review committee consisted of the MFA Chief Lending Officer, the Architectural Services Representative, and the Facilities Coordinator, all of whom are employed by MFA. MFA's Architectural Services Representative is an architect and member of MFA staff. He evaluates plans for proposed multifamily construction and renovation projects and inspects the work to make sure it meets or exceeds MFA's design standards. MFA's Facilities Coordinator manages the care, maintenance and vendors related to MFA's physical facilities.

Doug Heller, MFA's contracted architect, who was involved in providing information to the bidders, attended the scoring meeting and answered internal review committee member questions. Staff each individually reviewed and scored the proposals received prior to the scoring meeting and then came together to share those scores and their own evaluations of the proposals. All three proposals met the Minimum Qualifications and Requirements. The individual scores of the internal review committee members were recorded and averaged. Although there was some variation in the scores awarded by the individual committee members, there was unanimity in the ranking of the proposals.

Proposals Received

MFA received proposals from William Cervantes Enterprises, Inc. (“William Cervantes”), First Mesa Construction, Inc. (“First Mesa”), and J3 Systems, LLC (“J3 Systems”).

The following is a summary of the evaluation of each scoring category. **Final scores of all qualified offerors are summarized on attached, Exhibit A**

Ability to Perform the Work

William Cervantes (who also bid on the renovation contract) and First Mesa are general contractors and indicated they would subcontract to a roofing contractor for the project. The third offeror, J3 Systems is a roofing contractor with a general contractor license. They indicated that they would do the work themselves and not use a subcontractor as the company’s focus is roofing. Each of the offerors were experienced. Offerors provided information on their principals, and the proposed project manager and superintendent who would work with MFA on the project and shared their level of experience. J3 Systems scored the highest on average with 9.33 points followed closely by First Mesa at 8.33 and Cervantes at 7.67.

William Cervantes: William Cervantes’ proposal did provide much background about the company or how long it has been in business. The proposal listed Gerald Cervantes as the superintendent and Mr. Cervantes as the Project Manager, and Alanis Roofing, LLC and Gila Electric Inc. as subcontractors for the job.

J3 Systems: J3 indicated the company had been in business since 1973 with a focus on roofing. As a general contractor, J3 is also able to perform and contract out related project needs. J3 indicated it is an approved applicator of roofing systems. J3 has over 70 employees. Ouida Sanchez was listed as Project Coordinator. He has been with J3 Systems for 11 years. Eduardo Ramirez-Botello is listed as Project Manager with 12 years in the industry and 9 years at J3 Systems. J3 estimates that this project would account for approximately 11%- 17% of the company’s workload during the work period.

First Mesa: While First Mesa did not specifically say how long they have been in business, the proposal indicated their roofing engineer had worked with the Company for 23 years. First Mesa has collaborated with DKG & Associates to complete 75 or more roofs.

Examples of Past Performance

While all the offerors presented evidence of their capabilities as contractors, J3 Systems was seen as superior in their examples of past performance provided. All offerors indicated their projects were on time and on budget and customers were happy with their work. First Mesa and J3 Systems had examples of projects that were recent. All offerors showed they do very similar work to that specified in the RFP. As a result, J3 Systems received 27.33 points in this category while First Mesa Construction received 16.67 and Cervantes earned 16.67.

William Cervantes: The William Cervantes proposal listed 5 examples of past performance. These projects (completed by the subcontractor) were not recent and were as old as 2012, with the most recent completed in 2020. No recent examples were provided. They ranged in size from 6,600 sq ft to 27,000 sq ft. and used the roofing system specified in MFA's RFP.

J3 Systems: Listed 6 projects. J3's proposal provided the name or address of the project, date, size of roof, roofing product used and a contact name. The projects presented were all very relevant and used a roofing system specified in MFA's RFP. These projects are as recent as 2023 and no older than 2020 and were similar sizes. Four of the examples given were as large or larger than the current RFP request. They also provided a list of 22 clients comprising cities, counties, a shopping mall, and school districts.

First Mesa Construction: First Mesa's proposal listed six brief examples of projects although two were the replacement of a couple of large skylights. The proposal did not mention the type of roofing systems that were installed on these buildings. The projects presented by First Mesa were on occupied buildings and highlighted First Mesa's (and subcontractor's) ability to work around the needs of the occupants. Some of those buildings housed critical services that could not be interrupted.

Base Bid Proposal

J3 Systems received the highest score of 30.00, First Mesa Construction scored 25.00, and William Cervantes 23.33.

William Cervantes: $712,500
J3 Systems: $373,777
First Mesa Construction: $724,500

Project Schedule

J3 Systems presented a timeline that fit the expected time to complete the project provided by MFA's contracted architect. While William Cervantes' proposal mentioned an earlier completion time, the proposal lacked detail. J3 Systems timeline projected completion a few weeks later but but provided out a detailed path and schedule to meet that timeline. First Mesa's proposal indicated the amount of sq ft they could complete per work week but did not give any additional details. The review team had to calculate project completion timeframes based on pace of work and roof square footage. J3 Systems earned full points with First Mesa receiving 17.67 points and William Cervantes earning 14.33 of the 20 points available.

William Cervantes: No mention of a project schedule was made in the proposal aside from indicating that they would start upon materials becoming available.

J3 Systems: A very specific timeline was presented in the proposal from J3 Systems. J3 projected that the project could be completed by January 5, 2024, and solar panels re-installed by February 2, 2024.

First Mesa Construction: A pace of 3,500 square feet of roof per 40-hour work week was given in the First Mesa proposal. Trying to interpret that information, a 23,000 square foot roof would take over 6.5 weeks. It is not clear to the internal review committee whether this would include the time to remove the existing roof. First Mesa's proposal included copies of the specifications given in conjunction with the pre-bid conference with comments in red font interspersed throughout the document. This format made it much more difficult for the internal review committee to review the proposal. The committee was unsure of the actual timeframe proposed for the project.

New Mexico License and Employees

All offerors received all five points available.

William Cervantes: New Mexico licensed and New Mexico employees.
J3 Systems: New Mexico licensed and New Mexico employees.
First Mesa Construction: New Mexico licensed and New Mexico employees.

Results

After all scoring was determined and averaged, J3 Systems was the top choice with 91.67 points out of 100 possible and First Mesa as a runner up with 72.67 points followed by William Cervantes scoring 67.00 points.[1] Because J3 Systems scored significantly higher than the other offerors, interviews were not deemed as necessary.

Staff reached out to three references for J3 Systems, two school districts and one city government. All had very strong recommendations. Between the three references they had about 30 projects with J3 Systems. J3 was recommended as very professional and provided good and prompt customer service. Customers indicated J3 is good at keeping a schedule and change orders are very uncommon.

Summary:
The Board approved the Construction Services Request for Proposals to Re-Roof the building at 7425 Jefferson St. NE on July 19, 2023. MFA received three responses. All offerors met the Minimum Qualifications and Requirements and were scored. Staff recommends the Construction Services Award to Re-Roof 7425 Jefferson be made to J3 Systems, LLC along with an amendment to the capital budget for the award amount.

[1] Scorers included MFA's Architectural Services Representative and Facilities Coordinator. MFA's Executive Director recused himself from scoring as he is acquainted with the owners of offeror J3 Systems, LLC.

