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**TENNESSEE HOUSING DEVELOPMENT AGENCY**

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**Low-Income Housing Tax Credit**

**2018 QAP**

**Amended January 29, 2020**

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**TENNESSEE HOUSING DEVELOPMENT AGENCY**  
**LOW-INCOME HOUSING TAX CREDIT**  
**QUALIFIED ALLOCATION PLAN**  
**2018**

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## **Part I: Introduction**

The Tennessee Housing Development Agency (“THDA”) administers the Low-Income Housing Tax Credit program in Tennessee. The Low-Income Housing Tax Credit program was created by the Tax Reform Act of 1986 under Section 42 of the Internal Revenue Code of 1986, as amended (“Section 42”), to encourage the construction and rehabilitation of rental housing for low-income individuals and families. Under Section 42(m), THDA is required to develop a Qualified Allocation Plan (“QAP”) to define the process by which it will allocate an annual amount of Low-Income Housing Tax Credits (“Tax Credits”) in Tennessee.

This document is the QAP required by Section 42. This QAP incorporates all requirements of Section 42 unless more stringent requirements, as permitted under Section 42, are included. A public hearing was held to solicit comments. “**Exhibits**” are documents which accompany this QAP and which provide additional information. “**Attachments**” are forms or documents which must be submitted as part of the Initial Application. Exhibits, the Initial Application Form, and Attachments are collectively part of the “Application” and all are considered part of the QAP. The QAP has been approved by the THDA Board of Directors and adopted by the Governor of Tennessee.

When this QAP calls for some THDA action including but not limited to a determination, adjustment, review, evaluation, or exercise of discretion, all such actions shall be at THDA’s sole discretion, whether specifically so stated or not.

No person or entity who submits an Initial Application shall have any right to an allocation of Tax Credits under this QAP based solely on the score assigned to their Initial Application.

## **Part II: Goals and Objectives**

The goal of this QAP is to use the Tax Credits allocated to Tennessee for 2018 to create, maintain, and preserve affordable rental housing for low-income households. Specific objectives of this QAP are to:

1. Make rental units affordable, in the areas of greatest need, to households with as low an income as possible and for the longest time period possible;
2. Encourage development of appropriate housing units for persons with special needs, including the elderly, the homeless and the disabled;
3. Allocate only the minimum amount of Tax Credits necessary to make a development financially feasible and viable throughout the credit period;
4. Encourage Non-Profit entities to develop rental housing for low-income households;
5. Encourage fair distribution of Tax Credits among counties and developers; and
6. Allocate Tax Credits fairly.

### Part III: Tax Credits Available

#### **A. Total Tax Credits**

The total amount of Tax Credits available for allocation in Tennessee for 2018 is the total of the following:

1. \$2.35, (which includes any cost of living adjustment specified in Section 42(h)(3)(H)), multiplied by Tennessee's population;
2. Any unallocated credits from previous year;
3. Any returned credit from previous years; and
4. Any amount allocated to Tennessee by the IRS from the National Pool.

For purposes of calculating the initial Non-Profit Set-Aside, the amount against which the percentages will be applied will be the sum of items 1, 2, and 3 above.

#### **B. Set-Asides**

1. Non-Profit Set-Aside
  - a. Qualified Non-Profit applicants (as specified in Part VII-A-2-a of this QAP) will be considered for an allocation of Tax Credits from the Non-Profit Set-Aside.
  - b. Not less than ten percent (10%) of the total amount of Tax Credits available for allocation in Tennessee in 2018 is reserved for qualified Non-Profit applicants as required by Section 42(h)(5).
  - c. **THDA reserves the right to make additional allocations of Tax Credits to qualified Non-Profit applicants as needed to meet the requirements of Section 42(h)(5).**
2. Public Housing Authority Set-Aside
  - a. No more than fifteen percent (15%) of the sum of Part III-A-1, -2, and -3 will be set aside for developments involving a public housing authority (as specified in Part VII-A-2-b).
3. Preservation Set-Aside
  - a. No more than twenty two and one half percent (22.50%) of the sum of Part III-A-1, -2, and -3 will be set aside for developments involving preservation (as specified in Part VII-A-2-c).
4. Qualified Census Tract and Contributing to a Community Revitalization Plan Set-Aside (the "QCT/CRP Set-Aside")
  - a. No more than one (1) eligible development located in a Qualified Census Tract and contributing to/covered by a Community Revitalization Plan (as specified in Part VII-A-2-d) shall receive an allocation of Tax Credits from the QCT/CRP Set-Aside, subject to the requirements of Part VIII-E.
5. Rural Set-Aside
  - a. No more than two (2) eligible developments located in a rural county (as specified in **Exhibit 1**) shall receive an allocation of Tax Credits from the Rural Set-Aside, subject to the requirements of Part VIII-E.

## 6. Innovation Set-Aside

- a. Allocations from the Innovation Set-Aside to developments involving innovation (as specified in Part VII-A-2-f) shall be limited to the lesser of two (2) eligible developments or an aggregate of one million one hundred thousand dollars (\$1,100,000) in Tax Credits, subject to the requirements of Part VIII-E.

## C. Basis Boost

A proposed development may receive, in THDA's sole discretion, an increase in eligible basis of up to 30%. The provisions of Part III-C-1-c, Part III-C-1-d, Part III-C-1-e, Part III-C-1-f, and Part III-C-1-g do not apply to proposed developments with tax-exempt financing as described in Section 42(h)(4).

1. The following types of developments are eligible for the increase in eligible basis:
  - a. Developments wholly located within a HUD-designated QCT; or
  - b. Developments wholly located within a HUD-designated Difficult Development Area; or
  - c. Developments qualified for the Rural Set-Aside; or
  - d. Developments that have a Choice Neighborhoods Initiative ("CNI") Implementation Grant; or
  - e. Developments that have a Rental Assistance Demonstration ("RAD") Commitment to Enter into a Housing Assistance Payments Contract; or
  - f. Developments receiving an allocation from the Innovation Set-Aside; or
  - g. Developments wholly located in Sevier County.

## Part IV: Limits on Amount of Tax Credits Available

### A. By County

1. The maximum amount of Tax Credits that may be allocated to developments in any one **urban** county shall not exceed **three million three hundred thousand dollars (\$3,300,000)**. The maximum amount of Tax Credits that may be allocated to developments in any one **suburban** county shall not exceed **two million two hundred thousand dollars (\$2,200,000)**. The maximum amount of Tax Credits that may be allocated to developments in any one **rural** county shall not exceed **one million one hundred thousand dollars (\$1,100,000)**. Allocations to developments involving the HUD Choice Neighborhoods Initiative (CNI) or the HUD Rental Assistance Demonstration (“RAD”) program **will count against** the per-county limits. **Exhibit 1** to this QAP identifies urban, suburban and rural counties.
2. If, following the allocation of Tax Credits to a proposed development, the local jurisdiction in which the proposed development is located takes action that THDA, in its sole discretion, determines to be for the primary purpose of preventing the proposed development from satisfying applicable program requirements, THDA may lower the amount of Tax Credits available to that jurisdiction in future Low-Income Housing Tax Credit Qualified Allocation Plans. Examples include, without limitation, “downzoning”, action regarding utilities or utility connections, action regarding required public roads, or action to prevent issuance of Certificates of Occupancy.

### B. By Development

The maximum amount of **competitive** annual Tax Credits that may be allocated to a single development shall not exceed **one million one hundred thousand dollars (\$1,100,000)**. The maximum amount of **non-competitive** annual Tax Credits that may be allocated to a single development shall not exceed **three million dollars (\$3,000,000)**. In making this determination, THDA will consider the physical location of developments; the relationships among owners, developers, management agents, and other development participants; the structure of financing; and any other information which might clarify whether Initial Applications reflect a single development or multiple developments.

### C. By Developer or Related Parties

1. The maximum amount of Tax Credits that may be allocated to a single applicant, developer, owner, or related parties shall not exceed two million two hundred thousand dollars (\$2,200,000).
2. An applicant, developer, owner, or related party may not submit more than one Initial Application or be involved in more than one development per county with respect to 2018 Tax Credits. THDA reserves the right to determine whether related parties are involved for the purpose of applying this limitation.
3. The following list includes, without limitation, related parties:
  - a. Any person or entity who has a right to (i) replace the developer, (ii) act as co-developer, (iii) replace any individuals or entities who comprise a developer or co-developer, or (iv) otherwise direct the activities of the developer will be considered a developer for purposes of applying this limit.
  - b. Any person or entity who has a right to (i) replace the general partner of the owner or applicant, (ii) act as co-general partner of the owner or applicant, (iii) replace any individuals or entities who comprise a general partner or co-general partner of the owner or applicant, or (iv) otherwise direct the activities of the general partner of the

owner or applicant will be considered an owner or applicant, as the case may be, for purposes of applying this limit.

- c. Any person or entity who has a right to (i) replace the controlling stockholder of the owner or applicant, (ii) act as controlling stockholder of owner or applicant, (iii) replace any individuals or entities who comprise a controlling stockholder of the owner or applicant, or (iv) otherwise direct the activities of the controlling stockholder of the owner or applicant will be considered an owner or applicant, as the case may be, for purposes of applying this limit.
- d. Any person or entity who has a right to (i) replace the managing member of the owner or applicant, (ii) act as co-managing member of the owner or applicant, (iii) replace any individuals or entities who comprise a managing member or co-managing member of the owner or applicant, or (iv) otherwise direct the activities of the managing member of the owner or applicant will be considered an owner or applicant, as the case may be, for purposes of applying this limit.
- e. Any person who is a signatory or guarantor of construction financing documents, permanent financing documents, and/or equity syndication documents.
- f. This limit will also apply to any person or entity that is related to any person or entity specified above.

#### **D. Aggregate Qualified Census Tract Limit**

No more than forty percent (40%) of the of the total amount of Tax Credits available for allocation in Tennessee for 2018 will be allocated to developments located completely and wholly within a Qualified Census Tract.

#### **E. Total Development Cost Per Total Unit Limit**

1. Davidson County: **\$225,000.**
2. Knox, Sevier, and Shelby counties: **\$220,000.**
3. Cheatham, Maury, Montgomery, Robertson, Rutherford, Sumner, Williamson, and Wilson counties: **\$200,000.**
4. Blount, Cumberland, Loudon, Sullivan, and Washington counties: **\$185,000.**
5. Other urban and suburban counties (as described in **Exhibit 1**) not listed in Part IV-E-1 through Part IV-E-4 of this QAP: **\$180,000.**
6. Other rural counties (as described in **Exhibit 1**) not listed in Part IV-E-1 through Part IV-E-4 of this QAP: **\$160,000.**

#### **F. Second Allocation**

A developer entity or related parties will not be considered for a **second** allocation of Tax Credits in Tennessee prior to the issuance of the IRS Form(s) 8609 for the development associated with that developer entity's or related parties' **first** allocation of Tax Credits in Tennessee.

## **G. For Financial Feasibility**

**Section 42(m)(2) requires that THDA not allocate more Tax Credits than necessary for the financial feasibility of a development and its viability as a qualified low-income housing development.** THDA may reject or require modifications to Initial Applications for Tax Credits when THDA determines that the proposed development is not financially feasible or does not need Tax Credits. THDA may also reserve or allocate an amount of Tax Credits less than the amount requested in an Initial Application, in a Carryover Allocation Application or in a Final Application. THDA's determination under Section 42(m)(2) shall not be construed to be a representation or warranty by THDA as to the financial feasibility, viability, or lack thereof, of any development.

**Part V: Limits On Developer and Consultant Fees, Contractor Profit,  
Overhead, and General Requirements**

**A. Limit on Developer Fees and Consultant Fees**

1. The combined total of developer and consultant fees (**Development Costs**; #10, columns B & C) which may be included in the determination of the amount of Tax Credits for a particular development cannot exceed fifteen percent (15%) of that portion of THDA determined eligible basis attributable to acquisition (before the addition of the developer and consultant fees), and cannot exceed fifteen percent (15%) of that portion of THDA determined eligible basis attributable to new construction or to rehabilitation (before the addition of the developer and consultant fees). Construction Advisory or Construction Supervision fees listed separately from the maximum allowed Contractor Fees will be considered as a Consultant Fee.
2. If the developer and contractor are related persons as defined in Section 42(d)(2)(D)(iii), then the combined total of developer fees, consultant fees, and contractor profit, contractor overhead, and general requirements, which may be included in the determination of the amount of Tax Credits for a particular development, cannot exceed fifteen percent (15%) of THDA determined eligible basis of that portion of the development attributable to acquisition (before the addition of the fees), and cannot exceed twenty-five percent (25%) of that portion of THDA determined eligible basis attributable to new construction or to rehabilitation (before the addition of the fees).

**B. Limit on Contractor Fees, Profit, Overhead and General Requirements**

1. The total contractor fees, including contractor profit, contractor overhead and general requirements shall be limited to fourteen percent (14%) of total THDA determined site work costs, plus accessory buildings plus either new building hard costs or rehabilitation hard costs. The structure of this fee is limited to the following:

Contractor profit:	may not exceed six percent (6%)
Contractor overhead:	may not exceed two percent (2%)
Contractor general requirements (includes payment and performance bonds):	may not exceed six percent (6%)
Total Contractor fees	may not exceed fourteen percent (14%)
2. If the developer and contractor are related persons as defined in Section 42(d)(2)(D)(iii), then the combined total for contractor profit, overhead, and general requirements, developer fees and consultant fees which may be included in the determination of the amount of Tax Credits for a particular development, cannot exceed fifteen percent (15%) of THDA determined eligible basis on that portion of the development attributable to acquisition (before the addition of the fees), and cannot exceed twenty-five percent (25%) of that portion of THDA determined eligible basis attributable to new construction or to rehabilitation (before the addition of the fees).

