



ARKANSAS DEVELOPMENT FINANCE AUTHORITY

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LITTLE ROCK, AR 72203-8023

ADFA

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October 23, 2009

Re: 2009 Allocation/Carryover Allocation of Additional Tax Credits

Owners:

On July 31, 2009 existing developments seeking additional credits filed applications ("Tier I Applications") with Arkansas Development Finance Authority ("ADFA"). With the Tier I Applications, financial information was provided, including commitment letters, rents, pro forma information, utility schedules and sources and uses. The ADFA Staff underwrote all Tier I Applications according to current applicable guidelines. On September 10, 2009, the Board of Directors for ADFA (the "Board") awarded additional credits to Tier I Applications. Reservation letters were delivered October 1, 2009. The Board determined to place priority on those existing developments that previously received a low-income housing tax credit reservation or allocation but have not placed in service or been successful in financially closing their development because of the market conditions mainly due to the significant reduction in tax credit equity availability and pricing. In an attempt to assist the successful completion and financial feasibility of the existing developments, the Board directed ADFA's multi-family staff to make available additional allocations of federal low-income housing tax credits from Arkansas' 2009 state ceiling of federal low-income housing tax credits to the extent necessary to ensure financial feasibility.

Reservation letters allocating the additional credits were delivered to Owners on October 1, 2009 Pursuant to Section 42 of the Internal Revenue Code, in order to receive an allocation from the 2009 state ceiling, each building that is part of the Development must either place in service no later than December 31, 2009 or meet the carryover requirements of Section 42(h)(1)(E) of the Internal Revenue Code.

OPTION 1:

For those buildings that will be placed in service by December 31, 2009, the owner will be required to submit the following documentation **no later than 4:30 p.m. on December 7, 2009**, for final evaluation prior to credit allocation:

1. Proof of placement in service, as defined by IRS Notice 88-116, for each building in the Development by:
 - A. New Buildings: Certificate(s) of Completion (Occupancy) by proper state or local authority for each building in the Development.
 - B. Existing Buildings: (i) Date of transfer to taxpayer, if, on the date of transfer, the building or any unit in the building is ready and available for its intended purpose;
OR
(ii) Date first unit in the building is certified as being suitable for occupancy by the proper state or local authority.

- C. Rehabilitation Expenditures: Proof that rehabilitation is complete and the minimum expenditure requirement of 26 USC § 42(e)(3)(A) has been met.
2. Original recorded copy of the Land Use Restriction Agreement (LURA) (a copy should be submitted before recording for the Authority's review and approval);
 3. A signed Certification from the licensed design architect or licensed engineer confirming:
 - a. Compliance with the Authority's "Multi-Family Housing Minimum Design Standards;"
 - b. Compliance with all applicable Federal and State building codes and all applicable Federal and State accessibility laws;
 - c. Installation of all amenities for which the development received points at the time of application for the Housing Credits; and
 - d. Installation of all advanced energy saving devices for which the development received points at the time of application for the Housing Credits;
 4. Cost Certification by a Certified Public Accountant which, at a minimum:
 - a. Utilizes pages 17 and 18 ("Section XXIV Development Costs") from the Multi-Family Housing Application to certify development costs;
 - b. Certifies, pursuant to 26 USC § 42, the eligible basis, applicable fraction, and maximum qualified basis for each building in the Development; (Submit both calculations for the applicable fraction based upon the "unit fraction" method and the "floor space fraction" method);
 - c. For each building with rehabilitation expenditures, certifies that the expenditures' requirements of 26 USC § 42(e)(3)(A) have been met;
 - d. Certifies that the Per Unit Cost; Developer's Fee; General Requirements; Builder's Overhead; Builder's Profit; and Rehabilitation Costs Standard are within Program requirements and as represented in the Multi-Family Housing Application;
 - e. For each building financed with tax-exempt bond proceeds, certifies the percentage of aggregate basis of each building that is financed by tax-exempt bond proceeds; and
 - f. For each building with market rate units, certifies:
 - (i) The cost of each such unit;
 - (ii) The square footage of each such unit;
 - (iii) The average cost per square foot of the low-income units in the Development; and
 - (iv) Whether the market rate units are "above the average quality standard of the low-income units" as described in Section 42(d)(3)(B)(i) of the Internal Revenue Code and whether the Development owner elected to exclude the excess costs pursuant to Section 42(d)(3)(B)(ii) of the Internal Revenue Code
 5. Statement that identifies the first taxable credit year for each building in the development and, if past for any building, that the development met the minimum set-aside requirements of 26 USC § 42(g)(3)(A) prior to the close of the first taxable credit year for such building(s) ;
 6. List showing full address for each building in the Development;
 7. Full name, address, telephone number, Federal Tax ID number, and 1st taxable year of the credit period for the Development owner; and
 8. Payment to cover "allocation" of credits fee - \$100.00 per low-income unit in the Development; and payment to cover monitoring fee - 8% of annual credit allocation for the Development.
 9. Final Permanent Financing Agreement(s)/Commitment(s)
 10. Final Site Purchase Agreement
 11. Final Syndication Agreement(s)/Capital Contribution Agreement(s)
 12. Final Partnership Agreement(s)