Exhibit A
Average Scores

Scoring Criteria	Point Range	Maximum Points	Cervantes Average	J3 Systems Average	First Mesa Construction Average
Ability to Perform the Work Profiles of technical competence and experience		10	7.67	9.33	8.33
Offeror's principal(s)	0-5				
Proposed Project manager and superintendent	0-3				
Any subcontractor(s) identified in response	0-2				
Examples of Past Performance: Cost control, quality of work, compliance with performance schedule	0-30	30	16.67	27.33	16.67
Base Bid Proposal not including NMGRT	0-35	35	23.33	30.00	25.00
Project Schedule: Capability to Provide Services in Timely Manner	0-20	20	14.33	20.00	17.67
Offeror is licensed to do business in New Mexico and the majority of Offeror's employees who would perform the services to be performed in New Mexico reside in New Mexico	0-5	5	5.00	5.00	5.00
Interviews (if held)	0-50	NA	NA	NA	NA
Total	**100-150**	**100**	**67.00**	**91.67**	**72.67**

MEMO

TO: MFA Board of Directors

Through: PC Committee October 10, 2023

FROM: Dolores Wood, Human Resources Director

DATE: October 17, 2023

SUBJECT: **401(k) and 457(b) Plan Amendment**

Recommendation:
Staff recommends approval of 401(k) and 457(b) Plan Amendments. The 401(k) plan amendment will include, 1) eliminates catch-up contributions, effective January 1, 2024, when the new requirement that catch-up contributions to those earning over a set amount must be made as Roth contributions was originally scheduled to take effective (the IRS just announced a 2-year delay in that provision's effective date), and 2) eliminates the forced distribution to terminated participants at age 65 and instead requires distributions when a terminated participant reaches required minimum distribution age.
The amendment of the 457(b) plan will eliminate availability of loans because of the administrative burden involved. Since the provisions prohibiting a cutback in Plan benefits does not apply to governmental plans, we made the change effective retroactively to when the Plan was adopted in June 2023.

Background:
MFA continually reviews employee benefit programs to ensure that they meet the needs of our staff members and the high standards of our organization. MFA Investment Committee met with Bank of Oklahoma to review MFA's 401(k) plan and discussed changes in upcoming IRS regulations as it relates to catch up contributions. Catch-up contributions are those contributions in excess of the maximum deferral amount ($22,500 in 2023) for anyone over 50 years of age. SECURE 2.0 provides that catch-up contributions must be made as Roth contributions for those earning more than $145,000 in the prior year. That SECURE 2.0 provision was designed as a revenue generator and not designed to be in the best interest of those age 50+ employees who are highly compensated. NMMFA, as a governmental entity, can have a 457(b) plan that permits catch-up contributions on a pre-tax basis. By eliminating catch-up in the 401(k) plan, those wanting to defer more than the $22,500 cap can still do so, but keep it pre-tax by deferring the amount to the 457(b) plan. (While this could now be delayed for 2 years, the amendments have been drafted and there is no disadvantage to employees to have them contribute the catch-up to the 457(b) plan, so we believe this should be adopted now.)

In addition, we discussed that under the 401(k) Plan's current terms, terminated employees must take their money out of the plan at the age of 65. The decision was made to eliminate this requirement and instead provide that distributions must occur when a former employee reaches the minimum distribution age. The required minimum age was just increased by SECURE 2.0 to age 73 for those turning 73 after December 31, 2022.

In addition, a decision was made to eliminate availability of loans because of the administrative burden involved in offering loans under a 457(b) plan. Loans would still be permissible under the 401(k) Plan. Since the provisions prohibiting a cutback in Plan benefits does not apply to governmental plans, the change was made to be effective retroactively to when the Plan was adopted in June 2023.

The Board has delegated authority to the Investment Committee to administer the Plans, and to select and monitor investment options. The members of the Investment Committee are the Executive Director, Chief Lending Officer, Chief Housing Officer, Chief Financial Officer, Human Resources Director, and two employee representatives.

Discussion:
MFA's 401k plan document states "catch up contributions can be made as a grandfathered catch-up contribution into the 401(k) plan directly. The IRS new rule states that catch up contributions must be made as Roth, post-tax contributions. Therefore, MFA has modified the 457(b) plan which would allow staff to make catch-up contributions on a pre-tax basis.
MFA's 457(b) plan language as it relates to loans was approved by the Board on May 17, 2023, however, after much discussion MFA determined the availability of loans in the 457(b) was administratively burdensome. In addition, two loans are made available to staff under the 401(k) plan.

Summary:
Staff recommends approval of 401(k) and 457(b) Plan Amendments. The 401(k)-plan amendment will include, 1) eliminates catch-up contributions, effective January 1, 2024, and 2) eliminates the forced distribution to terminated participants at age 65 and instead requires distributions when a terminated participant reaches required minimum distribution age.
The amendment of the 457(b) plan will eliminate availability of loans because of the administrative burden involved. Since the provisions prohibiting a cutback in Plan benefits does not apply to governmental plans, we made the change effective retroactively to when the Plan was adopted in June 2023.

AMENDMENT TO
NEW MEXICO MORTGAGE FINANCE AUTHORITY
401(k) PLAN

AMENDMENT made this _____ day of _____, 2023, by New Mexico Mortgage Finance Authority, hereinafter called the "Employer."

WHEREAS, under the New Mexico Mortgage Finance Authority 401(k) Plan ("Plan"), the Employer reserves the right at any time to amend the Plan by written instrument, and

WHEREAS, the Employer would like to eliminate catch-up contributions, and to eliminate force out provisions prior to reaching Required Minimum Distribution age, and

WHEREAS, the Employer desires to amend the Plan in the manner and to the extent hereinafter set forth and the Trustee is agreeable to said amendment.

NOW, THEREFORE, effective January 1, 2024, Section C1(c) of the Adoption Agreement of the Plan shall be amended in its entirety as follows:

1. Minimum and Maximum Employee Contributions

a. Voluntary Contributions

i. Minimum Voluntary Contribution: _____

ii. Maximum Voluntary Contribution: _____

iii. Other limits on Voluntary Contributions apply: _____

b. Grandfathered 401(k) Contributions

i. **[X]** Minimum Grandfathered 401(k) Contribution: 1% of Plan Compensation

ii. **[ ]** Minimum Grandfathered 401(k) Contribution: $_____ for the following period: _____

iii. **[X]** Maximum Grandfathered 401(k) Contribution: 100% of Plan Compensation

iv. **[ ]** Other limitations on Grandfathered 401(k) Contributions (specify): _____

c. **[ ]** Allow Participants to make Catch-up Contributions in addition to Grandfathered 401(k) Contributions

NOTE: *C.1a.i,C.1b.i, C.1a.ii and C.1b.iii may not be more than 100% of Plan Compensation.*

NOTE: *If C.1a.iii or C.1b.iv is selected the requirements provided must be objectively determinable and may not be specified in a manner that is subject to discretion.*

NOTE:*C.1b and C.1c shall not apply if A.8d is not selected (Grandfathered 401(k) Contributions are not permitted).*

NOW, THEREFORE, effective January 1, 2024, Section E9(b) of the Adoption Agreement of the Plan shall be amended in its entirety as follows:

9. Force-Out Provisions

b. Force-out of a terminated Participant's Account balance is deferred under Section 7.03(b) until:

i. **[ ]** Later of age 62 or Normal Retirement Age - payment made in a lump sum only

ii. **[ ]** Required Beginning Date - Participant may elect payment in a lump sum or installments

iii. **[X]** Required Beginning Date - payment made in a lump sum only

IN WITNESS WHEREOF, the Employer has caused this Agreement to be executed by New Mexico Mortgage Finance Authority, as Employer, on the date first above written.