## Part VI: Application Submission

### **A. Electronic Application Requirements**

1. THDA is utilizing an on-line electronic application process for submission of 2018 Initial Applications for Tax Credits.
2. For assistance with the electronic application system, contact THDA as follows:
  - (i) Felita Hamilton, Multifamily Programs Allocation Manager  
Phone (615) 815-2145      Email [FHamilton@thda.org](mailto:FHamilton@thda.org)
3. If THDA determines that the electronic application system malfunctions to a degree and in a way that renders users unable to submit electronic Initial Applications on-line, THDA will provide alternative instructions to the users that THDA determines to have been affected.
4. To be considered complete, an electronic Initial Application must meet ALL of the following requirements **no later than the Initial Application Deadline specified in Part VI-B:**
  - a. Be completely and correctly submitted through the electronic application system;
  - b. All required Attachments and supporting documentation required to be submitted in electronic form within the electronic application system must be organized as required by the electronic application system; and
  - c. Have no missing information or any information that is erroneous, incomplete or inconsistent.
  - f. A wire in the amount of all fees required with the electronic Initial Application as specified in Part XV-B; and
  - g. Unless otherwise specifically directed by THDA, all electronic Initial Application materials, including Attachments and supporting documentation, must be formatted in accordance with the requirements of the electronic application system.

### **B. Initial Application Deadline**

**No Initial Applications will be accepted after 11:59 PM Central Time on Thursday, March 1, 2018.**

- **After the Initial Application deadline, no erroneous, missing, incomplete or inconsistent supporting documentation or Attachments, or clarifications to the Initial Application, supporting documentation, or Attachments, or any other materials required in the Initial Application or in support of the Initial Application will be accepted except as specified in Part VIII-B or as requested by THDA.**

### **C. Innovation Set-Aside**

1. THDA will accept proposals for consideration in the Innovation Set-Aside (“Innovation Set-Aside Proposal”) by email to [Innovation@thda.org](mailto:Innovation@thda.org).
2. **The deadline for submission of an Innovation Set-Aside Proposal is 11:59 PM Central Time on Wednesday, November 1, 2017.**
3. To be considered for the Innovation Set-Aside, an Innovation Set-Aside Proposal must satisfy ALL of the following:
  - a. Be submitted by the deadline in Part VI-C-2 above;
  - b. Contain no more than 5 single-sided, single spaced pages (including all attachments and exhibits, if any) describing each of the following:
    - (i) Clearly identify the uniqueness and innovative nature of development concept (i.e. among other things, has a development of this type been done before, does this proposal recommend a method of construction or financing not previously used, will this housing serve a group or population currently unserved, and how this proposal will result in a development that is different from “regular” Tax Credit developments);
    - (ii) Ability of the proposed development to address an unmet need by population to be served, services provided, or geographic location;
    - (iii) The proposed development’s contribution to THDA mission and goals;
    - (iv) Reasonableness of the proposed development’s scope as identified in the unmet need;
    - (v) Proposed development’s proposed sources and uses of funds;
    - (vi) Extent to which the proposed development would be at a competitive or financial disadvantage relative to developments considered in the regular competitive round; and
    - (vii) Demonstrated capacity of the applicant to complete the proposed development; and
    - (viii) Certification of compliance with all applicable requirements of Section 42, Treasury Regulations, and this QAP.
  - c. Include contact information for the applicant, proposed development name, and number of units and bedroom mix.
4. THDA will evaluate each Innovation Set-Aside Application for financial feasibility, extent of uniqueness and/or innovation, and compliance with all applicable requirements of Section 42 of the Internal Revenue Code, Section 1.42 of the Treasury Regulations, and this QAP.
5. If THDA, in its sole discretion, determines that an Innovation Set-Aside Application is financially feasible, sufficiently unique and/or innovative, and is fully compliant with all applicable requirements of Section 42 of the Internal Revenue Code, Section 1.42 of the Treasury Regulations, and this QAP, the applicant will be invited to present the proposed development to the Innovation Set-Aside Selection Group.
6. If THDA, in its sole discretion, determines that an Innovation Set-Aside Application is not financially feasible, or is not sufficiently unique and/or innovative, or is not fully compliant with all applicable requirements of Section 42 of the Internal Revenue Code, Section 1.42 of the Treasury Regulations, or this QAP, the Innovation Set-Aside Application will not receive further consideration in the Innovation Set-Aside.

7. **The Innovation Set-Aside is discretionary.** THDA, in its sole discretion, may select no more than three (3) Innovation Set-Aside Proposals as Innovation Set-Aside Finalists. THDA, in its sole discretion, may not select any Innovation Set-Aside Finalists.
8. Innovation Set-Aside Finalists, if any, will be notified on or before Thursday, November 15, 2017 and invited to submit a full Initial Application (“Innovation Set-Aside Application”) by the deadline specified in Part VI-B.
9. **The selection of Innovation Set-Aside Finalists shall not be appealable to the THDA Board or the Tax Credit Committee of the THDA Board.**

**DISQUALIFICATION UNDER THIS PART VI-E-9 SHALL BE AT THE SOLE DISCRETION OF THDA STAFF AND SHALL NOT BE APPEALABLE TO THE THDA BOARD, THE TAX CREDIT COMMITTEE OF THE THDA BOARD, OR THE INNOVATION SET-ASIDE SELECTION GROUP.**

#### **D. Local Government Notification**

Following receipt of Initial Applications, THDA will notify the chief executive officer (or the equivalent) of the local government in whose jurisdiction a development proposed in an Initial Application is to be located. Such individual will have an opportunity to comment on the development proposed in the Initial Application to be located in the jurisdiction, as required by Section 42(m)(1)(A)(ii).

## Part VII: Initial Application Eligibility and Scoring

### **A. Eligibility Determination**

THDA will evaluate each Initial Application that meets the requirements of Part VI to determine whether the following eligibility requirements are met:

#### 1. Minimum Score Required

To be eligible, an Initial Application must obtain a **minimum score of 44 points** as determined by THDA in accordance with Part VII-B.

#### 2. Special Set-Asides

a. **Non-Profit Set-Aside:** To be eligible for Tax Credits from the Non-Profit Set-Aside, an Initial Application must contain information satisfactory to THDA demonstrating that the development proposed in the Initial Application involves a qualified non-profit organization. To be qualified, a non-profit organization must meet ALL of the following:

- (i) The organization must be a *bona fide* non-profit organization, as evidenced by the following:
  - (A) The organization must be an IRS 501(c)(3) or 501(c)(4) entity;
  - (B) The organization must be organized and existing in the State of Tennessee or if organized and existing in another state, must be qualified to do business in Tennessee;
  - (C) The organization must: (i) not be formed by one or more individuals or for-profit entities for the principal purpose of being included in the Non-Profit Set-Aside; (ii) not be controlled by a for-profit organization; and (iii) not have any staff member, officer or member of the board of directors who will materially participate, directly or indirectly, in the proposed development as or through a for-profit entity; and
  - (D) The organization must be engaged in the business of developing **AND** building low-income rental housing in Tennessee and must have been so engaged at all times since January 1, 2016.
- (ii) The organization must, prior to the reservation of Tax Credits: (i) own all of the general partnership interests of the ownership entity of the development; or (ii) own, alone or with other non-profits who meet all of the requirements of this Part VII-A-2-a, one hundred percent (100%) of the stock of a corporate ownership entity of the development; or (iii) own, alone or with other non-profits who meet all of the requirements of this Part VII-A-2-a, one hundred percent (100%) of the stock, 100% of the partnership interests, or 100% of the membership interests of an entity that is the sole general partner or sole managing member of the ownership entity of the development proposed in the Initial Application;
- (iii) The organization must be materially participating (regular, continuous and substantial on-site involvement) in the development and operation of the development throughout the “compliance period” (as defined in Section 42(i)(1)).
- (iv) To demonstrate eligibility under this Part VII-A-2-a, ALL of the following must be submitted as part of the Initial Application:
  - (A) A copy of the IRS determination letter clearly stating the organization’s status as an IRS 501(c)(3) or 501(c)(4) entity; and

- (B) (i) if organized and existing under the laws of the State of Tennessee, a Certificate of Existence from the Tennessee Secretary of State's Office dated not more than thirty (30) days prior to the date of the Initial Application.
  - (ii) if organized and existing under the laws of another state, a certificate of existence from the secretary of state of the state in which the organization was organized and is existing, together with other documentation from such secretary of state indicating that the organization is in good standing under such laws and a certificate from the Tennessee Secretary of State indicating that the organization is qualified to do business in Tennessee, all dated not more than thirty (30) days prior to the date of the Initial Application; and
  - (C) A certification in the form of **Attachment 28**; and
  - (D) **Attachment 29**.
- b. Public Housing Authority ("PHA") Set-Aside: To be eligible for the PHA Set-Aside, an Initial Application must contain information satisfactory to THDA demonstrating that the development proposed in the Initial Application involves a qualified PHA.
- (i) To be considered a qualified PHA, the following requirements must be met:
    - (A) The PHA must materially participate (regular, continuous and substantial on-site involvement) in the development and operation of the development throughout the "compliance period" (as defined in Section 42(i)(1)); and
    - (B) The PHA must be acting solely within the geographic area of its jurisdiction; and
    - (C) To demonstrate eligibility under this Part VII-A-2-b, a certification, in the form of **Attachment 26**, must be submitted as part of the Initial Application.
  - (ii) To be eligible for a RAD/CNI basis boost as described in Part III-C of this QAP, and to be eligible for the priority described in Part VIII-E-2-a of this QAP, the Initial Application must satisfy the requirements of Part VII-A-2-b-(i) above **and** include the following:
    - (A) A copy of the RAD Commitment to Enter into a Housing Assistance Payments Contract or CNI Implementation Grant for the development proposed in the Initial Application; and
    - (B) A letter from the Executive Director of the identified PHA in the form of **Attachment 27** certifying that: (1) the development proposed in the Initial Application is identified in the PHA's RAD Commitment to Enter into a Housing Assistance Payments Contract or CNI Implementation Grant; (2) the housing units are an essential element of that Plan; and (3) the Tax Credits for the development proposed in the Initial Application are an essential component of the PHA's RAD or CNI Program.
- c. Preservation Set-Aside: The Initial Application must propose preservation of a development with existing income and rent restrictions through programs such as the Low-Income Housing Tax Credit, Multifamily Tax-Exempt Bonds, or programs administered by USDA or HUD. The Initial Application must include documentation, acceptable to THDA, in its sole discretion, verifying the existing income and rent restrictions. A minimum of 90% of the units in the development must be subject to the existing income and rent restrictions. Following rehabilitation, 100% of the units subject to the existing income and rent restrictions must continue to be income and rent restricted.

- d. QCT/CRP Set-Aside: The Initial Application must propose a development located completely and entirely in a Qualified Census Tract (identified on **Exhibit 4**, excluding Difficult to Develop Areas), the development of which contributes to an approved concerted community revitalization plan, as certified in the form of **Attachment 13** executed by the City Mayor or City Attorney if the development is located within the applicable city limits, or the County Mayor or County Attorney if the development is located within the relevant county but is outside all city limits. For developments which are located in a city without a community revitalization plan, but are covered by the relevant county revitalization plan, the County Mayor or County Attorney may sign the **Attachment 13**, but the City Mayor or City Attorney must sign the acknowledgement of said situation at the bottom of **Attachment 13**.
  - e. Rural Set-Aside: The Initial Application must propose a development located completely and entirely in a county listed as “Rural” in **Exhibit 1**.
  - f. Innovation Set-Aside: To be eligible for Tax Credits from the Innovation Set-Aside, an Innovation Set-Aside Application must satisfy ALL of the following:
    - (i) The Innovation Set-Aside Application must be submitted by an Innovation Set-Aside Finalist as described in Part VI-C; and
    - (ii) The Innovation Set-Aside Application must be financially feasible, sufficiently unique and/or innovative, and fully compliant with all applicable requirements of Section 42 of the Internal Revenue Code, Section 1.42 of the Treasury Regulations, and this QAP as described in Part VI-C, all as determined by THDA in its sole discretion.
3. Non-compliance
- a. To be eligible, individuals involved (either directly or indirectly) with the developer or the ownership entity (whether formed or to be formed) identified in the Initial Application must not have any involvement (either directly or indirectly) with the developer or the ownership entity of any prior Tax Credit development which has failed to fully satisfy all compliance monitoring requirements or which has an uncured event of noncompliance under (i) Section 42; (ii) the restrictive covenants recorded in connection with such development or (iii) an IRS form 8823. Ineligibility due to noncompliance shall be in effect for the calendar year in which the non-compliance was identified and for the following calendar year.
  - b. Notwithstanding a. above, if the noncompliance identified by THDA is capable of cure, but has not been cured within the periods identified in a. above, ineligibility shall continue beyond those periods and shall end with the Initial Application cycle that follows the delivery of documentation demonstrating to the satisfaction of THDA that the identified noncompliance has been cured.
  - c. **Attachment 20** must be submitted as part of the Initial Application to demonstrate eligibility under this Part VII-A-3.
4. Developments
- a. The Initial Application must propose an eligible development. To be eligible, a development proposed in the Initial Application must meet ALL of the following:
    - (i) The development must be a qualified low-income housing development as defined in Section 42(g), containing qualified low-income buildings as defined in Section 42(c)(2) and low-income units as defined in Section 42(i)(3). THDA may require opinions from relevant counsel regarding transitional housing for the homeless, single room occupancy units, service provision or other matters in connection with a determination of eligibility;

- (ii) One hundred percent (100%) of the units in buildings with elevators in the development and all ground floor units in non-elevator buildings in the development are “covered multifamily dwellings” (as defined in the Fair Housing Act). All covered multifamily dwellings must meet all accessible design requirements under the Fair Housing Act and must otherwise be designed and built in accordance with the Fair Housing Act (including one of the eight safe harbors recognized by HUD as shown on **Exhibit 7**) and all other areas in the development open to the public are “public accommodations” as defined in the Americans with Disabilities Act and must be designed and built in accordance with the Americans With Disabilities Act. An architect’s certification will be required with the Carryover Allocation Application and prior to issuing the IRS Form 8609;

(iii) Energy Efficiency

The developments must use the energy efficiency items below. An architect’s certification will be required with the Carryover Allocation Application and prior to issuing the IRS Form 8609.

(A) Electrical - Lighting:

- (i) All light fixtures in units and common areas to be initially fitted with Energy Star rated light bulbs, compact fluorescent or LED; and
- (ii) If ceiling fans are provided, the fan must be an Energy Star rated ceiling fan with light fixture (the light fixture is not required to be Energy Star rated) and must connect to wall switches.