If the owner does not submit the above required information on or before December 7, 2009, the owner will be required to obtain a carryover allocation as described below in order to receive an allocation of credits from Arkansas' 2009 state ceiling.

OPTION 2:

For those buildings that will not be placed in service by December 31, 2009, the owner will be required to complete, execute and submit to the Authority the following, enclosed Carryover-Allocation documentation **no later than 4:30 p.m. on Monday, December 7, 2009:**

1. Federal Low-Income Housing Tax Credit Carryover-Allocation Application for Additional Tax Credits;
2. Exhibit A –Development Information; and
3. Exhibit B – Certification of Expenditure plus required attachments.

Instructions for completion of the above Carryover-Allocation documentation have also been included. **YOU MUST READ ALL INSTRUCTIONS.**

In addition to returning hard-copy originals of the enclosed forms, you must electronically return the filled-in ADOBE forms to the undersigned at: nrobinson@adfa.state.ar.us. You must have ADOBE Reader® in order to fill-in the ADOBE® forms. ADOBE Reader® may be downloaded at no charge at: www.adobe.com.

PLEASE BE ADVISED THAT FAILURE TO MEET THE ABOVE REQUIREMENTS FOR ALLOCATION OF 2009 LOW-INCOME HOUSING TAX CREDITS FOR THE BENEFIT OF THE BUILDINGS IN THE DEVELOPMENT WILL RESULT IN NO ALLOCATION OF THOSE CREDITS FOR THE DEVELOPMENT.

Please do not hesitate to contact: Nona M. Robinson (501) 682-5927, nrobinson@adfa.state.ar.us; Gary Arrington (501) 682-5468, garrington@adfa.state.ar.us; or Lornea A. Wells, (501) 682-5998, lwells@adfa.state.ar.us, if you have any questions regarding the above.

enclosures

INSTRUCTIONS FOR COMPLETING

Federal Low-Income Housing Tax Credit Carryover-Allocation Application for Additional Tax Credits

The following instructions are to assist you in completing the attached Federal Low-Income Housing Tax Credit Carryover-Allocation Application for Additional Tax Credits ("Additional Tax Credits"). These Additional Tax Credits will be allocated from the Authority's 2009 federal low-income housing tax credit state ceiling. The Owner must return the forms by hard-copy and electronically filing by saving as a separate file using ADOBE Reader® to Nona M. Robinson at: nrobinson@adfa.state.ar.us.

Federal Low-Income Housing Tax Credit Carryover-Allocation Application for Additional Tax Credits – Certification of Owner

- Owner must complete pages 1 and 2 in their entirety.
- Owner must execute the completed Certification of Owner before a notary public.

Federal Low-Income Housing Tax Credit Carryover-Allocation Certificate for Additional Tax Credits

- The Authority will complete the Federal Low-Income Housing Tax Credit Carryover-Allocation Certificate for Additional Tax Credits based upon the Owner's Federal Low-Income Housing Tax Credit Carryover-Allocation Application for Additional Tax Credits, Exhibits A and B, and supporting documentation. The Authority will sign and send the Certificate for Additional Tax Credits to the Owner upon completion of its underwriting of the application.

Exhibit A - Development Information Form with Building Identification Numbers

- **Owner** must complete the Development Information Form in its entirety. The Building Identification Number(s) previously assigned and sent to the Owner remain applicable.

Exhibit B – Certification of Expenditures

- The Owner continues to be required to submit a completed and executed Certification of Expenditures with all required attachments to the Authority **no later than 4:30 p.m. on, November 1, 2010**. **Note the change in this form due to the Additional Tax Credits.**
- Failure to submit the Certification of Expenditure with attachments as required will result in a return of all federal low-income housing credits allocated to the Owner.