EMPLOYER:

NEW MEXICO MORTGAGE AUTHORITY

By _____

NEW MEXICO MORTGAGE FINANCE AUTHORITY
FORMAL RECORD OF ACTION

The following is a formal record of action taken by the governing body of New Mexico Mortgage Finance Authority (the "Company").

With respect to the amendment of the New Mexico Mortgage Finance Authority 401(k) Plan (the "401(k) Plan"), the following resolutions are hereby adopted:

RESOLVED: That the amendment to the 401(k) Plan to eliminate catch-up contributions effective January 1, 2024 and as set forth in the form attached hereto, is hereby adopted; and

RESOLVED FURTHER: That the amendment to the 401(k) Plan to eliminate force out of terminated participants at age 65, effective January 1, 2024 and as set forth in the form attached hereto, is hereby adopted; and

RESOLVED FURTHER: That the officers of the Company be, and they hereby are, authorized and directed to take any and all actions and execute and deliver such documents as they may deem necessary, appropriate or convenient to effect the foregoing resolutions including, without limitation, causing to be prepared and filed such reports documents or other information as may be required under applicable law.

Dated this _____ day of _____, 2023

_____

AMENDMENT TO
NEW MEXICO MORTGAGE FINANCE AUTHORITY
SECTION 457(b) PLAN

AMENDMENT made this _____ day of _____, 2023, by New Mexico Mortgage Finance Authority, hereinafter called the "Employer."

WHEREAS, under the New Mexico Mortgage Finance Authority Section 457(b) Plan ("457(b) Plan"), the Employer reserves the right at any time to amend the Plan by written instrument, and

WHEREAS, the Employer would like to eliminate the availability of loans from the 457(b) Plan, and

WHEREAS, the Employer desires to amend the Plan in the manner and to the extent hereinafter set forth and the Trustee is agreeable to said amendment.

NOW, THEREFORE, effective June 1, 2023, Section F11 of the Adoption Agreement of the Plan shall be amended in its entirety as follows:

Loans/Inservice

11. If the Plan is a Governmental Plan, specify whether Participant loans may be made (Section 6.13):

[ ] Yes **[X]** No

IN WITNESS WHEREOF, the Employer has caused this Agreement to be executed by New Mexico Mortgage Finance Authority, as Employer, on the date first above written.

EMPLOYER:

NEW MEXICO MORTGAGE AUTHORITY

By _____

NEW MEXICO MORTGAGE FINANCE AUTHORITY
FORMAL RECORD OF ACTION

The following is a formal record of action taken by the governing body of New Mexico Mortgage Finance Authority (the "Company").

With respect to the amendment of the New Mexico Mortgage Finance Authority Section 457(b) Plan (the "457(b) Plan"), the following resolutions are hereby adopted:

RESOLVED: That the amendment to the 457(b) Plan to eliminate loans effective June 1, 2023 and as set forth in the form attached hereto, is hereby adopted; and

RESOLVED FURTHER: That the officers of the Company be, and they hereby are, authorized and directed to take any and all actions and execute and deliver such documents as they may deem necessary, appropriate or convenient to effect the foregoing resolutions including, without limitation, causing to be prepared and filed such reports documents or other information as may be required under applicable law.

Dated this _____ day of _____, 2023

_____

Staff Actions Requiring Notice to Board
During the Period of September 2023

Department and Program	Project	Action Taken	Comments / Date Approved
Servicing Department	September 2023 Loan Write off	Three First Down DPA Loans written off due to first mortgage foreclosure, for a total of $$17,296.90. Three Mortgage Booter DPA write off for due to first mortgage foreclosure for a total of $17,052.51. Total September write off of $35,349.41 due to first mortgage foreclosure and no excess funds to pay off the DPA loan.	Approved by Teresa Lloyd, Director of Servicing and Yvonne Segovia, Controller on September 29, 2023
Servicing Department	September 2023 NPL Write Off	Four First Down 30 Non-Performing loan write off totaling $26,395.94. One Mortgage Booster write off for $5,246.04. Total NPL write off for September $31,641.98 due to nonpayment and borrower nonresponse.	Approved by Teresa Lloyd, Director of Servicing and Yvonne Segovia, Controller on September 29, 2023
Community Development Department- HOME ARP Supportive Services	Award Structure Change	Approval to change the way the HOME ARP Supportive Services funds are awarded. Rather than have an annual award amount for each subrecipient, they would be able to request a draw of up to $400,000 at any given time once their current award is at least 75% expended, until the funds are completely exhausted.	Approved by PC on September 19, 2023
Community Development Department -Homeowner Rehab	New Mexico Housing Trust Fund Rehab funds to pay invoices on two rehab projects.	Approval to use $32,969.71 in NMHTF rehab funding to pay the remaining invoices on two San Felipe Pueblo Housing Authority rehab projects that were deemed ineligible for HOME funds by HUD.	Approved by PC on September 19, 2023

Department and Program	Project	Action Taken	Comments / Date Approved
Programs Department and Community Development Department - Emergency Homeless Assistance Program (EHAP)	Lexington Hotel Emergency Funding Request	Approval of $30,000 in funding for the Lexington Hotel, a homeless shelter in Gallup, NM from the New Mexico Affordable Housing Charitable Trust to keep 28 adults and children housed in the shelter.	Approved by PC on September 26, 2023

MFA Housing New Mexico

MEMO

TO: MFA Board of Directors

FROM: Izzy Hernandez, CEO/Executive Director

DATE: October 18, 2023

SUBJECT: Board Member Feedback from the 2023 Board Retreat

This memorandum provides a summary of MFA Board Member feedback given during the September 2023 Board Retreat. Feedback is organized by the Action Areas outlined in the 2022 New Mexico Housing Strategy with an additional "General Comments" category. Also included in the summary are select, related accomplishment highlights. MFA staff intend to use the Board's feedback as the foundation for the development of MFA's 2025-2030 Strategic Plan, in making program allocation decisions, and in program design considerations.

Action Area Comments

Create More Housing
• Expand engagement with single family developers to explore lot development opportunities. • Explore single family development programs, including researching a state tax credit for single family housing comparable to the Low-Income Housing Tax Credit program and incentive programs for single family development. • Explore high quality manufactured housing as a single-family development solution. • Increase funding to Community Development Finance Institutions (CDFIs) and invest to grow high performing service providers. • Expand programs to address supply-side challenges to housing opportunities, such as "turn-key" and "model homes" and "standard innovative techniques." • Look towards building practices that are ready for full electrification, incorporate solar into development and advance home efficiency.
MFA Progress to Date
• In Quarter 4, 2023 MFA staff facilitated a single-family developer forum to inform program considerations for a dedicated single family development program. Drawing on input from the forum, MFA staff developed a Single-Family Development Grant Pilot Program NOFA for approval at the October 2023 Board meeting. • Through this year MFA has engaged the Energy Minerals and Natural Resources Department (EMNRD) to determine how Inflation Reduction Act (IRA) funds may be used for residential housing and solar.   ○ Recently provided a letter of support to EMNRD on their Solar for All application. • MFA has explored how its weatherization program may be expanded to include solar installation.