(B) Water Conservation – Plumbing:

- (i) Use of at least of one (1) high efficiency or dual flush toilet per unit; and
- (ii) All faucets, shower heads, and toilets must be EPA “Watersense” rated.

(C) HVAC Upgrades:

- (i) HVAC systems, including the air handler and line sets, must be rated at 14 SEER and properly sized for the units in all buildings with fewer than six stories; and
- (ii) For buildings with six stories or more, all PTAC systems must be rated between 9.6 and 12.0 EER; and
- (iii) Electronic programmable temperature control thermostats in each unit.

(D) Energy Efficient Appliances:

- (i) Energy Star rated frost free refrigerator with freezer in all units; and
- (ii) Energy Star rated Dishwashers in all units; and
- (iii) All other appliances provided in the unit, including in unit washers and dryers, must be Energy Star rated (this requirement does not apply to ovens, ranges, or microwaves).

(E) Building Construction:

- (i) Use of double glazed, insulated energy efficient windows for all windows in all units; and
- (ii) Attic insulation must meet R-30 minimum value; and
- (iii) Metal-clad wood, fiberglass, or hollow metal construction exterior doors with a minimum R-11 rating in all units.

- (iv) The development must have and be operated in accordance with marketing plans, lease-up plans, and operating policies and procedures which are fully compliant with the Fair Housing Act, The Americans with Disabilities Act, and THDA Affirmative Fair Housing Marketing Plan.
- (v) All newly constructed single family units, duplexes, triplexes, and townhomes must meet the visitability requirements as set forth in the THDA Flexible Home Concepts Program. An architect's certification will be required with the Carryover Allocation Application and prior to issuing the IRS Form 8609;
- (vi) Proposed developments that request acquisition Tax Credits must satisfy the requirements of Section 42(d)(2) (10-year rule), except for federally assisted buildings such as Section 8, 221(d)(3), 221(d)(4), 236 or 515;
- (vii) If the development proposed in the Initial Application is located on scattered sites, then the Initial Application must reflect that all sites are included under a common plan of financing and the scattered sites must be appraised as a single proposed development, using appraisal methodology appropriate for rental property as described in Part VII-A-10;
- (viii) If the development proposed in the Initial Application will have vinyl siding on all or any part of the exterior, all such vinyl siding must meet a 15-year maintenance free standard. An architect's certification will be required with the Carryover Allocation Application and prior to issuing the IRS Form 8609;
- (ix) The development must meet all applicable local building codes or in the absence of such codes, the development must meet the following, as applicable: new construction of multi-family apartments of 3 or more units must meet the 2012 International Building Code; new construction or reconstruction of single-family units or duplexes must meet the 2009 International Residential Code for One- and Two-Family Dwellings; and rehabilitation of rental units must meet the 2012 International Existing Building Code and the 2012 International Property Maintenance Code. An architect's certification will be required with the Carryover Allocation Application and prior to issuing the IRS Form 8609.
- (x) To the extent not otherwise required, the development must have hardwired smoke detectors, with battery backup, in the bedroom areas of all units. An architect's certification will be required with the Carryover Allocation Application and prior to issuing the IRS Form 8609.

b. The following types of developments are not eligible for Tax Credits:

- (i) Developments that have been part of "Bargain Sales" with a "step-up" in sales price paid to an intervening Non-Profit;
- (ii) Developments containing units that are not for use by the general public, including, but not limited to, hospitals, nursing homes, sanitariums, life care facilities, trailer parks, or intermediate care facilities for persons with mental and physical disabilities; or

- (iii) Developments in which continual or frequent nursing, medical, or psychiatric services are provided. Examples include, but are not limited to, hospitals, nursing homes, sanitariums, life care facilities, or intermediate care facilities for persons with mental and physical disabilities.
- c. In the event that any of the following triggering events occur with regard to a proposed development or a development that has received an allocation of Tax Credits from THDA, all individuals identified on **Ownership Organization Breakdown and/or Developer Organization Breakdown** of the relevant development will be prohibited from participating in the Low-Income Housing Tax Credit program in Tennessee for a period of five (5) years commencing with the year in which THDA becomes aware of the occurrence of the triggering event:
- (i) General Partner/Managing Member/Sole Stockholder entity being removed from the ownership entity of a previous development due to poor performance and/or malfeasance. THDA staff will communicate with other parties involved in the development (e.g. lender and syndicator) to determine the circumstances surrounding the removal; or
  - (ii) Uncured event of default under the Section 1602 or Tax Credit Assistance Program; or
  - (iii) Fair Housing Act violations involving a finding of discrimination by an adverse final decision from a federal court or a judgment enforcing the terms of a consent decree; or
  - (iv) Foreclosure involving loss of units to the affordable housing stock or failure to notify THDA of foreclosure (including a deed in lieu of foreclosure transaction); or
  - (v) Claiming Tax Credits by submitting to the IRS an IRS Form 8609 that was not created by THDA or that contains information that is not consistent with the Form 8609 created by THDA; or
  - (vi) Misrepresentation of any item, as determined by THDA in its sole discretion, in the Initial Application, Carryover Application, or Final Application, as determined by THDA in its sole discretion; or
  - (vii) Failure to fulfill commitments made in the Initial Application for points; or
  - (viii) Failure to respond to any written request from THDA for information and/or documentation within thirty (30) days of the date of such request; or
  - (ix) Failure to fully satisfy all applicable compliance monitoring requirements; or
  - (x) Being placed in “No Further Monitoring” status.
- d. Prohibition of an individual’s participation in the Low-Income Housing Tax Credit program in Tennessee pursuant to Part VII-A-4-d shall be determined by THDA staff. Any individual so prohibited may appeal the determination to the THDA Executive Director and the THDA Board Chair. The determination of prohibition shall be at the sole discretion of the THDA Executive Director and the THDA Board Chair and shall not be appealable to the THDA Board or the Tax Credit Committee of the THDA Board.
- (i) There will be no prohibition if the triggering event occurred prior to October 29, 2012.
  - (ii) There will be no prohibition if THDA becomes aware of the triggering event more than five (5) years after its occurrence.
  - (iii) No prohibition will be imposed on a development or proposed development involving the prohibited individuals that received an allocation of Tax Credits

between the occurrence of the triggering event and the time THDA becomes aware of the triggering event.

- e. Any prohibition of participation in the Multifamily Tax-Exempt Bond Authority Program under Part I-C-5 of the 2018 Multifamily Tax-Exempt Bond Authority Program Description shall constitute a prohibition of participation in the Low-Income Housing Tax Credit Program pursuant to Part VII-A-4-d of the QAP.
  - f. A certification in the form of **Attachment 21** must be submitted as part of all Initial Applications to demonstrate eligibility under this Part VII-A-4.
  - g. A certification in the form of **Attachment 22** must be submitted as part of any Initial Application that requests acquisition Tax Credits to demonstrate eligibility under Part VII-A-4-a-(vi).
5. Existing, Incremental, and New Developments
- a. Developments which received reservations/allocations of Tax Credits under QAPs at any time during the prior fifteen (15) years and which are not proposing additional housing units will be considered “existing” developments. Developments which have received reservations/allocations of Tax Credits under the 2017 QAP, but which are proposing additional housing units will be considered “incremental” developments. All other developments will be considered “new” developments.
  - b. Initial Applications proposing “incremental” developments will be reviewed, evaluated and scored based solely on the costs, characteristics, and other elements of the development attributable to the housing units added pursuant to the Initial Application submitted for 2018 Tax Credits. None of the costs, characteristics, or other elements attributable to the existing development will be considered, evaluated, or scored. If Tax Credits are allocated to an “incremental” development, the limitations specified in Part IV, and the limitations specified in Part V will apply, based on the cumulative amount of Tax Credits allocated to the entire development for 2017 and 2018 and the cumulative costs of the development as proposed in 2017 and 2018.
  - c. If there are sufficient qualified Initial Applications for “new” developments and/or “incremental” developments, Initial Applications for “existing” developments will not be reviewed or scored, and the application fee will be returned.
  - d. If Tax Credits are allocated to an “existing” development, the limitations specified in Part IV and the limitations specified in Part V will apply, based on the cumulative amount of Tax Credits reserved for the entire development in 2018 and allocated to the development at any time during the prior fifteen (15) years and the cumulative costs of the development as proposed in 2018 and for the prior fifteen (15) years.
6. Development Participants
- a. All development participants must be identified in Sections 3, 4, and 5 of the Initial Application and on the **Contacts Page of the electronic application system**.
  - b. **Ownership Organization Breakdown** must be fully completed and submitted with the Initial Application for the Ownership Entity identified in Section 3 of the Initial Application. Provide the required information for all entities and individuals at each layer of the organizational structure of the Ownership Entity. **TRACE THE PROPOSED OWNERSHIP ENTITY THROUGH ALL LAYERS OF ITS ORGANIZATIONAL STRUCTURE REGARDLESS OF THE TYPE OF ENTITY AT ANY PARTICULAR LAYER.** Applicants are encouraged, but not required, to submit an organizational chart when the proposed Ownership Entity is complex and contains multiple layers.
  - c. **Developer Organization Breakdown** must be fully completed and submitted with the Initial Application for the Developer Entity identified in Section 4 of the Initial

- Application. Provide the required information for all entities and individuals at each layer of the organizational structure of the Developer Entity. **TRACE THE PROPOSED DEVELOPER ENTITY THROUGH ALL LAYERS OF ITS ORGANIZATIONAL STRUCTURE REGARDLESS OF THE TYPE OF ENTITY AT ANY PARTICULAR LAYER.** Applicants are encouraged, but not required, to submit an organizational chart when the proposed Developer Entity is complex and contains multiple layers.
- d. In the event any entity identified in **Ownership Organization Breakdown** and/or **Developer Organization Breakdown** is a corporation that is publicly traded on a nationally recognized stock exchange or similar entity, the information required in **Ownership Organization Breakdown** and/or **Developer Organization Breakdown** need not be provided for that entity. An opinion of counsel in the form of **Attachment 24** must be provided with the Initial Application for this exception to apply.
  - e. In the event any entity identified in **Ownership Organization Breakdown** and/or **Developer Organization Breakdown** is a trust, information must be provided in the relevant Attachment about the trustee and beneficiary of each trust at each layer of organizational structure. Information about trustees and beneficiaries must be traced through all levels of organizational structure.
  - f. An **Attachment 23** (Disclosure Form) is required for each individual identified in **Ownership Organization Breakdown** for the Ownership Entity and for each individual identified in **Developer Organization Breakdown** for the Developer Entity. Each Disclosure Form must include responses to each question and must bear the original signature of the individual, in their individual capacity. Provided, however, **Attachment 23** is NOT required for individuals who are officers, directors of shareholders of a corporation that is publicly traded on a nationally recognized stock exchange or similar entity which is identified in **Ownership Organization Breakdown** and/or **Developer Organization Breakdown**.
  - g. An Initial Application is ineligible if any of the following apply:
    - (i) **Attachment 23** for any required individual shows that any one of the following is true for that individual:
      - (A) A felony conviction of any type within the last ten (10) years;
      - (B) A fine, suspension or debarment involving financial or housing activities within the last five (5) years imposed by any federal agency;
      - (C) The individual currently in bankruptcy or a bankruptcy discharged within the last four (4) years or any organization or entity in which the individual had significant control currently is in bankruptcy or had a bankruptcy discharged within the last four (4) years;
        - (i) Individual bankruptcy of a member of the board of directors of an entity that is, or is wholly controlled by, a government entity will not be grounds for ineligibility under this Part VII-A-6-g-(i)-(C) provided that the individual certifies that he/she will not have substantial decision-making authority with regard to the proposed development; or
      - (D) Any suspensions of required state licenses (Tennessee or any other state) within the last ten (10) years.
    - (ii) The Initial Application is disqualified or deemed ineligible pursuant to any other provisions of this QAP.

## 7. Property Control

- a. THDA will not accept multiple Initial Applications for the same site.
- b. To be eligible, an Initial Application must demonstrate control of the property on which the development proposed in the Initial Application is to be located (the "Property"). A copy of any one of items (i)-(iv) below must be part of the Initial Application:
  - (i) Recorded instrument of conveyance (warranty deed, quitclaim deed, trustee deed, court order) evidencing title to the Property vested in (A) the currently existing Ownership Entity identified in the Initial Application or (B) a person or entity identified in the Initial Application as the general partner or managing member of the Ownership Entity to be formed;
  - (ii) Acceptable evidence demonstrating the ability to acquire the Property through the power of eminent domain by (A) the currently existing Ownership Entity identified in the Initial Application or (B) a person or entity identified in the Initial Application as the general partner or managing member of the Ownership Entity to be formed;
  - (iii) Contract for sale or a contract for a 50-year ground lease, which contract must show that the ground lease, when executed, will meet the requirements specified in Part VII-A-7-b-(v), executed by (A) the owner of record of the Property and (B) the currently existing Ownership Entity identified in the Initial Application or a person or entity identified in the Initial Application as the general partner or managing member of the Ownership Entity to be formed; or
  - (iv) An option to purchase or an option for a 50-year ground lease, which option must show that the ground lease, when executed, will meet the requirements specified in Part VII-A-7-b-(v), executed by (A) the owner of record of the Property and (B) the currently existing Ownership Entity identified in the Initial Application or a person or entity identified in the Initial Application as the general partner or managing member of the Ownership Entity to be formed.
  - (v) A ground lease for the Property must have a minimum term of 50 years with no provisions for termination or reversion prior to the expiration of the extended use period as defined in Section 42(h)(6)(D). Proposed developments which are the subject of a Payment In Lieu of Taxes ("PILOT") agreement may be exempt from this minimum term requirement subject to THDA's review of and satisfaction with the terms of the PILOT.
- c. Documentation required as part of the Initial Application to demonstrate eligibility under this Part VII-A-7:
  - (i) A copy of one of the items identified in Part VII-A-7-b above, **AND**
    - (A) A commitment for title insurance evidencing that title to the Property is vested in the person or entity who executed the document required in Part VII-A-7-b above as owner, which must include a valid legal description of the property. The commitment for title insurance must be dated no more than 60 days prior to the Initial Application Deadline.
- d. Copies of assignments of contracts or options without copies of the underlying contract or option that meets the requirements set forth above will not be accepted.
- e. All documentation must be in full force and effect, fully executed, and include a correct legal description for the Property.