SUBMIT DOCUMENTATION TO:
Arkansas Development Finance Authority
Multi-Family Housing Programs Manager
423 Main Street, Suite 500
P.O. Box 8023
Little Rock, AR 72203-8023

Questions? Contact any of the following:

Nona M. Robinson, Multi-Family Housing Programs Manager at (501) 682-5927, nrobinson@adfa.state.ar.us
Gary Arrington, Multi-Family Housing Programs Specialist at (501) 682-5468, garrington@adfa.state.ar.us
Lornea A. Wells, at (501) 682-5998, lwells@adfa.state.ar.us.

ARKANSAS DEVELOPMENT FINANCE AUTHORITY

**Federal Low-Income Housing Tax Credit Carryover-Allocation Application for Additional Tax Credits
of**

Owner

CERTIFICATION OF OWNER

In application to receive a Federal Low-Income Housing Tax Credit Carryover-Allocation Certificate for Additional Tax Credits for the development of _____ (the "Development"), _____ (the "Owner") certifies to the following:

A. Owner/Development Information:

Owner Name: _____
Taxpayer ID No.: _____
Owner Address: _____
Development Name: _____
Development Address: _____

B. Each building within the Development:

- 1) is: newly constructed building
or
 an acquired building that will be substantially rehabilitated and comply, at a minimum, with Section 42(e) of the Internal Revenue Code;
- 2) is a "qualified building," as defined in Section 42(h)(1)(E)(ii) of the Code;
- 3) is a part of the Development in which the Owner will have adjusted basis in land and depreciable property in the Development, as of November 1, 2010, in an amount equal to at least \$_____ representing _____ of said Owner's reasonably expected basis of \$_____ in the Development as of December 31, 2011;
- 4) will be placed in service no later than December 31, 2011.

C. The Owner is required:

- 1) as of November 1, 2010, to have basis in land and depreciable property in the Development that is more than ten percent (10%) of the reasonably expected basis in the Development as of December 31, 2011;
- 2) to submit the "Certification of Expenditures" form, required by the Authority, no later than 4:30 p.m., November 1, 2010, in the offices of the Authority;
- 3) with the "Certification of Expenditures" form, to submit verification of ownership/leasehold of the land or depreciable real property by furnishing one of the following documents: **(1)** Written Legal Opinion; **(2)** Copy of Warranty Deed(s); **(3)** Copy of Title Commitment; **(4)** 99-year Leasehold; and
- 4) with the "Certification of Expenditures form, to submit written certification from an attorney or a certified public accountant that he/she has examined all eligible costs and it is his/her belief that the Owner will incur by November 1, 2010 more than ten percent (10%) of its reasonably expected basis in the Development as of December 31, 2011.

**FEDERAL LOW-INCOME HOUSING TAX CREDIT
CARRYOVER-ALLOCATION CERTIFICATE FOR ADDITIONAL TAX CREDITS
by
ARKANSAS DEVELOPMENT FINANCE AUTHORITY
for**

Based upon the Authority's review of the Owner's 2009 Special Multi-Family Housing Application for Additional Tax Credits, HOME Funds, TCAP and Exchange Program Fund Application (the "Application") the underwriting documentation contained therein and incorporating herein the foregoing representations and certifications of _____ (the "Owner") in its Federal Low-Income Housing Tax Credit Carryover-Allocation Application for Additional Tax Credits dated _____, 2009, and subject to all terms, conditions and representations set forth in the Application for the development of _____ (the "Development") the Arkansas Development Finance Authority, as the Housing Credit Agency for the State of Arkansas, has determined that:

Owner Name: _____
Taxpayer ID No.: _____
Owner Address: _____
Development Name: _____
Development Address: _____

qualifies, pursuant to Section 42(h)(1)(E) of the Internal Revenue Code of 1986, as amended, for a Carryover-Allocation in the amount of \$_____ in federal low-income housing tax credits from the State of Arkansas 2009 state ceiling. The Owner will have adjusted basis in land and depreciable property in the Development, as of November 1, 2010, in an amount equal to at least \$_____ representing _____ of said Owner's reasonably expected basis of \$_____ in the Development as of December 31, 2011. The Development Information Form(s) attached hereto setting forth the date that each building in the Development is expected to be placed in service and identifying the Building Identification Number to be assigned to each building in the Development is/are incorporated herein as if set forth word for word.