Preserve and Improve Existing Affordable Housing and Catalyze Redevelopment
• Increase incentives for housing preservation and development in rural communities.
MFA Progress to Date
• In 2023 MFA launched the Restoring Our Communities Program and the Preservation Loan Program, which direct funding to redevelopment and preservation activities. • The Housing Innovation Program and Single-Family Development Grant Pilot Program prioritize Tribal and rural projects.
Build Homeownership and Wealth
• Create generational wealth building opportunities.
MFA Progress to Date
• MFA launched the Down Payment Advantage Program, to target downpayment assistance at low income household that would otherwise be unable to achieve homeownership. This program served approximately 300 households before funding was exhausted.
Create Stable Housing Environments for Persons Experiencing Homelessness and with Special Needs
• Continue to pursue housing programs that incorporate behavioral/mental health services.
MFA Progress to Date
• MFA administered an additional $1 million of Linkages funding and is currently developing two permanent supportive housing projects.

General Comments

Organizational Performance
• Explore data metrics, like waitlist, to allocate program funding and demonstrate MFA impact.   ○ Production/Impacts in rural communities. • Analyze MFA performance with past New Mexico Housing Trust Fund (NMHTF) allocations to demonstrate additional appropriations will be deployed. • Determine MFA's efficiency ratio (administrative funding to total funding) to demonstrate effectiveness.
MFA Progress to Date
• MFA has committed 100% of all state appropriations to the NMHTF from 2022 and earlier. MFA has expended 40% of these funds. • MFA has committed 23% of the State Fiscal Year Severance Tax Bond earmark. • MFA has only used 2% of the 5% allowed in administrative expenses for administration of the NMHTF.
Communications and Partnerships
• Improve messaging with storytelling. • Increase participation of legislators. • Expand MFA's partnerships to include economic and workforce development stakeholders. • Increase efforts to raise money (State Tax Credit Program) through a "neighbor by neighbor" approach.

MFA Progress to Date
• MFA has created a library of program beneficiary testimonials to use for outreach. • In FY 2023 MFA met with nearly 40 state legislators as well as members of New Mexico's federal delegation. • In FY 2023 MFA met with over 100 partners and prospective service providers to expand business development.
Strategic Approach
• Incorporate an economic development component into housing initiatives. • Wholistically consider the impact of other public investments (healthcare, financial literacy, employment opportunities) on housing needs. • Explore apprenticeship programs to increase New Mexico's workforce and bolster incomes.
MFA Progress to Date
• MFA uses the National Homebuilders Association model to estimate the economic impact of its housing development projects.

New Mexico Mortgage Finance Authority

Combined Financial Statements

and Schedules

August 31, 2023

NEW MEXICO MORTGAGE FINANCE AUTHORITY
FINANCIAL REVIEW
For the eleven-month period ended August 31, 2023

	COMPARATIVE FISCAL YEAR-TO-DATE FIGURES (Dollars in millions):	11 months 8/31/2023	11 months 8/31/2022	% Change Year / Year	Forecast 8/31/2023	Actual to Forecast	Forecast/Target 9/30/23
	PRODUCTION						
1	Single family issues (new money):	$315.0	$390.0	-19.2%	$275.0	14.5%	$300.0
2	Single family loans sold (TBA):	$15.0	$83.0	-82.0%	$9.2	63.6%	$10.0
3	Total Single Family Production	$330.0	$473.0	-30.2%	$284.2	16.1%	$310.0
4	Single Family Bond MBS Payoffs:	$48.7	$139.6	-65.1%	$43.9	11.0%	$47.9
	STATEMENT OF NET POSITION						
5	Avg. earning assets:	$1,760.1	$1,555.2	13.2%	$1,721.9	2.2%	$1,721.9
6	General Fund Cash and Securities:	$122.4	$102.3	19.6%	$87.8	39.4%	$87.8
7	General Fund SIC FMV Adj.:	$1.6	-$3.3	149.4%	$0.0	N/A	$0.0
8	Total bonds outstanding:	$1,559.2	$1,404.3	11.0%	$1,303.8	19.6%	$1,422.4
	STATEMENT OF REVENUES, EXPENSES AND NET POSITION						
9	General Fund expenses (excluding capitalized assets):	$23.1	$22.0	5.0%	$25.2	-8.5%	$27.5
10	General Fund revenues:	$31.8	$24.7	28.7%	$27.5	15.7%	$29.9
11	Combined net revenues (all funds):	$15.6	-$0.9	1753.2%	$9.1	71.5%	$10.0
12	Combined net revenues excluding SIC FMV Adj. (all funds):	$14.4	$4.1	247.2%	$9.1	57.4%	$10.0
13	Combined net position:	$301.3	$285.0	5.7%	$296.1	1.7%	$296.1
14	Combined return on avg. earning assets:	0.97%	-0.07%	1560.7%	0.58%	67.2%	0.58%
15	Combined return on avg. earning assets excluding SIC FMV Adj. (all funds):	0.89%	0.29%	206.7%	0.58%	53.4%	0.58%
16	Net TBA profitability:	0.59%	0.33%	77.8%	0.57%	3.5%	0.57%
17	Combined interest margin:	0.86%	0.54%	59.6%	0.79%	8.6%	0.79%
	MOODY'S BENCHMARKS						
18	Net Asset to debt ratio (5-yr avg):	24.04%	25.99%	-7.5%	25.18%	-4.5%	25.18%
19	Net rev as a % of total rev (5-yr avg):	10.80%	10.93%	-1.2%	10.12%	6.7%	10.12%
	SERVICING						
20	Subserviced portfolio	$2,098.5	$1,896.7	10.6%	$2,005.8	4.6%	$2,015.4
21	Servicing Yield (subserviced portfolio)	0.40%	0.41%	-0.01%	0.38%	4.9%	0.38%
22	Combined average delinquency rate (MFA serviced)	8.22%	8.05%	2.1%	9.50%	-13.5%	9.50%
23	DPA loan delinquency rate (all)	7.89%	7.18%	9.9%	N/A	N/A	N/A
24	Default rate (MFA serviced-annualized)	0.65%	0.81%	-18.9%	1.30%	-49.7%	1.30%
25	Subserviced portfolio delinquency rate (first mortgages)	11.14%	10.83%	2.9%	N/A	N/A	N/A
26	Purchased Servicing Rights Valuation Change (as of 6/30/23)	$11.0	$10.4	6.1%	N/A	N/A	N/A

Legend: Positive Trend | Caution | Negative Trend | Known Trend/Immaterial

NEW MEXICO MORTGAGE FINANCE AUTHORITY
FINANCIAL REVIEW
For the eleven-month period ended August 31, 2023

SUMMARY OF BOND ISSUES:

Single Family Issues:

$74.99 mm Series 2022E (November)
$60.00 mm Series 2023A (February)
$80.00 mm Series 2023B (May)
$100.00 mm Series 2023C (August)

CURRENT YEAR FINANCIAL TRENDS & VARIANCES:

●The single-family production has decreased from last year due to headwinds from rising home prices, climbing mortgage rates, and high inflation. Due to changes in the economics of the mortgage program, we currently favor issuing tax-exempt bonds as the primary loan financing tool. In June, we started to sell Mortgage-Backed Securities (MBS) originated through our HomeForward mortgage program into the TBA market. The issuance of bonds is currently producing a lower mortgage rate for the First Home program than the sales of those loans to the TBA market. As a result, MFA is likely to lean more heavily toward bond financing and continue to use the TBA market where beneficial. Payoffs slowed by 65% since last year due to rising mortgage rates discouraging homeowners from refinancing their loans.

● In eleven months of activities, the Return on Average earnings assets was 0.97%, which is significantly better than last year as we rely heavily on bond financing, which led to growth in earning assets as new mortgage loans with higher interest rates are added to the balance sheet and earn interest revenue. Cash through bond proceeds and mortgage payments are invested in short-term funds earning higher interest revenue.