- f. The legal description included with the documentation pursuant to Part VII-A-7-b and the legal description included with the documentation pursuant to Part VII-A-7-c must be consistent with each other.
  - (i) If the legal descriptions required pursuant to Part VII-A-7-b and Part VII-A-7-c do not match exactly, the applicant may submit a sworn affidavit from an individual listed in **Ownership Organization Breakdown** or an individual listed on **Developer Organization Breakdown** stating that the legal description included with the documentation pursuant to Part VII-A-7-b and the legal description included with the documentation pursuant to Part VII-A-7-c both refer to the Property.
- g. The purchase price must be clearly stated in the documentation submitted pursuant to Part VII-A-7-b.
- h. If the property identified in an Initial Application under this QAP includes land for which the purchase cost has already been taken into account in connection with a prior allocation of Tax Credits, no cost for the purchase of the land will be permitted in connection with the property identified in the Initial Application under this QAP.

## 8. Market Study

- a. A Market Study (the "Market Study"), performed by an independent third party selected from **Exhibit 9** and prepared in accordance with the requirements of **Exhibit 8**, must be submitted with the Initial Application for all proposed developments. The Market Study, in a form and with content acceptable to THDA, in its sole discretion, must support the need and demand for the proposed development.
- b. The Market Study must be less than six months old at the time of submission.
- c. A Market Study performed by an analyst or firm not listed in **Exhibit 9** will not be accepted. This includes any Market Study performed on behalf of an analyst or firm listed in **Exhibit 9** by an analyst or firm not listed in **Exhibit 9** (i.e. a "subcontracted" Market Study).
- d. Based on the information and analysis presented in the Market Study, and based on other information available to THDA, THDA may determine that market demand is not sufficient to support the proposed development.
- e. ***The determinations of the market analyst as reflected in the Market Study are determinative as to eligibility.***

## 9. Physical Needs Assessment

For Initial Applications proposing adaptive reuse, preservation, or rehabilitation, the Initial Application must include a Physical Needs Assessment (the "Physical Needs Assessment") conducted by an independent third party and prepared in accordance with the requirements of **Exhibit 11**. The Physical Needs Assessment must be in a form and with content acceptable to THDA, in its sole discretion, and must include a complete and detailed work plan showing all necessary and contemplated improvements and the projected cost. The Physical Needs Assessments must be less than six months old at the time of submission. The Physical Needs Assessment must be based on a physical inspection of the building(s) occurring no more than 6 months prior to the effective date of the Physical Needs Assessment.

## 10. Appraisal

- a. For Initial Applications proposing adaptive reuse, preservation, rehabilitation, or requesting acquisition Tax Credits for five or more units, an "as is" market rate appraisal (the "Appraisal") not including Tax Credit benefits must be included with the Initial Application. The Appraisal must be performed by a Certified General Appraiser

licensed in Tennessee and prepared in accordance with the requirements of **Exhibit 12**. The Appraisal must be in a form and with content acceptable to THDA, in its sole discretion. The Appraisal cannot be based solely or largely on a cost approach to value, but must also consider market and income approaches to value. If the development is proposed for scattered sites, the scattered sites must be appraised as a single rental development, using appraisal methodology appropriate for rental property as described here. The acquisition cost for Tax Credit purposes shall not exceed the lesser of the purchase price or the appraised value. The Appraisal must be less than six months old at the time of submission.

- b. For all other Initial Applications that include land cost, a land appraisal (the “Land Appraisal”) must be included with the Initial Application. The Land Appraisal must be in a form and with content acceptable to THDA, in its sole discretion. The Land Appraisal must be performed by a Certified General Appraiser licensed in Tennessee and prepared in accordance with the requirements of **Exhibit 12**. If the development is proposed for scattered sites, the scattered sites must be appraised as a single rental development, using appraisal methodology appropriate for rental property. The land cost for Tax Credit purposes shall not exceed the lesser of the purchase price or the appraised value. The Land Appraisal must be less than six months old at the time of submission.

#### 11. 100-Year Flood Plain

No portion of the improvements associated with the proposed development (other than parking lots) may be within a 100-year flood plain unless covered by flood insurance. Certification in the form of **Attachment 25** will be required with the 10% Carryover Cost Certification. Proof of flood insurance, if applicable, must be submitted with the Final Application.

## B. Scoring Initial Applications

Only Applicants, Initial Applications and developments that meet all application requirements specified in Part VI and all eligibility requirements specified in Part VII-A will be evaluated according to the scoring criteria specified below based on the information provided in each Initial Application. **A minimum of 44 points of the 100 points available is required for an Initial Application to be eligible for further consideration** under this QAP.

Points will not be awarded for any scoring category that is incomplete, erroneous, inconsistent with Attachments, other required supporting documentation, the Initial Application itself, or any other type of inconsistency.

### 1. Development Location and Housing Needs: Maximum 20 Points

- a. Developments located in counties with the greatest rental housing need (**Exhibit 2**): **Maximum 20 points**

### 2. Development Characteristics: Maximum 25 Points

- a. New Construction Only
  - (i) Written documentation from the appropriate local governmental authority demonstrating that current zoning and other local land use regulations permit the development as proposed or that no such regulations currently apply to the proposed development: **5 points**
  - (ii) Designed and built using brick, stone, cement fiber siding, or vinyl to meet a 15-year maintenance-free exterior standard. An architect's certification will be required with the Carryover Allocation Application and prior to issuing the IRS Form 8609: **5 points**
  - (iii) Designed and built with a **minimum of 65%** of the exterior wall surfaces below the plate line covered with brick, stone, or cement fiber siding. An architect's certification will be required with the Carryover Allocation Application and prior to issuing the IRS Form 8609: **5 points**
- b. Preservation or Rehabilitation Only
  - (i) Developments involving **substantial preservation or rehabilitation** must be rehabilitated so that, upon completion of all rehabilitation as described in the Physical Needs Assessment, the major building components and systems will not require further substantial rehabilitation for a period of at least fifteen (15) years from the required placed in service date. Major building components and systems are roof structures, wall structures, floor structures, foundations, plumbing systems, central heating and air conditioning systems, electrical systems, interior and exterior doors, windows, parking lots, elevators, and fire/safety systems. Rehabilitation hard costs must be no less than the greater of thirty percent (30%) of building acquisition costs or eleven thousand dollars (\$11,000) per unit. An architect's certification will be required with the Carryover Allocation Application and prior to issuing the IRS Form 8609: **13 points**
  - (ii) Developments involving **moderate preservation or rehabilitation** must be rehabilitated so that, upon completion of all rehabilitation, rehabilitation hard costs must be no less than the greater of twenty-five percent (25%) of building acquisition cost or seven thousand dollars (\$7,000) per unit. The rehabilitation scope of work must include, at a minimum, all appliances in all units being Energy-Star compliant (this requirement does not apply to ovens, ranges, or microwaves), and all work specified in the Physical Needs Assessment with

regard to drywall, carpet, tile, interior and exterior paint, the electrical system, heating and air conditioning systems, roof, windows, interior and exterior doors, stairwells, handrails, and mailboxes. An architect's certification will be required with the Carryover Allocation Application and prior to issuing the IRS Form 8609: **8 points**

- (iii) Developments involving **limited preservation or rehabilitation** must be rehabilitated so that, upon completion of all rehabilitation, rehabilitation hard costs must be no less than the greater of twenty percent (20%) of building acquisition cost or six thousand dollars (\$6,000) per unit. The rehabilitation scope of work must include, at a minimum, all work specified in the Physical Needs Assessment with regard to interior and exterior common areas, interior and exterior painting and/or power washing, gutters, parking areas, sidewalks, fencing, landscaping, and mailboxes. An architect's certification will be required with the Carryover Allocation Application and prior to issuing the IRS Form 8609: **3 points**
- (iv) All rehabilitation expenditures must satisfy the requirements of Section 42(e)(3)(A)(ii) of the Code.
- (v) All rehabilitation work associated with costs reflected in the Initial Application must be fully completed no later than the required Tax Credit placed in service date.
- (vi) Developments involving the use of existing housing as part of a community revitalization plan as certified, in the form of **Attachment 13**, executed by the City Mayor or City Attorney if the development is located within the applicable city limits, or the County Mayor or County Attorney if the development is located within the relevant county but is outside city limits. For developments which are located in a city without a community revitalization plan, but are covered by the relevant county revitalization plan, the County Mayor or County Attorney may sign the **Attachment 13**, but the City Mayor or City Attorney must sign the acknowledgement of said situation at the bottom of **Attachment 13: 1 point**

c. Historic Nature

Developments exclusively involving a structure (or structures) that is listed individually in the National Register of Historic Places, or is located in a registered historic district and certified by the Secretary of the Interior as being of historical significance to the district, and all proposed work will be completed in such a manner as to be eligible for historic rehabilitation tax credits. An architect's certification will be required with the Carryover Allocation Application and prior to issuing the IRS Form 8609. **Developments seeking to combine historic nature and adaptive reuse will be treated as new construction: 1 point**

d. Energy Efficiency

- (i) Developments fully certified as compliant with Enterprise Green Community requirements. Certification documentation will be required prior to issuing the IRS Form 8609: **15 points**.

OR

- (ii) At placed in service, all of the following Energy Star requirements will be met: **15 points**
  - (A) ENERGY STAR rated HVAC systems in all units, 15 SEER minimum; and
  - (B) ENERGY STAR refrigerator with ice maker, 19 cubic foot minimum; and

- (C) overhead light fixture connected to a wall switch in the living room and all overhead light fixtures in other rooms connected to a wall switch in the same room; and
  - (D) all light fixtures fitted with ENERGY STAR light bulbs; and
  - (E) ENERGY STAR rated windows in all units; and
  - (F) all toilets high efficiency or dual flush.
- (iii) For developments that meet all of the following requirements, the 2015 Enterprise Green Community specifications may be used with regard to Part VII-B-2-d-(ii)-(A) and Part VII-B-2-d-(ii)-(E) above:
- (A) The development originally received an allocation of Tax Credits pursuant to this QAP; and
  - (B) IRS Form(s) 8609 have not yet been issued for the development; and
  - (C) The applicant for the development has elected points under Part VII-B-2-d-(ii) above; and
  - (D) The development architect provides written certification in a form and with substance acceptable to THDA, in its sole discretion, that the HVAC system(s) and windows are fully compliant with 2015 Enterprise Green Community specifications.
- e. Combination of New Construction and Preservation or Rehabilitation
- For developments involving a combination of new construction and rehabilitation, points will be prorated based on the percentage of units in each category.

f. Adaptive Reuse/Conversion

**Developments involving adaptive reuse/conversion will be treated as new construction.** Adaptive reuse/conversion is defined as the change in use of a major building to residential use. Without limitation, the reuse of hotels, motels, buildings formerly used for residential purposes, slabs, sheds, trailers/mobile homes, barns, garages or single-family homes are not considered to be adaptive reuse/conversion.

**3. Sponsor and PHA Sponsor Characteristics: Maximum 19 Points**

- a. Points will be awarded as designated below if the described event **has occurred in Tennessee since March 1, 2013** with respect to the developer, ownership entity, or individuals involved (either directly or indirectly) with the developer or the ownership entity (whether formed or to be formed) identified in the Initial Application: ***maximum 19 points***
- (i) A reservation of Tax Credits was issued and accepted for a development that the individuals identified above were involved with (either directly or indirectly) through the developer or owner, and a Carryover or Firm 42M allocation was obtained: ***maximum 5 points***
  - (ii) A Carryover or Firm 42M allocation was made to a development that the individuals identified above were involved with (either directly or indirectly) through the developer or owner, and an IRS Form 8609 was obtained: ***maximum 6 points***
  - (iii) An allocation of Tax Credits was made to a development that the individuals identified above were involved with (either directly or indirectly) through the developer or owner, and the development met the minimum set-aside for low-income tenants as specified in the Land Use Restrictive Covenant: ***maximum 8 points***
  - (iv) **Initial Applications involving a Public Housing Authority will be ineligible for points under this Part VII-B-3-a.**

- b. Initial Applications involving a PHA must demonstrate eligibility under Part VII-A-2-b: **maximum 19 points.**
- c. Initial Applications will be ineligible for points referenced in Part VII-B-3-a and Part VII-B-3-b above if, with respect to the developer, ownership entity, PHA, or individuals involved (either directly or indirectly) with the developer, the ownership entity (whether formed or to be formed), or the PHA identified in the Initial Application, any of the following has occurred:
- (i) any such individual has been involved with a development which received a reservation of tax credits but returned the tax credits prior to the development placing in service and an IRS Form 8609 was not obtained for the buildings in the development; or
  - (ii) any such individual has been determined to be or have been involved in any prior Initial, Carryover Allocation, or Final Application that has been determined to be in violation of the requirements of the applicable QAP regarding developer or related party issues; or
  - (iii) any such individual has been determined to be or have been involved in any prior Initial, Carryover Allocation, or Final Application that has been determined to involve a “broker” who does not remain involved in the Initial Application through placed in service; or
  - (iv) any such individual has been determined to be or have been involved in any prior Final Application that has been determined to be in violation of the requirements of the applicable QAP regarding submission of permanent financing documentation; or
  - (v) any such individual has been determined to be or to have been involved in any prior Initial, Carryover Allocation, or Final Application as a consultant, but who is a signatory or guarantor of construction financing documents, permanent financing documents, and/or equity syndication documents with respect to the development reflected in such prior Initial, Carryover Allocation, or Final Application; or
  - (vi) any such individual has been determined to be or have been involved in any Multifamily Tax Exempt Bond Authority Application that received an allocation of bond authority but failed to meet established deadline for issuance and sale of the tax-exempt bonds. Voluntary withdrawal of a Multifamily Tax Exempt Bond Authority Application in accordance with all applicable program requirements will not cause ineligibility for points under Part VII-B-3-a or Part VII-B-3-b above; or
  - (vii) any such individual has been determined to be or have been involved in any Section 1602 or Tax Credit Assistance Program (“TCAP”) development that accepted a conditional commitment letter, but failed to meet deadlines established for the submission of documentation to THDA or failed to close on the Section 1602 or TCAP assistance or failed to achieve 100% completion of construction of the development by the relevant deadline (voluntary withdrawal of a Section 1602 or TCAP Application in accordance with all applicable program requirements will not cause ineligibility for points under Part VII-B-3-a or Part VII-B-3-b above); or
  - (viii) any such individual has been determined to be or have been involved in any development for which Section 1602 or TCAP assistance closed, but is in default thereunder or for which events have occurred that with the passage of time will become a default; or
  - (ix) any such individual has been determined to be or have been involved in any development for which a building has an uncured event of noncompliance under

Section 42, the restrictive covenants recorded in connection with the development, or an outstanding IRS Form 8823; or

- (x) any such individual has been determined to be or have been involved in any development which has been placed in a “no further monitoring” status with THDA.