ARKANSAS DEVELOPMENT FINANCE AUTHORITY
423 Main Street, Suite 500, P.O. Box 8023
Little Rock, AR 72203-8023
Tax ID Number: 71-0503641

By: Nona M. Robinson
Title: Multi-Family Housing Programs Manager
Date: _____

ACKNOWLEDGMENT

STATE OF ARKANSAS)
)
COUNTY OF PULASKI)

On this ____ day of _____, 2009, before me a Notary Public within and for said County and State, personally appeared Nona M. Robinson, Multi-Family Housing Programs Manager for the Arkansas Development Finance Authority, to me known to be the person described herein and who, being by me first duly sworn, executed the foregoing "Carryover-Allocation Certificate for Additional Tax Credits," and acknowledged, deposed and said that she executed the same for the consideration and purposes therein contained and stated that the information and certifications contained therein are true and correct to the best of her knowledge and belief.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this _____ day of _____, 20____.

My commission expires:

Notary Public

Seal:

EXHIBIT A - DEVELOPMENT INFORMATION FORM

A Separate Development Information Form will be issued for Existing Buildings and New Buildings

DEVELOPMENT NAME: _____

Address: _____ County: _____

Building	1	2	3	4	5	6	Total
Building Identification Number ¹							
Building Address							
Type of Building (new construction, existing, rehabilitation)							
Expected Placed in Service Date							
Estimated Eligible Basis for All Buildings							
Estimated Applicable Fraction ³							
Estimated Qualified Basis for All Buildings of the Same Type							
Maximum Credit Percentage for All Buildings of the Same Type ⁴							
Maximum Credit Calculation for All Buildings of the Same Type							

- Ownership** must complete all Development Information Form(s) in their entirety. Insert BINs previously by the Authority.
- "Estimated Eligible Basis for All Buildings" is the total estimated eligible basis for all buildings of the same type, *i.e.*, new construction; existing; or substantial rehabilitation. "Estimated Eligible Basis" and "Estimated Applicable Fraction" must be taken from page 18 of the Carryover-Allocation Underwriting Documentation to Carryover-Allocation Application for Additional Tax Credits. If there are more than 6 buildings in the development requiring additional Forms, Development estimates and calculations are only on the last page.
- If the Owner elected to fix the credit percentage, either at Reservation or the December 30, 2008, Carryover pursuant to Section 42(b)(1)(A)(ii)(I), the credit percentage is fixed and binding upon all existing buildings in the development. If no such election has been made, existing buildings will be assigned the credit percentage used in the Carryover-Allocation Underwriting Documentation to the Carryover-Allocation Application for Additional Tax Credits and new buildings (newly constructed or substantial rehabilitation) will be set at 9% in accordance with Section 42(b)(2).

FEDERAL LOW-INCOME HOUSING TAX CREDIT CARRYOVER-ALLOCATION
EXHIBIT B - CERTIFICATION OF EXPENDITURES

for

(Development)

by

(Owner)

The undersigned hereby certifies that more than ten percent (10%) of the reasonably expected basis in _____ which is classified as new construction, existing buildings, and/or rehabilitation, will be expended/incurred by _____ by November 2, 2010, hereby continuing qualification of the Owner for the: (1) December __ 2007/2008, Carryover-Allocation from the State of Arkansas 2008 state ceiling, and (2) any Carryover-Allocation of Additional Tax Credits from the State of Arkansas 2009 state ceiling. The Owner acknowledges that in order to retain its allocation(s), the Development must be completed and must be placed in service by December 31, 2011.

The Owner further acknowledges that in order to continue to receive the December __, 2007/2008, Carryover-Allocation and any Carryover-Allocation of Additional Tax Credits from the State of Arkansas 2009 state ceiling following attachments must accompany this Certification of Carryover-Allocation Basis:

1. Verification of ownership/leasehold of the land or depreciable real property. Furnish one of the following documents: **(1)** Written Legal Opinion; **(2)** Copy of Warranty Deed(s); **(3)** Copy of Title Commitment; **(4)** 99-year Leasehold; and
2. Written certification from an attorney or a certified public accountant that he/she has examined all eligible costs and it is his/her belief that the Owner will incur by November 1, 2010 more than ten percent (10%) of its reasonably expected basis in the Development as of December 31, 2011. The attorney or certified public accountant must use the format attached.

By:

Owner Signature

Printed Name

Title

STATE OF _____)

_____)

COUNTY OF _____)

On this _____ day of _____, 20____, before me a Notary Public within and for said County and State, personally appeared _____, to me known to be the person described herein and who, being by me first duly sworn, executed the foregoing **“CERTIFICATION OF EXPENDITURES”** and acknowledged that he/she executed the same as his/her free act and deed and stated that the information and certifications contained therein are true and correct.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this _____ day of _____, 20_____.

My commission expires: _____

Notary Public