● The General Fund expenses increased 4.97% compared to last year, while the General Fund revenue increased by 28.69% due to interest from loans and investments, and loan servicing income recognized higher than budgeted. The rise in short-term rates is having a direct and immediate positive effect on MFA earnings.

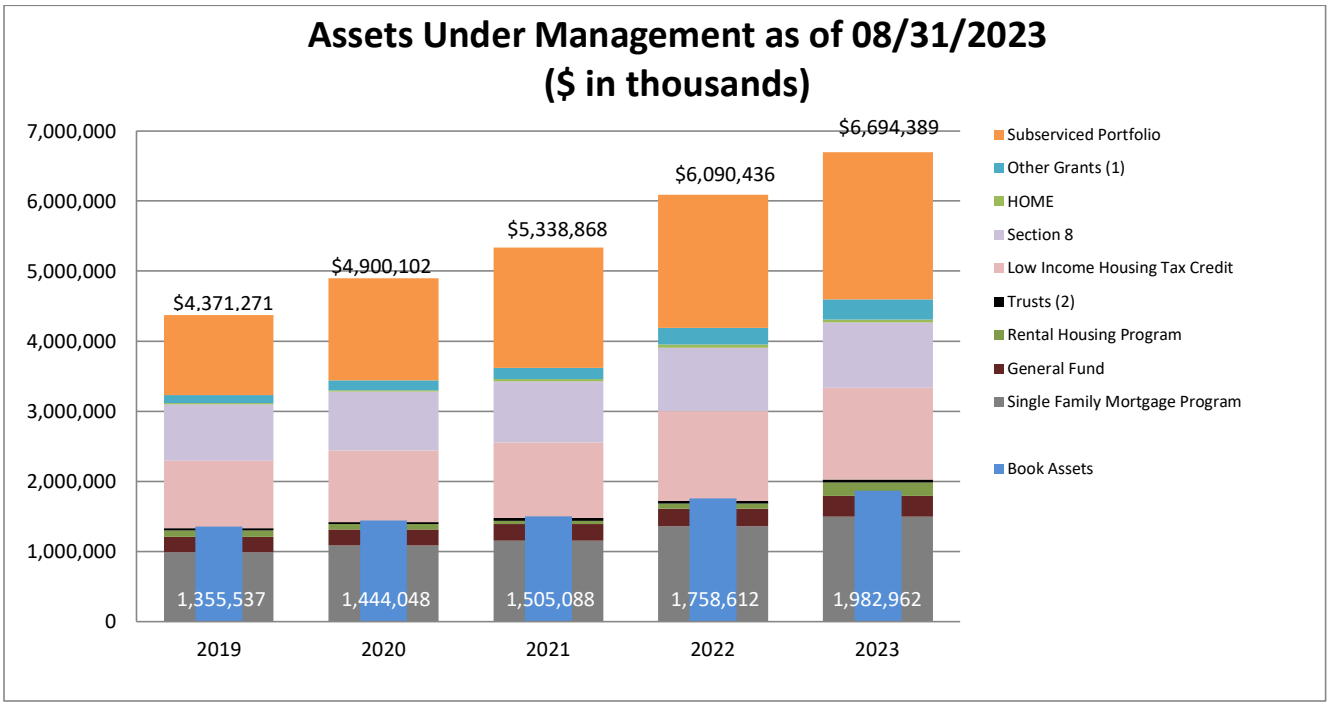
● The combined interest margin of 0.86% increased from the FY22 year-end mark of 0.54% due to higher income from interest on loans and investments. The rising interest rates are positively impacting loan portfolio performance, bolstering MFA's investment income and discouraging homeowners from refinancing their loans.

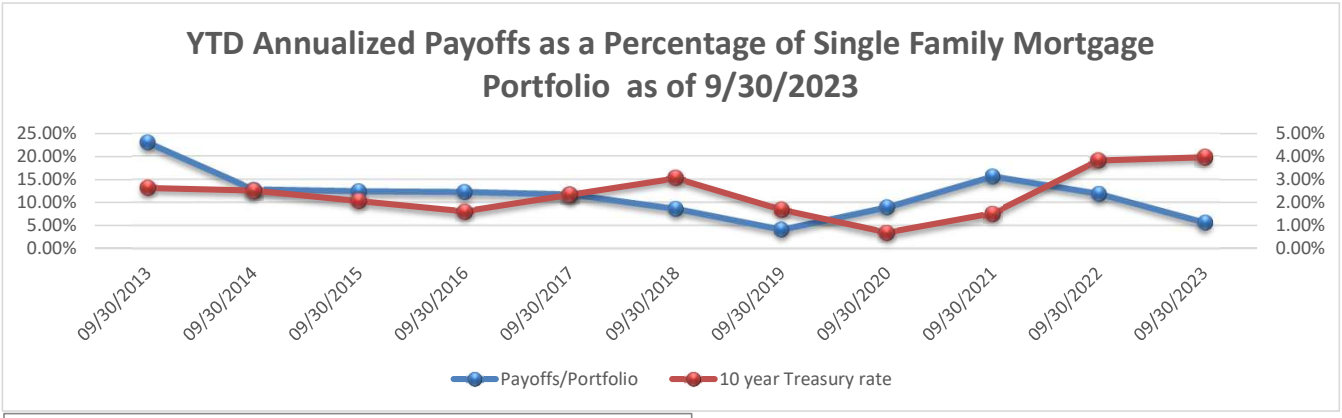
● Based on Moody's issuer credit rating scorecard, MFA's 24.04% net asset to debt ratio (5-year average), which measures balance sheet strength, indicates a strong and growing level of resources for maintaining HFA's creditworthiness under stressful circumstances (> 20 %). The net revenue as a percent of total revenue measures performance and profitability. MFA's 10.80% ratio (5-year average) is just within the optimal range (10-15%) because the percentage was low in fiscal 2022 due to decreased FMV of SIC investments, lower TBA profitability resulting from market changes, and increased repurchased loan expenses. Although net revenue has increased substantially in FY23, the ratio remains below target because total revenue includes federal grants that have increased 52% this fiscal year.

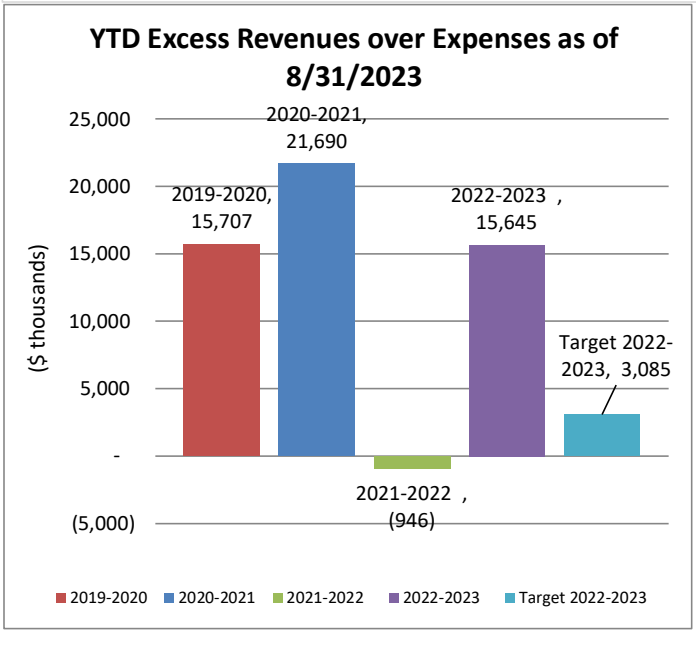
● Moody's Investor Services completed an updated credit opinion on MFA's Issuer Credit Rating in June 2020. They assigned the Aa3/stable rating. Comments included a high asset-to-debt ratio, good profitability, and a low-risk profile due to a mortgage-backed security structure, and no exposure to variable-rate debt. Additionally, Moody's reaffirmed the Aaa/stable rating on the single-family indenture in April 2021, noting a growing asset-to-debt ratio and stabilizing profitability.