Ineligibility for points as described in this Part VII-B-3-c shall be in effect during the year in which THDA identifies the circumstances causing the ineligibility and for the following two (2) calendar years.

- d. All individuals identified in this Initial Application on **Ownership Organization Breakdown or Developer Organization Breakdown** must remain involved in the 2018 development until all the buildings have placed in service, IRS Form 8609s have been issued for every building in the development, and the minimum set-aside for low-income tenants as specified in the Land Use Restrictive Covenant has been satisfied.

**4. Lowest Income Preference: Maximum 12 Points**

Election to set aside up to twenty percent (20%) of the units (which number shall be rounded up to the next whole unit) for households with incomes no higher than fifty percent (50%) of the area median income with rents maintained at or below the 50% of area median income maximums. Units occupied by households with Section 8 Housing Choice Vouchers count toward this requirement:

<u>Percent of units</u>	<u>Points</u>
At least 5%	<b>6 points</b>
At least 10%	<b>8 points</b>
At least 15%	<b>10 points</b>
At least 20%	<b>12 points</b>

**5. Extended Use Preference or Eventual Tenant Ownership: Maximum 7 points**

**Choose only one below, a. OR b.**

- a. Extended Use Preference: **Maximum 7 Points**

A binding commitment to defer the point in time at which the written request specified in Section 42(h)(6)(I) (the “Opt Out Request”) may be given:

<u>Number of Years</u>	<u>Points</u>
Waive ability to submit Opt Out Request	<b>7 points</b>
5 years	<b>5 points</b>
4 years	<b>4 points</b>
3 years	<b>3 point</b>

**OR**

- b. Eventual Tenant Ownership: **1 point**

A binding commitment to offer the tenant of a single family building at the end of the fifteen-year tax credit compliance period a right of first refusal to purchase the property. The owner must provide to THDA a detailed plan with the Initial Application, specifically including how the owner will set aside a portion of the rent beginning in year two (2) of the compliance period to provide sufficient funds to the tenant at the end of the compliance period for the down payment and the closing costs to purchase the unit. The plan will be required to be updated and submitted to THDA

again for approval in year 13 of the compliance period. The Restrictive Covenant Agreement will contain provisions ensuring enforcement of this provision.

**6. Public Housing Priority: 6 points**

Marketing plans, lease-up plans, and operating policies and procedures which will give a priority to persons on current Public Housing waiting lists. Initial Applications with proposed developments in areas reflected on **Exhibit 6** are eligible for these points.

**7. Residency Priority: Maximum 6 Points**

***Choose only one below, a. OR b.***

- a. Residency Priority for Households with Children: An architect's certification will be required with the Carryover Allocation Application and prior to issuing the IRS Form 8609: **6 points**

A minimum of 20% of the units in the development, rounded up to the nearest whole unit, must have 2 or more bedrooms.

The development must include a playground with permanent playground equipment and at least 1 of the following on-site amenities:

- (i) Appropriately sized, dedicated space with appropriate furniture and fixtures for and agreements with providers of after-school tutoring or homework help programs; or
- (ii) Appropriately sized computer room containing at least 1 computer with free internet access for each 50 total units; or
- (iii) Ball court, separate from all parking areas, incorporating permanent fixtures and a minimum of 1,600 square feet of concrete or paved surface.

**OR**

- b. Residency Priority for Households with Special Housing Needs: The Initial Application must propose a development that serves households with special housing needs. Special needs housing is housing that has been constructed or rehabilitated with special features (e.g. location, design, layout, on-site services) to help people live at the highest level of independence in the community. For example, the unit may be adapted to accommodate special physical or medical needs; or provide on-site services such as staff support for the elderly, individuals with mental health issues, developmental, or other social needs. **In order to qualify for points pursuant to this Part VII-B-7-b, the proposed development must include on-site services for the targeted tenant population. The Initial Application must include a comprehensive service plan that identifies each service to be provided; the anticipated source of funding for each service; the physical space that will be used to provide each service; and the anticipated supportive service provider for each service and their experience in providing service to the targeted population. Verification of tentative agreements with providers of on-site services throughout the first two (2) years following the required placed in service date must be included with the Initial Application. Final agreements with providers of on-site services throughout the first two (2) years following the required placed in service date must be included with the Final Application.** An architect's certification will be required with the Carryover Allocation Application and prior to issuing the IRS Form 8609: **6 points**

The development must include an appropriately sized, dedicated space with appropriate furniture and fixtures for, and agreements with, providers of services

relevant to special housing needs residents and at least 1 of the following on-site amenities:

- (i) Appropriately sized computer room containing at least 1 computer with free internet access for each 50 total units; or
- (ii) Exercise facility for appropriate group activity for special housing needs residents (space must be at least 900 square feet, if indoor); or
- (iii) Gazebo with outdoor shaded sitting area with ornamental flowers and shrubs.

**8. Tennessee Growth Policy Act: 5 points**

Initial Applications with proposed developments located completely and wholly in a county or municipality with a growth plan approved by the local government planning advisory committee as determined by the Tennessee Advisory Commission on Intergovernmental Relations and reflected on **Exhibit 3**. Initial Applications with proposed developments in counties not subject to the Tennessee Growth Policy Act, as shown on **Exhibit 3**, will receive these points.

## Part VIII: Initial Application Eligibility and Scoring Review

### **A. Notice to Applicants**

1. THDA will notify each applicant when the eligibility determination and scoring of their Initial Application is complete. THDA will send this notice to the contact person and the address specified in the Initial Application. Failure to receive any notice specified in this Part VIII will not extend deadlines or modify requirements in this Part VIII. All applicants shall immediately notify THDA, in writing, of changes in the name and/or address of the contact person specified in the Initial Application. Such notification by the applicant will not be deemed to be an amendment to the Initial Application.
2. If THDA determines that an Initial Application meets all of the eligibility requirements of this QAP and if the score assigned by THDA in each scoring category is the same as or higher than the score assigned by the applicant in the Initial Application, then no further action by the applicant or THDA will be taken. At no time during the process set forth in this Part VIII may applicants submit additional items for the purpose of increasing the scores in a particular scoring category if the THDA assigned score is the same as or higher than the score assigned by the applicant in the Initial Application. The provisions of Part VIII-B do not apply.
3. If THDA determines that an Initial Application does not meet one or more of the eligibility requirements of this QAP or if the score assigned by THDA in any scoring category is less than the score assigned by the applicant in the Initial Application, THDA will so notify the applicant. THDA will also notify applicants if THDA determines that (i) any two or more developments proposed in two or more Initial Applications constitute a single development for purposes of applying the development limit specified in Part IV-B or (ii) developers or related parties reflected in two or more Initial Applications constitute a single entity for purposes of applying the developer or related party limitation specified in Part IV-C. This notice to applicants from THDA is referred to herein as the "Cure Notice".
4. **No rankings or scoring summaries with respect to Initial Applications received by THDA will be available until all cure periods have expired and the review process is complete.**

### **B. Cure Period**

1. Applicants receiving a Cure Notice may, in compliance with the requirements of this Part VIII-B, correct erroneous items, supply missing or incomplete items and/or may clarify any inconsistencies related to the specific items identified by THDA during a cure period which shall begin on the date of the Cure Notice and shall end at the time and date specified in the Cure Notice. The Cure Notice shall specify the means and methods by which identified issues may be remedied. Applicants may not submit additional items for the purpose of increasing the score in a particular scoring category where the THDA assigned score is the same as or higher than the score assigned by the applicant in the Initial Application.
2. If additional documentation to address items specified in the Cure Notice is not submitted in accordance with the requirements contained in the Cure Notice, then the determination as to eligibility and scoring made by THDA is determinative. The review process described in Part VIII-C is not available to applicants who do not submit additional documentation, **in writing**, in accordance with the Cure Notice (including, without limitation, the time deadlines specified therein.).
3. The cure provisions of this Part VIII-B **do not apply** to Initial Applications that are not submitted in accordance with the requirements of Part VI.

4. THDA will review all documentation submitted in accordance with the Cure Notice for each relevant Initial Application. If THDA determines that an Initial Application, taking into account documentation submitted in accordance with the Cure Notice, meets all of the eligibility requirements of this QAP and if the score assigned by THDA in each scoring category is the same as or higher than the score assigned by the applicant in the Initial Application, then no further action by the applicant or THDA will be taken. The provisions of Part VIII-C will not apply.
5. If THDA determines that an Initial Application, taking into account documentation submitted in accordance with the Cure Notice, still does not meet any one of the eligibility requirements of this QAP or if the score assigned by THDA in any scoring category is still less than the score assigned by the applicant in the Initial Application, THDA will notify the applicant of the determination (the "Review Notice"). The Review Notice will specify the time period within which a request for review may be made.

### **C. Review Process**

1. Applicants who receive a Review Notice may submit, **in writing**, a request for review to the THDA Executive Director. This request for review must be submitted in accordance with the Review Notice. A request for review will not be considered if no documentation was submitted or if documentation was not submitted in accordance with the Cure Notice (including, without limitation, the time deadlines therein). If no written request for review is submitted or if the written request submitted does not meet all requirements of the Review Notice or this QAP, no review will occur and the THDA determination prior to the issuance of the Review Notice will be final.
2. The request for review must identify the eligibility item or scoring category to be reviewed, **the information in the Initial Application OR the documentation submitted during the cure period relevant to the eligibility item or scoring category in question**, and the reason the applicant thinks that the eligibility determination or scoring was in error. The request for review must contain no more than two 8 1/2 X 11 inch pages, with print on one side of each page, typed in 12 point font or larger. Requests not meeting this format will not be considered.
3. No additional documentation may be submitted in connection with this request for review. No information submitted after the expiration of the relevant cure period specified in the Cure Notice for an Initial Application will be considered. Requests for review that were not submitted in accordance with the Review Notice will not be considered. The provisions of Part VIII-C-4, -5, and -6 will not apply.
4. The Tax Credit Committee of the Board of Directors of THDA (the "Tax Credit Committee") will meet in regular or special session in June 2018, to evaluate the Initial Application, documentation submitted during the cure period, the Review Notice, the request for review and THDA staff analysis thereof (the "Review Meeting"). The Tax Credit Committee will consider only documentation submitted in compliance with this Part VIII, regardless of whether the applicant or a representative thereof are present at the Review Meeting. The Tax Credit Committee will consider whether documentation submitted as a result of the Cure Notice, taking into account the THDA staff analysis, is sufficient to meet the requirements of this QAP or is otherwise consistent with the spirit and intent of this QAP. **Any contact with THDA Executive Director, any member of the Tax Credit Committee or any member of the THDA Board by any person or entity on behalf of any Initial Application between the date of the Review Notice and the date of the Review Meeting will be grounds for dismissal of the review request.**
5. Applicants or representatives thereof may contact THDA Multifamily Development staff regarding procedural matters only between the date of the Review Notice and the date of

the Review Meeting, which contact, if limited as specified herein, will not constitute grounds for dismissal of a review request. Applicants or representatives thereof may, but are not required to, appear at the Review Meeting. Notice of the decision of the Tax Credit Committee will be provided to the applicant.

6. The final score for all Initial Applications will be determined after the Review Meeting. By adoption of this QAP, the THDA Board of Directors specifically delegates full authority to the Tax Credit Committee to make the determinations specified in this Part VIII-C. The THDA Board of Directors will not consider requests to review decisions of the Tax Credit Committee. All decisions of the Tax Credit Committee are final. No matters with respect to eligibility under Part VII-A or with respect to scoring under Part VII-B will be considered after the adjournment of the Review Meeting.

#### **D. Final Scoring and Ranking of Initial Applications**

After the completion of the cure period and completion of the review process set forth above, the final score for each Initial Application will be determined by THDA. Each Initial Application will be listed in order of score and such rankings will be made available to all applicants. This ranking is not confirmation of a reservation of Tax Credits. Reservations will not be made until all set-asides have been applied and all limits have been applied.

#### **E. Application of Various Limits/Final Ranking**

Following the final scoring of each Initial Application, THDA will make reservations in the Non-Profit Set-Aside, in the Public Housing Authority Set-Aside, in the Preservation Set-Aside, in the QCT/CRP Set-Aside, and in the Rural Set-Aside, based on the final scores assigned to each Initial Application, the amount of Tax Credits determined by THDA to be appropriate, the application of all other priorities, caps, and limits contained in this QAP, and according to the following procedures and provisions:

##### **1. Non-Profit Set-Aside:**

- a. Based on the final scoring of Initial Applications, THDA will list, in ranking order, all developments qualifying for the Non-Profit Set-Aside. THDA will reserve Tax Credits beginning with the highest ranking Initial Application in the Non-Profit Set-Aside proposing new construction and the highest ranking Initial Application in the Non-Profit Set-Aside proposing preservation (as described in Part VII-A-2-c) or rehabilitation in the initial Non-Profit Set-Aside and, following that, will proceed down the ranking, without regard to development activity, until the point is reached where the last complete reservation can be made from the Non-Profit Set-Aside. **No partial reservations of Tax Credits will be made, except pursuant to Part VIII-E-8.** (The limitations specified in Part IV will apply.) If there are not enough Tax Credits remaining in the initial Non-Profit Set-Aside to reserve the full amount requested for the next Non-Profit Initial Application in line, the difference between the balance remaining in the initial Non-Profit Set-Aside and the amount needed to make a full reservation will be added to the Non-Profit Set-Aside.
- b. If a development receives a reservation from the Non-Profit Set-Aside and is also qualified for the QCT/CRP Set-Aside and/or the Rural Set-Aside, the reservation from the Non-Profit Set-Aside will count against the QCT/CRP Set-Aside and/or the Rural Set-Aside, as applicable.
- c. After the initial Non-Profit Set-Aside is completely reserved, other qualified Non-Profit applications that did not receive a reservation will be included and considered, along with other qualified applications, in the Public Housing Authority Set-Aside, the Preservation Set-Aside, the QCT/CRP Set-Aside (subject to b. above), the Rural Set-Aside (subject to b. above), and the General Pool, (subject to b. above) and Part IV, as applicable.