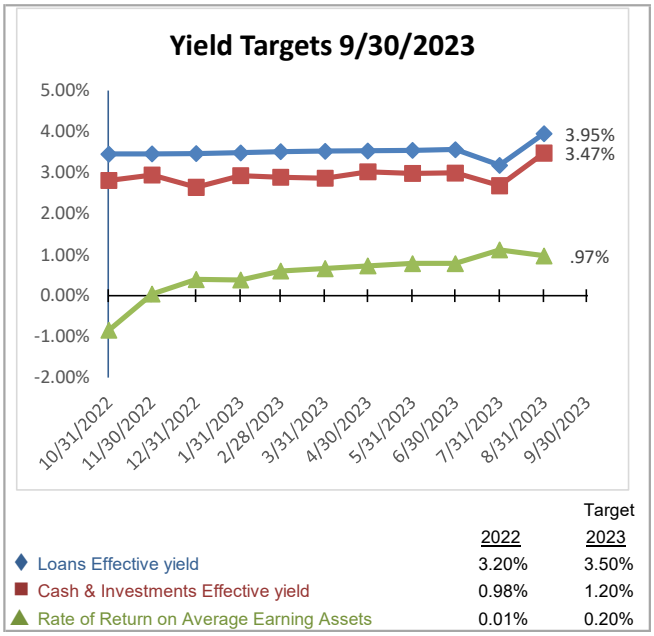
● The Servicing Department monitors delinquencies and defaults to identify reduction strategies and refer borrowers to available loss mitigation programs. The Subserviced Portfolio delinquency rate is 11.14%. The subserviced portfolio is approximately 85% FHA-insured loans. The Mortgage Bankers Association quarterly survey as of June 30, 2023, indicates that the delinquency rate for FHA loans nationally is 8.95%, and for New Mexico is 6.59%. In addition, FHA Single Family Loan Performance Trends for July 2023 showed 12.86% delinquency (for purchase loans only), which increased from 12.61% in June 2023.

● The fair market value for purchased servicing rights as of June 2023 is $30.6 million, an increase of about $11.0 million over cost. GASB requires MFA to record the value of servicing rights at the 'lower of cost or market'. The elevated FMV is related to decreased prepayment speed projections, and increased earnings rates impacted portfolio value positively. The current recorded cost of the asset is $19.6 million. Valuations are obtained every quarter.









	2022	Target 2023
Loans Effective yield	3.20%	3.50%
Cash & Investments Effective yield	0.98%	1.20%
Rate of Return on Average Earning Assets	0.01%	0.20%

(1) Weatherization Assistance Programs; Emergency Shelter Grant; State Homeless; Housing Opportunities for People With Aids; NM State Tax Credit; Governor's Innovations; EnergySaver; Tax Credit Assistance Program; Tax Credit Exchange; Neighborhood Stabilization Program; Section 811 PRA; Homeownership Preservation Program (2) NM Affordable Housing Charitable Trust Fund; Land Title Trust Fund; Housing Trust Fund

NEW MEXICO MORTGAGE FINANCE AUTHORITY
COMBINED STATEMENT OF NET POSITION
AUGUST 2023
(THOUSANDS OF DOLLARS)

	YTD 8/31/23	YTD 08/31/22
ASSETS:		
CURRENT ASSETS:		
CASH & CASH EQUIVALENTS	$69,079	$54,185
RESTRICTED CASH HELD IN ESCROW	10,453	9,347
SHORT-TERM INVESTMENTS	-	(0)
ACCRUED INTEREST RECEIVABLE	5,744	4,273
OTHER CURRENT ASSETS	7,689	8,475
ADMINISTRATIVE FEES RECEIVABLE (PAYABLE)	-	4
INTER-FUND RECEIVABLE (PAYABLE)	0	0
TOTAL CURRENT ASSETS	92,965	76,284
CASH - RESTRICTED	161,118	158,560
LONG-TERM & RESTRICTED INVESTMENTS	67,247	63,197
INVESTMENTS IN RESERVE FUNDS	-	-
FNMA, GNMA, & FHLMC SECURITIZED MTG. LOANS	1,440,997	1,209,354
MORTGAGE LOANS RECEIVABLE	195,854	156,758
ALLOWANCE FOR LOAN LOSSES	(9,643)	(9,822)
NOTES RECEIVABLE	-	-
FIXED ASSETS, NET OF ACCUM. DEPN	11,612	1,757
OTHER REAL ESTATE OWNED, NET	2,624	1,657
OTHER NON-CURRENT ASSETS	11	14
INTANGIBLE ASSETS	20,018	18,483
TOTAL ASSETS	1,982,806	1,676,241
DEFERRED OUTFLOWS OF RESOURCES		
REFUNDINGS OF DEBT	156	190
TOTAL ASSETS & DEFERRED OUTFLOWS OF RESOURCES	1,982,962	1,676,431
LIABILITIES AND NET POSITION:		
LIABILITIES:		
CURRENT LIABILITIES:		
ACCRUED INTEREST PAYABLE	$15,458	$8,397
ACCOUNTS PAYABLE AND ACCRUED EXPENSES	21,859	25,690
ESCROW DEPOSITS & RESERVES	10,315	9,265
TOTAL CURRENT LIABILITIES	47,632	43,352
BONDS PAYABLE, NET OF UNAMORTIZED DISCOUNT	1,559,241	1,336,075
MORTGAGE & NOTES PAYABLE	74,395	12,053
ACCRUED ARBITRAGE REBATE	-	-
OTHER LIABILITIES	190	217
TOTAL LIABILITIES	1,681,458	1,391,696
DEFERRED INFLOWS	251	283
TOTAL LIAB/DEFERRED INFLOWS	1,681,709	1,391,979
NET POSITION:		
NET INVESTED IN CAPITAL ASSETS	11,612	1,757
UNAPPROPRIATED NET POSITION (NOTE 1)	69,734	60,272
APPROPRIATED NET POSITION (NOTE 1)	219,907	222,423
TOTAL NET POSITION	301,253	284,452
TOTAL LIABILITIES & NET POSITION	1,982,962	1,676,431

NEW MEXICO MORTGAGE FINANCE AUTHORITY
STATEMENT OF REVENUES, EXPENSES AND CHANGES IN NET POSITION
FOR THE ELEVEN MONTHS ENDED AUGUST 2023
(THOUSANDS OF DOLLARS)

	YTD 8/31/23	YTD 08/31/22
OPERATING REVENUES:		
INTEREST ON LOANS	$50,073	$38,460
INTEREST ON INVESTMENTS & SECURITIES	6,592	1,835
LOAN & COMMITMENT FEES	3,130	3,341
ADMINISTRATIVE FEE INCOME (EXP)	4,887	5,929
RTC, RISK SHARING & GUARANTY INCOME	539	397
HOUSING PROGRAM INCOME	1,749	1,827
LOAN SERVICING INCOME	9,004	8,395
OTHER OPERATING INCOME	-	-
SUBTOTAL OPERATING REVENUES	75,975	60,185
NON-OPERATING REVENUES:		
ARBITRAGE REBATE INCOME (EXPENSE)	-	-
GAIN(LOSS) ASSET SALES/DEBT EXTINGUISHMENT	1,309	(4,773)
OTHER NON-OPERATING INCOME	107	1
GRANT AWARD INCOME	92,358	58,914
SUBTOTAL NON-OPERATING REVENUES	93,775	54,141
TOTAL REVENUES	169,749	114,327
OPERATING EXPENSES:		
ADMINISTRATIVE EXPENSES	19,455	18,971
INTEREST EXPENSE	42,821	32,664
AMORTIZATION OF BOND/NOTE PREMIUM(DISCOUNT)	(3,258)	(2,932)
PROVISION FOR LOAN LOSSES	393	152
MORTGAGE LOAN & BOND INSURANCE	-	-
TRUSTEE FEES	146	135
AMORT. OF SERV. RIGHTS & DEPRECIATION	1,599	2,612
BOND COST OF ISSUANCE	2,752	3,673
SUBTOTAL OPERATING EXPENSES	63,908	55,275
NON-OPERATING EXPENSES:		
CAPACITY BUILDING COSTS	154	218
GRANT AWARD EXPENSE	90,042	59,815
OTHER NON-OPERATING EXPENSE	-	-
SUBTOTAL NON-OPERATING EXPENSES	90,196	60,033
TOTAL EXPENSES	154,105	115,309
NET REVENUES	15,645	(982)
OTHER FINANCING SOURCES (USES)	-	-
NET REVENUES AND OTHER FINANCING SOURCES(USES)	15,645	(982)
NET POSITION AT BEGINNING OF YEAR	285,608	285,434
NET POSITION AT 8/31/23	301,253	284,452

NOTES TO FINANCIAL STATEMENTS
(For Informational Purposes Only)
(in Thousands of Dollars)

(Note 1) MFA Net Position as of August 31, 2023:

UNAPPROPRIATED NET POSITION:

$	31,066	is held by Bond Program Trustees and is pledged to secure repayment of the Bonds.
$	37,839	is held in Trust for the NM Housing Trust Fund and the NM Land Title Trust Fund.
$	829	is held for New Mexico Affordable Housing Charitable Trust.
$	**69,734**	Total Unappropriated Net Position

APPROPRIATED NET POSITION: GENERAL FUND
By actions of the Board of Directors on various dates, General Fund net assets have been appropriated as follows:

$	117,129	for use in the Housing Opportunity Fund ($106,441 in loans and grants plus $10,688 unfunded, of which $5,406 is committed).
$	54,649	for future use in Single Family & Multi-Family housing programs.
$	1,096	for loss exposure on Risk Sharing loans.
$	11,612	invested in capital assets, net of related debt.
$	19,930	invested in mortgage servicing rights.
$	5,769	for the future General Fund Budget year ending 09/30/23 ($41,918 total budget less $36,148 expended budget through 8/31/23.)
$	210,185	Subtotal - General Fund

APPROPRIATED NET POSITION: HOUSING

$	21,334	for use in the federal and state housing programs administered by MFA.
$	21,334	Subtotal - Housing Program
$	**231,519**	Total Appropriated Net Position
$	**301,253**	Total Combined Net Position at August 31,2023

Total combined Net Position, or reserves, at August 31, 2023 was $301.3 million, of which $70 million was pledged to the bond programs, Affordable Housing Charitable Trust and fiduciary trusts. $232 million of available reserves, with $122.4 million primarily liquid in the General Fund and in the federal and state Housing programs and $109 million illiquid in the programs of the General Fund, have been:

- for use in existing and future programs
- for coverage of loss exposure in existing programs
- to meet servicing requirements, and
- for support of operations necessary to carry out the programs.

MFA's general plan for bond program reserves as they may become available to MFA over the next 30 years is to use the reserves for future programs, loss exposure coverage, servicing requirements and operations.

GENERAL FUND
Fiscal Year 2022-2023 Budget
For the eleven months ended 8/31/2023

	One Month Actual	Year to Date Actuals	Year to Date ProRata Budget	Annual Budget	YTD Budget Under/(Over)	Annual Budget Under/(Over)	Expended Annual Budget %
Revenue							
Interest Income	842,292	7,604,310	7,704,942	8,405,392	100,633	801,082	90.47%
Interest on Investments & Securities	271,238	2,344,741	1,208,401	1,318,256	(1,136,340)	(1,026,485)	177.87%
Loan & Commitment Fees	23,862	165,744	160,732	175,344	(5,012)	9,600	94.53%
Administrative Fee Income (Exp)	929,919	8,628,849	7,708,125	8,408,864	(920,723)	(219,985)	102.62%
Risk Sharing/Guaranty/RTC fees	495,049	537,604	425,086	463,730	(112,518)	(73,874)	115.93%
Housing Program Income	102,060	1,748,463	1,525,164	1,530,014	(223,299)	(218,449)	114.28%
Loan Servicing Income	757,284	9,004,417	8,648,515	9,434,743	(355,902)	430,327	95.44%
Other Operating Income			-	-	-	-	
Operating Revenues	3,421,704	30,034,128	27,380,966	29,736,343	(2,653,162)	(297,785)	101.00%
Gain (Loss) Asset Sale/Debt Ex	540,924	1,644,890	-	-	(1,644,890)	(1,644,890)	
Other Non-operating Income	20,085	106,907	84,653	126,942	(22,254)	20,035	84.22%
Non-Operating Revenues	561,009	1,751,796	84,653	126,942	(1,667,143)	(1,624,854)	1380.00%
Revenue	3,982,713	31,785,925	27,465,619	29,863,285	(4,320,306)	(1,922,639)	106.44%
Salaries	572,362	6,468,441	7,370,622	7,992,009	902,181	1,523,569	80.94%
Overtime	4,245	41,770	34,693	37,585	(7,077)	(4,186)	111.14%
Incentives	6,231	463,576	625,590	678,356	162,014	214,780	68.34%
Payroll taxes, Employee Benefits	266,940	3,053,804	3,646,740	3,965,221	592,936	911,417	77.01%
Compensation	849,779	10,027,591	11,677,646	12,673,171	1,650,055	2,645,580	79.12%
Business Meals Expense	298	4,380	6,618	7,220	2,238	2,840	60.67%
Public Information	8,326	132,619	311,197	339,488	178,579	206,869	39.06%
In-State Travel	7,344	64,702	146,365	159,671	81,663	94,969	40.52%
Out-of-State Travel	1,043	99,653	245,709	268,046	146,056	168,393	37.18%
Travel & Public Information	17,011	301,354	709,890	774,425	408,536	473,071	38.91%
Utilities/Property Taxes	20,754	96,023	103,165	124,860	7,142	28,837	76.90%
Insurance, Property & Liability	22,992	212,215	210,756	231,148	(1,459)	18,933	91.81%
Repairs, Maintenance & Leases	174,150	1,413,027	1,534,357	1,683,429	121,330	270,402	83.94%
Supplies	1,736	33,097	32,725	35,700	(372)	2,603	92.71%
Postage/Express mail	8,367	105,376	37,400	40,800	(67,976)	(64,576)	258.27%
Telephone	1,308	14,780	20,809	22,701	6,030	7,921	65.11%
Janitorial	3,241	36,766	37,492	40,900	725	4,134	89.89%
Office Expenses	230,331	1,868,038	1,976,020	2,178,792	107,982	310,754	85.74%
Dues & Periodicals	4,711	62,423	57,542	62,773	(4,881)	350	99.44%
Education & Training	5,862	98,938	156,466	170,690	57,528	71,753	57.96%
Contractual Services	64,948	949,227	1,285,170	1,402,004	335,943	452,777	67.71%
Professional Services-Program	8,395	248,206	222,522	242,751	(25,684)	(5,455)	102.25%
Direct Servicing Expenses	744,797	5,243,872	4,478,436	4,885,567	(765,435)	(358,305)	107.33%
Program Expense-Other	168,412	422,910	165,411	180,448	(257,499)	(242,462)	234.37%
Rebate Analysis Fees			-	-	-	-	
Miscellaneous	-	196			(196)	(196)	