2. PHA Set-Aside:

- a. Qualified Initial Applications with a CNI Implementation Agreement or a RAD Commitment to Enter into a Housing Assistance Payments Contract (as described in Part VII-A-2-b of this QAP) will receive priority within the PHA Set-Aside.
- b. THDA will list, in ranking order, qualified Initial Applications in the PHA Set-Aside, and will make reservations beginning with the highest ranking Initial Application in the PHA Set-Aside and will proceed down the ranking until the point is reached where the last complete reservation has been made from the PHA Set-Aside. **No partial reservations of Tax Credits will be made, except pursuant to Part VIII-E-8.** (The limitations specified in Part IV will apply.)
- c. If a development receives a reservation from the PHA Set-Aside and is also qualified for the QCT/CRP Set-Aside and/or the Rural Set-Aside, the reservation from the PHA Set-Aside will count against the QCT/CRP Set-Aside and/or the Rural Set-Aside, as applicable.
- d. After the last complete reservation has been made from the PHA Set-Aside, other qualified PHA applications that have not received a reservation **will be** included and considered, along with other applications, in the Preservation Set-Aside, the QCT/CRP Set-Aside, the Rural Set-Aside, and the General Pool, as applicable.

3. Preservation Set-Aside

- a. THDA will list, in ranking order, qualified Initial Applications in the Preservation Set-Aside, and will make reservations beginning with the highest ranking Initial Application in the Preservation Set-Aside and will proceed down the ranking until the point is reached where the last complete reservation has been made from the Preservation Set-Aside. **No partial reservations of Tax Credits will be made, except pursuant to Part VIII-E-8.** (The limitations specified in Part IV will apply.)
- b. If a development receives a reservation from the Preservation Set-Aside and is also qualified for the QCT/CRP Set-Aside and/or the Rural Set-Aside, the reservation from the Preservation Set-Aside will count against the QCT/CRP Set-Aside and/or the Rural Set-Aside, as applicable.
- c. After the last complete reservation has been made from the Preservation Set-Aside, other qualified preservation applications that have not received a reservation **will not** receive further consideration for 2018 Tax Credits in any other set-aside or in the General Pool unless necessary to satisfy the requirements of Part VIII-E-4, Part VIII-E-5, or Part VIII-E-8.

4. QCT/CRP Set-Aside

- a. If steps 1 through 3 above have not produced a reservation to a development qualified for the QCT/CRP Set-Aside, THDA will list, in ranking order, qualified Initial Applications in the QCT/CRP Set-Aside and will reserve Tax Credits beginning with the highest ranking Initial Application in the QCT/CRP Set-Aside proposing new construction until the point where steps 1 through 4 include a reservation to one (1) development proposing new construction that is qualified for the QCT/CRP Set-Aside. **No partial reservations of Tax Credits will be made, except pursuant to Part VIII-E-8.** (The limitations specified in Part IV will apply.)
- b. After the last complete reservation has been made from the QCT/CRP Set-Aside, other qualified applications for QCT/CRP developments that have not received a reservation **will be** included and considered, along with other applications, in the General Pool, as applicable.

5. Rural Set-Aside

- a. If steps 1 through 4 above have included reservations to less than two (2) developments qualified for the Rural Set-Aside, THDA will list, in ranking order, qualified Initial Applications in the Rural Set-Aside and will reserve Tax Credits beginning with the highest ranking Initial Application(s) in the Rural Set-Aside until the point where steps 1 through 5 include reservations to two (2) developments that are qualified for the Rural Set-Aside. **No partial reservations of Tax Credits will be made, except pursuant to Part VIII-E-8.** (The limitations specified in Part IV will apply.)
- b. After the last complete reservation has been made from the Rural Set-Aside, other qualified applications for developments proposed for counties listed as “Rural” in **Exhibit 1** that have not received a reservation **will not** receive further consideration for 2018 Tax Credits in any other set-aside or in the General Pool unless necessary to satisfy the requirements of Part VIII-E-7-b.

6. Innovation Set-Aside

- a. Applicant presentations to the Innovation Set-Aside Selection Group shall take place in 2018, at a time and location determined by THDA and shall be limited to one (1) presentation per Innovation Set-Aside Application, no more than sixty (60) minutes in length.
- b. The Innovation Set-Aside Selection Group, in its sole discretion, may select Innovation Set-Aside Application(s) to receive a Reservation Notice from the Innovation Set-Aside. The selected Innovation Set-Aside Application(s) will be notified at the same time the ranking for the regular competitive round is released.
- c. **The determination of Innovation Set-Aside Selection Group shall not be appealable to the THDA Board or the Tax Credit Committee of the THDA Board.**

7. General Pool

- a. Any Tax Credits remaining after steps 1 through 5 above are complete will be combined with any other Tax Credits that are unallocated for any reason (from Part III-A above).
- b. Throughout the remainder of the reservations, THDA will ensure that at least ten percent (10%) of the total amount of Tax Credits available for allocation in Tennessee for 2018 have been reserved to Initial Applications that are qualified for the Non-Profit Set-Aside, even if a lower ranking Initial Application qualified for the Non-Profit Set-Aside must be reserved Tax Credits before a higher-ranking Initial Application that is not qualified for the Non-Profit Set-Aside.
- c. Except as necessary to satisfy the requirements of Part VIII-E-7-b, all reservations of Tax Credits from the General Pool will be made only to eligible Initial Applications that propose new construction.
- d. THDA will reserve any remaining Tax Credits to the remaining qualified Initial Applications beginning with the highest ranking Initial Application, subject to the priority for Non-Profit Initial Applications, the priority for Initial Applications proposing new construction, the priority for CNI Initial Applications, and subject to all other caps and limits contained in this QAP and proceed down the ranking until the point is reached where the last complete reservation is made. **No partial reservations of Tax Credits will be made, except pursuant to Part VIII-E-8.** (The limitations specified in Part IV will apply.)

- e. (i) If the steps above leave THDA with insufficient Tax Credits to make a complete reservation to the next highest ranking eligible Initial Application proposing new construction, THDA will hold the Tax Credits remaining until enough Tax Credits have been recaptured or returned for a complete reservation to be made to the next highest ranking eligible Initial Application proposing new construction, taking into account all applicable priorities, caps and limits. THDA will then make a complete reservation to the next highest ranking eligible Initial Application proposing new construction (The limitations specified in Part IV will apply.)
  - (ii) If the Tax Credits remaining are likely to exceed one percent (1%) of the total Tax Credits available for reservation, any remaining Tax Credits may be offered pursuant to Part VIII-E-8 below, taking into account all applicable priorities, caps, and limits. The limitations in Part IV will apply.
8. If the Tax Credits remaining are likely to exceed one percent (1%) of the total Tax Credits available for reservation, any remaining Tax Credits may be offered as a partial reservation to the next highest ranking eligible Initial Application proposing new construction, taking into account all applicable priorities, caps, and limits, until the Tax Credits are accepted. (The limitations in Part IV will apply.) Acceptance of a partial reservation according to this provision would not classify a development as an “existing” application in subsequent years, but any limitation on Tax Credits per development in subsequent years would apply to any such partial reservation.
9. **Tax Credits remaining in the Non-Profit Set-Aside after all qualified Non-Profit Initial Applications have received reservations of Tax Credits cannot be reserved to other Initial Applications.**
10. Tie Breaker

In the event there is a scoring tie between two or more Initial Applications at the cutoff for receipt of a Tax Credit Reservation Notice, the tie shall be broken as follows:

- a. If the tie is between two or more Initial Applications, **all of which propose new construction**, the Initial Application requesting the least Tax Credits per square foot of heated, low-income, **residential** floor space as measured “paint to paint” (**not including** common areas) will be given priority.
- b. If the tie is between two or more Initial Applications, **at least one of which proposes preservation or rehabilitation**, the Initial Application requesting the least Tax Credits per low-income unit will be given priority.
- c. In applying the tie breaker, THDA will carry out the calculation to as many digits to the right of the decimal point as needed to break the tie.

## Part IX: Reservation of Tax Credits

### **A. Reservation Notice**

THDA will notify, in writing, each successful applicant of an initial reservation of Tax Credits (the "Reservation Notice"). In determining the initial amount of Tax Credits to be reserved, THDA will use the costs, incomes and expenses submitted in the Initial Application, as determined by THDA to be reasonable. **The final amount of Tax Credits allocated to each successful applicant may be less than, but will not be more than, the amount requested in the Initial Application, the amount specified in the Reservation Notice or the amount reflected in a Carryover Allocation Agreement.** Allocations will be determined in connection with a Carryover Allocation Application and in connection with an evaluation at the time the development is placed in service, in accordance with Section 42(m)(2) and this QAP.

### **B. Status Reports**

All developments with a Reservation Notice shall provide status reports outlining progress toward completion by dates, in a form and with substance as specified by THDA. Information requested will be development specific and may include such items as construction progress.

### **C. Recapture of Tax Credits During Reservation Period**

1. THDA will cancel a Reservation Notice for failure to fully satisfy conditions imposed in connection with the Reservation Notice and for failure to provide satisfactory information or documentation required by the Reservation Notice by the deadlines specified in the Reservation Notice. This means that the Tax Credits referred to in the Reservation Notice are not available for the development specified in the Reservation Notice and will be made available to other qualified developments. Deadlines specified in the Reservation Notice are the dates upon which Tax Credits are deemed recaptured by THDA unless the conditions related to each deadline have been met on or before such deadline or unless an extension has been granted under Part XIV-C.
2. Tax credits made available through a Reservation Notice may be voluntarily returned. Any such return means Tax Credits are not available for the development referenced in the Reservation Notice.
3. Any Tax Credits recaptured either by cancellation of a Reservation Notice under Part IX-C-1 above or by voluntary return under Part IX-C-2 above will be reserved to the fullest extent practical to other qualified Initial Applications for Tax Credits as provided in this QAP.

## Part X: Carryover Allocation

### **A. Qualifying for a Carryover Allocation**

A development with a Reservation Notice that will not be placed in service by December 31, 2018, may be eligible for a carryover allocation of Tax Credits (“Carryover Allocation”). In order to qualify for a Carryover Allocation, the ownership entity identified in the Initial Application must have ownership of the property identified in the Initial Application and must have spent a minimum of ten percent (10%) of the reasonably expected basis in the development on or before the dates specified in the Carryover Allocation Agreement.

### **B. Submission of Additional Information and Documentation**

The Carryover Allocation Application (submitted through the electronic application system) will specify the additional information and documentation required and will specify a date by which such information and documentation must be submitted to THDA.

At a minimum, a qualified applicant shall provide the following information and documentation, which information and documentation shall be in a form and with substance acceptable to THDA, **by the date(s) specified in the Carryover Allocation Application**:

1. Firm commitment letters for construction financing and competitive state or Federal loans or grants (i.e.: AD-622 for USDA/RD [formerly FmHA]), executed as specified in the letter and otherwise in a form and with substance acceptable to THDA;
2. Most recent utility allowance documents (from USDA/RD [formerly FmHA], HUD, local PHA, or utility company) demonstrating the basis for calculations of utility costs for the size and type of units proposed;
3. Written documentation from each service provider that all necessary utilities (i.e.: electricity, gas (if proposed development utilizes gas), sewer, and water) are available at the site;
4. Written documentation from the appropriate local governmental authority demonstrating that current zoning and other local land use regulations permit the development as proposed or that no such regulations currently apply to the proposed development (as new construction, acquisition and rehabilitation, or rehabilitation only);
5. Detailed information about the syndication transaction including, without limitation, a firm commitment letter from the purchaser of the tax credits executed as specified in the Carryover Allocation Application;
6. For Initial Applications subject to Part VII-A-4-a-(ii), Part VII-A-4-a-(iii), Part VII-A-4-a-(v), Part VII-A-4-a-(viii); Part VII-A-4-a-(ix), Part VII-A-4-a-(x), Part VII-B-2-a-(ii); Part VII-B-2-a-(iii); Part VII-B-2-b; Part VII-B-2-c; and/or Part VII-B-7, an architect’s certification will be required with the Carryover Allocation Application and prior to issuing the IRS Form 8609; and
7. Other information or documentation as THDA may deem necessary to fully evaluate the proposed developments and the applicant’s ability to proceed.

### **C. Other Carryover Allocation Requirements**

1. To request a Carryover Allocation, the owner must, no later than the dates specified in the Carryover Allocation Application:
  - a. Complete a Carryover Allocation Application (submitted through the electronic application system); and
  - b. Submit any other development specific materials THDA may require.

2. The owner must execute a Carryover Allocation Agreement (**Form furnished by THDA**) and return the executed Carryover Allocation Agreement to THDA no later than the dates specified in the Carryover Allocation Agreement.
3. To meet the Carryover Allocation requirements, the owner must submit the Cost Certification (**Form furnished by THDA**) for the ten percent (10%) test no later than the date specified in the Carryover Allocation Agreement.
4. To meet the Carryover Allocation requirements, the owner must submit a copy of the recorded warranty deed showing ownership by the ownership entity identified in the Initial Application, a fully executed 50-year ground lease (subject to the provisions of Part VII-A-7-b-(v) of this QAP) showing the Ownership Entity as identified in the Initial Application as the lessee, or a copy of a PILOT agreement showing ownership by the ownership entity identified in the Initial Application no later than the date specified in the Carryover Allocation Agreement.

#### **D. Tax Credits Available**

The amount of Tax Credits to be allocated by a Carryover Allocation Agreement will be determined by THDA in connection with an evaluation at the time a Carryover Allocation is requested and in accordance with Section 42(m)(2). **This amount may be less than, but will not be more than, the Tax Credit amount in the Reservation Notice.**

#### **E. Status Reports**

All developments with a Carryover Allocation shall provide status reports outlining progress toward completion by dates, in form and substance specified by THDA in the Carryover Allocation Application.