GENERAL FUND
Fiscal Year 2022-2023 Budget
For the eleven months ended 8/31/2023

	One Month Actual	Year to Date Actuals	Year to Date ProRata Budget	Annual Budget	YTD Budget Under/(Over)	Annual Budget Under/(Over)	Expended Annual Budget %
Other Operating Expense	997,126	7,025,771	6,365,547	6,944,233	(660,224)	(81,538)	101.17%
Interest Expense	345,818	1,706,602	1,592,252	1,771,420	(114,350)	64,818	96.34%
Non-Cash Expenses	145,299	1,990,665	2,604,340	2,841,098	613,675	850,433	70.07%
Expensed Assets	2,522	18,385	73,196	79,850	54,811	61,465	23.02%
Operating Expenses	2,587,886	22,938,406	24,998,890	27,262,989	2,060,484	4,324,583	84.14%
Program Training & Tech Asst	4,800	50,572	139,242	151,900	88,669	101,328	33.29%
Program Development	10,256	103,782	102,598	111,925	(1,184)	8,143	92.72%
Capacity Building Costs	15,056	154,354	241,840	263,825	87,485	109,471	58.51%
Non-Operating Expenses	15,056	154,354	241,840	263,825	87,485	109,471	58.51%
Expenses	2,602,941	23,092,761	25,240,729	27,526,814	2,147,969	4,434,054	83.89%
Excess Revenue over Expenses	1,379,771	8,693,164	2,224,889	2,336,471	(6,468,275)	(6,356,693)	372.06%

GENERAL FUND CAPITAL BUDGET
Fiscal Year 2022-2023 Budget
For the eleven months ended 8/31/2023

	One Month Actual	Year to Date Actuals	Year to Date ProRata Budget	Annual Budget	YTD Budget Under/(Over)	Annual Budget Under/(Over)	Expended Annual Budget %
2690 PURCHASED SERVICING RIGHTS	420,008	3,089,718	3,988,276	4,350,847	898,558	1,261,129	71.01%
2950 COMPUTER HARDWARE	-	-	36,964	40,324	36,964	40,324	0.00%
2960 SOFTWARE LICENSES	-	-	-	-	-	-	
2920 FURNITURE & EQUIPMENT-10 YR	-	-	-	-	-	-	
2930 FURNITURE & EQUIP, 5 YR.	-	-	-	-	-	-	
2860 BUILDING	-	9,966,018	10,000,000	10,000,000	33,982	33,982	
Capital Budget	420,008	13,055,736	14,025,240	14,391,171	969,504	1,335,435	90.72%

Data is as of PC meeting on October 3, 2023

Board Approved Certified Uses	Board Approved Certifed Use Allocation	MFA Activity Allocation	Activity Allocation	Program Commitments established with Board Approval	Balance Not Committed	Procurement Documents	Contractual Commitment			Balance availeble to contract	Commitments Presented Today (10/18/23)			Balance Availalble to award/contract after 10/18/2023	Expenditures as of October 3, 2023
							Date of Approval	Award	Amount	Expected Impact	Proposed Award	Proposed Amount	Expected Impact		
Down payment assistance	$ 8,500,000.00	DPA	$ 8,500,000.00	$ 8,500,000.00	$ -	*Approved under existing Homeownership Policies approved by the BOD in January 2023*	-	-	$ 3,000,000.00	766 HseHolds	$ 5,500,000.00	-		-	**$ 5,500,000.00**	**$ -**
First mortgage; Affordable homeownership loan purchase	$ 3,400,000.00	40 YLM	$ 3,400,000.00	-	$ 3,400,000.00	*This allocation will be reallocated to unit production or preservation.*	-	-	$ -		$ 3,400,000.00	-	$ -	-	**$ 3,400,000.00**	**$ -**
Single family emergency repairs, accessibility, energy efficiency improvements and rehabilitation	$ 1,500,000.00	Single-family Rehab	$ 1,000,000.00	$ 1,000,000.00	$ -	*Board approved NOFA on April 15, 2023.*	*Aug-23*	*SWRHCDC*	$ 134,655.19	19 HseHolds	$ 723,335.38	`		-	**$ 723,335.38**	
							Aug-23	*SWRHCDC*	$ 110,000.00	1 HseHolds						
							Sep-23	*San Felipe Pueblo*	$ 32,009.43	2 HseHolds						
		Weatherization	$ 500,000.00	$ 500,000.00	$ -	*Weatherization RFP published in August 2023. Expected awards October 2023.*	-	-	$ -	71 HseHolds	$ 500,000.00				**$ 500,000.00**	
Single family acquisition and rehabilitation	$ 2,000,000.00	ROC	$ 2,000,000.00	$ 2,000,000.00	$ -	*NOFA approved in May 2023, published on September 2023*	-	-	$ -	67 HseHolds	$ 2,000,000.00	-	$ -	-	**$ 2,000,000.00**	**$ -**
Rental and single-family development	$ 22,130,000.00	Gap Financing Loan	$ 8,630,000.00	$ 8,630,000.00	$ -	*Modifications to the existing NOFA went to Board in September 2023*	*Jun-23*	*The Three Sisters*	$ 3,500,000.00	70 Units	$ 4,130,000.00	***Pedrena Apartments***	$ 1,000,000.00	80 Units	**$ 3,130,000.00**	**$ -**
							Sep-23	*La Serena Apartments*	$ 1,000,000.00	100 units						
		Preservation loan	$ 2,500,000.00	$ 2,500,000.00	$ -	*NOFA approved and published in March 2023*	-	-	$ -	-	$ 2,500,000.00	-	$ -	-	**$ 2,500,000.00**	**$ -**
		Primero Loan (SF)	$ 3,000,000.00	$ 3,000,000.00	$ -	*Modifications to the existing NOFA went to Board in September 2023*	-	-	$ -	-	$ 3,000,000.00	-	$ -	-	**$ 3,000,000.00**	**$ -**
		New Constuction DPA (SF)	$ 3,000,000.00	$ -	$ 3,000,000.00	*MFA staff presenting Single Family Devlopment Grant program NOFA October 2023*	-	-	$ -	120 HseHolds	$ 3,000,000.00	***MFA staff requesting approval of Single Family Development Grant program NOFA***	$ 3,000,000.00	-	**$ 3,000,000.00**	**$ -**
		Housing Innovation	$ 5,000,000.00	$ 5,000,000.00	$ -	*Board approved NOFA in September 2023*	-	-	$ -	-	$ 5,000,000.00			-	**$ 5,000,000.00**	**$ -**
	$ 37,530,000.00		**$ 37,530,000.00**	**$ 31,130,000.00**	**$ 6,400,000.00**					**1,114**	**$ 29,753,335.38**				**$ 28,753,335.38**	**$ -**