#### **F. Recapture of Tax Credits During Carryover Period**

1. THDA will cancel a Carryover Allocation for failure to fully satisfy conditions imposed in connection with the Carryover Allocation. This means that the Tax Credits referred to in the Carryover Allocation Agreement are not available for the development specified in the Carryover Allocation Agreement and will be made available to other qualified developments. Deadlines specified in the Carryover Allocation Agreement are the dates upon which Tax Credits are deemed recaptured by THDA unless the conditions related to each deadline have been met on or before such deadline. Such Tax Credits are recaptured by THDA, without further notice, effective as of the deadline established in the Carryover Allocation Agreement which was not met.
2. Tax Credits allocated by a Carryover Allocation Agreement may be voluntarily returned. Any such return means that Tax Credits are not available for the development referenced in the Carryover Allocation Agreement.
3. Any Tax Credits recaptured either by cancellation of a Carryover Allocation Agreement under Part X-F-1 above or by voluntary return under Part X-F-2 above will be made available as follows:
  - a. Any Tax Credits returned before October 1, 2018, will be reserved to other qualified Initial Applications for Tax Credits as provided in this QAP;
  - b. Any Tax Credits returned on or after October 1, 2018, will be reserved pursuant to a QAP for 2019, if available.

## Part XI: Placed In Service

### **A. Placed In Service Requirements**

1. After all units in a development are placed in service, THDA will make a final allocation of Tax Credits and will issue IRS Form(s) 8609 only after receipt of the following, in form and substance satisfactory to THDA:
  - a. Final Application (submitted through the electronic application system);
  - b. Applicant's Verification Form for each building in the development (submitted through the electronic application system);
  - c. Final Cost Certification of actual costs, incomes and expenses, including actual syndication proceeds, from an independent CPA licensed in Tennessee (**Form furnished by THDA**);
  - d. Original Recorded Land Use Restrictive Covenant (**Form furnished by THDA**);
  - e. Copy of the recorded warranty deed indicating ownership by the ownership entity identified in the Initial Application, if applicable;
  - f. Certifications as may be required under Part VII-A and Part VII-B of this QAP;
  - g. Certificate of Occupancy for each building or, if the jurisdiction in which the development is located does not issue Certificates of Occupancy for the type of development involved, a letter from an authorized official of the local jurisdiction stating that the jurisdiction does not issue Certificates of Occupancy;
  - h. Required Compliance Monitoring Fee;
  - i. Verification from THDA Construction Analyst of fulfillment of all construction inspection requirements as reflected in **Exhibit 13**;
  - j. Detailed information about the syndication transaction including, without limitation, a firm commitment letter from the purchaser of the tax credits executed as specified in the Final Application;
  - k. Verification from THDA Program Compliance Division of Owner's Compliance Training attendance in accordance with Part XIII-L of this QAP;
  - l. Verification from THDA Program Compliance Division of a current, valid certification for the management company under the THDA Certified Property Manager/Agent Program; and
  - m. Other documentation as THDA may require.
2. THDA must receive a copy of the promissory note and recorded deed of trust for permanent financing of the development within sixty (60) days of the date of recording of the deed of trust. Failure to provide such documentation shall be deemed an event of noncompliance hereunder. THDA reserves the right to issue revised IRS Form(s) 8609 following receipt of the copy of the promissory note and recorded deed of trust if the terms of the promissory note and/or deed of trust vary from the terms specified in the Final Application.

### **B. Tax Credits Available**

The amount of Tax Credits allocated when a development is placed in service will be determined by THDA based on an evaluation of the above required information and documentation and in accordance with Section 42(m). **This amount may be less than, but will not be more than, the amount reserved in the Reservation Notice or allocated in the Carryover Allocation. THDA reserves the right to make downward adjustments in the final amount of Tax Credits based on the information submitted and Section 42 requirements.**

## **Part XII: Developments to be Financed With Tax Exempt Bonds**

A development financed with tax-exempt bonds may be eligible for an allocation of Tax Credits outside the competitive process described in this QAP. The development must meet the following conditions:

- A. If fifty percent (50%) or more of the aggregate basis of a development is financed with tax-exempt bonds, the development is eligible to apply for Tax Credits outside the competitive allocation process described in this QAP. If less than fifty percent (50%) of the aggregate basis of a development is financed with tax-exempt bonds, the competitive allocation process described in this QAP applies. Either counsel or a Certified Public Accountant licensed in Tennessee must certify to THDA that this financing requirement is met.
- B. Developments which are not subject to the competitive allocation process must, nevertheless, make application for Tax Credits to THDA in accordance with the terms of the THDA tax-exempt bond Commitment Letter based on bonds issued as a result of an allocation of 2018 volume cap by THDA. All such developments must meet all eligibility requirements of this QAP (with the exception of the requirements of Part VII-A-4-a-(iii)) and attain the minimum score required in Part VII-B. Developments which are not subject to the competitive allocation process must submit required attachments and supporting documentation as required by the electronic application system. THDA will determine the appropriate amount of Tax Credits to be allocated, and will issue a Reservation Notice. In determining the initial amount of Tax Credits to be reserved, THDA will use the costs, incomes and expenses submitted in the Initial Application, as determined by THDA to be reasonable. Allocations will be determined in connection with an evaluation at the time the development is placed in service, in accordance with Section 42(m)(2) and this QAP. Any such allocation of Tax Credits will not count against the limits on Tax Credits by county or by developer specified in Part IV. All requirements of Section 42 and this QAP apply to such developments.**
- C. Initial Applications for developments pursuant to this Part XII will be subject to the eligibility requirements in Part VII-A and to the minimum scoring requirements in Part VII-B.
- D. Developments receiving Tax Credits pursuant to this Part XII will be subject to all fees and compliance requirements and procedures as described in this QAP.
- E. Initial Applications for developments pursuant to this Part XII may be submitted to THDA outside the initial application deadlines stated in this QAP.
- F. If a development or proposed development is the subject of a pending competitive Tax Credit Initial Application and becomes the subject of a Multifamily Tax Exempt Bond Authority Application, the issuance of a bond Commitment Letter by THDA shall constitute the withdrawal of the competitive Tax Credit Initial Application.

### **Part XIII: Compliance Monitoring**

Compliance monitoring procedures and requirements that apply to all buildings placed in service in Tennessee that have received Tax Credits allocated under Section 42 include, but are not limited to, the following:

- A. Owners must certify each year of the compliance period and the extended use period (“Owner’s Annual Certification of Compliance”), under penalty of perjury that, for all times during the prior calendar year:
1. The development meets the minimum requirements of the appropriately selected test (i.e. 40/60 or 20/50) consistent with the irrevocable election made at the time of the initial application under the relevant QAP and Section 42(g)(1);
  2. There was no change in the applicable fraction (as defined in Section 42(c)(1)(B)) of any building in the development or that there was a change and a description, satisfactory to THDA, of that change;
  3. The owner has received an annual income certification from each low-income tenant and has documentation to support the certification, including certify that tenant income has not increased above 140% of the income limitation required under Section 42(g)(2)(D)(ii);
  4. Each low-income unit is rent restricted under Section 42(g)(2);
  5. All units in the project were for use by the general public;
  6. There were no findings of discrimination under the Fair Housing Act, 42 U.S.C. 3601-3619 for the development;
  7. Each building in the development is suitable for occupancy, taking into account UPCS standard and local health, safety, and building codes (or other habitability standards) and the state or local government unit responsible for making local, health, safety, or building code inspections did not issue a violation report for any building or low-income unit in the development;
  8. There has been no change in the eligible basis (as defined in Section 42(d)) of any building in the development or, if there was a change, the nature of the change;
  9. All tenant facilities included in the eligible basis under Section 42(d) of any building in the development, such as a swimming pool, other recreational facilities, and parking areas, were provided on a comparable basis without charge to all tenants of the development;
  10. If a low-income unit became vacant during the year, reasonable attempts were made to rent that unit or the next available unit of comparable or smaller size to tenants having a qualifying income before any units in the development were rented to tenants not having a qualifying income and while the unit was vacant, no units of comparable or smaller size were rented to tenants not having a qualifying income;
  11. If the income of tenants of a low-income unit in the development increased above the limit allowed in Section 42(g)(2)(D)(ii), the next available unit of a comparable or smaller size was rented to residents having a qualifying income;
  12. An extended low-income housing commitment, as described in Section 42(h)(6), was in effect, including the requirement under Section 42(h)(6)(B)(iv) that an owner cannot refuse to lease a unit in the project to an applicant because the applicants holds a voucher under Section 8 of the United States Housing Act of 1937, 42 U.S.C. 1437f;
  13. All low-income units in the development were used on a non-transient basis (except for transitional housing for the homeless provided under Section 42 (i)(3)(B)(iii) or single-room occupant units rented on a month-by-month basis under Section 42(i)(3)(B)(iv);

14. If the owner received Tax Credits from the Non-Profit Set-Aside, the “qualified non-profit organization” materially participated (regular, continuous and substantial on-site involvement) in the on-going operation of the development;
  15. If the building is financed by USDA/RD (formerly FmHA) under the Section 515 program, that the building complies with the requirements for USDA/RD assistance;
  16. All requirements associated with items for which points were taken at the time of initial application were met;
  17. An extended low-income housing commitment was in effect for the development;
  18. If Owner cannot truthfully certify to one or more of the above items, a detailed explanation of the situation must be provided to THDA with the Owner’s Annual Certification of Compliance.
- B. THDA will review all Owner’s Annual Certifications of Compliance for compliance with Section 42, relevant regulations and the relevant QAP. THDA will also conduct yearly on-site inspections of no less than 33% of developments receiving Tax Credits.
1. For the selected developments, THDA will review at least 20% of the tenant files for compliance with applicable occupancy and rent restrictions.
  2. For the selected developments, THDA will conduct physical inspections of at least 20% of the units to evaluate suitability for occupancy, taking into account UPCS and local, health, safety, and building codes (or other habitability standards).
  3. As a part of the on-site inspection, a review will be conducted of the owner’s marketing efforts to attract special needs populations and Section 8 applicants as outlined in the extended low-income housing commitment.
  4. Developments financed by the USDA/RD Section 515 loan program may be, but are not required to be, exempt from annual on-site file reviews and physical inspections.
- C. THDA shall provide prompt written notice to an owner if any of the following occur:
1. THDA does not receive the Owner’s Annual Certification of Compliance;
  2. THDA does not receive or is not permitted to inspect tenant income certifications, supporting documentation or rent records;
  3. THDA discovers by inspection, review or in some other manner that the development is not in compliance with Section 42, the relevant regulations, or the relevant QAP.
- D. Owners shall pay fees, as determined by THDA, to cover the administrative expenses of monitoring compliance and other expenses incurred in carrying out its duties as the Housing Credit Agency including but not limited to reasonable fees for legal and professional services.
- E. Owners shall have a ninety (90) day period to provide missing documentation or to correct noncompliance (the “Correction Period”). The Correction Period begins on the date THDA sends written notice to the owner specifying the missing documentation or the noncompliance via regular mail or via e-mailed to the address specified for the Owner or Owner’s contact in the files held by the Compliance Division of THDA. The Correction Period may be extended up to an additional 90 days for a total Correction Period not to exceed six (6) months upon a showing of good cause by the owner, all as determined by THDA in its sole discretion. Notwithstanding the foregoing, THDA will not grant extensions for items that are immediate health and safety issues.
- F. Owners shall have a seventy-two (72) hour period to provide missing documentation or to correct noncompliance with regard to immediate health and safety issues (the “Health and Safety Correction Period”). The Health and Safety Correction Period begins at the time THDA notifies the owner specifying the missing documentation or the noncompliance via on-site

letter, via telephone, or via e-mail to the telephone number or to the address specified for the Owner or Owner's contact in the files held by the Compliance Division of THDA.

- G. THDA shall file an IRS Form 8823, Low-Income Housing Credit Agencies Report of Noncompliance, with the Internal Revenue Service to show an owner's noncompliance or failure to certify compliance no later than 45 days after the end of the Correction Period and no earlier than the end of the Correction Period, whether or not the noncompliance or failure to certify compliance is corrected.
- H. THDA has the right to inspect any low-income development at any time during the compliance period and the extended use period, including, but not limited to, on-site inspections and review of all records relating to compliance with Section 42 requirements. Owner shall promptly deliver copies of tenant certifications and supporting documentation as may be required by THDA.
- I. Owners are responsible for complying or ensuring compliance of the development they own with Section 42, relevant regulations and the relevant QAP throughout the compliance period and the extended use period. THDA's obligation to monitor compliance with Section 42, relevant regulations and the relevant QAP does not make THDA or the State of Tennessee liable for an owner's noncompliance.
- J. THDA shall be entitled to amend the compliance monitoring provisions of this QAP and its Tax Credit Program as required by applicable federal statutes or regulations or from time-to-time. Such amendment is expressly permitted by this QAP, and the making of such amendment will not require further public hearings. THDA, in accordance with Section 42, may impose additional requirements in order to fulfill the objectives of its housing initiatives.
- K. Any development receiving an allocation of Tax Credits must be managed, during the compliance period and the extended use period, by a management company/agent that has a current, valid, certification from the THDA Certified Property Manager/Agent Program as described in Exhibit 10.
- L. Owners and managers shall attend THDA provided training as follows:
  - 1. Owners shall attend owner's compliance training sessions provided by THDA within the 12 months prior to the issuance of the (8609) final allocating document. Only attendees who are listed on Ownership Organization Breakdown or the attachment to the initial applications with the same information or who are employees of the owner may meet this requirement
  - 2. Property managers and staff shall attend Manager's compliance training sessions provided by THDA in accordance with the requirements for the THDA Certified Property Manager/Agent Program.
- M. Owners shall maintain records for each qualified low income building in the development for each year of the compliance period and the extended use period sufficient to meet the requirements of 26 C.F.R. Section 1.42-5(b). All first year files shall be maintained as paper records and shall be maintained within Tennessee until THDA conducts the first inspection of the development. Thereafter, files may be maintained in electronic format. Any tenant records or other records maintained in an electronic format shall be accessible to THDA at THDA's request.
- N. Owners shall submit Owner's Annual Certification of Compliance and required tenant data via THDA's Housing Credit Monitoring System.
- O. Owners shall submit, not less than annually during the compliance period and the extended use period, information concerning the race, ethnicity, family composition, age, income, use of rental assistance under Section 8(o) of the United States Housing Act of 1937 or other similar assistance, disability status, and monthly rental payments of households residing in the development in a form and with substance as THDA may require.

- P. In the event of a sale, transfer, or exchange of a development or any change with respect to the general partner/managing member of the ownership entity (including, without limitation, sale of any or all general partner interests, removal of any general partner, or admission of any general partner), the owner shall notify THDA in writing at least 30 days prior to the closing of such a transaction and shall provide information about the proposed new owner or proposed new general partner/managing member of the ownership entity as THDA may request. THDA may require the proposed new owner or proposed new general partner/managing member of the ownership entity to meet with THDA Multifamily Programs staff prior to closing.
- Q. The requirements of Part XIII-P do not apply when a development is sold following the completion of the qualified contract process when THDA has not identified a purchaser.
- R. THDA shall carry out its monitoring responsibilities in accordance with Section 42, relevant regulations, the relevant QAP and applications submitted thereunder. THDA will also rely on its compliance manual as well as guidance from the IRS via the “Guide for Completing Form 8823, Low-Income Housing Credit Agencies Report of Noncompliance or Building Disposition”, Revenue Procedures, Revenue Rulings and other similar guidance, all as modified from time to time.
- S. All monitoring and compliance activities referenced herein are required for the compliance period and the extended use period, whether specifically stated or not. All monitoring and compliance activities referenced herein are required for all developments subject to compliance monitoring.

## Part XIV: Amendments/Modifications/Deadlines

### **A. QAP Amendments**

THDA may amend any part of this QAP following public notice and approval by the THDA Board of Directors.

### **B. Modifications**

1. Eligibility for Tax Credits and reservations of Tax Credits are based solely on the information contained in the Initial Application, including without limitation, elections made or points claimed in the Initial Application.
2. Modifications to an Initial Application will not be considered or approved after the Initial Application Deadline but before the issuance and acceptance of a Reservation Notice, except as requested by THDA or for changes or modifications identified by THDA during the Initial Application Cure Period and Review Process, which changes or modifications may be made only in accordance with the requirements of Part VIII-B or as requested by THDA.
3. Subject to Part XIV-B-2 above, THDA will consider other changes or amendments, including, without limitation, site changes, ownership changes, developer changes or other changes, only after a Reservation Notice or 42M letter has been issued by THDA and executed by the proper party as identified in the Initial Application and only after the Initial Application Cure Period and Review Process is complete. In addition, THDA will not consider proposed changes or modifications unless all requirements contained in the Reservation Notice, including the payment of the Reservation Notice or 42M letter, are met to THDA's sole satisfaction and a Modification Fee as specified in Part XV-D is received by THDA.
4. Once a Carryover Allocation Agreement is issued by THDA, no further changes or modifications, including, without limitation, site changes, ownership changes, developer changes or other changes that would affect eligibility or scoring of the Initial Application are permitted until after all units in the development as proposed in the Initial Application are placed in service.
5. Modifications permitted under this Part XIV-B may be made only with the express written approval of THDA, which approval may be granted or withheld.

### **C. Deadlines/Extension of Deadlines**

1. No extensions or changes to timetables stated in this QAP, in any Reservation Notice or 42M letter, in any Carryover Allocation, in any Placed in Service documentation, or in any other documentation distributed or sent by THDA may be made without the express written approval of THDA, which approval may be granted or withheld.
2. Due to the competitive nature of the Tax Credit reservation and allocation process, time is of the essence of this QAP.
3. Deadlines established in Section 42 cannot be waived or extended.
4. **Tax Credits will be recaptured if there is a failure to meet requirements by established deadlines.**
5. No person or entity shall be entitled to rely on any waiver or extension previously granted for the purpose of obtaining subsequent waivers or extensions.

## 6. Process for Requesting Extension of a Deadline

An extension of deadlines established in the Reservation Notice, the Carryover Allocation Agreement, or in any other THDA documentation may be requested, **in writing**, in form and substance satisfactory to THDA. Any such deadline extension request shall be submitted to the THDA Executive Director on or before the deadline for which an extension is requested, together with a fee in an amount as specified in Part XV-H. Deadline extension requests will not be considered if they are not received by THDA on or before on or before the deadline for which an extension is requested or if the appropriate fee is not included with such a request. In the sole discretion of the Executive Director, such requests may be granted if the applicant documents good cause for the request and demonstrates that new deadlines can be met. Deadlines established in Section 42 cannot be waived or extended.

**Part XV: PROGRAM FEES**

**A. Effective Date**

The fee schedule reflected in this Part XV shall be in effect as of January 1, 2018.

**B. Wiring instructions**

Bank: US Bank

ABA: 064000059

BNF: THDA Clearing Account

BNF A/C: 151203673398

BNF ADDRESS: 502 Deaderick Street, Andrew Jackson Bldg. 3<sup>rd</sup> Floor  
Nashville, TN 37243

OBI: Tax Credit/Bond Application Fees + TN ID Number(s) Applicants may send one wire to cover multiple applications as applicants should enter the applicable TN ID Number(s) in the OBI field on the wire.

**C. Application Fee**

<b><u>Number of Tax Credit Units</u></b>	<b><u>Application Fee</u></b>
1-4	\$395
5-50	\$1,575
51-100	\$2,210
101+	\$40 per unit

The Application Fee must be submitted with the Initial Application, and is **not refundable**, except as provided in Part VII-A-5-c.

**D. Reservation Fee**

1. A Reservation Fee equal to 6.25% of the total annual Tax Credit amount approved by THDA is due by the date specified in the Reservation Notice.
2. **The Reservation Fee is not refundable.**

**E. 42M Firm Letter Fee**

1. Firm 42M Fee is equal to 6.25% of the total annual amount of noncompetitive Tax credit amount requested by applicant and is due at the time of submission of MTBA firm committee letter submission.
2. **The Firm 42M Letter Fee is not refundable**

**F. Modification Fee**

1. A **nonrefundable** modification fee in an amount equal to the greater of \$750 or six hundred and twenty five one-thousandths of one percent (0.625%) of the total amount of Tax Credits specified in the Reservation Notice must be received by THDA **prior to any evaluation of proposed modifications or changes** as specified in Part XIV-B.
2. Payment of this fee does not guarantee approval of proposed changes or modifications.
3. Only proposed changes or modifications that meet the requirements of Part XIV-B, as determined by THDA, may be approved.
4. Subsidy Layering Review required or requested after submission of the Initial Application will be deemed a modification under this Part XV-D and under Part XIV-B.

## **G. Fee to Amend IRS Form(s) 8609**

An amendment fee in an amount equal to \$50 per IRS Form(s) 8609 to be amended, with a minimum fee of \$250, must be received by THDA prior to the release of the Owner's copies of amended IRS Form(s) 8609, if amended IRS Form(s) 8609 are requested by the Owner and THDA determines that the previously generated IRS Form(s) 8609 for the development were generated in accordance with information provided to THDA by the Owner.

## **H. Monitoring Fee**

1. When the development is placed in service, a compliance Monitoring Fee is due to THDA, payable in the form of a certified check (this fee also applies to USDA/RD [formerly FmHA] developments). The Monitoring Fee must be delivered to THDA prior to the release of IRS form 8609 for the development. The Monitoring Fees for developments receiving Tax Credits according to this Plan are as follows: \$600 per **Tax Credit** unit.
2. Owners seeking to correct non-compliance will be charged additional fees to cover additional costs which may be incurred by staff to document and inspect corrections of the non-compliance issue.
  - a. Reinspection of a file or reinspection of a unit: \$200
  - b. Reinspection of a property:
    - (i) Standard mileage rate in effect by the State of Tennessee at the time of the reinspection from Nashville to the property and back to Nashville;
    - (ii) Applicable state allowed per-diem for one staff person;
    - (iii) Lodging expenses as allowed under State of Tennessee travel regulations; and
    - (iv) Any other expenses incurred by THDA relating to the property reinspection.
  - c. Fees will be due to THDA prior to issuance of reinspection findings.
3. **At any time following the fifth year of monitoring for each development, THDA will evaluate the need for an additional Monitoring Fee. THDA may charge a single additional Monitoring Fee not greater than the initial Monitoring Fee stated above. THDA will charge this additional Monitoring Fee only if the costs of monitoring for Tax Credit compliance, in the aggregate, appear likely to exceed the aggregate amount of initial Monitoring Fees collected. A decision by THDA to charge any such additional fee shall not constitute an amendment to this Plan.**

## **I. Late Fee for Failing to Submit Timely Compliance Certification Forms**

Owners failing to submit the required Owner's Annual Certification of Compliance forms and supporting documentation by the date required by THDA will be charged a late fee of \$100 per month, for each month, or portion of a month, until the Certification and supporting documentation is received and considered satisfactory by THDA, or until an IRS Form 8823 is filed with the Internal Revenue Service. This fee will be due upon submission of the forms required. Receipt of Certification without the applicable late fee will be considered incomplete.

**J. Deadline Extension Fee**

Deadlines established in this QAP, in a Reservation Notice, in a Carryover Allocation Agreement, or in other documentation from THDA may be extended only as specified in Part XIV-C. And only with the prior written approval of THDA, which approval may be granted or withheld. A deadline extension request must be submitted in accordance with Part XIV-C-6 and must be accompanied by a fee in the following amount:

<b><u>Number of Calendar Days</u></b>	<b><u>Extension Fee</u></b>
1-5	\$500
6+	\$200 per day

The maximum deadline extension fee for any single extension request is \$6,000. This deadline extension fee applies to the deadlines established for the following items:

- Deadline to provide supporting information in response to a Reservation Notice
- Carryover Allocation Application deadline
- Carryover 10% test certification
- Final Application deadline
- Other deadlines established in THDA documentation

## **PART XVI: MISCELLANEOUS PROVISIONS**

### **A. Cost Certifications, Physical Needs Assessment, and Appraisals**

Cost certifications, physical needs assessments, and appraisals must be completed by independent and unrelated third parties with **no** interest in any application or development except for an agreement to be paid reasonable fees for preparing the cost certification, physical needs assessment or appraisal. Persons or companies who serve or who have served as consultants or advisors to any parties identified in the Initial Application or related parties will not be considered to be independent. THDA will not accept cost certifications, physical needs assessments and appraisals prepared by parties THDA has determined are not independent.

### **B. Document Review**

1. THDA will review and evaluate only those materials submitted in compliance with the requirements of this QAP. THDA will not evaluate any materials submitted outside the deadlines established for submission of such materials and will assume no obligation to request additional information from applicants for any purpose. THDA may require additional information and/or documentation if THDA determines that additional information and/or documentation is necessary for clarification and/or explanation. Review by THDA of documents submitted with Initial Applications or other documents submitted in connection with Tax Credits reserved or allocated under this QAP is for THDA's own purposes and is not for the purpose of advising, certifying, representing or warranting to others as to the feasibility or viability of any proposed development.
2. The completeness, correctness, and consistency of the Initial Application, Attachments, and all supporting documentation, including, without limitation, all materials required to demonstrate eligibility pursuant to Part VII-A, all materials required for scoring pursuant to Part VII-B, and all third party reports are the sole responsibility of the applicant.
3. THDA makes no representations or warranties to applicants, developers, owners or anyone else as to compliance with Section 42, Treasury regulations, or any other laws or regulations applying to Tax Credits or Tax Credit developments or as to the feasibility or viability of any proposed Tax Credit development.

### **C. No THDA Liability**

No member, officer, agent, or employee of THDA shall have any personal liability with respect to any matters arising out of, or in relation to, Tax Credits reserved or allocated under this QAP or the monitoring of properties which have received Tax Credits.

### **D. Enforcement**

In the event THDA seeks enforcement of the representation and warranties made by virtue of the submission of an Initial Application for Tax Credits or any other matter connected with any reservation, allocation or monitoring of Tax Credits, THDA shall be entitled to recover all damages, costs, expenses and fees, including without limitation, court costs, attorney's fees and staff time, from the applicant or any other party connected with Tax Credits reserved or allocated under this QAP.

### **E. False Statements**

1. Tennessee Code Annotated, Section 13-23-133, makes it a Class E felony for any person to knowingly make, utter, or publish a false statement of substance or aid or abet another person in making, uttering, or publishing a false statement of substance for the purpose of influencing THDA to allow participation in the Tax Credit Program. Any and all statements contained in any materials, including without limitation, an Initial Application and any other applications, documents, letters, opinions, or certifications, submitted to THDA in connection with Tax Credits reserved or allocated under this QAP or otherwise

made by an applicant or other person connected in any way with Tax Credits reserved or allocated under this QAP are statements of substance made for the purpose of influencing THDA to allow participation in the Tax Credit Program.

2. By submitting any materials, including without limitation, an Initial Application and any other applications, documents, letters, opinions, or certifications, to THDA in an effort to obtain Tax Credits, the applicant and all parties connected with the development proposed in the Initial Application acknowledge and agree (1) they are entering into a contract with THDA; and (2) they intend for THDA to rely on and seek enforcement of these representations with respect to any reservation or allocation of Tax Credits by any and all means available, including specific performance of all such representations and warranties; and (3) they are knowingly making, uttering or publishing or aiding and abetting others in making, uttering or publishing statements of substance for the purpose of influencing THDA to allow participation in the Tax Credit program.

**Part XVII: Adoption and Approval by the Governor**

As provided in Executive Order No. 37, dated May 22, 2014 (the “Executive Order”), I, Bill Haslam, the Governor of the State of Tennessee, do hereby designate the Tennessee Housing Development Agency to be the housing credit agency for this State and, by my execution of this Qualified Allocation Plan, I hereby adopt this Qualified Allocation Plan as my plan for the distribution and administration of Tax Credits in the State of Tennessee, in conformance with Section 42 of the Internal Revenue Code of 1986, as amended and the Executive Order. As also provided in the Executive Order, this Qualified Allocation Plan shall be incorporated, by this reference, into and encompassed by the Executive Order as if set forth in the Executive Order verbatim.

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**Bill Haslam, Governor**

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Date